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# The Advisor

## Our e-magazine

*Newsletter 4* *September 2020*



**Contents**



### *Chairman's desk :*

*Last issue I hinted of talking about the importance of 'Listening'. We have to introspect ourselves and ponder whether we are giving the needed importance to 'Listening'. Because of our own busy life, we are not giving much or even any attention to Listening'. We don't have time to 'listen' to what others have to say.*

*If we can truly listen to others woes, it will help them tremendously reduce their mental burden.*

*There was the story of a great psychiatrist who was telling about a telephone call at midnight from a lady. She was on the verge of committing suicide. This Dr. engaged in talking with her. The talk continued for a very long time than usual. Understood the reasons for her depression, advised her, and succeeded on that night to make her drop the idea of suicide. After some days, that lady met him. Dr. congratulated her for dropping her suicidal tendencies and asked her which of his advise made her to take such a positive decision. She said : "None". Then what was the actual reason? She said "You were a very good listener. I find my burden getting reduced". That was the reason.*

*So, one must realize that 'Listening' has got a very important role in one's daily life, whether personally or officially.*

*The relief it gets to the person who talks is unimaginable. It is also a powerful tool of communication also. Unless you are a good listener, communication will not be effective.*

*You can become good listener if you adopt the following steps :*

1. *You should not interrupt a person in-between. You should allow him to talk till he stops and then only you should respond.*
2. *Listen carefully and with good amount of patience.*
3. *Don't give any advise or opinion unless asked for.*
4. *You should also acknowledge his talk in such a way that, the other person really feels that you are listening.*
5. *Never look at your watch or mobile when the other person is talking.*
6. *Try to understand his body-language.*

*Understand and utilize the power of listening judiciously.*

*With best wishes,*

*Mahadevan*

*Flat No. 5, Kaizen Ashtapathi Apartments, Thiruvambadi Road, Thrissur – 680022*
*www.mahadevanandsivarajan.com,*
*e-mail : msofficetrichur@gmail.com, msofficetrichur1@gmail.com*
*Tel. No. 0487 2330237*

## I. AUDITING :

### STANDARD ON QUALITY CONTROL (SQC) 1 :

Every audit firm, irrespective of whether it is a proprietory concern or a partnership firm, should establish standards of quality control for audits and for other assurance service engagements. For this purpose, our Institute has issued "**Standard on Quality Control [SQC] 1**" in July, 2007 which is mandatory for all auditing and assurance engagements relating to accounting periods beginning on or after **1st April, 2009**.

The Standard states as under :

"The firm should establish a system of quality control designed to provide it with reasonable assurance that the firm and its personnel comply with professional standards and regulatory and legal requirements and that reports issued by the firm or engagement partners are appropriate in the circumstances."

As per the above, the individual firms will have to develop its own policies and procedures depending on its size and operating characteristics.

**Elements of a System of Quality Control :**

While designing or developing the firm's system of quality control, it should include policies and procedures addressing each of the following elements :

1. Leadership responsibilities for quality within the firm;
2. Ethical Requirements;
3. Acceptance and Continuance of client relationships and specific engagements;
4. Human Resources;
5. Engagement Performance;
6. Monitoring.

It must be noted that, all the policies and procedures designed or developed for the above should be well documented and communicated to the firm's personnel. Let us look at each item one by one.

1. **Leadership Responsibilities for Quality within the firm :**

   1) The first and foremost important point to note is that the audit firm should recognize that **quality** is essential in performing audit engagements.
   2) The Partners/Proprietor should assume ultimate responsibility for the firm's system of quality control.
   3) The Leadership to set the firm's quality control policies and procedures to ensure :

      a) that the work is performed by mandatorily complying with all the applicable professional standards, regulatory requirements and legal requirements; and
      b) that appropriate reports are issued in the circumstances.

   4) Work culture should be such that it recognizes and rewards high quality work. Proper training to be given. Policies and procedures to be communicated, thro' seminars, meetings, formal informal dialogues, mission statements, newsletters, etc. The same should be well documented internally.
   5) The firm's strategy should be such that commercial consideration do not override the quality of work performed.
   6) The firm should develop sufficient resources for the development, documentation and support of its quality control policies and procedures.
   7) The partners/proprietor should have sufficient and appropriate experience and ability and the necessary authority, to assume that responsibility.

...... (to be contd).....

**SQC-1**

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## II. INTERNAL AUDIT :

### PROCUREMENT / PURCHASE VERIFICATION :

Verification of Procurement / Purchase process is one of the important aspect of Internal Audit. Purchases includes the following, depending on the nature of each industry like Manufacturing, trading, service, engineering, etc.

a) Purchase of Raw materials;

b) Purchase of Trading goods;

c) Purchase of Consumables;

d) Purchase of maintenance / engineering materials;

e) Purchase of services;

f) Purchase of Capital goods / Fixed assets.

Prior to the verification process, the team should learn the existing process of procurement / purchases of the industry dealt with.

The Purchase process normally includes the following :

a) Raising of Purchase Requisition by the respective department to the Purchase Department.

b) To invite quotation from the competitive vendors, towards the requirements as per purchase requisition.

c) To issue purchase order to the most competitive vendor, from the quotes received.

d) To see that the materials and invoices are received as per the purchase order issued.

e) The verification of each type of purchase has to be separately dealt with by the Internal Audit Team. The detailed process of verification if each type of purchase shall be detailed in the edition of E-Newsletter.

[To be contd…]

**Srikala Renjith**

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## III. TAXATION :

### (i) Chapter XXI of the IT Act

### Penalty provision under Section 271AAD of Income Tax Act ,1961 :

Section 271AAD the new provision under IT Act has been introduced in Finance Act ,2020, which is effective from 01-04-2020 (FY : 2020-2021).

