

JIGANPUVIV

Vol. I | No. I | June 2020

Your Quarterly Companion on Tax & Allied Topics

Learning Today...
Leading Tomorrow

www.ctconline.org



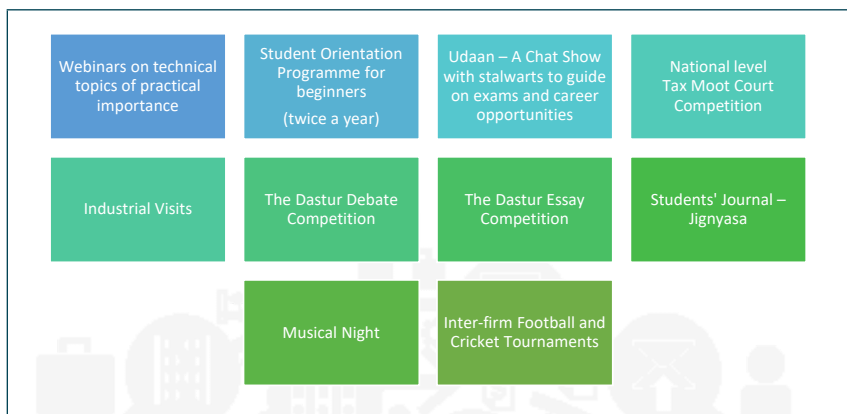
जानं परमं बलम्

**The Chamber of
Tax Consultants**

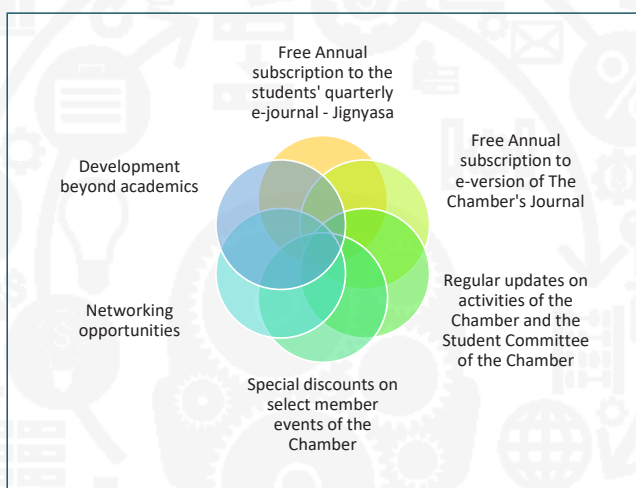
Mumbai | Delhi

Become a Student Member of The Chamber of Tax Consultants

What are the initiatives / programs organised by the Chamber for Students?



What are the benefits of becoming a Student Member?



Who can become a Student Member?

Any person, who:

- ✓ has completed 18 years of age
- ✓ is not otherwise eligible to be a member of the Chamber;
- ✓ is pursuing his/her education as a student and has enrolled as a student of Law, Chartered Accountancy, Cost and Management Accountancy, Company Secretary, Chartered Financial Analysts, Business Management or Management Accountancy or Masters in Commerce or such other course approved for this purpose by the Managing Council shall be eligible to be a Student Member

What are the fees for becoming a Student Member?

The fees for becoming a student member is merely ₹ 590/- [₹ 500/- + ₹ 90 (GST @ 18%)]

How can one enrol as a Student Member?

You may visit The Chamber's website and enrol as a new member.

Link : <https://ctconline.org/new-membership/>

You can also get in touch with The Chamber's office at:

Address : 3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai 400 020

Email : office@ctconline.org

For any queries, you can also get in touch with Mr. Pradeep Nambiar (Manager-Events) at:

Mobile : 8080254129



THE CHAMBER OF TAX CONSULTANTS

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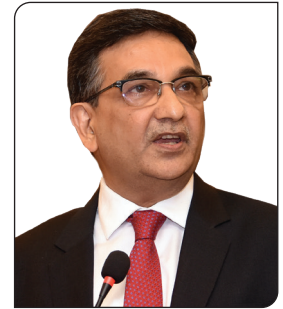
READER'S SUGGESTIONS AND VIEWS

We invite the suggestions and views from readers for improvement of this journal - *Jignyasa*. Kindly send your suggestions on office@ctconline.org

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From the President



Dear Students,

It gives me immense pleasure in penning this communication for the first ever issue of the Students' Journal in digital form. I compliment the Student Committee for conceptualising the Students' Journal. It is indeed a praiseworthy initiative by the Committee and efforts of the Chairperson of the Student Committee Varsha Galvankar and other members, Ankit Sanghavi, Charmi G. Shah. Raj Khona and Vitang Shah are indeed laudable.

The committee has indeed very thoughtfully chosen the title of the e-journal as '**Jignyasa**' which means curiosity or inquisitiveness. A student should be curious enough to learn more and more about the subjects of his/her chosen field. In fact learning is a continuous process and therefore any professional is a student throughout his life. The contents of the Journal are well thought of and cover multiple subjects relevant for the students, some of which will be written by the students. It also covers the past and future events by the Student Committee. I am sure the students will be benefited by this initiative of the Student Committee and will take advantage of this journal, not only by reading but also by coming forward to contribute articles for the Journal.

For those of you who are new to the Chamber of Tax Consultants (Chamber), let me briefly introduce the Institution. Established in 1926, the Chamber is one of the oldest voluntary non-profit making organizations formed with the object of educating and updating its members in particular and the public in general on Direct Tax Laws, Indirect Tax Laws, Allied Laws and Accounting and Finance. Rightly, the motto of the Chamber is ज्ञानं परमं बलम् which means **Knowledge is Supreme**. The Chamber has a robust membership strength of about 4000 comprising of Chartered Accountants, Advocates, Tax Practitioners, Corporate Members and Student Members. The Chamber caters to professionals both in practice as well as in Industry. Operating through various committees, each catering to a specific area, the Chamber organizes seminars, conferences, workshops, study circle meetings on diverse topics such as Direct Taxes, Indirect Taxes, International Taxation, Allied Laws, etc.

Our popular monthly journal 'The Chamber's Journal' consists of Special stories covering in depth analysis on topics of professional interest. These special stories have found a permanent place in libraries of leading tax professionals. The Chamber also publishes an International Tax Journal every quarter which professionals practicing in international tax eagerly look forward to. The CTC Newsletter is published every month to bring members up to date on the events taking place within the Chamber and some reading material of professional interest. The Chamber is also active in making representations to Ministry of Finance, Tax Department and other Government Agencies. In recent years, the Chamber has acted as a catalyst and has contributed substantially to the development of better tax laws, administration and compliances. The Chamber puts in a lot of effort in order to bring the talents of our members to the fore. This is done via events such as sports

(cricket, football, badminton, etc.) talent presentations, etc. These events not only allows us to present talent but also are a strong bonding initiative for members and their families. Eminent senior advocates and chartered accountants have been the Chamber's Presidents in this journey.

The Student Committee is one of the most vibrant committees of the Chamber and does a lot of seminars, workshops on technical subjects for the benefit of Student members. Besides this the committee also does events which are strictly not technical but these events enhance overall confidence and personality of students. These flagship events which this committee does are The Dastur Debate Competition, The Dastur Essay Competition, National Tax Moot Court Competition, Inter Firm Cricket Tournament, Inter Firm Football Tournament. I would like to congratulate the Chairperson of the Student Committee, Varsha Galvankar for very ably leading the Committee from the front and bringing lot of vibrancy in the working of the committee. She has an equally able team that has supported her round the year in the endeavours of the Committee and deserve the compliments in equal measures.

I will be demitting the Office on 4th July 2020 on conclusion of the 93rd AGM with a great sense of satisfaction. The time has come for me to pass on the baton to my very able successor, Anish Thacker, President Elect and his team. I wish him every success and am sure that he will take the Chamber to greater heights.

*As I sign off, I quote from the famous speech of Abhram Lincoln, "**Let us march ahead on the path of glory with malice towards none, with charity for all, with firmness, in the right as God gives us to see the right, Let us strive on to finish the work we are in...**".*

VIPUL K CHOKSI

PRESIDENT

Chairperson's Message

My dearest Students,

It gives me immense pleasure to present to you this very first issue of the e-journal for students by the Chamber of Tax Consultants:



Jigyasa – Learning Today ... Leading Tomorrow

'Catch them Young' is a popular phrase not only on the sporting field but also increasingly, in other fields as well. We, at the Chamber's Student Committee, through this e-journal, want to do just that. The main objective of starting the e-journal is to create a vibrant communication under the Chamber's banner to connect with students at large, cover information about the Chamber's initiatives for students, various upcoming programs and give the students the opportunity to enhance their knowledge and expression by contributing articles on various technical topics.

I am sure that the scope and contents of this first issue and the contributions made by the students under the guidance of their seniors would certainly encourage many more students to volunteer to contribute to this e-journal by the way of articles, providing summary of legal updates, writing up checklists and so on.

As the chairperson of the Student Committee it is my proud privilege to connect through this e-journal, with students from all over India. It is a great opportunity for me to share with the students some of the lessons that I have learnt from my parents, seniors and gurus that have helped me in shaping my life as a good human being. This journal is therefore being aptly released on the cusp of 'Guru Purnima', a day when Gurus are remembered and revered by one and all.

I am sure these lessons would certainly help you stand strong in existential battles like the current pandemic of COVID-19 and also in a situation of a personal war within, where people find it difficult to withstand stress and short term failures.

Today's generation has a tremendous exposure to various avenues of education. The youngsters of today are very smart, dynamic, superfast and competent in delivering much more than what the preceding generation could do. They are simply unstoppable!!!

