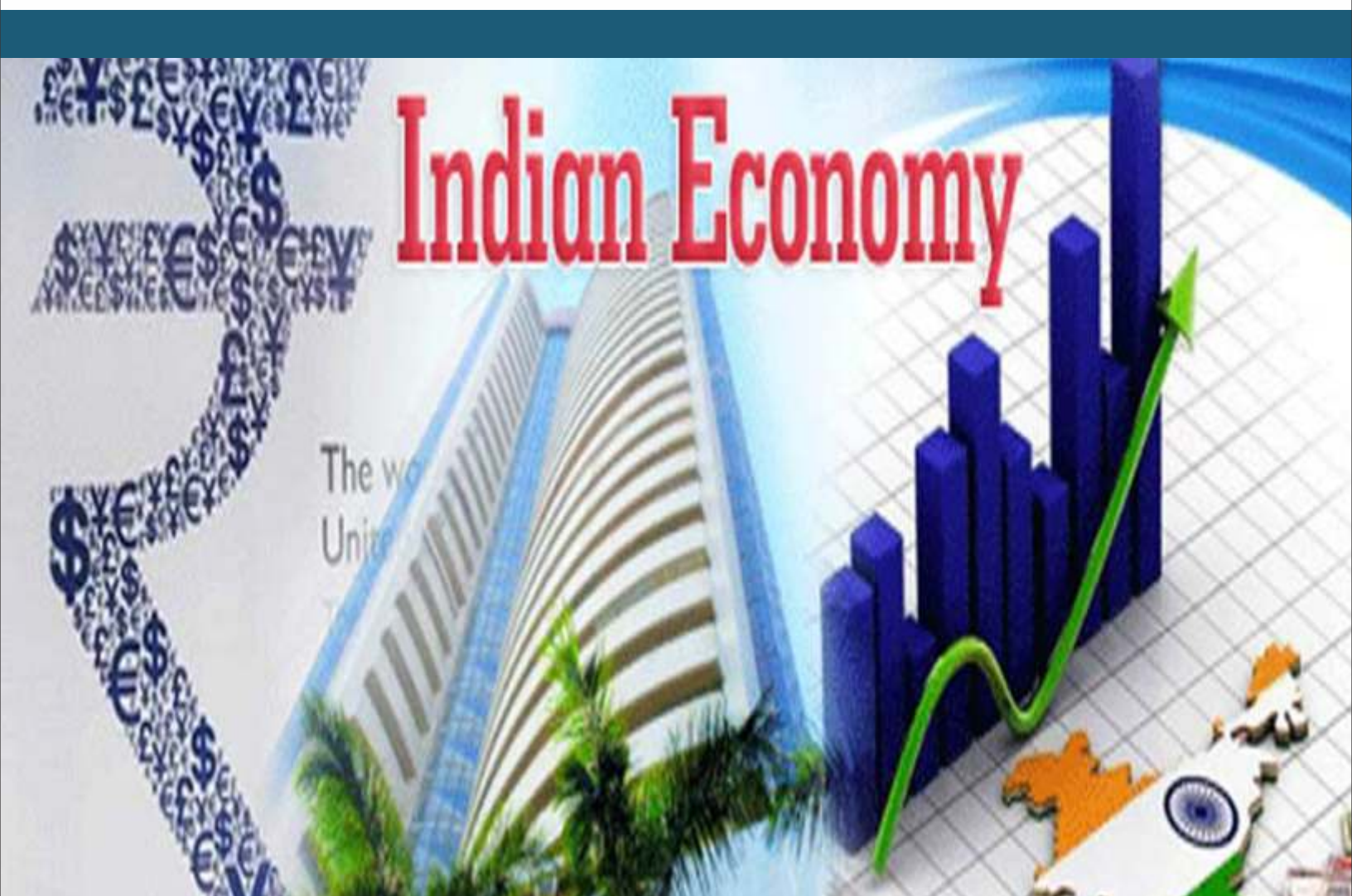


RAIPUR BRANCH OF CENTRAL INDIA REGIONAL COUNCIL OF ICAI

Website : www.icairaipur.org



Newsletter

December - Edition 2017

NEWS LETTER COMMITTEE



CA RAJESH GOLCHHA
Chairman



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Editor



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Member

हिंदी भाषा जहाँ है
 देश का सम्मान वहाँ है
 सभी को मेरा सादर प्रणाम
 सर्वप्रथम मैं इस संपादन के लिये एडिटोरियल बोर्ड व अन्य साथियों को बधाई प्रेषित करता हु।
 साथियो आप सभी इस समय अपने आफिस के कार्यों में बेहद व्यस्त होंगे ,टैक्स ऑडिट के प्रावधानों में हुए बदलाओ व
 जी एस टी के आने से हम सभी की जिम्मेदारियां पहले की तुलना में और बढ़ चुकी है और हम सब इनका सफल निर्वाहन करेंगे ऐसी अपेक्षा हमसे समाज का हर वर्ग भी कर रहा है ।
 आज के दौर में सरकार व शासन भी हम सभी से निरंतर सहयोग की अपेक्षा कर रहे है।
 राष्ट्र के बदलते स्वरूप व विकास में अब हमारी भूमिका बेहद महत्वपूर्ण हो चली है ।
 मुझे विश्वास है हम सभी अब बदलाओ को स्वीकार कर आगे बढ़ रहे है।
 मुझे बताते हुए हर्ष हो रहा है कि इस वर्ष रायपुर ब्रांच ने आप लोगो के कई सार्थक कार्यक्रम किये है जिसमे शासन ने भी बड़ चढ़ कर हिस्सा लिया है व हमने ब्रांच के गौरव शाली इतिहास को कायम रखा है।
 रायपुर ब्रांच जी एस टी सर्टिफिकेशन कोर्स भी करवा रहा है जिसमे भारत के सर्वश्रेष्ठ जी एस टी एक्सपर्ट्स अपना व्याख्यान देंगे।
 आगामी महीनों में और भी कई उपयोगी कार्यक्रम आयोजित किये जायेंगे,आप सभी से इनमें बड़ चढ़ कर भाग लेने की अपील करता हु।
 आपको दीपावली पर्व की बहुत बहुत शुभकामनाये प्रेषित करता हु।
 जिनके अकेले चलने के हौसले होते है।
 एक दिन उनके पीछे काफिले होते है।
 आपका सी ए अमित चिमनानी
 जय हिंद।



आपका
अमित चिमनानी
 President



CA Dhawal Shah
 Editor

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Greetings to all members. Presenting the December 2017 issue before you all covering the information on December Compliance Calendar of Various Tax Laws , FAQ's , Updates & Assessment by proper officer in GST etc.

