TAX CHAT - Updates

Monthly Newsletter from SSJCO	**Email: sunil@ssjco.in** **Website: www.ssjco.in**
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Date: 27th December, 2021

Dear Madam / Sir,
Namaste!

We have almost approached the end of 2021 and with each passing day, there is more optimism that worst of the Pandemic is behind us. We urge everyone to please observe Covid precautions at all times so that it remains behind only, be it a old virus of 2020 or delta version thereof or new talk of the town virus "Omicron"

Next three months of this financial year are full of compliances with due dates in almost every 15 days. Let us all together endevour to comply with the same.

In this December 2021 edition of Tax Chat, we are attempting to summarize the direct tax updates in this month. In Rishabh's column, considering the importance of the topic, we are re-including his article on "The Power of Staying Invested..."

The profession is passing through times when there are shifts in the expectations from professionals by the industry, regulators and policy makers. So, at the start of this New Year, let us resolve to develop ourselves, our capabilities to match the expectation of all and become better professionals and human beings.

GURU Mahatria Ra, has said:

Time does not solve problems.
Rather, time makes you comfortable with problems.
You learn to live with them.
Making decisions and acting upon it alone will solve problems.
The only way you can improve any situation is by making fresh decisions and execute them.

Trust you will find this edition useful.

Happy Reading!
Stay Safe, Connected & Updated

With Regards,
Team – S S Jhunjhunwala & Co

Contents:

Circulars, Notifications and Others:

(Compiled by: Ms Sonakshi Jhunjhunwala)

1. **Section 80C – Notified Annuity Plan for purpose of Section 80C(2)(xii): Notification S. O. 5056(E) [No. 134/2021/F. NO. 178/4/2021-ITA-I], dated 6th December, 2021:**

Jeevan Akshay-VII Plan of the Life Insurance Corporation of India is notified as the annuity plan of the Life Insurance Corporation of India for the purposes of Section 80C(2)(xii) of the Income Tax Act, 1961 for the assessment year 2021-22 and subsequent years.

2. **Undisclosed credits of Rs. 20,353 crore detected with respect to 930 India linked entities in Panama and Paradise Paper Leaks: Posted On 7th December, 2021 by PIB Delhi:**

Union Minister of State for Finance Shri Pankaj Chaudhary in a written reply to a question in Rajya Sabha on 7th December, 2021 stated that as on 1st October, 2021, total undisclosed credits amounting to Rs. 20,353 crore have been detected with respect to 930 India linked entities in the Panama and Paradise Paper Leaks.

The Minister stated that Income Tax Department takes appropriate actions in case of persons, who are found to be involved in violation of the provisions of various Acts administered by the Income Tax Department like the Income Tax Act, 1961, and Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act,2015 etc. Such actions under direct tax law include searches & seizure, surveys, enquiries, assessment and reassessment of income, levy of taxes along with interest, levy of penalties, filing of prosecution complaints in criminal courts etc., wherever applicable.

Giving more details, the Minister stated that in 52 (fifty-two) cases of Panama and Paradise Paper Leaks, Criminal prosecution complaints have been filed under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. Further, in 130 cases proceedings under Black Money (Undisclosed Foreign Income and Assets) and Imposition of tax Act, 2015 have been initiated. Taxes collected so far amount to Rs. 153.88 crore in the Panama and Paradise Paper Leaks.

The Minister further stated that some Indian names have been released in the media which are allegedly linked to the Pandora Papers Leak. The Government of India has taken cognizance of the same and for the purpose of coordinated and speedy investigation brought the Pandora Papers Leak under the umbrella of Multi Agency group (MAG), which has been constituted under the convenorship of Chairman CBDT, with Directorate of Enforcement (ED), Reserve Bank of India (RBI), Financial Intelligence Unit India (FIU-IND) and Foreign Tax &Tax Research division of CBDT as its members agencies. Further, investigation is under progress.