It is, at the same time, prudent to take a pause and think about what is more important - to be educated; or to be cultured? As Mahatma Gandhi so aptly put it "*Literacy in itself is no education. Literacy is not the end of education or even the beginning. By education I mean an all-round drawing out of the best in the child and man - body, mind and spirit.*"

Education gives one immense power but culture monitors how to use that power for wellbeing of the people around you, your society, your nation and the world at large.

Another question which is debated is what is more powerful in the human body - Is it the brain or is it the heart? A few might say it is the brain and may reason it out with the position of the brain in the human body which is placed above the heart. I however feel it is the heart that lays down the strong foundation for how the brain should act.

So one needs to take constant efforts to cultivate a kind heart which makes life wholesome and very rich in values. With this I want to share my feelings about one of the best and most desired human qualities that one needs to possess, cultivate and nurture and that is "**Gratitude**".

I am not sure how many students know the reason behind Lord Krishna wearing a Peacock feather all throughout his life in the 8th avtar of Vishnu. In the 7th avtar being Lord Rama when Shri Ram was asked to leave the empire and proceed for exile in the forest, he was guided by one Peacock till he found the right place to make his dwelling place in the forest named as Panchavati. As a form of gratitude to that peacock, in the 8th avatar, Lord Krishna wore a Peacock feather at all times.

If the almighty God, himself expressed gratitude and remembered the thoughtful gesture of the mere bird, i.e. the peacock, right into his next appearance on this earth, imagine how important it is for us humans to express gratitude towards each and every one who does good to us in our lives?

However, in our superfast lives we are missing this whole sense of being grateful or expressing thankfulness to people to whom we really matter a lot. I understand it is not intentional but unknowingly this forgetfulness creeps in with the fast pace of life.

I get troubled when I see someone who does not thank the office boy serving tea coffee etc. in the office, a person who leaves a training session without waiting for the vote of thanks to be delivered, someone who takes parents for granted and I get all the more troubled when super craze is expressed for the REEL heroes over the REAL heroes of our society such as Doctors, Soldiers, Teachers, Policemen, Firemen and we don't even give them a second glance let alone thanking them for the yeoman's service they do with all their hearts.

Friends, we also need to be grateful to God for all the good things he has done to our lives.

We need to be grateful to our parents for the selfless sacrifices they make for us all through their lives and we should also be grateful to our teachers and each and every one who contributes in shaping our lives and our future.

Friends, the heart which is full of gratitude is always filled with divinity and spreads a lot of positivity and bliss around. In this mad race of life, we are missing the very bliss of being at peace with our own self. So be grateful and start reciprocating the kindness that you receive every day from everyone around you. You would feel the vibrations of the positivity you emit which is yet another desirable human trait which I will deal within my future messages.

With this message to all my dear student friends conveying the importance of expressing gratitude, it is now my turn to express my sincere thanks to the President of the Chamber - CA Vipul K. Choksi, himself a kind and grateful soul, for his constant support and encouragement to this landmark educational endeavour of the Chamber. I must say that this endeavour would not have been possible without tremendous enthusiasm, strong commitment and tireless efforts of my committee members CA Ankit Sanghavi CA Charmi G. Shah, CA Raj Khona and CA Vitang Shah who have set an example that for a committed team, nothing is impossible.

I must also acknowledge equally strong support rendered by our content and layout designers - Finesse Graphics & Press Pvt. Ltd., Mumbai in designing and delivering this first issue of the e-journal in a record time.

I request all the students and readers to give your feedback on the scope and contents of this e-journal to make it more comprehensive, dynamic, educative and interesting.

Wishing you all the very best in your professional as well as personal journey on this earth.

Varsha Rajaram Galvankar

FORTHCOMING PROGRAMMES

Sr. No.	Particulars	Fees (including GST @ 18%)	Date and Time	Link for Registration
1.	Udaan A tête-à-tête with CA Anil Bhandari	Free	7th July, 2020 5:30 pm to 6:30 pm	https://us02web.zoom.us/webinar/register/WN_I6sE1vhITaEXdNdNhH8-pQ
2.	GST Annual Return and GST Audit - 2 Day Workshop - CA Jigar Shah and CA Ankit Chande	₹ 300 - Student Members ₹ 400 - Others	24-25th July, 2020 5:00 pm to 7:00 pm	https://events.ctconline.org/index.php?e_type=2
3.	Udaan A tête-à-tête with CA Nilesh Vikamsey	Free	6th August, 2020 5:30 pm to 6:30 pm	https://us02web.zoom.us/webinar/register/WN_RaZ75vft9-3IMzN6c8CJQ
4.	Income Tax Returns - Recent Changes and Do's & Don'ts from Student perspective - CA Kalpesh Katira and CA Prashant Shah	₹ 150 - Student Members ₹ 200 - Others	13th August, 2020 5:00 pm to 7:00 pm	https://events.ctconline.org/index.php?e_type=2
5.	Student Orientation Course	Updates shall be posted on The Chamber's website	2nd, 3rd, 4th, 9th, 10th, 11th September, 2020*	Updates shall be posted on The Chamber's website
6.	Tax Audit - Recent Changes and Do's & Don'ts - CA Chintan Gandhi	₹ 150 - Student Members ₹ 200 - Others	26th September, 2020 5:00 pm to 7:00 pm	https://events.ctconline.org/index.php?e_type=2
*tentative schedule				

Invitation to STUDENT MEMBERS to contribute articles for Jignyasa

The Student Committee of the Chamber invites the **Student Members** to contribute articles for the e-journal for Students – **Jignyasa**. The objective of the committee is to make a major section of the journal - for the students by the students. The students can contribute articles on latest updates in the tax and allied laws, Standard Operating Procedures that can be used for the upcoming due dates, current scenarios in various industries or any other topic. You can send through your article in word format on office@ctconline.org along with your name, firm name/college name and a photograph. From among the articles received, the ones approved by the committee shall be published. Also, shortly, guidelines for writing of the articles shall be hosted on the Chamber's website along with a suggested bank of topics for the articles. Meanwhile, in case any guidance is required, you may drop an e-mail at the above mentioned email id and someone from the committee shall get it touch with you.

Digital and Cyber Security for GenZ and Millennials



CA Maitri Chheda

Dear Gen Z and Millennials, Do you think you are cyber secured?

In the wake of the current scenario where everyone is forced to work from home and adapt to digital means of getting things done, be it education, shopping, meetings, etc., beware, this is also a great time for the hackers, cybercriminals and mischief-makers. We are experiencing massive data breaches, virus attacks, zoom bombing, credit card scams, data thefts etc. Individuals are doing more to keep their personal information safe online, and companies are investing more heavily in IT and online security as an added precaution in this increasingly vulnerable age.

But where do Gen Z (those born between 1995 and 2015) and millennials (those who were born between 1980 and 2000) stand in this era of unlimited data and heightened vulnerability? Yes, that is you my dear students and young professionals, you who have grown up with the technology and are what they call digital natives.

So I ask again, Dear Gen Z and Millennials, Do you think you are cyber secured?

A couple of years back, there was an article in Economics times, addressing the millennials and showcasing why the millennials were a soft target for cyber-attacks. A recent survey commissioned by Google suggests that users who belong to Generation Z may be overconfident

about their online account security practices.


Surely, you

1. know all about Phishing, Botnets, Ransomware, and various other threats,
2. update your devices and applications regularly,
3. protect your mobile devices with a password, PIN or even thumbprint and retina scans,
4. are concerned about clicking on a link you shouldn't and fall in for an online scam,
5. use two-factor authentication,
6. have even changed privacy and security settings on your social media accounts in the last year.

Then how do Google and other security agencies think that your generation may be overconfident about your security practices? How are you a soft target for cybercrime?

Here's how:

1. You have connected to public/free WiFi (often with no password required) at coffee shops, hotels, airports, etc.
2. You have plugged in a USB device/Memory stick/External Hard Drive that was given to you by another person.


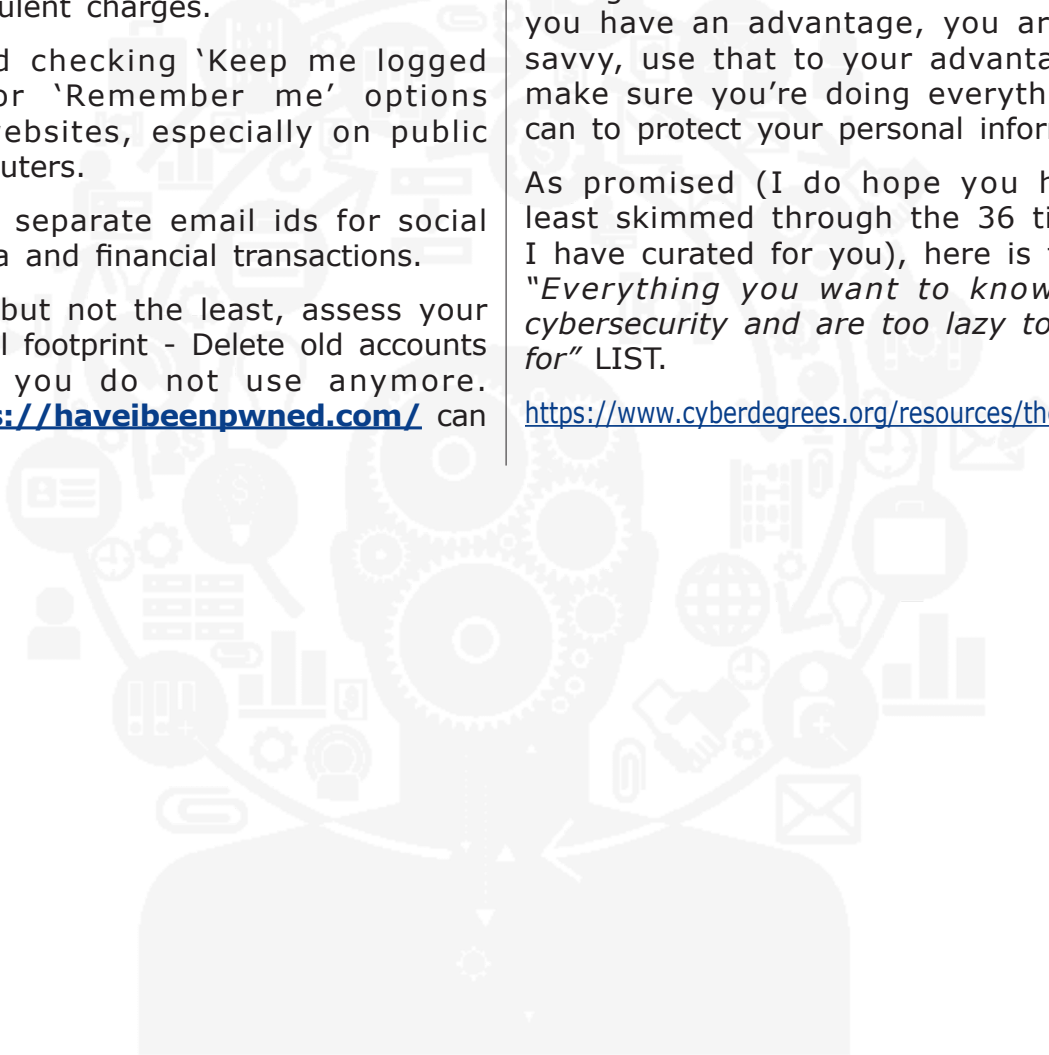
- 
3. You have downloaded free songs, movies, softwares over torrents and other sharing sites.
 4. You have used free or cracked softwares and applications.
 5. You have used the same password for social media accounts, email accounts and even bank accounts.
 6. You have shared all your personal information over social media! (So, if I were privy to your social media, I would know your age, address and answers to all your security questions like pet's name, mother's name, favorite movie/color, etc.)

