

# NEWSLETTER

April 2020

J P Chawla & Co. LLP

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Chartered Accountants

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Taxation | Audit | Outsourcing | Regulatory | Transaction Advisory | Business Intelligence



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The good news in this Covid related saga is that China's loss is going to be India's gain, with over 3,000 companies looking at relocating to India, as India offers greater geo-political stability as compared to China.

Looking into India's superb growth story the Facebook has decided to invest in Reliance Industries Limited, Jio Platforms Limited entering into binding agreements for an investment of Rs 43,574 crore (US\$ 5.7 billion). This investment by Facebook values Jio Platforms at Rs 4.62 lakh crore (US\$ 66 billion) pre-money enterprise value. This investment will translate into a 9.99 per cent equity stake in Jio Platforms on a fully diluted basis.

As per RBI, India's fiscal deficit may go beyond 3.5 per cent of gross domestic product (GDP) for the current year due to coronavirus lockdown In Union Budget, Finance Minister Nirmala Sitharaman had set the fiscal deficit target at 3.5 per cent for the financial year 2020-21.

To stop China to take advantage of lower valuation of Indian companies due to Covid Pandemic, the Ministry of Commerce and Industry has released a press note dated 17th April, 2020 where the limitation of FDI through specific government route was extended to "entities of countries which shares land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country". **Such direction from the government of India will enable the inclusion of Chinese entities in such an embargo.**

Various Covid related relaxations have been introduced in the area of compliances related to Income tax, Goods and service tax, customs and corporate laws.

We sincerely hope this volume of the newsletter will update you regarding new developments in the area of Business, Tax, Assurance & Accounting and regulations.

Happy Reading!!

Sincerely Yours,

Rajat Chawla

Managing Partner & CEO

New Delhi

Covid-19 has brought great challenge to Indian economic scenario, but has also brought opportunity for Indian manufacturing sector, with more than 3,000 companies looking for re-locating their manufacturing space from China to India.

## Economic highlights in April 2020:

- **Facebook to invest Rs 43,574 crore in Jio platforms:** Reliance Industries Limited, Jio Platforms Limited and Facebook, Inc. entered in binding agreements for an investment of Rs 43,574 crore (US\$ 5.7 billion) by Facebook into Jio Platforms. This investment by Facebook values Jio Platforms at Rs 4.62 lakh crore (US\$ 66 billion) pre-money enterprise value. This investment will translate into a 9.99 per cent equity stake in Jio Platforms on a fully diluted basis.
- **India signs US\$ 1.5 billion loan with ADB to support India's COVID-19 immediate response:** The Government of India and the Asian Development Bank (ADB) have signed a \$1.5 billion loan on 29-April-2020 that will support the government's response to COVID-19 pandemic, focusing on immediate priorities such as disease containment and prevention, as well as social protection for the poor and economically vulnerable sections of the society, especially women and disadvantaged groups.
- **Foreign Trade Policy 2015-2020 extended for one year with other immediate relief measures also announced:** The Govt. has decided to continue relief under various export promotion schemes by granting extension of the existing Foreign Trade Policy by another one year i.e. up to 31st March, 2021.
  - a. The scheme for providing "Transport Marketing Assistance on the specified Agricultural Products" is further extended for one year.
  - b. To provide continuity in the policy regime, the current FTP, valid till 31.03.2020 has been extended till 31.03.2021. Similar extension is made in the related procedures, by extending validity of Handbook of Procedures.
  - c. Exemption from payment of IGST and Compensation Cess on the imports made under Advance/EPCG Authorisations and by EOUs etc. has been extended up to 31.03.2021.
- **Indian economy may shrink nearly 1% this fiscal, says CII:** The Indian economy could contract up to 0.9% in FY21 in the worst-case scenario if the coronavirus pandemic prolongs and the government is unable to restore economic activity, the Confederation of Indian Industry (CII) warned.
- **Rs 481.63 Crore disbursed to 40,826 members by exempted PF trusts under PMGKY:** As on the forenoon of 17.04.2020, Rs 481.63 crore (US\$ 68.91 million) have been disbursed to 40,826 PF Members as advance under para 68-L for COVID-19 by the exempted PF Trusts.
- **3.5% fiscal deficit for FY21 challenging target:** India's fiscal deficit may go beyond 3.5 per cent of gross domestic product (GDP) for the current year due to coronavirus lockdown said by The Reserve Bank of India (RBI) governor Shaktikanta Das. In Union Budget, Finance Minister Nirmala Sitharaman had set the fiscal deficit target at 3.5 per cent for financial year 2020-21.
- **CRISIL pegs India's FY21 economic growth rate at 1.8% from 3.5%:** Domestic rating agency CRISIL on Monday cut its projections for economic growth of India to 1.8 per cent, from 3.5 per cent for 2020-21 while projecting total losses of Rs 10 lakh crore or Rs 7,000 per person due to Covid-19 lockdown.