ICAI Raipur is presently conducting 10 Days Certification Course on GST for updating members with the GST.

Calendar year 2017 is going to end, I Wish, the sweet taste of success may fill up your life throughout the upcoming year 2018.

**NEWS LETTER
 COMMITTEE**

CA RAJESH GOLCHHA
 (Chairman)

CA DHAWAL SHAH
 (Editor)

CA BIVOR KANODIA
 (Member)

CA SAURABH AGRAWAL
 (Member)

CA SUMIT CHAWLA
 (Member)

CA YOGESH AGRAWAL
 (Member)

CA PRANAY JAIN
 (Member)

RAIPUR BRANCH OF CIRC OF ICAI



Central India Regional Council The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)

ICAI BHAWAN, Post Box No.314, 16/77 B Civil Lines, Kanpur – 1
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To All the Members,

Dear Sir/Madam,

Central India Regional Council of The Institute of Chartered Accountants of India is organising a 04 CPE hour Program as per details given below:

❖ CPE Hours.....	04
❖ Day & Date.....	15 th January 2018
❖ Venue.....	ICAI Bhawan, Lakhanpur, Kanpur
❖ Timing.....	4.00 PM to 09.00 PM
❖ Registration	4 PM – 4.30 PM
SESSION 1 (4.30 pm to 5.45 pm)	
❖ Topic.....	Tax Planning for Non Corporate
❖ Speaker.....	CA. G Sekar – Chairman PDC & Central Council Member, ICAI,
SESSION 2 (5.45 pm to 7.30 pm)	
❖ Topic.....	Input Credit Mechanism under GST with Case Studies
❖ Speaker.....	CA. Atul Gupta – Chairman BOS & Central Council Member, ICAI
Special Session (7.30 pm to 8.30 pm)	
Address By President ICAI - CA. Nilesh Shivji Vikamsey	
8.30 pm to 8.40 pm	
Inauguration of ICAI Forensic Lab at Lakhanpur, Kanpur	
Followed by Dinner from 8.40 pm onwards	
❖ Fee.....	Rs. 400/- (Including GST) till 14.01.2018 (5.30 PM) SPOT – Rs500 /- (Including GST) ONLY Cheque in Favour of “CIRC of ICAI” to be deposited at: ICAI Bhawan, 16/77 – B, Civil Lines, Kanpur 208001 Ph: 3011181, 3011182, 3011156 Participants are requested to kindly mention their GST number behind their Cheque to avail the GST Credit

You are kindly requested to attend the above programme.