Need I continue further? I hope not. Let's now look at important Do's and Don'ts to cyber secure yourself. For those who are intrigued and want to research more, at the end of this post, I will be sharing with you a BIG LIST (obviously everything is available online) which I have named as "Everything you want to know about cybersecurity and are too lazy to search for."

And for others who are happy with just a few important do's and don'ts, here goes my 36 Chambers of Shaolin:

1. DO use hard-to-guess passwords or passphrases. A password should have a minimum of 10 characters using uppercase letters, lowercase letters, numbers and special characters. To make it difficult for the hacker to guess but easy for you to remember, create an acronym or passphrase. For example, pick a phrase that is meaningful to you, such as "My BestFriend's birthday is 12 December 2004." Using that phrase as your guide, you might use Mbfb12/Dec,4 for your password.
2. DO use different passwords for different accounts. If one password gets hacked, your other accounts are not compromised.
3. DO keep your passwords or passphrases confidential. DON'T share them with others or write them down. Keep shared passwords (family Netflix or amazon prime accounts, etc.) separate from your other passwords.
4. Consider a password manager (not a free one, but one with license), but realize that these are also subject to hacking.
5. DO pay attention to phishing traps in email and watch for telltale signs of a scam. DON'T click on links from an unknown or untrusted source. Cyber attackers often use them to trick you into visiting malicious sites and downloading malware that can be used to steal data and damage networks. If there is a link, study the URL carefully; check that it has "https" at the beginning. The link may look legit in the email but hover over it with your cursor to see if it will forward you to a different URL. Better yet, visit the website independently.
6. DO lock your computer/laptop when not in use. This protects data from unauthorized access and use. (This also applies to mobile phones, but I am assuming that your mobile phones are always locked)
7. DO remember that WiFi is inherently insecure. Avoid using public WiFi hotspots, especially the free ones or the ones without a password.
8. DISTRUST any device – remote drive, mobile or laptop – that you use in public places like College, ICAI or any other campus laboratories.
9. Use security software to scan any device given to you, even by a trusted friend.
10. DON'T leave your laptop in a car – that's prime territory for criminals. Take it with you.

11. Invest in a laptop lock (e.g. anchor lock or laptop cable lock)
12. Install laptop tracking software (e.g. Lojak).
13. Encrypt your laptop and do not keep personal info (UID, PAN, passwords, etc.) stored in files. Encryption software like BitLocker (for Windows 10) and FileVault (for Mac OS X Lion) provides added security for your files.
14. Backup your files on a remote hard drive and a trusted Cloud provider so you have the option to erase your laptop remotely.
15. Phone screen-lock should have at least a 6 digit pin and enable "find my phone" if it is stolen.
16. Never store private info under Contacts (e.g. security codes, bank pins, financial account numbers, passwords, etc.).
17. Movies, music, games, cracked softwares and copied eBooks are prime digital bait for hackers. Sorry, you don't visit torrent sites if you want to keep your personal and financial info safe. Let's not forget copyright violation, which is a separate crime in itself. (Ref. since you are students of law and commerce, it would be great to just look up various copyright violations and their consequences that are applicable when dealing with movies, music, games, cracked softwares, copied eBooks, etc.)
18. DON'T be tricked into giving away confidential information. DON'T respond to phone calls or emails requesting confidential data.
19. DON'T leave WiFi or Bluetooth turned on when not in use. Only do so when planning to use and only in a safe environment.
20. Never post personal info (e.g. mobile number, home address, age, location, name of your college etc.) on a social media site. This category includes photos that could identify your location (e.g. college, home, vacation address, etc.) or too many of your interests.
21. Check the security settings in your social media account – make them a high priority.
22. Do not accept random friends on social media, if you already have random friends, monitor them now.
23. Do not advertise when you are going to be away from home.
24. Disable microphone and location services access where not needed. In fact, it's a good practice to reset all permissions every once in a while and let all the applications you use ask for the permissions afresh.
25. Remember that everything on social media has the capacity to be shared.
26. Do not click on suspicious links in text messages. Always a good idea to access (copy & paste) the link from a browser.
27. Always make sure your computer & mobile software is fully up to date. Enable automatic updates or go to the software vendor's website directly.
28. Shut down and restart your computer at least once a week (i.e. Do not put it in sleep mode all the time because it's convenient) to check for security updates.
29. Beware of malware and ransomware "updates" that pretend to be legitimate. Do not install updates from untrusted sources.
30. Invest in strong virus & spyware protection, even if you own a Mac.

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31. Use pop-up blocking on browsers and consider private browsing when surfing the web. Erase your cookies regularly.
 32. Do not store your payment info (e.g. credit card numbers and addresses) on online websites (e.g. Amazon, Flipkart, etc.).
 33. Monitor text or email notifications of credit card account & bank accounts regularly to alert you to possible fraudulent charges.
 34. Avoid checking 'Keep me logged in' or 'Remember me' options on websites, especially on public computers.
 35. Keep separate email ids for social media and financial transactions.
 36. Last but not the least, assess your digital footprint - Delete old accounts that you do not use anymore.
<https://haveibeenpwned.com/> can

identify if your login information has been part of a data hack or breach. It's updated regularly, so enter your email and find out which sites you need to change the password for or simply delete accounts.

Regardless of which generation you belong to, we all must face the reality of today's digital world where data breaches are on the rise and pose a very real threat to our personal information. Yes, you too are a Target but as a Gen-Z or a millennial, you have an advantage, you are tech-savvy, use that to your advantage and make sure you're doing everything you can to protect your personal information.

As promised (I do hope you have at least skimmed through the 36 tips that I have curated for you), here is the BIG *"Everything you want to know about cybersecurity and are too lazy to search for"* LIST.

<https://www.cyberdegrees.org/resources/the-big-list/>



GST Annual Return & GST Audit – A Bird's Eye View



CA Raj Khona

Introduction

Goods and Service Tax (GST) is one of the most discussed and debated law ever since its inception. Even after completion of its third anniversary it is very much evolving and unsettled. Occurrence of technical glitches on the GST portal are very common and amendments in GST laws have been regular leading to legal controversies. Irrespective of the legal and technological roadblocks, GST audit and annual filing compliances for financial year 2018-19 are being done and audit reports are being finalized. In this article, the author has tried to give the readers a broad overview of the GST audit and annual return filing exercise.

Relevant Legal Provisions

Section 44(1) of Central GST Act, 2017 provides that every registered person is required to file annual return in GSTR-9 which a consolidation of the periodic GST returns filed. For FY 2018-19, filing of annual return is optional for all registered persons upto an aggregate turnover of ₹ 2 crores.

Section 35(5) of the Central GST Act, 2017 read with Rule 80(3) of the Central GST Rules, 2017 provides for audit by a chartered accountant or a cost accountant if the aggregate turnover in the financial year exceeds ₹ 2 crores. However, a special exception has been carved out for FY 2018-19 and the threshold limit for GST audit has been increased to ₹ 5 crores. As per Section 44(2) of the CGST Act, 2017 registered persons who are

subject to audit are required to furnish a reconciliation statement in GSTR-9C along with annual return in GSTR-9.

Here, it would be pertinent to note that both GSTR-9 and GSTR-9C have to be filed registration wise. Further, the due date of filing the GSTR-9 and GSTR-9C is 31st December of subsequent financial year. However, for FY 2018-19 the said due date has been extended multiple times and the last extended one being 30th September, 2020.

