

## May 2024

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### Income Tax

- + **Extension of due date for filing of Form No. 10A/10AB:** Every trust / institution claiming exemption from income-tax on incomes earned by it is required to mandatorily register / get approvals from the CBDT. The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 brought about significant amendments to these compliances including changes to compliance forms, due dates and electronic filings. Subsequently, these due dates were extended on multiple occasions considering the issues and hardships faced by the relevant entities in electronic filings during the past three years. On consideration of difficulties reported by the taxpayers, the CBDT has further extended the last date for filing such Forms 10A / 10AB till 30.06.2024.

The CBDT has also clarified that where any Form 10AB has been filed before the issuance of this circular and is pending disposal, such applications would be treated as valid applications. Further, where any application in Form 10AB has been rejected before the issuance of this circular solely on the account that the application was filed after the due date, such trust or institution may file a fresh application on or before 30.06.2024.

Also, where an existing trust or institution failed to file Form 10A within the extended due date and consequently applied for provisional registration as a new trust or institution, such existing trusts or institutions may choose to withdraw the application for provisional registration and file the application in Form 10A on or before 30.06.2024.

*Circular No. 7/2024 & Press release both dated 25.04.2024*

- + **Relief for tax deductors and collectors failing to deduct TDS at higher rates:** Where a person does not link his PAN number with his Aadhar number, such PAN becomes inoperative. The CBDT vide Circular No. 3 of 2023 provided that with effect from 01.07.2023, any person responsible for deducting or collecting taxes from such persons holding inoperative PANs would be required to deduct taxes at a higher rate as per section 206AA / 206CC of the Act till the date such PAN becomes operative. Many taxpayers who did not deduct / collect higher rates of tax on such inoperative PANs have received short deduction / collection notices. To provide relief to such taxpayers, the CBDT has now provided that the requirement for higher rate of deduction / collection shall not apply to transactions undertaken till 31.03.2024. Further higher rates shall not apply where the PAN becomes operational by 31.05.2024.

*Circular No. 6/2024 dated 23.04.2024*

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- + **CBDT clarification on media reports claiming special drive to reopen cases with reference to HRA claims:** Noting that certain section of the media published reports that the CBDT is conducting a special large-scale drive to identify cases of mismatches in HRA claims by employees, the CBDT rejected these and clarified that there are no such initiatives conducted presently by the CBDT.

*Press release dated 08.04.2024*

### Goods and Services Tax (GST)

#### + GST News and Advisory

- **Self-enablement for e-invoicing advised:** Taxpayers with aggregate turnover exceeding Rs. 5 crores in the FY 2023-24 (or any of the preceding financial years) are required to generate IRN (e-invoices) for the applicable invoices from 01.04.2024. In this regard, the taxpayers can self-enable themselves by using following e-invoice portals for generating e-invoices:

Sr.	Portal for self-enablement	Generation of e-invoices
1	<a href="https://einvoice.gst.gov.in">https://einvoice.gst.gov.in</a>	<a href="https://einvoice3.gst.gov.in">https://einvoice3.gst.gov.in</a> <a href="https://einvoice4.gst.gov.in">https://einvoice4.gst.gov.in</a> <a href="https://einvoice5.gst.gov.in">https://einvoice5.gst.gov.in</a> <a href="https://einvoice6.gst.gov.in">https://einvoice6.gst.gov.in</a>
2	<a href="https://einvoice1.gst.gov.in">https://einvoice1.gst.gov.in</a>	<a href="https://einvoice1.gst.gov.in">https://einvoice1.gst.gov.in</a>
3	<a href="https://einvoice2.gst.gov.in">https://einvoice2.gst.gov.in</a>	<a href="https://einvoice2.gst.gov.in">https://einvoice2.gst.gov.in</a>

*GST News and Updates dated 03.04.2024*

- **Auto-population of HSN summary into Table 12 of GSTR-1 from E-invoice enabled:** GSTN has introduced a new feature for auto-population of HSN-wise summary from the data of e-invoices to Table 12 of Form GSTR-1. However, the onus is on the taxpayers to ensure proper reconciliation of such data with the books of accounts and manually correct the data auto-populated in Table 12, before filing of Form GSTR-1.