CA. Deep Kumar Misra
Chairman CIRC

CA. Churchill Jain
Vice Chairman CIRC

CA. Mukesh Bansal
Secretary CIRC

CA. Gautam Sharma
Treasurer

CA. Nitesh Gupta
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RC Member

CA. Nilesh Gupta
RC Member

CA. Pramod Kumar Boob
RC Member

CA. Rohit Ruwatia Agarwal
RC Member

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DUE DATE TO PAY GST & FILE FORM GSTR 3B FOR AUG-DEC 2017 NOTIFIED

In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 and [Notification No. 21/2017- Central Tax dated the 08th August, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section \(i\) vide G.S.R. number 997 \(E\), the Commissioner, on the recommendations of the Council, hereby specifies that the return for the month as specified in column \(2\) of the Table below shall be furnished in FORM GSTR-3B electronically through the common portal on or before the last dates as specified in the corresponding entry in column \(3\) of the said Table, namely:-](#)

Table

Sl. No.	Month	Last Date for filing of return in FORM GSTR-3B
(1)	(2)	(3)
1.	August, 2017	20 th September, 2017
2.	September, 2017	20 th October, 2017.
3.	October, 2017	20 th November, 2017
4.	November, 2017	20 th December, 2017.
5.	December, 2017	20 th January, 2018

2. Payment of taxes for discharge of tax liability as per FORM GSTR-3B: Every registered person furnishing the return in FORM GSTR-3B shall, subject to the provisions of section 49 of the said Act, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the said Act by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the last date, as detailed in column (3) of the said Table, on which he is required to furnish the said return.

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ASSESSMENT In GST

Assessment means determination of tax liability. Every law requires proper assessment of tax liability for each and every tax payer. But assessment of each and every tax payer is practically not possible so, there are many ways in which assessment can be done either by himself or by authority.

1. Types of assessment:

Self assessment (section 59)

Provisional assessment(section 60)

Scrutiny assessment (section 61)

Assessment of registered taxable person who have failed to file returns(section 62)

Assessment of unregistered person (section 63)

Summary assessment in special case (section 64)

2. Section 59 refers to the assessment made by the taxable person himself while all other assessments are undertaken by tax authorities.

3. Self assessment:

Every registered taxable person shall self assess the taxes payable under this act and furnish a return for each tax period as specified u/s 39. Means department believe in honesty of tax payer, whatever he stated in returns , department will accept it subject to few conditions.

4. Provisional assessment:

Firstly, it is not done by authorities rather it is undertaken at the instance of the tax payer. Generally sometimes tax payer is not able to calculate proper tax liability due to various reasons.

This section will work under following situations:

- Difficulty in ascertaining value of supply due to :
 - o Transaction value to be adopted for determining tax payable,
 - o Inclusion or exclusion of amount in value of supply
 - o Failure of transaction value.
- Difficulty in ascertaining rate of tax due to:
 - o Classification of goods / services.
 - o Eligibility of exemption notifications.

Note: No other situations are covered under this, e.g. uncertainty about kind of tax IGST/CGST/SGST.

Process:

- Provisional assessment can be made only upon a written request made by the registered person in FORM GST ASMT 01 electronically
- PO may issue notice in FORM GST ASMT 02 wherein it requires the person seeking provisional assessment.
- Applicant has to file a reply to the notice in FORM GST ASMT 03.
- After considering reply PO has to pass order in FORM GST ASMT 04, either rejecting or allowing. Such order should also indicate the amount for which bond has to be executed by taxable person , which shall not exceed 25% of the bond amount.
- Tax payer will execute the bond in FORM GST ASMT 05 along with security in the form of bank guarantee.
- After all PO shall issue a notice in FORM GST ASMT 06, calling information to finalize the

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assessment and pass the final assessment.

- After that PO would issue a final assessment order in FORM GST ASMT 07.
- The finalization of assessment has to be completed, within a period of 6 months (extendable by AC/JC/Commissioner) from the date of communication of provisional assessment order.
- If amount payable is more than tax already paid then, tax with interest will be paid and if tax payable is less than tax already paid then, tax amount will be refunded along with interest.
- After that FORM GST ASMT 08 will file for release of security furnished
- Finally PO will release security and issue FORM GST ASMT 09 within 7 days from FORM GST ASMT 08.

5. Scrutiny assessment:

This section deals with discretionary power of PO .

It is pre-adjudication process

During scrutiny, discrepancies if any noticed has to be communicated via notice to person in FORM GST ASMT 10, seeking information within maximum 15 days.

The notice also contains details of tax, interest or any other amount paid.

This section authorized registered person to receive and respond in FORM GST ASMT 11 by paying tax, interest and any other amount of tax.

Where the explanation furnished by the registered person or the information submit is found to be acceptable, the proper officer shall inform him accordingly in FORM GST ASMT-12.

