

HVJ & Associates
CHARTERED ACCOUNTANTS

HVJ COMMUNIQUE

121st Edition – Nov 2023



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Dear Professional Colleagues,

“There is crack in everything, that’s how the light gets in.”

Darkness is drowned by three lights; nature, knowledge and truth.

We have to wait patiently and grab the opportunity we get with the light of knowledge and truth. We at HVJ grab every opportunity we get to improvise ourself and give best services to our esteemed client’s needs. We work on building trust of our clients by providing best quality services, we make consistent effort and work passionately to serve our clients’ needs and complete the work on time effectively and efficiently.

We are delighted to bring you our **121st** edition of HVJ Communique which briefs about various amendments/circulars/clarifications in Goods and Service Tax, Income Tax, RBI and Companies Act 2013. We are always on our forefront to apprise our clients, associates as well as those seeking knowledge with recent updates on various laws and regulations. We have consolidated various regulatory announcements and amendments by respective regulators, along with our analysis, for the month of November 2023.

Help us improve!

We hope you find this Journal informative and of continued interest. We welcome your feedback at Info1@hvj.co.in

With warm regards



CA Sudheer Javali
Partner
B. Com, FCA, DISA

THE COMPENDIUM

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• Compliance Calendar – Nov 23

Sl. No.	Particulars	Due Date
Compliance Calendar for GST		
1	GSTR-1 (Monthly) for October 2023	11-11-2023
2	GSTR-1 (IFF) for October 2023 (Optional)	13-11-2023
3	GSTR-3B (Monthly) for October 2023	20-11-2023
4	GSTR -5 for October 2023 (Non-Resident Taxable person)	13-11-2023
5	GSTR - 5A for October 2023 (OIDAR Service provider)	20-11-2023
6	GSTR-7 (Monthly) for October 2023	10-11-2023
7	GSTR-8 (Monthly) for October 2023	10-11-2023
8	GSTR-6 (Monthly) for October 2023	13-11-2023
9	Form GST PMT-06 for October 2023	25-11-2023
Compliance Calendar for ESI, PF & PT Payments		
1	PF Payment for the month of October 2023	15-11-2023
2	ESI Payment for the month of October 2023	15-11-2023
3	Professional Tax Due Date October 2023	20-11-2023
4	Half-yearly return of ESIC for the period April to September	12-11-2023
Compliance Calendar for Income Tax Act, 1961		
1	TDS Payment for October 2023	07-11-2023
2	TCS Payment for October 2023	07-11-2023
3	TDS payment under Sec 194IA, 194IB, 194M & 194S for October 2023	30-11-2023
4	Furnishing of TDS certificates certificate in respect of tax deducted (from payments other than salary) for the quarter ending September 30, 2023	15-11-2023
5	Furnishing of TDS certificates certificate in respect of tax deducted under 194-IA, 194M, 194S for the quarter ending September 30, 2023	14-11-2023
6	The company having any international transaction or specified domestic transaction and is required to furnish a report in Form No. 3CEB u/s section 92E, the due date to file ITR	30-11-2023

7	Due date to file ITR-7 for the A.Y. 2023-24	30-11-2023
8	Returns under Sec 35 (2AB), Rule 5D, 5E and 5F, Form 3CEJ	30-11-2023
Compliance Calendar for Companies Act, 2019 & LLP Act 2008		
1	MGT-7 To be filed within 60 days from the conclusion of AGM. Every company should file an annual return, furnishing details about the company.	29-11-2023

• *Fluctuations Summary*

• Foreign Exchange Fluctuation

Currency	As on 30 th Sep 2023	As on 31 st Oct 2023	Fluctuation
US	83.178	82.51	↓
GBP	101.45	99.45	↓
EURO	88.005	86.79	↓
JPY	0.55	0.54	↓

• Stock Market Fluctuation

Stock Exchange	As on 30 th Sep 2023	As on 31 st Oct 2023	Fluctuation
Sensex	65,828.41	63,874.93	↓
Nifty	19,518.90	19,079.60	↓

• Statutory Updates

Goods and Services Tax Act, 2017

1. CBIC prescribes valuation of inter-corporate guarantee provided to banking company or financial institution

CBIC has notified *Central Goods and Services Tax (Fourth Amendment) Rules, 2023*. In this rules, it has been provided that the value of supply of services by a supplier to a recipient who is a related person, by way of providing corporate guarantee to any banking company or financial institution on behalf of the said recipient, shall be deemed to be **1% of the amount of such guarantee** offered, or the actual consideration, whichever is higher.

