



## Income Tax

### Provisions related to TDS on withdrawal from Employees Provident Fund Scheme, 1952

#### No TDS in respect of the following cases:-

- Transfer of PF from one account to another PF account.
- Termination of service due to III health of member /discontinuation of Business by employer/completion of project/other cause beyond the control of member.
- If employee withdraws PF after a period of five year.
- If PF payment is less than Rs. 50,000/- but the member has rendered service of less than 5 years.
- If employee withdraws amount more than or equal to Rs. 50,000/-, with service less than 5 years but submits Form 15G/15H along with their PAN

#### TDS will be deducted in respect of the following cases:

If employee withdraws amount more than or equal to Rs. 50000/-, with service less than 5 years, then

- a) TDS will be deducted @ 10% if Form-15G/15H is not submitted provided PAN is submitted.
- b) TDS will be deducted @ maximum marginal rate (i.e. 34.608%) if employee fails to submit PAN.

## IT Updates

- An assessee, being a resident shall be allowed a credit for the amount of any foreign tax paid by him in a country or specified territory outside India, by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India.

- Online filing of Form 67: All assessee's who are required to file return of income electronically under section 139(1) as per rule 12(3) of the income tax rules 1962, are required to prepare and submit form 67online along with the return of income if credit for the amount of any foreign tax paid by the assessee in a country or specified territory outside India, by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India.

- Intimation of estimated income, tax liability and payment of taxes 39A. (1) An assessee being a company and a person (other than a company), to whom the provisions of section 44AB are applicable shall furnish an intimation of estimated income and payment of taxes as on 30th September of the previous year, on or before 15th November of the previous year. (2) If the income estimated as on 30th September of the previous year is less than the income of the corresponding period of the immediately preceding previous year by an amount of ₹ 5 Lakh or 10 percent, whichever is higher, then the assessee shall be required to furnish an intimation of estimated income and payment of taxes as on 31st December of the previous year, on or before 31st January of the previous year.

#### EDITORS NOTE

Dear Reader, this edition features mainly on GST Refund on Exports, updates and compliance apart from Income Tax. Corporate Law updates etc., As usual, expecting your valuable suggestions.

## CONTENTS

- Page 1 - Income Tax and Updates
- Page 2 - Corporate Law - Updates
- Page 3 - Tax on Inherited Assets
- Page 4 - GST Refund - Exports
- Page 5 - GST Refund - Documents
- Page 6 - GST Claim - Who & How ?

## TAX DUE DATES - AUGUST 2017

Sl. No	Particulars	Due Date
1.	TCS/TDS Payment for September 2017	07-Oct-2017
2.	Issue of the TDS Certificate for tax deducted under section 194-IA in the month of August 2017.	15-Oct-2017
3.	PF Payment	15-Oct-2017
4.	ESIC Payment	15-Oct-2017
5.	Quarterly Statement of TCS deposited for the Quarter ending September, 2017	15-Oct-2017
6.	Quarterly Statement of TDS deposited for the Quarter ending September, 2017	31-Oct-2017
7.	Annual return of Income and Audit Report u/s 44AB for AY 2017-18 if the assessee (not having any international or specified domestic transaction) is <ul style="list-style-type: none"> <li>• corporate-assessee or</li> <li>• non-corporate assessee (whose books of account are required to be audited) or</li> <li>• Working partner of a firm (whose accounts are required to be audited)</li> </ul>	31-Oct-2017
8.	Filing of annual financial statement for FY 2016-17 with ROC-AOC-4	30-Oct-2017
9.	Statement of Account and Solvency of LLP to ROC in Form-8	30-Oct-2017

#### GST COMPLIANCES

Sl. No	Particulars	Due Date
1.	Outward Supplies for July 2017(Having turnover of upto 100 crore rupees)-GSTR-1	10-Oct-2017
2.	GSTR-3B (Summary Return) & Tax payment for September 2017	20-Oct-2017
3.	Inward supplies for July 2017-GSTR-2	31-Oct-2017
4.	GST Tran 1 for Input Credit	31-Oct-2017