*GST News and Updates dated 09.04.2024*

### Foreign Trade Policy (FTP)

- + **Clarification on discharge of export obligation of Advance Authorisation:** DGFT has clarified that based on the date of issuance / nature of Advance Authorisations (AAs) read with Notification No.18/2015 and Notification No.21/2015 both dated 01.04.2015 issued by Customs in terms of which said AAs are issued, category of supplies that are eligible for the purposes of computation of export obligation is tabulated as under:

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Sr.	Category of AA holder	Supplies Eligible for Export Obligation (EO)
1.	AA issued in terms of Notification No.18/2015 - Customs dated 01.04.2015, where such AAs are issued on or after 01.04.2015 but before 10.01.2019	Fulfill export obligations either by making: <ul style="list-style-type: none"> <li>✓ Physical exports; or</li> <li>✓ Supplies, which will qualify as deemed exports, under Para 7.02 (A)(a) of Foreign Trade Policy 2015-20 i.e., Supply of goods against AA / AA for annual requirement/Duty Free Import Authorisation (DFIA).</li> </ul>
2.	AA issued in terms of Notification No.18/2015 - Customs dated 01.04.2015, where such AAs are issued on or after 10.01.2019	Fulfill export obligations either by making: <ul style="list-style-type: none"> <li>✓ Physical exports; or</li> <li>✓ Supplies, which will qualify as deemed exports, under Para 7.02 (A)(a) of FTP 2015-20 i.e., Supply of goods against AA / AA for annual requirement/Duty Free Import Authorisation (DFIA);</li> <li>✓ Supplies under para 7.02A(b) of FTP 2015-20 i.e. Supply of goods to EOU/STP/EHTP/BTP; and</li> <li>✓ Supplies under para 7.02(A)(c) of FTP 2015-20 i.e. Supply of capital goods against EPCG authorisation provided exemption from payment of applicable Anti-Dumping Duty, Countervailing Duty, Safeguard Duty and Transition Product Specific Safeguard Duty if any has not been availed.</li> </ul>
3.	AA issued for the purposes of deemed exports, issued under Customs Notification No. 21/2015 - Customs dated 01.04.2015	Same as applicable to AA referred in Sr. No. 2 of this table.

Policy Circular No. 01/2024 dated 12.04.2024

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### SEBI

- + **SEBI circular in connection to Standardization of Audit Report of AIFs:** Securities and Exchange Board of India (SEBI) vide circular dated 18.04.2024, has standardized the reporting format for Private Placement Memorandum ('PPM') audit report applicable to various categories of AIFs. The key highlights of the notification are as follows:
  - In order to have uniform compliance standards and for ease of compliance reporting, standard reporting format for PPM audit report, applicable to various categories of AIFs, have been prepared in consultation with pilot Standard Setting Forum for AIFs (SFA).
  - The reporting formats shall be hosted on the websites of the AIF Associations which are part of SFA and the associations shall assist all AIFs in understanding the reporting requirements and in clarifying or resolving any issues which may arise in connection with reporting to ensure accurate and timely reporting.
  - The PPM audit reports shall be submitted to SEBI by AIFs online on the SEBI Intermediary Portal (SI Portal) as per the aforesaid format.
  - In terms of Clause 2.4.1 of Master Circular, audit of sections of PPM relating to 'Risk Factors', 'Legal, Regulatory and Tax Considerations' and 'Track Record of First Time Managers' shall be optional. In addition, 'Illustration of Fees and Expenses' and 'Glossary and Terms' shall also be optional. All other provisions with respect to the filing of the PPM audit report specified in the Master circular shall remain unchanged.
  - The said reporting requirement shall be applicable for PPM audit reports to be filed for the financial year ending on 31 March 2024 onwards.

