

TAX CHAT - Updates



Monthly Newsletter from SSJCO

Email: sunil@ssjco.in

Website: www.ssjco.in

April - May 2022

For Private Circulation only

Date: 28th May, 2022

Dear Madam / Sir,

Namaste!

The new year has begun with new normalcy and nothing to complain about and we all are set to achieve our goals for this financial year.

We have missed the communication with you all in April 2022. There are many circulars / notifications/ instructions issued in April and May 2022. In this April - May 2022 edition of Tax Chat we are attempting to summarize some of these updates in direct taxes.

Rishabh has shared his thoughts on "Rising Inflation has made people feel anxious and overwhelmed".

Trust you will find this edition useful and as in all these years, we will be happy to receive your valuable inputs for improvement.

Happy Reading!

Stay Safe, Connected & Updated

With Regards,

Team - S S Jhunjunwala & Co

Contents:

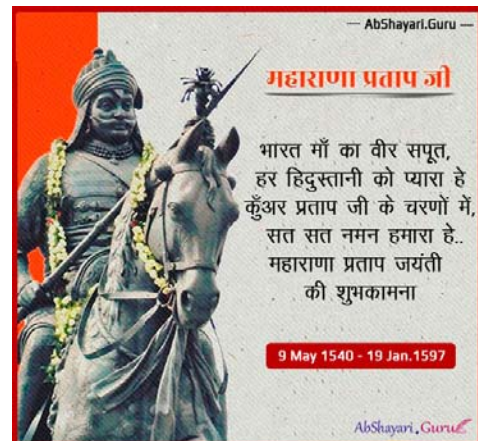
Circulars, Notifications and
Others under Income Tax ... 02 - 21

Article:

Rising Inflation has made people feel
anxious and overwhelmed ... 22 - 24

Action Points for the Month
of June, 2022 ... 24

Story of the Month ... 25



Circulars, Notifications and Others:

(Compiled by: Ms Sonakshi Jhunjunwala)

1. CBDT Notifies ITR Forms for AY 22-23: Notification G.S.R 231(E) No. 21/2022, F.No. 370142/8/2022-TPL, dated 30th March, 2022:

CBDT has notified ITR Forms for AY 2022-23. Forms notified are SAHAJ ITR-1, ITR-2, ITR-3, SUGAM ITR-4, ITR-5, ITR-6, ITR-V and ITR- Ack.

2. CBDT notifies Faceless Inquiry or Valuation Scheme, 2022: Notification S.O. 1468 (E) No. 19/2022/F. No. 370142/15/2022-TPL, dated 30th March, 2022:

CBDT has notified Faceless Inquiry or Valuation Scheme, 2022. The Scheme covers:

- a. issuing notice under sub-section (1) of section 142 of the Act,
- b. making inquiry before assessment under sub-section (2) of section 142 of the Act,
- c. directing the Assessee to get his accounts audited under sub-section (2A) of section 142 of the Act,
- d. estimating the value of any asset, property or investment by a Valuation Officer under section 142A of the Act.

The Scheme provides that the aforesaid actions shall be in a faceless manner, through automated allocation, in accordance with and to the extent provided in Section 144B with reference to making faceless assessment of total income or loss of Assessee.

3. Signing of 62 Advance Pricing Agreements by CBDT in FY 2021-22: Press Release, dated 31st March, 2022:

CBDT has entered into 62 Advance Pricing Agreements (APA) in FY 2021-22 with Indian taxpayers. This includes 13 Bilateral APAs (consequent to Mutual Agreement between India and its treaty partners) and 49 Unilateral APAs. With this, the total number of APAs since inception of the APA program has gone up to 421.

CBDT has appreciated the cooperative and transparent attitude of taxpayers in this regard.

4. CBDT extends last date for filing Form No. 10AB for seeking registration or approval under section 10(23C), 12A or 80G of the Act: Circular No. 8 of 2022, F.No. 197/59/2022-ITA-I, dated 31st March, 2022:

CBDT extends last date for electronically filing of Form No.10AB for seeking registration or approval under Section 10(23C), 12A or 80G to Sept 30, 2022 where the last date for filing falls on or before Sept 29, 2022. CBDT has extended the due date in the light of difficulties arising in electronic filing of Form 10AB.

5. Thailand deposits its instrument for the ratification of the Multilateral BEPS Convention: OECD Press Release dated 31st March, 2022:

Thailand has deposited its instrument of ratification for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (Convention or MLI), underlining its strong commitment to prevent the abuse of tax treaties and base erosion and profit shifting (BEPS) by multinational enterprises. The Convention will enter into force on 1 July 2022 for Thailand.

Thailand is the 71st jurisdiction to ratify MLI. Thailand has identified 58 agreements for the MLI convention, including its agreement with India.

6. CBDT Notifies ITR 7 Form for AY 22-23: Notification G.S.R 252(E) No. 23/2022, F.No. 370142/8/2022-TPL-PT.VII, dated 01st April, 2022:

CBDT has notified ITR Form 7 for AY 2022-23.

7. Australia agrees to amend law for not taxing Indian firms' offshore income from technical services:

India and Australia sign the Economic Cooperation and Trade Agreement wherein Australia has agreed to amend its domestic tax law so as to not tax offshore income of Indian entities providing technical services to Australia. The ministerial letter states, "This would resolve the issue that the Indian Government has raised about the Double Taxation Avoidance Agreement". The mutual understanding on taxation arrived at by the Indian and Australian Governments will come into effect on the date on which the Trade Agreement enters into force and shall constitute its integral part.

8. Insertion of Rule 21AAA and Form No. 10-EE: Notification G.S.R. 256(E), No. 24/2022, F. No. 370142/7/2022-TPL, dated 04th April, 2022:

Some countries tax income from foreign retirement benefits accounts on receipt basis. However, the amount withdrawn from such account is chargeable to tax in India on the accrual basis. Due to the mismatch in the year of taxability, the taxpayers face difficulties in claiming the foreign tax credit.