The provision read as :

1) without prejudice to any other provisions of this Act, if during any proceeding under this Act, it is found that **in the books of accounts maintained** by any person there is –

   i) a false entry, or

   ii) an omission of an entry which is relevant for computation of total income of such person to evade tax liability, the assessing officer may direct that such person shall pay by way of penalty a sum equal to the aggregate amount of false entry or omitted entry.

2) without prejudice to the provisions of subsection (1), the assessing officer (A. O) may direct that any person, who cause the person referred to in subsection (1) in any manner to make a false entry or omits or cause to omit any entry referred to in that subsection , shall pay by way of penalty a sum equal to the aggregate amount of such false or omitted entry.

For the purpose of this section 'False entry' includes use or intention to use –

a) a forged or falsified documents such as a false invoice or in general a false piece of documentary evidence; or
b) invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both ; or
c) invoice in respect of supply or receipt of goods or services or both to or from a person who does not exist.

The burden to prove the fact that the default as envisaged under this section rests on **Revenue .**The question whether there is false entry and /or omission of the entry to evade tax liability is essentially a question of fact which needs to be established with evidence by A.O .

The various other penalty provision under the income tax Act also needs to be looked into while going through the newly inserted section , interestingly penalty for under reporting and misreporting of income as provided u/s 270A and clauses therein which are similar as envisaged u/s 271AAD , there arises a doubt whether penalty can be levied under the both section simultaneously . Since a special provision normally exclude the operation of general provision , we can hope, to the extent a default is covered by the specific provision u/s 271AAD , the same cannot be subject matter of penalty u/s 270A of the Act . Further , the enormity of penal provision under the IT Act as laid down in section 271AAC and application of higher tax slab u/s 115BBE in the case of disallowances / addition may have grave cascading effect if invoked along with section 271AAD. The introduction of tax assessment process in the form of 'Faceless Assessment scheme' is likely to open a pandora's box in so far as invoking of penalty proceeding under section 271AAD is concerned.

**CA Ramesh**

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**Case Laws :**

**GST :**

In the case of Rotary Club of Mumbai, the AAAR, Maharashtra Bench has ruled that "amount collected as membership subscription and admission fees from members is not liable to GST as supply of services.

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**ITC can be claimed on Motor Vehicle used for Demo :**

In the case of M/s Chowgule Industries (P) Ltd., the AAR, Maharashtra Bench has ruled that "the applicant is entitled to avail ITC charged on inward supply of Motor Vehicle which are used for Demonstration purpose in the course of business of supply of Motor Vehicles as ITC on Capital Goods and the same can be utilized for payment of output tax payable".

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**(ii) Exemption under Section 54GB of Income Tax Act 1961-Analysis**

**Section 54GB**

The provisions of the section 54GB states that, the capital gain arising from transfer of a long-term capital asset, being a residential property (a house or a plot of land), owned by the **eligible assessee** not to be charged under section 45 of IT Act, if;

a) the **net consideration**(NC)is utilized, before the due date of furnishing of return of income, for subscription in the equity shares of an **eligible company,** and

b) Such eligible company has, <u>within one year</u> from the date of subscription in equity shares by the assessee, utilized this amount for purchase of **new asset**.

The **amount of exemption** available under such circumstances, is abridged hereunder-

a) **Whole of capital gain would be exempt**, if the amount of net consideration is equal to or less than the cost of new asset (COA)
(NC ≤ COA → Entire Amount)

b) **Proportionate capital gain would be exempt,** if amount of net consideration is greater than the cost of new asset
(NC ≥ COA → $\frac{\text{Cost of new asset * capital gain}}{\text{Net consideration}}$)

**Alternatively,**

If the **amount of the net consideration** received by the company for issue of shares to the assessee, to the extent it is **not utilized** by the company for the purchase of the new asset before the due date of furnishing of the return of income, **shall be deposited** by the company, before the said due date in an account in any such bank or institution as may be specified and shall be utilized in accordance with any scheme which the Central Government may, by notification in the Official Gazette, frame in this behalf and the return furnished by the assessee shall be accompanied by proof of such deposit having been made.

Under such circumstances, the amount, if any, already utilized by the company for the purchase of the new asset together with the amount deposited under sub-section shall be deemed to be the cost of the new asset.

However, the amount so deposited in to the account needs to be utilized for subscription in equity shares within the prescribed time, failing of which the unutilized amount would be taxable in the previous year in which the time period expires.

**Departure from Section 54GB**

If the equity shares of the company or the new asset acquired by the company are sold or otherwise transferred **within a period of five years** (in case of a new asset, being computer or computer software, acquired by an eligible start-up, "three years" had been substituted) from the date of their acquisition, the amount of capital gain arising from the transfer of the residential property not charged under section 45 as provided in sub-section (1) shall be deemed to be the income of the assessee chargeable under the head "Capital gains" of the previous year in which such equity shares or such new asset are sold or otherwise transferred, in addition to taxability of gains, arising on account of transfer of shares or of the new asset, in the hands of the assessee or the company, as the case may be.

The provisions of this section shall not apply to any transfer of residential property made after the 31st day of March, 2021.

**Meaning of certain terms:**
(For the purpose of this section)

"Eligible Assessee" – Individuals or a Hindu Undivided Family (HUF).

"Eligible Company" – Company which fulfills the following conditions, namely:—

(i) It is a company incorporated in India during the period from the 1st day of April of the previous year relevant to the assessment year in which the capital gain arises to the due date of furnishing of return of income under sub-section (1) of section 139 by the assessee;

(ii) It is engaged in the business of manufacture of an article or a thing or in an "eligible business"; [article or thing is not defined here, hence Fifth Schedule to Finance Act shall not be a limiting factor, especially, this section being a beneficial provision to Assessees.

(iii) It is a company in which the assessee has more than 25% share capital or more than 25% voting rights after the subscription in shares by the assessee; and

(iv) It is a company which qualifies to be a small or medium enterprise under the Micro, Small and Medium Enterprises Act, 2006 or the same is an **eligible start-up**.