*Circular No. SEBI/HO/AFD/SEC-1/P/CIR/2024/22 dated 18.04.2024*

- + **SEBI circular to provide flexibility to AIFs and their investors to deal with unliquidated investments of their schemes:** SEBI vide circular dated 26.04.2024, has outlined the framework for AIFs and their investors to deal with unliquidated investments of their schemes.

SEBI (AIF) Regulations, 2012 ("AIF Regulations") have been amended and notified on 25 April, 2024. The amendment, *inter alia*, provides additional flexibility to AIFs and their investors to deal with unliquidated investments of their schemes.

Regulation 2(1)(ia) of AIF Regulations define 'dissolution period' to mean the period following the expiry of the liquidation period of the scheme for the purpose of liquidating the unliquidated investments of the scheme of the AIF.

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Further, regulation 29(9) of AIF Regulations, *inter alia*, provides that during liquidation period of a scheme an AIF may, distribute investments of a scheme (which are not sold due to lack of liquidity) in-specie to the investors or enter into the dissolution period, after obtaining approval of at least 75% of the investors of such scheme of the AIF (by value), in the manner and subject to conditions specified by the Board. In the absence of consent of unit holders for exercising the options during liquidation period, such investments of the scheme of the AIF shall be dealt with in the manner as may be specified by the Board. In connection to the above, SEBI has, *inter alia*, specified the following conditions:

i. Desolution Period

- Before seeking the requisite investor consent, the AIF/ manager shall arrange bid for a minimum of 25% of the value of unliquidated investments. The bid shall be arranged for units representing consolidated value of all unliquidated investments of the scheme's investment portfolio. The manager may arrange bids from multiple bidders in this regard.
- The AIF / manager shall disclose the following to investors prior to seeking their consent –
  - a. The proposed tenure of the Dissolution Period, details of unliquidated investments, value recognition of the unliquidated investments for reporting to Performance Benchmarking Agencies, etc.
  - b. An indicative range of bid value, along with the valuation of the unliquidated investments carried out by two independent valuers.
- Prior to expiry of the Liquidation Period, the AIF / manager shall intimate SEBI about obtaining the investor consent and the investors' decision to enter into Dissolution Period.
- If the AIF / manager successfully arranges bid for a minimum of 25% of the value of unliquidated investments of the scheme, the dissenting investors of the scheme shall be offered an option to fully exit the scheme out of the 25% bid arranged by the AIF. After exercising the exit option by aforesaid dissenting investors, any unsubscribed portion of the bid may be used to provide pro-rata exit to non-dissenting investors should they opt for the same.
- If the AIF / manager fails to arrange bid for a minimum of 25% of the value of unliquidated investments of the scheme, the AIF can still opt for Dissolution Period, provided that it obtains consent of at least 75% of the investors by value of their investment in the scheme of the AIF.

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- If the bidder or its related parties are investor(s) in the scheme, such investor(s) shall not be provided exit from the scheme out of the bid.
  - [“Related party” shall have the same meaning as provided in Regulation 2(1)(zb) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.]
  - If the scheme of the AIF fails to sell the unliquidated investments during the Dissolution Period, such investments shall be mandatorily distributed in-specie to the investors. It is clarified that no further extension or Liquidation Period shall be available to these schemes after the expiry of Dissolution Period.
  - The manager of the AIF shall not charge management fee during the Dissolution Period.
- ii. Mandatory in-specie distribution of unliquidated investments:
- During the Liquidation Period, if the AIF fails to obtain requisite investor consent for entering into Dissolution Period or in-specie distribution, then the unliquidated investments shall be mandatorily distributed to investors in-specie, without requirement of obtaining consent of 75% of investors by value of their investment in the scheme of the AIF.
  - In case any investor is not willing to take in-specie distribution of unliquidated investments, such investments shall be written off.
- iii. One-time flexibility to schemes of AIFs whose Liquidation Period has expired, to deal with unliquidated investments
- Regulation 29(9A) of AIF Regulations, *inter alia*, provides that if the liquidation period for a scheme of an AIF has expired or is expiring within three months from the date of notification of Amendment to AIF Regulations, such schemes may be granted an additional liquidation period, subject to such conditions and in the manner as may be specified by the Board. In this regard, SEBI has prescribed the following conditions:
  - Schemes of AIFs, whose Liquidation Period has expired or shall expire on or before 24.07. 2024 (i.e. within 3 months from the date of notification of AIF Regulations Amendment), shall be granted a fresh Liquidation Period till 24.04.2025. Further, such fresh liquidation period shall be available only to those schemes that do not have any pending investor complaint with respect to non-receipt of funds / securities as on 25.04.2024 (i.e., the date of notification of AIF Regulations Amendment).