3. Government notifies provisions of protocol amending India-Kyrgyz Republic DTAA: Notification No. 135 of 2021, dated 8th December, 2021:

The Ministry of Finance has notified the Protocol, amending the Agreement between the Government of the Republic of India and the Government of the Kyrgyz Republic for the avoidance of double taxation and for the prevention of fiscal evasion with respect to taxes on income (DTAA).

The agreement was first signed at New Delhi on 13-04-1999 and later at Bishkek, Kyrgyz Republic on 14-06-2019.

4. Breather for tax payer; AIS data not for tax calculation: CBDT: Source Fortune India, 8th December, 2021:

Amid concerns raised by some tax professionals on social media over alleged discrepancies related to stock sale and purchase data of assessees on newly-introduced Annual Information System (AIS), the Central Board of Direct Taxes (CBDT) has said that AIS data is not being used for suo moto tax liability calculation as of now.

Several professionals have pointed out that AIS is showing pledged shares as sale of shares, an entry which will enhance tax liability. They have also said that data on sale/purchase of shares is showing the day's closing prices rather than prices at which the sale/purchase was executed.

Clarifying the points, a top official from CBDT told Fortune India, "The equity data being reflected in AIS is based on inputs from depositories."

"The data is just there to make the tax payer aware about transactions that have been reported to the tax department by depositories and other third parties. We are not taking those transactions into account for pre-filling income tax return forms or calculating capital gains, etc., as of now, as it is a third party data," the official added. "No tax liability computation will be done based on the data," the official pointed out.

The official also said that AIS gives an option in the drop-down menu for raising a red flag on data sourced from third parties.

The CBDT has rolled out AIS to capture information related to interest, dividend, securities transactions, mutual fund transactions and foreign remittances, among others, for 360-degree profiling of tax payers to plug evasion. It will replace Form 26AS. The data is collected from agencies like depositories, property registrars and asset management companies.

5. CBDT notifies conditions to claim exemption on transfer of non-deliverable forward contracts u/s 10(4E): Notification No. 136 of 2021, dated 10th December, 2021:

The Finance Act, 2021 has inserted a new clause (4E) under section 10 to exempt any income accrued or arisen to, or received by a non-resident as a result of the transfer of non-deliverable forward contracts entered into with an offshore banking unit of IFSC which commenced operations on or before the 31st Mach, 2024 and fulfills prescribed conditions.

The CBDT has inserted a new Rule 21AK prescribing the following conditions to be fulfilled to claim the benefit of exemption:

(a) The non-resident enters into the non-deliverable forward contract with an offshore banking unit of an International Financial Services Centre which holds a valid certificate of registration granted under International Financial Services Centres Authority (Banking) Regulations, 2020 by the International Financial Services Centres Authority; and

(b) The non-resident does not enter into such contract through or on behalf of its permanent establishment in India.

The offshore banking unit shall ensure that the pointer (b) condition is complied with.

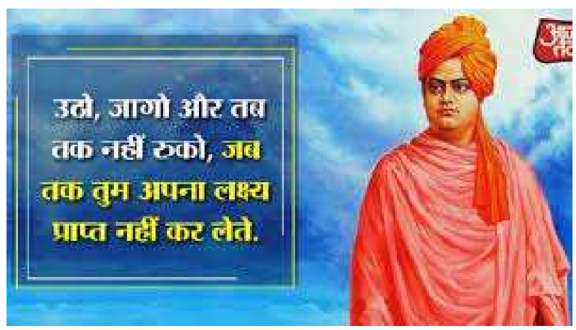
6. CBDT issues instructions to AO for uploading information on Insight portal for issuance of reassessment notice: Instruction F. No. 225/135/2021/ ITA-II, dated 10th December, 2021:

The Finance Act, 2021, has amended section 148 for the initiation of reassessment proceedings. As per the amended provisions, the information which has escaped assessment has been defined to include the two categories of information, i.e.,

(i) The information which is flagged in accordance with the risk management strategy formulated by the board; and

(ii) Final audit objections raised by the C&AG.