Finance Act 2021 has introduced Section 89A, which provides that the income of a specified person from the specified account shall be taxed in the manner and in the year as prescribed by the Central Government. A specified person means a resident person who opened a specified account in a notified country while being non-resident and resident in that country.

Rule 21AAA has been notified prescribing manner for taxation of income from retirement benefits account maintained in a notified country. The rule provides that if a specified person has accrued any income in the retirement benefits account, then the same shall be included in his total income of the previous year, in which such income is taxed in the country wherein such account is maintained.

To exercise this option, the specified person is required to e-file Form No. 10-EE on or before furnishing return of income. Further, once this option is exercised, it will apply to all subsequent previous years and cannot be withdrawn.

However, if the specified person has become non-resident after exercising the option, then it shall be deemed that he has never exercised the option and income accrued in the specified account from the previous year in which such option was exercised shall be taxable in his hand.

9. CBDT Notifies Canada, UK and USA under Section 89A: Notification S.O. 1568(E), No. 25/2022/F.No. 370142/7/2022-TPL, dated 04th April, 2022:

CBDT has notified Canada, the UK and the USA, as 'Notified Country' for the purposes of Section 89A.

10. OECD releases Draft Rules for Domestic Legislation on Scope under Pillar One, Amount A: Public Consultation Document dated 04th April, 2022:

OECD releases Draft Model Rules for Domestic Legislation on Scope under Amount A of Pillar One and invites public comments by 18th April, 2022. The purpose of the scope rules is to determine whether a Group will be in scope of Amount A and subject to the detailed provisions contained within the Model Rules. The Scope Rules are designed to ensure Amount A only applies to large and highly profitable Groups and, as far as possible, have been drafted to apply in a quantitative and objective manner, such that they are readily administrable and provide certainty as to whether a taxpayer is within scope. The public consultation document specifies that the Model Rules on Scope apply at the level of a Group, in accordance with the general design of Amount A and state that the Group is defined by reference to an Ultimate Parent Entity (UPE) that is set at a level where Consolidated Financial Statements are commonly prepared under financial accounting standards. It further provides that a Group will be in scope of Amount A where it meets two threshold tests: firstly, that Group's Total Revenues must exceed an absolute amount of EUR 20 billion (or equivalent) in a period and, secondly, the Group's relative profitability as measured against its Total Revenues must exceed 10%. Further, the Model rules provide that a Group's profitability must exceed the 10% threshold in at least two of the four prior periods (referred to as "the prior period test"), following the general design of the GLoBE rules, and on average across those four prior periods and the current period (referred to as "the average test"). The Model highlights two open issues:

- a. whether the Total Revenues of a Group should be subject to equivalent rules as the prior period test and the average test (which apply to profitability); and
- b. whether the prior period test and the average test should apply, as currently drafted, as a permanent feature of the scope rules or, alternatively, apply as an "entry test" only.

Under the option b, once a Group falls in scope of Amount A for the first time, the prior period test and average test would no longer apply, and thereafter only the Total Revenues and profitability of the Group in the current Period would determine whether the Group is in scope. It states that two targeted exclusions are provided under the draft Model Rules: for Extractives and Regulated Financial Services. Schedule F will contain the detailed provisions governing the operation of the Extractives Exclusion and Schedule G will contain the detailed provisions governing the operation of the Exclusion for

Regulated Financial Services and these provisions will be released for public consultation at a later date.

11. Income-Tax (Seventh Amendment) Rules, 2022 - Insertion of Rules 44DAA, 44DAB, 44DAC & 44DAD and Form No. 34BC: Notification G.S.R 274(E), No. 26 /2022/F.No. 370142/05/2022-TPL-Part 1, dated 05th April, 2022:

CBDT has notified Income-tax (Seventh Amendment) Rules, 2022 pursuant to Section 245MA. Rules 44DAA to 44DAD consists of provisions for:

- a. the constitution of Dispute Resolution Committee,
- b. application for dispute resolution in Form No. 34BC,
- c. power to reduce or waive penalty or grant immunity, and
- d. scope and conditions for Dispute Resolution;

12. E-Dispute Resolution Scheme, 2022: Notification S.O. 1642(E) [No. 27/2022/F. No. 370142/5/2022-TPL-Part 1, dated 05th April, 2022:

CBDT has notified e-Dispute Resolution Scheme to prescribe procedure for entertaining the applications electronically by the Dispute Resolution Committee and provides that the Dispute Resolution Committee "may approve the request for personal hearing" by video-conferencing. The Scheme allows Dispute Resolution Committee a period of 6 months from the end of the month in which application is made for deciding the application.

13. Income-Tax (Eighth Amendment) Rules, 2022 - Amendment in Rules 2F and 8B; Substitution of Form No. 5B; Insertion of Form No. 5BA for issuance of ZCBs by Infrastructure Debt Fund: Notification G.S.R. 275(E) [No. 28/2022/F. No. 370142/4/2022-TPL], dated 06th April, 2022:

CBDT has notified Income-tax (8th Amendment) Rules, 2022. It has amended Rule 2F to provide that Infrastructure Debt Fund as defined under Section 2(47) shall issue Zero Coupon Bond (ZCB) as per Rule 8B. Thus, it has amended Rule 8B to include Infrastructure Debt Fund and the proviso to sub-rule (1) to prescribe time limit of 6 months for disposal of application made in Form No. 5B from the date of receipt of application for notification of a ZCB under Section 2(48). CBDT has further amended Rule 8B(3) to provide that an infrastructure debt fund shall give an undertaking for maintaining a sinking fund for the interest which will accrue on all the ZCBs subscribed and such

interest shall be invested in Government security as defined under Section 2(f) of the Government Securities Act, 2006.

