

BASCO BULLETIN

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Helping with Compliance, with Securing Advice



BAS & Co LLP

Kolkata- Ahmedabad-Delhi

1. DIRECT TAX

CIRCULARS/NOTIFICATIONS

CBDT Issues Guidelines on TDS u/s 194-O (E-commerce operators)

In cases involving multiple ECOs, the responsibility for compliance depends on whether the seller-side ECO is the actual seller or not. The guidelines outline the scenarios and the respective ECOs responsible for TDS. The circular also addresses the inclusion of convenience fees, commission charges, and logistics/delivery fees in the "gross amount" for TDS calculation, along with guidance on other aspects.
Refer Circular No. 20 of 2023-Income Tax - 28/12/2023

ITR 1 and ITR 4 for A.Y 2024-25/ F.Y 2023-24

CBDT notifies ITR 1 and ITR 4 for Assessment Year (AY) 2024-25 / Financial Year (FY) 2023-24
Refer Notification No. 105/2023-Income Tax Dated: 22/12/2023

Revised SFT Submission Process for Mutual Fund Transactions

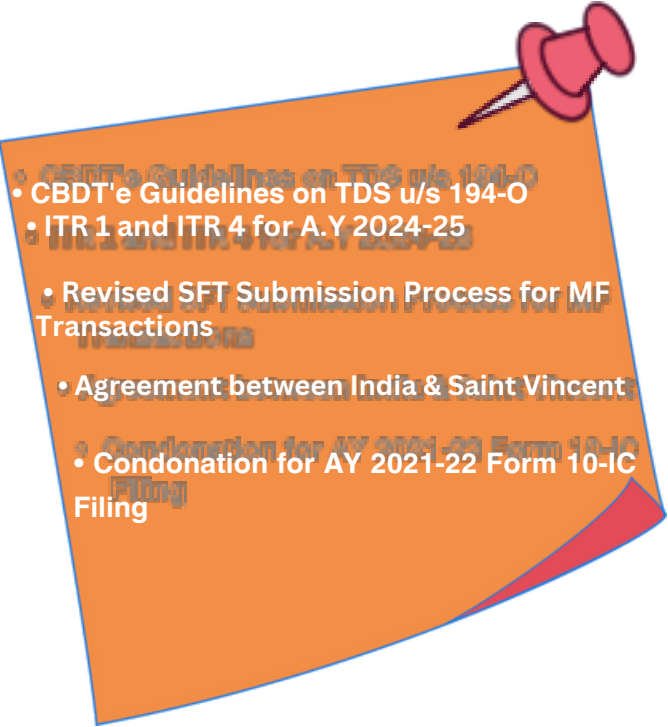
This amendment outlines crucial changes in the format, procedure, and guidelines for the submission of the Statement of Financial Transactions (SFT) concerning Mutual Fund Transactions by Registrar & Share Transfer Agents (RTAs). Changes in format, procedure and guidelines for submission of SFT for reporting of Depository transactions have also been notified.

Refer Corrigendum to Notification No. 4 of 2021, dated 15/11/2023

Income Tax Agreement between India & Saint Vincent

The primary objective of this agreement is to facilitate the exchange of information and assistance in the collection of taxes between Indian and Saint Vincent. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters.

Refer Notification No. 96/2023-Income Tax on 01/11/2023

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- CBDT's Guidelines on TDS u/s 194-O
 - ITR 1 and ITR 4 for A.Y 2024-25
 - Revised SFT Submission Process for MF Transactions
 - Agreement between India & Saint Vincent
 - Condonation for AY 2021-22 Form 10-IC Filing

Condonation for AY 2021-22 Form 10-IC Filing Until 31.01.2024

For the delay in filing Form No. 10-IC to be condoned, the following conditions must be satisfied:

- The return of income for the relevant assessment year must have been filed on or before the due date specified under section 139(1) of the Income-tax Act.
- The assessee company has opted for taxation under section 115BAA of the Act by selecting item (e) of "Filing Status" in "Part A-GEN" of the Form of Return of Income ITR-6.
- Form No. 10-IC is filed electronically on or before January 31, 2024, or within three months from the end of the month in which Circular No. 19/2023 is issued, whichever date is later.

Refer CBDT issued Circular No. 19/2023 dated 23/10/2023

Form 15CD for IFSC Unit Remittances

A new e-Form named "Form No. 15CD" is introduced. This form is to be used by units of IFSCs to report their remittances. The form includes detailed fields for providing information about the unit, remittee, remitter, currency details, and more.