In order to implement risk management strategy, the Central Board of Direct Taxes (CBDT) has directed that the Assessing Officers (AOs) shall identify the following information for uploading on Verification Report Upload (VRU) functionality on insight portal:



Happy Vivekanand Jayanti

(a) Information from any other Govt. agency/law enforcement agency

(b) Information arising out of internal Audit objections

(c) Information received from any Income-tax Authority including the AO himself

(d) Information arising out of search or survey action

(e) Information arising out of FT&TR references

(f) Information arising out of any order of court has an impact on income of assessee or any other assessee

(g) Case involving additions on a recurring issue of law or fact:

I. Exceeding Rs. 25 lakhs in eight metro cities while at other charges, quantum of addition should exceed Rs. 10 lakhs;

II. Exceeding Rs. 10 crores in transfer pricing cases.

However the addition referred in point (g) shall be such addition which:

- Has become final as no further appeal has been filed against the assessment order; or

- Has been confirmed at any stage of appellate process in favour of revenue and assessee has not filed further appeal; or

- Has been confirmed at the 1st stage of appeal in favour of revenue or subsequently; even if further appeal of assessee is pending against such order.

The AO shall upload information pertaining to Assessment Year 2015-16 and Assessment Year 2018-19, which require action under section 148.

7. Japan's tax plan for FY 2022; new deduction on increasing wages and duties to ensure 15% minimum tax rate: News, dated 10th December, 2021:

Japan's government has adopted a tax plan for the fiscal year 2022 on 10th December 2021. The basic aim of the newly approved tax plan is to provide tax incentives to businesses on increasing wages. This decision is taken to boost household income and lift consumption, reduced due to Covid-19 pandemic. In October 2021, Prime Minister Fumio Kishida vowed to enhance support for firms raising wages that will help the redistribution of wealth accumulated within companies in the form of retained earnings and other reserves.

8. CBDT notifies e-Verification Scheme to deal with mismatch of taxpayers information reported by reporting entities: Notification No. 137 /2021, dated 13th December, 2021:

As per the Scheme, where the mismatch between the amount accepted by the assessee and the amount reported by the reporting entity persists, the information after initial e-verification shall be run through a risk management strategy laid down by the Board. The information found to be no/low risk on such risk criteria or where no further action is required shall be processed for closure.

The CBDT has notified the e-Verification Scheme, 2021, effective from 13th December, 2021. The scope of the Scheme shall be in respect to collecting information under sections 133, 133B, 133C, the exercise of power to inspect registers of companies under section 134, and exercise of the power of AO under section 135. The Scheme shall be applicable to verify the mismatch of the information uploaded to the taxpayer's registered account.

9. Direct Tax collections for Financial Year 2021-22 increase by more than 60%: CBDT: Press Release, dated 17th December, 2021:

The Central Board of Direct Taxes (CBDT) has issued press release stating that the figures of Direct Tax collections for the Financial Year 2021-22, as of 16.12.2021, show that net collections are at Rs. 9,45,276.6 crore compared to Rs. 5,87,702.9 crore over the corresponding period of the preceding financial year, i.e. F.Y. 2020-21. It represents an increase of 60.8%.

Further, the cumulative Advance Tax collections for the first, second and third quarter of the F.Y. 2021-22 stand at Rs. 4,59,917.1 crore as on 16.12.21, against Advance Tax collections of Rs. 2,99,620.5 crore for the corresponding period of the immediately preceding Financial Year, i.e. 2020-21. It represents a growth of 53.5% (approx).

10. OECD releases Pillar Two model rules for domestic implementation of 15% global minimum tax: News dated 20th December, 2021:

The OECD today published detailed rules to assist in the implementation of a landmark reform to the international tax system, which will ensure Multinational Enterprises (MNEs) will be subject to a minimum 15% tax rate from 2023.

The **Pillar Two model rules** provide governments a precise template for taking forward the two-pillar solution to address the tax challenges arising from digitalization and globalization of the economy agreed in October 2021 by 137 countries and jurisdictions under the OECD/G20 Inclusive Framework on BEPS.

