

# TAX CONNECT

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## EDITORIAL



Friends,

CBDT issued Circular No. 20 of 2021 dated 25<sup>th</sup> November and attempted to provide more clarity and relief to those taxpayers whose practical issues left unattended, particularly in the case of buyers of petroleum products where TDS on state taxes have resulted in an unnecessary cascading effect despite the fact that the amount of states taxes are shown separately on the invoice. Guidelines under section 194-O(4), section 194Q (3) and section 206C (1) of the Income-tax Act, 1961 issued to clarify the following matters:

**1. E-auction services carried out through electronic portal:**

The provisions of section 194-O of the Act shall not apply in relation to e-auction activities carried out by e-auctioneers if all the facts listed at (a) to (f) of para 5.1.2 of the circulars are satisfied. This clarification shall not apply if any of these facts are not satisfied. Further, it is clarified that the buyer and seller would still be liable to deduct/ collect tax as per the provisions of section 194Q and 206C (1H) of the Act, as the case may be.

**2. Adjustment of various state levies and taxes other than GST :**

In case of purchase of goods which are not covered within the purview of GST, when tax is deducted at the time of credit of amount in the account of seller and in terms of the agreement or contract between the buyer and the seller, the component of VAT/Sales tax/Excise duty/CST, as the case may be, has been indicated separately in the invoice, then the tax is to be deducted under section 194Q of the Act on the amount credited without including such VAT/Excise duty/Sales tax/CST, as the case may be. However, if the tax is deducted on payment basis, if it is earlier than the credit, the tax is to be deducted on the whole amount as it will not be possible to identify the

payment with VAT/Excise duty/Sales tax/CST component to be invoiced in the future. Furthermore, in case of purchase returns, the clarification as provided in Para 4.3.3 of circular no. 13 of 2021 shall also apply to purchase return relating to non GST products liable to VAT/excise duty/sales tax CST etc.

**3. Applicability of section 194Q of the Act in cases where exemption has been provided under section 206C (1A) of the Act :**

The provisions of section 194Q of the Act does not apply in respect to those transactions where tax is collectible under section 206C [except sub-section (1H) thereof] of the Act. Since by virtue of sub-section (1A) of section 206C of the Act, the tax is not required to be collected for goods covered under sub-section (1) of the said section, it is hereby clarified that in such cases, the provisions of section 194Q of the Act will apply and the buyer shall be liable to deduct tax under the said section if the conditions specified therein are fulfilled.

**4. Applicability of the provisions of section 194Q in case of department of Government not being a public sector undertaking or corporation :**

For the purposes of section 194Q, Central Government or State Government shall not be considered as 'seller' and no tax is to be deducted by the buyer, in cases where any Department of Central or State Government are seller of goods. Further clarified that any other person, such as a Public sector Undertaking or corporation established under Central or State Act or any other such body, authority or entity, shall be required to comply with the provisions of section 194Q and tax shall be deducted accordingly.

Truly Yours

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## TAX CALENDAR

Due date	Form/Return /Challan	Reporting Period	Description
30 <sup>th</sup> November 2021	Form No. 26QB /26QC/ 26QD	OCTOBER 2021	Due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194-IM, in the month of October 2021
30 <sup>th</sup> November 2021	Form 3CEFB		To exercise option of safe harbour rules for Domestic transaction.
30 <sup>th</sup> November 2021	Form 3CEB		Report to be furnished in Form 3CEB in respect of International transaction and specified domestic transaction.
30 <sup>th</sup> November 2021	Form No. 64	FY-2020-2021	Statement of income distribution by Venture Capital Company or venture capital fund in respect of income Distributed during previous Year 2020-21
30 <sup>th</sup> November 2021	Form No. 64D	FY 2020-2021	Statement to be furnished in Form No. 64D by Alternative Investment Fund (AIF) to Principal CIT or CIT in respect of income Distributed (during previous year 2020-21) to unit holders.
30 <sup>th</sup> November 2021	Form No. 10BBB	April 2021 to June 2021	Intimation to be made by a Pension Fund in respect of each investment ) made by it in India in Form No. 10BBB for the quarter ending on 30th June,2021

