

Eye on lockdown driven tax reliefs and various compliances under the Income Tax Act, 1961 (as amended by the Finance Act, 2020) knocking at our doorstep

Section No.	Particulars	Existing provisions under the Income Tax Act, 1961 ("the Act")	Scope of amendment under the Finance Act, 2020 (the Finance Act)	Date of making compliance	VA Comments
12AB	Fresh Registration of charitable trusts/ institutions	-	<p>Section 12AB inserted vide the Finance Act, prescribes a new procedure to obtain fresh registration by charitable trusts/ institutions w.e.f 01.06.2020. Registrations obtained u/s 12A/ 12AA shall be inoperative from such date.</p> <p>(a) In case of trusts registered under section 12A/ 12AA as on the date of coming effect of amendment –application for registration u/s 12AB is to be made within 3 months from such date;</p> <p>(b) In case of pending applications as on the date of coming effect of amendment – it shall be deemed to be applications pending u/s 12AB;</p> <p>(c) In case of fresh registration - application is to be made at least one month prior to the commencement of the previous year relevant to the assessment year from which registration is sought.</p> <p>The new procedure limits the period of registration of trusts for a maximum of 5 years.</p>	31.08.2020	<p>In case of registered trusts, application for fresh registration is to be made within 3 months from 01.06.2020, i.e., 31.08.2020. Whereas in cases where application for registration is pending on 01.06.2020, as such no order granting registration is passed, the same would be treated as pending application made u/s 12AB.</p> <p>Similar to the above effect, application for fresh registration is to be made by charitable institutions u/s 10(23C) of the Act.</p> <p>Pursuant to the above amendment, charitable trust/institutions will not be eligible to claim dual benefit under sections 11/12 and sections 10(23C)/ (46) i.e., benefit under one section shall be deemed to be inoperative when the other is claimed/operative.</p>
TDS/ TCS provisions					
194	TDS on payment of dividend	Under the existing provisions of the Act, there is no requirement to deduct TDS on payment of dividend.	<p>Vide the Finance Act, existing provisions of section 194 were amended to provide for deduction of TDS @10% by a domestic company, on payment of dividend in cases where dividend exceeds INR 5 thousand in India.</p> <p>Similarly, section 194K was inserted vide the Finance Act to provide for deduction of TDS @10% by a mutual fund/ UTI, on any income (excluding income chargeable under head capital gains) paid in respect of units of a mutual fund to a resident.</p>	01.04.2020	<p>Re: Section 194 - With the removal of Dividend Distribution Tax ('DDT') corresponding amendments were made under TDS provisions (i.e. section 194, section 194K, section 194LBA etc.) to bring to tax dividend or/ and income from units in the hands of the recipient shareholders, which were earlier exempt in their hands, due to DDT paid by the payer companies/ mutual fund.</p> <p>Re: Section 194J -With the relaxation in the rates of TDS on FTS (and royalty related to cinematographic films), the payers would need to review their existing contracts as to whether the 'nature' of services</p>
194J	TDS on fee for professional or technical services or	The existing provisions of section 194J provide for deduction of tax @ 10% on all payments made to a resident	<p>The Finance Act relaxes the scope of levy of TDS on payment by way of 'fees for technical services ('FTS'), other than professional services @2%, as opposed to the earlier rate of TDS @10%.</p> <p>The beneficial rate of TDS of 2% u/s 194J also extends to royalty paid for sale,</p>	01.04.2020	