Scope of GST Audit

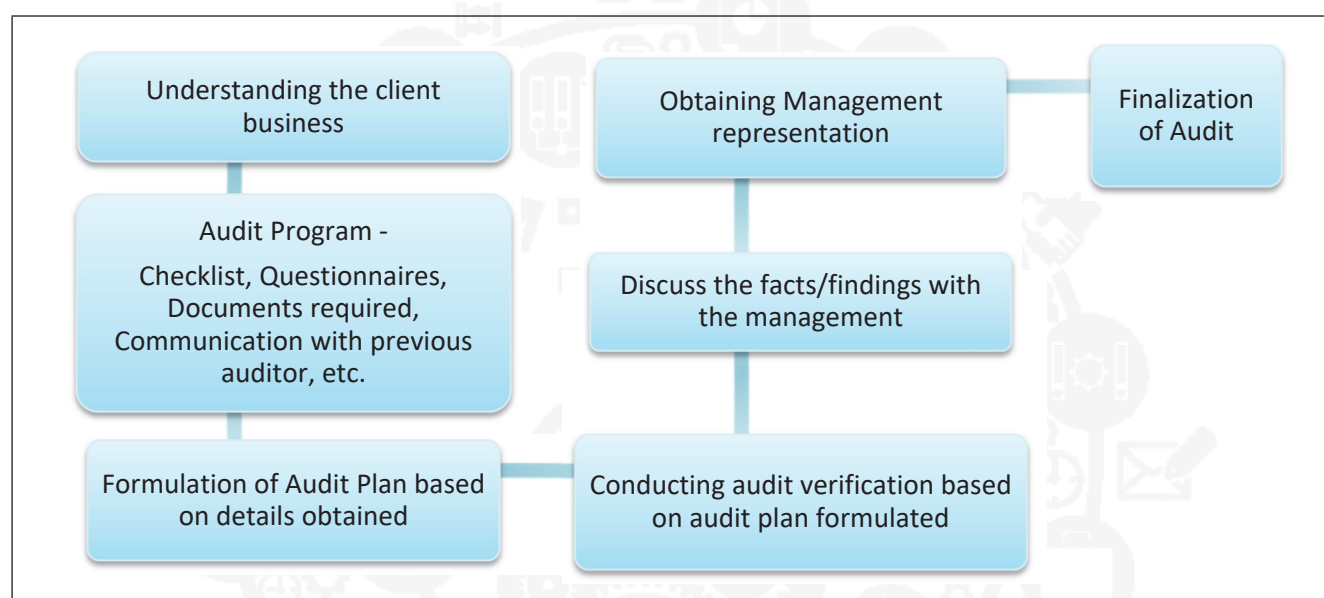
The definition of the term 'audit' provided under the CGST Act is very wide to cover within its scope all functions which an assessing officer is normally required to perform. Therefore, a question may arise as to what the scope of GST audit is and what all areas a GST auditor has to focus.

In this regard, the Government has issued a press release dated 3rd July, 2019 wherein they have clarified that the role of a chartered accountant or a cost accountant in certifying reconciliation statement is limited to reconciling the values declared in annual return (FORM GSTR-9) with the audited annual accounts of the taxpayer. Though this press release may have narrowed down the scope of audit, as a chartered accountant, a GST auditor would always have to adhere to the ICAI regulations and Standard of Auditing while planning and performing an audit. Standard of Auditing require use of professional skepticism and due

professional care while performing duties as an auditor. So, in the view of the author, a GST auditor will need to ensure that the auditee has complied with the provisions of the GST law and adverse observations, if any should form part of the audit report/recommendations.

Audit Approach

Performing GST audit requires a multi-faced approach. It not only requires a deep understanding of auditee's business transactions, the GST law, IT infrastructure of the auditee but also how the GST portal functions. A comprehensive audit approach shall be required in performing the GST audit. The same has been illustrated stepwise as follows:



Suggested Checklist

There is no straight jacket process which may be followed by a GST auditor while the conducting the audit. The process may vary on a case-to-case basis and shall depend upon various factors like balance sheet size of the auditee, nature

of business, complexity of transactions and risks involved. The author has tried to compile a list of documents that should form part of the working papers and the areas which GST auditor should focus while going through these documents/records.

DOCUMENT LIST	AREAS TO BE FOCUSED / CHECKED / VERIFIED
GST REGISTRATION	
<ul style="list-style-type: none"> GST Registration Certificates (Including TDS, TCS, ISD, etc.) Tax Audit Report (List of all business locations are provided in Tax Audit Report) 	<ul style="list-style-type: none"> ✓ Check whether registration has been obtained in each state where there is a place of business from which supplies are being made. ✓ Check whether all the locations of business disclosed in the Tax

DOCUMENT LIST	AREAS TO BE FOCUSED / CHECKED / VERIFIED
	<p>Audit Report are covered in the GST Registration Certificate.</p> <ul style="list-style-type: none"> ✓ GST Registration certificate is amended for any changes made during the year like change in name of business, details of principal/additional place of business, change in partners or directors or management, etc. ✓ GSTIN is displayed on the name board at the entry of all places of business. ✓ GST Registration certificate is displayed at all the places of business. ✓ Separate registration has been obtained for GST TDS/TCS compliances or as an Input Service Distributor.
BOOKS OF ACCOUNTS, DOCUMENTS AND RECORDS	
<ul style="list-style-type: none"> • Tax Invoice, Bill of Supply, Credit Note, Debit Note, Self-invoices, Delivery Challans, Receipt Voucher, Refund Voucher, Payment Voucher, E-way Bill 	<ul style="list-style-type: none"> ✓ All books of accounts and records required to be maintained are as per Section 35 of CGST Act, 2017 and corresponding rules ✓ Invoices and other documents contain all the particulars as prescribed in Rule 46 to 55 of CGST Rules, 2017 ✓ Invoice is issued within time limit prescribed i.e. for goods - on or before removal (subject to exceptions) and for services - within 30 days from date of supply ✓ Debit Notes/Credit Notes are issued for the reasons specified in Section 34 of CGST Act, 2017 ✓ Credit Notes are issued within the time limit prescribed under Section 34 of CGST Act, 2017 i.e. by return for September of next FY ✓ Bill of supply is issued for exempt supplies



DOCUMENT LIST	AREAS TO BE FOCUSED / CHECKED / VERIFIED
	<ul style="list-style-type: none"> ✓ Receipt voucher is issued for receipt of advance for services ✓ Refund voucher is issued for refund of advance received ✓ Self-invoice (where supplier is unregistered) and payment voucher is issued in case of transactions liable for GST under reverse charge ✓ E-way bills, wherever applicable have been generated
GST RETURNS, OUTWARD SUPPLIES, AND INPUT TAX CREDIT	
<ul style="list-style-type: none"> • GST Returns filed for the financial year and • GST returns filed for April to September of next financial year • FORM GSTR-9 and FORM GSTR-9C of previous financial year • Consolidated Summary of GSTR1 and GSTR3B • GSTR-2A downloaded from GST portal • List of output supplies, corresponding HSN Codes and rates charged • Shipping Bill, Bill of Entry, and other supporting documents • Letter of Undertaking / Bond • Overdue Creditors reports 	GST Returns <ul style="list-style-type: none"> ✓ All GST Returns are filed within the due dates. ✓ In case of delay in filing returns, applicable interest and late fee has been paid ✓ Check for transactions pertaining to previous financial year given effect to in GST returns in current financial year
	Outward Supplies <ul style="list-style-type: none"> ✓ Outward supplies reported in GSTR1 and GSTR3B tally with each other and with Books of Accounts ✓ Tax collected in excess of tax leviable if any has been deposited with the government ✓ Tax liabilities, if any on the other incomes like sale of fixed assets, scrap sales, etc. has been appropriately discharged ✓ Rate of tax charged for the outward supplies is as per the GST rate notifications ✓ GST is paid on deemed supply made as per Schedule 1 ✓ Classification of supply into intra/interstate supply is appropriately done by correct determination of place of supply

DOCUMENT LIST	AREAS TO BE FOCUSED / CHECKED / VERIFIED
	<ul style="list-style-type: none"> ✓ In case of export transactions, conditions prescribed for being considered as export of goods and export of services are fulfilled ✓ Check for transactions wherein the goods sent for job work not received back are treated as supply <p>Input Tax Credit</p> <ul style="list-style-type: none"> ✓ Difference in the ITC claimed in FORM GSTR3B and ITC as per GSTR2A ✓ Difference in the ITC claimed in FORM GSTR3B and ITC as per books of accounts (to be tallied on a monthly basis) ✓ Conditions for claiming input tax credit as per Sec 16(2) of CGST Act, 2017 are fulfilled ✓ Tax paying documents for availing ITC contains the mandatory details of the recipient as prescribed (i.e. GSTIN, Name, GST amount) ✓ Blocked ITC as per Sec 17(5) has been not been availed ✓ Reversal of input tax credit due to non-payment of consideration within 180 days from date of invoice, along with applicable interest ✓ Reversal of common credits is done as per Rule 42 or Rule 43 along with applicable interest, if any ✓ Check for input tax credit pertaining to current financial year is claimed in the subsequent financial year ✓ Check for input tax credit pertaining to previous financial year is claimed or reversed in the current financial year. Also, time limit of claim such ITC is adhered to i.e. by return for September of next financial year. ✓ ITC in respect of import of goods matches with the IGST paid



