

Impact of COVID19 on Direct Tax Laws and Procedures

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SALARY

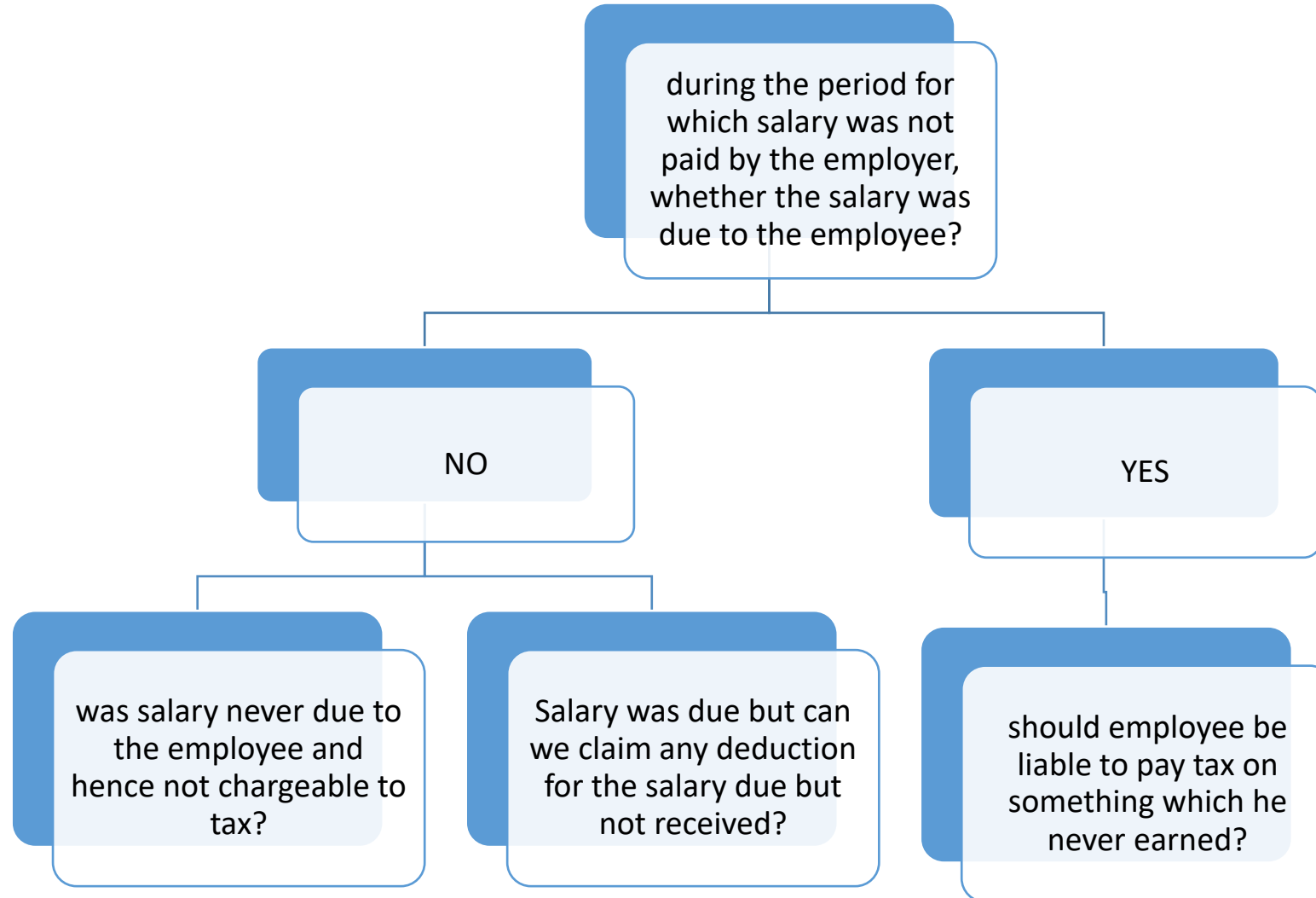
Taxability where salary not paid by the employer during lockdown period due to cash flow problems:

- Where the employee remains absent from work without any justification he is not entitled to wages or salary for that period following 'no work no pay'. [**Chief Regional Manager, United India Insurance Company Limited V. Siraj Uddin Khan Civil APPEAL NO.5390 OF 2019(SC)**]
- In the lockdown situation it cannot be said that employee had remained absent from work without any justification. The principle of 'no work no pay' will not apply in the lockdown situation as the employees have not wilfully abstained from working in such extraordinary circumstances. [**Rashtriya Shramik Aghadi v. The State of Maharashtra And Others (W.P. No. 4013 of 2020) Aurangabad bench of Bombay High Court**]

