

This issue contains...

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Changes in Form 16

(a) Detailed breakup of salary:

Detailed break up of Salary with all the heads as per Salary Slip needs to be provided under this head.

(b) Detailed breakup of exempted allowances under Section 10:

- Leave travel concession exempt under Section 10(5)
- Death cum retirement gratuity exempt under Section 10(10)
- Commuted value of pension under Section 10(10A)
- Leave encashment under Section 10(10AA)
- House rent allowance under Section 10(13A)
- PAN of landlord if the aggregate rent paid during the previous year exceeds one lakh rupees, if exemption is claimed u/s 10(13A)
- Permanent Account Number of lender shall be mandatorily furnished where the housing loan, on which interest is paid, is taken from a person other than a Financial Institution or the Employer.

(c) Deductions allowed under the income tax act (under chapter VIA):

Specific fields are notified for deductions mentioned below:

- Under Section 80C – Deduction for life insurance premium paid, contribution to PPF, etc.
- Under Section 80 CCC – Deduction for contributions to pension funds
- Under Section 80CCD (1) – Deduction for employee's contribution to the pension
- Under Section 80CCD(1B) – Deduction for taxpayer's self-contribution to the notified pension scheme
- Under Section 80CCD (2) – Deduction for employer's contribution to the pension scheme
- Under Section 80D – Deduction for health insurance premium paid

- Under Section 80E – Deduction for interest paid on loan taken for higher education
- Under Section 80G – Deduction for donations made
- Under Section 80TTA – Deduction for interest income on savings account

(d) Any other section of Chapter VI-A must be mentioned quoting the respective section:

Deductions specified under Chapter VIA other than specifically mentioned above need to be mentioned here.

(e) Relief under section 89:

Relief claimed by the assessee u/s. 89 for Salary Arrears need to be shown under this head.

(f) Details of Rebate and Surcharge:

Details of Rebate and Surcharge, if applicable must be reported in the latest format. Further, Education Cess has been replaced by Health and education cess.

(g) Standard deduction u/s 16(ia) as introduced by Finance Act, 2018:

Newly introduced Standard Deduction of Rs. 40,000/- p.a. needs to be specified here.

(h) TDS Return:

A similar break up of Exemptions under section 10 and Deductions under Chapter VI-A is also added in Form 24Q i.e. the TDS return to be filed by the employer. Thus Form 24Q has been brought in line with Form 16.

Contributed By: Sindhoora Rajeev

Edited By: Monika Shah

Latest notifications issued under Income Tax Act, 1961

(a) Condonation of delay in filing of Form no. 10B (Audit Report for Trusts) for years prior to AY 2018-19:

Circular No.10/2019 dated 22nd May 2019.

- The Commissioner of Income Tax are authorized to admit belated applications in Filing Form 10B for the year prior to AY 2018-19 applications for condonation of delay u/s 119(2)(b) of the Act
- after satisfying themselves that the assessee was prevented by reasonable cause from filing such application within the stipulated time.
- All such applications shall be disposed of by 30.09.2019.

(b) CBDT further deferred furnishing of GST & GAAR details in Form 3CD (Tax Audit Report) till 31-03-2020:

Circular No.09/2019 dated 14th May 2019.

In Form 3CD (Tax Audit Report), reporting requirement under clause 30C (pertaining to General Anti-Avoidance Rules (GAAR) and clause 44 (pertaining to Goods and Service Tax (GST)) shall be kept in abeyance till 31st March, 2020.

(c) CBDT to share data with GST dept. to trap tax evaders:

Order. F. No. 225/105/2019/ITA.II

The data/information to be furnished by the specified income tax authority shall be important financial fields which are captured in the income-tax returns such as:

- Status of filing of ITR
- Turnover
- Gross total income
- Turnover ratio
- GTI range
- Turnover range
- Any other filed

Contributed & Edited By : Monika Shah

Latest ITAT, High Court, Supreme Court and AAR Judgements relating to GST& Income Tax

GST paid under wrong head by mistake can be adjusted under another head: HIGH COURT

[Saji S. vs. Commissioner, State GST Department, Thiruvananthapuram - [2018] 218 (Kerala)]

The assessee, a registered dealer, purchased goods from consignor in Chennai. While those goods were in transit, goods were detained and consignor paid the tax and penalty and it remitted the amount under the head 'SGST' instead of 'IGST'. The authorities refused to release the goods on the ground that the remittance had to be paid under the head 'IGST'. The assessee filed writ petition. The assessee submitted that if the remittance was treated as a mistake on the consignor's part, the statute had empowered the authorities to transfer the deposit from one head to another, i.e., from SGST to IGST. However, the authorities submitted that the petitioner had to pay the amount under 'IGST' and then claim a refund from the head 'SGST'.