(Notification No. 52/2023-Central Tax dated October 26th, 2023)

2. Advisory on Reporting of ITC Reversal opening Balance

- a. Taxpayers are permitted to use this facility to report their ITC Reversal Balance that has not been re-claimed.
- b. The taxpayer is advised to report solely those reclaimable ITC reversal balances that meet the legal criteria for re-claim and have not been previously claimed by the taxpayers.
- c. Taxpayers may report their opening balance until **30th November 2023**. After 30th November 2023, the option to report the opening balance will be removed, and it will be assumed that the taxpayer has no ITC Reversal Balance to report.
- d. Taxpayers may amend their opening balance until **31st December 2023**. Any reported balance after this date will be considered final and cannot be further amended.
- e. After 31st December 2023, the updated value shall be frozen with no further attempts provided to the taxpayers to amend their ITC Reversal Balance and this ITC Reversal value will be sent to the Jurisdictional Tax Officer for review.
- f. Due diligence should be done while reporting/amending the ITC reversal opening balance, because only 3 time amendment is allowed.
- g. The opening balance that has been reported or amended by the taxpayers shall be credited to the "Electronic Credit Reversal and Re-claimed Statement". This statement will be used to validate the taxpayer's ITC Re-claimed amount in Table 4A(5) & 4D(1) of form GSTR-3B.

This can be accessed at the GST portal in the path mentioned below:

- Login >> Report ITC Reversal Opening Balance, or
- Services >> Ledger >> Electronic Credit Reversal and Re-claimed Statement >> Report ITC Reversal Opening Balance

Note: Taxpayers should only utilize this functionality if they have an ITC reversal balance that is eligible for re-claim but has not yet been re-claimed.

3. Reporting of ITC availment, reversal and Ineligible ITC

The Government vide Notification No. 14/2022 has notified few changes in Table 4 of Form GSTR-3B for enabling taxpayers to correctly report information regarding ITC availed, ITC reversal and ineligible ITC in Table 4 of GSTR-3B

As per this new disclosure requirement a taxpayer is required to show the credit reversals under 2 bifurcations in Form GSTR 3B - **temporary reversals** (table 4B(2)) and **permanent reversals** (table 4B(1)). Changes introduced in the format of Table 4 of GSTR-3B at the GST Portal are depicted in **Red** font in the table below:

Table 4 – Eligible ITC

Details	Integrated Tax	Central Tax	State/UT Tax	Cess
1	2	3	4	5
(A) ITC Available (whether in full or part)				
(1) Import of goods				
(2) Import of services				
(3) Inward supplies liable to reverse charge (other than 1 & 2 above)				
(4) Inward supplies from ISD				
(5) All other ITC				
(B) ITC Reversed				
(1) As per rules 38, 42 and 43 of CGST Rules and Section 17(5)				
(2) Others				
(C) Net ITC Available (A) – (B)				
(D) Other Details				
1) ITC reclaimed which was reversed under Table 4(B)(2) in earlier tax period				
2) Ineligible ITC under section 16(4) and ITC restricted due to PoS provisions [¶]				

Every tax period, the total ITC figure gets auto-populated in Table 4(A) from the GSTR-2B statement (except for unavailable ITC due to the period of limitation or place of supply rules). Taxpayers will need to bifurcate their ITC into eligible and ineligible ITC accurately for GSTR-3B reporting. It allows the ineligible ITC to be deducted from the auto-populated total ITC figure.