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- A circular was issued by Union Ministry of Home Affairs on 29th March 2020 requiring the employers not to deduct the salary of employees during the lock down period.
- It appears that the said circular has later been withdrawn after the Supreme Court, in one of the matters, had directed not to take coercive action against the employer not following the said circular. There are doubts raised whether the said withdrawal is ab initio or from the date of withdrawal.
- **Section 15 (charging section for income falling under the head salaries) states that any salary due from an employer or a former employer is chargeable to tax in that previous year whether or not it is actually paid.**

SALARY



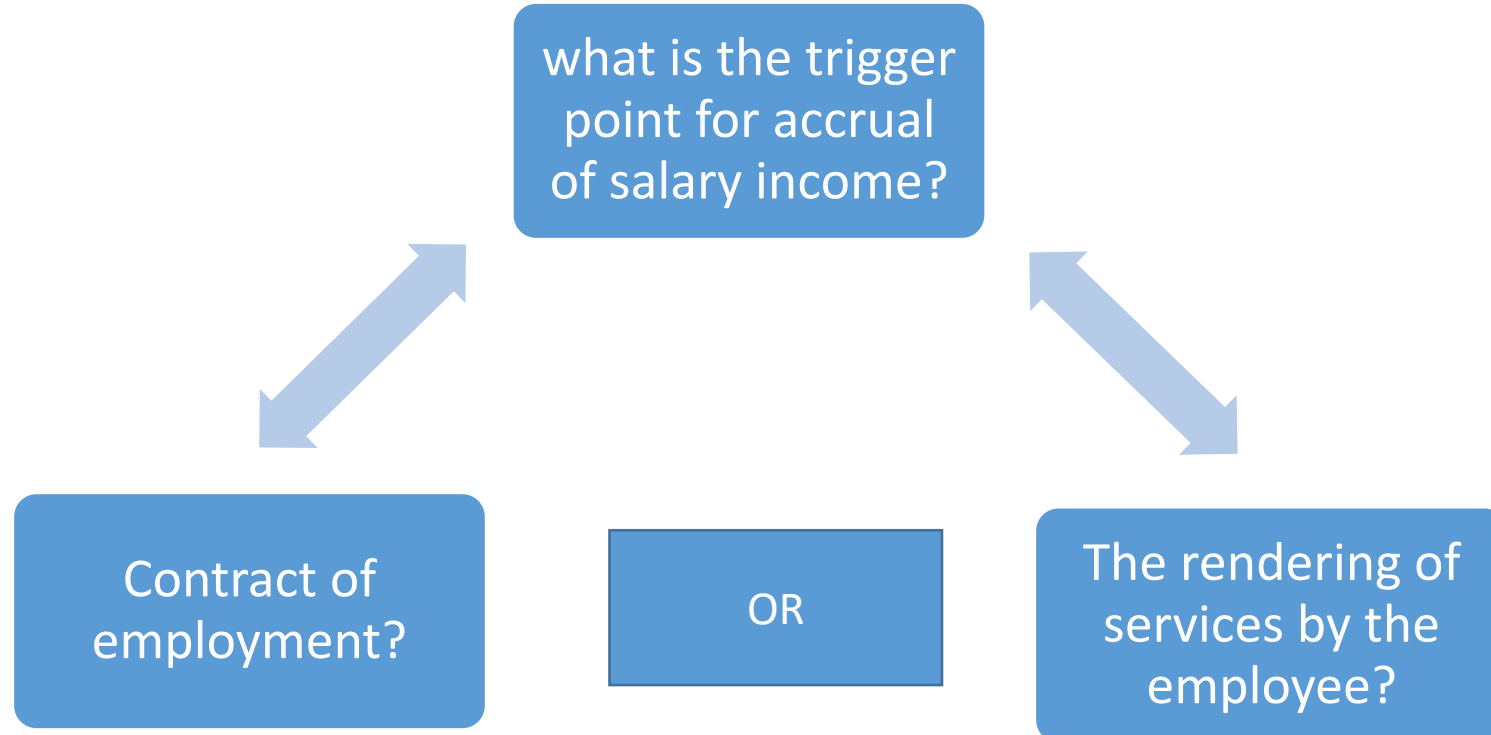
SALARY

- The word “due” has not been defined in the Income Tax Act. Taxability of salary on “due basis” under section 15 is nothing but taxability on “accrual basis” - CIT vs. Bachubhai Nagindas Shah (1976) 104 ITR 551 (Guj.)
- Unless and until there is created in favour of the assessee a debt due by somebody it cannot be said that he has acquired a right to receive the income or that income has accrued to him - **E.D. Sassoon & Co. Ltd. v. CIT [1954] 26 ITR 27 (SC)**.
- It may be argued that where the employer denies his liability to pay salary to employees during the lockdown period, no debt is created in favour of the employee and hence such salary has not accrued to him. The observations of the Supreme Court while passing the interim order in case of **Hand Tools Manufacturers Association v. UOI and Others (W.P. Civil Diary No. 11193 of 2020)** of no coercive action against the employers not paying salary for lockdown period, also supports this view.