The rules define the scope and set out the mechanism for the so-called Global Anti-Base Erosion (GloBE) rules under Pillar Two, which will introduce a global minimum corporate tax rate set at 15%. The minimum tax will apply to MNEs with revenue above EUR 750 million and is estimated to generate around USD 150 billion in additional global tax revenues annually.

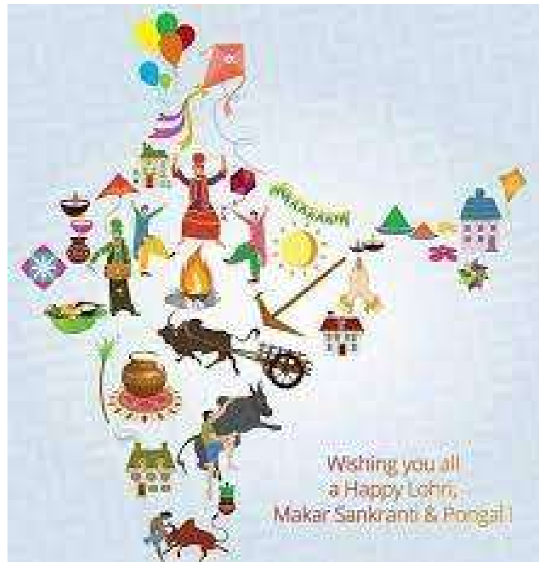
The GloBE rules provide for a coordinated system of taxation intended to ensure large MNE groups pay this minimum level of tax on income arising in each of the jurisdictions in which they operate. The rules create a "top-up tax" to be applied on profits in any jurisdiction whenever the effective tax rate, determined on a jurisdictional basis, is below the minimum 15% rate.

The new Pillar Two model rules will assist countries to bring the GloBE rules into domestic legislation in 2022. They provide for a coordinated system of interlocking rules that:

- define the MNEs within the scope of the minimum tax;
- set out a mechanism for calculating an MNE's effective tax rate on a jurisdictional basis, and for determining the amount of top-up tax payable under the rules; and
- impose the top-up tax on a member of the MNE group in accordance with an agreed rule order.

The Pillar Two model rules also address the treatment of acquisitions and disposals of group members and include specific rules to deal with particular holding structures and tax neutrality regimes. Finally, the rules address administrative aspects, including information filing requirements, and provide for transitional rules for MNEs that become subject to the global minimum tax.

"The model rules released today are a significant building-block in the development of a two-pillar solution, converting the foundations of a political agreement reached in October into enforceable rules," said Pascal Saint-Amans, Director of the OECD Centre for Tax Policy and Administration. "The fact that Inclusive Framework members have managed to reach a consensus on this detailed and comprehensive set of technical rules demonstrates their commitment to a coordinated solution to addressing the challenges raised by an increasingly digitalized and globalized economy."



In early 2022, the OECD will release the Commentary relating to the model rules and address co-existence with the US Global Intangible Low-Taxed Income (GILTI) rules. This will be followed by the development of an implementation framework focused on administrative, compliance and co-ordination issues relating to Pillar Two. The Inclusive Framework is also developing the model provision for a Subject to Tax Rule, together with a multilateral instrument for its implementation, to be released in the early part of 2022. A public consultation event on the implementation framework will be held in February and on the Subject to Tax Rule in March.

To access the full text of the model rules, including an overview, FAQs as well as fact sheets on the application of the rules, visit https://oe.cd/pillar-two-model-rules.

Further information on the two-pillar solution for addressing the tax challenges arising from digitalization and globalization of the economy is available at https://oe.cd/bepsaction1.

11. Tax reform in Cyprus after 20 years; Corporate Tax Rate to be increased from 12.5% to 15%: News, dated 22nd December, 2021:

The Government of Cyprus plans to bring a tax reform after 20 years. The proposed tax reforms include raising the corporate tax and introducing carbon tax and fossil fuels taxes to achieve the country's environmental objectives.

Finance Minister Constantinos Petrides stated that the tax reform will be "fairer, fiscally neutral" and finalized in 2022.