## Goods and Service Tax

### Composition Scheme

Earlier a registered person who wants to opt for composition scheme is required to file GST CMP-02 on the common portal however due to the global pandemic of COVID-19 finance minister has announce relief for filing GST CMP-02 up to 31st day of July 2020.

Earlier a taxable person is eligible to take input tax credit against the invoices which are not reflected in GSTR 2A on the common portal up to the extent of 10% of eligible invoices reflected in GSTR 2A on common portal however due to global pandemic of covid-19 the government in order to give some relief to the tax payers, has added a provision in such rule accordingly the above condition shall apply cumulatively for the period February to August 2020, and such cumulative adjustment shall required to be made in GSTR 3B for the month of September 2020.

### Due dates and Waive off Interest Liability

In order to give relief to the taxpayer the government has waived off the interest liability on late payment of tax. The due dates of filling GSTR 3B with or without interest or subsidized rate of interest are as follows:

Month of GSTR 3B	Turnover in preceding Financial Year		
	< 1.5 Cr	1.5 <to>5.0 Cr	>5.0 Cr
Date of Filling GSTR 3B without interest			
Feb , 2020	30 June, 2020	29 June, 2020	4 April, 2020
March, 2020	3 July, 2020	29 June, 2020	5 May, 2020
April, 2020	6 July, 2020	30 June, 2020	4 June, 2020
Date of Filling GSTR 3B with 9% of interest			
Feb , 2020	30 June, 2020	29 June, 2020	24 June, 2020
March , 2020	3 July, 2020	29 June, 2020	24 June, 2020
April , 2020	6 July, 2020	30 June, 2020	24 June, 2020
** Interest will be charged at 18% for the full period if GSTR 3B filed after above due dates.			

- The government has waived off the late fees on delay in filling GSTR 3B subject to certain condition. Further such relief shall not be available if GSTR 3B shall be filed after below mentioned dates.

Month of GSTR 3B	Turnover in preceding Financial Year		
	< 1.5 Cr	1.5 <to>5.0 Cr	>5.0 Cr
Date of Filling GSTR 3B without interest			
Feb , 2020	30 June, 2020	29 June, 2020	24 June, 2020
March , 2020	3 July, 2020	29 June, 2020	24 June, 2020
April , 2020	6 July, 2020	30 June, 2020	24 June, 2020

- The government has waived off the late fees on delay in filling GSTR-1 for the month of March 2020, April 2020 and May 2020 and for the quarter ending 31st March 2020 subject to the condition that the return under GSTR-1 shall be filled on or before 30th June 2020. No relief in late fees shall be available if the returns of the aforesaid periods shall be filled after 30th June 2020.
- Government has extended the date of filling GSTR CMP-08 for payment of self-assessed liability for the composition dealer up to 7th day of July 2020.
- Further the date of filling GSTR 4 has also been extended from 31st March 2020 to 15th July 2020.