SALARY

- The charging section 4 of the Income Tax Act charges 'Total Income' of every person to tax.
- The expression "total income" is defined in section 2(45) as the amount of income referred to in section 5 computed in the manner laid down in the Act.
- As per section 5 (1), in case of a person resident in India income which is received or deemed to be received in India, income which accrues, arises or is deemed to accrue or arise in India and income which arises to him outside India is covered in the scope of total income. Section 5(2) provides the scope of total income of a non-resident to include income which is received or deemed to be received in India and income which accrues, arises or is deemed to accrue or arise in India. Thus, section 5 visualizes income which is either received by the person or an income which accrues or arises to him.

SALARY



SALARY

- The place of rendering of services is irrelevant and salary is accrued from the contract of employment - CIT v. S.G. Pgnatale reported in [124 ITR 391 (Guj.)]
- In order to nullify the effect of the judgment of the Gujarat High Court, an amendment was brought in Section 9(1)(ii) by the Finance Act, 1983, with retrospective effect from 1.4.1979 adding an Explanation which read as below:
“Explanation.-- For the removal of doubts, it is hereby declared that income of the nature referred to in this clause payable for service rendered in India shall be regarded as income earned in India.”
- Thus, what the legislature always intended was that salary is accrued at a place where the services are rendered.

SALARY

- The effect of this amendment has been explained by **the Supreme Court in CIT vs. Eli Lilly & Company (India) Pvt. Ltd. Civil Appeal No. 5114/2007** in the following words:

“To offset the effect of the judgment of the Gujarat High Court, an Explanation was inserted by which the expression "earned in India" stood equated to "services rendered in India".

- Thus, where no services are rendered by the employee during the lockdown period, no salary can be said to have accrued or arose to him as per section 9(1)(ii) and therefore it is outside the scope of his total income as per section 5. Once such salary is outside the scope of section 5, one need not go to section 15(1)(a) to contend that it is liable to pay tax on salary “due”.

SALARY

CIT v. Bachubhai Nagindas Shah (1976) 104 ITR 551(Guj)

- Salary due to an employee but waived or foregone by him voluntarily after the close of the year, was liable to tax under section 15(1)(a) on due basis.
- Since the employee had already rendered services, the salary had definitely accrued to him and the subsequent waiver was held to be a disposal of the income already received by him.
- If subsequently it becomes clear that that amount is not to be received though accrued earlier and is not going to be received at all, corresponding deduction for the amount waived should be given to the assessee in the year of account in which such amount is written off. The Court also noted that no such deduction is specifically allowable under section 16, but observed that such a deduction goes to the very root of the notion of “income”.
- Applying this obiter dicta of the Gujarat High Court, one can also argue that though salary has become due, in the same year it is established that amount is not to be received and hence it should be deductible not under section 16 but under the very root of the notion of “income”.

SALARY

- If such an amount of salary not paid by the employer is not taxed on due basis under section 15(1)(a) and in subsequent year, if such salary is received by the employee, the revenue would not be without a recourse. This is because section 15(1)(c) provides for taxability of any arrears of salary paid or allowed to employee in the previous year by or on behalf of an employer or a former employer, if not charged to income-tax for any earlier previous year.
- The said clause (c) would not apply only to arrears of salary which could have been charged but were not charged. The words used in clause (c) "if not charged to income tax", are wide enough to cover all cases where the charge could or could not have been imposed earlier [**CIT v. Sardar Arjun Singh Ahluwalia (Dead) Through Lrs. Etc. Appeal (Civil) 1206-07 of 1982 (SC)**]

SALARY

- Taxability of reimbursement of medical expenses and home/hotel quarantine charges received?
- Is it a perquisite?

Technically, perquisite is a benefit attached to the employment.

It is debatable if this can be said to be a benefit if the employee is quarantined in a quarantine centre.

- If an employee has started physically visiting the employment and not working from home, and he gets infected by the virus, then there could be a strong argument that it is analogous to hazard incidental to employment and the employer reimbursing the medical/quarantine charges is only meeting his obligation and is not offering any perquisite.

SALARY

- However, if the employee does not physically attend the workplace, yet gets infected by the virus due to personal negligence or any other reason, and employer offers reimbursement, it may be considered to be a perquisite.
- In that case, reference can be made to proviso to section 17(2)(viii) where only treatments at the following establishments are exempted:
 - hospital maintained by the employer
 - hospital maintained by the Government or any local authority or any other hospital approved by the Government
 - any hospital approved by the PCIT/CCIT
- Where treatment is obtained at a hospital maintained by the employer/ Government, there is no difficulty and will be out of the purview of perquisite by virtue of the wordings of the proviso.