# INCOME TAX

## NOTIFICATION

### SUBSTITUTED FORM NO. 52A - STATEMENT TO BE FURNISHED TO THE ASSESSING OFFICER UNDER SECTION 285B OF THE INCOME-TAX ACT, 1961, IN RESPECT OF PRODUCTION OF A CINEMATOGRAPH FILM

**OUR COMMENTS:** The Central Board of Direct Taxes (CBDT), Department of Revenue, Ministry of Finance vide Notification No. 132/2021 dated 23<sup>rd</sup> November 2021, notified the Income tax (32<sup>nd</sup> Amendment), Rules, 2021. In the Income-tax Rules, 1962, in Appendix II, for Form No. 52A, [Statement to be furnished to the Assessing Officer under section 285B of the Income-tax Act, 1961, in respect of production of a cinematograph film] the following Form shall be substituted, namely:-

**FORM NO. 52A**  
[See rule 121A]

Statement to be furnished to the Assessing Officer under section 285B of the Income-tax Act, 1961, in respect of production of a cinematograph film

Sr. No.	Particulars	Details
1.	Name and address of the producer	Details of Producer
		Name
		Status
		Residential status
		Permanent Account Number
		Tax Deduction Account Number
2.	Relevant previous year	Address
3.	Details of the film	Name of the Film
		Nature of the Film
		Celluloid Film
		Other than Celluloid Film
4.	Date on which the production	

	of the film was started	
5.	If the production of the film has been completed, the date of completion	
6.	Financial year to which the statement relates	
7.	Details of payments of over ₹ 50,000 in the aggregate made by the producer or due from him to each person engaged in the production of the film as employee or otherwise:	
(i)	Details of the person to whom payment has been made or is due	
	Name of the Person	Address of the Person
		PAN of the Person
(ii)	Details of payment made to person mentioned in (i) above	
	Amount	Date on which payment was made or became due
	Whether paid in cash if yes, then amount	Tax deducted at source or not
	paid in cash	

**Verification:**

I \_\_\_\_\_, do hereby declare that what is stated above is true to the best of my knowledge and belief. Verified today, the day of \_\_\_\_\_  
Place:  
Date:

**[For further details please refer the Notification]**

# GST

## NOTIFICATION

**PRESCRIBED CGST @ 6% ON CERTAIN TEXTILE AND TEXTILE PRODUCTS AND GARMENTS FALLING UNDER CHAPTER 50, 51, 52, 53, 54, 55, 56, 58, 59, 60, 63, 64 W.E.F. 1.1.2022**

**OUR COMMENTS:** The Department of Revenue, Ministry of Finance, vide Notification No. 14/2021-Central Tax (Rate) dated 18th November, 2021 amended Notification No 1/2017- Central Tax (Rate) dated 28.06.2017 and prescribed CGST @ 6% on certain Textile and textile products and Garments falling under chapter 50, 51, 52, 53, 54, 55, 56, 58, 59, 60, 63, 64.

**[For further details please refer the Notification]**

## NOTIFICATION

**NEW CATEGORY OF SERVICES HAS BEEN INCLUDED IN THE CATEGORY OF SERVICES THE TAX ON INTRA-STATE SUPPLIES OF WHICH SHALL BE PAID BY THE ELECTRONIC COMMERCE OPERATOR (ECO)**

**OUR COMMENTS:** The Department of Revenue, Ministry of Finance, vide Notification No. 17/2021-Central Tax (Rate) dated 18th November, 2021 amended Notification No. 17/2017-Central Tax (Rate) dated 28.06.2017 and notified that in case of the following categories of services, the tax on intra-State supplies shall be paid by the electronic commerce operator –

1. Services by way of transportation of passengers by omnibus or any other motor vehicle;
2. supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises.”

