



ARORA PREM & ASSOCIATES

Chartered Accountants

Newsletter on recent amendments/ circulars due to COVID 19/ April 2020



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Dear Esteemed Business Partners,

Hope this newsletter finds you, your family and colleagues safe.

The COVID 19 epidemic has thrown up many challenges to our civic society in general and business community in particular and every one of us is fighting with our bit of challenges. The Government of India has taken measures to provide relief on both monetary and compliance perspective. We have tried to capture the recent amendments/ changes brought in and to present them in a summarised and lucid way for better understanding and compliances.

The presentation has been categorised under the following broad heads.

- Goods & Service Tax Act 2017
- Income Tax Act 1961
- Companies Act 2013
- Other relevant legislations

We have tried to capture all relevant amendment made by the Govt having a direct bearing/impact on our day to day working and business. For any detailed and specific query, request an email and /or call for further discussion.

Trust the effort will be beneficial and appreciated.

Best Regards

Manava Prem

Partner

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GOODS & SERVICE TAX UPDATES

39th GST Council meeting outcome

The 39th GST Council took following decisions relating to changes in GST rates on supply of goods and services.

1. The recommendation of the Fitment Committee for calibrating the GST rate structure to correct the inverted duty structure on various items like Mobile phones, Footwear, Textiles and Fertilizers was placed before the GST Council for discussion. The council made the following decisions: -
 - i. To raise the GST rate on Mobile Phones and specified parts presently attracting 12% to 18%.
 - ii. To deliberate the issue of calibrating the rate in other items for removing inversion in future meetings with further consultation and examination of issue.
2. GST rate on all types of matches (Handmade and other than Handmade) has been rationalised to 12% (from 5% on Handmade matches and 18% on other matches).
3. To reduce GST rate on Maintenance, Repair and Overhaul (MRO) services in respect of aircraft from 18% to 5% with full ITC and to change the place of supply for B2B MRO services to the location of recipient. This

change is likely to assist in setting up of MRO services in India. Domestic MRO will also get protection due to 5% tax paid under section 3(7) of the Customs Tariff Act, 1975 on most imported goods (sent abroad for repairs) as this tax is not available as credit.

Note: It is proposed to issue notifications giving effect to these recommendations of the Council on 01 April, 2020, however the notification is yet to be issued on same.

Taxation and other Laws (Relaxation of Certain Provisions) Ordinance, 2020

The Govt has given certain relaxation in GST return filing and compliance amid Covid 19 outbreak. A summary of the relaxations given are:

- Last date of furnishing of the Central Excise returns due in March, April and May 2020 has been extended to 30th June, 2020.
- Wherever the last date for filing of appeal, refund applications etc., under the Central Excise Act, 1944 and rules made thereunder is from 20th March 2020 to 29th June 2020, the same has been extended to 30th June 2020.
- Wherever the last date for filing of appeal, refund applications etc., under the Customs Act, 1962 and rules made thereunder is from

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20th March 2020 to 29th June 2020, the same has been extended to 30th June 2020.

- Wherever the last date for filing of appeal etc., relating to Service Tax is from 20th March 2020 to 29th June 2020, the same has been extended to 30th June 2020.
- The date for making payment to avail of the benefit under Sabka Vishwas Legal Dispute Resolution Scheme 2019 has been extended to 30th June 2020 thus giving more time to taxpayers to get their disputes resolved.
- In addition to the extension of time limits under the Taxation and Benami Acts as above, an enabling section has got inserted in the CGST Act, 2017 empowering the Government to extend due dates for various compliances inter-alia including statement of outward supplies, filing refund claims, filing appeals, etc. specified, prescribed or notified under the Act, on recommendations of the GST Council.

Clarificatory Circular No. 136/06/2020- GST, dated 03.04.2020

The board has issued a clarificatory circular on matters on various matter of challenges in compliances. The detail of the issues and clarifications issued are below:

Issue No.1

An advance is received by a supplier for a Service contract which subsequently got cancelled. The supplier has issued the invoice

before supply of service and paid the GST thereon. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?