Procedure to be followed by taxpayers while filing their GSTR-3B

- ❖ The total ITC (both eligible and ineligible) is auto-populated from the GSTR-2B in Table 4(A), except for unavailable ITC limited by Section 16(4) or POS rules.
- ❖ The taxpayer reports the non-reclaimable (permanent) reversals of ITC in Table 4(B)(1).
- ❖ The taxpayer reports reclaimable (temporary) reversals of ITC in Table 4(B)(2). If such ITC is reclaimed in future, the same is to be done in Table 4(A)(5) on fulfilling the relevant conditions. In this part, taxpayers may also reverse ITC claimed in a previous tax period due to an inadvertent error.
- ❖ Any reclaimed ITC should also be reported in Table 4(D)(1).
- ❖ The net ITC available will be displayed in Table 4(C) and credited to the Electronic Credit Ledger of the taxpayer.
- ❖ ITC not available on account of the limitation of the time period as per Section 16(4) or POS rules should be reported in Table 4(D)(2).

4. Due date towards availing unclaimed ITC pertaining to FY 2022-23

Time limit for availing ITC pertaining to the FY 2022-23, eligible ITC relating to invoice of previous financial year which had appeared in GSTR 2B but not availed due to any reason, which can be availed in GSTR 3B before:

- 30th November 2023 or
- the date of filing of Annual return for FY 2022-23
whichever is earlier

else ITC unclaimed will get expired.

5. GSTN issued an advisory related to changes in GSTR-5A

The GSTN has issued an advisory to inform that Table 5B which is introduced to report supplies made to registered GSTINs (B2B supplies) would be implemented shortly at GSTN Portal and till such time, OIDARs are advised to file the return in the existing GSTR 5A itself.

(GSTN Update dated October 27th, 2023)

6. GST Exemption of RCM on Ocean Freight

The Finance Ministry has notified changes to the IGST Act with regard to payment of integrated GST on 'ocean freight' on imported goods with effect from **1st October, 2023**.

Previously, importers were obligated to pay 5% GST under the reverse charge mechanism, but they are now exempt from this tax liability.

7. Eway Bill - 2-factor authentication w.e.f. 1st November 2023

The Goods and Services Tax (GST) e-invoice system has updated that the two-factor authentication is mandatory for all the taxpayers with the Annual Aggregate Turnover (AATO) above Rs. 20 crores with effect from November 1st, 2023.

However, assesseees with an AATO of less than 20 crore have also been sent Registration Pop-up and asseseees won't be able to generate an e-way bill without 2FA.

E-way bill generation will be blocked without 2FA

▪ *What is 2-factor Authentication?*

2-factor authentication aims to improve the security of the e-way bill and e-invoice system. Besides username and password, the user would now require providing a one-time password (OTP) for authenticating the login. The implementation of 2FA puts an additional burden on the teams logging into the e-invoice and e-way bill portals of NIC.

8. Centre notifies setting up of 31 state benches of GST Appellate Tribunal

Centre notified the setting of the 31 state bench of the GST Appellate Tribunal Centre announced for 28 states and eight union territories. Karnataka is set to have two appellate tribunals in Bengaluru.

9. Enrolment facility for URD suppliers

Based on a recent notification, unregistered persons have been allowed to supply goods through E-Commerce operators. In order to make way for such supplies, GSTN has developed the necessary functionality for enrolment of such URDs and the same is live.

10. Guidelines for persons supplying online money gaming

Such persons are required to take GST registration vide form GST REG-10 and declare the type of supply. Form GST REG-10 has been amended to accommodate the said change. They are also required to declare the details of the supplies made in GSTR-5A under existing table of 5 and 5A until table 5D and 5E are implemented.

11. Remittances received in Vostro account to qualify as export of services

The CBIC vide [Circular No. 202/14/2023-GST dated October 27, 2023](#) has issued a clarification relating to the export of services – sub-clause (iv) of the Section 2 (6) of the Integrated Goods & Services Tax Act, 2017 (“the IGST Act”).

Receipt of INR for the export of goods and services through balances in **Special Vostro Accounts** of the correspondent bank of the partner country shall be deemed to be fulfilling the conditions of the “receipt in convertible foreign exchange” for exports.

