Demystifying Complexities

TAX EDGE

Monthly Tax & Regulatory Updates

Tax • Regulatory • Assurance • Legal



Contents



Goods & Services Tax ('GST')



Direct Tax



Corporate Law & Regulatory



Compliance Calendar

Goods & Services Tax ('GST')

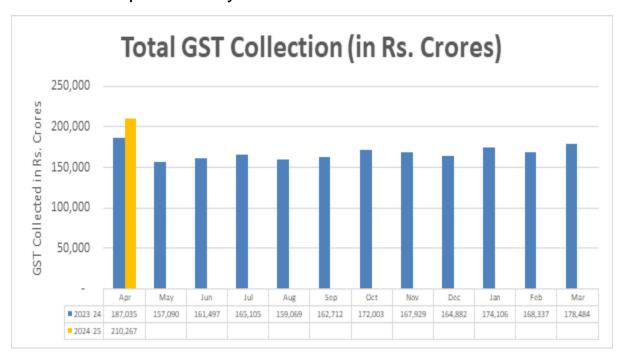


GST revenue collection for April 2024 Rs.2,10,267 Crore (12.42% higher than GST revenue in April 2024)

The gross GST revenue collected in the month of April 2024 is Rs. 210,367 crore as below:

IGST (Integrated Goods and Services Tax)	Rs. 99,623 Crore
CGST (Central Goods and Services Tax)	Rs. 43,846 Crore
SGST (State Goods and Services Tax)	Rs. 53,538 Crore
Compensation cess	Rs. 13,260 Crore
Total	Rs. 2,10,267 Crore

The gross GST revenue for April 2024 witnessed the landmark milestone of Rs. 2 lakh crore, with a 12.42% year-on-year growth. This surge was driven by a significant rise in GST collection from domestic transactions at 13.4%. GST revenue net of refunds for April 2024 is Rs. 1.92 lakh crore which is growth of 15.5% over same period last year.



Please Click Here to read Press Release dated 1 May 2024.

Furnishing of information by manufacturers of Pan Masala & Tobacco taxpayers

Background

In the 50th GST Council meeting held in July 2023, the GST Council had recommended special procedure for manufacturers of tobacco, pan masala, etc. for registration of machines and filing of monthly returns. Accordingly, a special procedure was prescribed vide Notification no. 30/2023— Central Tax dated 31 July 2023 for such taxpayers, which was to be effective from 1 January 2024 onwards.

Notification no. 4/2024 issued by Central Board of Indirect Taxes & Customs (CBIC) on 5 January 2024

The CBIC issued a notification on 5 January 2024 rescinding the procedure prescribed earlier and stipulating that the effective date for new procedure would be 1 April 2024 (instead of 1 January 2024) onwards. Further, the following forms were notified:

- GST SRM-I, pertaining to registration and disposal of packing machines of pan masala and tobacco products
- GST SRM-II, being monthly statement of inputs used and the final goods produced by the manufacturer

Advisory issued by GST Network on 16 May 2024

The GST Network has notified that the facility to register the machines have been made available on the GST portal to file the information in Form GST SRM-I. Form GST SRM-II is expected to be made available on the portal shortly.

Please Click Here to read the advisory dated 16 May 2024.

Oath ceremony of Justice (Retd.) Sanjaya Kumar Mishra as the 1st President of GST Appellate Tribunal (GSTAT) in New Delhi

Union Finance Minister Smt. Nirmala Sitharaman administered the oath of integrity and secrecy to Justice (Retd.) Sanjaya Kumar Mishra as the President of the GSTAT in New Delhi on 6th May 2024. The appointment marks the beginning of the operationalisation of the GSTAT, a crucial body for resolving GST-related disputes.



The GSTAT is the Appellate Authority established under the CGST Act, 2017, to hear various appeals against the orders of the 1st appellate authority. It consists of a Principal Bench and various State Benches. As per the approval of the GST Council, the Government has notified the Principal Bench, to be located at New Delhi, and 31 State Benches at various locations across the country. The process for appointment of Judicial Members and Technical Members is already in progress.