"Net Consideration" – Full value of consideration **reduced by** any expenditure exclusively incurred on account of such transfer.

"New Asset" – New plant and machinery but **does not include—**

(i) Any machinery or plant which, before its installation by the assessee, was used either within or outside India by any other person;

(ii) Any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest-house;

(iii) Any office appliances including computers or computer software;

(iv) Any vehicle; or

(v) Any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.

Provided that in the case of an eligible start-up, being a technology driven start-up so certified by the Inter-Ministerial Board of Certification notified by the Central Government in the Official Gazette, the new asset shall include computers or computer software.

"Eligible Business" – A business carried out by an eligible start-up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation

"Eligible Start-up" – A company or a limited liability partnership engaged in eligible business which fulfills the following conditions, namely:—

(i) It is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, 2021;

(ii) The total turnover of its business does not exceed 25 crore rupees in the previous year relevant to the assessment year for which deduction under sub-section (1) is claimed; and

(iii) It holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government;

**Arundathy. P. G - Article,**
**M&S Palakkad**

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### (iii) DEDUCTION UNDER SECTION 80 P

Chapter VI A heading C Deductions in respect of certain incomes' deals with various profit linked deductions. It contains deductions available under Sections 80H to 80RRB. One among them being **Section 80P** which deals with deductions available for co-operative societies. Under this section, a certain specified income of a co-operative society engaged in specific activities is considered as a deduction if such income is included in the gross total income of the society.

### Definition of a Co-Operative Society (Section 2(19))

***"co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 (2 of 1912), or under any other law for the time being in force in any State for the registration of co-operative***

### Eligible Income and Quantum of Deductions (Sec 80(2))

#### (a) Specified Activities

| | |
|---|---|
| In the case of a co-operative society engaged in<br>(i) carrying on the business of banking or providing **credit facilities** to its members,<br>(ii) a **cottage industry**,<br>(iii) the **marketing of agricultural produce** grown by its members,<br>(iv) the **purchase of agricultural implements, seeds, livestock or other articles intended for agriculture** for the purpose of supplying them to its members,<br>(v) the **processing, without the aid of power**, of the agricultural produce of its members,<br>(vi) the **collective disposal of the labour** of its members, or<br>(vii) **fishing or allied activities**, that is to say, the catching, curing, processing, preserving, storing or marketing of fish or the purchase of materials and equipment in connection therewith for the purpose of supplying them to its members, | **100% of the amount of profits and gains of business attributable to any one or more of such activities** |

#### (b) Primary Co-operative Societies

| | |
|---|---|
| In the case of a co-operative society, being a primary society engaged in <u>supplying milk, oilseeds, fruits or vegetables raised or grown by its members</u> to—<br>(i) a federal co-operative society, being a society engaged in the business of supplying milk, oilseeds, fruits, or vegetables, as the case may be; or<br>(ii) the Government or a local authority; or<br>(iii) a Government company as defined in section2(45) of the Companies Act, 2013, or a corporation established by or under a Central, State or Provincial Act (being a company or corporation engaged in supplying milk, oilseeds, fruits or vegetables, as the case may be, to the public),<br>the whole of the amount of profits and gains of such business | **100% of the amount of profits and gains of business attributable to any one or more of such activities** |

#### (c)

| | |
|---|---|
| In the case of a co-operative society engaged in activities **<u>other than those specified in clause (a) or clause (b)</u>** (either independently of, or in addition to, all or any of the activities so specified), so much of its profits and gains attributable to such activities as does not exceed, | |
| i. where such co-operative society is a consumers' co-operative society | **Rs.1,00,000/-** |
| ii. In any other case | **Rs.50000/-** |

(d)

| | |
|---|---|
| Income by way **of interest or dividends** derived by the co-operative society from its **investments with any other co-operative society** | **100% of such income** |

(e)

| | |
|---|---|
| Any income derived by the co-operative society from the **letting of godowns or warehouses for storage, processing or facilitating the marketing of commodities** | **100% of such income** |

(f)

| | |
|---|---|
| in the case of a co-operative society, not being a housing society or an urban consumers' society or a society carrying on transport business or a society engaged in the performance of any manufacturing operations with the aid of power, where the **gross total income does not exceed twenty thousand rupees,** | **the amount of any income by way of interest on securities or any income from house property chargeable under section 22** |

**(3) Deductions under other sections of Chapter VI A**

In a case where the assessee is entitled also to the deduction under section 80HH or section 80HHA or section 80HHB or section 80HHC or section 80HHD or section 80-I or section 80-IA or section 80J, the deduction under sub-section (1) of this section, in relation to the sums specified in clause (a) or clause (b) or clause (c) of sub-section (2), shall be allowed with reference to the income, if any, as referred to in those clauses included in the gross total income as reduced by the deductions under section 80HH, section 80HHA, section 80HHB, section 80HHC, section 80HHD, section 80-I, section 80-IA, section 80J and section 80JJ.

*In other words, the deduction under this section shall be allowed with respect to Gross Total Income as reduced by any other deduction allowed under Chapter VI A.*

(4) **Non -Eligible Co operative Societies**

The provisions of this section **shall not** apply in relation to ***any co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank.***

For the purposes of this sub-section,—

(a) ***"co-operative bank" and "primary agricultural credit society"*** shall have the meanings respectively assigned to them in Part V of the Banking Regulation Act, 1949 (10 of 1949);

(b) ***"primary co-operative agricultural and rural development bank"*** means a society having its area of operation confined to a taluk and the principal object of which is to provide for long-term credit for agricultural and rural development activities.