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	royalty	towards fees for professional or technical services or royalty.	distribution, or exhibition of cinematographic films, which was earlier subject to tax at 10%. In respect of all other cases, TDS would continue to be deducted at the rate of 10%.		rendered by the service providers, fall in the category of professional or technical service.
194N	TDS on payment of cash	Section 194N, inserted vide Finance Act, 2019 provides for deduction of TDS @2% by every banking company/ post office, at the time of making payment to a person on aggregate amounts paid in excess of INR 1 crores during the previous year.	While no amendment pertaining to section 194N proposed in the Finance Bill 2020, the Finance Act 2020 aimed at expanding the scope of section 194N, w.e.f. 01.07.2020 by reducing the threshold limit for TDS on aggregate cash withdrawal from INR 1 crore to INR 20 lakh made during 01.04.2020 to 31.03.2021, in cases where such person, has not filed return of income for all 3 previous years immediately preceding the previous year in which cash is withdrawn, and the due date for filing ITR under section 139(1) has expired. The deduction of tax under this situation shall be: (i) @2% from the aggregate cash withdrawn, if such aggregate exceeds INR 20 lakhs during the previous year (01.04.2020 to 31.04.2021) but does not exceed INR 1 crore; or (ii) @5% from the aggregate cash withdrawn, if such aggregate exceeds INR 1 crore during the previous year (01.04.2020 to 31.04.2021).	01.07.2020 - Date of coming effect of amendment	The amendment vide Finance Act, widens the scope of applicability of section 194N to promote cashless economy. Prior to amendment, flat rate of TDS @2% was deducted by banks/ post offices, w.e.f 01.09.2019 on aggregate cash withdrawals made by a person exceeding INR 1 crores, during the previous year.(i.e. from April 01 st , 2019 till March 31 st , 2020) Although the amendment vide Finance Act, comes into force from 01.07.2020, the entire previous year from 01.04.2020 to 31.03.2021 would be considered for computing the threshold limit of INR 20 lakhs/ INR 1 crore. However, TDS @2%/ 5% would be deducted only with effect from 01.07.2020 in respect of such cash withdrawals. This provision would also apply in case where belated returns is filed by such person u/s 139(4) of the Act.
194O	TDS on payment by e-commerce operator to e-commerce participant	-	Vide the Finance Act, section 194O was inserted w.e.f 01.10.2020, requiring an e-commerce 'operator' to deduct TDS @ 1% on payment made to an e-commerce 'participant' for sale of goods/ provision of services to a purchaser, through e-facility or e-platform provided by such operator. Wherein, (i) E-commerce operator' is defined to mean a person who owns, operates or manages the digital facility/ platform and is responsible for paying to the participant;	01.10.2020	Individual/ HUF participant are not subject to TDS provisions u/s 194O, in cases where - (a) gross value of sales does not exceed INR 5 Lakhs during the previous year (i.e., 01.04.2020 till 31.03.2021); and (b) PAN/ Aadhaar is furnished to the operator. A service provider rendering services on own digital platform/facility would not be covered within the

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			<p>(i) E-commerce participant' means a person <u>resident</u> in India selling goods or services (including digital products) through digital facility/ platform for e-commerce</p> <p>(ii) 'E-commerce' means supply of goods or services or both (including digital products) over digital or electronic network</p> <p>TDS is to be deducted on the gross value of sale of goods/ services at the time of credit or payment to participant, whichever is earlier. Direct payment made by purchaser to participant shall be deemed to be made by the operator for computing gross value of sales.</p>		<p>purview of the section [E.g., Ferns & Petals, Printvenue, etc.]</p> <p>In case of online classified services provider such as OLX, Quickr, 99Acres, Justdial, etc., only a digital platform is provided to connect prospective buyers with sellers and the actual sale is transacted independently between the parties without the knowledge or involvement of the service provider. Such cases would, in our view, fall outside the ambit of section 194-O</p>
206C	TCS	The existing provisions of section 206C of the Act, provide for collection of TCS on business of trading in alcohol, liquor, forest produce, scrap etc.	<p>Under the Finance Act, amendments have been made in the provisions for collecting TCS on:</p> <p>(i) Sale of goods: TCS @ 0.1% to be collected by seller of any goods (other than exports) from receipts during the previous year exceeding INR 50 Lakh in lieu of such sales.</p> <p>Only a seller whose total sales, gross receipts or turnover from business exceeds INR 10 crores during the FY immediately preceding the FY, shall be liable to collect such TCS.</p> <p>(ii) Liberalised Remittance Scheme (LRS)/ Overseas tour: TCS @ 5% is to be collected by (a) an authorised dealer on such amount of remittance made outside India, in excess of INR 7 lakhs under the LRS; (b) seller of an overseas tour program package irrespective of the amount received from buyer of such package.</p> <p>However, in case where remittance is made outside India through AD, under LRS for overseas tour program, TCS on full amount would be collected by the AD, even if the amount remitted is less than INR 7 Lakhs.</p>	01.10.2020	<p>Re (i): Sale of goods - TCS @1% would be collected where buyer has not provided PAN or Aadhaar number to seller; In this case, TAN of seller will be used at the time of depositing TCS.</p> <p>The amendment considers such amount in <u>excess</u> of Rs.50 lakhs within the scope of TCS. Accordingly, in case of receipts of Rs.80 lakhs from a buyer, TCS at the rate of 0.1% (in case of PAN/ AADHAAR availability) on Rs.30 lakhs (amount in excess of Rs.50 lakhs would be collected)</p> <p>The applicability of TCS is on <u>receipt basis</u>. For instance, receipts from a buyer being Rs.80 lakhs in any PY, out of which, Rs.20 lakhs pertain to preceding PY, TCS would still be collected on the entire differential of Rs.30 lakhs irrespective of the same pertaining to a different FY.</p> <p>Re (ii): LRS/ Overseas tour - TCS @10% would be collected in non-PAN/ Aadhaar cases</p> <p>Amendment has been made u/s 206C(1G) to provide for concessional rate of TCS @0.5% in case remittance</p>