SALARY

- However, where treatment is obtained at a hospital approved by the Government, last of such approval was granted under the Central Government Health Scheme vide Circular No. 603 dt. 06.06.1991 and hence it is suggested that all the hospitals approved to treat covid patients should now be notified under the Central Government Health Scheme so that the assesseees can smoothly be covered by the proviso.
- In case of hospital approved by the PCIT/CCIT, covid can be covered as a ailment or disease of respiratory system and can be termed as a prescribed disease for the purpose of sub-clause (b) of clause (ii) of the proviso to clause (2) of section 17 and it is suggested that the PCITs/CCITs should approve all the hospitals treating covid patients.

SALARY

- Explanation to s. 17(2)(viii) defines "hospital" to include a dispensary or a clinic or a nursing home;
- **Dictionery meaning of nursing home -**
“a public or private residential facility providing a high level of long-term personal or nursing care for persons (such as the aged or the chronically ill) who are unable to care for themselves properly”.

So it can be argued that any hotel/home where medical facilities are made available to the patients for treatment of Covid19 can be ultimately termed as a hospital and can be similarly dealt with in the above proviso.

If CBDT can issue a beneficial clarificatory circular on above, it will be a big relief for salaried employees who are getting such help from their employers.

RENTAL INCOME

- Section 22 of the Act is the charging section for taxing any income under the head “Income from house property” which states that the annual value of any property comprising of a building or land appurtenant thereto of which assessee is the owner, is chargeable to tax under this head.
- The process of computation of income under this head, starts with the determination of Annual Letting Value (ALV) of the property. The concept and method of determining the ALV is laid down in section 23 of the Act. Section 23(1)(a)/(b) states that where the property is let out for the whole or part of the year, then the Gross Annual Value (GAV) would be the higher of:
 1. Expected Rent – 23(1)(a)
 2. Actual rent received or receivable – 23(1)(b)

RENTAL INCOME

- Rent is a contractual liability and accrues on time basis.
- In the present situation, there will be a number of tenants who would not be able to pay the rent for these months owing to the economic crises. Moreover, as a gesture of courtesy, many land owners must have forgone rent so as to offer a helping hand to the tenants under stress.
- If the law is to be strictly interpreted, rent is taxable on notional basis where actual rent is not received.

RENTAL INCOME

- In case of a commercial property, even for the lockdown period, the tenant is said to be in passive use of the property as his stock and other assets might still be lying in the premises and the tenant has not literally vacated the property.
- In case of a residential property, there is actual utilisation of the property during this period.
- Thus, rent will definitely accrue as per the contractual agreement.
- Literally, in both cases rent will technically be taxable in hands of the landlord on a notional basis even when not actually received. Even a subsequent waiver of such rent does not absolve him from liability to pay Income tax.

RENTAL INCOME

- Noting that migrant workers and other urban poor face difficulties in finding affordable housing, the Finance Minister on May 14, 2020 said that the Centre will help create affordable rental housing for the urban poor and provide relief worth Rs. 1,500 crores to small businesses through an interest subvention scheme, apart from extending credit for street vendors, farmers, and middle-class housing as part of its 20 Lakh Crore relief package.
- In such a situation, taxing the landlords for their act of chivalry would just mean putting the innocent into double jeopardy.
- *The rules of interpretation should not be static but dynamic.*

RENTAL INCOME

- In the contemporary socio-economic environment, the provisions of section 23(1) ought to be interpreted as follows:
 1. the sum for which the property might reasonably be expected to let from year to year;
 2. where the property or any part of the property is let and the actual rent received or receivable by the owner in respect thereof is in excess of the sum referred to in clause (a), the amount so received or receivable
- In the given situation, rent cannot be said to have been reasonably expected to be received at all looking at the economic situation of the persons who have defaulted in such rent owing to a financial crunch and even when the land owners have themselves foregone the rent through self-realisation of this fact.

RENTAL INCOME

- The rent for the lockdown period of default cannot be said to be reasonably expected to be received in terms of section 23(1)(a). Furthermore, section 23(1)(b) is to be read together with the wordings of section 23(1)(a) as can be seen from the wordings of section 23(1)(b). Therefore, while comparing the ALV as computed under section 23(1)(a) and 23(1)(b), the comparison should accordingly be qua the actual period (say 10 months excluding the period of lockdown) for which the rent can be reasonably expected to be received.

RENTAL INCOME

- Only real income of the assessee can be brought to tax under the provisions of the Income Tax Act.
- The word accrued means establishing a right to receive such income - E.D. Sassoon & Co. Ltd. V. CIT [supra]. However, due to the economic crises created by Covid-19 pandemic worldwide, the right to receive income needs to be seen not only from a pure technical perspective but also from a realistic perspective in the current scenario.