Clarification

In case GST is paid by the supplier on advances received for a future event which got cancelled subsequently and for which invoice is issued before supply of service, the supplier is required to issue a "Credit Note". He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim.

However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under "Excess payment of tax, if any" through FORM GST RFD-01.

Issue No. 2

An advance is received by a supplier for a Service contract which got cancelled subsequently. The supplier has issued receipt voucher and paid the GST on such advance received. Whether he can claim refund of tax paid on advance or he is required to adjust his tax liability in his returns?

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Clarification

In case GST is paid by the supplier on advances received for an event which got cancelled subsequently and for which no invoice has been issued in terms of section 31 (2) of the CGST Act, he is required to issue a “refund voucher” in terms of section 31 (3) (e) of the CGST Act read with rule 51 of the CGST Rules. The taxpayer can apply for refund of GST paid on such advances by filing FORM GST RFD-01 under the category “Refund of excess payment of tax”.

Issue No. 3

Goods supplied by a supplier under cover of a tax invoice are returned by the recipient. Whether he can claim refund of tax paid or is he required to adjust his tax liability in his returns?

Clarification

In such a case where the goods supplied by a supplier are returned by the recipient and where tax invoice had been issued, the supplier is required to issue a “Credit Note” in terms of section 34 of the CGST Act. He shall declare the details of such credit notes in the return for the month during which such credit note has been issued. The tax liability shall be adjusted in the return subject to conditions of section 34 of the CGST Act. There is no need to file a separate refund claim in such a case.

However, in cases where there is no output liability against which a credit note can be adjusted, registered persons may proceed to file a claim under “Excess payment of tax, if any” through FORM GST RFD-01.

Issue No.4

Letter of Undertaking (LUT) furnished for the purposes of zero-rated supplies as per provisions of section 16 of the Integrated Goods and Services Tax Act, 2017 read with rule 96A of the CGST Rules has expired on 31.03.2020. Whether a registered person can still make a zero-rated supply on such LUT and claim refund accordingly or does he have to make such supplies on payment of IGST and claim refund of such IGST?

Clarification

Notification No. 37/2017-Central Tax, dated 04.10.2017, requires LUT to be furnished for a financial year. However, in terms of notification No. 35/2020 Central Tax dated 03.04.2020, where the requirement under the GST Law for furnishing of any report, document, return, statement or such other record falls during between the period from 20.03.2020 to 29.06.2020, has been extended till 30.06.2020. Therefore, in terms of Notification No. 35/2020-Central Tax, time limit for filing of LUT for the year 2020-21 shall stand extended to 30.06.2020 and the taxpayer can continue to make the supply without payment of tax under

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LUT provided that the FORM GST RFD-11 for 2020-21 is furnished on or before 30.06.2020. Taxpayers may quote the reference no of the LUT for the year 2019-20 in the relevant documents.

Issue No. 5

While making the payment to recipient, amount equivalent to one per cent was deducted as per the provisions of section 51 of Central Goods and Services Tax Act, 2017 i. e. Tax Deducted at Source (TDS). Whether the date of deposit of such payment has also been extended vide notification N. 35/2020-Central Tax dated 03.04.2020?

Clarification

As per notification No. 35/2020-Central Tax dated 03.04.2020, where the timeline for any compliance required as per sub-section (3) of section 39 and section 51 of the Central Goods and Services Tax Act, 2017 falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till 30.06.2020.

Accordingly, the due date for furnishing of return in FORM GSTR-7 along with deposit of tax deducted for the said period has also been extended till 30.06.2020 and no interest under section 50 shall be leviable if tax deducted is deposited by 30.06.2020.

Issue No. 6

As per section 54 (1), a person is required to make an application before expiry of two years from the relevant date. If in a particular case, date for making an application for refund expires on 31.03.2020, can such person make an application for refund before 29.07.2020?