14. Section 80G of the Income-Tax Act, 1961 - Deductions - Donations to certain funds, charitable institutions, etc. - Notified Place of historic importance and a place of public worship: Notification S.O. 1770(E), No. 29/2022/F. No.176/2/2022-ITA-I, dated 11th April, 2022:

Central Government has notified "The Somnath Temple managed by Shree Somnath Trust (PAN: AAATS9555Q)" to be place of historic importance and a place of public worship of renown for the purposes of the section 80G of the Act.

15. Guidance on updating UDIN for Audit Reports submitted by CA Users:

Income Tax Department has issued Guidance on updating UDIN for Audit Reports submitted by CA users.

The functionality for updating UDIN against the Audit reports submitted by CA users has been enabled at e-filing portal www.incometax.gov.in. This functionality may not be used for updating UDIN for Forms submitted prior to April 2021. In this functionality only those Forms will be shown which are accepted by the Assessee. This Instruction document has to be read in conjunction with the Instruction for UDIN Functionality

16. UN Tax Committee releases 2021 version of Model Tax Convention & Commentary:

UN Tax Committee releases 'United Nations Model Double Taxation Convention between Developed and Developing Countries 2021'. The 2021 version of the UN Model Tax Convention includes 'automated digital services' (Article 12B) and changes in Article 13 (Capital gains) to address concerns expressed by developing countries over obstacles in taxing gains on direct transfer of some types of property that are inextricably linked to their territory as well as gains on so-called "offshore indirect transfers" in situations where other provisions of Article 13 would allow tax of gains from the direct transfers of such property. The 2021 version of UN Model Convention also contains:

- a. Changes to Articles 1, 3, 4 and 29 resulting from work done with respect to the application of the Model Convention to collective investment vehicles and pension funds;

- b. Deletion of note at the end of Article 7 concerning profits to be attributed to a PE on mere purchase of goods by that PE for the enterprise to which it belongs;
- c. Changes to paragraph 2 of Articles 10, 11 and 12 addressing the situation where an intermediary that receives payments covered by these Articles is a resident of a different State;
- d. The removal of the exception for partnerships previously included in paragraph 2(a) of Article 10, and
- e. Changes to Articles 23A, 24 and 29 that are consequential to the addition of Article 12B (Income from automated digital services).

Changes are also made to Commentaries on Articles of the Model Tax Convention which include the aforementioned changes in Articles and also include changes that were made as a result of the work done with respect to a number of technical issues related to the interpretation and application of the Articles - the definition of permanent establishment in Article 5, the concept of beneficial owner in Articles 10, 11, 12, 12A and 12B, and the application of the provisions of the Model to collective investment vehicles, pensions funds and real estate investment trusts.

17. CBDT notifies conditions for return-filing by persons specified under Sec.139(1)(b): Notification G.S.R. 307(E) [No. 37/2022/F.No. 370142/01/2020-TPL (Part 1)], dated 21st April, 2022:

CBDT notifies Rule 12AB by Income-tax (Ninth Amendment) Rules, 2022. Rule 12AB contains conditions for furnishing return of income by persons referred to in Section 139(1)(b) read with clause (iv) of 7th proviso to Section 139(1). The conditions are that during the previous year:

- a. total sales, turnover or gross receipts in the business exceeds Rs.60 Lakh; or
- b. total gross receipts in profession exceeds Rs.10 Lakh; or
- c. aggregate of TDS and TCS is Rs.50,000/- or more for an individual resident aged 60 years or more and Rs. 25,000/- or more in other cases; or

d. aggregate of deposit in one or more savings bank account is Rs.50 Lakh or more

18. CBDT notifies share or bonds of ONDCL as mode of investment for charitable entities under Sec.11(5): Notification G.S.R. 309(E) [No. 42/2022/F.No. 370142/10/2022-TPL], dated 22nd April, 2022:

The Central Board of Direct Taxes (CBDT) notifies amendment in Rule 17C by Income-tax (10th Amendment) Rules, 2022. The amendment inserts clause (vb) in Rule 17C which allows investment made by a person, authorised under Section 4 of the Payment and Settlement Systems Act, 2007 in the equity share capital or bonds or debentures of Open Network for Digital Commerce Ltd. (ONDCL) for participating in network based open protocol models which enable digital commerce and interoperable digital payments in India.

19. Revised Instruction for Constitution and Functioning of 'Local Committees to deal with Taxpayers' Grievances from high-pitched scrutiny assessment: Instruction F. No. 225/101/2021-ITA-II, dated 23rd April, 2022:

CBDT issues Revised Instruction for Constitution and Functioning of Local Committees to deal with Taxpayers' Grievance from High-Pitched Scrutiny Assessments. CBDT supersedes earlier Instruction No. 17/ 2015 in the light of faceless assessment regime. It provides for Local Committee under each Pr.CCIT region across the country including Pr.CCIT (Exemption) and Pr.CCIT (International Tax) that shall comprise of three members of Pr.CIT/CIT rank with one Pr.CIT (AU) under regional Pr.CCIT and Pr.CCIT (Exemption). CBDT further clarifies that no Pr.CIT (AU) is required under Pr.CCIT (International Tax) since assessments there under are outside faceless assessment regime. CBDT also instructs that adequate publicity shall be given on constitution and functioning of Local Committees for filing of grievances and its local address shall be displayed at the prominent places in the office building.

20. Section 47 of the Income Tax Act, 1961 - Transactions not regarded as Transfer - Original Fund - Notified Countries and Territories for purpose of clauses (viia) and (viib) of said section: Notification S.O. 1951(E) [No. 46/2022/F.No. 370142/1/2022-TPL (Part-I)], dated 27th April, 2022:

Central Government notifies 150 countries and specified territories in which the Original Fund should be resident for the purposes of exemption under

Section 47(viiac)/(viiad) of the Income Tax Act, 1961 (the Act) on transfer of capital asset due to relocation from Original Fund to the Resultant Fund located in IFSC.