RENTAL INCOME

- For the purpose of determining whether there has been accrual of real income or not, recourse is to be made to ascertain the nature and character of the transaction and the realities and peculiarities of the situations.
- Whether income has accrued must be considered from a realistic & practical angle - **Godhra Electricity 225 ITR 746 (SC)**, **Excel Industries Ltd 358 ITR 295 (SC)** & **UCO Bank 237 ITR 889 (SC)**.
- Thus rent not paid by the tenants for the lockdown period cannot be chargeable to tax in the hands of the landlords on notional basis.

BUSINESS INCOME

- Bad debts on account of failure to pay dues:

If any debt is written off as irrecoverable on account of the on-going crises, the same shall be allowable as a deduction by virtue of section 36(1)(vii), subject to the fulfilment of conditions u/s 36(2). If any such debt is recovered later on, it will be chargeable to tax u/s 41(4).

In fact, The Insolvency And Bankruptcy Code (Amendment) Ordinance, 2020 provides for the suspension for initiation of fresh insolvency proceedings for up to six months extending up to 1 year, arising on or after 25th March 2020 in addition to empowering the Central Government to exclude COVID 19 related debts from the definition of "default" under the Code for the purpose of triggering insolvency proceedings.

Constitutional validity of section 10A of IBC challenged in *Vashistha Narayan Dubey v. UOI* W.P. No.8481/2020 (MP)

BUSINESS INCOME

- Breach of contract:

Damages on account of lapses such as non-fulfilment of contractual conditions like non-timely delivery of goods/services or inability to supply imported materials / goods for which advanced agreement was entered into and many such more, may be payable by the entities responsible for such lapses and issues may arise whether the amounts so payable are deductible u/s 28 or 37.

BUSINESS INCOME

- Profits should be computed after deducting the losses and expenditure incurred for the purposes of business unless the losses and expenditure are expressly, or by necessary implication, disallowed by the Act - Pondicherry Railway Co Ltd v. CIT [1931] 5 ITC 363 (PC)/Badridas Daga v. CIT [1958] 34 ITR 10 (SC). Hence, such losses should be claimed as incidental business losses.

BUSINESS INCOME

- An assessee in business may be liable for compensation either for breach of law or for breach of contract. If it were for breach of law, it is not allowable as a deduction as per section 37(1), which specifically bars such deduction. The revenue authorities tend to treat these damages on account of a breach of contract to be covered by Explanation 1 to Section 37, not allowing the said deduction to the assessee.

BUSINESS INCOME

- Explanation 1 to Section 37 specifically provides that deduction shall not be allowed for any payments on account of a breach of law and does not bar claiming of deduction of any damages paid on account of breach of a contract.
- Thus, where non fulfilment of a contractual liability would result into a breach of contract it should be allowed as a deduction by virtue of section 37 of the Act. **Where the assessee is obliged to pay compensation in the course of business, because of breach of contract on its part, such payment will not partake the character of penalty even if it were so described, so it cannot be disallowed - CIT v Amalgamated Development Ltd (1967) 65 ITR 395(SC).**

BUSINESS INCOME

- Section 43(5) defines a speculative transaction as *“a transaction in which a contract for the purchase or sale of any commodity, including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scrips.”*
- Section 73 bars the set off of speculative loss against any other income of the assessee. So, where a contract for delivery of goods is broken and the same is settled by payment of compensation, question arises whether such a loss is speculative in nature.
- The preponderant view expressed in many cases was that payment of compensation on account of a breach of contract does not amount to a loss in a speculative transaction. This view is based on the premise that **what is received by a party after the breach of contract by way of settlement is the quantum of damages suffered by him by reason of the breach of the contract and, therefore, the nature of the transaction cannot be said to be speculative under the Income-tax Act. [CIT v. Paioneer Trading Co. Pvt. Ltd. (1968) 70 ITR 347(Cal.), Daulatram Rawatmull v. CIT (1970) 78 ITR 503 (Cal.)]**

BUSINESS INCOME

- The other view expressed in few cases was that all cases of settlement without actual delivery of the goods or transfer of the scrips contracted must fall within the definition of 'speculative transaction. The date of settlement, it was opined, may be either before the breach of the contract or subsequently thereafter. **[Chinnaswami Chettiar (R) v. CIT (1974) 96 ITR 353 (Mad.), Sri Ranga Vilas Ginning & Oil Mills v. CIT (1982) 133 ITR 85 (Mad.)]**
- The above controversy has been decided in favour of the former view by the **Supreme Court in CIT v Shantilal (P) Ltd. [(1983)144 ITR 57 (SC)]**. It has been held that a transaction cannot be said as a speculative transaction where there is a breach of the contract and on a dispute between the parties damages are awarded as compensation by an arbitration award. **What is really settled by the award of such damages and their acceptance by the aggrieved party is the dispute between the parties.**

EXTENSION OF DUE DATES &
LIMITATION PERIOD ON
ACCOUNT OF COVID-19

Series of Events

Series of Direct Tax measures announced.