Clarification

As per notification No. 35/2020-Central Tax dated 03.04.2020, where the timeline for any compliance required as per sub-section (1) of section 54 of the Central Goods and Services Tax Act, 2017 falls during the period from 20.03.2020 to 29.06.2020, the same has been extended till 30.06.2020. Accordingly, the due date for filing an application for refund falling during the said period has also been extended till 30.06.2020.

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INCOME TAX UPDATES

TDS on Salaries – Employer liability for FY 20-21

CBDT has issued clarification vide Circular C1 of 2020, dated 13th April 2020 on the newly inserted section 115BAC of the Income Tax Act 1961 applicable w.e.f Ay 2021-22, regarding withholding of taxes (TDS) by Employer in cases where the tax payer opts for taxation u/s 115BAC.

CBDT has come out with much awaited clarification vide Circular C1 of 2020, dated 13th April 2020 on the newly inserted section 115BAC of the Income Tax Act 1961 applicable w.e.f Ay 2021-22, regarding withholding of taxes by Employer in cases where the tax payer opts for taxation u/s 115BAC.

Section 115BAC provides that a person, being an individual or a Hindu undivided family having income other than income from business or profession", may exercise option in respect of a previous year to be taxed under the said section 115BAC along with his return of income furnished u/s 139(1) of the IT Act 1961 for each year. The concessional rate of tax provided under section 115BAC of the Act is subject to the condition that the total income for the year for tax payer shall be computed without

specified exemption or deduction, setoff of loss and additional depreciation.

Since the option to opt to file return u/s 115BAC is to be exercised at the time of filing the tax return, the employer in such cases will lack clarity regarding whether the provisions of section 115BAC of the Act are to be considered at the time of deducting tax.

The Board has clarified that an employee, having income other than the income under the head "profit and gains of business or profession" and intending to opt for the concessional rate under section 115BAC of the Act, may intimate the deductor, being his employer, of such intention for each previous year and upon such intimation, the deductor shall compute his total income, and make TDS thereon in accordance with the provisions of section 115BAC of the Act. No form or format has been prescribed, so any formal intimation to the employer shall be sufficient. If such intimation is not made by the employee, the employer shall make TDS without considering the provision of section 115BAC of the Act. The intimation so made to the deductor shall be only for the purposes of TDS during the previous year and cannot be modified during that year.

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Taxation and other Laws (Relaxation of Certain Provisions) Ordinance, 2020

The Ministry of Finance has vide ordinance dated 31st March 2020 given certain relief to taxpayers under Direct Taxes (read Income Tax) by way of extension of time limits to certain compliances as below:

- Extension of last date of filing of original as well as revised income-tax returns for the FY 2018-19 (AY 2019-20) to 30th June, 2020 from 31st March 2020.
- Extension of Aadhaar-PAN linking date to 30th June, 2020.
- The date for making various investment/payment for claiming deduction under Chapter-VIA-B of IT Act which includes Section 80C (LIC, PPF, NSC etc.), 80D (Mediclaime), 80G (Donations), etc. has been extended to 30th June, 2020. Hence the investment/payment can be made up to 30.06.2020 for claiming the deduction under these sections for FY 2019-20.
- The date for making investment/construction/purchase for claiming roll over benefit/deduction in respect of capital gains under sections 54 to 54GB of the IT Act has also been extended to 30th June 2020. Therefore, the investment/construction/ purchase made up to 30.06.2020 shall be eligible for claiming

deduction from capital gains arising during FY 2019-20.