Further, Explanation has been amended as under:

(i) in item (b), for the words, brackets, numbers and figures “and “motor cycle” shall have the same meanings as assigned to them respectively in clauses (22), (25) and (26) of section 2 of the Motor Vehicle Act, 1988 (59 of 1988).”, the words, brackets, numbers and figures “”, motor cycle, motor vehicle and omnibus shall have the same meanings as assigned to them respectively in clauses (22), (25), (27), (28) and (29) of section 2 of the Motor Vehicle Act, 1988 (59 of 1988).” shall be substituted;

(ii) after item (b), the following shall be inserted namely, -

“(c) specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.”

This notification shall come into force with effect from the 1st day of January, 2022.

**[For further details please refer the Notification]**

# FEMA

## CIRCULAR

### EXIM BANK'S GOVERNMENT OF INDIA SUPPORTED LINE OF CREDIT (LoC) OF USD 10.40 MILLION TO THE GOVERNMENT OF THE KINGDOM OF ESWATINI (SWAZILAND)

**OUR COMMENTS:** Vide Circular No. 17 dated 8<sup>th</sup> November 2021, Export-Import Bank of India (Exim Bank) has entered into an agreement dated February 01, 2021 with the Government of the Kingdom of Eswatini (Swaziland), for making available to the latter, Government of India supported Line of Credit (LoC) of USD 10.40 million (USD Ten million and four hundred thousand only) for the purpose of financing construction of a Disaster Recovery Site, subject to preparation and appraisal of Detailed Project Report (DPR) at a cost not exceeding 1% of the credit, in the Kingdom of Eswatini (Swaziland). Under the arrangement, financing of export of eligible goods and services from India, as defined under the agreement, would be allowed subject to their being eligible for export under the Foreign Trade Policy of the Government of India and whose purchase may be agreed to be financed by the Exim Bank under this agreement. Out of the total credit by Exim Bank under the agreement, goods, works and services of the value of at least 75 per cent of the contract price shall be supplied by the seller from India, and the remaining 25 per cent of goods and services may be procured by the seller for the purpose of the eligible contract from outside India.

The Agreement under the LoC is effective from September 27, 2021. Under the LoC, the terminal utilization period is 60 months after the scheduled completion date of the Project.

Shipments under the LoC shall be declared in Export Declaration Form as per instructions issued by the Reserve Bank from time to time.

No agency commission is payable for export under the above LoC. However, if required, the exporter may use his own resources or utilize balances in his Exchange Earners' Foreign Currency Account for payment of commission in free foreign exchange. Authorised Dealer (AD) Category- I banks may allow such remittance after realization of full eligible value of export subject to compliance with the extant instructions for payment of agency commission.

AD Category – I banks may bring the contents of this circular to the notice of their exporter constituents and advise them to obtain complete details of the LoC from the Exim Bank's office at Centre One, Floor 21, World Trade Centre Complex, Cuffe Parade, Mumbai 400 005 or from their website [www.eximbankindia.in](http://www.eximbankindia.in)

The directions contained in this circular have been issued under section 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and are without prejudice to permissions/ approvals, if any, required under any other law.

**[For further details please refer the Circular]**

## CUSTOMS

### NOTIFICATION

#### RATE OF EXCHANGE OF CONVERSION OF THE FOREIGN CURRENCIES INTO INDIAN CURRENCY OR VICE VERSA

**OUR COMMENTS:** The Central Board of Indirect Taxes and Customs vide notification number 92/2021 dated 8<sup>th</sup> November 2021, hereby determines that the rate of exchange of conversion of each of the foreign currencies specified in column (2) of each of Schedule I and Schedule II annexed hereto, into Indian currency or vice versa, shall, with effect from 19<sup>th</sup> November, 2021, be the rate mentioned against it in the corresponding entry in column (3) thereof, for the purpose of the said section, relating to imported and export goods.-