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- In case a scheme has pending investor complaint(s) with respect to non-receipt of funds / securities, such scheme may avail the fresh Liquidation Period upon resolution of investor complaint(s). However, the fresh Liquidation Period shall be available only from the date of resolution of the complaint till 24.04.2025.
  - During the fresh Liquidation Period, the scheme shall fully liquidate its investments, or distribute the investments in-specie or opt for the Dissolution Period.
- iv. Responsibility for compliance:
- The manager, trustee and key management personnel of AIF shall be responsible for compliance with the procedure prescribed above.
  - The manager, upon exercising the options mentioned above, shall submit report on compliance with the provisions of this circular on SEBI Intermediary Portal ([www.siportal.sebi.gov.in](http://www.siportal.sebi.gov.in)) in the format as specified therein.
  - The trustee/ sponsor, as the case may be, shall ensure that the 'Compliance Test Report' prepared by the manager in terms of Chapter 15 of Master Circular, includes compliance with the provisions of this circular.
- v. Discontinuation of the option of launching Liquidation Scheme
- Regulation 29A(8) of AIF Regulations, *inter alia*, provides that no AIF shall launch any new liquidation scheme under this regulation after the notification of AIF regulations amendments.
  - Any liquidation scheme launched by an AIF prior to the notification of AIF regulations amendments shall continue to be governed by regulation 29A and by SEBI Circular No. SEBI/HO/AFD/PoD1/CIR/2023/098 dated June 21, 2023 on 'Modalities for launching Liquidation Scheme and for distributing the investments of AIFs in-specie', till such schemes are wound up.

Circular No. SEBI/HO/AFD/PoD-I/P/CIR/2024/026 dated 26.04.2024

- + SEBI circular to provide relaxation in requirement of intimation of changes in the terms of PPM of AIFs through Merchant Banker:** SEBI vide circular dated 29.04.2024, has provided relaxation in requirement of intimation of changes in the terms of PPM of AIFs through Merchant Banker. In terms of para 2.5.3 of the Master Circular for AIFs, intimation with respect to any change in the terms of PPM is required to be submitted to SEBI through a merchant banker, along with a due diligence certificate from the merchant banker in the format specified by SEBI. The key highlights of the notification are as follows:



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- Basis the feedback received from the market participants, in order to facilitate ease of doing business and rationalise cost of compliance for AIFs, SEBI has revived the aforesaid requirement to identify changes in the terms of PPM which may not be required to be submitted through a merchant banker and may be filed directly with SEBI.
- Accordingly, changes in the terms of PPM (as mentioned in Annexure A), may be filed directly with SEBI.
- Further, Large Value Fund for Accredited Investors (LVFs) shall be exempted from the requirement of intimating any changes in the terms of PPM through a merchant banker. LVFs may directly file any changes in the terms of PPM with SEBI, along with a duly signed and stamped undertaking by CEO of the Manager of the AIF (or person holding equivalent role or position depending on the legal structure of Manager) and Compliance Officer of Manager of the AIF, in a format as specified at Annexure B.

Circular No. SEBI/HO/AFD/PoD/CIR/2024/028 dated 29.04.2024

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