The Tribunal is aimed to ensure swift, fair, judicious and effective resolution of GST disputes, besides significantly reducing the burden on higher courts. The establishment of the GSTAT is likely to enhance the effectiveness of the GST system in India and foster a more transparent and efficient tax environment in the country.

Please Click Here to read Press Release dated 6 May 2024.

Taxability of Corporate Guarantee provided by a related person without consideration – Punjab & Haryana High Court stays operation of circular issued by Central Board of Indirect Taxes & Customs (CBIC) in October 2023 treating the same as a taxable service

Background

The CBIC vide Circular no. 204/16/2023 – GST dated 27 October 2023 had clarified that the activity of providing Corporate Guarantee by a person on behalf of another related person, or by a holding company for sanction of credit facilities to its subsidiary company, to bank / financial institutions, even without any consideration will be treated as a supply of service and tax will be applicable. Further, guideline was issued regarding the valuation of such service.

Punjab & Haryana High Court's decision dated 3 May 2024

M/s. ACME Cleantech Solutions Private Limited had challenged the captioned circular on the ground that it seeks to take away the adjudicatory powers of the assessing authority as well as appellate authority by clarifying provisions in the nature of adjudication. Resultantly, taking note of the interim relief granted by Delhi High Court in the case of Sterlite Power Transmission Limited, the Punjab & Haryana High Court stayed the effect and operation of the captioned circular on this matter and directed the appellate authority to decide the case of the taxpayer without being influenced by the circular.

Please <u>Click Here</u> to read Punjab & Haryana High Court's decision dated 3 May 2024.





Long term Capital Gains – Central Board of Direct Taxes (CBDT) notifies '363' as Cost Inflation Index (CII) for FY 2024-25

CBDT vide Notification no. 44 dated 24 May 2024 has notified 363 as CII for FY 2024-25. If a long-term capital asset is transferred, the capital gains is computed after deducting the *indexed* cost of acquisition (instead of just cost of acquisition) to give the benefit of inflation to a taxpayer. Such indexation of cost of acquisition is done on the basis of CII. The base year for which CII is 100 is FY 2001-02.

Please Click Here to read the Notification no. 44 dated 24 May 2024.

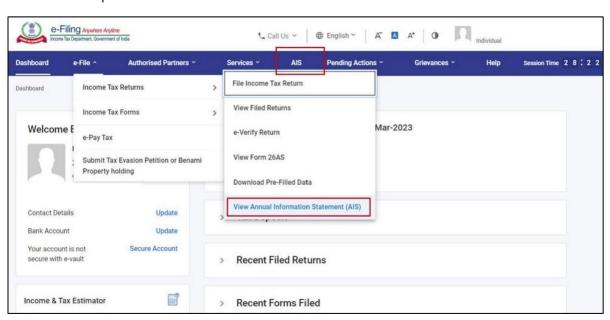
CBDT releases new functionality in Annual Information System (AIS) for taxpayers to display status of information confirmation process in real-time

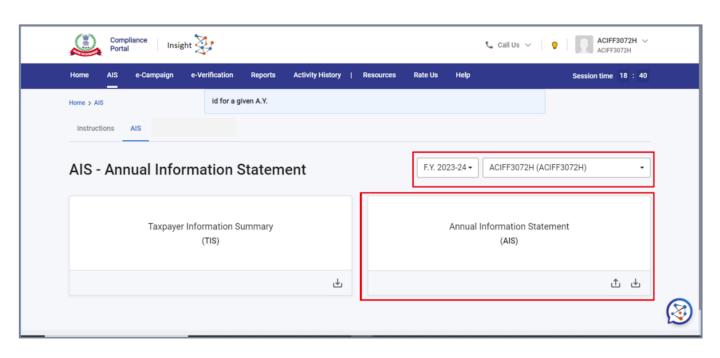
What is AIS?