#### SCHEDULE-I

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(3)	
		(For Imported Goods)	(For Exported Goods)
1.	Australian Dollar	55.20	52.85
2.	Bahraini Dinar	203.30	190.85
3.	Canadian Dollar	59.90	57.75
4.	Chinese Yuan	11.80	11.45
5.	Danish Kroner	11.50	11.10
6.	EURO	85.60	82.55
7.	Hong Kong Dollar	9.70	9.35
8.	Kuwaiti Dinar	253.70	237.55
9.	New Zealand Dollar	53.50	51.20
10.	Norwegian Kroner	8.65	8.35

11.	Pound Sterling	101.90	98.45
12.	Qatari Riyal	20.95	19.65
13.	Saudi Arabian Riyal	20.45	19.20
14.	Singapore Dollar	55.65	53.80
15.	South African Rand	4.95	4.65
16.	Swedish Kroner	8.55	8.25
17.	Swiss Franc	81.65	78.40
18.	Turkish Lira	7.05	6.60
19.	UAE Dirham	20.85	19.60
20.	US Dollar	75.10	73.40

#### SCHEDULE-II

Sl. No.	Foreign Currency	Rate of exchange of one unit of foreign currency equivalent to Indian rupees	
		(a)	(b)
(1)	(2)	(3)	
		(For Imported Goods)	(For Exported Goods)
1.	Japanese Yen	66.25	63.90
2.	Korean Won	6.50	6.10

[For further details please refer the Notification]



## DGFT

### NOTIFICATION

#### AMENDMENT IN POLICY CONDITIONS GOVERNING IMPORT AND EXPORT IN ROUGH DIAMONDS FALLING UNDER CHAPTER-71 OF SCHEDULE (L) OF ITC(HS) 2017 AND SCHEDULE (II) OF ITC(HS) 2018 - 43/2015-2020

**OUR COMMENTS:** The Central Government hereby revises the policy conditions governing import and export of rough diamonds falling under Chapter-71 of Schedule (I) of ITC(HS) 2017 and Schedule (II) of ITC(HS) 2018 as under -

2. Policy condition No.05 is inserted under chapter-71 of Schedule-I (Import Policy) of ITC (HS) 2017, as under: Import of rough diamonds shall not be permitted unless the concerned importer is registered with Gems & Jewellery EPC, which is the designated importing and exporting authority of India for Kimberley Process Certification Scheme (KPCS).

3. Further, a Policy Condition No. 01 is inserted in the Chapter-71 of Schedule-II (Export Policy) of ITC(HS) 2018, as under:

Export of rough diamonds shall not be permitted unless the concerned exporter is registered with Gems & Jewellery EPC, which is the designated importing and exporting authority of India for Kimberley Process Certification Scheme (KPCS).

Effect of this Notification: Import or export of rough diamonds shall not be permitted unless the concerned importer and exporter is registered with G&JEPC.

**[For further details please refer the Notification]**

### PUBLIC NOTICE

#### ALLOCATION OF ADDITIONAL QUANTITY OF 303 MT FOR EXPORT OF RAW SUGAR TO USA UNDER TARIFF RATE QUOTA (TRQ) FOR THE FISCAL YEAR 2021

**OUR COMMENTS:** The Foreign Trade Policy, 2015-2020, vide public notice number Public Notice No. 39/2015-2020 dated 23<sup>rd</sup> November 2021, the Director General of Foreign Trade hereby allocates an additional quantity of 303 MT raw sugar for export under Tariff Rate Quota (TRQ) to USA for the fiscal year 2021 (October 1, 2020 to December 31, 2021). With this additional allocation, quantity for export of sugar to USA under TRQ for the fiscal year 2021 would be as under: -

Public Notice No. & Date	Quantity of sugar allocated MT
Quantity allocated under Public Notice No. 33/2015-20 dated 18.12.2020	8424
Additional Quantity Allocated	303
Total Quantity Allocated	8727

2. Export of sugar (HS Code 17010000) to USA under TRQ is 'Free' subject to the conditions notified in the 'Nature of Restrictions' in Notification No. 3/2015-20 dated 20.04.2015. The reporting requirement as per Public Notice No.-33/2015-20 dated 18.12.2020 would continue to be followed.