6. Assessment of non-filers of returns:

Pre condition of assessment under this non filing of return by tax payer.

For which notice u/s 46 will be issued.

After that by taking into account all the relevant material available on record, issue as assessment order, known as “best judgment assessment”.

However , if registered person furnishes return within 30 days form issue of assessment order then such order is deemed as withdrawn.

Order u/s 62 (i.e. best judgment) can be issued within 5 years .

Amount payable under this act includes late fees u/s 47 and interest u/s 50.

7. Assessment of unregistered persons:

This section is applicable to unregistered person i.e. person who are liable to obtain registration, fail to take registration, registration was cancelled.

For assessment under this section , notice has to be issued in FORM GST ASMT-14 by the PO.

Registered person is allowed a time of 15days to furnish his reply in FORM GST ASMT-15.

8. Summary assessment in certain special cases:

Denoted as fast track assessment.

It is used to denote those assessments which are completed ex-parte and on priority basis when there is reason to believe that there is loss of revenue, if such assessment is delayed.

This assessment can be done if PO must have proper evidence that there is tax liability and PO has obtained prior permission of AC/JC.

The summary assessment order should be in FORM GST ASMT-16

The person may file an application for withdrawal of the summary assessment order in FORM GST ASMT–17 within 30 days.

The order of withdrawal or, as the case may be, rejection of the application will be issued in FORM GST ASMT-18.

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We are providing you the Due Date Calendar for the month of December 2017. Kindly Update yourself as December month is full of Compliances & Due dates for various Taxes

COMPLIANCE CALENDAR - DECEMBER 2017

A. Due dates for Compliance under Income tax

- 07-12-2017- Due date for deposit of tax deducted /collected for the month of November, 2017.
- 15-12-2017 Due date for furnishing of Form 24G by an office of the Government where TDS for the month of November, 2017 has been paid without the production of a challan
- 15-12-2017 Third instalment of advance tax for the assessment year 2018-19
- 15-12-2017 Due date for issue of TDS Certificate for tax deducted under section 194-IA in the month of October, 2017
- 30-12-2017 -Due date for furnishing of challan-cum-statement in respect of tax deducted under Section 194-IA in the month of November, 2017
- 31-12-2017- Last Date for Scrutiny Assessment for the A.Y. 2015-16

B. Due dates for Compliances under GST

- 31-12-2017- Due date for filing GSTR -1 for the Quarter ending Sep 2017 i.e. July to Sep —à Applicable for taxpayers with Annual Aggregate turnover up to 1.50/- Crore
- 31-12-2017- Due date for filing GSTR -1 from the month of July to Oct 2017 —à Applicable for taxpayers with Annual Aggregate turnover More than 1.50/- Crore
- 27-12-2017- Due date for submission of original GST TRAN-1 & Revision of already submitted GST TRAN-1, both, is 27th Dec, 2017.
(Revision can be done only once)
- 20-12-2017- GSTR-3B for the m/o November.
- 24-12-2017 – Due date of GSTR-4 for Composition Dealers under GST for the quarter July-September, 2017 is extended to 24th Dec 2017
- 31-12-2017 – Due date of GSTR-6 (filed by an input service distributor) for the month of July 2017 has been extended to 31st Dec 2017
- 31-12-2017– ITC – 04 – In respect of goods dispatched to a job worker or received from a job worker or sent from one job worker to another for the period from the month of July to Sep 2017
- 11-12-2017 – Due date of GSTR-5 for Non-resident Taxable person for the months of July, Aug, Sep & Oct 2017
- 15-12-2017 – Due date of GSTR-5A for Non-resident Taxable person to supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient for the months of July, Aug, Sep & Oct 2017

C. Due dates for Compliances under ESI, PF Acts

- 15-12-2017- PF Payment for m/o November.
- 15-12-2017- ESIC Payment for m/o November

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STATEMENT OF FINANCIAL TRANSACTIONS & REPORTABLE ACCOUNTS

To keep a watch on high value transactions undertaken by the taxpayer, the Income-tax Law has framed the concept of statement of financial transaction or reportable account (previously called as 'Annual Information Return (AIR)'. With the help of the statement the tax authorities will collect information on certain prescribed high value transactions undertaken by a person during the year. Statement of financial transaction or reportable account is to be filed by certain prescribed entities (discussed later), and in such statement they are required to furnish the details of specified financial transactions or any reportable account registered/recorded/maintained (discussed later) by them during the year. Thus, on the basis of the information provided by certain prescribed entities in statement of financial transaction or reportable account, the Income-tax Department keeps a track of specified financial transactions carried on by a person during the year. In this part you can gain knowledge on various provisions relating to statement of financial transaction or reportable account.