The High Court observed that the GST Act provides for the refund of the tax paid mistakenly under one head instead of another head. But Rule 4 of the GST Refund Rules speaks of adjustment. It was further observed that if the amount of refund would be completely adjusted against any outstanding demand under the Act, an order giving details of the adjustment to be made in Part A of Form GST RFD-07. Thus, in the case of assessee, GST paid under wrong head by mistake could be adjusted under another head. Therefore, High Court directed that the concerned officials must allow the adjustment and get amount transferred from the head 'SGST' to 'IGST'.

GST would be applicable on cheque bouncing charges: AAR

[AAR Maharashtra – In the matter of Bajaj Finance Limited - [2018] 396 (AAR)]

The applicant, a NBFC is engaged in providing various types of loans to the customers, such as auto-loans, loans against the property, personal loans, consumer durable goods loans, etc. It has entered into agreements with borrowers/customers for providing loans to them. The loan agreements provide for repayment of the outstanding dues/EMI through cheque/ECS/NACH or any other electronic or clearing mandate. In case of dishonouring of payment instrument or instruction, the applicant collects the penal or bouncing charges. The applicant filed an application for Advance Ruling whether the bouncing charges should be treated as supply? It contended that bouncing charges collected from the customers are in the nature of penalty or liquidated damages. Therefore, same are not considerations for supply of services and, hence, not subject to GST levy.

The Authority for Advance Ruling held that the receipt of cheque bouncing charges on dishonouring of cheques would be receipt of amounts for tolerating the act of their customers it dishonouring of cheque. Therefore, it would be treated as supply under GST as per S. No. 5(e) of Schedule II of the CGST Act, 2017 and, hence, taxable under the GST Act.

MasterCard shall have a PE in India and its fees for processing card payments taxable as business income: AAR

[MasterCard Asia Pacific Pte. Ltd., In re. [2018] 195 (AAR - New Delhi)]

The Applicant, MasterCard Asia Pacific, is a Singaporean company engaged in processing of electronic payments. Customers are provided with a MasterCard Interface Processor (MIP) that connects to MasterCard's Network and processing centres. Indian subsidiary owns and maintains MIPs placed at Customers' locations in India. The applicant approached the AAR to decide if it had a PE in India

The Authority for Advance Rulings held that MasterCard has a PE in India under provisions of Article 5 of India-Singapore DTAA in respect of services rendered with regard to use of a global network and infrastructure to process card payment for Customers in India. It was held that the applicant has fixed place PE, service PE and dependent agency PE in India.

The applicant was held to have a PE in India because the MIPs in India play a crucial role while facilitating the authorization of payment. AAR concluded that the preliminary verification of payment request and transmission of data, which is crucial to authorization, happens in India through MIP. These initial verification and validation of details are important and are crucial functions in the context of overall functions performed by the applicant to facilitate authorization. These functions cannot be called preparatory or auxiliary in nature.

Payment made by assessee to banks for providing payment gateway facility, not liable to TDS under section 194H: HIGH COURT

[PRINCIPAL COMMISSIONER OF INCOME TAX vs. MAKE MY TRIP INDIA PVT. LTD] [(2019) 104 CCH 0237, Delhi HC]