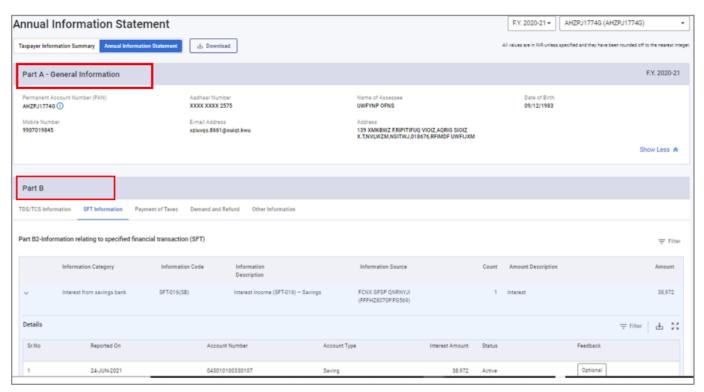
A comprehensive view of information for a taxpayer displayed in Form 26AS. Taxpayer can provide feedback on information displayed in AIS. AIS shows both, value reported by Source and Modified value (i.e. value after considering taxpayer's feedback) under each section [i.e. Tax Deducted at Source (TDS), Statement of Financial Transactions (SFT), Other information, etc.].

The objectives of AIS are:

- Display complete information to the taxpayer with a facility to capture online feedback
- Promote voluntary compliance and enable seamless prefilling of return
- Deter non-compliance



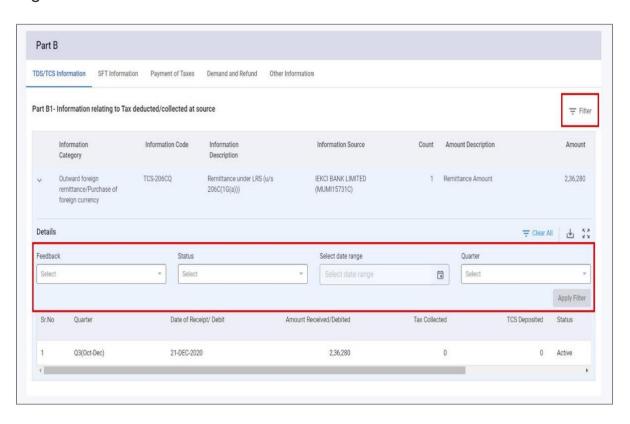


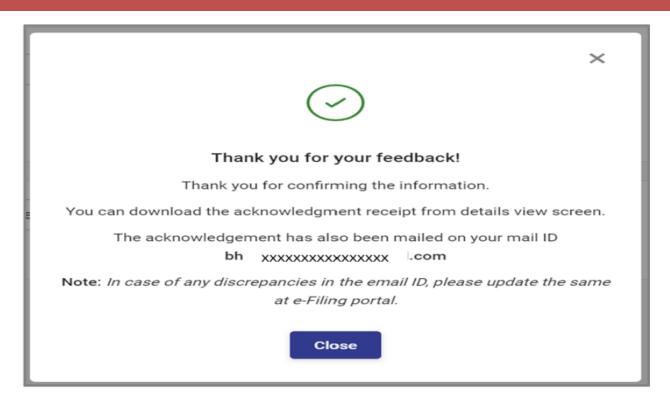


Functionality to furnish feedback on each transaction displayed in AIS

AIS is available to all registered taxpayers through the compliance portal, accessible through the e-filing website (www.incometax.gov.in). AIS provides details of a large number of financial transactions undertaken by the taxpayer which may have tax implications. AIS is populated based on the financial data received from multiple information Sources.

In AIS, taxpayer has been provided with a functionality to furnish feedback on every transaction displayed therein. This feedback helps the taxpayer to comment on the accuracy of the information provided by the Source of such information. In case of wrong reporting, the same is taken up with the Source for their confirmation, in an automated manner. Information confirmation is currently made functional with regard to information furnished by tax deductors / collectors and reporting entities.

