

TAXTIME

NEWSLETTER

DIRECT TAX NEWS

CBDT UNVEILS DRAFT COMMON ITR FORM



Barring one category, all income-tax payers will soon get a common return form. The Central Board of Direct Taxes (CBDT) has released a draft common income-tax return and invited suggestions from stakeholders.

Suggestions can be submitted by December 15, following which the I-T department will finalise and notify the form. Normally, new forms are notified just before April 1.

CBDT proposes to introduce a common ITR by merging the existing returns of income except ITR-7. However, "the current ITR-1 and ITR-4 will continue. This will give an option to such taxpayers to file the return either in the existing form (ITR-1 or ITR-4) or the proposed common ITR, at their convenience," the board said.

At present, there are seven ITR forms. For example, ITR-1 SAHAJ is for resident individuals with total income of up to ₹50 lakh, having income from salaries, one house property, other sources (Interest etc.), and agricultural income up to ₹5,000 ITR-4 Sugam is for individuals, HUFs (Hindu Undivided Families) and firms (other than LLP) being a resident having total income up to ₹50 lakh and having income from business and profession. Then, there is ITR-7 for political parties, fund or institution or university or other educational institution or any hospital or other medical institution, beside others.

The board acknowledged that the current ITRs are in designated forms wherein the taxpayer is required to go through all the schedules, irrespective of whether that particular schedule is applicable or not. This increases the time taken to file the ITRs and in turn may create avoidable difficulties for taxpayers.

Keeping these in mind, the board said the draft ITR aims to bring ease of filing returns and reduce the time for filing returns by individuals and non-business-type taxpayers considerably. The taxpayers will not be required to see the schedules that do not apply to them.

"It intends the smart design of schedules in a user-friendly manner with a better arrangement, logical flow, and increased scope of pre-filing. It will also facilitate the proper reconciliation of third-party data available with the Income-tax Department vis a vis the data to be reported in the ITR to reduce the compliance burden on the taxpayers," the board said.

It mentioned that the taxpayer is required to answer questions which apply to him and fill the schedules linked to those questions where the answer has been given as 'yes'. As a result, the time and energy of the taxpayer will be saved and he will be relieved of the additional burden of going through all parts of the ITR as is the requirement under the existing ITRs. This will increase ease of compliance, the board claimed.

CBDT also indicated that once the common ITR form is notified, after taking into account the inputs received from stakeholders, the online utility will be released by the I-T department. In such a utility, a customised ITR containing only the applicable questions and schedules will be available to the taxpayer.

LARGE EDUCATIONAL TRUSTS AT RISK OF LOSING TAX EXEMPTION



Several high net worth charities and trusts run the risk of losing their tax-exempt status, owing to two recent Supreme Court (SC) rulings, unless they undertake suitable internal restructuring, tax experts said. However, since the rulings are prospective in operation, these entities won't need to pay higher amounts as taxes, for this reason, for past periods.

In a ruling on October 19, the SC held that educational institutions or trusts can claim benefits of tax exemptions only if they 'solely' engage in education and not in any other activity of profit. For this, they cannot even have objects unrelated to education, the apex court ruled, adding that if the objective of an institution appeared to be profit-oriented, such institutions could not get approval under Section 10(23C) of the Income Tax Act.

In another ruling on October 20, the SC said that a 'general public utility (GPU)' cannot engage in any trade or commercial activity if it wants to claim income tax exemptions available to organisations doing charitable work. The first judgment has overruled two of the apex court's earlier rulings, as per which incidental commercial activities will not result in denial of exemption, so long as their main object is education. An expert said, "Considering that the ruling will have an unsettling effect on the well-established principles laid down by earlier rulings, the SC made the ruling effective prospectively, which means pending proceedings and previous orders are not affected,".

Even though the judgment passed is intended at curtailing tax exemption availed by institutions engaging in profitable businesses in the field of education, it is expected to impact genuine not-for-profit education institutions as well. Practically, many schools subsidise fees charged from students, by augmenting revenue from auxiliary activities — like letting the infrastructure (classrooms, playgrounds, etc) to private enterprises (for conducting coaching classes, private sports events, etc) during non-school hours or school holidays. "Such activities would, going forward, result in denial of tax exemption to the institution as a whole," expert said.

As for the October 20 ruling concerning GPUs, the SC stated that if a high markup is charged on the cost of such services, it shall lose the character of 'charitable purpose' and the institution would lose tax exemption and be subject to tax accordingly. The apex court has held that the money charged by these institutions should either be on a cost-to-cost basis or with a nominal mark-up.

In absence of any guidance on what would qualify as "nominal mark-up", it is again a subjective exercise and is prone to the whims and fancies of the tax officer

"The judgement has the potential to push the NPO (non-profit organisation) sector in India towards the donation model as opposed to a self-sustaining model. The legislative framework should be made to deal more effectively with the actual menace of promoters extracting profits fraudulently while working under the garb of a charitable institution, rather than putting an onerous obligation on all the charitable institutions to justify their motive and cause each year to the tax officer," said an expert.

This would require institutions to review their service and pricing models and make requisite amendments in line with the directions of the court.