Date	Overview of event
24/03/2020 [Press note of MOF dated 24/03/2020]	Video Conference of FM on statutory and regulatory compliance matters extending various due dates to 30/06/2020.
31/03/2020	The Taxation and other Laws (Relaxation of Certain Provisions) Ordinance, 2020- To give effect to announcements made on 24/03/2020.
31/03/2020 & 03/04/2020 [CBDT F.No. 275/25/2020-IT(B)]	Notification easing the process of issue of certificates for lower rate/nil deduction/collection of TDS or TCS wrt FY 2020-21.
08/04/2020	Press Note of MOF regarding issuing pending refunds upto Rs. 5,00,000/- to all assesseees.

Series of Direct Tax measures announced.

Date	Overview of event
24/04/2020 [CBDT Circular 10/2020]	Reporting requirement of GAAR provisions in Tax audit report kept in abeyance till 31/03/2021
08/05/2020 [CBDT Circular 11/2020]	Relief on residency status to NRIs/foreign visitors whose stay in India got prolonged due to lockdown.
08/05/2020 Tweeter	Deferment of implementation of new registration procedure for trust etc. to 01/10/2020
13/05/2020	Press conference of FM - Economic Stimulus package - Extension of ITR due dates to 30/11/2020, tax audit to 31/10/2020 and VSV payment without additional amount to 31/12/2020 Rate of TDS for non salary payments to residents and TCS reduced by 25% for the remaining period of FY 20-21.
24/06/2020 [CBDT Notification No. 35/2020]	Notification extending the time limits for various compliances.

RETURN OF INCOME

DUE DATES – RETURN OF INCOME

Particulars	Due Dates as per		
	Provisions of the Act	Taxation Ordinance	Not. No. 35/2020
<u>FY 2018-19 (AY 2019-20)</u>			
a) Belated Return u/s. 139(4)	31/03/2020	30/06/2020	31/07/2020
b) Revised Return u/s. 139(5)			
<u>FY 2019-20 (AY 2020-21)</u>			
Return of Income due date: a) Company Assessee b) Assessee subject to Tax Audit c) Assessee who is partner (Where Firm's accounts are required to be audited)	31/10/2020	---	30/11/2020
In case where assessee is required to submit Form 3CEB (TP report).	30/11/2020	---	30/11/2020
Any other case	31/07/2020	---	30/11/2020

DUE DATES – FURNISHING REPORTS

Particulars	Due Dates as per		
	Provisions of the Act	Taxation Ordinance	Not. No. 35/2020
Furnishing Tax Audit report u/s. 44AB (TP provisions applicable)	31/10/2020	---	31/10/2020
Furnishing Tax Audit report u/s. 44AB (Non- TP assessee)	30/09/2020	---	31/10/2020

INTEREST U/S. 234A:-

- Interest u/s.234A for A.Y. 2020-21:

If SA Tax liability is upto Rs. 1,00,000/- → No interest upto the extended due date.

If SA Tax liability exceeds Rs. 1,00,000/- → Interest will be chargeable from the Original Due date as provided in the Act.

PROCESSING & ASSESSMENT

DUE DATES – PROCESSING & ASSESSMENT

Particulars	Due Dates as per		
	Provisions of the Act	Taxation Ordinance	Not. No. 35/2020
Processing u/s. 143(1) for ROI furnished during FY 2018-19	31/03/2020	30/06/2020	31/03/2020
Processing u/s. 143(1) of validly filed ROI upto AY 2017-18, wherein refund is determined.	---	---	31/10/2020 (Order u/s. 119 dt. 10/07/2020)
Serving Notice u/s. 143(2) for ROI furnished during FY 2019-20	30/09/2020	---	31/03/2020
Passing order u/s. 143(3) or u/s. 144 for AY 2018-19. [Ref. Sec. 153 – 18 Mths.]	30/09/2020	---	31/03/2020
Passing order u/s. 143(3) or u/s. 144 from AY 2019-20 [Ref. Sec. 153 – 12 Mths.]	31/03/2021	---	Nothing specified yet but will need to be extended

DUE DATES – REASSESSMENT

Particulars	Due Dates as per		
	Provisions of the Act	Taxation Ordinance	Not. No. 35/2020
Issuing reopening notice u/s. 148, if limitation period as per section 149 falls in between 20/03/2020 and 31/03/2020	31/03/2020	30/06/2020	31/03/2021
Passing order of reassessment in case where notice is served on or after 01/04/2019 but on or before 31/03/2020	31/03/2021	---	---
Passing order of reassessment in case where notice is served after 01/04/2020	31/03/2022	---	---

DUE DATES – SEARCH CASES

Particulars	Due Dates as per		
	Provisions of the Act	Taxation Ordinance	Not. No. 35/2020
Passing assessment order under section 153A if search conducted in the FY 2018-19 [Ref-Sec 153B – 18Mths.]	30/09/2020	---	31/03/2021
Passing assessment order under section 153A if search conducted in the FY 2019-20 or onwards [Ref-Sec 153B – 12Mths.]	31/03/2021	---	----

