

# TAXTIME

## NEWSLETTER

### DIRECT TAX NEWS

## NO GST ON RESIDENTIAL PREMISES IF RENTED OUT FOR PERSONAL USE, SAYS GOVERNMENT



The government has clarified on the new GST or goods and services tax rules on rent, which came into effect from 18th July. In a tweet, PIB said that "renting of residential unit taxable only when it is rented to business entity." It further clarified that "no GST when it is rented to private person for personal use; no GST even if proprietor or partner of firm rents residence for personal use." According to tax experts, until 17th July 2022, GST was applicable on the rent of a commercial property but from 18th July 2022, GST shall be charged if such residence is rented or leased by a GST-registered person/entity. As recommended at the 47th GST Council meeting, the tenant should pay 18 per cent GST on a reverse charge basis (RCM). However, they can claim this value as a deduction while they pay tax on sales in GST returns. Expert said the clarification provides relief to GST-registered proprietors or partners in GST-registered firms who take on rent immovable property for their personal use such as renting of a house for family accommodation.



## **CBDT NOTIFIES ITR-U FOR AY21 & AY22**



A taxpayer who did not file income tax return in the past or missed to report correct income can now rectify the same by filing updated returns (ITR-U) by paying additional charge for the assessment years (AY) 2020-21 and 2021-22.

The Central Board of Direct Taxes (CBDT) notified forms for updated returns for those taxpayers who missed to report correct particulars of Income for previous two assessment years. While the ITR-U allows the taxpayers to be compliant by rectifying mistakes, it does not allow taxpayers to file for refund of taxes or reduction of total income.

The Budget 2022-23 has allowed taxpayers to update their ITRs within two years of filing, subject to payment of taxes, a move aimed at helping correct any discrepancy or omissions and reduce litigation.

Taxpayers, filing returns for FY 2020-21 (AY 2021-22), will be subject to additional income tax (AIT) levy besides the levy of interest and fee for non-filing or non-payment of taxes till date. "AIT will be levied on outstanding taxes at the rate of 25% where an ITR U is filed within 12 months from the end of the relevant assessment year and 50% where an ITR U is filed within 24 months from the end of the Assessment Year. Also taxpayers are required to specify reasons for now filing the return, which is mentioned by the ITR U including previously not filed; income not reported correctly; wrong heads of income chosen; wrong rate of tax; reduction of carried forward losses or unabsorbed depreciation; reduction of minimum alternate tax and others.

## **18% GST ON ICE-CREAM PARLOURS EFFECTIVE ONLY FROM OCT 6, 2021**



Ice-cream parlours can breathe easy as the Finance Ministry has said that the 18 per cent GST will not take retrospective effect. It also said that fees for entrance exams, issuance of migration certificates etc and charges for preferred location of land will not attract GST.

Based on the recommendations by the GST Council in its June meeting, the Finance Ministry came out with a set of circulars clarifying taxation issues on various goods and services, on Wednesday.

Last September, the GST Council recommended levying of GST on ice-cream parlours at the rate of 18 per cent with ITC, and not 5 per cent without ITC. The argument was that since they sell already manufactured goods, they are not restaurants and so attract GST at the higher rate.

Accordingly, a circular was issued in October last year for imposition of higher rate, but there was no clarity whether it would be prospectively or retrospectively applied. This created some confusion that the higher rate could be levied from July 1, 2017.

Now, it has been clarified that the higher rate would be effective from October 6, 2021.

"Since the decision is only to regularise the past practice, no refund of GST shall be allowed, even if already paid at 18 per cent," a circular issued on Wednesday said.



# CHARITABLE INSTITUTIONS, TRUSTS MUST MAINTAIN EXHAUSTIVE DOCUMENTS TO CLAIM TAX BENEFITS



All charitable institutions and trusts will now be required to maintain an exhaustive list of documents to get income tax exemptions. These include documents pertaining to payments made domestically or abroad, PAN/Aadhaar of voluntary contributors, projects undertaken, loan taken, investment made, etc.

