

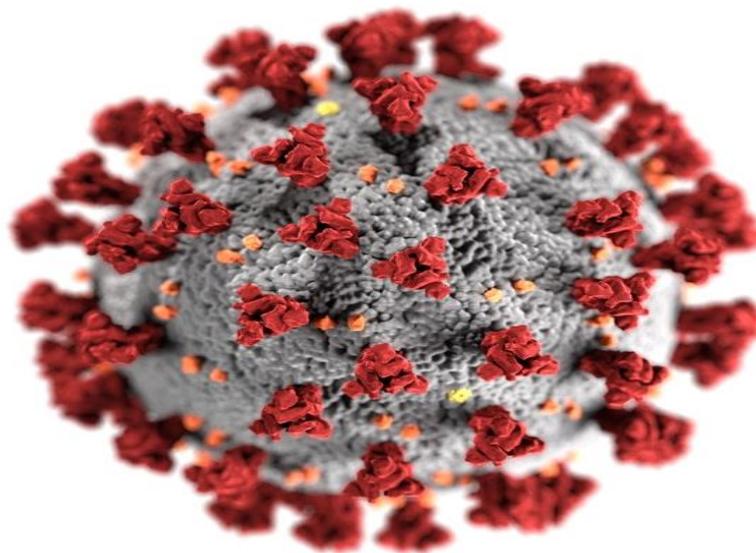
COVID -19 LEGAL FAQ SERIES

FOX MANDAL & ASSOCIATES



COVID-19 GLOBAL PANDEMIC

The sudden outbreak of the pandemic and the nation-wide lock-down has put a heavy constraint on individuals as well as the economy. To minimise the impact of the pandemic on the general public as well as business establishments and ensure minimum disruption in the supply chain, many amendments, advisories and announcements have been introduced which would ideally subsist during the containment period but could have long-term implications. Further, the nation-wide lockdown has been extended to May 03,2020.



Understanding the ramifications of these developments is essential for the smooth operation of enterprises. We decode the queries that have surfaced appurtenant to the multitudinous notifications that attorneys across our diverse practice domains have responded to.

Can we wait till the lockdown is over to file our corporate taxes? Would there be a penalty?

The Finance Ministry has announced some reliefs in the form of date extensions for businesses to cope up with the difficult times of COVID-19.

- The time limit to avail the Vivad Se Vishwas scheme is extended up to 30th June 2020. The waiver of the 10% additional charge continues up to 30th June 2020 instead of the earlier time limit of 31st March 2020. [Click here](#) for further clarification issued on the scheme by the department.
- Interest at a reduced rate of 9% p.a. would be charged instead of 12% or 18% p.a. towards the delayed payment/deposit of the following income tax levies, made between 20th March 2020 and 30th June 2020:
 - Advance Tax
 - Tax Deduction at Source (TDS)
 - Tax Collection at Source (TCS)
 - Self-assessment tax
 - Equalisation levy
 - Security Transaction Tax (STT)
 - Commodity Transaction Tax (CTT)

It is further clarified that there is no extension in the deadlines of the above-mentioned tax levies. However no late fee/penalty shall be charged for any delay relating to this period.

- The time limit for the following compliance matters that expires between 20th March 2020 and 29th June 2020 has been extended to 30th June 2020:
 - Issue of notice/intimation/notification/approval order/sanction order
 - Filing of an appeal/furnishing of a return/statements/reports or any other documents
 - The completion of proceedings by the tax authority.
 - Investment in saving instruments or investments for rollover benefit of capital gains under the Income Tax Act, Wealth Tax Act, Prohibition of Benami Property Transaction Act, Black Money Act, STT law, CTT Law, Equalisation Levy law, and the Vivad Se Vishwas law.

The CBDT has further issued a [press release](#) announcing that it is revising the return forms so that taxpayers could take benefits of their transactions carried out during the period from 1st April 2020 to 30th June 2020 in the return forms for FY 2019-20.

Can we wait till the lockdown is over to file our GST return? Would there be a penalty?

The following extensions have been provided for filing GST returns.

- Taxpayers with an annual aggregate turnover of up to Rs 5 crore:

GSTR-3B for February 2020, March 2020, and April 2020 have been extended up to the last week of June 2020. Accordingly, no late fee, interest or penalty shall be levied on them.

Taxpayers with an annual aggregate turnover of more than Rs 5 crore:

Except for a reduced interest charge, the due dates of GSTR-3B for February 2020, March 2020, and April 2020 stand extended up to the last week of June 2020. No late fee or penalty shall be levied. Any tax payments made after a delay of 15 days from the original due dates will attract a reduced interest at 9% p.a. instead of 18% p.a.