Business expenditure—TDS—commission, brokerage, etc.—Assessee filed return of income—During assessment proceeding, AO noted that assessee was engaged in selling its travel products to customers through its website and payment was made by Internet Payment Gateway, which was provided by four banks viz., HDFC, ICICI, Citibank and American Express-Net price after deduction of facility charges by payment gateway was automatically credited to bank's account of merchant—Assessee made a payment to Banks towards charges for providing the payment gateway facility—AO held that said payment was in nature of commission paid to Banks from which TDS u/s 194H had to be deducted—Assessee failed to deduct TDS on said amount hence, AO made disallowance u/s 40(a)(ia)—CIT(A) granted partial relief to assessee—ITAT held that payment gateway charges were in nature of fees for banking services and not 'commission' or 'brokerage' and thus, no TDS was deductible u/s 194H—Held, amount retained by bank was a fee charged for having rendered banking services and "could not be treated as a commission or brokerage paid in course of use of any services by a person acting on behalf of another for buying or selling of goods"—ITAT had rightly held that services provided by payment gateway was such that charges collected by it had to be necessarily treated as fees and not as a commission—Payment in fact was made by one principal to another and it was only being facilitated by payment gateway by providing a service—By virtue of notification dated 31st December, 2012 issued by Central Government, no TDS was deductible from payments made towards "credit/debit card commission for transaction between merchant establishment and acquirer bank."

Income derived from letting out the shops in the mall has to be taken as business income: HIGH COURT

[COMMISSIONER OF INCOME TAX vs. OBERON EDIFICES & ESTATES (P) LTD.)]

Income from house property—Letting out of shop rooms—Business income—Assesse filed return of income which was accordingly revised—During assessment proceeding, AO noted that assessee had constructed a shopping mall in property owned by its sister concern and let out shop rooms—Assesse, in its revised return of income declared an amount received on letting out shop rooms and same was shown as business income—AO treated said amount as income from house property and after deducting municipal taxes and statutory benefit of 30%, computed tax on balance amount—No relief was granted by CIT(A)—ITAT found that disputed amount was business income of assessee and accordingly, allowed assessee's appeal—Held, in order to attract provisions of Sec. 22, assessee must be owner of building or land appurtenant to it and he should not be occupying it for purpose of any business or profession carried on by him profits of which were chargeable to income tax—Sec. 22 itself indicated that merely because a person was owner of property it does not follow that income therefrom should be assessed under head "income from house property"—Exception was made in Section itself for portions of property as might be occupied for purpose of business or profession carried on by assessee, profits of which were chargeable to income tax—In each case, intention had to be gathered as to whether asset was intended to be commercially exploited by assessee or whether it was intended to be used by mere letting out—If it was found that main intention was to simply let out property or any part of it, resultant income must be assessed as income from house property—But if main intention was found to be exploitation of property by way of commercial activities, then resultant income must be held as business income—ITAT noted that assessee had exploited immovable property for commercial activities. ITAT had observed that providing shopping facilities to customers was a commercial activity—ITAT further noted that it was assessee's responsibility to maintain and upkeep common areas in mall and provide facilities in mall—In such circumstances, ITAT found that disputed income of assessee was from

exploitation of immovable property for business purposes and it was essentially business income—ITAT, being last forum in so far as factual determination was concerned, findings made by it on factual aspects had to be treated as final, unless they were perverse—Where assessee had developed shopping mall and let out same by providing a variety of services, facilities and amenities in mall, it could be found that primary intention of assessee was commercial exploitation of property and where it had derived substantial part of its income by such activity, which constituted its main business, income so derived would be assessee's business income—Therefore, ITAT had rightly held that income derived by assessee by letting out shops in mall had to be assessed as income from business and not as income from house property.

Contributed By: Sindhoora Rajeev

Edited By: Salil Sheth

GST

GST composition scheme for service provider:

What is the Composition Scheme for Service Providers?

The composition scheme for service providers gives an option to taxpayers rendering services having aggregate annual turnover up to Rs. 50 lakh to pay tax at a nominal rate, subject to conditions.

The following persons can opt into this scheme:

1. Supplier of services only (i.e., service providers)
2. Suppliers of goods and services (i.e., those suppliers who were not eligible for composition scheme earlier)

Note: Only the Suppliers of goods and restaurant service providers were earlier eligible under the composition scheme.

