



Confederation of Indian Industry

## **Representation for Deferral of Tax Compliances due to COVID-19 Pandemic**

### **1. Extension in timelines for tax compliances**

The Income Tax Act lays down various compliances to be undertaken by the taxpayers throughout the year. Following is the list of upcoming filings/reporting to be made by taxpayer in the next 4 months –

<b>Sr. No</b>	<b>Compliance</b>	<b>Original due date</b>
1	Filing of TCS returns in Form 27EQ for Quarter 4 of FY 2020-21	15 May 2021
2	Issue of TCS certificate for Quarter 4 of FY 2020-21	30 May 2021
3	Filing of TDS returns in Form 24Q, 26Q, 27Q, for Quarter 4 of FY 2020-21	31 May 2021
4	Filing of statement of financial transactions in Form 61A	31 May 2021
5	Issue of Form 16A for FY 2020-21	15 June 2021
6	Issue of Form 16 for Quarter 4 of FY 2020-21	15 June 2021
7	Advance tax payment due date	15 June 2021
8	Filing of annual return for Equalisation levy	30 June 2021
9	Application of newly enacted provisions of Section 194Q, Section 206AB and Section 206CCA	1 July 2021
10	Payment of Equalisation levy	7 July 2021
11	Filing of TCS returns in Form 27EQ for Quarter 1 of FY 2021-22	15 July 2021
12	Issue of TCS certificate for Quarter 1 of FY 2021-22	30 July 2021
13	Filing of TDS returns in Form 24Q, 26Q, 27Q, for Quarter 1 of FY 2021-22	31 July 2021
14	Filing of income tax returns by individuals and non-corporates who are not subject to tax audit for AY 2021-22	31 July 2021
15	Issue of Form 16A for Quarter 1 of FY 2021-22	15 August 2021

In view of the outbreak of COVID-19 pandemic and lockdown/ lockdown-like restrictions imposed in various parts of the country due to second wave of pandemic, the taxpayers face tremendous challenges in meeting the deadlines for statutory compliances.

The on-ground challenges around COVID-19 has also been acknowledged by the Honorable Supreme Court, which in its ruling dated 27 April, 2021 extended the period of limitation for judicial or quasi-judicial proceedings / any other proceedings as prescribed by the general or special laws indefinitely. It also clarified that for the purpose of computing the period of limitation for initiation or completion of proceedings, period starting from 14 March, 2021 until issuance of further order should be excluded.

The CBDT has also extended timelines for various other processes/compliances till 31 May 2021 or 30 June 2021. For instance, Circular No. 8/2021 dated 30 April 2021 extended due dates for certain compliances such as filing of appeal before Commissioner of Income-tax (Appeals) [CIT(A)], raising objection before Dispute Resolution Panel (DRP) against a draft assessment order of the tax authority, furnishing tax returns in response to a notice for reopening, furnishing belated or revised tax return for assessment year 2020-21, payment of taxes withheld and furnishing of challan-cum-statement in relation to TDS u/s. 194-IA, 194-IB and 194M and filing of statement in Form 61 to 31 May 2021. The time limits for completion of assessments, reassessments, issuing notices for reassessment, etc falling due on 30 April 2021 (as extended earlier) have also been extended till 30<sup>th</sup> June 2021 vide Notification No. 39/2021 dated 27 April 2021

### **Recommendation**

- It is requested to take guidance from this Supreme Court ruling and provide an extension in due-dates for all income-tax compliances due in the near future. Attention is also requested to the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and subsequent notification granting extension of time limits for i) completion of any proceedings or issuance of notice or intimation or any such action by the tax authorities, ii) filing of appeal, reply or application or furnishing of any report, document, return or statement, iii) making various investments for claiming deduction under section 80C/80D/80G of the Act.

Given the genuine hardships faced by the taxpayers, it is requested to issue a circular/Notification to extend the timelines for the above-mentioned compliances

by 6 months. Extension in line with the above-mentioned Act may be passed for Financial Year 2021-22.

It is also recommended that the applicability of interest, fees, penalty on account of failure in undertaking the abovementioned compliances in a timely manner should be relaxed for the next 2 quarters, considering the current liquidity crunch in the industry, on account of COVID impact.

## **2. Deferral of section 194Q of the Act providing for TDS on purchase of goods**

Section 194Q of the Act providing for TDS on purchase of goods is set to come into effect from 1 July 2021. This section requires significant investment in tech infrastructure to enable accurate compliance, there would be high volume of transactions and reconciliations the system would need to support with a high degree of accuracy.

Given the current scenario, many companies have deprioritized building technology infrastructure and channelled their efforts and focus on addressing the safety and welfare of their employees. Companies are working at 30%-40% resourcing levels due to the pandemic which is leading to practical challenges of scoping and building the tech efforts to meet this compliance. Companies are also extending helping hand to the Government in meeting the unprecedented increase in requirement of medical oxygen, oxygen concentrators, ventilators, isolation centres, hospital beds, medicines etc.

Further, many companies are still in the process of building a tech infrastructure for the TCS provisions introduced last year which companies now have to deprioritize; accordingly, to bring in a new requirement within such a short span would be extremely onerous for the industry.

