

HARBINGERTM

Updates on regulatory changes affecting your business

December 2019



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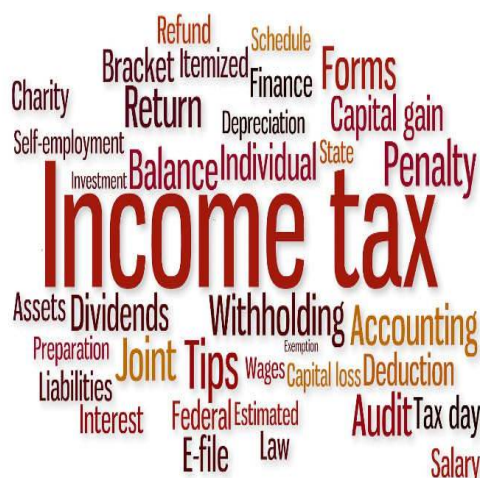
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INCOME TAX



CBDT Notifies PAN-Aadhaar Interchangeability

CBDT vide Notification No. 95/2019 dated 6th November, 2019 amended over 100 forms and returns to provide for interchangeability between Permanent Account Number (PAN) and Aadhaar number. A notification to this effect was issued by the Central Board of Direct Taxes on Thursday.

The Union Budget presented in July had amended Section 139A of the Income-tax Act, 1961 to provide for interchangeability of PAN and Aadhaar number. However, an amendment to give effect to this change in various forms or returns and statements prescribed was pending.

The CBDT has now issued a notification to amend the Income-tax Rules, 1962 (Rules) to enable quoting of the Aadhaar number instead of PAN in various forms and documents as specified under the tax laws.

CBDT notifies Form 26QD for payment of TDS under Section 194M of Income Tax Act, 1961.

Finance Act 2019 (No. 2) has introduced a new section 194M wherein an Individual or a HUF who receives any services from a resident, relating to contractual work, commission, brokerage or professional fees and the payment of which exceeds Rs. 50 lakhs in a financial year, then the said individual or HUF is required to deduct TDS at time of credit or payment, whichever is earlier, at 5% even though such an individual or HUF is not liable to Tax Audit.

In order to simplify the process, CBDT has notified Form 26QD (challan-cum statement) for deposit of tax deducted at source (TDS) as per the provisions of section 194M.

Amount deducted shall be paid within a period of thirty days from the end of the month in which the deduction is made.

Person responsible for deduction of tax under section 194M shall furnish the certificate of deduction of tax in Form No.16D to the payee within fifteen days from the due date for furnishing the Form No.26QD.

GOODS & SERVICE TAX



GSTR-9 & GSTR -9C more simplified & last dates of submission extended

CBIC (Central Board of Indirect Taxes & Customs) has extended the due dates of filing annual return in Form GSTR-9 & reconciliation statement in Form GSTR-9C for F.Y. 2017-18 to 31st December, 2019 and for F.Y. 2018-19 to 31st March, 2020.

The Government has also simplified these forms by making various fields of these forms as optional and 2 major changes were:-

- Now Auditor has to give True and Fair view instead of True and Correct.
- Cash Flow Statement to be reported if available.

MINISTRY OF CORPORATE AFFAIRS



MCA launches online compliance monitoring system 'MCA-CMS' for issuing show-cause notices

Ministry of Corporate Affairs has introduced a new initiative in the form of online portal known as Compliance Monitoring System - MCA. The purpose of this portal is to monitor the compliance based on automatic intelligence and to issue the show cause notice to the non-compliant companies. The Companies to whom the notices are served has to reply to said notice(s) through this portal ONLY.

RESERVE BANK OF INDIA



SNRR Account for a person resident outside India engaged in multiple categories of transactions provided it is able to identify/ segregate and account them category-wise.

The tenure of the SNRR account shall be concurrent to the tenure of the contract / period of operation / the business of the account holder and in no case shall exceed 7 years. Approval of the Reserve Bank shall be obtained in cases requiring renewal.

RBI amends FEMA regulations in order to insert provisions related to SNRR account

The Reserve Bank of India vide notification dated 13th November, 2019 amended the Foreign Exchange Management (Deposit) Regulations, 2019. The key amendments are as follows:

Any person resident outside India, having a business interest in India, may open Special Non Resident Rupee Account (SNRR account) with an authorised dealer for the purpose of putting through bona fide transactions in rupees, not involving any violation of the provisions of the Foreign Exchange Management Act, 1999.