Q.1 What is statement of financial transaction or reportable account (previously called as 'Annual Information Return (AIR)')?

Ans: As per section 285BA of the Income-tax Act, 1961 (as substituted by Finance Act, 2014 w.e.f. 01-04-2015), specified entities (Filers) are required to furnish a statement of financial transaction or reportable account (hereinafter referred to as 'statement') in respect of specified financial transactions or any reportable account registered/recorded/maintained by them during the financial year to the income-tax authority or such other prescribed authority.

Q.2 Who is required to furnish statement of financial transactions and reportable accounts?

Ans: Following persons shall be required to furnish statement of financial transactions or reportable accounts registered or recorded or maintained by them during a financial year to the prescribed authority:

- (a) an assessee;
- (b) the prescribed person in the case of an office of Government;
- (c) a local authority or other public body or association;
- (d) the Registrar or Sub-Registrar appointed under section 6 of the Registration Act, 1908 (16 of 1908);
- (e) the registering authority empowered to register motor vehicles under Chapter IV of the Motor Vehicles Act, 1988 (59 of 1988);
- (f) the Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898);
- (g) the Collector referred to in clause (g) of section 3 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013);
- (h) the recognised stock exchange referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
- (i) an officer of the Reserve Bank of India, constituted under section 3 of the Reserve Bank of India Act, 1934 (2 of 1934);
- (j) a depository referred to in clause (e) of sub-section (1) of section 2 of the Depositories Act, 1996 (22 of 1996); or
- (k) a prescribed reporting financial institutions

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Sl. No.	Nature and value of transaction	Class of person (reporting person)
1	<p>(a) Payment made in cash for purchase of bank drafts or pay orders or banker's cheque of an amount aggregating to Rs. 10 lakh or more in a financial year.</p> <p>(b) Payments made in cash aggregating to Rs. 10 lakh or more during the financial year for purchase of pre-paid instruments issued by Reserve Bank of India.</p> <p>(c) Cash deposits or cash withdrawals (including through bearer's cheque) aggregating to Rs. 50 lakh or more in a financial year, in or from one or more current account of a person.</p>	A banking company or a co-operative bank
2	Cash deposits aggregating to Rs. 10 Lakh or more in a financial year, in one or more accounts (other than a current account and time deposit) of a person.	<p>(i) A banking company or a co-operative bank</p> <p>(ii) Post Master General</p>
3	One or more time deposits (other than a time deposit made through renewal of another time deposit) of a person aggregating to Rs. 10 lakh or more in a financial year of a person.	<p>(i) A banking company or a co-operative bank</p> <p>(ii) Post Master General</p> <p>(iii) Nidhi Company</p> <p>(iv) Non-banking financial company</p>
4	<p>Payments made by any person of an amount aggregating to—</p> <p>(i) Rs. 1 lakh or more in cash; or</p> <p>(ii) Rs. 10 lakh or more by any other mode, against bills raised in respect of one or more credit cards issued to that person, in a financial year.</p>	A banking company or a co-operative bank or any other company or institution issuing credit card.
5	Receipt from any person of an amount aggregating to Rs. 10 lakh or more in a financial year for acquiring bonds or debentures issued by the company or institution (other than the amount received on account of renewal of the bond or debenture issued by that company).	A company or institution issuing bonds or debentures.
6	Receipt from any person of an amount aggregating	A company issuing shares.

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5	Receipt from any person of an amount aggregating to Rs. 10 lakh or more in a financial year for acquiring bonds or debentures issued by the company or institution (other than the amount received on account of renewal of the bond or debenture issued by that company).	A company or institution issuing bonds or debentures.
6	Receipt from any person of an amount aggregating to Rs. 10 lakh or more in a financial year for acquiring shares (including share application money) issued by the company.	A company issuing shares.
7	Buy back of shares from any person (other than the shares bought in the open market) for an amount or value aggregating to Rs. 10 lakh or more in a financial year.	A company listed on a recognised stock exchange purchasing its own securities under section 68 of the Companies Act, 2013
8	Receipt from any person of an amount aggregating to Rs. 10 lakh or more in a financial year for acquiring units of one or more schemes of a Mutual Fund (other than the amount received on account of transfer from one scheme to another scheme of that Mutual Fund).	A trustee of a Mutual Fund or such other person managing the affairs of the Mutual Fund
9	Receipt from any person for sale of foreign currency including any credit of such currency to foreign exchange card or expense in such currency through a debit or credit card or through issue of travellers cheque or draft or any other instrument of an amount aggregating to Rs. 10 lakh or more during a financial year.	Authorised person as referred to in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).