### **Recommendation**

- It is recommended that the applicability of section 194Q should be deferred to April 1, 2022, considering significant time and efforts involved to build systems and processes to comply with the new requirements.

## **3. Deferral of section 206AB and section 206CCA of the Act**

Section 206AB and 206CCA were introduced vide Finance Act 2021 which provide for higher rates of tax for TDS and TCS for a person who has not filed the income tax

return in the two preceding years for which the time limit of filing the return u/s 139(1) of the Act has expired and the aggregate of TDS and TCS in each of the two years is Rs. 50,000 or more.

There is lack of clarity on the manner in which these sections can be operationalized, some of the issues are discussed below:

- While it was clarified that functionality on lines of existing functionality for section 194N for TDS on cash withdrawals will be provided by CBDT, no such mechanism has yet been provided by the Government to enable taxpayers to undertake this compliance. The Government has not released any API mechanism (e.g. through CPC, NSDL or the Income Tax portal) to enable compliance under section 206AB and 206CCA of the Act. Taxpayers may not be able to meet the compliance if API is not released. In the absence of a tech-based solution, companies will need to manually collect and validate with supporting proof that such tax returns have been filed. For a company having say 15,000+ vendors and lakhs of shareholders this could be an unreasonable ask given the current resource crunch. We also understand the GOI systems will need to be updated to identify defaults in tax returns where such a higher % of TDS and TCS is not applied.
- This is an onerous validation burden on deductor to verify if the payee has filed return for two years. Further, some taxpayers are not required to file the return. No mechanism has been specified on how the deductor can satisfy its obligation of verification of ITR filing by payee and aggregate TDS deducted. Applicability of this provision in the case of TDS on dividend under section 194 can be huge challenge for large listed companies having lakhs and lakhs of shareholders and the short time available within which the dividend payment and TDS obligations need to be discharged.
- The time limit for filing the tax returns varies across different category of tax payers e.g. individuals the same would fall due on 31 July, for certain other tax payers it falls due on 31 October; and also within the same category of tax payers, separate timelines are prescribed for tax payers subject to tax audit and tax payers subject to transfer pricing compliances in Form 3CEB. This poses incremental challenges on tracking the tax returns given the difference in timing of tax filing for various parties.

## **Recommendations**

- In absence of any API release by the Government, it is highly recommended that compliance with sections 206AB and 206CCA is deferred to April 1, 2022 to give sufficient time for companies to build the compliance systems and test the same for accuracy.
- CBDT may also consider building an API mechanism to validate tax return filing, similar to the API mechanism in place for GST returns.

### **4. Reduction in rates of TDS and TCS for Financial Year 2021-22**

The provisions of the Act provide for deduction of tax at source on various transactions. This impacts the cash flow of the taxpayer. This is especially critical in the current scenario where the taxpayers are already facing a liquidity crunch.

#### **Recommendation**

- In order to provide more funds at the disposal of the taxpayers, the Central Board of Direct Taxes had reduced the rates of TDS by 25% which was applicable up to 31 March 2021. It is recommended that similar relaxation is provided for the TDS rates applicable for payments / credits made during Financial Year 2021-22.

### **5. Perquisite taxation in hands of employee for COVID-19 related reimbursements**

As per provisions of section 17(2) of the Income Tax Act, 1961, if an employer reimburses medical treatment expenditure incurred by the employee for himself/herself or any member of the family, in a non-government hospital, such medical treatment reimbursement would be exempt only if the following conditions are satisfied:

- The treatment is for prescribed diseases or ailments as laid out in the Rule 3A of the Income Tax Rules, 1962 which inter-alia includes disease or ailment of the heart, blood, lymph glands, bone marrow, respiratory system, central nervous system, etc. requiring medical treatment in a hospital for at least three continuous days; and
- Such treatment is undertaken in a hospital approved by the Principal Chief Commissioner or Chief Commissioner.

With the onset of the second wave of COVID-19, numerous companies and employers are supporting their employees with their medical treatment expenditure. In the current pandemic where the medical infrastructure in the country is tested to its limits, and individuals seeking treatment are facing difficulties to get access beds/oxygen, restricting the tax exemption to only cover hospitals approved by the Principle Chief Commissioner or Chief Commissioner unduly burdens employees who underwent treatment in unapproved hospitals.

Further, having an employer manually track which hospitals are approved and unapproved during a pandemic where employees are seeking medical treatment across several cities is extremely onerous and practically not possible.

Many employees and their family members are also undergoing home isolation treatment and/or making provision for hospital type treatment at home in view of paucity of hospital beds.

### **Recommendations**

- Given the challenging times, it is requested that a circular is issued on an urgent basis providing exemption for medical reimbursements/ grants provided by employers to employees, including their survivors/ families, for COVID treatment for the employee or the family member, without prescribing any unreasonable requirements or conditions.
- It may be clarified that the treatment for COVID-19 is covered under the ailments referred to in Rule 3A(2) of the Rules, and the mandatory requirement of undertaking treatment only in approved private hospitals for claiming exemption may be relaxed to include all hospitals and medical facilities.