A new rule (17AA) titled 'Books of account and other documents to be kept and maintained' has been added to Income Tax Rules 1962. Officials say such a move intends to strengthen the surveillance and ensure tax benefits are meant for right causes.

New regulations have come into effect from August 10 and would be applicable for universities, medical colleges and hospitals as well. The notification says these institutions will be required to keep and maintain books of account, including cash book, ledger, journal, copies of bills, original bills (wherever issued to the person and receipts in respect of payments made by the person) and any other book that may be required to be maintained to give a true and fair view of the state of the affairs of the person and explain the transactions effected.

The charitable institutions or trust responsible for running a religious place, need to keep record of contribution received for the renovation or repair of temple, mosque, gurdwara, church or other place notified under the Income Tax Act for exemption. Similar details must also be kept for payments made.

All these institutions, along with the educational ones, must keep records detailing the name of the donor, address, permanent account number and Aadhaar, in case of voluntary contribution. If payments are effected in India or outside, the details about the person receiving the payment and reason for such payment, need to be kept.

In case of educational institutions, details about the amount credited or paid to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution need to be kept along with reasons for making such payments.

About the record for loans and borrowings, institutions will be required to keep details regarding the amount and date of loan or borrowing, amount and date of repayment, name of the person from whom loan is taken, address of lender, permanent account number and Aadhaar number of the lender. Similarly, for properties, details such as nature, address, cost of acquisition of the asset, registration documents of the asset, transfer of such properties, the net consideration utilised in acquiring the new capital asset need to be maintained. In case of movable properties, details of the nature and cost of acquisition will have to be kept.

The notification said the books of accounts and other documents may be kept in physical form or in electronic form. These shall be kept and maintained by the fund or institution or trust or any university or other educational institution or any hospital or other medical institution at its registered office.

"The books of account and other documents specified in sub-rule (1) shall be kept and maintained for a period of ten years from the end of the relevant assessment year," the notification said.

However, if there is re-opening of assessment, then the books will be kept and maintained till the assessment so reopened has become final.

Officials say such a move intends to strengthen the surveillance and ensure tax benefits are meant for right causes



## **CBDT ISSUES SOP FOR FACELESS ASSESSMENT TO CUT TAX LITIGATION, CLEAR DOUBTS**



The Central Board of Direct Taxes has issued a detailed standard operating procedure (SOP) for officials for dealing with the faceless scheme, in a move aimed at reducing litigation and confusion about the scheme. The board has mandated the officials to grant personal hearing to the assessee within 2-3 days of receiving such a request.

The SOP was issued following a spike in litigation and adverse comments by various courts against the department over its handling of the scheme.

"This will put an end to many unnecessary litigation. The SOP has been prepared carefully after taking all the feedback from both assessee and officials," an official told ET.

Field officials have been asked to send a centralised communication to the taxpayers in case of non-responsiveness to the notices. It has also been suggested that a physical letter be sent at the latest known address along with text messages to the assessee.

The SOP also specifically provides for timelines for each step of the process, which are to be adhered to by the various units.

Further, Income & Loss Determination Proposal (ILDP) is to be prepared in all cases, containing all the essential ingredients of the assessment order. In cases where there is any variation prejudicial to the assessee, ILDP shall be prepared only after giving a reasonable opportunity to the assessee.

It has prescribed a detailed procedure for issuance of show cause notices or summons under the faceless scheme, to prevent harassment to taxpayers.

It says that notice is to be served on the assessee only with the approval of the unit head of the assessment unit under the digital signature of the assessment unit through National Faceless Assessment Centre and the assessee must be given 15 days to respond.

Physical verification will be carried out only if electronic verification is not possible, or there is a need to check account books. Officials will have to seek specific queries and take permission from the verification unit.