Refer Notification No. 89/2023 dated 16/10/2023

1.1 DIRECT TAX

RECENT CASE LAWS:

Notification required to avail the Most Favored Nation (MFN) advantage.

In a groundbreaking judgment, the Supreme Court ruled that a distinct notification is required to enact changes to a Double Taxation Avoidance Agreement (DTAA) or protocol, altering its terms and amending existing legal provisions. The court emphasized that the MFN (Most Favored Nation) clause's benefits cannot be automatically applied without such notification. Furthermore, it clarified that the inclusion of the word 'is' in Clause IV(2) of the India-Netherlands DTAA indicates that for the Netherlands to benefit from the MFN clause based on the DTAA with a third country, that third country must be a member of the OECD at the time of entering into such DTAA.

AO vs. Nestle SA- MFN Clause (Supreme Court)

Form 16A absence won't block TDS credit.

If tax is deducted at the source, the taxpayer isn't obligated to pay the deducted amount. Form 16A is not conclusive evidence; the assessee, with reliable material other than Form 16A, can't be denied tax credit due to the deductor's non-compliance.

Incredible Unique Buildcon Private Limited Vs ITO (Delhi High Court)

Deduction Not Allowed for Interest on Delayed Payment of TDS

The Income Tax Appellate Tribunal (ITAT), Bangalore bench, ruled against permitting the deduction of interest on delayed Tax Deduction at Source (TDS) payments. Expat Engineering India Ltd, the assessee, faced scrutiny after filing its income return, where the Assessing Officer (AO) disallowed the deduction claimed for interest on delayed TDS payment.

M/s. Expat Engineering India Ltd. Vs ACIT

Dismissal of criminal proceedings for failure to file return

Prosecution cannot be initiated for willful failure to file Income Tax Returns (ITR) if the tax payable, considering credits for prepaid taxes such as TDS and advance tax, falls below the specified threshold limit outlined in the Act. The initiated criminal proceedings were quashed.

Manav Menon vs Deputy Commissioner of Income Tax



2. INDIRECT TAX

CIRCULAR/NOTIFICATIONS

CBIC notifies Conditions for GST Appeal Filing with Appellate Authority

The notification applies to taxable persons who were unable to file an appeal against an order within the time frame specified in section 107 of the CGST Act. It also includes those whose appeals were rejected solely due to a failure to meet the specified time limits.

Taxable persons falling under this category are required to file an appeal using Form GST APL-01. The appeal must be submitted on or before January 31, 2024

Refer Notification No. 53/2023-Central Tax 02/11/2023

New Tax Rate on Millet Flour

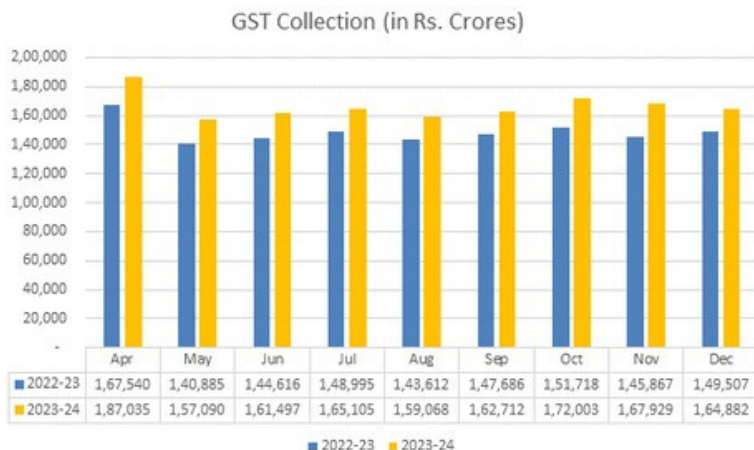
Notification No. 18/2023-Central Tax (Rate) introduces a notable change in the taxation of food preparations made from millet flour, particularly those in powder form. GST on pre-packaged and labelled millet flour with 70 per cent millet content is reduced from 18% to 5%. Millet flour has been exempted from GST if sold in loose form.

Refer Notification No. 18/2023-Central Tax Dated: 20/10/2023

E-Way Bill Requirement for West Bengal Restored to more than Rs. 1,00,000

West Bengal's recent GST update brings a significant change in the E-Way Bill requirements. Notification No. 02/2023-C.T./GST, which lowered the consignment value triggering E-Way Bills to Rs. 50,000 and mandated E-Way Bills for job work, has been kept in abeyance. The restoration, effective from December 1, 2023, reinstates the requirement for E-Way Bills for consignments valued at more than Rs. 1,00,000.

