



BHILAI BRANCH OF CIRC OF ICAI

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My Dear Professional Colleagues,

At the outset, I pray almighty for your and family members health and well-being in these unprecedented times of COVID-19 outbreak. As you are aware that the world is getting deeper into a serious life-threatening challenge of COVID-19, an infectious disease caused by a novel Coronavirus that is exponentially spreading illness and causing deaths to citizens throughout the globe. The virus has not only spread over a hundred and ninety plus countries and taken more than four lakh of lives but also created fear psychosis with depression and gloom in the minds of one and all. A strong solution appears to be social distancing and boost personal immunity to contain the spread of the disease and leave the virus to die naturally. The Indian Government had imposed lockdown in the country till 31st May 2020, soliciting every citizen to download Aarogya Setu (Mobile App) to monitor and break the spread of the disease.

All the above challenges may restrict our movement but should not inhibit our journey for knowledge. In spite of all challenges, we professionals are known for our fighting spirit and determination in all such unprecedented situations. Every crisis serves as a learning opportunity, similarly this pandemic too is proving to be quite a lesson not to be forgotten easily.

On behalf of Bhilai Branch of CIRC of ICAI, I sincerely express my regards to all the police personnel and a countless number of Doctors, paramedics, sanitation staff, home guard, delivery boys, media and other front line workers across the country engaged in fighting the Coronavirus pandemic. They have proved to be our real Heroes

I also thank all the family persons of our professional friends, particularly the home makers of the family in the role of wife, sister, daughter, mother who have been taking care and providing all out support to stay safe and healthy during this pandemic.

Before concluding, I request our fraternity to contribute generously to the ICAI Prime Minister's Relief Fund Covid -19 and The Chief Minister Relief Fund Covid-19, as it's an initiative of Bhilai Branch to be part of this social cause.

Stay Home, Stay Healthy and Stay Safe

With Best wishes and warm regards,

CA. AMIT RAI

Chairman

Bhilai Branch of CIRC of ICAI

E-NEWSLETTER

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GST Compliance Calendar for March-June 2020

| <i>Turnover</i> | <i>Description</i> | <i>Original Due Date</i> | <i>Revised New Prescribed Due Date*</i> |
|--|--------------------|---------------------------|---|
| <i>Furnishing of Form GSTR-3B for the month of</i> | | | |
| UptoRs. 1.5 crores | February 2020 | 22-03-2020/ 24-03-2020 | 30-06-2020 |
| | March 2020 | 22-04-2020/ 24-04-2020 | 03-07-2020 |
| | April 2020 | 22-05-2020/ 24-05-2020 | 06-07-2020 |
| More than Rs. 1.5 crores but uptoRs. 5 crore | February 2020 | 22-03-2020/ 24-03-2020 | 29-06-2020 |
| | March 2020 | 22-04-2020/ 24-04-2020 | 29-06-2020 |
| | April 2020 | 22-05-2020/ 24-05-2020 | 30-06-2020 |
| More than Rs. 5 crores | February 2020 | 20-03-2020 | 24-06-2020 |
| | March 2020 | 20-04-2020 | 24-06-2020 |
| | April 2020 | 20-05-2020 | 24-06-2020 |
| UptoRs. 5 crore | May 2020 | 22-06-2020/ 24-06-2020 | 12-07-2020/ 14-07-2020 |
| More than Rs. 5 Crore | May 2020 | 20-06-2020 | 27-06-2020 |



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| <i>Furnishing of Form GSTR-1 for the quarter/month of</i> | | | |
|---|---------------------|------------|------------|
| UptoRs. 1.5 crore | January-March, 2020 | 30-04-2020 | 30-06-2020 |
| More than Rs. 1.5 crore | March 2020 | 11-04-2020 | 30-06-2020 |
| | April 2020 | 11-05-2020 | 30-06-2020 |
| | May 2020 | 11-06-2020 | 30-06-2020 |
| <i>Furnishing of Form GSTR-5 for the month of</i> | | | |
| - | February 2020 | 20-03-2020 | 30-06-2020 |
| | March 2020 | 20-04-2020 | 30-06-2020 |
| | April 2020 | 20-05-2020 | 30-06-2020 |
| | May 2020 | 20-06-2020 | 30-06-2020 |
| <i>Furnishing of Form GSTR-5A# for the month of</i> | | | |
| - | February 2020 | 20-03-2020 | 30-06-2020 |
| | March 2020 | 20-04-2020 | 30-06-2020 |
| | April 2020 | 20-05-2020 | 30-06-2020 |
| | May 2020 | 20-06-2020 | 30-06-2020 |
| <i>Furnishing of Form GSTR-6 for the month of</i> | | | |
| - | March 2020 | 13-04-2020 | 30-06-2020 |
| | April 2020 | 13-05-2020 | 30-06-2020 |
| | May 2020 | 13-06-2020 | 30-06-2020 |
| <i>Furnishing of Form GSTR-7 for the month of</i> | | | |
| - | March 2020 | 10-04-2020 | 30-06-2020 |
| | April 2020 | 10-05-2020 | 30-06-2020 |
| | May 2020 | 10-06-2020 | 30-06-2020 |