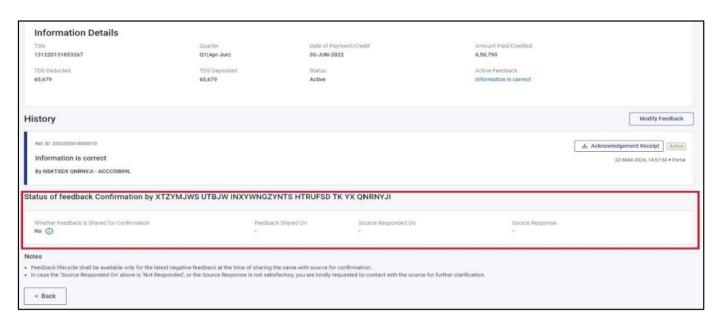




Press Release dated 13 May 2024 issued by CBDT

Income-tax department has now rolled out a new functionality in AIS to display the status of information confirmation process. This will display, whether the feedback of the taxpayer has been acted upon by the Source, by either, partially or fully accepting or rejecting the same. In case of partial or full acceptance, the information is required to be corrected by filing a correction statement by the Source. The following attributes shall be visible to the taxpayer for status of feedback confirmation from Source.

- Whether feedback is shared for confirmation This will let the taxpayer know if the feedback has been shared with the reporting Source for confirmation or not
- Feedback shared on This will let the taxpayer know the date on which the feedback has been shared with the reporting Source for confirmation
- Source responded on This will let the taxpayer know the date on which the reporting Source has responded on the feedback shared with it for confirmation
- Source response This will let the taxpayer know the response provided by the Source on the taxpayer's feedback (if any correction is required or not).



The new functionality is expected to increase transparency by displaying such information in AIS to the taxpayer. This is an initiative of the Income-tax department towards ease of compliance and enhanced taxpayer services.

Please Click Here to read press release dated 13 May 2024.

Please <u>Click Here</u> to read the AIS portal user guide uploaded on the Income-tax website on 15 May 2024.

Perquisite valuation of interest concession – Supreme Court upholds constitutional validity in respect of State Bank of India (SBI) prime rate of lending

Section 17(2) of the Income-tax Act lays down the rules and regulations for taxability of 'perquisites' in the hands of an employee (taxpayer), on account of various benefits (both monetary as well as non-monetary) provided by the employer. Section 17(2)(viii) is the residuary clause within sub-section (2) stating that value of any fringe benefit of amenity as may be prescribed by CBDT, shall be treated as a taxable perquisite in the hands of taxpayer.

Rule 3(7)(i) of the Income-tax Rules provides that the value of benefit to a taxpayer resulting from the provision of interest-free or concessional loan to the taxpayer or any member of his / her household shall be determined by reckoning the interest rate charged by SBI as on the 1st day of the relevant year for similar loans.

In this regard, the following issue arose for consideration before the Supreme Court of India.

- Whether section 17(2)(viii) / Rule 3(7)(i) leads to delegation of 'essential legislative function' to CBDT, and
- Whether Rule 3(7)(i) is arbitrary and violative of Article 14 of the Constitution of India, as it treats SBI rate as the benchmark. Article 14 of the Constitution of India is a fundamental right that guarantees equality before the law and equal protection of the law to all individuals in India

The Supreme Court ruled in favour of the tax department on both the questions, as below.

- Section 17(2)(viii) and / or Rule 3(7)(i) do not lead to delegation of 'excessive legislative function'. They fall within the parameters of permissible delegation, as any condition prescribed by CBDT must necessarily fall within the criteria of 'fringe benefit or amenity'
- Rule 3(7)(i) is not violative of Article 14 of the Constitution. It provides for uniform basis of valuation for all employees. It does not treat unequal as equal. The fixation of SBI rate as benchmark rate is neither arbitrary nor unequal exercise of power

Please Click Here to read the decision of Supreme Court dated 7 May 2024.

CBDT issues guidelines for compulsory selection of Income-tax Returns (ITRs) for complete scrutiny during FY 2024-25

The CBDT has issued parameters and procedures for compulsory selection of ITRs during FY 2024-25, in below cases.