In view of the global pandemic of covid-19 the government vide this notification has extended the due dates of any compliance or any action by any authority or any person which is prescribed or notified under the act which falls during the period of 20.03.202 to 29.06.2020 shall be extended up to 30th day of June 2020. The compliances include followings:

- completion of any proceeding or passing of any order or issuance of any notice, intimation, notification, sanction or approval or such other action, by whatever name called, by any authority, commission or tribunal, by whatever name called, under the provisions of the Acts stated above or
- filing of any appeal, reply or application or furnishing of any report, document, return, statement or such other record, by whatever name called, under the provisions of the Acts stated above

The above extension shall not be applied on the following provisions:

- Chapter IV - Provisions of time of supply
- Section 10(3) - Non availability of composition scheme if the turnover of the person exceeds the prescribed limit during the period 20.03.202 to 29.06.2020.
- Section 25 – Procedure for Registration
- Section 27 – Special provisions relating to casual taxable person and non-resident taxable person
- Section 31 – Provisions relating to tax invoice
- Section 37 – Provisions relating to returns of outward supplies.
- Section 47 – Provisions of levy of Late Fees
- Section 50 – Provisions of Interest on Delay payment of taxes
- Section 69 – Provisions related to power to arrest.
- Section 90 – Provision related to liability of partners of firm to pay tax

11. Section 122 – Provisions related to penalty for certain offences
12. Section 129 - Detention, seizure and release of goods and conveyances in transit.
13. Section 39 except 39(3), 39(4), and 39(5) – Provision related to furnishing monthly returns
14. Section 68 – Provision related to inspection of goods in movement.
15. Rules made under above provisions

Further where any e-way bill has been generated during the period 20.03.2020 to 15.04.2020, the validity of all such e-way bill shall be extended till 30th day of April 2020.

- The due date of filling GSTR-3B for the month of May 2020 has been extended in the staggered manner for different class of person.

State	Turnover less than Rs. 5.00 Crore	Turnover more than Rs. 5.00 Crore
Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep	12th day of July 2020	27th day of June 2020
Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi	14th day of July 2020	27th day of June 2020

### Advance Received and Cancelled Later

Government vide this circular clarifies various issues related to action required to be taken under the different scenario of advance received and cancelled later. The different scenarios are summarized in below table:

Scenario	Question	Action
An advance is received by a supplier for a Service contract which subsequently got cancelled. The supplier has issued the invoice before supply of service and paid the GST thereon.	Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?	Issue credit-note and adjust it with future liability. In case no output liability to adjust such credit note the registered person shall apply for refund through Form GST RFD-01
An advance is received by a supplier for a Service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received.	Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?	The taxpayer can apply for refund of GST paid on such advances by filing FORM GST RFD-01 under the category "Refund of excess payment of tax"

Scenario	Question	Action
Goods supplied by a supplier under cover of a tax invoice are returned by the recipient	Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns ?	Issue credit-note and adjust it with future liability.
Letter of Undertaking (LUT) furnished for the purposes of zero-rated supplies as per provisions of section 16 of the Integrated Goods and Services Tax Act, 2017 read with rule 96A of the CGST Rules has expired on 31.03.2020	Whether a registered person can still make a zero-rated supply on such LUT and claim refund accordingly or does he have to make such supplies on payment of IGST and claim refund of such IGST?	Since the government extends the time limit of various compliances fall between 20.03.2020 to 29.06.2020 the time limit of filling LUT under RFD-11 for the year 2020-21 shall also stand extended. Hence a taxpayer shall continue to make export of services without filling LUT.
While making the payment to recipient, amount equivalent to one per cent was deducted as per the provisions of section 51 of Central Goods and Services Tax Act, 2017 i. e. Tax Deducted at Source (TDS).	Whether the date of deposit of such payment has also been extended vide notification N. 35/2020-Central Tax dated 03.04.2020?	Since the government extends the time limit of various compliances fall between 20.03.2020 to 29.06.2020 the time limit of filling Form GSTR-07 shall also stand extended.
As per section 54 (1), a person is required to make an application before expiry of two years from the relevant date.	If in a particular case, date for making an application for refund expires on 31.03.2020, can such person make an application for refund before 29.07.2020?	Since the government extends the time limit of various compliances fall between 20.03.2020 to 29.06.2020 the time limit of filling an application of refund falling during the said period shall stand extended up to 30.06.2020
In case no output liability to adjust such credit note the registered person shall apply for refund through Form GST RFD-01	Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?	The taxpayer can apply for refund of GST paid on such advances by filing FORM GST RFD-01 under the category "Refund of excess payment of tax"