# Corporate Law Updates

## Disqualifications for Appointment of Director (Section 164)

- (1) A person shall not be eligible for appointment as a director of a company, if:
- a) he is of unsound mind and stands so declared by a competent court;
  - b) he is an undischarged insolvent;
  - c) he has applied to be adjudicated as an insolvent and his application is pending;
  - d) he has been convicted by a court of any offence, whether involving moral turpitude or otherwise, and sentenced in respect thereof to imprisonment for not less than six months and a period of five years has not elapsed from the date of expiry of the sentence:  
Provided that if a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of seven years or more, he shall not be eligible to be appointed as a director in any company;
  - e) an order disqualifying him for appointment as a director has been passed by a court or Tribunal and the order is in force;
  - f) he has not paid any calls in respect of any shares of the company held by him, whether alone or jointly with others, and six months have elapsed from the last day fixed for the payment of the call;
  - g) he has been convicted of the offence dealing with related party transactions under section 188 at any time during the last preceding five years; or
  - h) he has not complied with sub-section (3) of section 152.
- (2) No person who is or has been a director of a company which—  
a) has not filed financial statements or annual returns for any continuous period of three financial years; or  
b) has failed to repay the deposits accepted by it or pay interest thereon or to redeem any debentures on the due date or pay interest due thereon or pay any dividend declared and such failure to pay or redeem continues for one year or more,  
shall be eligible to be re-appointed as a director of that company or appointed in other company for a period of five years from the date on which the said company fails to do so.
- (3) A private company may by its articles provide for any disqualifications for appointment as a director in addition to those specified in sub-sections (1) and (2):  
Provided that the disqualifications referred to in clauses (d), (e) and (g) of sub-section (1) shall not take effect—
  - i) for thirty days from the date of conviction or order of disqualification;
  - ii) where an appeal or petition is preferred within thirty days as aforesaid against the conviction resulting in sentence or order, until expiry of seven days from the date on which such appeal or petition is disposed off; or
  - iii) where any further appeal or petition is preferred against order or sentence within seven days, until such further appeal or petition is disposed off.

Section 164 read with Section 167(1) of the Act enunciates that the director's office shall become vacant when he incurs any of the disqualifications specified in section 164.

At present, subsequent to disqualification of Directors by Government, Corporates/ Directors going through following troubles like:

- i. Directors can't use their DIN.
- ii. No e-form can be file in any Company with the DSC of such Director.
- iii. A Company (Complied with the provisions of the Act and Active) where there are only 2 directors and one of them is disqualified that company not able to file its e-form with ROC, not able to conduct the Board Meetings, not able to comply with the provision of the Act due to only one director on the Board.  
Such person not able to incorporate new Companies.



## Tax on Income arising out of Inherited Assets

Although no tax is levied on receiving the inherited assets in India, but income tax would be levied on the receipt of any income arising from such inherited assets. This can be explained with the help of the following example.

For eg: Mr. A bought a property for Rs. 1 Crore in 2003. He died in 2015 and the property was gifted to his son Mr B. The Market Value of this property in 2015 at the time of death of Mr A was Rs. 2 Crores. This property was on Rent and the monthly rent received was Rs. 1 Lakhs per month.

No Income Tax would be levied on the receipt of property as Inheritance Tax is not applicable in India. On transfer of this property from father to son, the son will start receiving the rent. This rent received by the son would be added to the income of the son and taxed as per the income tax slab rates of the son.

The person receiving the income arising out of such inherited property would also be required to file Income Tax Return at the end of the year and disclose the incomes earned during the year in the Income Tax Return.

### Capital Gains on Sale of Inherited Assets

When the son sells this property, he would be liable to pay Capital Gains on the sale of this property. The cost for which the father had purchased the property would be treated as the cost of acquisition. This cost would also be allowed to be indexed to compute the capital gains.

### The Capital Gains in this case would be computed as follows

Full Value of Consideration	xxx
(Less) Expenditure wholly and exclusively incurred in connection with such Sale	(xxx)
(Less) Indexed Cost of Acquisition	(xxx)
(Less) Indexed Cost of Improvement	(xxx)
Gross Short Term Capital Gains	xxx
(Less) Exemption (if any) available under Section 54, 54EC, 54F	(xxx)
Net Short Term Capital Gains	xxx

### OTHER RELEVANT POINTS

1. In case the asset is received by more than 1 individual, the tax would be levied in the hands of each person in equal proportions. For eg: If in the above mentioned example, there were 3 sons, the rent and capital gains will get divided into 3 parts and the tax on rental income and capital gains tax will also get divided into 3 parts.
2. If the son Mr. 2 does not sell the property but rather gifts the same to his son Mr. 3, tax in such a case would not be levied. In other words, the property purchased by Mr. 1 is now being owned by Mr. 3. In such a case as well, the same above mentioned provisions will apply i.e. the rental income would be taxed in the hands of Mr. 3 and no tax would arise on transfer from Mr. 2 to Mr. 3. Capital Gains Tax would only be levied on the sale of property from Mr. 3 to some outsider.