TDS & TCS

DUE DATES – FILING OF TDS/TCS STATEMENTS

Particulars	Due Dates as per		
	Provisions of the Act/Rules	Taxation Ordinance	Not. No. 35/2020
FY 2019-20 : Quarter 4 24Q – TDS from Salaries 26Q - TDS from all payments other than salaries. 27Q – TDS on payments to NRI 27EQ- TCS	31/05/2020	30/06/2020	31/07/2020
FY 2020-21: Quarter 1 – Form 24Q, 26Q, 27Q, Form 27EQ Quarter 2 – Form 24Q, 26Q, 27Q, Form 27EQ	31/07/2020 15/07/2020 31/10/2020 15/10/2020	--- --- --- ---	31/03/2021 31/03/2021 31/03/2021 31/03/2021

DUE DATES – FILING OF TDS/TCS STATEMENTS

Particulars		Due Dates as per		
		Provisions of the Act/Rules	Taxation Ordinance	Not. No. 35/2020
26QB (TDS statement on Property sale)	February, 2020	30days from the end of the month in which TDS is deducted	30/06/2020	31/07/2020
	March, 2020		30/06/2020	31/07/2020
26QC (TDS statement on Rent u/s. 194IB)	April, 2020		---	31/03/2021
26QD (TDS statement u/s. 194M)	To November, 2020			

DUE DATES – ISSUE OF TDS/TCS CERTIFICATES

Particulars	Due Dates as per		
	Provisions of the Act/Rules	Taxation Ordinance	Not. No. 35/2020
FY 2019-20: (Annual) Form 16 – Salary certificate	15/06/2020	30/06/2020	15/08/2020
FY 2019-20 – Quarter 4 Form 16A – Certificate for other than salary	15/06/2020	15/07/2020	15/08/2020
Form 16B Sec. 194IA 16C Sec. 194IB 16D Sec. 194M	February,2020	14/04/2020	15/07/2020
	March, 2020	15/05/2020	15/07/2020
FY 2019-20: Quarter 4 TCS Certificate	30/05/2020	15/07/2020	15/08/2020
Processing of TDS/TCS statements filed during FY 2018-19	31/03/2020	30/06/2020	31/03/2021

RATE OF INTEREST

Rate of Interest

Section 3(2) of the Ordinance,2020:

➤ Taxes/Levy of any type (Adv. Tax, TDS/TCS, Equalization Levy etc.) the due date for payment of which falls during the period from **20/03/2020 to 29/06/2020.**

and

➤ Such taxes/levy is paid/deposited on or before **30/06/2020**, then:

- 1) Interest shall **be charged at 0.75% for every month or part of the month**, for the delayed period.
- 2) **No penalty and prosecution** would be levied/instituted for such delayed compliance.

The above dates are not further extended by Notification 35/2020.

[The press release dated 24-06-2020 states that the reduced rate of interest specified in the Ordinance shall not be applicable for the payments made after 30/06/2020.]

DEDUCTIONS AND TAX SAVING INVESTMENTS

DUE DATES – INVESTMENTS

Particulars	Due Dates as per		
	Provisions of the Act /Rules	Taxation Ordinance	Not. No. 35/2020
Making investment in capital gain account scheme or securities or completing construction or purchase/acquiring of specified capital assets as provided in Section 54 to Section 54GB	Limitation period falling between 20/03/2020 and 29/06/2020	30/06/2020	30/09/2020
Beginning of mgf./prod. Of article or things or providing services referred in section 10AA where letter of approval as per SEZ, Act has been issued on or before 31/03/2020.			
Investments in various tax saving investments as provided u/s. 80C to Section 80GGC for FY 2019-20	31/03/2020	30/06/2020	31/07/2021

**PASSING ORDERS
&
FILING APPEALS/OTHER FORMS**

Extension of Limitation

As per clause (a), (b) & (c) of Section 3(1) of the Ordinance r.w. Notification No. 35/2020, Limitation period under various provisions of the I.T. Act specified in these clauses, which is falling between:

20/03/2020 & 31/12/2020

is now extended to

31/03/2021

Subject to various extensions discussed in earlier slides.

Extension of Limitation

a) Passing of any order: (Examples)

- Order of ITAT u/s. 254(2)
- Order of Pr.CIT u/s. 263 or 264
- Order of settlement commission
- Passing of Penalty Order
- Passing of order by TPO u/s. 92CA(3)
- Order of DRP u/s. 144C
- Passing of order giving effect to appellate orders
- Passing rectification order and other orders specified in section 155 of I.T Act
- Order of CIT(E) granting/rejecting registration u/s. 12AA or approval u/s 80G or 10(23C) etc.

Extension of Limitation

b) Filing of appeals, application, replies etc.