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10	Purchase or sale by any person of immovable property for an amount of Rs. 30 lakh or more or valued by the stamp valuation authority referred to in section 50C of the Act at Rs. 30 lakh or more.	Inspector-General or Registrar or Sub-Registrar appointed under the Registration Act, 1908
11	Receipt of cash payment exceeding Rs. 2 lakh for sale, by any person, of goods or services of any nature (other than those specified at Sl. Nos. 1 to 10 of this rule, if any.)	Any person who is liable for audit under section 44AB of the Act.
12	Cash deposits during the period 9th November, 2016 to 30th December, 2016 aggregating to— (i) Rs. 12,50,000 or more, in one or more current account of a person; or (ii) Rs. 2,50,000 or more, in one or more accounts (other than a current account) of a person.	(i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (ii) Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898
13	Cash deposits during the period 1st of April, 2016 to 9th November, 2016 in respect of accounts that are reportable under Sl.No.12 because cash deposited in this account between 9th November, 2016 to 30th December, 2016 aggregating to— (i) Rs. 12,50,000 or more, in one or more current account of a person; or (ii) Rs. 2,50,000 or more, in one or more accounts (other than a current account) of a person.	(i) A banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies (ii) Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898

Q.3 What is the due date for filing of statement of financial transaction or reportable account by prescribed reporting financial institution?

Ans: In order to facilitate effective exchange of information in respect of resident and non-resident, Section 285BA also provides for furnishing of statement by a prescribed reporting financial institution in respect of specified financial transaction or reportable account. The statement shall be furnished for each calendar year in Form No. 61B on or before 31st May of the next year. [For more details, see rules 114F, 114G and 114H of the Income-tax Rules, 1962]

Q.4 What is the mode and due date for filing of statement of financial transaction or reportable account?

Ans: The statement of financial transaction shall be furnished electronically (under digital signature) in Form No. 61A to the Director of Income-tax (Intelligence and Criminal Investigation) or the Joint Director of Income-tax (Intelligence and Criminal Investigation). However a Post Master General or a Registrar or an Inspector General may furnish Form No. 61A in a computer readable media being a Compact Disc or Digital Video Disc (DVD), alongwith the verification in Form-V on paper.

Further, the statement shall be furnished on or before 31st May immediately following the financial year in which the transaction is registered or recorded.

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However, the statement of financial transaction in respect of the transactions listed at serial number (12) and serial number (13) in the Table given in aforesaid FAQ, shall be furnished on or before the 31st day of January, 2017.

Q.5 Is there any remedy available under the act, if a person does not file the statement within the prescribed time?

Ans: Section 285BA(5) empower the tax authorities to issue a notice to the person who had not filed the statement within prescribed time. In such a case, the tax authorities may serve upon such person a notice requiring him to furnish the statement within a period not exceeding 30 days from the date of service of such notice and in such a case the person shall furnish the statement within the time as specified in the notice.

Q.6 What are the consequences of not filing statement of financial transaction or reportable account?

Ans: Non-furnishing of statement of financial transaction or reportable account will attract penalty under section 271FA. Penalty can be levied of Rs. 100 per day of default.

However, section 285BA(5) (as discussed earlier) empower the tax authorities to issue a notice to the person directing him to file the statement within a period not exceeding 30 days from the date of service of such notice and in such a case person shall furnish the statement within the time specified in the notice. If person fails to file the statement within the specified time, then a penalty of Rs. 500 per day will be levied from the day immediately following the day on which the time specified in such notice for furnishing the statement expires.

Q.7 Is there any remedy available under the act, if a person filed inaccurate or defective statement?

Ans: If any person, after filing the statement, comes to know or discovers any inaccuracy in the information provided in the statement, he shall inform such inaccuracy to the prescribed income-tax authority within a period of ten days and furnish the correct information in such manner as may be prescribed.

On the other hand, the prescribed income-tax authority may also intimate the defect to the person and give him an opportunity of rectifying the defect within a period of thirty days from the date of such intimation or within such extended period as may be allowed by prescribed income-tax authority.

However, if a person fails to rectify the defect within the said period than such statement shall be treated as an invalid statement and the provisions of this Act shall apply as if such person had failed to furnish the statement.

Q.8 What are the consequences for furnishing inaccurate statement of financial transaction or reportable account?

Ans: If a prescribed reporting financial institution referred to in Section 285BA(1)(k) who is required to furnish statement of financial transaction or reportable account, provides inaccurate information in the statement, and where:

(a) the inaccuracy is due to a failure to comply with the due diligence requirement prescribed* under section 285BA(7) or is deliberate on the part of that person;

(b) the person knows of the inaccuracy at the time of furnishing the statement but does not inform the prescribed income-tax authority or such other authority or agency;

(c) the person discovers the inaccuracy after the statement is furnished and fails to inform and furnish correct information within a period of 10 days as specified under section 285BA(6),

then, the prescribed income-tax authority may direct that such person shall pay, by way of penalty, a sum of fifty thousand rupees.