Refer Notification No. 03/2023-C.T./GST - 18/12/2023



GST Notice Time Limit for financial years 2018-19 & 2019-20 extended

The Ministry of Finance has issued Notification No. 56/2023-Central Tax dated 28th December 2023, bringing forth significant changes to the time limits for the issuance of notices in the context of Goods and Services Tax (GST). This update, impacting the financial years 2018-19 and 2019-20, aims to streamline the process and provide additional time for both the GST department and taxpayers to handle compliance matters effectively.

A. For Financial Year 2018-19:

- Show cause notices can now be issued until 31st January 2024, extending the original deadline by one month.
- Orders related to the recovery of tax not paid, short paid or input tax credit wrongly availed or utilized can be issued until 30th April 2024, also extended by one month.

B. For Financial Year 2019-20:

- Show cause notices can be issued until 31st May 2024 providing a two-month extension.
- Orders for the same financial year can be issued until 31st August 2024, extending the original deadline by two months.

Refer Notification No. 56/2023-Central Tax 28/12/2023



2.1 INDIRECT TAX

RECENT CASE LAWS:

Section 54(1) Time Limit for GST Refund: Directory, Not Mandatory

Section 54 does not impose a mandatory requirement for refund applications to be submitted within two years; in certain situations, it allows for refund requests to be made even after this two-year period.

Lenovo (India) Pvt. Ltd. Vs Joint Commissioner of GST (Appeals-1) (Madras High Court)

Liability related to the secondment of employees.

An interim order has been issued, granting a stay on the raised demand. The taxpayer contends that the liability on the Indian portion of the salary should not be taxed under GST, asserting it falls under the employer-employee relationship and isn't considered a supply. Moreover, with taxes on the foreign salary portion and interest already deposited, along with the authorities issuing a closure letter, the taxpayer argues against reopening the issue.

M/s Mitsubishi Electric India Pvt Ltd (Punjab and Haryana High Court)

Prospective Amendment – ITC On CSR Expenditure Under GST

Gujarat AAR, in the case of Adama India (P.) Ltd., held that CSR activities are in pursuance of statutory obligation and not in the normal course of business, hence considered the respective ITC to be ineligible. A new clause (fa) is inserted after section 17(5) (f) of the CGST Act vide Finance Act 2023 amendment that states::

"ITC is Blocked for goods or services or both received by a taxable person, which is used or intended to be used for activities relating to his obligations under Corporate Social Responsibility referred to in section 135 of the Companies Act, 2013"

However, clarification from government is required on the question that whether the ITC on CSR expenses would be allowed before the date of notification by which clause (fa) has been inserted

M/s Adama India Pvt Ltd (AAAR Gujarat)

Personal guarantee (director) is liable to RCM under GST: Telangana HC

The Court, after considering the notification, concluded that the services provided by the Director of a company, including personal guarantee and security, were subject to tax under reverse charge. The petitioner's reliance on personal properties provided as security and personal guarantee for exemption from GST was not accepted.

BST Steels Pvt. Ltd Vs Superintendent of Central Tax (Telangana High Court)

Submitting a writ petition in the absence of a tribunal.

Where Appellate Tribunal was not constituted and there was a delay in preferring appeal against the order of 1st Appellate Authority, writ petition was maintainable

Mr. Lingaraj Pradhan (Orissa High Court)



Foreign Investment In Partnership Firm



Hello, Mr. FEMA Scientist ,I hope you are doing well. One of my friend , Lara, is a Non Resident Indian (NRI) and she is interested in investing in my uncle's jewelry design partnership firm in India. As an NRI, is she allowed to invest in a partnership firm in India?



Hi!, yes, you can invest in an Indian partnership firm, except those firms that engaged in

- i) Agricultural or plantation activities,**
- ii) Print media,**
- iii) Real estate businesses.**

But the investment has to be on a non-repatriation basis.

Wait, Non-repatriation Basis?

Non-repatriation means that funds invested in India are required to stay within the Indian financial system and cannot be repatriated or brought back to the investor's country of origin. But that doesn't mean you can't disinvest.

You can disinvest from the firm, but you can use these fund within India only.

Repatriation to your own country is not allowed.

Also, there is no reporting requirement, but at the time of investment, you need to provide a written declaration to the AD (Authorized Dealer) bank. In this declaration, you need to declare that the investment is made on a non Repatriable basis, and you required to specify the amount of investment and the purpose of the investment, along other details.