DOCUMENT LIST	AREAS TO BE FOCUSED / CHECKED / VERIFIED
	<ul style="list-style-type: none"> ✓ Verify double claims of depreciation & ITC ✓ Check for reversal of ITC against the receipt of credit note
VALUATION	
<ul style="list-style-type: none"> • Key Procurement and Sales contracts • Sundry Debtor Accounts • Discount Schemes • List of related parties (from as per Tax audit report and notes to accounts) 	<ul style="list-style-type: none"> ✓ Value of supply is determined as per Section 15 and applicable rules ✓ Any inclusions in the value of supply in terms of section 15(2) of CGST Act, 2017 have been verified (Non-Government subsidies, Interest or late fee or penalty for delayed payment of any consideration etc.) ✓ Discount given fulfils the conditions as prescribed under Sec 15(3) of CGST Act, 2017 ✓ In case of discount given post supply, ITC attributable to the discount has been reversed by the recipient of the supply ✓ In case of reimbursement in capacity of pure agent, conditions of Rule 33 of CGST Act, 2017 has been fulfilled ✓ In case of related party transactions – check whether valuations rules are followed
JOB WORK TRANSACTIONS	
<ul style="list-style-type: none"> • Job work Inward and Outward Register • Delivery challan Register • FORM ITC-04 	<ul style="list-style-type: none"> ✓ Each movement of goods to/from job worker takes place along with delivery challan ✓ All movement of goods to/from job worker are reported in ITC-04 ✓ Proper accounts regarding inputs and capital goods and their movements has been kept by principal ✓ Goods sent to job worker are returned back within a period of 1 year and 3 years in case of Inputs and capital goods respectively (except moulds, dies, jigs, fixtures,

DOCUMENT LIST	AREAS TO BE FOCUSED / CHECKED / VERIFIED
	<p>or tools sent out to a job worker for job work)</p> <ul style="list-style-type: none"> ✓ If any goods or waste/scrap has been directly supplied from the job worker premises, tax liability has been discharged by the principal ✓ Further in case of direct supply from unregistered job worker premises, the place of business of job worker is disclosed as additional place of business in principal's GST registration
REFUND	
<ul style="list-style-type: none"> • Refund application filed during the year along with supporting working and annexures 	<ul style="list-style-type: none"> ✓ Verify whether auditee is eligible to claim refund ✓ Amount of refund filed is correctly determined ✓ Verify if any accounting impacts are given for Refund applied, pending rejected or appealed ✓ Status of Refund - whether approved, rejected or pending
JUDICIAL PRECEDENTS AND PENDING PROCEEDINGS	
<ul style="list-style-type: none"> • Notices/Enquiry letters etc. received and replies filed • Assessment Orders 	<ul style="list-style-type: none"> ✓ Assess Impact of notices/Pending Litigations/Assessment Orders ✓ Demand if any has been duly paid ✓ Any specific advance ruling applicable to the auditee ✓ Anti-profiteering provisions has been complied
FINANCIALS AND REPORTS	
<ul style="list-style-type: none"> • Financials and audit reports • Internal Audit Report • Tax Audit Report 	<ul style="list-style-type: none"> ✓ State level breakup of profit and loss account and select items of Balance Sheet (like advances, ITC availed, output tax liability etc.) ✓ Check GST impact of any adverse findings reported by Internal, Statutory or Tax auditors in their reports
<p>Note: The above checklist is illustrative and only for general guidance. Readers shall also have to consider industry specific areas while conducting GST audit.</p>	

Income Tax Returns for the Assessment Year 2020-21



Kavita H. Shah & CA Charmi G. Shah

Each year the government intends to simplify the Income Tax Returns and keep them short with bare minimum number of schedules. Due to enactment of the Finance Act each year, the amendments brought in into various Sections, require additional reporting to be complied with, the details are sought in the Income Tax Returns. Every year the new returns are notified along with the required changes brought in by the Finance Act and some rationalization. Initially, the returns used to be notified at a date which was generally near to the due date of filing of return of income which was leading to delay in filings. The CBDT has now been pro-active and has notified the Returns around the start of the Assessment Year. In fact, for the Assessment Year 2020-21, ITR 1 and 4 were notified on January 3, 2020 and have been made available for filing of returns on June 2, 2020 and June 6, 2020 respectively, due to amendments through Memorandum for COVID-19 pandemic. In spite of the unforeseen pandemic the world is currently facing, the rest of the returns viz ITR 2, 3, 5, 6 & 7 were notified on May 29, 2020, of which ITR-2 is made available for e-filing and others are awaited to be made available for e-filing.

Following the notification of ITR 1 & 4, the CBDT granted relaxations in their eligibility criteria *vide* a Press Release dated January 9, 2020 with an intent to simplify these forms. The relaxations include allowing a person who owns a

property in joint ownership to file the Return of Income using ITR-1 or ITR-4, as may be applicable who otherwise was forced to file ITR-2 or ITR-3 simply due to co-ownership. Also, a person who is otherwise not required to file return but is now required to file return due to if there is fulfilment of one or more conditions specified in the seventh proviso to section 139(1) of the Income-tax Act, 1961 (the Act), has now been made eligible to file ITR-1.

Further in the article, the major changes made in the Income Tax Returns notified for the Assessment Year 2020-21 (*vide* Notification No. 30 dated May 29, 2020) have been highlighted as compared to the returns notified for the Assessment Year 2019-20.

But, before that let us take a look at the eligibility criteria for each of the income tax returns along with certain specific changes in each of the forms:

ITR 1 (Sahaj)

To be filed by **Resident Individuals***^ having Total Income < ₹ 50 lakhs, agricultural income < ₹ 5,000 and having income only under the following heads:

1. Income from salary
2. Income from one house property
3. Income from other sources

Note - An individual with a brought forward/carry forward loss under the

head 'Income from house property' can no longer use ITR-1 to file the income tax return.

ITR 2

To be filed by Individuals and HUFs **not having** Profits and Gains of Business or Profession.

ITR 3

To be filed by Individuals and HUFs **having** Profits and Gains of Business or Profession.

ITR 4 (Sugam)

To be filed by Individuals[^], HUFs and Firms (other than LLPs) being a Resident having **Total Income up to ₹ 50 lakhs** and having income only under the following heads:

1. Profits and Gains of Business or Profession computed under section 44AD, 44ADA or 44AE of the Act
2. Income from salary
3. Income from one house property
4. Income from other sources

This ITR cannot be used if the assessee stated above have any assets/income from foreign country, Income from Capital Gains or holding Directorship in any Company or holding any equity shares in unlisted company at any time during year 2019-20, should not have income from more than one house property or by the Individual who is assessable for whole or any part of the income on which TDS has been deducted in the hands of a person other than the assessee.

ITR 5

To be filed by Persons other than individual, HUF, company and person filing ITR-7 (claiming exemption of income under Section 11) say partnership firms, Association of Persons, Body of Individuals and LLP

ITR 6

To be filed by Companies other than Companies claiming exemption under section 11 of the Act**

Note - In Schedule BP, under **Section F** – “Intra head set off of business loss of current year”, loss from business of profession can now be set off against **Income from Life Insurance business** under section 115B of the Act.

ITR 7

To be filed by Persons (including Companies) required to furnish Return under section 139(4A) or 139(4B) or 139(4C) or 139(4D) of the Act only**

Note

1. Under **Part A - GEN**, four more **declarations** are added in the table “Details of registration or approval under the Income-tax Act (Mandatory, if required to be registered)”
 - a. Whether Application for registration is made as per new provisions
 - b. Section under which the registration is applied
 - c. Date on which the application for registration/approval as per new provisions is made
 - d. Section of exemption opted for under the new provisions
2. Following 2 points have been removed from **Part B - TI**:
 - a. Corpus donation to other trust or institution chargeable as per Explanation 2 to section 11(1)
 - b. Deduction under section 10AA
3. Added new point under Part B - TTI:
Net tax payable on 115TD income including interest under section 115TE (Sr.no. 12 of Schedule 115TD)

*Not applicable to Resident but not Ordinarily Resident

^Not applicable for an individual who is either director in a company or has invested in unlisted equity shares

**Refer Rule 12 of The Income-tax Rules, 1962 (the Rules) for further clarification

Other important changes pertaining to multiple ITRs are summarized in the following table:

Sr. No.	Prescribed Amendments/Changes	Applicable in
1.	Assessee shall now have an option to choose more than one Account to claim Refund . However, the Refund will then be credited in one of the Accounts decided by CPC after processing the Return.	ITR 1, 2, 3, 4, 5, 6
2.	Taxpayers are allowed the laxity of making certain Tax Saving Investments for F.Y 2019-20 upto June 30, 2020 (This should be now changed to July 31, 2020 as per notification no. 35 dated June 24, 2020) . Hence a New Schedule DI (Details of Investments) has been inserted.	ITR 1, 4
3.	In addition to point 2, investment, construction or purchase for claiming roll over benefit in respect of Capital Gains Under section 54 to Sec 54GB for F.Y 2019-20 has been extended upto June 30, 2020 (This should now be changed to September 30, 2020 as per Press Release dated June 24, 2020. However, a different view may arise based on the notification no 35 dated June 24, 2020) which is also included in Schedule DI	ITR 2, 3, 5, 6
4.	A new check point has been inserted to confirm applicability of 7th proviso to Section 139(1) , i.e. whether the assessee has deposited > ₹ 1 crore cash in Current Bank Account or incurred ₹ 2 Lakhs in Foreign travel or ₹ 1 Lakh on Electricity.	ITR 1, 2, 3, 4
5.	A new disclosure column "Type of Company" is added where the assessee discloses his Directorship in a Company or holding of Unlisted Shares.	ITR 2, 3, 5
6.	A new Schedule 112A is inserted for Sale of Securities under Sec. 112A. (For Residents)	ITR 2, 3, 5, 6
7.	Introduced New Schedule 115AD(1)(b)(iii) proviso for Sale of Securities under Sec. 112A. (For Residents)	ITR 2, 3, 5, 6
8.	In schedule CFL i.e. Carry forward of Losses, now there is a requirement of bifurcation of loss details in two columns, i.e. Normal loss and PTI for House Property, Short Term Capital Gains and Long Term Capital Gains.	ITR 2, 3, 5, 6
9.	Additional disclosures to now be made in Schedule PTI as follows: a. Investment entity covered by section 115UA/115UB	ITR 2, 3, 5, 6, 7