## **INCOME-TAX PAYERS CANNOT JOIN ATAL PENSION YOJANA FROM OCT 1**



Income-tax payers will not be eligible to join the Atal Pension Yojana (APY) following an amendment in the scheme.

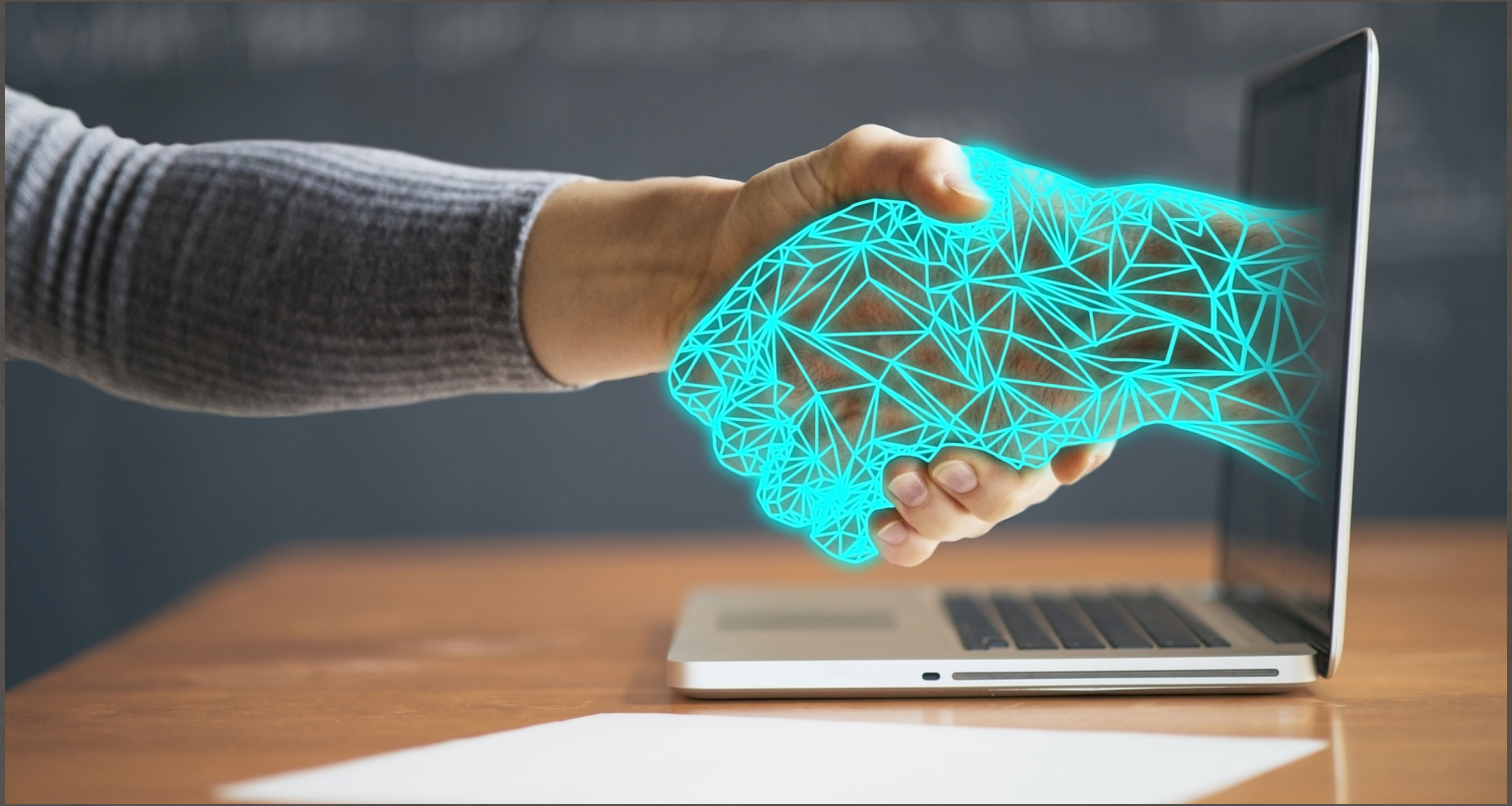
"From October 1, 2022, any citizen who is or has been an income-tax payer, shall not be eligible to join APY," a notification issued by the Finance Ministry said.