**KRISHNAN. N.N - STAFF,**
**M&S PALAKKAD**

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**News :**

**12AB – Registration of Trusts – Deferement of new procedure :**

CBDT vide Press Release dated 09.05.2020 has clarified that in view of the unprecedented humanitarian and economic crisis, the CBDT has decided that the implementation of new procedure for approval/ registration/notification of certain entities shall be deferred to 1st October, 2020. Accordingly, the entities approved/notified under section 10(23C), 12AA, 35 and 80G of the Income-tax Act, 1961 would be required to file intimation within three months from 1st October, 2020, ie. by 31st December, 2020. Further, the amended procedure for approval/registration/notification of new entities shall also apply from 1st October, 2020.

The necessary legislative amendments in this regard shall be proposed in due course.

Thus, new forms and procedure for registration under new section 12AB have not been prescribed so far.

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## (iv) AMENDMENTS IN RESIDENTIAL STATUS IN INCOME TAX ACT BY FINANCE ACT 2020

### RESIDENTIAL STATUS

It is important for Income Tax Department to determine the residential status of a tax paying individual or company. It becomes particularly relevant during the tax filing season. In fact, this is one of the factors based on which a person's taxability is decided.

The taxability of an individual in India depends upon his residential status in India for any particular financial year. The term residential status has been coined under the income tax laws of India and must not be confused with an individual's citizenship in India. An individual may be a citizen of India but may end up being a non-resident for a particular year. Similarly, a foreign citizen may end up being a resident of India for income tax purposes for a particular year.

Also to note that the residential status of different types of persons namely; an individual, a firm, a company etc is determined differently.

### AMENDMENT BY FINANCE ACT, 2020:

**Residential Status – determined by the number of days of his stay in India**

- The exception provided in Explanation 1(b) to section 6(1), for Indian citizens and persons of India origin visiting India in that year has been decreased to 120 days, only in cases where the total income of such visiting individuals during the financial year from sources, other than foreign sources, exceeds INR 15 lakhs.

- The term 'income from foreign sources' has been defined to mean income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India).

**Residential Status: Provision of 'Deemed Resident' applicable if total income exceeds INR 15 lakhs**

- The amendment to clause (1A), introduced by the Finance Bill, 2020 targeted individuals who do not spend considerable amount of time in any country so as to be treated as tax residents of such foreign countries.

- This created a lot of misapprehension in the non-resident Indian (NRI) community, especially for Indians who are bona fide employed in other countries or carry on business there, etc.; and who are not subject to tax in those countries as per the domestic tax law of those countries, will be taxed in India on the income that they have earned outside India.

- Hence, to avoid such misapprehension, the CBDT issued a Press Release dated 2 February 2020, clarifying that in case of an Indian citizen who becomes deemed resident of India, income earned outside India by him shall not be taxed in India unless it is derived from an Indian business or profession.

- The scope of clause (1A) has been now limited through the Finance Act, 2020, and shall only be applicable to such Indian citizens who meet the threshold*. Accordingly, all Indian citizens who fail to meet the threshold, but are not subject to tax in any other jurisdiction, will not be considered as Indian tax resident

(*Threshold: an individual, being a citizen of India, having total income, other than the income from foreign sources, exceeding fifteen lakh rupees during the previous year)

**Deemed resident to be treated as 'Not Ordinarily Resident'**

- The proposed relaxation to the Resident but Not Ordinarily Resident (RNOR') under the Finance Bill has been removed through the Finance Act, 2020, that is:

  The Finance Bill proposed to streamline the test for RNORs by providing that an individual or an HUF shall qualify as an RNOR, if such individual or manager of the HUF has been a non-resident in India for seven out of the ten previous years preceding that year

- The Finance Act, 2020, now adds two categories to the test for RNOR in section 6(6).

- The below persons shall also be treated as RNOR:

  - Indian citizens/ persons of Indian origin who meet the threshold and have been in India for a period of more than 120 days but less than 182 days i.e. those Indian citizens / persons of Indian origin who fulfil the conditions mentioned above in Explanation 1(b) to section 6(1) and

  - Indian citizens who fulfil the conditions mentioned above in Explanation (1A) to section 6(1).

- The above amendments mean that even where an Indian citizen qualifies as a tax resident under section 6(1) of the Act but owing to the amendment as mentioned above to Explanation 1(b) and Explanation (1A) to section 6(1), he will still not be taxed on a worldwide basis (unless as per section 5 of the Act, such foreign income is derived from a business controlled in or a profession set up in India), even if he does exceed the threshold.

- The day count and total income criteria has to be examined every financial year

- The same shall be applicable from AY 2021-22

**DEEPIKA. R - Trainee**
**M&S, PALAKKAD**

**(v) NEW FORM 26AS (ANNUAL INFORMATION STATEMENT)**

Till Now, Form 26AS had always been an annual credit statement issued by the income tax department to help taxpayers cross-verify income earned, **Tax deducted at Source (TDS)** and tax deposited during a given financial year.

In the new picture, Form 26AS will now be a complete profile of the taxpayer which will have comprehensive information on taxes paid, details of pending and completed income tax proceedings, status of income tax demand and refund among others.

