

Tax Alert | Delivering clarity

25 March 2020

Relaxation of tax and regulatory compliance timelines due to COVID-19 outbreak

Tax and regulatory payments and compliance filings deferred due to COVID-19 outbreak in India

The Finance Minister (FM), Nirmala Sitharaman held a press conference¹ on Tuesday 24 March 2020 to announce various relief measures taken by the government on statutory and regulatory compliance matters in view of the outbreak of COVID-19. The decisions with respect to various compliance matters are summarised hereunder:

Income-tax:

- Due date for filing belated and revised return of income per section 139(4) and 139(5) respectively for financial year (FY) 2018-19 relevant to Assessment Year 2019-20, extended from 31 March 2020 to 30 June 2020.
- Pursuant to section 139AA of the Income-tax Act, read with Rule 114AAA(1), person having Permanent Account Number (PAN) is required to intimate/link his Aadhaar number on or before 31st March 2020. Failure to do so shall make the PAN inoperative immediately after 31 March 2020. Extension has been granted for linking of Aadhaar with PAN from 31 March 2020 to 30 June 2020.
- Under the Vivad se Vishwas Act, if a taxpayer opts under the Act for withdrawal of appeals, the taxpayer is required to pay 100 percent of the disputed tax if paid by 31 March 2020, and if paid after 31 March 2020, 110 percent of the disputed tax is payable. Under the relief measures announced on Tuesday, additional 10 percent amount shall not be payable if the amount is paid by 30 June 2020.
- Due date of issue of notice, intimation, notification, approval order, sanction order, filing of appeal, furnishing of return, statements, applications, reports, any other documents and time limit for completion of proceedings by the authority and any compliance by the taxpayer, including investment in saving instruments or investments for roll over benefit of capital gains under Income Tax Act, Wealth Tax Act, Prohibition of Benami Property Transaction Act, Black Money Act, STT law, CTT law, Equalisation Levy law, Vivad Se Vishwas law where the time limit is expiring between 20th March 2020 to 29th June 2020, shall be extended to 30th June 2020.
- Delay in deposit of advance tax (section 234B / 234C of the Income-tax Act (ITA)), self-assessment tax (Section 234A of the ITA), regular tax (Section 220(2) of the ITA), TCS (Section 206C of the ITA), equalisation levy (Section 170 of the Finance Act (FA) 2016), Securities Transaction Tax (STT) (section 104 of the Finance (No.2) Act 2004), Commodities Transaction Tax (CTT) (section 123 of the FA 2013) attracts interest of 1 percent per month. Delay in deposit of TDS (Section 201 of the ITA), attracts interest 1.5 percent per month.

It has been decided that for delayed payments made during 20 March 2020 to 30 June 2020, interest of 9 percent per annum (i.e. 0.75 percent per month) will be charged for this period.

¹ <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1607942>

Goods and Services Tax:

- Due date of filing return under Form GSTR-3B for taxpayers having aggregate annual turnover of more than INR 5 crore, has been proposed to be relaxed for returns due in March 2020, April 2020 and May 2020 till last week of June 2020. However, interest at 9 percent from 15 days after the relevant due date (as opposed to the current 18 percent) would be charged. No late fee or penalty would be charged.
- Taxpayers having aggregate annual turnover less than INR 5 crore would also be allowed to file return under Form GSTR-3B for returns due in March 2020, April 2020 and May 2020, till last week of 30 June 2020. No interest, late fee, and penalty would be charged.
- Due date of filing annual return in Form GSTR-9 for the FY 2018-19 has been extended till 30 June 2020.*
- Due date for issue of notice, notification, approval order, sanction order, filing of appeal, furnishing of return, statements, applications, reports, any other documents, time limit for any compliance under the GST laws where the time limit is expiring between 20 March 2020 to 29 June 2020, has been proposed to be extended to 30 June 2020.

Legal circulars and legislative amendments to give effect to the aforesaid GST proposals shall be issued with the approval of GST Council.

*Notification no. 15/2020 – Central Tax dated 23 March 2020 has already been issued in relation to the extension of due date for filing annual return for FY 2018-19.

Customs:

- Customs clearance on 24X7 basis proposed till 30 June 2020.
- Due date for issue of notice, notification, approval order, sanction order, filing of appeal, furnishing applications, reports, any other documents etc., time limit for any compliance under the Customs Act and other allied laws where the time limit is expiring between 20 March 2020 to 29 June 2020, has been proposed to be extended to 30 June 2020.

Sabka Vishwas - (Legacy Dispute Resolution) Scheme, 2019:

- Payment date under Sabka Vishwas - (Legacy Dispute Resolution) Scheme, 2019 has been proposed to be extended to 30 June 2020. Interest for this period would not be charged, if payment is made by 30 June 2020.