12. CBIC issued clarification regarding the determination of place of supply in various cases

The CBIC vide [Circular No. 203/15/2023-GST dated October 27, 2023](#) has issued a clarification regarding the determination of place of supply in below cases:

- a. supply of service of transportation of goods, including through mail and courier;
- b. supply of services in respect of advertising sector; and
- c. supply of the “co-location services”

13. Extension of due date w.r.t. Karasamadhana Scheme 2023

Karasamadhana Scheme which was previously introduced during the year to expeditiously resolve pre GST legacy tax disputes and to collect arrears promptly without any litigation. The Government has come up with an extension in due date till 30th November 2023 which was previously on 31st Oct 2023.

14. JSON download functionality for E-invoice

A new functionality to download E-invoice JSONs has been enabled on the portal. The JSON may be now generated for two categories of E-invoices i.e., “Generated category” which means e-invoices generated by the taxpayer and “Received category” which means e-invoices received by the taxpayer.

Income Tax Act, 1961

1. Processing of returns with refund claims under section 143(1) of the Income-tax Act, 1961 beyond the prescribed time limits in non-scrutiny cases-regd.

<https://incometaxindia.gov.in/Lists/Latest%20News/Attachments/607/Processing-of-returns-with-refund-claims-under-section-143-Misc-Comm-16-10-23.pdf>

Central Board of Direct Taxes (Board) vide its order under section 119 of the Income-tax Act, 1961 (Act) dated 05.07.2021 and 30.09.2021 on the captioned subject relaxed the time frame prescribed in second proviso to sub-section (1) of Section 143 of the Act. It was directed that all validly filed returns up to Assessment Year 2017-18 with refund claims, which could not be processed under sub-section (1) of the Section 143 of the Act and which had become time-barred, should be processed by 30.11.2021, subject to the conditions/ exceptions specified therein.

The matter has been re-considered by Board in view of pending taxpayer grievances related to issue of refund. To mitigate the genuine hardship being faced by the taxpayers on this issue, Board, by virtue of its power under section 119 of the Act and in partial modification of its earlier order under section 119 of the Act dated 05.07.2021 and 30.09.2021, supra, hereby further extends the time frame mentioned in the para no. 2 of the order dated 30.09.2021 till 31.01.2024 in respect of returns of income validly filed electronically. All other contents of the said order U/S 119 of the Act dated 05.07.2021 will remain unchanged.

2. Condonation of delay under section 119(2)(b) of the Income-tax Act, 1961 in filing of Form No. 10-IC for Assessment Year 2021-22 - Reg.

<https://incometaxindia.gov.in/communications/circular/circular-no-19-2023.pdf>

Circular No. 19/2023

- In exercise of the powers conferred under section 119(2)(b) of the Income-tax Act, 1961 ('the Act'), the Central Board of Direct Taxes ('CBDT') by Circular No. 612022 of even number dated 17.03.2022 condoned the delay in filing of Form No. 10-IC as per Rule 21AE of the Income-tax Rules, 1962 ('the Rules') for the previous year relevant to A.Y. 2020-21 in cases where the conditions stipulated in the said Circular are satisfied.
- Representations have been received by CBDT stating that Form No. 10-IC could not be filed for A.Y. 2021-22 within the due date or extended due date, as the case may be. It has been requested that the delay in filing of Form No. 10-IC for A.Y. 2021-22 may be condoned.
- On consideration of the matter, with a view to avoid genuine hardship to the domestic companies in exercising the option u/s 115BAA of the Act, CBDT in exercise of the powers conferred under section 119(2)(b) of the Act, hereby directs that: -

The delay in filing of Form No. 10-IC as per Rule 21AE of the Rules for previous year relevant to A.Y. 2021-22 is condoned in cases where the following conditions are satisfied:

- i) The return of income for relevant assessment year has been filed on or before the due date specified under section 139(1) of the Act;
- ii) The assessee company has opted for taxation us 115BAA of the Act in item (e) of "Filing Status" in "Part A-GEN" of the Form of Return of Income ITR-6; and -

- iii) Form No. 10-IC is filed electronically on or before 31.01.2024 or 3 months from the end of the month in which this Circular is issued, whichever is later.