- It has provided that reduced rate of interest of 9% shall be charged for non-payment of Income-tax (e.g. advance tax, TDS, TCS) Equalization Levy, Securities Transaction Tax (STT), Commodities Transaction Tax (CTT) which are due for payment from 20.03.2020 to 29.06.2020 if they are paid by 30.06.2020. Further, no penalty/ prosecution shall be initiated for these non-payments.
- Under Vivad se Vishwas Scheme of Income Tax, the date has also been extended up to 30.06.2020. Hence, declaration and payment under the Scheme can be made up to 30.06.2020 without additional payment.
- The date for commencement of operation for the SEZ units for claiming deduction under deduction 10AA of the IT Act has also extended to 30.06.2020 for the units which received necessary approval by 31.03.2020.
- The date for passing of order or issuance of notice by the authorities under various direct taxes& Benami Law has also been extended to 30.06.2020.

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CBDT extends the validity of lower or NIL TDS/TCS certificates to 30 June 2020

The CBDT owing to shortage of staff at the Income Tax Department due to Covid 19 has issued following directors/ clarifications by exercise of power u/s 119 of the Income tax Act regarding the applications filed by the payees u/s 195 and 197 of the Act for lower or NIL rate of deduction of TDS and applications by buyers / licensees/ lessors u/s 206C of the Act for lower or NIL rate of collection of TCS for FY 2020-21.

- All the assessee who have filed application for lower or nil deduction of TDS/ TCS on the Traces Portal for F.Y.2020-21 and whose applications are pending for disposal as on date and they have been issued such certificate for FY 19-20, then such certificate would be applicable till 30.06.2020 of F.Y. 2020-21 or disposal of their applications b)' the Assessing Officers, whichever is earlier.
- In case where the assessee could not apply for issue of lower or NIL deduction of TDS/ TCS in the traces portal for fy 2020-21 but were having the certificates for fy 2019-20, such certificate shall be applicable till 30.06.2020 of F.Y. 2020-21. However, they need to apply at the earliest giving details of the transactions and the Deductor/Collector to the TDS/TCS Assessing Officer as per procedure laid down in sub para c) below, as

soon as normalcy is restored or 30.06.2020, whichever is earlier.

- In cases where the assessee has not applied for issue of lower or NIL deduction of TDS/ TCS in the Traces portal and is also not having any such certificate for fy 2019-20, a modified procedure for application to be sent through email to the TDS/TCS Assessing Officer has been laid down.
- On payments to Non-residents (including foreign companies) having Permanent Establishment in India and not covered by (a) and (b) above, tax on payment made will be deducted at the rate of 10% including surcharge and cess, on such payments till 30.06.2020 of F.Y. 2020-21, or disposal of their applications. whichever is earlier

Relaxation on Form 15G and 15H for the FY 2020-21

The CBDT has clarified that if a person has submitted valid forms (15G and 15H) to banks or any other financial institution for FY 2019-20 then these two forms will be valid up to 30 June 2020 for FY 20-21 as well. The extension will prevent banks to deduct TDS on interest income of individuals, HUF or a trust.

The order also added that the payer who has not deducted TDS on the basis of aforementioned forms shall report such credits/payments in the statement for quarter

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ending 30 June in accordance with the provisions of the rule of the Income Tax Act, 1962.

PM CARES FUND

The “Prime Minister’s Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND)” has been set up for providing relief to the persons affected from Covid 19. The Ordinance also amended the provisions of the Income-tax Act to provide the same tax treatment to PM CARES Fund as available to Prime Minister National Relief Fund. Therefore, the donation made to the PM CARES Fund shall be eligible for 100% deduction under section 80G of the IT Act. Further, the limit on deduction of 10% of gross income shall also not be applicable for donation made to PM CARES Fund.

As the date for claiming deduction u/s 80G under IT Act has been extended up to 30.06.2020, the donation made up to 30.06.2020 shall also be eligible for deduction.

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CORPORATE LAW MATTERS

Eligibility of CSR expenditure related to COVID-19

The Ministry of Corporate Affairs has vide General Circular No-15/2020, dt 10/04/2020 issued clarifications on eligibility of CSR expenditure related to COVID-19 activities and has issued a set of FAQs along with clarifications as detailed below:

Whether contribution made to ‘PM CARES Fund’ shall qualify as CSR expenditure?