Sr. No.	Prescribed Amendments/Changes	Applicable in
	b. Bifurcation of Amount as per following 3 ways: <ul style="list-style-type: none"> i. Current year income ii. Share of current year loss distributed by Investment fund iii. Net Income/Loss 	
10.	A separate disclosure is now required for Bank accounts in case of Non-Resident who are claiming income-tax refund and not having bank account in India. Following details will be required to be disclosed: <ul style="list-style-type: none"> a. SWIFT Code b. Name of Bank c. Location (Name of Country) d. IBAN 	ITR 2, 3, 6, 7
11.	Now there is new disclosure criteria regarding declaring income under presumptive income scheme such as section 44AE/44B/44BB/44AD/ 44ADA/44BBA/44BBB	ITR 3, 5, 6
12.	Following additional disclosure have been added in Part A - OI Point 11(da) – Any sum payable by the assessee as interest on any loan or borrowing from a deposit taking non-banking financial company or systemically important non-deposit taking nonbanking financial company, in accordance with the terms and conditions of the agreement governing such loan or borrowing (<i>this point has been added with respect to amount debited to profit and loss account of the previous year but is disallowable under section 43B of the Act</i>) Point 17 – Whether assessee is exercising option under subsection 2A of section 92CE (Tick – Yes/ No) [If yes, please fill schedule TPSA]	ITR 3, 5, 6
13.	New Schedule – TPSA introduced – Details of Tax on secondary adjustments as per section 92CE(2A)	ITR 3, 5, 6
14.	Under Depreciation on Plant and Machinery (Other than assets on which full capital expenditure is allowable as deduction under any other section) – New rate option of 45% is added. <i>(The depreciation rate of 45% is applicable on Motor buses, motor lorries and motor taxis used in a business of running them on hire which have been acquired on or after 23-08-2019 but before 01-04-2020 and are put to use before the 01-04-2020)</i>	ITR 3, 5, 6

Sr. No.	Prescribed Amendments/Changes	Applicable in
15.	Under Computation of income from business or profession, New section "E" is added i.e. Computation of income from life insurance business referred to in section 115B	ITR 5, 6

There have also been some other changes in terms of increase in requirement of details and clarifications to be provided, which can be observed in the ITR Forms. They can easily be downloaded in PDF format from the Income Tax Website, along with e-filing utilities for ITR-1, ITR-2 and ITR-4.

Also, Super Senior Citizens (Individuals of the Age of 80 years or above) not having Profits and Gains from Business or Profession are now allowed to not file their income tax return online.

Further, due dates for filing of the above returns and filing of Tax Audit Report

have also been extended. The due date for filing of all income tax returns for the assessment year 2020-21 has now been extended to November 30, 2020, from July 31, 2020 and October 31, 2020 while the due date for filing Tax Audit Report has been extended to October 31, 2020 from September 30, 2020.

On a concluding note, we hope that the information compiled in this article will be useful and shall serve as a Ready Reckoner for filing of income tax returns for the assessment year 2020-21.



Residential Status for Individuals under Indian Income Tax Act - Impact of Recent Amendments



Vanshika Dharod and CA Niraj Chheda

Introduction

The taxability of total income of any individual or an entity in India is dependent upon the Residential status of such individual or entity in India. Even before understanding the scope of total income laid down as per Section 5 of the Income-tax Act, 1961 (the Act), one has to decode Section 6 which prescribes conditions to determine "Residence in India" for individuals as well as various forms of entities.

In case of individuals, residential status is determined based on the number of total days of physical presence in India in the relevant previous year (PY) as well as earlier PYs. Consequently, Section 6(1) read with Section 6(6) leads to the following three types of Residential Status for an individual in India:

1. Resident and Ordinarily Resident in India (ROR)
2. Resident but Not Ordinarily Resident in India (RNOR)
3. Non-Resident in India (NR)

Once the residential status is determined as per section 6, the scope of total income of an individual as per Section 5 can be broadly laid down as under:

Residential Status	Scope of Total Income
ROR	Indian Income + Foreign Income (i.e. Global Income)
RNOR	Indian Income + Foreign Income derived from a business controlled in or profession set up in India
NR	Only Indian Income

(Note: Indian Income means any income which accrues or arises or is deemed to accrue or arise in India. Also, income which is received or deemed to be received in India shall be included in the scope of total income of all the three categories of individuals mentioned above)

Thus, it is important to correctly determine residential status in order to ascertain the scope of total income in India.

The coverage of this article is to walk through the earlier conditions for determining residential status of individuals, recent changes in residential status amended by Finance Act, 2020, impact of these changes on individuals and Government clarification for persons unavailable to travel due to Covid-19 pandemic.

Coverage	
I.	Provisions in relation to residential status of Individuals prior to amendment by Finance Act, 2020

II.	Amendment 1: Indian Citizens or PIOs coming on a visit to India
III.	Amendment 2: Section 6(1A) - Deemed Indian Resident
IV.	Amendment 3 - New clauses inserted in Section 6(6)
V.	Various Other Implications
VI.	Covid-19 Relief
VII.	Flowchart for Residential Status of Individuals
VIII.	Illustrations
IX.	Conclusion
X.	Glossary

I. Provisions in relation to residential status of Individuals prior to amendment by Finance Act, 2020

Section 6(1): Resident or Non-Resident

Section 6(1) stipulates two primary conditions for determining residential status for an individual. An individual is said to be Resident in India if he satisfies either of the two following primary conditions:

First Condition: Stay in India \geq 182 days in the relevant PY or

Second Condition: Stay in India \geq 60 days in the relevant PY and \geq 365 days in 4 PYs preceding the relevant PY

Further, Explanation 1 to Section 6(1) provides relaxations to following two categories of individuals:

- Indian citizen who leaves India as a crew member of the Indian ship or for employment outside India or

- Indian Citizen/ Person of Indian Origin¹ who being outside India comes on a visit to India

For above referred individuals, the 60 days' stay mentioned in the second primary condition is replaced by 182 days' stay in India.

Section 6(6): Ordinarily Resident or Not Ordinarily Resident

Section 6(6) of the Act prescribes additional conditions to determine whether the Resident individual is Ordinarily Resident or Not Ordinarily Resident. An individual has to fulfil any one of the following conditions to qualify as a Resident and Not Ordinarily resident (RNOR):

- Has been 'Non-Resident' in India in 9 out of 10 PYs preceding the relevant PY or
- Stay in India for \leq 729 days in 7 PYs preceding the relevant PY.

II. Amendment 1: Indian Citizens or PIOs coming on a visit to India

A. Concerns leading to the amendment

Earlier, Explanation 1 to Sec 6(1) inter alia provided relaxation to Indian Citizens/ Persons of Indian Origin allowing them to visit India for longer duration without becoming Indian resident. In such cases, 60 days referred to in second primary condition was replaced by 182 days. Due to this, practically focus was always drawn on the first primary condition. Certain individuals misused this relaxation by managing their stay in India so as to remain non-resident in perpetuity. In this way, such individuals used to actually carry out substantial economic activities

1. As per sec 115C of the Act, a person shall be deemed to be of Indian origin if he, or either of his parents or any of his grand-parents, was born in undivided India

from India and still not be required to declare their global income in India.

This gave rise to a serious concern for the government due to resultant loss of revenue which was one of the trigger points to bring in amendments in Section 6 of the Act.

B. Actual amendment

Finance Act 2020 has amended Explanation 1 (b) to Section 6(1) curtailing the relaxation of replacing 60 days in specific cases which now reads as under (highlighted in bold):

"In case of individual –

*being a citizen of India, or a person of Indian origin, who, being outside India, comes on a visit to India in any previous year, the provisions of sub-clause (c) shall apply in relation to that year as if for the words "sixty days", occurring therein, the words "one hundred and eighty-two days" had been substituted **and in case of the citizen or person of Indian origin having total income, other than the income from foreign sources, exceeding fifteen lakh rupees during the previous year," for the words "sixty days" occurring therein, the words "one hundred and twenty days" had been substituted.**"*

Explanation – For the purposes of this section, the expression "income from foreign sources" means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India)"

C. Impact of the amendment

This amendment replaces 60 days referred to in second primary condition with 120 days instead of earlier 182 days for certain individuals.

It should be noted that this amendment is applicable only in case of Indian Citizens or PIOs whose total income, other than

the income from foreign sources is more than INR 15 lakhs during the relevant previous year. Consequently, if the total income as calculated is upto INR 15 lakhs, then the earlier relaxation of substituting 182 days instead of 60 days still prevails in case of such individuals.

The term 'income from foreign sources' has been defined to mean income which accrues or arises outside India except foreign income derived from a business controlled in or a profession set up in India.

D. Issues arising out of this amendment

• Difficulty in calculation of total income

This amendment shall apply if the threshold limit of total income other than the income from foreign sources, referred above, is met. Total income is defined under Section 2(45) to mean "the total amount of income referred to in section 5, computed in the manner laid down in this Act". Section 5 lays down the scope of total income based on residential status. There are various incomes which can be exempt under Section 10 in case of a Non-Resident or computed as per special provisions applicable to Non-Resident. This results in a circular loop since, for determination of total income threshold, one has to check the scope of income under Section 5, which in turn is dependent on residential status as per Section 6.

III. Amendment 2: Section 6(1A) - Deemed Indian Resident

A. Concerns leading to the amendment

The Memorandum explaining the provisions of the Finance Bill has emphasized on issues of 'stateless persons'. It was possible for such individual to arrange his business affairs

in such a fashion that he is not liable to tax in any country or jurisdiction during a year. In the light of current development in the global tax environment where avenues for double non-taxation are being systematically closed, necessary amendment has been brought in vide Finance Act 2020.

B. Actual Amendment

A new sub-section (1A) has been inserted in Section 6 which is one of the significant amendments brought in by the Finance Act 2020.