3. Order under section 119 of the Income-tax Act

<https://incometaxindia.gov.in/communications/circular/circular%2018-2023.pdf>

Circular No. 18 of 2023

Central Board of Direct Taxes, issued Circular No. 18 of 2023 on Income Tax. This circular, dated 20th October, 2023, discusses the extension of the filing deadline for Income Tax reports. The order was made under section 119 of the Income-tax Act, 1961.

The circular addresses the difficulties faced by taxpayers and other stakeholders in meeting the timely filing requirements of the report of the accountant, as mandated under clause (8) of section 10AA, read with clause (5) of section 10A of the Income-tax Act, 1961. These challenges arose due to the notification of the relevant Form 56F on 19th October, 2023.

In light of these challenges, the Central Board of Direct Taxes, in the exercise of its powers under section 119(2)(b) of the Income Tax Act, 1961, has taken a significant step to alleviate genuine hardship in such cases. The circular announces an extension of the due date for filing the accountant's report. The extended due date for Assessment Year 2023-24 has been moved from the specified date under section 44AB to 31st December, 2023.

4. CBDT inserts Rule 16D & Form No. 56F -Report for claiming section 10AA deduction vide Notification No. 91/2023 – Income Tax dated: 19th October, 2023

<https://incometaxindia.gov.in/communications/notification/notification-91-2023.pdf>

[Notification No. 91 /2023/F. No. 370142/40/2023-TPL].

On October 19, 2023, the Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, issued a significant notification: No. 91/2023 – Income-Tax. This notification introduces amendments to the Income-tax Rules, 1962. The primary focus of these amendments is to provide clarity and updates concerning the deduction claims under section 10AA of the Income-tax Act, 1961.

In this article, we will delve into the details of Notification No. 91/2023 and its implications for taxpayers and the chartered accountants responsible for preparing these reports.

- i) **Amendment Summary:** Notification No. 91/2023 – Income-Tax is issued under the powers conferred by sub-section (5) of section 10A, along with section 295 of the Income-tax Act, 1961. The Income-tax Rules, 1962, have been amended by inserting a new rule, “16D,” which specifies the form of the report for claiming deduction under section 10AA. The short title for these amended rules is the “Income-tax (Twenty Sixth Amendment) Rules, 2023.”
- ii) **Changes Introduced:** The newly inserted rule “16D” mandates that the report required from the assessee, under sub-section (8) of section 10AA, shall be in Form No. 56F. Notably, this report must be prepared by a Chartered Accountant within the meaning of the Chartered Accountant Act, 1949.

Implications for Taxpayers and Accountants: The primary impact of these amendments is on those claiming deductions under section 10AA for income tax purposes. Taxpayers will need to adhere to the new reporting requirements, including providing accurate and complete information as specified in Form No. 56F. Chartered Accountants responsible for preparing these reports must ensure compliance with the updated rules and verify the information with reference to the accounts and records of the assessee.

iii) **Effective Date:** These amendments shall be deemed to have come into force from the 29th day of July, 2021. Taxpayers and accountants should ensure retroactive compliance where necessary.

Conclusion: Notification No. 91/2023 – Income-Tax introduces essential amendments to the Income-tax Rules, 1962, focusing on the reporting of deduction claims under section 10AA of the Income-tax Act, 1961.

5. CBDT Introduces Form 15CD for IFSC Unit Remittances

<https://incometaxindia.gov.in/communications/notification/notification89-2023.pdf>

[Notification No. 89 /2023/ F.No.370142/36/2023-TPL]

The CBDT has issued Notification No. 89/2023-Income Tax on October 16, 2023, to detail the amendments to the Income-tax Rules, 1962. These amendments are designed to facilitate the process of reporting remittances for units of IFSCs and ensure compliance with tax regulations. The key changes in this amendment include:

1. **Introduction of Form No. 15CD:** A new e-Form named “Form No. 15CD” is introduced. This form is to be used by units of IFSCs to report their remittances. The form includes detailed fields for providing information about the unit, remittee, remitter, currency details, and more.