## Custom

### Custom duty exemption

Due to global pandemic of covid-19 the government vide this notification exempts following items from while of the duty of custom leviable thereon under the First schedule of the Custom Tariff Act and the whole of health cess leviable thereon under section 141 the said of Finance Act, 2020

1. Artificial respiration or other therapeutic respiration apparatus (Ventilators)
2. Face masks and surgical Masks

3. Personal protection equipment (PPE)
4. Covid-19 testing kits
5. Inputs for manufacture of items at S. Nos. 1 to 4 above, subject to the condition that the importer follows the procedure set out in the Custom (Import of Goods at Concessional Rate of Duty) Rules, 2017.

### **Guidelines for Conducting of personal hearing in Virtual Mode**

Due to Global pandemic of covid-19 the government in order to maintain social distancing and reduce physical presence, use modern technology for conducting personal hearing. For this purpose, the government issues a guideline for such virtual mode of personal hearing. Some points are summarized below:

1. Party either as appellate or a respondent is required to give his consent to avail such hearing through video conferencing mode and shall required to provide his e-mail address for future correspondence.
2. The adjudicating authority provides the link of video conferencing through official e-mail. Such authority gives the details of officer-in-charge who would provide assistance to the party for conducting the virtual hearing.
3. The advocate/consultant/authorized representative should provide vakalatnama or authorization letter along with photo ID card in scanned copy and contact details through official e-mail address of the client. All person attending video conferencing shall required to dress properly and should maintain the decorum of the occasion.
4. Virtual conferencing shall be held from the office of the adjudicating authority or any other video conferencing facility set-up in the office of the adjudicating authority.
5. The video conferencing shall be conducted through any available application, and appellant/respondent is required to download the same in his system/laptop/mobile.
6. The submission given by the appellant or his authorized representative will be reduced in writing and the statement for the same is prepared which is known as "record of personal hearing". The soft copy of the same is shared with the appellant through e-mail within one day of such hearing.
7. The appellant can change such "record of personal hearing" by modifying the content of e-mailed "record of hearing" and send back the signed scan copy of modified "record of hearing" to the adjudicating authority.
8. The appellant is provided 3 days to modify such "record of personal hearing". No application shall be entertained after the expiry of 3 days from the receipt of such "record of personal hearing" through e-mail.
9. If the party prefers to submit any additional documents, he may do so by self-attesting such document and e-mailed a scanned copy of the same within 3 days of virtual hearing.
10. Any official representing the department side can also participate in the virtual hearing through video conferencing. The authority shall inform the details in advance regarding such participation.

## Direct Tax

### CBDT clarifies on provisions of the DT VSV Act, 2020

It has been clarified that where only notice for initiation of prosecution has been issued without prosecution being instituted, the assessee is eligible to file declaration under VSV Act. However, where the prosecution has been instituted with respect to an assessment year, the assessee is not eligible to file declaration for that assessment year under VSV Act, unless the prosecution is compounded before filing the declaration. (Circular No. 9/2020, dt 22 April, 2020).

### Clarification on exercising option of deduction of tax as per section 115BAC

The Board clarifies that an employee, having income other than the income under the head “profit and gains of business or profession” and intending to opt for the concessional rate under section 115BAC of the Act, may intimate his employer. Upon such intimation, the employer shall compute the total income and make TDS as per the provisions of section 115BAC of the Act. If such intimation is not made by employee, the employer shall make TDS without considering the section 115BAC.