- Cases pertaining to Survey u/s 133A of the Income-tax Act
- Cases pertaining to Search & Seizure
- Cases in which notice u/s 142(1) of the Income-tax Act has been issued, but no ITR has been furnished
- Cases in which notice u/s 148 has been issued,
- Cases relating to to registration / approval of charitable trusts / institutions claiming tax exemption
- Cases involving addition in an earlier Assessment Year on a recurring issue of law / fact
- Cases relating to specific information regarding tax evasion

Please Click Here to read the detailed guidelines dated 3 May 2024.

Capital gains - Bengaluru Tribunal holds, cost of acquisition of bonus shares allotted prior to 1 April 2001 is to be considered as nil, option of adopting fair value as on 1 Aril 2001 is not available

Background

While calculating capital gains under the Income-tax Act arising from transfer of shares, the taxpayer is entitled to reduce cost of acquisition of shares. In case of transfer of bonus shares allotted to a taxpayer before 1 April 2001, apparently there are 2 provisions in the law for determination of cost of acquisition, which appear to be contradictory:

- Section 55(2)(aa)(iiia), as per which cost of acquisition of bonus shares is to be considered as NIL, and
- Section 55(2)(b)(i), as per which, where a capital asset became property of the taxpayer before 1 April 2001, the taxpayer has the option to consider the fair value of the asset as on 1 April 2001 or the actual cost of the asset as cost of acquisition

Accordingly, an issue arose before Bengaluru Tribunal as to whether in case of bonus shares allotted to the taxpayer before 1 April 2001, the cost of acquisition is to be considered as NIL or fair value as on 1 April 2001, for the purpose of calculation of capital gains.

The Tribunal held that cost of acquisition of bonus shares allotted before 1 April 2001 is to be considered as NIL, considering that specific provision overrides general provision in law. The other provision giving the taxpayer an option to consider the fair value as on 1 April 2001 or the actual cost of the asset as cost of acquisition, is applicable to capital assets other than bonus shares.

Please Click Here to read the decision of Bengaluru Tribunal dated 29 April 2024.

Angel tax u/s 56(2)(viib) of Income-tax Act – Delhi Tribunal holds Safe Harbour Rule to be curative in nature, applies retrospectively

Section 56(2)(viib) of the Income-tax Act provides that where a closely held company receives any consideration for issue of shares exceeding the fair value of such shares, the consideration amount exceeding the fair value of the shares, is taxable as 'income from other sources' in the hands of the company. It is in the nature of an anti-abuse provision. The valuation rule for this purpose (to determine fair value, i.e., Rule 11UA of the Income-tax Rules, 1962) was amended with effect from 25 September 2023 onwards, amongst others, introducing a safe harbour limit of 10%. The objective of safe harbour limit / rule is to give benefit to the taxpayer on account of factors like foreign exchange fluctuation, bidding processes, changes in economic indicators, etc.

In this regard, a question arose for consideration before the Delhi Income-tax Appellate Tribunal as to whether the amendment to Rule 11UA is applicable prospectively or retrospectively. To this, the Tribunal held that the amendment is curative in nature and hence applicable retrospectively, i.e., even with respect to shares issued prior to the amendment dated 25 September 2023.

Please <u>Click Here</u> to read the decision of Delhi Tribunal dated 16 April 2024.



Indian Institute of Corporate Affairs (IICA) & Ministry of Corporate Affairs (MCA) hold inter-ministerial workshop on 'Responsible Business Conduct in India' in partnership with the United Nations Development Programme (UNDP) in New Delhi



An Inter-Ministerial Workshop on 'Responsible Business Conduct in India' was organised by the School of Business Environment, Indian Institute of Corporate Affairs (IICA) along with MCA, in partnership with UNDP in New Delhi. The objective of the workshop was to map the policies of different ministries aligned with responsible business, to share the progress made against the policies and schemes related to responsible business, to deliberate the need for collaborative action, and to seek inputs for documenting initiatives pertaining to responsible business.