2. **Quarterly Statement Requirement:** Units of IFSCs must now furnish a quarterly statement for each quarter of the financial year. This statement covers all remittances, and it must be submitted within fifteen days from the end of the respective quarter. The reporting must be done electronically under digital signature.

3. **Role of Principal Director General of Income-tax (Systems) and Director General of Income-tax (Systems):** These authorities will specify the procedures, formats, and standards for the furnishing and verification of various forms, including Form No. 15CA, Form No. 15CB, Form No. 15CC, and the newly introduced Form No. 15CD.

4. **Explanation:** The notification includes an explanation that defines terms such as “authorised dealer,” “International Financial Services Centre,” and “Unit” for clarity and interpretation.

It’s noteworthy that the changes outlined in this amendment will take effect from January 1, 2024. All units of IFSCs must ensure compliance with these new reporting requirements.

Conclusion: The CBDT’s amendment to rule 37BB and the introduction of Form No. 15CD represent a significant step in ensuring proper reporting and compliance in the realm of tax regulations for International Financial Services Centre units. The effective date of January 1, 2024, marks the beginning of these changes, and all relevant entities should take proactive steps to adapt to the new reporting format and meet their compliance obligations. The CBDT’s move is in line with its objective

to streamline and standardize the tax reporting process, ensuring transparency and adherence to law.

RBI / FEMA

1.	RBI permits PROIs maintaining a rupee account to purchase/sell dated Government Securities/Treasury Bills
	RBI has notified the FEM (Debt Instruments) (Second Amendment) Regulations, 2023. As per the amended norms, persons resident outside India (PROIs) maintaining a rupee account as per reg. 7 of FEM (Deposit) Regulations can purchase or sell dated Government securities/treasury bills. Further, the amount of consideration for purchase of such securities/bills must be paid out of funds held in rupee a/c. Also, the sale/maturity proceeds must be credited to the said rupee a/c.
2.	RBI issues master direction on NBFCs
	The Reserve Bank of India (the Bank), having considered it necessary in the public interest, and being satisfied that, for the purpose of enabling the Bank to regulate the financial system to the advantage of the country and to prevent the affairs of any Systemically Important Non-Deposit taking Non-Banking Financial Company (NBFC-ND-SI) and Deposit taking Non-Banking Financial Company (NBFC-D) from being conducted in a manner detrimental to the interest of investors and depositors or in any manner prejudicial to the interest of such NBFCs, and in exercise of the powers conferred under sections 45JA, 45K, 45L and 45M of the Reserve Bank of India Act, 1934 (Act 2 of 1934) and section 3 read with section 31A and section 6 of the Factoring Regulation Act, 2011 (Act 12 of 2012), hereby issues to every NBFC-ND-SI and NBFC-D, in supersession of the Notification No.DNBS.192/DG(VL)-2007 dated February 22, 2007, Notification DNBS.PD.CC.No.168/03.02.089/2009-10 dated February 12, 2010, Notification No.DNBS.233/CGM(US)-2011 dated November 21, 2011, Notification DNBS.PD.No.234/CGM(US)2011 dated December 02, 2011, Notification DNBS.PD.No.247/CGM(US)-2012 dated July 23, 2012 and Notification No.DNBR.009/CGM(CDS)-2015 dated March 27, 2015 the Non-Banking Financial Company - Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions, 2016 (the Directions) hereinafter specified.
3	Reserve Bank of India (Financial Statements - Presentation and Disclosures) Directions, 2021: Presentation of unclaimed liabilities transferred to Depositor Education and Awareness (DEA) Fund
	<ol style="list-style-type: none"> i. The 'Notes and Instructions for compilation' given in Annex II to the Reserve Bank of India (Financial Statements - Presentation and Disclosures) Directions, 2021 (Master Direction) require commercial banks to present all unclaimed liabilities, where the amount due has been transferred to the Depositor Education and Awareness (DEA) Fund established under the DEA Fund Scheme, 2014, under 'Schedule 12- Contingent Liabilities - Other items for which the bank is contingently liable'. ii. To ensure consistency in presentation of financial statements, it is advised that all cooperative banks shall present all unclaimed liabilities (where the amount due has been transferred to DEA Fund) under "Contingent Liabilities - Others". iii. Further, all banks shall specify in the disclosures¹ in the notes to accounts to the financial statements that balances of the amount transferred to DEA Fund are