This intimation shall be only for the purpose of TDS during the previous year and cannot be modified during that year. However, the intimation would not amount to exercising option in terms of section 115BAC(5) and the person shall be required to do so along with filing of ITR under section 139(1) for that previous year. Option at the time of filing of ITR under section 139(1) of the Act could be different from the intimation made by such employee to the employer for that previous year.

In case of a person who has income under the head “profit and gains of business or profession” also, the option for taxation under section 115BAC of the Act once exercised for a previous year at the time of filing of return of income under section 139(1) of the Act cannot be changed for subsequent previous years except in certain circumstance. (Circular no. C1/2020, dt 13 April, 2020).

### Assessee not be treated as in default for short deduction of TDS/TCS due to increase in rates of surcharge.

The rates of surcharge increased vide Finance Act 2019(2) Act to 25% for income above 2 crore and upto 5 crore and 37% for income above 5 crore. The enhanced rates of surcharge were applicable from 1st April, 2019.

It is clarified that a person responsible for deduction/collection of tax under any provision of the income-tax will not be considered to be assessee in default in respect of transactions where:-

- Such transaction has been completed and entire payment has been made to the deductee/payee on or before 5th July, 2019 and there is no subsequent transaction between the deductor/collector and the deductee/payee in the FY 2019-20 from which the shortfall of tax could have been deducted/collected by the deductor/collector;

- TDS/TCS has been deducted/collected by such deductor/collector as per the rates in force prior to the enactment of the Act;
- TDS/TCS has been deposited in the account of CG by deductor/collector on or before the due date of depositing the same;
- TDS/TCS statement has been furnished by such person on or before the due date of filing of the said statement.

Further, if the deductor/collector has deducted/collected shortfall of tax after 5th of July, 2019 from the transactions made subsequently after the said date, interest, for delay in deduction/collection of such tax shall not be levied. (Circular No. 8/2020, dt 13 April, 2020)

### **Reporting of GAAR & GST deferred till March 31, 2021**

Due to COVID-19 pandemic, CBDT deferred reporting under clause 30C (pertaining to GAAR) and clause 44 (pertaining to GST compliance) of the Form No 3CD till March 31, 2021. (Circular No. 10/2020, dt 24 April, 2020)

### **Donation to PM CARES fund, claim deduction.**

The donations made to PM care fund are eligible for deduction u/s 80G of Income tax Act, 1961. Where donations are made by employees through the employer, the Fund may not issue separate certificate to every such employee as the contribution made to fund are in consolidated form.

In such case, the deduction will be admissible under section 80G on the basis of the form 16/certificate issued by Drawing and Distributing Officer (DDO)/Employer.

### **In view of Covid 19 pandemic, stay granted to assessee on recovery of outstanding demands relating to interest and penalty, having paid entire tax liability**

All bank accounts and debtors of assessee, a civil contractor, had been subjected to attachment while appeals were pending.

ITAT held that since assessee had already paid his entire tax liability, legitimate interests of revenue cannot be prejudiced by grant of stay on remaining outstanding dues which were primarily on account of levy of interest, and consequential levies. Any amount available to assessee will be first used for making payments of overdue and current wages/salaries payable to labourers/employees. Balance amount will be used for purpose of carrying out construction activity as necessary for providing quarantine facilities. Any surplus amount thereafter will be used for construction activities of business.

ITAT Mumbai created history by hearing a stay petition, on humane ground during a period of complete lockdown, through video conferencing from home offices of Coram Members. PandhesInfracon (P) Ltd. vs Assistant Commissioner of Income Tax [2020] 116 taxmann.com 376 (Mumbai - Trib.)