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					is made out of education loan obtained u/s 80E of the Act.
Equalization levy					
165A of Finance Act, 2016	Equalization levy ('EL')	The concept of EL was introduced in Finance Act, 2016. EL was required to be deducted @ 6% on payments made to non-residents ('NR') for digital advertising by (i) resident carrying on business or profession; or (ii) NR having PE.	<p>The Finance Act extends the scope of EL to cover, in addition to online advertisements, consideration received for e-commerce supply or services facilitated by a NR on or after 01.04.2020 (a) to a person resident in India; (b) to any person who purchases goods/ services from NR using Indian IP address; (c) from sale of advertisement which targets a customer resident in India or a customer accessing advertisement through Indian IP address; and (d) from sale of data collected from a person resident in India or from a person using Indian IP address.</p> <p>In respect of aforesaid, EL is required to be paid as a self-assessment tax @2% by the NR on the overall consideration received.</p> <p>EL in case of e-commerce supply or services does not apply in cases where, (a) NR has PE in India and such e-commerce sales / services made are effectively connected to it; or (b) turnover of NR is less than INR 2 crore; or (c) where the NR is liable to EL in respect of online advertisement.</p>	01.04.2020	<p>The obligation to deposit EL in case of e-commerce supply or services rests on the e-commerce operator. Unlike the case of EL for online advertisements, the obligation does not lie on the payer to deduct at source.</p> <p>In terms of section 166A of Finance Act, 2016, the e-commerce operator is required to quarterly deposit EL on the 7th of the following month and March 31st for the month of March.</p> <p>In addition to above, simple interest and penalty would be levied in case of failure of payment of EL by e-commerce operator.</p> <p>Statement of EL is to be prepared and filed on or before 30th June of the FY immediately following the FY in which EL is chargeable.</p>
The Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 ('the Ordinance')					
(A)	<i>Impact on TDS/TCS related compliances</i>				
-	-	Relaxation of interest on delay in deduction/ deposit of TDS/ TCS	<p>The due date for payment/ deposit of TDS/ TCS is 7th of the following month and returns are to be filed quarterly.</p> <p>TDS/ TCS in respect of the month of March (FY 2019-20), April and May were due for payment on 30.04.2020(07.04.2020 for TCS), 07.05.2020 and 07.06.2020 respectively. In case of failure to deduct and deposit of TDS, interest at the rate of 12/18% p.a. is charged. In addition to the above, penalty and late fee u/s 271H and 234E of the Act are also levied.</p> <p>However, in view of the global pandemic of COVID-19, certain relief/measures in the area of statutory compliances under the Act, were provided vide the Ordinance.</p>	<p>Due Dates: March 2020 – 30.04.2020 (FY 2019-20); April 2020 – 07.05.2020 May 2020 – 07.06.2020</p>	<p>For delayed payment of TDS/ TCS, etc. falling between 20th March 2020 and 30th June 2020, reduced interest rate at 9% instead of 12 %/18 % per annum (i.e. 0.75% per month instead of 1/1.5 percent per month) would be charged for this period.</p> <p>Such option is available to the taxpayers in respect of any taxes/ levy under the Act, such of advance tax, self-assessment tax, regular tax, etc.</p> <p>No late fee/penalty shall be charged for delay relating to this period.</p>