	included under 'Schedule 12 - Contingent Liabilities - Other items for which the bank is contingently liable' or 'Contingent Liabilities - Others,' as the case may be.
iv.	These instructions are applicable to all commercial and cooperative banks for preparation of financial statements for the financial year ending March 31, 2024 and onwards.

Companies Act, 2013

1. The stakeholders are informed that Ministry of corporate Affairs has integrated with National Single Window System (NSWS) for the Incorporation of Companies & LLPs. Incorporation services can also be availed through NSWS portal.
2. **Demat of Shares Mandatory for Private Companies w.e.f 30th Sept 2024**

The Ministry of Corporate Affairs (MCA) has taken another significant step towards transparency with the issuance of a notification dated 27th October 2023. This notification introduces new rules under the Companies (Prospectus & Allotment of Securities) Second Amendment Rules, 2023 making the dematerialization of shares mandatory for private companies. The dematerialization of shares was already made mandatory for public companies starting on 2nd October 2018, and now it has been extended to private limited companies except Small Companies.

The dematerialization of shares was already made mandatory for public companies starting on 2nd October 2018, and now it has been extended to private limited companies except Small Companies.

Provisions of the Companies Act, 2013: The legal foundation for this regulation is found in Section 29 of Companies Act, 2013 and Rule 9 of Companies (Prospectus and Allotment of Securities) Rules, 2024

Applicable Criteria: These rules are applicable to private companies except Small Companies, with compliance required within 18 months of the fiscal year ending on 31st March 2023 i.e. by 30th September 2024.

Exemptions: Small companies and government companies are exempt from these regulations. Small companies are defined as those with a turnover not exceeding Rs. 40 Crores and paid-up capital not exceeding Rs. 4 Crores.

Legal Provision: The new Rule 9B, effective from 27th October 2023, mandates that every private company (excluding small companies) must issue securities only in dematerialized form and facilitate the dematerialization of all its securities.

Basis for Compliance: Private limited companies not meeting the criteria for small companies as of the last day of a financial year ending on or after 31st March 2023 must comply with the rule within 18 months from the close of that financial year, i.e., by 30th September 2024.

• Knowledge Capsule

GSTR-9C is a form for annual GST reconciliation statement filed by applicable taxpayers. Every registered person whose aggregate turnover during a financial year exceeds **Rs.5 crore** rupees shall get his accounts audited as specified under sub-section (5) of section 35 of the CGST Act.

They shall furnish a copy of the audited annual accounts and a reconciliation statement, duly certified, in form GSTR-9C.

Latest updates to GSTR-9C

As on 31st March 2023

CGST Notification 07/2023 has notified the GST Council recommendation.

Any delay in the filing of annual returns in form GSTR-9 FY 2022-23 onwards attracts concessional late fee for the following categories of registered taxpayers-

- Turnover up to Rs.5 crore filing GSTR-9 after due date attracts a late fee of Rs. 25 per day subject to max cap 0.02% of turnover.
- Turnover over Rs.5 crore to 20 crore filing GSTR-9 after due date attracts late fee of Rs 50 per day subject to max cap 0.02% of turnover.

As on 18th February 2023

49th GST Council meeting updates-

1. Council recommended the late fee rationalisation for delayed GSTR-9 filing from FY 2022-23 onwards as follows:

(a) Registered persons with Annual Aggregate Turnover (AATO) up to Rs.5 cr is reduced to Rs. 25 per day subject to a maximum of 0.02% of turnover.

(b) Registered persons with AATO of more than Rs.5 cr to 20 cr is reduced to Rs 50 per day subject to a maximum of 0.02% of turnover.

2. The Council recommended an amnesty scheme for pending GSTR-9 returns. This scheme comes with a conditional waiver/ reduction of late fees.