Section 6(1A) reads as under (highlighted in bold):

"Notwithstanding anything contained in clause (1), an individual, being a citizen of India, having total income, other than the income from foreign sources, exceeding fifteen lakh rupees during the previous year shall

be deemed to be resident in India in that previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature."

C. Impact of the amendment

An Indian Citizen having total income, other than income from foreign sources more than INR 15 lakhs in any Previous Year shall be deemed to be a resident in India if he is not liable to tax in any other country by way of residence or domicile or any other similar criteria. The threshold of INR 15 lakhs was not there in the original proposal of Finance Bill 2020 but has been subsequently incorporated in the Finance Act 2020.

For ease of understanding, the Section 6(1A) is dissected below:

Section 6(1A)	Key Points
Notwithstanding anything contained in clause (1)	Section 6(1A) overrides section 6(1)
an individual, being a citizen of India	PIOs are not covered here
having total income , other than the income from foreign sources , exceeding fifteen lakh rupees during the previous year	The term "income from foreign sources" means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) Thus, there is an issue of circular reference in calculation of total income as discussed above
shall be deemed to be resident in India in that previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature	The term "not liable to tax" is not defined

D. Issues arising out of this amendment

• The term "not liable to tax"

Section 6(1A) shall be applicable when the individual is "not liable to tax" in any

other country or territory by reason of his domicile or residence or any other criteria of similar nature. The term "not liable to tax" is not defined under the Act.

This gives rise to various doubts in understanding the context of the terms - not liable to tax, non-payment of tax, exempt from tax or not subject to tax and its application while reading section 6. The term "liable to tax" is used in various DTAA's (Double Tax Avoidance Agreements). There are various Indian judicial pronouncements which have dealt with such issues including landmark Supreme Court judgement in the case of Union of India v. Azadi Bachao Andolan [2003] 263 ITR 706 (SC). The concept of "not liable to tax" does not necessarily mean payment of tax. One can find guidance from UK's HMRC International Manual which states that "It should be noted that the term "subject to tax" is different from being "liable to tax". "Liable to tax" means that the customer only needs to be within the general scope of tax in the UK..... On the other hand, "subject to tax" means that the relevant income has to be actually taxable and the customer cannot be exempt from tax on that income."

It may be worthwhile to note decisions in the context of "liable to tax" under India UAE DTAA (as it stood prior to 01-04-2008). In case of Green Emirate Shipping & Travels [2006] 100 ITD 203 (MUM), it was held that 'liable to tax' in Contracting State does not necessarily imply that person should actually be liable to tax in that Contracting State by virtue of an existing legal provision but would also cover cases where other Contracting State has right to tax such persons irrespective of whether or not such a right is exercised by Contracting State. Such decisions although in context of DTAA may be relevant in interpreting the term liable to tax.

Thus these amendments impact certain individuals since their erstwhile non-

residential status will be changed to Resident in India thereby affecting their scope of total income in India.

IV. Amendment 3 – New clauses inserted in Section 6(6)

A. Concerns arising from the Finance Bill 2020 leading to the amendment

The amendments in Section 6(1) and Section 6(1A) raised concerns amongst NRIs that their foreign income earned outside India would also now become taxable in India. Hence, for individuals getting covered under section 6(1A), Government had to clarify through Press Release² immediately after Budget was announced, that intention is not to tax global income but only income from an Indian business or profession.

B. Actual Amendment

Finance Act 2020 has given effect to the relaxation of Press Release by inserting new clause (c) and clause (d) to Section 6(6) which provides that such Indian Residents shall be treated as Resident but Not Ordinary Resident (RNOR).

The amended Section 6(6) reads as under (highlighted in bold):

"A person is said to be "not ordinarily resident" in India in any previous year if such person is—

- (a) an individual who has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less; or*

2. Press release dated 2nd February, 2020

- (b) *a Hindu undivided family whose manager has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less 7 or*
- (c) *a citizen of India, or a person of Indian origin, having total income, other than the income from foreign sources, exceeding*

fifteen lakh rupees during the previous year, as referred to in clause (b) of Explanation 1 to clause (1), who has been in India for a period or periods amounting in all to one hundred and twenty days or more but less than one hundred and eighty-two days; or

- (d) *a citizen of India who is deemed to be resident in India under clause (1A)”*

A. Impact of the amendment

Indian Citizens or PIOs on a visit to India for 120 days or more but less than 182 days, having total income other than income from foreign sources > INR 15 lakhs

Indian Citizen not liable to tax in any other country by way of residence or domicile or any other similar criteria, having total income, other than income from foreign sources > INR 15 lakhs

Resident but Not Ordinarily Resident

In a nutshell, as per the recent amendments, for those individuals who can no longer qualify to be a Non-Resident but are considered to be RNOR in India, the only addition to their scope of total income shall be foreign Income derived from a business controlled in or profession set up in India. Their foreign income not connected to India shall not be taxable in India. However, the phrase “income derived from a business controlled in or profession set up in India” has its own set of ambiguities which needs to be addressed.

Also, it may be noted that Section 6(1A) begins with a non-obstante clause, i.e. it overrides sub-section 1 of Section 6. However, if such literal interpretation is followed, there can be a scenario where

an individual who happens to qualify as a Resident and Ordinarily Resident originally by virtue of section 6(1) and 6(6) but may instead take a view that Section 6(1A) applies, in order to qualify as Resident and Not Ordinarily Resident. Thus, literal interpretation of such overriding effect would not be in accordance with the intention of the law and hence Section 6(1) shall be given preference during practical application.

For a quick and easy determination of Residential Status as per the amended provisions, reader can refer the Flowchart at the end of this Article (Refer VII. Flowchart for Residential Status of Individuals). Also, one can use the Residential Status Calculator available on the Income Tax India official website³.

3. <https://www.incometaxindia.gov.in/Pages/tools/residential-status-calculator.aspx>

Certain illustrations have also been provided in Section VIII of this article.

I. Various Other Implications

i. TDS rates and compliances reduced

TDS provisions in case of Non-Resident payees are stringent. In such cases, tax is to be deducted at source as per Section 195 for any payments made to a Non-Resident that are chargeable under the Act.

Due to the recent amendments, there can be a change in the residential status of certain Individuals from "Non-Resident" to "Resident but Not Ordinarily Resident". Consequently, payment to such Individuals shall mean payment to a Resident. Thus, provisions of Section 195 will not be attracted in such cases. Hence, such individuals would not be required to obtain lower withholding certificate in cases of rental income, sale of property, etc. Also, recent reduction in TDS rates to provide more funds at the disposal of the taxpayers for dealing with COVID-19 pandemic shall not be applicable in case of payments made to a Non-Resident.

ii. Foreign Assets and Incomes Disclosure not required

Generally, as per Proviso 4 to Section 139, every individual who is Resident and Ordinarily Resident in India has to mandatorily disclose all assets held outside India and foreign incomes earned in the Return of Income.

It is pertinent to note that this disclosure requirement is not applicable to an individual who is an RNOR. Thus, even if individuals qualify to be RNOR as per the amended sections of Residential Status, they would not have to disclose their foreign assets and incomes.

iii. No benefit of Specific Sections and Concessional Rate of Tax as applicable to Non-Residents

On becoming RNOR, various sections that are otherwise applicable to a Non-Resident shall no longer apply to such individuals. Few sections that provide beneficial treatment in case of Non-Residents are listed below:

- a. Proviso 1 to Section 48 - Computation of capital gains in Foreign Currency (subject to certain conditions)
- b. Section 112(1)(c) - Concessional Tax rate of 10% on Long term capital gains arising from transfer of unlisted securities or shares
- c. Tax Rates and relaxation prescribed under Section 115 for various incomes such as dividend, interest, royalty income, etc.
- d. Also, relevant sections prescribed under Chapter XI of the Act applicable to certain incomes of Non-Residents

iv. Transfer Pricing provisions shall continue to apply

For the purpose of Transfer Pricing provisions, term Non-Resident as defined under Section 2(30) includes resident but not ordinary resident. Hence, any change of residential status due to these amendments will not impact applicability of Transfer Pricing provisions.

v. No exemption to Non-Resident Seafarers

CBDT Circular No 13/2017 has clarified that Salary Income of Non-Resident seafarers which is received in NRE Bank account in India for services rendered outside India on foreign ships, shall not be included in the total income.

Post amendments, if Section 6(1A) gets attracted in case of such seafarers, then there can be doubt for directly relying on this circular since their residential status shall be Resident but Not Ordinarily Residents instead of Non-Residents.

II. Covid-19 Relief

In order to eliminate tax issues arising due to declaration of lockdown owing to the outbreak of Novel Corona Virus, India

has been proactive in providing relief to individuals by excluding specified the number of days of forced stay in India due to such lockdown emergency while determining the residential status⁴ for PY 2019-20.