The SNRR account shall carry the nomenclature of the specific business for which it is in operation. Indian bank may, at its discretion, maintain separate SNRR Account for each category of transactions or a single

SUMMARY OF IMPORTANT TAX JUDGEMENTS

Unless otherwise stated, the sections mentioned hereunder relate to the Income Tax Act, 1961

Sr No.	Tribunal/Court	Section/Code	Nature	Case Law
1	ITAT Mumbai	Section 2(47) r.w. Section 45	In case of transfer of immovable property, it is date of execution of registered document, and not date of delivery of possession or date of registration of document which is relevant; therefore, once executed documents are registered, transfer will take place on date of execution of documents and not on date of registration of documents.	Shankala Realtors (P.) Ltd. Vs. ITO
2	Bombay High Court	Section 37(1)	Expenditure on acquisition of computer software by assessee was not capital expenditure.	PCIT Vs. Tata AIG General Insurance Co. Ltd.
3	Delhi High Court	Section 40(a)(ia) r.w. Section 147	Reopening of assessment not based on satisfaction of Assessing Officer but only on the basis of audit objection regarding disallowance under section 40(a)(ia) for non-deduction of TDS on labour charges, etc., paid by assessee, was unjustified.	PCIT Vs. Lalit Bagai

DISCUSSION ON JUDGMENTS – INCOME TAX



1. Shankala Realtors (P.) Ltd. Vs. ITO

In case of transfer of immovable property, it is date of execution of registered document, and not date of delivery of possession or date of registration of document which is relevant; therefore, once executed documents are registered, transfer will take place on date of execution of documents and not on date of registration of documents.

Facts:-

Whether immovable property is not conveyed by delivery of possession, but by a duly registered deed; it is date of execution of registered document, not the date of delivery of possession or the date of registration of document which is relevant; once the executed documents are registered, the transfer will take place on the date

of execution of documents and not on the date of registration of documents..

2. PCIT Vs. Tata AIG General Insurance Co. Ltd.

Expenditure on acquisition of computer software by assessee was not capital expenditure.

Facts:-

Revenue's case was that computer software acquired by assessee created enduring benefit and was a capital asset eligible for depreciation under section 32 - However, Tribunal held that expenditure on acquisition of computer software by assessee was not capital expenditure - In assessee's own case for another year, High Court did not entertain appeal against such an order of Tribunal - Whether following same, for current year no substantial question of law arose from order of Tribunal. Held in favour of assessee.

3. PCIT Vs. Lalit Bagai

Reopening of assessment not based on satisfaction of Assessing Officer but only on the basis of audit objection regarding disallowance under section 40(a)(ia) for non-deduction of TDS on labour

charges, etc., paid by assessee, was unjustified

Facts:-

Assessee filed its return of income which was processed under section 143(3) - After four years, reassessment notice under section 148 was issued against assessee so as to make disallowance under section 40(a)(ia) for the reason that assessee had not deducted tax at source on payments made towards job work charges, labour charges and rent - It was noted that entire exercise of reopening of assessment was triggered on the basis of objections raised by audit party about non-deduction of TDS on these payments - Assessing Officer had in fact applied his mind to audit party objection and formed a clear opinion that there was no justification for reopening of assessment and yet it was only on insistence of Addl. Commissioner (Audit) that Assessing Officer changed his opinion and decided to reopen assessment - Whether, on facts, impugned reopening was unjustified. Held in favour of assessee.

Note: The judgments should not be followed without studying the complete facts relevant to the judgment.

DATE CHART FOR THE MONTH OF DECEMBER, 2019

December 2019

Sun	Mon	Tues	Wed	Thurs	Fri	Sat
1	2	3	4	5	6	7 Monthly TDS Payment
8	9	10	11 GSTR-1 (T/O>1.5 Crores)	12	13	14 1) Provident Fund Payment. 2) ESIC Payment
15	16	17	18	19	20 GSTR-3B	21
22	23	24	25	26	27	28
29	30	31				

This communication is intended to provide general information, guidance on various professional subject matters and should not be regarded as a basis for taking decisions on specific matters. In such instances, separate advice should be taken.