Key takeaways of the New Form 26AS released by CBDT vide **Notification dated 28th May, 2020** by way of amendment in Sec 285BB w.e.f 01st June, 2020 are:

1. This form will also have mobile no, Email-id and Aadhaar no. of the taxpayer.
2. Information on the form will not be a one-time affair at year This will be a live 26AS, as this will be updated regularly within 3 months from the end of the month in which such information is received.
3. Banks, financial institutions or any other authority or customer, buyer etc. while carrying out due diligence of the person/ corporate concerned will now ask for form 26AS so as to be sure that there are not any major issues about such person/corporate. As a result of introduction of New form, now it will be difficult for any taxpayer to hide information from any bank / financial institution/ authority about any proceedings against under any law or tax demand, tax disputes etc
4. New form 26AS will also provide information in respect of “Specified financial transactions” which includes the following:
    - Transactions of purchase/ sale of goods or property, rendering of services
    - Transactions under works contract,
    - Transactions by way of an investment or expenditure incurred.
    - Taking or accepting any loan or deposits of such value as may be prescribed but not less than of Rs 50,000.
    - Income Tax Demand & Refund
    - Proceedings pending, and proceedings completed which may include assessment, reassessment under section 148,153A 153C, revision, appeal
5. Further an enabling provision has been notified empowering the CBDT to authorise DG Systems or any other officer to upload in this form, information received from any other officer, authority under any law. Thus any adverse action initiated or taken or found or order passed under any other law such as custom, GST, Benami Law etc. including information about Turnover, import, export will also be put in this form so that not only the concerned taxpayer but also all the Income Tax authorities will know and have access to such information.
6. This form will also provide information received by Tax Department from any other country under the treaty /exchange of information about income or assets of the taxpayer located outside

With the launch of The Transparent Taxation: Honouring the Honest on 13th August,2020, Honourable PM Narender Modi announced a landmark shift in the income tax administration to make it simple, painless and transparent.

The Finance Ministry has also proposed new measures to ensure better compliance by expanding the scope of Reporting of following Transactions and reporting the same in New Form 26AS:

- Payment of Educational Fee/Donations above Rs. 1 lakh per annum
- Electricity Consumption Bill of more than Rs 1 lakh per annum
- Domestic business class air travel or foreign travel
- Payment to Hotel above Rs 20,000
- Purchase of jewellery, white goods, paintings, marble, etc above Rs 1 lakh
- Deposits/credits in current account above Rs 50 lakh
- Deposits or credits in non-current account above Rs 25 lakh
- Payment of property tax above Rs 20,000 per annum
- Life insurance premium above Rs 50,000
- Health insurance premium above Rs 20,000
- Share transactions, demat account, bank lockers

The government has also proposed to deduct TDS/collect TCS at higher rates for those who do not file Income Tax Returns (ITR). There is also a proposal for compulsory filing of ITR by those who have their bank transactions above Rs. 30 lakh, all professionals, businesses having turnover above Rs. 50 lakh and payment of rent above Rs. 40,000.

**ADITHYA.S - ARTICLE**
**M&S PALAKKAD**

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## IV. CORPORATE LAW :

### (i) REALTED PARTY TRANSACTIONS

### RELATED PARTY

The related parties for the company, in general, are as under

| SI. No. | RELATED PARTIES |
|---|---|
| 1 | A director or his relative (**Relative** means a member of the same HUF, husband, wife, father, step father, mother, step mother, son, step son, son's wife, daughter, daughter's husband, brother, step brother, sister, step sister) |
| 2 | Key managerial personnel or his relative |
| 3 | A firm in which a director, manager, or relative is a partner |
| 4 | A private company in which a director, manager, or relative is a member or director |
| 5 | A public company in which a director or manager is a director and holds along with his relatives more than 2% of its paid-up capital |
| 6 | Any body corporate whose board of directors, MD or manager is required to act in accordance with the advice, directions or instructions of a director or manager (NA in cases when these directions are followed in professional capacity) |
| 7 | Any person on whose advice, directions or instructions a director or manager is required to act (NA when this is done in professional capacity) |
| 8 | Holding, Subsidiary or Associate of such company |
| 9 | Any company which is subsidiary of a holding company to which it is also a subsidiary |

### RELATED PARTY TRANSACTIONS

Since we are acquainted with the term related party let us dive into the transactions covered. The broad categories are mentioned hereby:

| SL. No | Transactions as per Companies Act requiring approval of the Board by resolution | Transactions as per The Companies (Meetings of Board and its powers) Rules 2014 requiring approval by the company by resolution |
|---|---|---|
| 1 | **Goods and Material:** Sale, purchase or supply | Sale/Purchase/Supply of goods/material directly or through an agent covering 10% or more of turnover OR one hundred Crores (whichever is lower). |
| 2 | **Property:** Selling or buying or leasing | Sale/Purchase of property directly or through an agent that is 10% or more of net worth OR one hundred Crores (whichever is lower).<br>In case of leasing of property directly covering 10% or more of turnover OR one hundred Crores (whichever is lower). |
| 3 | Agent for (1) and (2) above | Availing or rendering of services directly or through an agent which is 10% or more of turnover OR fifty Crores (whichever is lower) |
| (All the above limits are to be taken on all transactions done on a financial year basis) | | |
| 4 | Others:<br>• Availing of or rendering of services<br>• Underwriting of securities or derivatives<br>• Related partys' appointment to **place of profit or office*** in the company/subsidiary/associate<br>• If the:<br>• Director or<br>• individual other than director/ firm/private company/body corporate receive from the company an amount over and above the remuneration (In case of directors) and anything by way of remuneration for others will need the approval of the Board by a resolution. | • Related party's appointment to **place of profit or office*** in the company/subsidiary/associate where the remuneration exceeds two and a half lakhs<br>• Underwriting of securities or derivatives when remuneration exceeds 1% of the net worth |

**How does SEBI govern related parties and related party transactions?**

The SEBI Clause 49 also states certain regulatory requirements for related party transactions. It defines related party transaction as a transaction which includes transfer of resources/services/obligation. Its scope is of a wider range than the Companies Act 2013. It includes close family members of directors or key managerial personnel, private company in which directors or key managerial personnel plus their relatives have control or significant influence. Every related party transaction which is material has to be approved by the shareholders by passing a special resolution and all related parties shall not be allowed to vote on such resolutions.