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BRIEF ON RULING OF HONBLE DELHI HIGH COURT FOR ICDS

On 31 March 2015, the Central Board of Direct Taxes (“CBDT”) notified the Income Computation and Disclosure Standards (“ICDS”) in exercise of powers conferred by section 145(2) of the Act vide [notification no. 32/2015](#). Section 145 of the income tax provides:

“145 Method of accounting

(1).....

(2) The Central Government may notify in the Official Gazette from time to time income computation and disclosure standards to be followed by any class of Assessee or in respect of any class of income.

(3)....”

However, the said ICDS was replaced by a new set of ICDS (Revised ICDS) which became effective from assessment year 2017-18 on-wards. Further, the said replacement of ICDS was accompanied by another notification amending Tax audit report form No. 3CD in the Income Tax Rules, 1962 to provide details of adjustments with respect to ICDS and disclosures as per ICDS. Further, [Circular no. 10/2017 dated 23 March 2017 \(FAQs on ICDS\) was issued for clarifying these issues](#).

Chamber of Tax Consultants ('CTC') filed a writ petition against CBDT and Union of India challenging notification on ICDS and also the circular clarifying the issues.

Hon'ble Delhi High court on Constitutional Validity in the case of [Chamber of Tax Consultants & Anr Vs. Union Of India & Ors](#):

- Where there is a binding judicial precedent, by virtue of Articles 141 and 144 of the Constitution, it is not open to the executive to override it unless there is an amendment to the Act by way of a validation law.
- To that extent, Section 145 (2), as amended, has to be read down to restrict powers of the central government to notify ICDS that do not seek to override binding judicial precedents or provisions of the Act; the power to enact a validation law is an essential legislative power that can be exercised, in the context of the Act, only by the Parliament and not by the executive.

3. Summary of Delhi High court analyzing ICDS:

ICDS I does away with the concept of 'prudence' which is contrary to the Act and to binding judicial precedents.

- ICDS II pertaining to valuation of inventories eliminates the distinction between a dissolution with discontinuance and dissolution without discontinuance while valuing inventories which is contrary to the decision of the Supreme Court in Sakti Trading Co. v. CIT.

- In ICDS III, the treatment to retention money will have to be determined on a case to case basis by applying settled principles of accrual of income. Further, ICDS III read with ICDS IX, dealing with borrowing costs, provides that no incidental income can be reduced from borrowing cost, the same being contrary to the decision of Hon'ble Supreme Court in CIT v. Bokaro Steel Limited is struck down.

- ICDS-IV requires an assessee to recognize income from export incentive in the year of making of the claim if there is 'reasonable certainty' of its ultimate collection. This is contrary to the decision of Hon'ble Supreme Court in CIT v. Excel Industries Limited and is therefore, struck down. Further, the proportionate completion method as well as the contract completion method have been recognized as valid method of accounting under the mercantile system of accounting by the Supreme Court in CIT v. Bilhari Investment Pvt. Ltd. Thus recognizing only one method of accounting i.e. proportionate completion method under ICDS is struck down.

- ICDS-VI which states that marked to market loss/gain in case of foreign currency derivatives held for trading or speculation purposes are not to be allowed, is contrary to Supreme Court in Sutlej Cotton Mills

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Limited v. CIT. It is, therefore, held to be ultra vires the Act and struck down.

- ICDS VII which provides that recognition of government grants cannot be postponed beyond the date of accrual receipt, is in conflict with the accrual system of accounting. To that extent it is struck down as such.

- Part A of ICDS VIII is held to be ultra vires the Act and is struck down as such.

Conclusion

- Hon'ble Delhi High court Judgement seeks to remove anomalies and controversies in ICDS with decisions of Hon'ble Supreme Court. It seeks to provide that the decisions of Hon'ble Supreme Court are interpretation of Act and a delegated legislation cannot override the Act.

- Thus, based on ratio of Hon'ble Delhi Court, one can conclude that if any decision of Hon'ble Supreme court is in conflict with ICDS, ratio laid down by said Apex Court will sustain.

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11 FAQs ON GST REPLIED BY GOI ON TWITTER ON 30TH NOV 2017

Q.1 Advance was given when rate was 28%, and our vendor has paid tax on it. Subsequently rate has fallen to 18%. Will the invoice will be raised at 18% ? If yes, what to do of additional 10% paid as advance?