Contribution made to ‘PM CARES Fund’ shall qualify as CSR expenditure under item no (viii) of Schedule VII of the Companies Act, 2013 and the same has been further clarified vide Office memorandum F. No. CSR-05/1/2020-CSR-MCA dated 28th March, 2020.

Whether contribution made to ‘Chief Minister’s Relief Funds’ or ‘State Relief Fund for COVID-19’ shall qualify as CSR expenditure?

Chief Minister’s Relief Fund’ or ‘State Relief Fund for COVID-19’ are not included in Schedule VII of the Companies Act, 2013 and therefore any contribution to such funds shall not qualify as admissible CSR expenditure.

Whether contribution made to State Disaster Management Authority shall qualify as CSR expenditure?

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Contribution made to State Disaster Management Authority to combat COVID-19 shall qualify as CSR expenditure under item no (xii) of Schedule VII of the 2013 and clarified vide General Circular No. 10/2020, dated 23rd March, 2020.

Whether spending of CSR funds for COVID-19 related activities shall qualify as CSR expenditure?

Ministry vide General Circular No. 10/2020 dated 23rd March, 2020 has clarified that spending CSR funds for COVID-19 related activities shall qualify as CSR expenditure. It is further clarified that funds may be spent for various activities related to COVID-19 under items nos. (i) and (xii) of Schedule VII relating to promotion of health care including preventive health care and sanitation, and disaster management. Further, as per general circular No. 21/2014 dated 18.06.2014, items in Schedule VII are broad based and may be interpreted liberally for this purpose.

Whether payment of salary/wages to employees and workers, including contract labour, during the lockdown period can be adjusted against the CSR expenditure of the companies?

Payment of salary/ wages in normal circumstances is a contractual and statutory obligation of the company. Similarly, payment of salary/ wages to employees and workers even during the lockdown period is a moral obligation of the employers, as they have no alternative source of employment or livelihood during this period. Thus, payment of salary/ wages to employees and workers during the lockdown period (including imposition of other social distancing requirements) shall not qualify as admissible CSR expenditure.

Whether payment of wages made to casual /daily wage workers during the lockdown period can be adjusted against the CSR expenditure of the companies?

Payment of wages to temporary or casual or daily wage workers during the lockdown period is part of the moral/ humanitarian/ contractual obligations of the company and is applicable to all companies irrespective of whether they have any legal obligation for CSR contribution under section 135 of the Companies Act 2013. Hence, payment of wages to temporary or casual or daily wage workers during the lockdown period shall not count towards CSR expenditure.

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Whether payment of ex-gratia to temporary /casual /daily wage workers shall qualify as CSR expenditure?

If any ex-gratia payment is made to temporary/casual workers/ daily wage workers over and above the disbursement of wages, specifically for the purpose of fighting COVID 19, the same shall be admissible towards CSR expenditure as a one- time exception provided there is an explicit declaration to that effect by the Board of the company, which is duly certified by the statutory auditor.

Filing of DIN (DIR-3KYC Form) - for Deactivated DIN without payment of additional fee.

DIN holders of whose DIN has been marked as 'Deactivated' due to non-filing of form DIR-3KYC/DIR-3KYC-Web are encouraged to become compliant. The MCA has issued General Circular No. 11 dated 24th March, 2020 allowing the DIN holders to meet the compliance between 1st April 2020 to 30th Sept 2020 without payment of the prescribed additional fee of Rs. 5,000/-

Filing of ACTIVE form for Active Non-compliant Companies without penalty.

The Companies whose compliance status has been marked as "ACTIVE non-

compliant" for non-filing of Active Company Tagging Identities and Verification (ACTIVE) e-form are encouraged to become compliant. The MCA has issued General Circular No.12 dated 30th March 2020 allowing the companies to meet the compliance between 01st April, 2020 to 30th September, 2020 without payment of prescribed additional fee of Rs. 10,000/-.