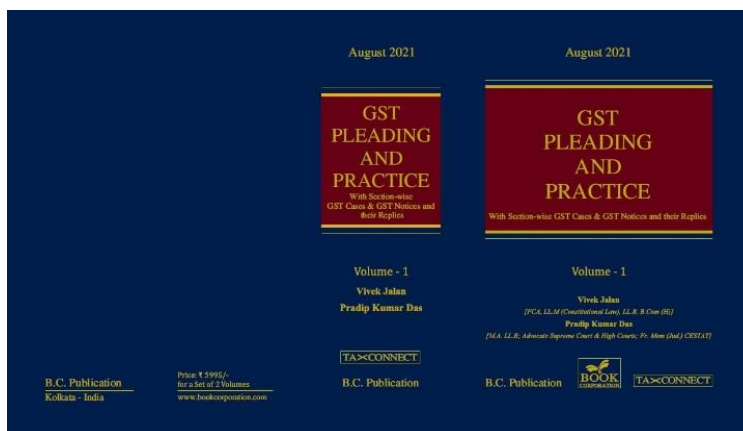
3. Certificate of Origin, if required, for export of preferential sugar to USA, shall be issued by Additional Director General of Foreign Trade, Mumbai. Other certification requirement, if any, prescribed specifically for export of sugar to USA would continue to be followed.

4. Effect of this Public Notice: Additional quantity of 303 MT of raw sugar, for export to USA, under TRQ, upto 31.12.2021, has been notified.

**[For further details please refer the Public Notice]**

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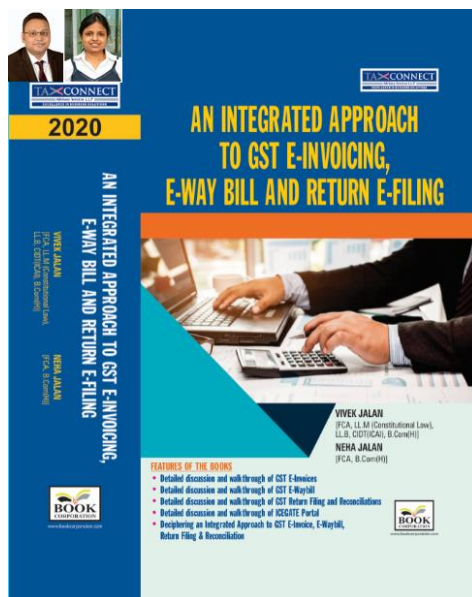
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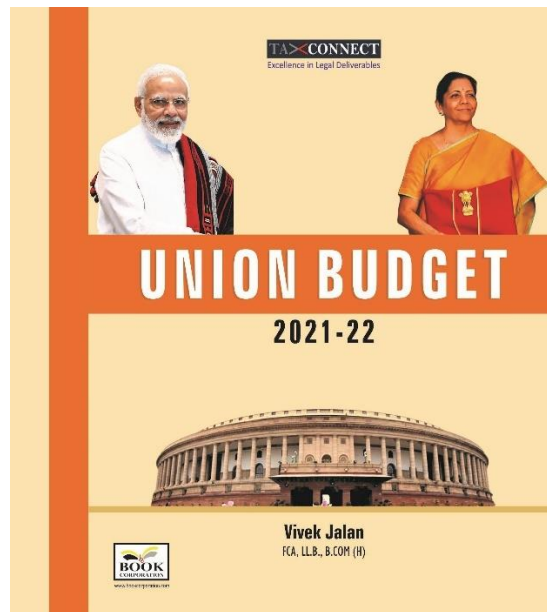
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