The new reform aims to increase the corporate tax rate from 12.5% to 15%, which is thought to be an opportunity to improve the national taxation framework by reducing the administrative burden with a reduction in taxation burden for businesses securing a neutral reform. In the opinion of the finance minister, an increase in the corporate tax rate will not affect foreign investment to a substantial extent because of the comparative advantages that Cyprus offers as an investment destination. However, business lobby groups argue that the government needs to offer "generous" compensatory measures to protect the economy's competitive advantage.

12. Canada introduced Digital Service Tax despite commitment to OECD's Pillar approach: News, dated 23rd December, 2021:

The Canadian Government has introduced a draft plan to implement Digital Service Tax (DST) on December 14, 2021. The DST will be implemented only if Pillar One of the OECD tax deal isn't implemented by 2024. Canada's digital service tax would apply @ 3% on large businesses earning revenue from specific digital platforms like online marketplaces, social media, online advertising, and user data.

It is interesting to note that in October 2021, the Organisation for Economic Co-operation and Development (OECD) announced that 136 countries, including Canada, had committed to a two-pillar package to ensure that large MNEs 'pay tax they operate and earn profits. OECD stated that signatory countries agree not to impose any newly enacted DSTs from October 8, 2021, until the earlier of December 31, 2023, or the coming into force of a Pillar One multilateral convention.

Thus, the US claims that Canada's DST legislation violates the terms of the OECD Agreement, which directly affects the business with the US. Google, too expressed its disappointment and stated that the move of Canada would undermine the multilateral consensus and raise prices for Canadians.

ARTICLE:

The Power of Staying invested….

(by CA Rishabh Adukia)

Investors are more likely to reach their long-term goals if they remain invested and avoid short-term decisions that may take them off course.

Don't flee the market in a panic, but rather embrace the turmoil as an investment opportunity--you'll be better off in the long run.

Market volatility is one of the most reliable things that you can predict. You don't know how prices are going to move next month, next year. But we know one thing and that is, the prices are going to move around, and what we see is that prices often move around more than fundamentals, more than the underlying cash flows, which means at times, you'll have these volatile periods where market prices will fall a lot, where stocks' share prices will fall, and maybe even residential property prices will fall. People often get scared due to this. People feel the pain of losses more than they enjoy the pleasure of gains. One of the most important things you should keep in mind is that you don't overreact in such low conditions and sell the stocks when they're down or sell the shares when they're down. That's the worst thing that people can do.

Investors during volatile times generally make suboptimal decisions when emotions take over, tending to buy out of excitement when the market is going up and sell out of fear when the market is falling. Markets do ultimately normalise, and when they do, those who stay invested may benefit more than those who don't. Markets are always forward looking while events such as pandemic, demonetization, crisis are always historical. Markets consider the forward earning of companies to ascertain its true value.

Investors need to keep their core focus on asset allocation at all times; this will make the journey really smooth. Always ask your advisor for the optimal asset allocation that can best be suited for you depending on your risk profile. Once the asset allocation is finalised, there is a need for a logical solution for taking decisions within this framework.

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In my opinion, market volatility is an investment opportunity. Warren Buffett always says that he likes his stocks the way he likes his socks: on sale. So, often market volatility means lower prices. ***It's a funny thing that in the stock market or the share market, people actually want more of something when the price goes up, and they want less of something when the price goes down.*** We think that's exactly the opposite of how you should think about it. So, generally when prices fall, it means you're able to buy stocks or shares, fractional ownerships of companies, at better prices. We view it as a positive, not as a negative and so we prepare for the volatility by demanding good prices before we invest and that allows us to have capital or cash available to take advantage of the market opportunity.

Hence, it's really important during periods of market volatility that you don't overreact, that you don't sell out your investments at the bottom. That's the worst thing that people can do. Our research shows that those who sell out at the bottom and then buy back in, say a year later when they feel more comfortable, do much worse than those who stay invested. So, according to us, the most important thing that you should do is to actually not do anything and to talk to your financial advisor or your financial planner and really stick to the plan. That's what the plans are there for. In the short term, markets are going to move around a lot, and it's very important that you take a long-term approach to investing. Our view is that when we have periods of market volatility or where prices fall, it's often a time where you should be adding more to your investments rather than taking them away.