21. CBDT notifies ITR-U for filing Updated Return under Sec.139(8A): Notification G.S.R. 325 (E) [No. 48/2022/F. No. 370142/18/2022-TPL (part-1)], dated 29th April, 2022:

CBDT notifies ITR-U and Rule 12AC by Income-tax (11th Amendment) Rules, 2022. Rule 12AC provides that the Updated Return under the Section 139(8A) of the Act, relating to AY 2020-21 and subsequent AYs shall be in the Form ITR-U and to be verified in the manner indicated therein.

22. CBDT notifies new Forms for applying for Advance Rulings: Income-Tax (Twelfth Amendment) Rules, 2022 - Amendment in Rule 44E, Substitution of Form Nos. 34C , 34D, 34DA, 34E and 34EA: Notification No. G.S.R. 339 (E) [No. 49/2022/F.No.370142/6/2022-TPL], dated 05th May, 2022:

CBDT notifies new forms for applying for advance ruling under Section 245Q of the Act i.e. Form No. 34C, 34D, 34DA, 34E, 34EA. It amends Rule 44E(2) to provide for:

- a. signing of the applications digitally, if the applicant is required to furnish the return of income under digital signature or
- b. communicating about the application through a registered email address, in any other case.

23. CBDT notifies Rules for Compliance, Computation of Minimum Investment & Exempt Income under Sec.10(23FE): Income-Tax Amendment (Thirteenth Amendment) Rules, 2022 - Insertion of Rule 2DCA and Form No. 10BBD, Substitution of Form Nos. 10BBB and 10BBC: Notification G.S.R. 341(E) [No. 50/2022/F. No. 370142/2/2022-TPL], dated 06th May, 2022:

CBDT notifies Rule 2DCA for calculating the minimum investment referred to in items (c), (d) and (e) Section 10(23FE)(iii) of the Act and for the purpose of computing exempt income referred to in fourth, fifth and sixth proviso to Section 10(23FE) of the Act. Rule 2DCA also provides that every Alternative Investment Fund, domestic company and NBFC [covered under Section 10(23FE)(iii)(c), (d), (e) and in fourth, fifth and sixth proviso to Section 10(23FE)] receiving funds from any specified person, either directly or through Alternative Investment Fund, shall furnish the details of funds in

Form 10BBD for each previous year during which the funds or any part thereof remain invested in such Alternative Investment Fund, domestic company and NBFC. Form 10BBD is required to be furnished digitally on or before the return-filing due date for AY relevant to first receipt of eligible investments from the specified person and all subsequent AYs until the eligible investment is returned and shall be verified by the authorised person as per Section 140 of the Act. Pursuant to Rule 2DCA, CBDT prescribes Form 10BBD for furnishing the statement of eligible investment received by the concerned entities.

24. Tax challenges of digitalisation: OECD releases public consultation and invites public input on the regulated financial services exclusion under Amount A of Pillar One: Press Release dated 06th May, 2022:

OECD releases public consultation document on Regulated Financial Services Exclusion under Amount A of Pillar One and invites public comments by May 20, 2022. The Regulated Financial Services Exclusion will exclude the revenues and profits from Regulated Financial Institutions from the scope of Amount A. The document highlights that the defining character of the sector is being subjected to capital adequacy requirements which reflects the risks taken on and borne by the firm. The public consultation document states that “It is this regulatory driver that generally helps to align the location of profits with the market. The scope of the exclusion derives from that requirement, meaning that Entities that are subject to risk-based capital measures (and only those) are excluded from Amount A.”. It defines six types of Regulated Financial Institutions: Depository Institution, Mortgage Institution, Investment Institution, Insurance Institution, Asset Manager, and a Mixed Financial Institution and provides a seventh category for a limited type of service entity that exclusively performs functions for a Regulated Financial Institution (RFI Service Entity). It specifies that each definition contains three mandatory elements to be wholly excluded from Amount A:

- a. a licensing requirement,
- b. a regulatory capital requirement and
- c. an activities requirement;

Further states that input will be most helpful for explaining:

- a. where the definitions of Regulated Financial Institutions are unclear or insufficient (including the reasonableness of the thresholds proposed),
- b. the practical challenges in applying the rules for identifying excluded and in-scope revenues and profits, and
- c. the additional guidance or compliance simplifications that would be needed to effectively apply the Regulated Financial Services Exclusion

25. CBDT issues Guidelines for the purposes of Sec.10(23FE): Circular No. 9 of 2022, F. No.370142/2/2022-TPL, dated 09th May, 2022:

CBDT issues Guidelines for the purpose of removing difficulties in implementation and interpretation of Section 10(23FE) of the Act. It provides guidelines for computation of exemption available under section 10(23FE) in the hands of Abu Dhabi Investment Authority (ADIA), sovereign wealth funds (SWF), and pension funds (PF).

26. CBDT notifies changes in various Forms applicable to charitable entities, research institutions: Notification No. 51 of 2022, dated 09th May, 2022:

CBDT notifies changes in Forms 3CF, 10A, 10AB, 10BD & 10BE. The changes are notified in exercise of the powers conferred under:

- a. clauses (i) to (iv) of first proviso to Section 10(23C),
- b. ninth proviso to Section 10(23C),
- c. clauses (i) to (vi) of Section 12A(1)(ac),
- d. Section 12AB(3),
- e. first and fifth proviso Section 35(1),
- f. Section 35(1A),
- g. clauses (i) to (iv) of first proviso to Section 80G(5),
- h. third proviso to Section 80G(5) and
- i. clauses (viii) and (ix) of Section 80G(5)

By amending these forms, certain additional details are now being sought by the Department for granting of approvals under the said sections.