What is GSTR-9C?

Every registered person under GST whose turnover during a financial year exceeds the prescribed limit of Rs.5 crore must prepare the reconciliation statement in Form GSTR-9C and self-certify it before filing it on the GST portal.

GSTR-9C is a statement of reconciliation between:

- the Annual Returns in GSTR-9 filed for a FY, and
- the figures as per the audited annual Financial Statements of the taxpayer.

It will consist of gross and taxable turnover as per the Books reconciled with the respective figures as per the consolidation of all the GST returns for an FY.

Hence, any differences arising from this reconciliation exercise will be reported here, along with the reasons for the same and then certified by the taxpayer themselves. The certified statement shall be issued for every GSTIN. Hence, for a PAN, there can be several GSTR-9C forms to be filed.

Who must prepare & submit GSTR-9C?

GSTR-9C must be prepared and self-certified by the taxpayer. It must be filed on the GST portal or through a facilitation centre by the taxpayer, along with other documents such as a copy of the Audited Accounts and Annual Return in form GSTR-9. This statement is applicable to all those taxpayers who must get their Annual Accounts audited under the GST laws.

As per CBIC's CGST notification number 30/2021 dated 30th July 2021, all foreign companies which are in the airline business and compliant with the relevant provisions and rules of the Companies Act 2013 are exempted from the GSTR-9C requirement.

Moreover, persons who are non-residents and are providing OIDAR service in India to unregistered persons have been exempted from submitting GSTR-9 and GSTR-9C.

What is the due date for GSTR-9C?

The due date for submitting the Annual returns in GSTR-9 is the same deadline for submission of GSTR-9C. Hence, the GSTR-9C must be filed on or before **31st December** of the year subsequent to the relevant FY under audit. The due date can be extended by the Government if deemed necessary.

What's the importance of GSTR-9C?

The taxpayer must prepare this GST Reconciliation statement. Any differences between the details reported in all the GST returns and the Audited Accounts must be reported therein with the reasons for the differences.

This statement acts as a base for the GST authorities to verify the correctness of the GST returns filed by the taxpayers. The GSTR-9C needs to be self-certified by the taxpayer.

What are the contents of form GSTR-9C?

The GSTR-9C consists of two main parts:

Part-A: Reconciliation Statement

Part-B: Self-certification

Part-A: Reconciliation Statement

The figures in the audited financial statements are at PAN level. Hence, the turnover, Tax paid and ITC earned on a particular GSTIN (or State/UT) must be pulled out from the audited accounts of the organisation as a whole.

As per Notification No: 56/2019 issued on 14th November 2019 For FY 2017-18 & 2018-19, following changes were made:

Details of turnover adjustments to be made in tables 5B to 5N have been made optional, and adjustments, if any, which are required to be reported can be reported in Table 5O by the taxpayer. A Taxpayer has the option to not fill details of ITC reconciliation in tables 12B, 12C and 14. The Reconciliation Statement is divided into five parts as follows:

Part-I: Basic details: Consists of FY, GSTIN, Legal Name and Trade Name. The taxpayer must also mention if he is subject to audit under any other law.

Part-II: Reconciliation of turnover declared in the Audited Annual Financial Statement with turnover declared in Annual Return (GSTR-9): This involves reporting the gross and taxable turnover declared in the Annual return with the Audited Financial Statements. One must note that most often, the Audited Financial statements are at a PAN level. This might require the break-up of the audited financial statements at GSTIN level for reporting in GSTR-9C.

Part-III: Reconciliation of tax paid: This section requires GST rate-wise reporting of the tax liability that arose as per the accounts and paid as reported in the GSTR-9 respectively with the differences thereof. Further, it requires the taxpayers to state the additional liability due to unreconciled differences noticed upon reconciliation.

Part-IV: Reconciliation of Input Tax Credit (ITC): This part consists of the reconciliation of input tax credit availed and utilised by taxpayers as reported in GSTR-9 and as reported in the Audited Financial Statement.

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**Thanking You,
Team HVJ**