Key outcomes of the workshops were to come-up with a compendium on relevant initiatives on different ministries and agencies of the Government of India which are related with responsible business conduct.

The workshop was attended by around 30 senior officers from different Ministries of the Government of India including the Ministry of Finance, Ministry of Corporate Affairs, Ministry of Law & Justice, Ministry of Housing & Urban Affairs, Department of Public Enterprises, Department of Science & Technology, Ministry of Commerce & Industry, Ministry of Mines and Ministry of Women & Child Development among others. This was a 2nd inter-ministerial workshop on the subject, the 1st one was held in January 2024 in New Delhi.

Please Click Here to read Press Release dated 21 May 2024.

Directorate General of Foreign Trade (DGFT) mandates requirement to obtain Bureau of Indian Standards (BIS) certification for import of used, repaired, refurbished, reconditioned electronic products

To curb the import of sub-standard and poor quality used, repaired, refurbished and reconditioned electronic products, DGFT has issued a notification on 20 May 2024 amending the Foreign Trade Policy and ITC HS 2022 Schedule 1 of the import policy under the Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2021.

As per notification, no used, repaired, refurbished, or reconditioned electronic products can be imported into India with effect from 20 May 2024 onwards, unless such electronic products are registered under the BIS Act, 2016, and comply with the Labelling requirements published by BIS.

What is BIS Certification?

A mark of quality and safety for products in India. Originally governed by the Indian Standards Institution (Certification Marks) Act of 1952, it was updated by the BIS Act, 2016. BIS was established with the primary objective of ensuring the quality and safety of products available to consumers. BIS plays a vital role in various domains, including public health, environmental safety and national security, by setting and enforcing standards.

BIS certification is mandatory for both Indian and foreign manufacturers if they sell products in the Indian market that fall under the BIS Compulsory Registration Scheme issued under the BIS Act, 2016.

In case of non-BIS compliant product, the importer needs to reexport such goods else the Customs authorities shall deform the goods beyond use and dispose the same as scrap under intimation to the Ministry of Electronics and Information Technology (MeitY).

Please Click Here to read Notification no. 13/2024-25 dated 20 May 2024.

Disclosure of Significant Beneficial Ownership in Limited Liability Partnerships (LLPs) – MCA relaxes additional fee & extends due date till 1 July 2024 for filings with Registrar of Companies (ROC) in Forms BEN-2 & 4D

Background

Till October 2023, 'Significant Beneficial Owner' rules under the Companies Act 2023 applied only to companies. However, vide a notification dated 9 November 2023, MCA extended the same to cover LLPs also.

What is Significant Beneficial Owner?

An individual possessing the following right(s) in an LLP:

- 10% or more of the contribution in the LLP
- 10% or more of the voting rights in respect of management or policy decisions of the LLP
- 10% or more of the distributable profits of the LLP
- Right to exercise significant influence or control in the LLP

Requirement to submit e-forms BEN-2 and 4D with ROC

In November 2023, ROC had prescribed the following legal obligations on LLPs:

- Step 1 LLP would be required to identify its Significant Beneficial Owners and cause such individuals to make a declaration in Form BEN-1
- Step 2 LLP would be required to give notice in Form BEN-4 (seeking information pertaining to Significant Beneficial Ownership) to every non-individual partner holding 10% or more of its contribution or voting rights
- Step 3 Upon identification of Significant Beneficial Owners, LLP would be required to file return in Form BEN-2 with ROC within 30 days from date of receipt of declaration. In case a person becomes Significant Beneficial Owner subsequently, he has to make the declaration to LLP immediately. In such case, LLP would be required to file a return in Form 4D with the ROC within 30 days from date of receipt of such declaration
- Step 4 LLP would be required to maintain register of Significant Beneficial Owners in Form BEN-3

Circular no. 01 / 2024 dated 7 February 2024 issued by MCA

In view of transition of MCA-21 from V2 to V3 and promote compliance, MCA had extended the timeline for filing Forms BEN-2 and 4D without additional fees until 15 May 2024. The forms were supposed to be available for filing on V3 portal from 15 April 2024 onwards, giving a window of 1 month for filing without any additional fee.