Ans: Assuming supply happened after the change in tax rate, the time of supply is date of issue of invoice. Therefore, 18%. Additional tax paid can either be adjusted in subsequent months or claimed back as refund

Q.2 On my website, I show Google ads, for which I can't generate invoice. Google calculates my earning and transfers to my bank account. For brands, which gives ads directly to me I generate invoice. My annual Turnover hasn't crossed Rs. 20 Lakhs. Do I need to register for GST?

Ans: Registration is required when the aggregate turnover exceeds Rs. 20 lakhs

Q.3 Is transition credit of excise duty available on an inter-State sale made on 23rd June 2017 but delivery is yet to be taken? Kindly clarify

Ans: If credit of the excise duty was taken in the last return filed under excise, then it is eligible for transition

Q.4 I am a service provider and my turnover is below Rs. 1.5 crore. Am i eligible to submit GSTR1 quarterly ? I am not able to understand whether [notification 57/2017 applies to service providers as well](#).

Ans: Yes, applicable

Q.5 If a taxable person only exports services then does he need to pay any type of GST Tax ?

Ans: If the supply satisfies all the conditions of export of service (sec2(6) of IGST Act), then the supplier may opt for export of services under LUT or Bond and not pay any tax.

Q.6 Do I need to take separate registration in each state even if i don't have a place of business in other states ?

Ans: If a supply is being made from a State, registration is required irrespective of the place being principal place of business or not,

Q.7 What is the last date of filling CMP 03 ? Because notification and GST dasbord show different dates. Kindly clarify

Ans: 30th November, 2017

Q.8 Whether RCM is applicable for the professional services rendered by director of a company to the same company?

Ans: Yes. Pls refer to [notf No. 13/2017-CT\(Rate\) dt 28.06.2017](#)

Q.9 As per the decision taken in [23rd GST Council meeting, GST rate for Composition dealers \(Manufacturers & traders\) has been made as 1%. Official Notification has still not been released by CBEC. Whether one can file GSTR-4 by taking 1 % rate or does one need to wait for Notification ?](#)

Ans: Unless notified, a decision of the Council is not effective.

Q.10 Can we file two refund claims of accumulated ITC applications separately. One for goods and other for services exported under LUT in the same tax period?

Ans: Yes

Q.11 I opted out of composition scheme in November, 2017? Which return I need to file for October month?

Ans: For October, GSTR 4 has to be filed while for November onwards, FORM GSTR-3B needs to be filed.

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PAST & FUTURE EVENTS

A. "One Day Regional Seminar on Saturday, 4th Nov 2017* on topics of :-

Topic: 1- Ethical Standards & Ind AS-

Speaker -

*CA Amarjeet Chopda (Past President ICAI) From Delhi"

Topic: 2-Recent GST Issues

Speaker -

CA Bhawna Doshi (Past Central Council Member from Bombay)

Topic: -3-Opportunities for New Members in Appeal to Income Tax Tribunal,

Speaker -

Guest of Honour ITAT Member Ahmedabad Honorable Manish Board

B. Seminar on Friday 17th Nov 2017 on topics of :- 1.Issues related with section 56 of Income Tax Act.Speaker Adv.Mool Chand,Durg (Past President of CG Bar Council) 2. Issues related with section 131 & 133(6) of Income Tax Act Speaker: - Adv Amit Maloo.

C. Interactive Session and meeting with Shri P.K.Dash, Principal CCIT,(MP&CG) on 23/11/17

D. Lecture Meeting on 25th November 2017 on Topics of 1: Insight into RERA (Real Estate Regulation & Development Act) 2-Levy and impact of gst on real estate transaction And recent changes on GST by gst council. CA Sandesh Mudra, Ahemadabad,

E. Seminar on New Business Opportunity for Newly Qualified CA Members (ACA)-CA Sanjay Khare and Guidance to the New Members for Success in Practice - CA.B Subramanyam (Past Chairman -Raipur Branch) on 2nd Dec 2017

F. Raipur Branch is organizing Seminar on New Business Opportunity for Newly Qualified CA Members (ACA),Faculty CA Sanjay Khare and Guidance to the New Members for Success in Practice - CA.B Subramanyam (Past Chairman -Raipur Branch) on 2nd Dec 2017

G. One Day Regional Summit with CIRC on Monday, 04th Dec 2017.Star Speaker & Topic :1-CA Deepak Batra - Project Funding opportunities & Start up India 2- CA R.B Doshi - Issues related to Scrutiny Assessment 3- CA Udayraj Pathwardhan, Mumbai -Insolvency & Bankruptcy Code 4- CA Deep Kumar Mishra, Chairman CIRC (Kanpur) -Opportunities Through RTI.

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EVENT PHOTOS



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EVENT PHOTOS





RAIPUR BRANCH

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