Corporate Laws:

- Waiver of additional fees for delay in filing of any form, document, return, statement etc. with Ministry of Corporate Affairs (MCA), during the moratorium period starting from 1 April 2020 to 30 September 2020. This will allow non-compliant companies/ LLPs to clear their backlog of pending filings and make a 'fresh start'.
- The maximum time gap to hold meeting of Board of Directors' under Companies Act, 2013 (the 2013 Act) (viz., 120 days) has been extended by 60 days for quarter ending 30 June 2020 and 30 September 2020. In other words, time gap between two consecutive board meetings can be 180 days for this period.
- The recently notified Companies (Auditor's Report) Order, 2020 will be applicable from FY 2020-2021 instead of FY 2019-2020.

- Inability to hold separate meetings of Independent Directors (without the attendance of non-independent directors and members of the management) in FY 2019-2020, will not be considered as non-compliance with the provisions of Schedule IV of the 2013 Act. Independent Directors may share their views amongst themselves through telephone / e-mail or other mode of communication as they deem fit.
- Timelines for creation of deposit repayment reserve of 20% of the deposits maturing during FY 2020-2021 relaxed from 30 April 2020 till 30 June 2020.
- Requirement to invest 15 percent of debentures maturing during FY 2020-2021 in specified instruments, extended from 30 April 2020 to 30 June 2020.
- Additional time period of 6 months allowed to newly incorporated companies to file a declaration for Commencement of Business (in Form INC-20A). Accordingly, the newly incorporated companies can file form INC-20A within 1 year of its incorporation.
- Inability to meet minimum residency requirement of stay in India for 182 days by at least one director, shall not be treated as a violation for FY 2019-20.
- In order to prevent triggering of insolvency proceedings against MSMEs, the thresholds for default under section 4 of Insolvency and Bankruptcy Code, 2016 (IBC 2016) has been raised to INR 10 million (from the existing threshold of INR 100,000).

If COVID-19 outbreak continues beyond 30 April 2020, the government may consider suspending section 7, 9 and 10 of the IBC 2016 for a period of 6 months to stop companies at large from being forced into insolvency proceedings in such *force majeure* causes of default.

Financial services:

Following relaxations announced with respect to banking related transactions for a period of 3 months:

- No charges to be levied on cash withdrawal through Debit Card from any other bank's ATM.
- Waiver of fees for maintaining minimum balance requirement.
- Reduction in bank charges for digital trade transactions for all trade finance consumers.

Observations:

Considering the difficulties being faced by the industry in adhering to the due dates for compliances under direct tax, indirect tax and company laws, the announcements of the government should benefit India Inc at this time of lockdowns due to outbreak of COVID-19.

The timeline for filing of Advance Pricing Agreements (APA) which is due by 31 March, 2020 and CbC report related Forms i.e Form 3CEAC and 3CEAD which is due for filing between March 20, 2020 to June 29, 2020 (depending on the accounting year of the parent entity) shall be extended to June 30, 2020.

Reporting statements in Form 61, 61A, 61B etc due by 31 May 2020, should also be extended till 30 June 2020.

This is only a Press Release and so the circular and legislative amendments will need to be looked into for the actual amendments in the respective sections of the Acts.

Source: Press release issued by Ministry of Finance dated 24 March 2020, General Circular no. 11/2020 dated 24 March 2020 issued by MCA, Notification no. S.O. 1205(E) dated 24 March 2020 issued by MCA.

The Supreme Court vide its order dated 23 March 2020 in SUO MOTU WRIT PETITION (CIVIL) No(s).3/2020 IN RE : COGNIZANCE FOR EXTENSION OF LIMITATION, *"has taken Suo Motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/ appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State). To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such 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 order/s to be passed by this Court in present proceedings. We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities."*



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/about for a more detailed description of DTTL and its member firms.

This material and the information contained herein prepared by Deloitte Touche Tohmatsu India LLP (DTTI LLP) is intended to provide general information on a particular subject or subjects and is not an exhaustive treatment of such subject(s). This material contains information sourced from third party sites (external sites).

DTTI LLP is not responsible for any loss whatsoever caused due to reliance placed on information sourced from such external sites. None of DTTI LLP, Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this material, rendering professional advice or services. This information is not intended to be relied upon as the sole basis for any decision which may affect you or your business. Before making any decision or taking any action that might affect your personal finances or business, you should consult a qualified professional adviser.

No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this material.

©2020 Deloitte Touche Tohmatsu India LLP. Member of Deloitte Touche Tohmatsu Limited