Companies Fresh Start Scheme 2020 (CFSS 2020).

The MCA has introduced a scheme "Companies Fresh Start Scheme, 2020" (CFSS-2020), giving an opportunity to companies who have defaulted in filing of various forms/ returns with the MCA, to file all the pending forms without payment of prescribed additional fee. The scheme also grants immunity from prosecution or proceedings on account of delayed filing of forms.

LLP Settlement Scheme 2020

The Ministry of Corporate Affairs has vide its circular no. 6/2020, dated 4th March,2020 had introduced a scheme namely LLP Settlement Scheme,2020. In order to enable Limited Liability Partnerships (LLPs) to focus on taking necessary measures to address the COVID-19 threat and to reduce their compliance burden, certain modifications to the said circular has been made in the scheme. The key

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modifications are given below:

- Earlier the period of Scheme was from 16th March, 2020 to 13th June, 2020. Now, it has been modified and the revised period of Scheme is from 1st April, 2020 to 30th September, 2020.
- Previously defaulting LLP were permitted to file belated documents, which were due for filing till 31st October, 2019 which has been revised for a period up to 31st August, 2020.
- Earlier the defaulting LLPs were allowed to file belated documents by making payment of additional fees of INR 10/-per day for the period of delay subject to maximum additional fees of INR 5,000/-per document. Now, belated documents can be filed by paying normal fees only without paying any additional fee.
- Earlier benefit of this Scheme could be availed for filing limited forms i.e. Form 3, Form 4, Form 8 and Form 11. Now, all documents and forms which were required to be filed with MCA 21 registry under LLP Act, 2008 and Rules made thereunder can be filed under this Scheme.
- The defaulting LLPs, which have filed their pending documents till 30th Sept, 2020 and made good the default, will not be subjected to prosecution by Registrar for such defaults.

Relaxation in holding General/ Board Meetings

- Ministry of Corporate Affairs has allowed companies to hold Extraordinary General Meetings (EGMs) through video conferencing (VC) or other audio-visual means (OAVM) complemented with e-Voting facility/simplified voting through registered emails, without requiring the shareholders to physically assemble at a common venue. The relaxation is given in holding of an EGM, on or before 30 June, 2020.
- Time gap for conducting board meetings relaxed to 180 days from present 120 days – for the first two quarters of FY 2020-2021.

Extension of enforcement of Companies

(Auditor's Report) Order (CARO), 2020

The MCA has notified the Companies Auditors Report Order (CARO), 2020 vide order dated 25/02/2020 to supersede the reporting requirement under CARO 2016 and also laid down certain new reporting requirements. The said applied to audit reports for financial year commencing on or after 1st April 2019. The applicability of CARO 2020 has been extended for a year now and will be applicable now to audit

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reports for financial year commencing on or after 1st April 2020.

Filing of web form CAR-2020

The MCA has released an advisory asking all companies including foreign companies, limited liability partnerships (LLPs), Liaison Offices to put in place an immediate plan to implement the Work from home policy till 31 March, 2020 and advised companies and LLPs to confirm their readiness to deal with the COVID-19 threat by filing web form CAR-2020. The web service for said form CAR 2020 has been discontinued w.e.f 14th April 2020.

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Others

ESIC extends due date of ESI Contributions for February & March 2020

The Employee State Insurance Corporation (ESIC) has extended the due date for payment of employer's contributions for months of February and March, 2020 to 15 April, 2020 and 15 May, 2020 respectively, as supposed to earlier dates of 15 March, 2020 & 15 April, 2020 respectively.

EPFO releases FAQ for Members seeking advance

The EPFO has issued a Frequently Asked Questions (FAQ's) on EPF advance to fight Covid 19. The 20 FAQ's provide details of the provisions of advance, eligibility etc., the details of which may be obtained at

https://www.epfindia.gov.in/site_docs/PDFs/Circulars/Y2019-2020/covid_faq_claim_04042020.pdf

IRDA extends the period of renewal for Health Insurance Policies.