Conditions to be fulfilled to be eligible under the scheme:

1. The supplier of service must have a turnover of less than Rs. 50 lakh in the previous financial year.
2. The supplier should not be supplying non-taxable goods.
3. **The supplier should not be engaged in making inter-state supplies.**
4. The supplier should not supply through an e-commerce operator.
5. The supplier should not be a casual taxable person or non-resident taxable person.
6. The supplier must issue a bill of supply instead of a tax invoice. The supplier must mention the words 'composition taxable person' on the bill of supply.
7. **The supplier cannot charge and collect tax from the customer.**
8. **The supplier cannot claim the input tax credit.**
9. The supplier must pay normal tax for reverse charge supplies.
10. The supplier cannot be supplying ice cream and other edible ice, whether or not containing cocoa, pan masala and tobacco and manufactured tobacco substitutes.

Rate for composition service providers: For composition service providers, the applicable GST rate is 6% (being 3% CGST + 3% SGST)

For calculation of the aggregate annual turnover, the value of supply of exempt services by way of extending deposits, loans or advances where the income is represented by way of interest or discount, shall not be taken into account.

Compliance by service providers under the composition scheme:

The taxpayers would be required to file only one Annual return with quarterly payment of taxes (along with a simple declaration).

Comparison between normal and composition scheme:

Illustration:

Sl. No	Description	Normal taxpayer (Rate – 18%)	Composition taxpayer (Rate – 6%)
1	Sales value	118000	118000
2	Sales value exclusive of taxes	100000	118000*
3	Output GST	18000	7080
4	Purchases	40000	40000
5	Input GST @ 18% (Set Off available for normal tax payer and not available for Composition)	7200	7200
6	Total purchase value	40000	47200
7	Net GST liability (7 = 3 – 5)	10800	7080
8	Gross Profit	60,000	63,720

*Note: In a composition scheme, the dealer is unable to collect tax from the customer.

It is important to note that the above notification no. 02/2019-Central Tax (Rate) dated 7th March 2019 would be effective from 1st April 2019.

How can a taxpayer opt for composition scheme?

To opt for composition scheme a taxpayer has to file GST CMP-02 with the government. This can be done online by logging into the GST Portal. This intimation should be given at the beginning of every Financial Year by a dealer wanting to opt for Composition Scheme.

What are the returns to be filed by a composition dealer?

A dealer is required to file annually GSTR-4 by 30th April of the following year. An annual return GSTR-9A has to be filed by 31st December of next financial year*.

*Update as on 22nd December 2018: Due date for filing GSTR-9, GSTR-9A and GSTR-9C is extended till 30th June 2019 by CBIC for FY 2017-18.

Latest update on Due dates:

Due date for GSTR-4 for the period Oct-Dec 2018 is 18.01.2019

Also, note that a dealer registered under composition scheme is not required to maintain detailed records.

Snapshot of GST Rates for Composition Dealer

Composition Scheme - Applicable GST Rates

Types of Business	CGST	SGST	Total
Manufacturer and Traders (Good)	0.50%	0.50%	1%
Restaurants not serving alcohol	2.50%	2.50%	5%
Other service providers	3%	3%	6%

What are the advantages of Composition Scheme?

The following are the advantages of registering under composition scheme:

1. Lesser compliance (returns, maintaining books of record, issuance of invoices)
2. Limited tax liability
3. High liquidity as taxes are at a lower rate

What are the disadvantages of Composition Scheme?

Let us now see the disadvantages of registering under GST composition scheme:

1. A limited territory of business. The dealer is barred from carrying out inter-state transactions.
2. No Input Tax Credit available to composition dealers.
3. The taxpayer will not be eligible to supply exempt goods or goods through an e-commerce portal.

Changes in Rule 88A

The new order of ITC utilization rule 88A is brought vide **Notification no 16/2019 dated 29-03-2019** made effective from the 1st April 2019. This may provide some relief to the business community, which has sensed an increase in their working capital requirement due to blockage of credit by the amendment made in section 49 vide first amendment act made effective from 1st FEB 2019. Let us analyze the changes that are being brought by the new order of utilization vide rule 88A by the power conferred to the government vide section 49B.

“Rule 88A.” Order of utilization of input tax credit.-

Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilised towards the payment of central tax and State tax or Union territory tax, **as the case may be, in any order:**

Liability	IGST	CGST	SGST/UGST	Remarks
ITC- IGST	1st	2nd / 3rd	2nd / 3rd	IGST liability will be settled off first compulsory and then free to use IGST Input in either of the payment CGST or SGST/UGST liability in any order.