APY is a Government of India scheme that was launched on May 9, 2015, and operationalised on June 1, 2015. It is open to all citizens of India between 18-40 years of age, having a savings account in a bank or post-office.

The notification further said: "In case a subscriber who joined on or after October 1, 2022, is subsequently found to have been an income-tax payer on or before the date of application, the APY account shall be closed and the accumulated pension wealth till date would be given to the subscriber." Initially, the government had co-contributed 50 per cent of the total contribution or ₹1,000 per annum, whichever is lower, to each eligible subscriber who joined the scheme between June 1, 2015 and March 31, 2016, and who is not a beneficiary of any social security scheme and is not an income-tax payer. The Government's co-contribution was given for five years from the financial year 2015-16 to the financial year 2019-20. Since the condition of non-income tax payers was added for initial joiners, where the government is making a contribution, and there was no specific provision mentioned in the notification, it appears the government has included a new provision to make things clearer.



# ANALYTICS & TECHNOLOGY ARE TRANSFORMING INDIA'S TAXMAN



Sweeping technology-driven changes in tax administration for companies and individuals is unfolding, with services like never before.

Voluntary tax compliance has been the buzzword. Use of technology and skilling of the tax professional is the quiet change. System and data-driven tax regime is unfolding the new way of undertaking tax compliance in India.

The four broad themes have been the pillars of silent change that has been brewing with the tax administration. A very scalable platform is now ready and allows for several new services being launched over an extended period. To begin with, a payment system that connects the platform to banks and financial institutions could make transactions easier is already working. Mobile-driven responses to AIS, mobile apps for convenience, use of e-filing and other new services are in the works.

As time goes by, more and more new services are planned to be launched on the new platform. The changes will be geared to providing real time services keeping the taxpayers' needs in mind. Imagine, millions of individuals and thousands of companies using hundreds of these services.

The way information is gathered by the tax administration is undergoing a sea change. As the net is cast wider with additional source for the TDS and TCS deductions, there is more data at hand too. A data exchange agreement – automatic and request-based – with GST, CBIC and other similar bodies is adding to the widened data sources. The taxpayer can also expect consent-based exchange of data from his tax return. The consent can be given to specific entities for loans or other services. With this information management processes, the taxman is trying to make compliance management for companies easier.

As part of the effort to drive voluntary compliance, the sources from where the data is being collected is being shared with the taxpayer. It began with pre-filling the returns, but the bar is being raised now. Much before the returns have been filed, any discrepancy can be seen in the AIS/TIS, and a response can be filed with the taxman. That will allow the modified value to be used for pre-filling the AIS/TIS.

With 100 percent electronic records the order of the day, any information that has been submitted by the taxpayer is always available with the income tax department. If there is any investigation carried out, the electronic records for that are available. That enables specialisation, data analytics, knowledge management around legal issues or a case needing physical verification – all these areas can be leveraged in the future. That is transforming the way in which assessments and appeal functions are carried out.

With the extensive use of technology and analytics, how can companies keep up with their compliance needs? With the basic technology framework in place, the taxman suggests that companies should regularly keep an eye on the AIS well ahead of the date for filing returns. Feedback on sources of data or duplication of data will help in correction at the source, cutting down the chances of the need for a reconciliation.

It is the time for the tax department and tax paying companies and individuals to work closely together. Technology has helped the tax administration make its moves. Improved voluntary compliance could make it worth the effort.



# TODAY'S QUOTE

*The way I see it, if you want the rainbow, you gotta put up with the rain*

*- Dolly Parton*

## DISCLAIMER

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