27. CBDT amends earlier notification to omit CIT(E), Bengaluru from dealing with registration of charitable entities & research institutions: Notification No 52 of 2022, dated 09th May, 2022:

CBDT amends Notification No. 30/2021 dated 01st April, 2022 whereby CBDT had authorised DIT (CPC), Bengaluru and CIT(E), Bengaluru for the purpose of provisional registration/approval, registration/approval, intimation, issuing URN or cancellation under Rules 2C, 5CA, 11AA and 17A and Forms 10A & 10AC. CBDT now omits CIT(E), Bengaluru from the earlier notification. Thus CBDT has deauthorised CIT(E), Bengaluru to pass Registration Orders for Trusts, Institutions and Funds.

28. CBDT mandates PAN for depositing/withdrawing Rs.20 Lac or more in cash, opening current/CC A/c: Notification No. 53 of 2022 dated 10th May, 2022:

Section 139A of the Income-tax Act prescribes certain transactions wherein it is mandatory for a person to obtain a Permanent Account Number (PAN). It also lists down the situations where quoting PAN is mandatory. Further, Rule 114 provides for the manner and timelines for making an application for the allotment of a PAN if the provisions of section 139A are applicable.

The Central Board of Direct Taxes (CBDT) has notified following additional transactions wherein a person is required to obtain PAN:

- a) Cash deposit, aggregating to Rs. 20 lakh or more, in a financial year in Bank or Post Office.
- b) Cash withdrawal, aggregating to Rs. 20 lakh or more, in a financial year in Bank or Post Office.
- c) Opening of a current account or a cash credit account with a bank or a post office.

The provisions of Rule 114BA are applicable with effect from 25-05-2022.

Note: If a person has maintained one or more accounts with a bank then the deposit or withdrawal from each of such accounts shall be taken into consideration to calculate the limit of Rs. 20 lakh.

Further, as per the new Rule 114BB, if a person has entered into any of the above-notified transactions then it shall be mandatory for him to quote PAN or Aadhaar number in the documents pertaining to such transactions.

Every person who receives such document shall ensure that the PAN or Aadhaar number has been duly quoted and authenticated.

The provisions of Rule 114BB are applicable with effect from 09-07-2022.

2. The Board has also amended time limit for making an application to obtain PAN

The board has amended the existing Rule 114 to provide the time limit for making an application in case of a person who intends to enter into transactions referred to in Rule 114BA.

It has been provided that such person shall be required to make an application for allotment of PAN at least 7 days before the date on which he intends to enter into the said transaction.

29. CBDT issues instructions for AOs to implement SC's ruling upholding validity of old reassessment notices: Instruction No. 01 of 2022, dated 11th May, 2022:

The Supreme Court of India in the case of *Ashish Agarwal [2022] 138 taxmann.com 64 (SC)* has adjudicated the validity of the reassessment notices issued by the Assessing Officers during the period 01-04-2021 to 30-06-2021 under the old provisions.

The Supreme Court held that the reassessment notices issued under old provisions shall be deemed as show-cause notices issued under new provisions of Section 148A. It also directed AO to follow the new procedure of reassessment with respect to such notices and complete the proceedings accordingly.

To implement the judgment of the Supreme Court uniformly, the Central Board of Direct Taxes (CBDT) has an instruction that may be taken into consideration while implementing the ruling.

The board has clarified that the judgment applies to all cases where extended reassessment notices have been issued irrespective of the fact whether such notices have been challenged or not.

Further, the ruling of the Supreme Court read with the time extension provided by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (TOLA) will allow extended reassessment notices to travel back in time to their original date when such notices were to be issued and then new section 149 is to be applied at that point.

1. Assessment Years for which reassessment proceedings can be initiated pursuant to SC ruling

a) Assessment Years 2013-14, 2014-15, and 2015-16

Fresh notice under section 148 can be issued with the approval of the specified authority, only if the case falls under section 149(1)(b). This means notices can be issued for these Assessment Years if the income escaped assessment amount is Rs. 50 lakh or more.

b) Assessment Years 2016-17 and 2017-18

Fresh notice under section 148 can be issued with the approval of the specified authority under section 149(1)(a) since they are within the period of three years from the end of the relevant assessment year.

2. Disposing cases not falling within the period of limitation

Notices cannot be issued in a case for AY 2013-14, AY 2014-15, and AY 2015-16 if the income escaping assessment amount is less than Rs. 50 lakh. Thus, the board shall issue a separate instruction prescribing the procedure to dispose of notices issued under old provisions under these cases.

3. Procedure to be followed by AOs to comply with the Supreme Court judgment

The board has specified the AO is required to follow the following procedure to comply with the order of the Hon'ble Supreme Court:

a) AO shall provide the information and material relied upon by him for the issuance of extended reassessment notices by 02-06-2022. The assessee has two weeks to reply as to why a notice under section 148 of the Act should not be issued.

- b) If the assessee makes a request seeking more time to file a reply to the show-cause notice, then such a request shall be considered by AO on merit.
- c) After receiving the reply, AO shall decide based on material available on record including the reply of the assessee, whether or not it is a fit case to issue a notice under section 148.
- d) If it is a fit case to issue a notice under section 148, AO shall serve on the assessee a notice under section 148 after obtaining the approval of the specified authority under section 151 of the new law.
- e) If it is not a fit case to issue a notice under section 148 of the Act, the order passed under section 148A (d) to that effect shall be served on the assessee.