# GST Refund in case of Exports

Around 90% Refund of Integrated GST paid on Exports would be granted within 7 days and the balance within 60 days.

The GST refund would always arise in case Export of Goods/Services is done without submission of Bond/LUT and IGST has been paid on such exports.

In case the exports are done after the submission of Bond/LUT, no IGST would be applicable. In such cases, refund of accumulated Input Tax Credit on expenses may arise.

The procedure and rules to be followed in case of GST Refund on account of Export would remain the same as explained above. Certain other points are also required to be kept in mind as discussed below.

## GST REFUND IN CASE OF EXPORTS WITHOUT PAYMENT OF IGST

In the case of exports of goods or services or both without the payment of tax on submission of Bond/LUT, the refund of input tax credit shall be granted as per the following formula:-

Refund Amount = (Turnover of zero rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total turnover Where,

1. "Refund amount" means the maximum refund that is admissible;
2. "Net ITC means input tax credit availed on inputs and input services during the relevant period;
3. "Turnover of zero rated supply of services" means the value of zero rated supply of services made without payment of tax under bond or LUT
4. "Turnover of zero rated supply of services" means the value of zero rated supply of services
5. "Adjusted total turnover" means the turnover excluding the value of exempt supplies other than zero rated supplies, during the relevant period
6. Relevant period means the period for which the application for refund has been filed

## GST REFUND OF INPUT TAX CREDIT

GST Refund of Input Tax Credit arises in the following 3 circumstances:-

1. Input Tax Credit unutilised when the goods/services supplied are zero rated or exempted from GST.
2. Where the input goods/services have a higher tax rate and output goods/services have a lower tax rate.
3. In case of partial reverse charge, where the input tax credit cannot be used completely against the output tax.

The refund of input tax credit in such cases shall be granted as per the following formula:-

Maximum Refund Amount = {(Turnover of inverted rate of supply of goods) x (Net ITC ÷ Adjusted Total turnover)} – Tax payable on such inverted rated supply of goods

## OTHER RELEVANT POINTS

1. No refund shall be issued in case the amount of refund is less than Rs. 1,000 an amount equal to the refund so claimed.
2. Any claim for GST Refund relating to balance in the Electronic Cash Ledger may be made through the return furnished for the relevant tax period in Form GSTR 3 or Form GSTR 4 or Form GSTR 7.

Continued...



3. In case of Refund due to Casual Taxable Person or to a non-resident taxable person on account of advance tax deposited, such refund shall not be granted unless such person has filed all returns for the entire period for which the certificate of registration was granted to him.
4. UN Bodies and embassies can claim refund of the GST paid by them on their expenses within a period of 6 months from the end of the quarter in which such supply was received.
5. Tourists can also claim a refund of the GST paid by them during their stay in India. The term "tourist" has been defined and refers to any person who is not normally a resident of India and who enters India for a stay of not more than 6 months for legitimate non-immigrant purposes.

## Documents to be submitted for GST Refund

The GST RFD 01 shall be accompanied by the following documentary evidences, as applicable, in Annexure 1:-