Comments:

As per amendment act the order of utilization after the setoff of IGST liability was compulsory CGST and then SGST/UGST. Now the order has been relaxed wherein either of CGST or SGST/UGST liability can be set off.

“Provision to Rule 88A”

Provided that the **input tax credit** on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilized fully.”

Liability	IGST	CGST	SGST/ UGST	Remarks
ITC -IGST	1st	2nd / 3rd	2nd / 3rd	ITC of IGST to be exhausted first than the only ITC of CGST or SGST/UGST can be utilized for respective payments.
ITC- CGST	2nd	1st	X	
ITC- SGST	2nd	X	1st	The credit of SGST/UGST will be utilized for the payment IGST only when there is no other ITC available.

Contributed By: Sindhoora Rajeev

Edited By: Apurva Prajapati

TAX CALENDAR: - DUE DATES FOR THE MONTH OF MAY

TAX CALENDAR:- DUE DATES FOR THE MONTH OF					MAY			
	Mon	Tue	Wed	Thu	Fri	Sat	Sun	
			1	2	3	4	5	
	6	7	8	9	10	11	12	
	13	14	15	16	17	18	19	
	20	21	22	23	24	25	26	
	27	28	29	30	31			
Income Tax	Due Date	Particulars					Challan/ Form No.	
	07/05/2019	Deposit of TDS/TCS for the month of April, 2019					ITNS-281	
	15/05/2019	Quarterly statement of TCS deposited for the quarter ending March 31, 2019					27EQ	
	15/05/2019	Issuance of TDS Certificate for Tax Deducted U/S 194 IA/IB in the month of March, 2019					16B/16C	
	30/05/2019	Furnishing of Challan-cum-statement in respect of Tax deducted U/S 194 IA/IB in the month of April, 2019					26QB/26QC	
	31/05/2019	Quarterly statement of TDS deposited for the quarter ending March 31, 2019					26Q/24Q/27Q	
	31/05/2019	Due date for furnishing of statement of financial transaction (in Form No. 61A) as required to be furnished under sub-section (1) of section 285BA of the Act respect of a financial year 2018-19.					61A	
GST	Due Date	Particulars					Challan/ Form No.	
	11/05/2019	Monthly statement of outward supply (Turnover exceeding 1.5 crores p.a.) for April, 2019					GSTR 1	
	20/05/2019	Monthly consolidated return for the month April, 2019					GSTR 3B	
	10/05/2019	Return of TDS with payment of tax					GSTR 7	
	10/05/2019	Statement by e-commerce operator with tax					GSTR 8	
EPF & ESI Act	Due Date	Particulars					Challan/ Form No.	
	15/05/2019	Deposit of EPF & ESI Contribution						
	25/05/2019	PF Return filing for April, 2019 (including pension and insurance scheme forms)						

SERVICES

Auditing & Assurance Services

Internal Audit
Management Audit
System Audit
Functional Audits (Non-Financial)
Audit Under Various Statutes
Evaluation of Accounting Systems and Internal Controls

Due Diligence & Valuation Services for M & A

Financial Due Diligence
Legal Due Diligence
Valuation of Business

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- Tax Planning
- Tax Representation
- International Taxation

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On site/off site Complete Accounts Outsourcing

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Feasibility Study
Project Report Preparation
Presentations before Banks and Financial Institutions
Project Monitoring and Advising on innovative Working Capital Solutions

Business Process Outsourcing

Accounts Payable Processing
Accounts Receivable Processing
Recruitment & Payroll Processing
Equity Research

Start Up Services

Formation of Company
Umbrella of Registrations like Income Tax, GST
Premises Leasing
Contracts Vetting
Initial Recruitment
Accounting System Implementation

NRI Services

Investment & Portfolio Management
Income & Wealth Remittance – Procedural Assistance
Custodian and Conveyancing Services

Other Services

Business Advisory & Business Tie Ups
Company Law Related Services
Succession Planning

Contributed By: Payal Sheth

Edited By: Salil Sheth