30. CBDT issues guidelines for compulsory selection of ITRs for Complete Scrutiny during FY 2022-23: Notification F.NO. 225/81/2022/ITA-II, dated 11th May, 2022:

The CBDT has issued guidelines for the purpose of compulsory selection of returns for Complete Scrutiny during Financial Year 2022-23 and conduct of assessment proceedings in such cases. The CBDT has laid down the parameters for selection & conducting assessment in following circumstances:

- a) Cases pertaining to survey
- b) Cases pertaining to Search and Seizure
- c) Cases where notice is issued for filing of return
- d) Cases where notice is issued under Section 148
- e) Cases related to registration/approval under sections 12A, 35, 10(23C), etc.
- f) Cases involving additions in an earlier AYs on a recurring issue of law and/or fact
- g) Cases related to specific information regarding tax evasion

The cases, which are selected for compulsory scrutiny by the International Taxation and Central Circle charges following these parameters issued by CBDT, shall continue to be handled by these charges.

The selection of cases and transfer of cases to NaFAC, wherein assessment has to be completed in a faceless manner, shall be completed positively by 31-05-2022. In cases selected for compulsory scrutiny, service of notice under section 143(2) shall be completed by 30-06-2022.

31. CBDT amends functionality 'Compliance Check for section 206AB & 206CCA' incorporating FA 2022 changes: Circular No. 10 of 2022, dated 17th May, 2022:

The Finance Act, 2021, has inserted two new Sections 206AB and 206CCA, with effect from 01-07-2021. These sections provide for deduction or collection of tax at a higher rate in the case of non-filers (specified person) of return of income.

The Central Board of Direct Taxes (CBDT) vide Circular no. 11/2021, dated 21-06-2021, had issued a new functionality 'Compliance Check for Sections 206AB & 206CCA' to ease the compliance burden on tax deductor or collector.

To ensure that all the persons whose significant tax has been deducted or collected do furnish their return of income, the Finance Act 2022 has rationalized the provisions of sections 206AB and 206CCA. It has been provided that the provisions of these sections shall not apply to tax to be deducted under sections 194-IA, 194-IB, and 194M. Further, a person shall be treated as a specified person based on the return filing status of the last 1 year instead of the earlier 2 years.

Accordingly, the CBDT has amended the logic of the functionality 'Compliance Check for Sections 206AB & 206CCA'. The new logic for the Financial Year 2022-23 is as under:

- a) A list of specified persons is prepared at the start of the financial year 2022-23 taking the previous year 2020-21 as the relevant previous year.
- b) Such a list contains names of the taxpayers who did not file the return of income for the assessment year 2021-22 and have an aggregate of TDS and TCS of Rs. 50,000 or more in the previous year 2020-21.

During the financial year 2022-23, no new names are added to the list of specified persons.

- c) If any specified person files a valid return of income (filed & verified) for the assessment year 2021-22 during the financial year 2022-23, his name would be removed from the list of specified persons. This would be done on the date of filing the valid return of income.
- d) If any specified person files a valid return of income (filed & verified) for the assessment year 2022-23, his name would be removed from the list of specified persons. This would be done when such a person files return of income.
- e) If the aggregate of TDS and TCS in the case of a specified person, in the previous year 2021-22 is less than Rs. 50,000, his name would be removed from the list of specified persons. This would be done on the first due date under section 139(1) falling in the financial year 2022-23, i.e., 31st July 2022.
- f) Belated and revised TCS & TDS returns of the relevant financial year filed during the financial year 2022-23 would also be considered for removing persons from the list of specified persons.

Note: A person cannot file the return of income for the Assessment Year 2021-22 during the Financial Year 2022-23 (except in specified circumstances). Hence, relief has been granted by the Dept. by removing the name of the person from the list of specified persons if he files the return of income for the Assessment Year 2022-23 in the Financial Year 2022-23. On a similar note, the name would be removed in the Financial Year 2022-23 if the aggregate of TDS and TCS of a specified person is less than Rs. 50,000 in the previous year 2021-22.

32. UAE FTA has issued a Public Consultation draft of the Corporate Tax law (CT):

UAE FTA has issued a Public Consultation draft of the Corporate Tax law (CT) . First glimpses from the draft are as under:

- I. UAE proposes Worldwide taxation of Corporate income. Further, if the control and management of a foreign entity is in UAE, that too will be subject to tax in UAE. The concept of Permanent Establishment is part of CT law and if there is a foreign company who has a Permanent Establishment in UAE - that too is subject to tax in UAE.

- II. While Free zone persons are within the scope of CT and subject to tax filing requirements, it will honour the tax incentives offered to free zones subject to following:
- a. Income earned from transactions with businesses located outside of UAE or from trading with business located in same or other free zones
 - b. If income earned from Mainland is only passive income
 - c. If Free zone person sells to mainland business where such mainland business is importer on record. If there is any mainland sourced income, it will disqualify Free zone persons from benefit of 0% tax rate.
- III. International and Domestic transactions between related party and connected persons are subject to Transfer pricing and hence one would need to justify if quantum or prices are at Arm's length. If Related party or connected person transactions exceed certain threshold benchmarking and documentations will be mandatory.
- IV. Interest expense is capped at 30% of EBITDA. Minimum adjustments are proposed to book profits and no separate depreciation or amortisation rules are proposed.
- V. Loss carryforward allowed subject to conditions, group relief and restructuring relief is also proposed.
- VI. Return to be filed 9 months from end of the financial year.