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(B)	<i>Statutory Compliances – Assessee & Department</i>				
-	Assessee	Due date for furnishing of return, statements, applications, reports or any other documents	The due date for filing revised and belated return of income for the AY 2019-20 stands extended by 3 months from earlier 31.03.2020 to 30.06.2020 . All statutory compliances in respect of filing of return(s)/statements viz., TDS returns(<i>i.e. for Quarter ending 31.03.2020 being 31.05.2020</i>), SFT statement (<i>i.e. for FY 2019-20 being 31.05.2020</i>)etc., which were due to be filed between the period 20.03.2020 to 29.06.2020 stand extended to 30.06.2020 .	30.06.2020 – Last date of filing of return/ statement	In case of ROI for AY 2019-20, consequential interest on late payment of self-assessment tax will be levied at prescribed lower rate of 9% per annum, as against existing rate of 12% per annum for the period from 20.03.2020 to 30.06.2020.
-	Assessee	Linking of Aadhaar and PAN	In terms of CBDT Notification dated 13.02.2020, every individual was mandated to link Aadhaar and PAN by 31.03.2020, in the absence of which the PAN would become inoperative. The said cut-off date now stands extended to 30.06.2020.	30.06.2020	-
-	Assessee	Due date for filing of appeal	Limitation for filing appeal before various forums, viz., CIT(Appeals), Income Tax Appellate Tribunal and High Court, which was due to expire between the period 20.03.2020 to 29.06.2020, now stands extended to 30.06.2020.	30.06.2020 – Last date of filing of appeal	-
-	Assessee	Vivad se Vishwas Act, 2020 (VsV)	In terms of the VsV Act, the cut-off date for the applicants proposing to resolve pending disputes were required to pay 100% of disputed tax up to 31.03.3030 (1 st deadline) stands extended to 30.06.2020 by the Ordinance. However, no change is made to the cut off of the second deadline, in case of payment made after 31.03.2020 but before 30.06.2020.	30.06.2020 - Last date of filing of application	-
-	Department	Time limit for completion of proceedings, passing any order, issuance of notice/ notification, etc., has also been similarly extended.	Vide the Ordinance - (i) Due date for issuance of various statutory notice(s) by income tax authorities (viz, under section 148, 143(2), 153A, etc.), expiring between 20.03.2020 to 29.06.2020 stands extended to 30.06.2020. (ii) Time-limit for issuance of intimation under section 143(1), 200A(1), 206CB(1), etc., stand extended to 30.06.2020. (iii) Time limit for issuance of notification, approval order(s) and sanction order(s) under various provisions of the Act stand extended. (iv) Time limit for completion of proceedings getting time barred during the	30.06.2020 - Last date for issuance of notice or completion of proceedings	-

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			period 20.03.2020 to 29.06.2020, can now be concluded by 30.06.2020 by the authority		
(C)	<i>Investments</i>				
-	-	Time limit for making investments for claiming deduction under the Act (AY 2020-21)	Vide the Ordinance, investments made in any tax saving instrument, deposit, payments etc., for claiming any benefit/ deduction under Chapter – VIA – Heading B ; and for making purchase, construction, of investment for claiming exemption from capital gains , falling during 20.03.2020 to 29.06.2020, has been extended to 30.06.2020 or any later date as may be notified.	30.06.2020 - Last date for making investments for AY 2020-21	Investments, contributions, donations, deposits, etc., made up to 30.06.2020, can be claimed as deduction under the respective sections for the AY 2020-2021.
(E)	<i>Others</i>				
-	-	-	The Ordinance has extended the date for commencement of operation of Special Economic Zone (SEZ) units for the purpose of claiming deduction under deduction 10AA to 30.06.2020, subject, however, to unit having received necessary approval by 31.03.2020; The Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund) was created on 28th March, 2020 following the COVID-2019 pandemic in India, to be used for combating, containment and relief efforts against the coronavirus outbreak and similar pandemic like situations in the future.	30.06.2020	Necessary amendments have been made in section 80G and section 10(23C) to provide 100% deduction of contributions made to PM CARES Fund, without any capping limit on the Gross Total Income. Further, vide the Ordinance, benefit of exemption under section 10(23C)(i) of the Act has been extended to person(s) receiving income on behalf of PM CARES Fund.
Circulars/ Clarifications issued by the CBDT and Court orders					
23.03.20	Supreme Court Suo Moto WP (C) No.3/2020	SC indefinitely extends limitation period for filing appeals against orders of HC or any tribunal before SC	The SC, taking suo motu cognisance of the difficulties being faced in filing appeals, petitions, etc., vide judgment dated 23.03.2020 held that a period of limitation in all proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March, 2020 till further orders, thereby indefinitely extending the limitation.	-	Since the time period for filing appeal(s) stand extended, the requirement to file formal application before appropriate forum for condonation of delay may no longer be required.
25.03.20	Delhi High Court (on its own motion) WP 2/2020	Delhi High Court extends interim stay on orders of the High Court/ Tribunal etc., subsisting as on	On similar lines, the Delhi HC taking suo motu cognisance of the extraordinary circumstances, ordered for all matters pending before the court and subordinate courts, wherein such interim orders issued were subsisting as on 16.03.2020 and expired or will expire thereafter, to be automatically extended till 15.05.2020 or until further orders.	-	-