1. The reference number of the order and a copy of the order passed by the proper officer or an appellate authority or appellate tribunal or court resulting in such refund or reference number of the payment of the amount claimed as refund, or
2. A statement containing the number and date of shipping bill or bills of export and the number and the date of relevant export invoices, in a case where the refund is on account of export of goods, or
3. A statement containing the number and date of invoices and the relevant bank realisation certificates or foreign inward remittance certificates, as the case may be, in a case where the refund is on account of export of services, or
4. A statement containing the number and date of invoices along with the evidence regarding the endorsement in the case of supply of goods made to a SEZ unit or a SEZ developer.
5. A statement containing the number and date of invoices, the evidence regarding the endorsement specified and the details of payment, along with the proofs thereof, in a case where the refund is on account on account of supply of services made to a SEZ unit or a SEZ developer.
6. A declaration to the effect that the SEZ unit or the SEZ developer has not availed the input tax credit of the tax paid by the supplier of goods or services or both, in a case where the refund is on account of supply of goods or services made to a SEZ or a SEZ developer.
7. A statement containing the number and date of invoices along with such other evidence as may be notified in this behalf, in a case where the refund is on account of deemed exports, or
8. A statement containing the number and the date of the invoices received and issued during a tax period in a case where the claim pertains to refund of any unutilised input tax credit where the credit has accumulated on account of the rate of tax on the inputs being higher than the rate of tax on output supplies, other than nil rated or fully exempt supplies, or
9. The reference number of the final assessment order and a copy of the said order in a case where the refund arises on account of finalisation of provisional assessment, or
10. A statement showing the details of transaction considered as intra-state supply but which is subsequently considered as inter-state supply, or
11. A statement showing the details of the amount of claim on account of excess payment of taxIn case the GST Refund claimed exceeds Rs. 2 Lakhs – A certificate in Annexure 2 of Form GST RFD 01 issued by a chartered accountant or a cost accountant to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person, in a case where the amount of refund exceeds Rs. 2 Lakhs shall also be submitted. For the purpose of this rule, where the amount of tax has been recovered from the recipient, it shall be deemed that the incidence of tax has been passed on to the ultimate consumer.

In case the GST Refund claimed does not exceed Rs. 2 Lakhs – a declaration to the effect that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person shall also be furnished.



## Who can claim GST Refund?

A claim of GST Refund can be file under the following circumstances:-

1. Excess GST paid due to mistake
2. Export of Goods or Services
3. Supplies to SEZ units and developers
4. Deemed Exports
5. Refund of pre-deposit
6. Refund of accumulated Input Tax Credit on account of inverted duty structure
7. Refund of taxes on purchase made by the UN or embassies etc.
8. Finalisation of provisional assessment
9. Refund arising on account of Judgement, Decree, Order or Direction of the Appellate Authority, Appellate Tribunal or any Court.
10. Refund to International Tourists of GST paid on goods in India and carried abroad at the time of their departure from India.
11. Refund on account of issuance of refund vouchers for taxes paid on advances against which, goods or services have not been supplied.
12. Refund of CGST & SGST paid by treating the supply as intra-state supply which is subsequently held as Inter-state supply and vice-versa.

## How to claim GST Refund?

An application for GST Refund shall be filed online in form GST RFD 01 and shall be filed within a maximum of 2 years from the relevant date.

Once an application has been filed, it would be forwarded to the GST officer who will within a period of 15 days of filing of the application scrutinise the application for its completeness and if the application is found to be complete in all aspects, an acknowledgement in Form GST RFD 02 shall be made available to the applicant through the GST Website i.e. [www.gst.gov.in](http://www.gst.gov.in). The GST RFD 02 issued will clearly mention the date of filing of the claim for refund and the time period for refund shall be counted from this date.

In case any discrepancies are found in the GST Refund application, the GST officer shall communicate the deficiencies to the applicant in Form GST RFD 03 through the GST website.

**FIXED ASSETS MANAGEMENT**  
**Knowledge into decision...**

iTransz eSolution Private Limited, No.3,Sriman Srinivasa Road, Alwarpet,Chennai-18 Ph: 044-4210 4388 email:[itanszes@gmail.com](mailto:itanszes@gmail.com)

**i-Transz**  
**eSolution**

Send your feedback, suggestions and refer you friends' emails to subscribe this Newsletter every month.  
[email:sarathyvasuca@gmail.com](mailto:sarathyvasuca@gmail.com)

**Disclaimer:** This document is intended as a news update and is not legal advice to any person or entity. Before acting on the basis of information herein please obtain specific professional advice that may vary per the facts and circumstances presented. SARATHY AND VASU, Chartered Accountants does not accept any responsibility for losses or damages arising to any person using this information in a manner not intended by the Firm. All rights belong to their respective owners. Images and text owned by other copyright holders are used here under the guidelines of the Fair Use. These images and text are used here only for the education and are not intended to generate income.

Sarathy and Vasu LLP, Chartered Accountants, No.3, First Floor, Sriman Srinivasan Road, Alwarpet, Chennai 600018 - email: [sarathyvasuca@gmail.com](mailto:sarathyvasuca@gmail.com)  
● CHENNAI - 9994287611 ● TIRUCHIRAPPALLI - 7200585709 ● HYDERABAD - 9940366146