33. The Central Government hereby notifies following entity as eligible under section 10(48D) of the Income Tax Act, 1961:

<i>Sl. No</i>	<i>Name of the Entity</i>	<i>Notification No. and date</i>	<i>Period for which income is notified as exempt</i>
1	National Bank for Financing Infrastructure and Development	Notification S.O. 1825(E) [No. 31/2022/ F. No. 370142/17/2022-TPL], dated 18th April, 2022	Notification shall apply ten consecutive assessment years beginning from assessment year 2022-23

34. The Central Government hereby notifies following entity as eligible under section 35(1)(iii) of the Income Tax Act, 1961:

<i>Sl. No</i>	<i>Name of the Entity</i>	<i>Notification No. and date</i>	<i>Period for which income is notified as exempt</i>
1	Sri Sharada Institute of Indian Management Research Foundation Trust, New Delhi, (PAN: AAJTS0088H)	Notification S.O. 1875(E) [No. 33/2022/F. No. 203/06/2021/ITA-II], dated 19th April, 2022	Notification shall apply for Assessment Years 2023-24 to 2027-28

35. The Central Government hereby notifies following entity as eligible under section 10(46) of the Income Tax Act, 1961:

<i>Sl. No</i>	<i>Name of the Entity</i>	<i>Notification No. and date</i>	<i>Period for which income is notified as exempt</i>
1	Rajasthan Electricity Regulatory Commission (PAN: AAABR0296D)	Notification S.O. 1769(E) [No. 30/2022/F. No. 300196/27/2016-ITA-I, (PT.-1)], dated 11th April, 2022	Notification shall deemed to have applied for financial years 2020-2021 and 2021-2022 and shall apply for financial years 2022-23, 2023-24 and 2024-25.
2	Gujarat Real Estate Regulatory Authority (PAN AAAGG1260R)	Notification S.O. 1881(E) [No. 35/2022/F. No. 300196/7/2022-ITA-I], dated 20th April, 2022	Notification shall apply for financial years 2022-23 to 2026-27.
3	SEEPZ Special Economic Zone Authority (PAN AAALS4995G)	Notification S.O. 1882(E) [No. 36/2022/F. No. 300196/12/2022-ITA-I], dated 20th April, 2022	Notification shall deemed to have applied for financial years 2020-21 and 2021-22 and shall apply for financial years 2022-23, 2023-24 and 2024-25
4	Tamilnadu Construction	Notification S.O. 1997(E) [No. 47/2022/	Notification shall deemed to have applied for financial

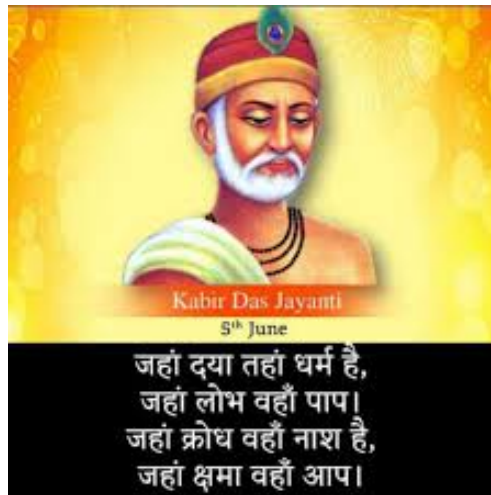
Workers Welfare Board (PAN AAATT9440P)	F. No. 300196/43/2017-ITA-I], dated 28th April, 2022	years 2020-21 (for period from 01st June, 2020 to 31st March, 2021) and 2021-22 and shall apply for financial years 2022-23, 2023-24 and 2024-25
--	--	--

The terms and conditions have been prescribed.

36. The Central Government hereby notifies following entity as eligible under section 10(47) of the Income Tax Act, 1961:

<i>Sl. No</i>	<i>Name of the Entity</i>	<i>Notification No. and date</i>	<i>Period for which income is notified as exempt</i>
1	Kotak Infrastructure Debt Fund Limited (PAN: AAACK5920G)	Notification S.O. 1536(E) [No. 22/2022/ F. No. 178/27/2017-ITA-I], dated 31st March, 2022	Notification shall apply financial years 2017-18 and subsequent years.

The terms and conditions have been prescribed.



ARTICLE:

Rising inflation has made people feel anxious and overwhelmed. Here are some ways to cope and fight back

(by CA Rishabh Adukia)

Many Indians feel anxious about money, especially when inflation is high, interest rates are rising, and markets are whiplashing. Clearly, with inflation on the rise, one of the biggest concerns is how to then manage your monthly cash flows.

More than 40% of Indian adults said that money concerns have a negative impact on their mental health, according to a recent survey. Of those who said money took a toll, most cited feeling stressed, anxious and overwhelmed.

“When individuals suffer money challenges or they’re working through money issues, there’s tremendous potential for stress.

A primary concern for many households now is high inflation, which has hit most major expenses and outpaced salaries.



Amit Jain, 42, has been juggling the household budget for a long time now. The recent spurt in inflation rates has, however, broken his back. This is because the commuting expenses for his whole family have jumped up by 30-40 per cent over the last year while the cost of vegetables, clothes, eggs and milk have also jumped up significantly. The salary has not increased in proportion to the rise in inflation. The household budget has gone haywire because of the steep rise in cost of living.

The wholesale inflation has surged to a record high of 14.5 per cent in March 2022. Not falling behind, the retail inflation rate, which is measured by the Consumer Price Index (CPI), has also zoomed to 7.79 per cent in April 2022. The previous high in the consumer price index (CPI)-based retail inflation was recorded at 8.33 per cent in May 2014. Inflation has been over RBI’s tolerance band for straight 4 months. The rising inflation has increased the cost of everyday articles. Consider this: the cost of edible oils has surged more than 30 per cent over the last year. Similarly, the price of masoor dal has increased by 21 per cent. The list goes on for petrol prices, vegetables, eggs, milk and so on.

Clearly, with inflation on the rise, one of the biggest concerns is how to then manage your monthly cash flow. There are many like Amit who have been feeling the brunt of the rising cost of living. For them, the immediate solution looks to cut back on their savings but this could be a big mistake as it could derail their long-term financial goals.