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		16.03.2020 to 15.05.2020 or such later date.	Thereafter, similar stay orders extending the period of interim stay provided to the taxpayers, to later dates were passed by High Courts of other states, such as Kerala, Bombay, Ahmedabad etc.		
31.03.20 and 03.04.20	Order dated 31.03.2020 and 03.04.2020 in F.No.275/25/2020-IT(B) u/s 119 of the Act	CBDT issued orders dated 31.03.2020 and 03.04.2020 regarding (a) issue of certificates for lower tax/ nil deduction/ collection of TDS/ TCS u/s 195, 197 and 206C(9) of the Act ('certificates'); and (b) submission of Form 15G/15H for FY 2020-21	<p>The CBDT vide orders dated 31.03.2020 and 03.04.2020 provided certain reliefs arising out of TDS/ TCS provisions as under:</p> <p>(i) Application for obtaining certificates for FY 2020-21 is pending, but certificate for FY 2019-20 is already issued – Such certificates of FY 2019-20 would be considered valid for 01.04.2020 till 30.06.2020 (FY 2020-21) or disposal of application, whichever is earlier [Order dated 31.03.2020];</p> <p>(ii) No application for obtaining certificates for FY 2020-21 is made, however, certificate for FY 2019-20 is already issued – Such certificates are applicable till 30.06.2020. However, they need to apply at the earliest to the Assessing Officer as per procedure prescribed [Order dated 31.03.2020];</p> <p>(iii) In case of no pending application or certificate for FY 2019-20 – a modified procedure for application and consequent handling by assessing officer would be followed [Order dated 31.03.2020];</p> <p>(iv) On payments made to NR having PE in India, in case of no pending application or certificate, tax will be deducted at rate of 10% including surcharge and cess, on such payments till 30.06.2020 (F.Y. 2020-21), or disposal of their applications, whichever is earlier [Order dated 31.03.2020];</p> <p>(v) In case of pending applications for obtaining certificates for FY 2019-20, the Assessing Officers have been directed to dispose off the applications through a liberal procedure by 27.04.2020 [Order dated 03.04.2020]</p> <p>(vi) In case a person had submitted valid Forms 15G and 15H to the Banks or other institutions for FY2019-20, then these Forms would be valid up to 30.06.2020 for FY 2020-21 [Order dated 03.04.2020];</p>	Extended till 30.06.2020	-

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09.04.20	Clarification dated 09.04.2020 in F.No.275/25/2020-IT(B)	CBDT issued certain clarifications on orders dated 31.03.2020 and 03.04.2020 in respect of issuance of certificates	CBDT vide circular dated 09.04.2020, inter-alia clarified the following issues under order dated 31.03.2020 : (i) Validity period of lower tax/ nil deduction/ collection certificates ('certificates') of FY 2019-20 – Valid for the relevant period of issue in FY 2019-20 and for a further period from 01.04.2020 till 30.06.2020 (FY 2020-21); (ii) Threshold/ Transaction limit for certificates of FY 2019-20 – An amount similar to that of the threshold amount of FY 2019-20, would be assigned fresh for the period between 01.04.20 to 30.06.2020	Extended till 30.06.2020	-
09.04.20	Clarification dated 09.04.2020 in F.No.178/7/2020-ITA-I	CBDT issued clarification for submitting certificate for claiming deduction u/s 80G of the Act, in respect of donation to PMCARES Fund by an employee.	Vide circular dated 09.04.2020, the CBDT clarified that, in case where donation is made by an employee through his employer, deduction in respect of thereof will be admissible u/s. 80G, on the basis of Form 16 / Certificate issued by the Drawing & Disbursing Officer [DDO] / Employer in this regard.	-	-

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