IMPLEMENTATION OF MANDATORY MENTIONING OF HSN CODES IN GSTR-1



As per Notification No. 78/2020 – Central Tax dated 15th October, 2020, it is mandatory for the taxpayers to report minimum 4 digit or 6 digit of HSN Code in table-12 of GSTR-1 on the basis of their Aggregate Annual Turnover (AATO) in the preceding Financial Year. To facilitate the taxpayers, these changes are being implemented in a phase-wise manner on GST Portal.

Part I & Part II of Phase 1 has already been implemented from 01st April 2022 & 01st August 2022 respectively and is currently live on GST Portal. From 01st November, 2022, Phase-2 would be implemented on GST Portal and the taxpayers with up to Rs 5 crore turnover would be required to report 4-digit HSN codes in their GSTR-1.

CONDONATION OF DELAY IN FILING OF FORM NO.10A_CIRCULAR NO. 22/2022



On consideration of difficulties reported by the taxpayers and other stakeholders in the electronic filing of Form No. 10A, the Central Board of Direct Taxes (the Board) in exercise of its powers under Section 119 of the Income-tax Act, 1961 (the Act) extended the due date for filing Form No.10A required to be filed on or before 30.06.2021, to 31.08.2021 by Circular No.12/2021 dated 25.06.2021 , and further to 31.03.2022 by Circular No. 16/2021 dated 29.08.2021.

On consideration of the matter, with a view to avoid genuine hardship to such cases, the Board hereby condones the delay upto 25.11.2022 in filing Form No.10A under sub-clause (i) of clause (ac) of sub-section (1) of section 12A I clause (i) of first proviso to clause (23C) of section 101 clause (i) of first proviso to sub-section 5 of section 80G I fifth proviso to sub-section 1 of section 35 of the Act, which was required to be made electronically on or before 31.03.2022.

CBDT EXTENDS DEADLINE FOR FILING TDS FOR NON-SALARY TRANSACTIONS TILL NOVEMBER 30

The Central Board of Direct Taxes on Thursday extended the deadline for filing quarterly TDS statement in Form 26Q for the June quarter by a month till November 30. Form 26Q is used for quarterly filing of TDS returns on payments other than salary.

"Considering the difficulties in filing of TDS statement in the revised and updated Form 26Q, the Central Board of Direct Taxes (CBDT) has extended the due date of filing of Form 26Q for the second quarter of financial year 2022-23 from 31st October, 2022 to 30th November, 2022," CBDT said in a statement.

RELIEF FOR SMALL BIZ. GOVT SETS THE BALL ROLLING ON DECRIMINALISATION OF GST ACT



Decriminalisation of Goods and Services Tax Act is on the cards, which would give a big reprieve to small businesses in India. In what could be a major overhaul of the GST Act in nearly six years after it came into effect, the government is likely to raise the threshold limit for initiating criminal prosecution against GST evasion and draw a clear distinction between minor offences and wilful evasion under the proposed new changes, the sources said.

The threshold limit for launching criminal proceedings under GST will be raised to ₹20 crore and also the property of offenders below the set threshold will not be attached, as per the new changes to the GST Act being thought about, the sources said.

This and more such laissez-faire proposals will be put up before the GST Council during the second week of November. Some of these recommendations have come from the GST investigation units of the Central Board of Indirect Taxes and Customs, the sources said.

Currently, GST evasion of ₹5 crore or more attracts a jail term of 5 years. It will be 3 years with a fine for offences involving evasion between ₹2-5 crore and 1 year in case of evasion amounting between ₹1-2 crore. In case of repeated offence, jail term could be 5 years.

Also, the Act is so draconian that it sees both minor and wilful offenders under the same lens, which mainly hurts small businesses. Such drastic provisions will be discarded by abolishing the jail term below the threshold limit. Instead, the government will make GST offences up to ₹20 crore compoundable, the sources said. As a motivation for the assesseees to opt for compounding rather than litigation, the penalty or levy will also be kept lower. Prosecution will only be initiated in extreme cases, where wilful evasion of GST and misuse of input tax credit can be established.

GST COUNCIL SAYS RECURRING SHOW-CAUSE NOTICES MUST ONLY BE ISSUED BY JURISDICTIONAL TAX AUTHORITIES

The Goods and Services Tax (GST) Council has said only the so-called jurisdictional tax authorities must issue recurring show-cause notices to those under investigation even if the initial one is issued by another authority, which could be central or state officials.

The clarification eases the compliance burden for both the tax authorities as well as the taxpayers. The GST, implemented in July 2017, faced several initial hiccups as businesses adapted to greater compliance requirements for a nation-wide uniform levy. The tax authorities have also taken measures to ease the burden on taxpayers.

“Accordingly, the recurring show-cause notices may be issued by the concerned jurisdictional tax authorities administering the taxpayer, i.e. even if the investigation is conducted by central tax authorities and initial show-cause notice is issued by them, the recurring show-cause notice may be issued only by the jurisdictional tax authority administering the taxpayer,” the GST Council said.

“If the such jurisdictional tax authority is state tax, the recurring show cause notice may be issued by the concerned state tax authority.”

TODAY'S QUOTE

“There are always two choices. Two paths to take. One is easy. And its only reward is that it’s easy.”

- Unknown

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