**Important Pointers**

1. The turnover or net worth for the purpose of calculation under Companies Rules 2014 shall be based on the audited financial statements.
2. If the transaction is in the ordinary course of business and done on an arm's length basis it shall not require the approval of the board or the company.
3. No member shall vote on the special resolution if such member is a related party.
4. Details of every contract entered into shall find its reference in the Board's report along with justification about the same
5. Ratification of the transaction may be done by the Board or the shareholders within three months. If the same is not done, then the contract will be voidable at the option of the Board.
6. If the contract is with anyone related to the director, or is authorized by any other director, the directors concerned shall make good to the company for losses if any caused to the company.
7. Penalties outlined under Sec 188 are:

   **Listed Company:** Imprisonment upto 1 year; Fine ranging from Rs. 25000 to Rs. 500000 or both;

   **Any other company:** Fine ranging from Rs. 25000 to Rs. 500000.

The meaning associated with this phrase related-party-transaction will keep clouding our minds and we hope to find some

**KRISHNA PRABHA. K – ARTICLE**
**M&S PALAKKAD**

**V. GST :**

**GST RETURN FORMS**

**1. GSTR-1**

GSTR-1 is the return to be furnished for reporting details of all outward supplies of goods and services made, or in other words, sales transactions made during a tax period, and also for reporting debit and credit notes issued. Any amendments to sales invoices made, even pertaining to previous tax periods, should be reported in the GSTR-1 return.

GSTR-1 is to be filed by all normal taxpayers who are registered under GST. It is to be filed monthly, except in the case of small taxpayers with turnover up to Rs.1.5 crore in the previous financial year, who can file the same on a quarterly basis.

**2. GSTR-2A**

GSTR-2A is the return containing details of all inward supplies of goods and services i.e. purchases made from registered suppliers during a tax period. The data is auto-populated based on data filed by the suppliers in their GSTR-1 return. GSTR-2A is a read-only return and no action can be taken.

**3. GSTR-2**

GSTR-2 is the return for reporting the inward supplies of goods and services i.e. the purchases made during a tax period. The details in the GSTR-2 return are auto-populated from the GSTR-2A. Unlike GSTR-2A, the GSTR-2 return can be edited.

GSTR-2 is to be filed by all normal taxpayers registered under GST, however, the filing of the same has been suspended ever since the inception of GST.

**4. GSTR-3**

GSTR-3 is a monthly summary return for furnishing summarized details of all outward supplies made, inward supplies received and input tax credit claimed, along with details of the tax liability and taxes paid. This return is auto-generated on the basis of the GSTR-1 and GSTR-2 returns filed.

GSTR-3 is to be filed by all normal taxpayers registered under GST, however, the filing of the same has been suspended ever since the inception of GST.

**5. GSTR-3B**

GSTR-3B is a monthly self-declaration to be filed, for furnishing summarized details of all outward supplies made, input tax credit claimed, tax liability ascertained and taxes paid.

GSTR-3B is to be filed by all normal taxpayers registered under GST.

**6. GSTR-4 / CMP-08**

GSTR-4 is the return that was to be filed by taxpayers who have opted for the Composition Scheme under GST. CMP-08 is the return which has replaced the now erstwhile GSTR-4. The Composition Scheme is a scheme in which taxpayers with turnover up to Rs.1.5 crores can opt into and pay taxes at a fixed rate on the turnover declared.

The CMP-08 return is to be filed on a quarterly basis.

**7. GSTR-5**

GSTR-5 is the return to be filed by non-resident foreign taxpayers, who are registered under GST and carry out business transactions in India. The return contains details of all outward supplies made, inward supplies received, credit/debit notes, tax liability and taxes paid.

The GSTR-5 return is to be filed monthly for each month that the taxpayer is registered under GST in India.

**8. GSTR-6**

GSTR-6 is a monthly return to be filed by an Input Service Distributor (ISD). It will contain details of input tax credit received and distributed by the ISD. It will further contain details of all documents issued for the distribution of input credit and the manner of distribution.

**9. GSTR-7**

GSTR-7 is a monthly return to be filed by persons required to deduct TDS (Tax deducted at source) under GST. GSTR 7 will contain details of TDS deducted, the TDS liability payable and paid and TDS refund claimed, if any.

**10. GSTR-8**

GSTR-8 is a monthly return to be filed by e-commerce operators registered under the GST who are required to collect tax at source (TCS). GSTR-8 will contain details of all supplies made through the E-commerce platform, and the TCS collected on the same.

The GSTR-8 return is to be filed on a monthly basis.

**11. GSTR-9**

GSTR-9 is the annual return to be filed by taxpayers registered under GST. It will contain details of all outward supplies made, inward supplies received during the relevant previous year under different tax heads i.e. CGST, SGST & IGST and HSN codes, along with details of taxes payable and paid. It is a consolidation of all the monthly or quarterly returns (GSTR-1, GSTR-2A, GSTR-3B) filed during that year.

GSTR-9 is required to be filed by all taxpayers registered under GST*, except taxpayers who have opted for the Composition Scheme, Casual Taxable Persons, Input Service Distributors, Non-resident Taxable Persons and persons paying TDS under section 51 of CGST Act.

*As per the CBIC notification 47/2019, the annual return under GST for taxpayers having an aggregate turnover which does not exceed Rs.2 crore has been made optional for FY 2017-18 and FY 2018-19.

**12. GSTR-9A**

GSTR-9A is the annual return to be filed by taxpayers who have registered under the Composition Scheme in a financial year*. It is a consolidation of all the quarterly returns filed during that financial year.

*GSTR-9A filing for Composition taxpayers has been waived off for FY 2017-18 and FY 2018-19 as per the decision taken in the 27th GST Council meeting.

**13. GSTR-9C**

GSTR-9C is the reconciliation statement to be filed by all taxpayers registered under GST whose turnover exceeds Rs.2 crore in a financial year. The registered person has to get their books of accounts audited by a Chartered/Cost Accountant. The statement of reconciliation is between these audited financial statements of the taxpayer and the annual return GSTR-9 that has been filed.