The best approach is to take the stock of your situation, prepare a budget and stick to it. One of the ways to fit into the budget is by reducing your discretionary expenses such as buying an expensive watch or going on a trip. Cut out eating out budgets if you're facing a constraint, change to public transport or work from home if possible. Ensure you're not overshooting your budget massively, important to draw the line. Given the recent rise in prices most households may need to relook at their living expenses. **As always analyse the four major numbers and readjust them according to the current situation: take home income, discretionary expenses, non-discretionary expenses, and savings.**

Look at your needs, your grocery list, your regular expenses and see what has been impacted and how much. If you haven't been paying attention to your budget, now is the time when it will demand attention more than ever. Inflation is real and even though you may retire at some point, Inflation won't. So, time to invest and invest well. Moreover, with rising inflation the real rate of interest on your fixed deposit has turned negative, with only around 5.5 per cent annual interest on your fixed deposits against the inflation rate of 7 per cent your wealth is getting eroded at a faster rate. As experts argue, one of the ways to earn inflation beating returns is by investing in the stock markets, as equities tend to give higher return in the long run.

How to manage anxiety

When faced with difficult financial environments, it's important to consider what is within your control and what isn't. "We can't control things like inflation, war, market cycles or economic cycles – those things are going to happen. **"Uncertainty is certain."** One of the issues people face with inflation currently is that it is hitting so many sectors that it's unavoidable. "It's almost a grin-and-bear-it type of situation. To ensure you are not consistently overspending, now is a good time to check that your monthly cashflows are sufficient to meet your needs. You must make sure that your budget accommodates the fact that your needs have got more expensive.

Its also recommended to build up emergency savings, if you can, and paying down debt, especially from high-interest credit cards. Doing this will help better your financial situation for whatever comes next. Generally, I suggest that your

emergency fund should have somewhere between three and six months of living expenses.

It's also important for people to keep in mind that economic cycles are just that – cyclical. There may be better times ahead. My view is that we have seen at or close to peak inflation, and that's good news. There's been a lot of damage done, but it may be coming to an end.

Its best that people continue to watch their cash inflows and outflows over the coming months, as prices are likely to remain elevated even as inflation cools off. It doesn't mean that we're going back to 5% in the next year or so, but it does mean we're coming off these high levels.

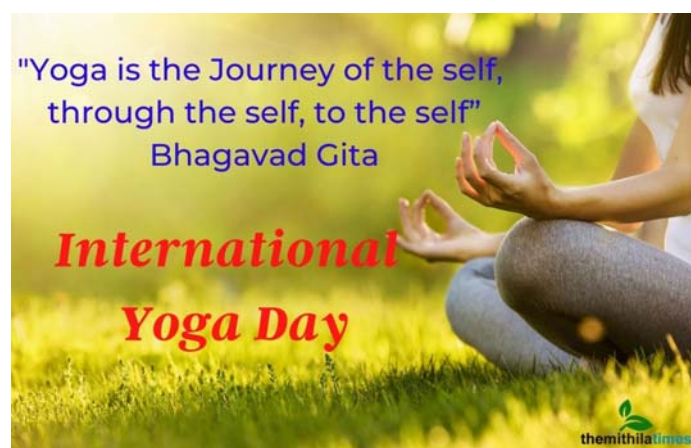
Beating inflation starts with understanding it, so you know how it poses a threat to your savings. Remember, regular financial checks of expenses, savings and investments can help you maintain financial discipline. Finally, be consistent in planning your finances, preparing yourself financially for the future and working on securing your savings against inflation.

(The author Rishabh Adukia is a Chartered Accountant and qualified professional advising on wealth management to individuals, millennial's, emerging HNIs including others and can be reached on adukia.rishabh@gmail.com)

Action Points under Income Tax Act, 1961

For the Month of June 2022:

7th June	TDS Payment for May
15th June	First installment of advance tax for the A.Y. 2023-24 for all the taxpayers



....STORY TO REMEMBER....

Soul-Satisfied People

I was waiting at the bus stand to go to my hometown. The bus had not yet arrived at the bus stand.

I was sitting there reading a book.

Seeing me, a girl of about 10 years of age came to me and said, "Sir, please buy these pens, I will give you four pens for Rs.10. I am very hungry, I will get to eat something."

There was a little boy with her too, maybe her brother.

I said, "Well I don't need a pen."

Her next question was very sweet, "Then how will we eat something?"

I said, "I don't want a pen, but you will definitely eat something."

I had two packets of biscuits in my bag. I took out both the packets, and handed one to each of them. But I was surprised beyond limit when she returned one packet and said, "Sir ji! One is enough, we will share it."

I was utterly surprised to hear this!

I said again, "It's okay, you keep both. It doesn't matter."

That girl's reply shook me to my core, my soul. She said, "Then what will you eat?"

In this world, where people earning crores of billions keep humanity aside and rob people wildly in the name of success, a hungry girl taught me the ultimate lesson of humanity.

I said to myself, this is what soul-satisfied people look like... Don't take so much from someone out of greed that we eat their share as well...!!

"There is a fundamental principle- give more than take. These qualities are manifested in a person who has grown through spiritual practice and self-study."

This Tax Chat is prepared only for information of our clients and colleagues in the office. In this Tax Chat an attempt has been made to summarize various changes / development in Direct Tax Law during previous months.

The information is of a general nature and is not intended to address specific facts and circumstances. Specific guidance may be obtained before acting on the same.

If you need full text of circular, notification, press release, etc., we will be happy to provide the same on hearing from you. We have compiled the information from Taxmann and Taxsutra websites and mails.

Compiled by:

S.S. Jhunjunwala & Co.

305 & 306, Akruti Arcade, J.P. Road, Opp. Wadia School, Andheri (West),
Mumbai-400053

Tel: 61277474 / 61277475

Website: www.ssjco.in

Email:

Sunil Jhunjunwala	sunil@ssjco.in
Swati Gupta	csswati@ssjco.in
Samiksha Adukia	samiksha@ssjco.in
Sonakshi Jhunjunwala	sonakshi@ssjco.in