## SC upheld validity of section 43B(f):expenses on payment of leave encashment

The leave encashment scheme envisages the payment of a certain amount to the employees in lieu of their unused paid leaves in a year. The nature of this payment is beneficial and pro-employee. However, it is not in the form of a bounty and forms a part of the conditions of service of the employee. An employer seeking deduction from tax liability in advance, in the name of discharging the liability of leave encashment, without actually extending such payment to the employee as and when the time for payment arises may lead to abhorrent consequences. It is this mischief clause (f) seeks to subjugate. – Union of India vs Exide Industries Ltd[2020] 116 taxmann.com 378 (SC)

## Assurance and Accounting

### Ind AS/ International Accounting Standard

#### Exposure Draft of Interest Rate Benchmark Reform—Phase 2 (Proposed amendments to IFRS 9, IAS 39, IFRS 7, IFRS 4 and IFRS 16) by IASB

In 2018, International Accounting Standards Board (IASB) decided to add a project to its work plan to consider the financial reporting implications of the reform and identified two groups of accounting issues that could affect financial reporting

- pre-replacement issues—issues affecting financial reporting in the period during which there is uncertainty about contractual cash flows arising from the reform (addressed by Phase 1 amendments); and
- replacement issues—issues affecting financial reporting when changes are made to contractual cash flows and hedging relationships as a result of the reform (to be addressed by Phase 2 amendments).

The IASB considered the pre-replacement issues to be more urgent and in September 2019, as a first phase project, amended IFRS 9 and IAS 39 to provide temporary exceptions to specific hedge accounting requirements and added related disclosure requirements to IFRS 7.

As a phase 2 project, the IASB has issued an Exposure Draft to address issues affecting financial statements when changes are made to contractual cash flows and hedging relationships as a result of interest rate benchmark reform. The IASB proposes amendments to specific requirements in IFRS 9, Financial Instruments, IAS 39, Financial Instruments: Recognition and Measurement, IFRS 7, Financial Instruments: Disclosures, IFRS 4, Insurance Contracts and IFRS 16, Leases, relating to modifications of financial assets and financial liabilities and lease liabilities; hedge accounting; and disclosures. The proposed amendments apply to changes to financial instruments and hedging relationships required by the reform. The IASB has proposed amendments to these IFRS Standards to assist companies in providing useful information to investors about the effects of interest rate benchmark reform on financial statements

The main proposed amendments relate to:

- Modifications of financial assets and financial liabilities, including lease liabilities: A company would not derecognise or adjust the carrying amount of financial instruments for modifications required by interest rate benchmark reform, but would instead update the effective interest rate to reflect the change in the interest rate benchmark;
  - Hedge accounting: A company would not discontinue its hedge accounting solely because of replacing the interest rate benchmark if the hedge meets other hedge accounting criteria; and
  - Disclosures: A company would disclose information about new risks arising from the interest rate benchmark reform and how it manages the transition to alternative benchmark rates.
- Public comments on above exposure draft can be offered by May 20, 2020 and the same can be accessed at following link:

<https://resource.cdn.icai.org/59068asb48193.pdf>

## **Exposure Draft on Covid-19-Related Rent Concessions (Proposed amendment to IFRS 16, Leases) by IASB**

As a result of the deadly Covid-19 pandemic, many lessors around the world have provided, or are expected to provide, rent concessions to lessees, as a relief. Such rent concessions are particularly prevalent for leases of retail property and, in some cases, are encouraged or required by governments or jurisdictional authorities. The Exposure Draft proposes an amendment to IFRS 16 to provide lessees with practical relief during the covid-19 pandemic while enabling them to continue providing useful information about their leases to users of financial statements.

Any complexity arising as a result of the Covid-19 pandemic adds to the work being undertaken in implementing the new lessee accounting model in IFRS 16. Therefore, the proposed amendment aims to address issues affecting the application of IFRS 16 requirements to large volumes of rent concessions granted as a direct consequence of the covid-19 pandemic during 2020. The proposed amendment:

- permits lessees, as a practical expedient, not to assess whether particular Covid-19-related rent concessions are lease modifications. Instead, lessees that apply the practical expedient would account for those rent concessions as if they were not lease modifications.
  - requires lessees that apply the practical expedient to disclose that fact.
- The Exposure Draft proposes no change for lessors.