GSTR-9C is to be filed for every GSTIN, hence, one PAN can have multiple GSTR-9C forms being filed.
As per the CBIC notification 16/2020, GSTR-9C is waived off for the taxpayers with an aggregate turnover of more than Rs 5 crore for the financial year 2018-19.

### 14. GSTR-10

GSTR-10 is to be filed by a taxable person whose registered has been cancelled or surrendered. This return is also called a final return and has to be filed within 3 months from the date of cancellation or cancellation order, whichever is earlier.

### 15. GSTR-11

GSTR-11 is the return to be filed by persons who have been issued a Unique Identity Number(UIN) in order to get a refund under GST for the goods and services purchased by them in India. UIN is a classification made for foreign diplomatic missions and embassies not liable to tax in India, for the purpose of getting a refund of taxes. GSTR-11 will contain details of inward supplies received and refund claimed.

**Sruthi. K - Article**
**M&S, Palakkad**

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## VI. CARTOON :

**Nimisha - Article**

## VII. GENERAL

### ACTIVE DURING CORONA

Change is the law of nature, whether it's good or bad, it happens & when it does it feels strange, gradually the new normal turns normal . In these dark times it may be hard to find the light in life yet, sometimes we actually have to search for the silver lining in order to see one. Here are some tips for those trying hard to keep the wheels of the economy turning.

A. <u>For those who work from home</u>

a. Dedicate the regular business time (or reasonable business time: 9am-5pm) you used to have for your work. In case of deadlines use time needed for completing them. But don't stress the whole world has slowed down it's ok if you do too, give that mind a break.
b. Family time counts, after all you're home now. Cooking a family meal together, playing card games, board games or any other ones that help you bond together as a family
c. Connect with colleagues not only for work status updates but for a little chit chat. Keeping up both personal & professional relationship during these times goes a long way once the old normal returns. It promotes a sense of team spirit within the organization.
d. Staying home doesn't mean constant access to T.V, limit screen time to get the latest updates & movies. The more you spent in front of the news, the more panic creeps inside you.
e. Avoid "social mayhem". Use the social media to connect to your friends, family & work & stay aware that all that's there isn't true. Don't brood over each news related to pandemic, it here & will stay for a while but remember "even this will pass".

B. <u>For those in the office</u>

a. Do your work peacefully, there isn't anything as "work load" these days so stop panicking & work with a clear mind
b. Field duty won't be the story in near future; those who used to do so may find it strange to sit at the office. Relax, it's always a bonus to learn new thing consider them a skill development.
c. Keep up the liveliness in the office, share your stories & jokes, pull someone's leg (not literally!!) it may be less crowed, at least it's not closed.
d. Divide the work load (if it's there) among yourselves, form teams & complete the task. Those with too much work will be have their work cut out for them & those will fewer work can avoid staying at home & doing nothing.

**Thailambal. V - Trainee**

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## VIII. Save the Dates – SEPTEMBER 2020

| STATUTORY DATES | |
|---|---|
| **INCOME TAX** | |
| 7/9/2020 | Due date for E-payment of TDS deducted for August, 2020 |
| 15/9/2020 | Payment of second installment of Advance Income Tax for FY 2020-21 |
| | |
| **GST** | |
| **Due Date** | **Statement/Return/Certificates to be issued/Furnished** |
| 11/9/2020 | Last date for efiling of GSTR 1 for the month of August 2020 |
| 12/9/2020 | Annual Turnover of upto INR 5cr in Previous FY – May 2020 (Group A: Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, Daman & Diu and Dadra & Nagar Haveli, Puducherry, Andaman and Nicobar Islands, Lakshadweep) |
| 15/9/2020 | Annual Turnover of upto INR 5 Cr in Previous FY – May 2020 ( Group B: Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand, Odisha, Jammu and Kashmir, Ladakh, Chandigarh, Delhi) |
| 20/9/2020 | Last date for efiling of GSTR 3B for the month of August 2020 |
| 30/9/2020 | Due date for efiling of GSTR 9, 9C,&9A for the FY 2018-2019 |
| 30/9/2020 | For the taxpayers having an aggregate turnover of more than Rs 5 Cr. in the preceding financial year, who fail to furnish the return in FORM GSTR-3B for the months of May, 2020 to July, 2020, by the due date but furnish the said return till the 30th day of September, 2020, the total amount of late fee shall be capped at Rs 500 per return and shall stand fully waived for those taxpayers where the total amount of tax payable in the said return is Nil |

**Answers to August edition Test Your Skill :**

1. c
2. d
3. b
4. d
5. c
6. b
7. b
8. d
9. b
10. b
11. a
12. a
13. a
14. a
15. a

**Answers to August edition Crossword Puzzle :**

ACROSS

2. Capital Gain
3. ONGC
4. CRR
9. TDS
16. Exempted
18. NSE
19. Integrated
20. Perquisite
21. Lorenz

DOWNWARD

1. EAFA
2. Compounded
5. People
6. Two
7. Interest
8. Revenue
10. Advance
11. Odisha
12. Reverse
13. Belated
14. Set off
15. SBI
17. PAN
22. Bond

**IX. TEST YOUR SKILL :**

1. Every buyback shall be completed within ………. Years from the date of passing of special resolution/Board resolution.

   a. 2 years b. 1 Year c. 5 Years d. 3 Years

2. A company can issue redeemable preference shares for a period exceeding 20 years in case of-

   a. Agricultural companies b. Infrastructural companies c. Coal and electric projects d. Hydro electric companies

3. Capital redemption reserve can be used for-

   a. Writing off preliminary expenses b. Writing off capital losses c. Writing off negative reserves d. Issue of bonus shares

4. A small depositor means a depositor who has deposited in a financial year a sum not exceeding…….

   a. Ten Thousand rupees b. Fifteen Thousand rupees c. Twenty Thousand rupees d. Fifty Thousand rupees

5. In case of all listed company or a company belonging to class or classes of companies, auditor in case of firm will have the cooling period of ………..years after completion of his term.