CBDT has clarified that if an Individual who had come to India on a visit before 22nd March 2020, then the following days are to be excluded for determining the total stay in India for FY 2019-20:

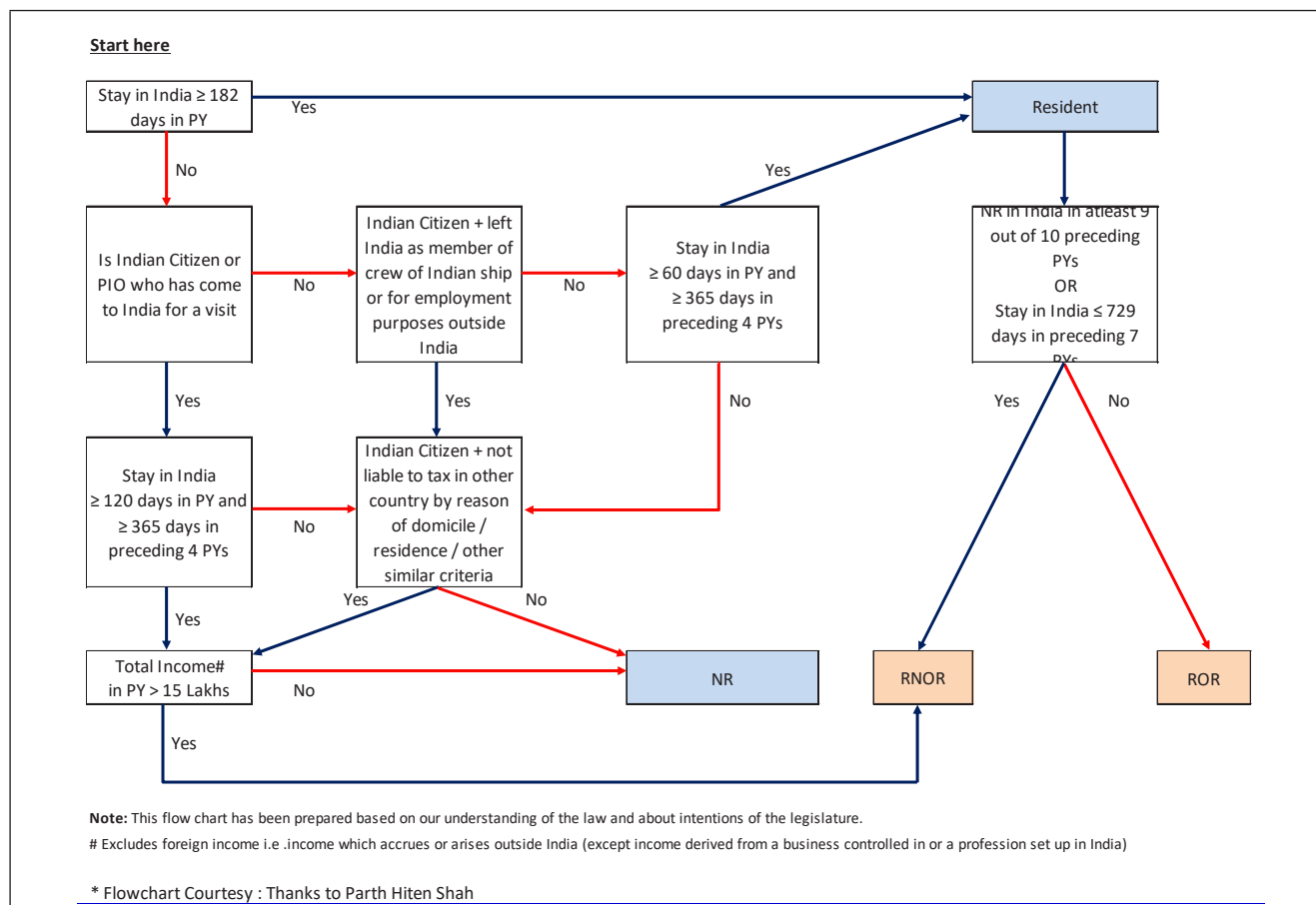
Situation after Visit to India	Number of Days to be excluded from total stay in India
Has been unable to leave India on or before 31st March 2020	Number of days from 22nd March 2020 to 31st March 2020
Has been quarantined in India due to COVID-19 on or after 1st March 2020 and has departed from India on an evacuation flight on or before 31st March 2020 or has been unable to leave India on or before 31st March 2020	Number of days beginning of his quarantine to his date of departure or 31st March 2020 as the case maybe
Has departed from India on an evacuation flight on or before 31st March 2020	Number of days from 22nd March 2020 to his date of departure

Similarly, circular excluding the period of stay of these individuals for the previous year 2020-21 is expected to be issued after normalisation of international flight operations⁵.

4. Vide Central Board of Direct Taxes (CBDT) Circular No. 11/2020 dated 08.05.2020

5. <https://pib.gov.in/PressReleasePage.aspx?PRID=1622386>

III. Flowchart for Residential Status of Individuals




IV. Illustrations

Sr. No.	Scenario	Solution
1	<p>Mr. A, an Indian Citizen, who leaves India for the first time on 31st July 2020 for employment in Country X.</p> <p>His income for the PY 2020-21 is as follows:</p> <ul style="list-style-type: none"> Indian Income = INR 16,00,000 Foreign Income = equivalent to INR 16,00,000 <p>He is not liable to tax in any country.</p> <p>What is his residential status for PY 2020-21?</p>	<ul style="list-style-type: none"> Mr. A's stay in India for PY 2020-21 is 122 days. Hence, he does not satisfy the first primary condition of 182 days under Section 6(1). In relation to second primary condition, Mr. A, being an Indian Citizen leaving India for employment purposes, would be eligible for the relaxation provided <i>vide</i> Explanation 1(a) under Section 6(1), where 60 days' stay is replaced by 182 days and hence, he does not satisfy the second primary condition as well.

Sr. No.	Scenario	Solution
		<ul style="list-style-type: none"> Since, Mr. A, an Indian Citizen, is not liable to tax in any other country and his Indian Income is more than INR 15 lakhs, by virtue of Section 6(1A), he would become a 'Resident' in India. However, he would qualify as a 'Resident but Not Ordinarily Resident' for PY 2020-21 by virtue of the relaxation given under Section 6(6)(d).
2	<p>Mr.B being a US Citizen was born in Gujarat. He comes for a visit to India in PY 2020-21 for 90 days.</p> <p>His income for the PY 2020-21 is as follows:</p> <p>Indian Income = INR 16,00,000</p> <p>What is his residential status for PY 2020-21?</p>	<ul style="list-style-type: none"> Mr. B's stay in India for PY 2020-21 is 90 days. Hence, he does not satisfy the first primary condition of 182 days under Section 6(1). In relation to second primary condition, Mr. B, being a PIO who came to India for a visit, would be eligible for the relaxation provided vide Explanation 1(b) under Section 6(1). Since Mr. B has Indian income more than INR 15 lakhs, the 60 days' condition in Section 6(1) would be replaced by 120 days. <p>Since Mr. B's stay is less than 120 days, he does not satisfy the second primary condition of Section 6(1) also.</p> <ul style="list-style-type: none"> Mr.B being a US Citizen does not fulfil the conditions under Section 6(1A) since it is applicable only to Indian Citizen Thus, he would qualify as a 'Non-Resident' in India for PY 2020-21.

V. Conclusion

Every change has its own pros as well as cons. Although amendments have been brought in for the provisions of Residential Status with an intention to plug in certain



loopholes, a lot of clarifications as well as disputes are anticipated going forward. A seamless application of these changes appears to be a challenge in absence of clarifications.

VI. Glossary

Abbreviations	Full Forms
Act	Income-tax Act, 1961
DTAA	Double Tax Avoidance Agreements
NR	Non-Resident
NRE Account	Non-Resident External Account
PIO	Person of Indian Origin
PY	Previous Year
RNOR	Resident but Not Ordinarily Resident
ROR	Resident and Ordinarily Resident
TDS	Tax Deducted at Source



THE DASTUR ESSAY COMPETITION, 2020

The Student Committee organized the 9th Dastur Essay Competition, 2020 for the Students of Law & Accountancy. The topics of the essays were:

- 1) Gandhian values in today's era
- 2) USD 5 trillion Indian Economy: Dream or Achievable?
- 3) Artificial Intelligence: Replacement for the Human Mind?

WINNERS OF THE ESSAY COMPETITION, 2020

Winner Positions	Participant Name	Topic	Firm/Company/College
1	Joshita Chopra	Gandhian Values in Today's Era	GBCA & Associates LLP Chartered Accountants, Mumbai
2	Saniyamary Stanly	Artificial Intelligence: Replacement for the Human Mind?	BDO India LLP, Chennai
3	Vanshika Bhanushali	USD 5 Trillion Indian Economy: Dream or Achievable?	GBCA & Associates LLP Chartered Accountants, Mumbai
4	Aalap Savla	Gandhian Values in Today's Era	GBCA & Associates LLP Chartered Accountants, Mumbai
4	Prachi Gosalia	Gandhian Values in Today's Era	CNK and Associates LLP, Mumbai
5	Janvi Chandrasen Kuruwa	Artificial Intelligence: Replacement for the Human Mind?	GBCA & Associates LLP Chartered Accountants, Mumbai
5	Mahalakshmi Eswar	USD 5 Trillion Indian Economy: Dream or Achievable?	The Tamil Nadu Dr. Ambedkar Law University.
6	Ansh Malhotra	Artificial Intelligence Replacement for the Human Mind?	Veer Narmad South Gujarat University, Surat
7	Sayan Banerjee	Artificial Intelligence: Replacement for the Human Mind?	Xiaomi Technology India Private Limited
7	Rahul Talreja	USD 5 Trillion Indian Economy: Dream or Achievable?	GBCA & Associates LLP Chartered Accountants, Mumbai

■ Prizes for the winners :

Position 1 : ₹ 10,000/- and a Trophy

Position 2 : ₹ 7500/- and a Trophy

Position 3 : ₹ 5000/ and a Trophy

All the participants awarded with letter of appreciation

- Top three essays to be published in The Chamber's Journal for members

- All top ten essays would be uploaded on the website of the Chamber

Congratulations to all the Top Ten Winners of the Competition

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Winners of the 5th CTC Football Cup Boys - KPMG



Winner of the 5th CTC Football Cup Girls - Hinesh R. Doshi and Co. LLP



The Indoor Box Cricket Tournament Boys Winners - Deloitte Haskins & Sells LLP



The Indoor Box Cricket Tournament Girls Winners - BDO India LLP



Entertainment Programme - Meri Aawaaz Hi Pehchan Hai



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Unveiled by **Shri S. E. Dastur**, Senior Advocate on 30th January, 2008.

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