Circular no. 03 / 2024 dated 7 May 2024 issued by MCA

The due date for filing Forms BEN-2 and 4D without payment of additional fee, has been extended from 15 May 2024 to 1 July 2024. Currently, on V3 portal, neither Form BEN-2 nor Form 4D is available for filing. On V2 portal, Form BEN-2 is available for filing.

FORM NO. BEN-2

[Pursuant to section 90(4) of The Companies Act, 2013 and rule 4 and rule 8 of the Companies (Significant Beneficial Owners) Rules, 2018]



Return to the Registrar in respect of declaration under section 90

Compliance Related Filing

Description	e-Form with Instruction kit	e-Form	Form Version updated on
Return to the Registrar in respect of declaration under section 90	Form BEN-2 [zip] (805 KB)	Form BEN-2 [zip] (233 KB)	13-Mar-2024

Please Click Here to read Circular no. 3/ 2024 dated 7 May 2024.

Compliance Calendar

Compliance calendar for the month of June 2024

Compliance Due Date	Concerned (Reporting) Period	Compliance Detail	Applicable To
7 th June	May 2024	TDS / TCS deposit	Non-Government Deductors
		Equalization Levy deposit	All Deductors
10 th June		a) GSTR-7 (TDS return under GST)	a) Person required to deduct TDS under GST
		b) GSTR-8 (TCS return under GST)	b) Person required to collect TCS under GST
11 th June		GSTR-1 (Outward supply return)	a) Taxable persons having annual turnover > Rs. 5 crores in FY 2023-24
			b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2023-24 and not opted for Quarterly Return Monthly Payment (QRMP) Scheme
13 th June		GSTR-6 [Return by input service distributor (ISD)]	Person registered as ISD
		GSTR-5 (Return by Non-resident)	Non-resident taxable person (NRTP)
		Invoice Furnishing Facility - IFF (Details of outward supplies of goods or services)	Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2023-24 and opted for QRMP Scheme
15 th June		Deposit of PF & ESI contribution	All Deductors
	Jan-Mar 2024	Issue of TDS Certificate in Form 16A (other than salary)	Non-Government Deductors
	FY 2023-24	Issue of Annual TDS Certificate in Form 16 (salary)	
	Apr-Jun 2024	Deposit of 15% (1st Instalment) of Advance Tax for FY 2024-25	Taxpayers liable to pay advance tax
20 th June	May 2024	GSTR-3B (Summary return)	a) Taxable persons having annual turnover > Rs. 5 crore in FY 2023-24
			b) Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2023-24 and not opted for QRMP scheme
		GSTR-5A [Online Information Database Access and Retrieval (OIDAR) services return]	OIDAR services provider
25 th June		Form GST PMT-06 (payment of tax for QRMP filers)	Taxable persons having annual turnover ≤ Rs. 5 crore in FY 2023-24 and opted for QRMP scheme
30 th June	FY 2023-24	Filing of return of deposits / exempted deposits in Form DPT-3	All Companies
		Modification of Importer-Exporter Code (IEC) details with DGFT.	All entities having IEC
		Furnishing of Form-1 (Equalization Levy Statement)	All Deductors

About KrayMan

KrayMan Consultants LLP (KrayMan) is an accounting & consulting Firm headquartered in Gurugram & serving Clients across India for more than 12 years.

We were founded in 2012 by professionals from Big 4 accounting firms & industry background. We are a team of Chartered Accountants, Company Secretaries, Advocates & MBAs.

We specialize in India-Entry, Accounting, Taxation, Legal, Regulatory, Assurance, HR, Payroll & Loan staffing services. We provide services in the areas of Compliance, Advisory & Litigation.

We have been serving Domestic as well as International Clients from countries like USA, Japan, Australia, EU etc.

We have been Awarded under the category 'Small Business Award 2021' by the International Business Council of Australia.

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