   a. 1 Year b.2 Years c.5 Years d. 10 Years

6. For declaration of Dividend out of accumulated profits, the rate of dividend declared shall not exceed the average of the rates at which dividend was declared by it in the…….years immediately preceding that year.

   a. 2 b. 3 c. 5 d. 7

7. Due date of furnishing return of income for a working partner of a firm whose accounts are required to be audited is:

   a. 31st July of AY b. 30th September of AY c. 30th November of AY d. 31st March of AY

8. Mr. P has a total income of Rs. 7 lakhs for AY 2019-20. He files his return of income for AY 2019-20 on 13th January, 2020. He is liable to pay late fee of

   a. Rs. 1000 u/s 234F b. Rs. 5000 u/s 234F c. Rs. 10000 u/s 234F d. Not liable to pay any fee

9. Interest u/s 234B for default in payment of advance tax is payable for period starting from _____

   a. due date of return to the date of assessment
   b. 1st April of relevant AY to the date of assessment
   c. 1st April of relevant AY to date of submission of ROI

10. Belated return can be filed by an assessee before end of ___ or before _____.whichever is earlier.

    a. Relevant AY, Completion of Assessment
    b. 1 year from the end of AY, Completion of Assessment
    c. Relevant PY, Completion of Assessment
    d. 1 year from the end of PY, Completion of Assessment

11. A fee of ___ per day is levied u/s 234E for late furnishing of TDS statement.

    a. Rs. 200 b. Rs. 2,000 c. Rs. 1,000 d. Rs. 100

12. What shall be the rate at which TDS on insurance commission shall be deducted u/s 194D when the payee is a person other than a domestic company?

    a. 20% b. 10% c. 30% d. 5%

13. Deduction u/s 80TTB is allowed to ____.

    a. Any Individual
    b. Any individual who is a senior citizen
    c. Any individual who is a super senior citizen
    d. Any individual who is not a senior citizen

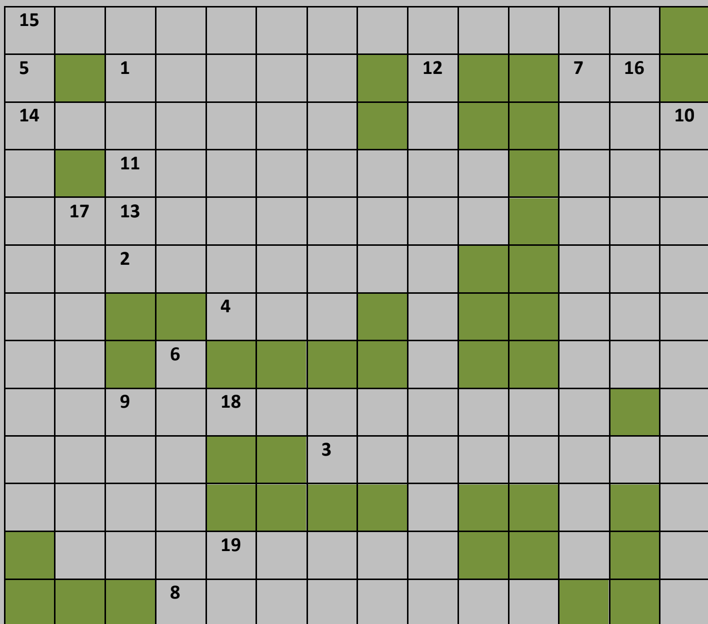
14. Interest incurred on the loan taken for purchase of the plant & machinery before the commencement of the production is to be –

    a. Capitalized
    b. Treated as revenue expenditure
    c. Either capitalized or treated as revenue expenditure at the choice of assessee
    d. Neither capitalized or treated as revenue expenditure.

15. Can the taxable person under Composition Scheme claim input tax credit

    a. Yes b. No c. Only in some cases d. Can't say

## X. CROSSWORD PUZZLE



### ACROSS

1. Resources owned by a company (such as cash, accounts receivable, vehicles) are reported on the balance sheet and are referred to as …………………
2. Liabilities often have the word …………….. in their account title.
3. Financial accounting is focused on the …………. financial statements of a company.
4. The US government agency with authority over the financial reporting requirements of publicity traded corporations is the ……………..
8. The personal assets of the owner of a company will not appear on the company's balance sheet because of ………………… entity principle/guideline.
11. Which principle directs a company to show all the expenses related to its revenues of a specified period even if the expenses were not paid in that paid.
13. The book value or carrying value of a bond issuer at a discount will …………… as the discount is amortized.
14. Contributions received from donors are reported on the statement of activities under the caption ………………..
15. Factory overhead and burden are terms used as alternatives for the term …………………… overhead.
18. The name given to the difference between the actual cost of a products inputs and the standard cost of one of the products inputs is known as ……………………..
19. The pay earned by hourly, paid by employees is usually referred to as ……………….

### DOWNWARD

5. Matching, cost, and full disclosure are examples of the fundamental or basic accounting …………………..
6. The financial statements that reports the revenues and expenses for a period of time such a year or a month is the …………….. statement.
7. The statement of cash flows explains the changes in cash and cash ……………….. during the specified time interval.
9. Which principle requires a company's balance sheet to report its land at the amount the company paid to acquire the land, even if the land could be sold today at a significantly higher amount.
10. Which principle justifies a company violating on accounting principle because the amounts are immaterial.
12. When the accountant has to choose between two acceptable alternatives, the accountant should select the alternative that will report less profit, less asset amount, or a greater liability amount. This is based upon which principle.
16. Traditional costing is more likely to be associated with allocating manufacturing overhead on the basis of ………………… hours.
17. The term associated with estimated, predetermined costs is …………….. cost.

***Amrutha Thilakan – Article***

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***Answers can be mailed to msofficetrichur1@gmail.com***