The IRDA vide Circular IRDAI/HLT/CIR/MISC/091 /04/2020, dated 16th April, 2020 has directed that the policyholders whose health insurance policies fall due for renewal during the period on and from the 25th March, 2020 up to the 3rd May,

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2020 and who are unable to make payment of their renewal premium on time in view of the prevailing situation in the country as a result of Corona Virus disease (COVID 19) are allowed to make such payment for renewal of their policies to their insurers on or before 15th May, 2020 to ensure continuity of the health insurance cover from the date on which the policy falls due for renewal, so that any valid claim triggered during the grace period can be paid.

SEBI- Relaxation in compliance with requirements pertaining to AIFs and VCFs

The SEBI vide Circular SEBI/HO/IMD/DF1/CIR/P/2020/5, dated 30th March 20 has extend the due date for regulatory filings for AIFs and VCFs for the periods ending March 31, 2020 and April 30, 2020 by two months over and above the timelines prescribed under SEBI (Alternative Investment Funds) Regulations, 2012 and circulars issued there under.

RBI- EMI moratorium proposal for borrowers.

The RBI in a big relief to the borrowers proposed for EMI moratorium for a period of Three months, which means that borrowers can skip their monthly instalments which are due from 1 March 2020 to 31 May 2020. The

proposal includes all loans including home loan, personal loans, education loan, auto loan, working capital loan, credit card dues etc.

The Interest under the proposal is not waived off and will continue to accrue on the outstanding amount on the loan account. Borrower will have to pay additional interest for 3 months by either increasing the amount per instalment or number of instalments. This deferment will not result in negative impact on credit score or credit downgrade or defaults. Borrowers will turn non-performing only after 90 days of overdue and are classified as standard prior to that, notwithstanding any delay in repayments following the moratorium

Review of Foreign Direct Investment (FDI) policy for curbing opportunistic takeovers/acquisitions of Indian companies due to the current COVID-19

The Government of India with a view for curbing opportunistic takeovers/acquisitions of Indian companies due to the current COVID-19 has amended para 3.1.1 of the Consolidated FDI Policy, 2017 by changing the named exclusions of countries to countries sharing land borders with India. The revised para 3.1.1 is as under:

3.1.1(a) A non-resident entity can invest in India, subject to the FDI Policy except in those sectors/activities which are prohibited.

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However, an entity of a country, which shares land border with India or where the beneficial owner of an investment into India is situated in or is a citizen of any such country, can invest only under the Government route. Further, a citizen of Pakistan or an entity incorporated in Pakistan can invest, only under the Government route, in sectors/activities other than defence, space, atomic energy and sectors/activities prohibited for foreign investment.

3.1.1(b) In the event of the transfer of ownership of any existing or future FDI in an entity in India, directly or indirectly, resulting in the beneficial ownership falling within the restriction/purview of the para 3.1.1(a), such subsequent change in beneficial ownership will also require Government approval.

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Disclaimer

This newsletter gathers information on select matters of general guidance to various notifications issued by the Central government / authorities with respect to various matters including ease of compliance, relaxation, exemption, safety guidelines, etc. pertaining to COVID-19 pandemic.

The compilation is indicative of and is general information on COVID-19 developments for the period 1st March 2020 to 20th April 2020. This is made available for information purposes only and we do not acknowledge any liability or responsibility whatsoever including for the accuracy or completeness of this information or any use you may make of it. Accordingly, you are on notice that any use you make of this information, or any reliance you place on it, is solely your responsibility.

The update / information provided herein is done with the understanding that we are not rendering legal services on the subject and hence the information contained herein should not be construed as legal advice or opinion.

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For any clarifications or discussion on any matter stated in the newsletter, please feel free to contact us.

Please maintain social distancing and keep yourself safe

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With active support of other team members.

“The greatest compassion is the prevention of human suffering through patience, alertness, courage and kindness.”

THANK YOU!