Public comments on above exposure draft can be offered by May 05, 2020 and the same can be accessed at following link:

<http://asbcomment.icai.org/documents/85ab6266fec37c9f16bcd1eb7f3f5064.pdf>

## **ICAI Announcements**

### **Use of Electronic Signature for Signing Audit Reports and Certificates**

Auditing and Assurance Standards Board (AASB) of the ICAI announced to its members that the members may use electronic signature for signing audit reports, all reports issued pursuant to any attestation engagement and certificates. However, the members need to ensure compliance with all the requirements relating to signature prescribed in the relevant law or regulation, Standards on Auditing and relevant announcements/ clarifications issued by ICAI on the matter including the requirement to mention UDIN.

Requirement to mention UDIN is applicable both for manually and digitally signed reports/certificates including certificates uploaded online. This Announcement will be effective from the date of announcement (i.e. 13-04-2020).

## Regulations

### Review of Foreign Direct Investment (FDI) policy for curbing opportunistic takeovers/acquisitions of Indian companies due to the current COVID-19 pandemic from its neighbors such as China

Earlier, a non-resident entity could invest in India, subject to the FDI Policy except in those sectors or activities which are prohibited, but citizen/ entity of Bangladesh and Pakistan were allowed specifically through government routes.

Now in order to curb opportunistic takeovers/ acquisitions of Indian Companies due to COVID-19 pandemic, the Ministry of Commerce and Industry has released a press note dated 17th April, 2020 where the limitation of FDI through specific government route was extended to “entities of countries which shares land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country”.

**Such direction from the government of India will enable the inclusion of Chinese entities as well in such an embargo.**

Moreover, In the event of the transfer of ownership of any existing or future FDI in an entity in India, directly or indirectly, resulting in the beneficial ownership falling within the above limitation, such subsequent change in beneficial ownership will also require Government approval.

### Technology in general meeting - Clarification on the passing of Ordinary and Special Resolutions

Many stakeholders have made representations to the Ministry of Corporate Affairs to allow companies to pass ordinary and special resolutions of urgent nature by conducting Extra-ordinary general Meetings amid lockdown prevailing in the country requiring social distancing. Accordingly, based upon these representations, the Ministry of Corporate Affairs had issued a General Circular dated 08th April 2020 to take decisions of urgent nature requiring approval of members without holding a general meeting which requires physical presence, through a mechanism of postal ballot or e-voting in accordance with the provisions of the act.

However, such meeting cannot be held for below mentioned matters:

1. items of ordinary business
2. business where any person has a right to be heard

The circular allows the companies to conduct the Shareholder’s meetings through Video conferencing (VC) or other audio-visual means (OAVM), so that companies can smoothly take up decisions related to urgent matters which requires the approval of shareholders.

The guidelines provided in the circular is valid till 30th June 2020, which means that companies can conduct EGM’s till this time period through VC/ OAVM. Further, separate procedure has been stipulated for companies (which are required to provide voting facility under the Companies Act) and other companies (which are not required to provide e-voting facility under the Companies Act).

## Extension for names reserved and resubmission of forms

To smoothen the functioning of Registrar of Companies (ROC) and for benefit of stakeholders, the Ministry of Corporate Affairs has issued an update providing extension for names reserved and for resubmission of forms.

Extensions are provided as below:

New company incorporation	Names expiring any day between 15th March 2020 to 3rd May would be extended by 20 days beyond 3rd May 2020.
Change of name of the company	Names expiring any day between 15th March 2020 to 3rd May would be extended by 20 days beyond 3rd May 2020.
Names reserved for 90 days for new LLP incorporation/ change of name	Names expiring any day between 15th March 2020 to 3rd May would be extended by 20 days beyond 3rd May 2020.
Extension of RSUB validity for companies/ LLP's	SRNs where last date of Resubmission (RSUB) falls between 15th March 2020 to 3rd May 2020, additional 15 days beyond 3rd May 2020 would be allowed.