Taxpayers registered under the composition scheme:

The due date for filing the statement-cum-challan in CMP-08 for the last quarter of FY 2019-20, i.e. Jan-Mar 2020 is extended till the last week of June 2020. Similarly, the due date for filing GSTR-4 for FY 2019-20 is extended from 30th April 2020 to the last week of June 2020.

- The last date for opting into the composition scheme for the FY 2020-21 has been extended from 31st March 2020 up to 30th June 2020.
- Sabka Vishwas Scheme LDRS: The last date to avail the scheme is extended up to 30th June 2020. No interest will be charged for this period if the dues are paid before 30th June 2020.



Are services that have been notified as 'essential services' exempted from GST liability?

There is no new specific exemption with respect to essential services therefore the same would continue to be governed by the existing provision of the Goods and Service Tax Act. Therefore, all healthcare services by a clinical establishment or authorized medical practitioner by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy continue to be exempt from GST.

Moreover, [news reports](#) suggest that there have been demands to exempt GST on items like ventilator, masks, test kits etc. but the government has not bowed down to the pressure as it would lead to blocked input tax credit (ITC), thereby increasing the cost of manufacturing and consequently, the price for consumers. However, the Government has granted exemption from basic customs duty and health cess till 30th September on the import of ventilators, PPE, COVID test kits & face and surgical masks. [Click here](#) to read the notification.

Will Exports/Imports be delayed?

Exports and imports would take a major hit due to the global lockdown and restrictions imposed on the transportation sector as well as the reduced manpower.

The lockdown has caused severe cargo congestion at key ports and container freight stations, Authorities have made it compulsory for ports, terminals and shipping lines not to charge penalties, demurrage, charges, fee, rentals levied by major ports during the lockdown, so this doesn't push any importer to clear the goods, as the major consumption is domestic and there is a major drop on the demand side for non-essentials. [Click here](#) to read the press release.

Will there be any delay in the approval/payment of refunds?

As per the recent [press release](#) of the government of India on the 8th of April, all pending income-tax refunds up to Rs 5 lakh will be released immediately to all taxpayers, including individuals and business entities.

Since 8 April, the Income Tax department has issued nearly 1.4 million refunds up to Rs. five lakh each in order to help taxpayers. “Keeping its focus on providing relief to small businesses, CBDT will further issue refund of ₹7,760 crore at the earliest,” said the [statement](#).

The government has also decided to give refunds to businesses for goods and services tax paid on orders that were cancelled by customers due to the national lockdown imposed to control the novel coronavirus outbreak. [Click here](#) to read more.

Are the donations made towards Covid-19 exempt from taxes?

Donations made to PM CARES Fund will be eligible for 100% deduction under section 80G. The donation made from 1 April 2020 to 30 June 2020 can be claimed as a tax deduction for the FY 2019-20. In case a taxpayer wants to claim the tax deduction for FY 2020-21, the deduction is allowed both under the old regime and new optional tax regime. [Click here](#) to read the notification.



Will the government reduce the income tax NRI days requirement of 182 days for this financial year due to the travel ban?

There has not been any specific COVID-19 related announcement regarding relaxation of residential requirement for non-residents. However, taxation of non-residents was relaxed at the time of passing of the [Finance Bill, 2020](#). The government has amended the budget provision to tax only those Indian citizens who have stayed in the country for a period of 120 days or more and had total income, other than from foreign sources, exceeding Rs 15 lakh in the previous year. Further, such persons have been categorised as ‘not ordinarily resident’ if they reside in India for 120 days or more but less than 182 days.

Are there any urgent hearings being taken up by ITAT?

The ITAT benches are equipped to hold hearings through Video Conferencing on petitions made by assesses or revenue department on urgent matters as and when exigencies arise. [Click here](#) to read about a recent decision by the ITAT through video conferencing.

Is there any relaxation in filing the tax audit report?

In view of the prevailing situation due to the COVID-19 pandemic across the country, it has been decided by the CBDT that the reporting under clause 30C and clause 44 of the Tax Audit Report shall be kept in abeyance till 31st March, 2021. [Click here](#) to read the notification.

Authors: Ranganath H | Director - Taxation | ranganath@foxmandal.in
G.V. Gopala Rao | Head - Taxation | gopala.rao@foxmandal.in
Piyush Milani | Associate | piyush.milani@foxmandal.in

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