We are of the firm belief that to make money from equity markets, follow the ones who have actually made it big. The investors who have made it big not only in India but globally, are those set of people who have invested in the equity markets looking at the fundamental of the companies and not stock market prices. The handful of people on one hand who have efficiently timed the market have not done as well as the other set of people. It has to be accepted that the behavior of the market is very irrational. There is a saying among the community that the market can remain irrational more than a person's imagination.

(The author Rishabh Adukia is a Chartered Accountant and qualified professional advising on wealth management to individuals, millennial's, emerging HNIs including others and can be reached on adukia.rishabh@gmail.com)

Action Points under Income Tax Act, 1961

For the Month of January 2022:

7th January	Deposit of Tax deducted/collected for the month of December, 2021.
15th January (as extended)	Filing of audit report under section 44AB for the assessment year 2021-22 in the case of a corporate-assessee or non-corporate assessee (who was required to submit his/its return of income on October 31, 2021)
15th January	Quarterly statement of TCS for the quarter ending December 31, 2021
31st January (as extended)	Furnishing of Report of Accountant – transfer pricing report u/s 92E of the Act
31st January	Quarterly statement of TDS for the quarter ending December 31, 2021

(The due date for filing of audit report for Assessment Year 2021-22 has been extended vide Circular no. 17/2021, dated 09-09-2021)

....A MESSAGE FROM BHAGVAT GITA....

"To know the meaning of life!!!"

A man died...

When he realized it, he saw God coming closer with a suitcase in his hand.

Dialogue between God and Dead Man:

God: Alright son, it's time to go.

Man: So soon? I had a lot of plans...

God: I am sorry but, it's time to go.

Man: What do you have in that suitcase?

God: Your belongings.

Man: My belongings? You mean my things... Clothes... money...

God: Those things were never yours, they belong to the Earth.

Man: Is it my memories?

God: No. They belong to Time.

Man: Is it my talent?

God: No. They belong to Circumstance.

Man: Is it my friends and family?

God: No son. They belong to the Path you travelled.

Man: Is it my wife and children?

God: No. they belong to your Heart.

Man: Then it must be my body?

God: No, No... It belongs to Dust.

Man: Then surely it must be my Soul!

God: You are sadly mistaken son. Your Soul belongs to me.

Man, with tears in his eyes and full of fear, took the suitcase from God's hand and opened it...

Empty...

Heartbroken and tears falling down his cheeks, he asks God...

Man: I never owned anything?

God: That's right. You never owned anything.

Man: Then? What was mine?

God: Your MOMENTS.

Every moment you lived was yours.

Do Good in every moment

Think Good in every moment

Thank God for every moment

Life is just a Moment.

Live it...

Love it...

Enjoy it...

It is the soul of BHAGVAT GITA

We wish all our readers and well-wishers to live, love and enjoy every moment.

This Tax Chat is prepared only for information of our clients and colleagues in the office. In this Tax Chat an attempt has been made to summarize various changes / development in Direct Tax Law during previous months.

The information is of a general nature and is not intended to address specific facts and circumstances. Specific guidance may be obtained before acting on the same.

If you need full text of circular, notification, press release, etc., we will be happy to provide the same on hearing from you. We have compiled the information from Taxmann and Taxsutra websites and mails.

Compiled by:
S.S. Jhunjhunwala& Co.
204 & 306, Akruti Arcade, J.P. Road, Opp. Wadia School, Andheri (West), Mumbai-400053
Tel: 61277474 / 61277475
Website: www.ssjco.in

Email:

Sunil Jhunjhunwala	**sunil@ssjco.in**
Hiten Shah	**hiten@ssjco.in**
Nirav Shah	**nirav@ssjco.in**
Swati Gupta	**csswati@ssjco.in**
Samiksha Adukia	**samiksha@ssjco.in**
Sonakshi Jhunjhunwala	**sonakshi@ssjco.in**