BAS & Co can take care of all the required compliances and they also help in dual tax compliances in the home country and foreign country too. Don't forget to reach out to them !!

Thanks a bunch, Mr. FEMA scientist. I appreciate your help.



4. INTERNATIONAL TAXATION

International Taxation - G20 Summit 2023

G20 leaders on its 18th meeting decided to swiftly implement global tax reforms which entail a framework on digital economy taxation and a global minimum corporate tax rate, the leaders said in the New Delhi Summit Declaration that was adopted by member countries.

"We reaffirm our commitment to continue cooperation towards a globally fair, sustainable and modern international tax system appropriate to the needs of the 21st century. We remain committed to the swift implementation of the two-pillar international tax package. ,"

the declaration said.

Leaders said that significant progress has been made on one of the key components of the global tax reform, called 'pillar one' including the delivery of a text of a Multilateral Convention (MLC). This multilateral tax document is expected to be ready for signature in the second half of 2023. Separately, work is also progressing on other elements of tax reform, under 'pillar two.'

"We welcome the steps taken by various countries to implement the Global Anti-Base Erosion (GloBE) Rules as a common approach. We recognize the need for coordinated efforts towards capacity building to implement the two-pillar international tax package effectively and, in particular, welcome a plan for additional support and technical assistance for developing countries," the leaders' declaration said.

The leaders also called for swift implementation of a Crypto-Asset Reporting Framework (CARF), while acknowledging the work done on exchange of information for tax purposes.

They also said, in the declaration, that they will continue to closely monitor the risks of the fast-paced developments in the crypto-asset ecosystem. "We endorse the Financial Stability Board's (FSB's) high-level recommendations for the regulation, supervision and oversight of crypto-assets activities and markets and of global stablecoin arrangements. We ask the FSB and SSBs to promote the effective and timely implementation of these recommendations in a consistent manner globally to avoid regulatory arbitrage," the declaration said.



5.COMPLIANCE CALENDAR

DUE DATES FOR INCOME TAX:

FILING TDS RETURN FOR THE F.Y. 2023-24:

Q3 (Oct'23- Dec'23)- 31st January 2024

Q4 (Jan'24-Mar'24)- 31st May 2024

Q1 (Apr'24-June'24)- 31st July 2024

FILING TCS RETURN FOR THE F.Y. 2023-24:

Q3 (Oct-Dec'23)- 15th January 2024

Q4 (Jan'24-Mar'24)- 15th May 2024

Q1 (Apr'24-June'24)- 15th July 2024

Deposit of Advance Tax

Fourth Installment: 15th March 2024 (100% of tax liability)

DUE DATES FOR GST Returns

S.No	Form	The object of e-form	For the month/year	Last Date	Remarks
1	GSTR-1	Monthly Return	December, 2023	11th January, 2024	Not opted for QRMP Scheme
		Quarterly Return	December, 2023	13th January, 2024	Opted for QRMP Scheme
2	GSTR-3B	Monthly Return	December, 2023	20th January, 2024	Not opted for QRMP Scheme
3	GSTR-6	Monthly Return	December, 2023	13th January, 2024	Filed by ISD
4	GSTR-7	Monthly Return	December, 2023	10th January, 2024	Deductor of TDS under GST
5	GSTR-8	Monthly Return	December, 2023	10th January, 2024	E-commerce operators required to collect TCS
6	GSTR-9	Annual Return	2023-24	31st December,2024	Turnover > 2crs.
7	GSTR-9C	Annual Return	2023-24	31st December,2024	Turnover > 5crs.

BAS & CO LLP

Kolkata

CA Arun Patodia

Email: arun@basco.in

Phone: 033-25587917

Address: Suryadeep , 2nd Floor,
1/IE/6, Rani Harsha Mukhi Road,
Kolkata 700002

Ahmedabad

CA Sumeet Singhania

Email: sumeet@basco.in

Phone: 7940324670

Address: Dev Aurum, A-702, Anandnagar
Road, Ahmedabad 380015

Delhi

CA Ritika Agarwal

Email: ritika@basco.in

Phone: 9717057567

Address: 804, Pearls Omaxe Building, Netaji
Subhash Place, Delhi-110034

ABOUT THE FIRM

With 27 years of experience in the industry, BAS & Co LLP continues to deliver high-quality performance to its clients. The growing team of young professionals with dynamic approaches will surely carve more paths for the firm in the coming future.

SERVICES

- Audit
- Direct Tax
- Indirect TAX
- Secretarial
- FEMA
- International tax

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