Examples:

a) Filing appeal before CIT(A)/ITAT

b) Filing appeal before High Court/Supreme Court

c) Filing objection before DRP

d) Filing application u/s. 264

e) Furnishing of SFT for FY 2019-20 [u/s. 285BA r.w.r 114E]

f) Replying to various notices of revenue like 142(1),SCNs, objection to reopening etc.

[However, in respect of filing **petitions/applications/suits/ appeals/all other proceedings**, Hon'ble Supreme Court – in Suo motu Writ Petition (Civil) No.3/2020 dated 23/03/2020] – **extended the limitation indefinitely till further orders.**

OTHER BENEFICIAL MEASURES

REGISTRATION OF TRUST/INSTITUTIONS

Particulars	Due Dates as per		
	Provisions of the Act /Rules	Taxation Ordinance	CBDT Tweet & Press release dt. 08/05/2020
Implementation of new procedure for approval/registration/notification of certain entities covered u/s. 10(23C), 12AA, 35 & 80G	01/06/2020	---	01/10/2020

RESIDENTIAL STATUS FOR FY 2019-20

In case of an individual who has come to India on a visit before 22/03/2020 and:

- a) Has been unable to leave India on or before 31/03/2020 - his stay in India from 22/03/2020 to 31/03/2020 - shall not be taken into account for determining his residential status.
- b) Has been quarantined on or after 01/03/2020 and has left India or is unable to leave India; on or before 31/03/2020, then his stay for such a period in India - shall not be taken into account for determining his residential status.
- c) Has left India in an evacuation flight on or after 22/03/2020 but before 31/03/2020, then his stay for that intervening period - shall not be taken into account for determining his residential status.

CBDT Interim Central Action Plan – Quarter 1

CBDT has issued Interim Action Plan for the First Quarter (April 2020 to June 2020) of FY 2020-21 dated 8 May 2020 and directs income tax department **not to issue any adverse communication to the assesseees during COVID-19** pandemic times till fresh guidelines are issued by the Board in this regard.

CBDT directions for CIT(A) – Letter dated 09/07/2020

Hearing of appeals via. E-appeal proceedings by sending/receiving communications through e-filing portals & emails.

a)	All pending appeals filed on or before 31/03/2016 to be taken up immediately.	Atleast 80 appeals should be disposed off by each CIT(A) per month
b)	Thereafter all smaller appeals with tax effect upto Rs. 10,00,000/-	
c)	Any other appeal assigned by Pr.CCIT	

Stay/Abeyance

There are various cases where Appellate Authorities/CIT(A)/Pr.CIT have granted 'Stay' against recovery of demand from the assessee prior to the lockdown.

The period of stay may be expiring during the period of lockdown. In such cases assessee will have to re-apply for extension of stay.

Hon'ble Bombay High Court on its own motion in writ petition no. urgent 2/2020 have suo-muto extended time period of existing interim orders from time to time. The latest order dated 15/07/20 has extended the tenure of existing interim orders upto 31/08/2020. Accordingly all stays granted by any Court or authority which were expiring during the period of lockdown are suo-muto extended till 31/08/20. Similar extension orders have also been passed by various other High Courts.

On the same line, Hon'ble Mumbai Tribunal is also extending the stay against recovery upto 31/08/2020.

Cognizance by Courts

Hon'ble Supreme Court - Suo Motu Writ Petition (Civil) No(s).3/2020 dt. 23/03/2020

→ **Indefinite extension** (till further orders) w.e.f. 15/03/2020 of period of limitation for all **filings & proceedings before the courts/tribunals across the country**, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not.

M/s. Walchandnagar Industries Limited vs. CTO [WP 8425/2020 dt. 11/05/2020] (Hon'ble Andhra Pradesh High Court)

→ Order passed by Hon'ble Supreme Court of India is binding on all the citizens/Tribunals/Courts of this country, **including those exercising quasi judicial functions.**

→ It was held that Ex-parte Order passed by Commercial Sales Tax officer violated principle of natural justice and was not in accordance with order of Hon'ble Supreme Court.

(also refer Hon'ble Gujarat High Court Order in case of Remankhan Belin vs. State of Gujarat R/Special Civil Application No. 7307 Of 2020 dt. 08/06/2020)

**Hon'ble Supreme Court –
Suo Moto Writ Petition (C) No. 3/2020 dt. 10/07/2020**

Service of all notices, summons and exchange of pleadings may be effected by e-mail, FAX, WhatsApp, Telegram, Signal etc (commonly used instant messaging services) in addition to service of the same document by e-mail simultaneously on the same date.

Additional Payment -Vivad Se Vishwas Act, 2020

Particulars	Due Dates as per		
	Provisions of the Act /Rules	Taxation Ordinance	Notification No. 35/2020
Payment of tax in accordance with Section 3 of VSVA,2020 without additional payment	31/03/2020	30/06/2020	31/12/2020

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THANK YOU



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