## Companies Fresh Start Scheme, 2020 and LLP Settlement Scheme, 2020

1. In order to provide relief to law abiding companies and Limited Liability Partnerships (LLPs) in the wake of COVID 19, the Ministry of Corporate Affairs has provided an opportunity to both Companies and LLPs to make good any filing related defaults, irrespective of the duration of default. This scheme provides a one-time waiver of additional filing fees for delayed filings by Companies or LLPs during the period starting from 1st April, 2020 to 30th September, 2020.
2. This scheme will significantly reduce the financial burden on Companies and LLPs and will allow them to make a fresh start as the name of the scheme suggests.
3. These Schemes also contain provision for giving immunity from penal proceedings, including against imposition of penalties for late submissions and also provide additional time for filing appeals before the concerned Regional Directors against imposition of penalties, if already imposed.
4. However, immunity against any other consequential proceedings relating to violation of law would not be covered here.
5. The scheme shall not apply to the following Companies:
  - Companies against which action for final notice for striking off the name u/s 248 of the Act has already been initiated.
  - Where an application for strike off is filed by the Company
  - Companies which have amalgamated under a scheme of arrangement or compromise.
  - Where an application for obtaining Dormant status is already filed.
  - To vanishing Companies
  - For increase in capital (SH-7) and charge related forms (CH-1, CH-4, CH-8 and CH-9)
6. The scheme shall not apply to LLPs which have made application in Form 24 for striking off their name.

## Draft Valuers Bill, 2020

Ministry of Corporate Affairs had constituted a Committee of Experts (CoE) under the Chairpersonship of Shri M. S. Sahoo, Chairperson, Insolvency and Bankruptcy Board of India (IBBI) on 30th August 2019 to examine the need for an institutional framework for regulation and development of Valuation Profession. Accordingly, a Draft Valuers Bill, 2020 has been drafted to establish a National Institute of Valuers on the recommendations of the Committee.

Vide Notice dated 14th April, 2020 posted on the website of Ministry of Corporate Affairs, Public Comments were solicited on the Draft Valuers Bill, 2020 through the weblink:-<http://feedapp.mca.gov.in> by 14th May, 2020.

## Other Changes

1. The Ministry had received several representations from various stakeholders seeking clarifications on eligibility of CSR expenditure related to COVID-19 activities. In this regard, the ministry had clarified that contribution to PM Cares Fund shall be considered as CSR expenditure and has also laid related FAQs vide circular dated 10th April, 2020.
2. The Ministry had issued General Circular dated 21st April, 2020 allowing the companies whose financial year (other than first financial year) has ended on 31st December, 2019 to hold their AGM's within 9 months from the closure of financial year i.e. on or before 30th September, 2020.
3. Web Service related to "Company Affirmation of Readiness towards COVID-19" has been discontinued w.e.f. 14th April, 2020.

TAX CALENDER																														
May-2020																														
	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun								
1			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
<b>Date</b>	<b>Regulation</b>																													
7	Income Tax - Last date of online payment of Tax deducted at source/Tax collected at source for the month of April, 2020																													
7	FEMA - Last date of reporting of actual transactions of External Commercial Borrowings (ECB) through AD Bank under FEMA																													
11	GST - Last date of filing Form GSTR 1 for the month of April, 2020 for the taxpayer who has not chosen quarterly filing.																													
15	Provident Fund - Last date of online payment of provident fund for the month of April, 2020																													
15	ESI - Last date of online payment of ESI fund for the month of March, 2020 & April, 2020																													
20	GST - Last date of payment of GST and filing of GSTR 3B for the month of April, 2020 for taxpayer having turnover more than 5 Crores																													
22	GST - Last date of payment of GST for the month of April, 2020 for taxpayer having turnover less than or equal to 5 Crores <b>(GST Registration No. starting from 22 to 37)</b>																													
24	GST - Last date of payment of GST for the month of April, 2020 for taxpayer having turnover less than or equal to 5 Crores <b>(GST Registration No. starting from 01 to 21 and 38)</b>																													
25	Provident Fund - Provident Fund return filing for April, 2020 (including pension and insurance scheme form)																													

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