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Furnishing of Form GSTR-8 for the month of

| | | | |
|------------------------|---|------------|--------------|
| - | March 2020 | 10-04-2020 | 30-06-2020 |
| | April 2020 | 10-05-2020 | 30-06-2020 |
| | May 2020 | 10-06-2020 | 30-06-2020 |
| - | Furnishing of Form CMP-02 | 31-03-2020 | 30-06-2020 |
| - | Furnishing of Form CMP-08 | 18-04-2020 | 07-07-2020 |
| | Furnishing of Form GSTR-4 | 30-04-2020 | 15-07-2020 |
| - | Furnishing of Form GSTR-9/9A for the F.Y. 2018-19 | 31-03-2020 | 30-06-2020 |
| Upto Rs. 5 Crores | Furnishing of Form GSTR-9C for the F.Y. 2018-19 | 31-03-2020 | Not required |
| More than Rs. 5 Crores | Furnishing of Form GSTR-9C for the F.Y. 2018-19 | 31-03-2020 | |

* The due dates have not been extended per se but relaxation has been provided from levy of interest and late fee for the given period.

There is an ambiguity in relation to extension of due dates for GSTR-5A. There are two school of thoughts in this regard. First says it should be covered in section 39(5), while as the another argues to cover it in section 39(1). As Government has mentioned in its press releases that relaxation will be provided for all due dates in respect of every compliance, we may assume that due dates have been extended for GSTR-5A as well.



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KNOW YOUR ETHICS - ICAI CHARTERED ACCOUNTANTS ETHICS - UPDATED

Know Your Ethics – Chartered Accountants or Members of ICAI is Now Check Various Issues or Queries Related to there Ethics. Now Scroll Down below n check Various Issues and there answers faced by chartered accountants.

Q. Whether sponsorship or prizes can be instituted in the name of Chartered Accountants or a firm of Chartered Accountants?

A. Yes, an individual Chartered Accountant or a firm of Chartered Accountants can institute or sponsor prizes, provided that the designation “Chartered Accountant”, is not appended to the prize and the provisions of Clause (6) of Part-I of the First Schedule to the Chartered Accountants Act, 1949 regarding advertisement and publicity is complied with.

Q. Can a Chartered Accountants firm give advertisement in relation to Silver, Diamond, Platinum or Centenary celebration of the firm?

A. Yes, while considering the implications of Clause (6) & (7) of Part I of the First Schedule of the Chartered Accountants Act, 1949 in relation to such advertisements and also the need of interpersonal socialisation/relationship of the members through such get together occasions, the advertisement for Silver, Diamond, Platinum and Centenary celebrations of the firms has been permitted to be published in any newspaper or in the newsletters.

Q. In a representation submitted to a company under section 140(4) of the Companies Act, 2013, the auditors of the company included the contribution made by the firm in strengthening the control procedures of the company during their association with the company. Is it misconduct (Case Study)?

A. Para (i) under Clause (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949 as appearing in the Code of Ethics, 2009, provides for scope of such representation, which an Auditor is entitled to make under section 225 (3) of the Companies Act, 1956 (Section 140(4) of Companies Act, 2013). Section 140(4) of the Companies Act, 2013 permits a retiring auditor to make a representation in writing (not exceeding a reasonable length) to the company. The proposition of the partner to highlight contributions made by the firm in strengthening the control procedures in the representation should not be included in such representation because the representation letter should not be prepared in a manner so as to seek publicity.

The Code of Ethics issued by the Institute makes it amply clear that the right to make representation does not mean that an auditor has any prescriptive right or a lien on an audit. The wording of his representation should be such that, apart from the opportunity not being abused to secure needless publicity, it does not tantamount directly or indirectly to canvassing or soliciting for his continuance as an auditor. The letter should merely set out in a dignified manner how he has been acting independently and conscientiously through the term of office and may, in addition, indicate if he so chooses his willingness to continue as auditor if re-appointed by the shareholders. Thus, such action proposed by a firm could not be approved since, it may lead to his being held guilty of professional misconduct under Clause (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949.

Q. Can a Chartered Accountant in practice accept original professional work emanating from the client introduced to him by another member?

A. No, Para (j) under Clause (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949 as appearing in the Code of Ethics, 2009, prescribes that a member should not accept the original professional work emanating from a client introduced to him by another member. If any professional work of such client comes to him directly, it should be his duty to ask the client that he should come through the other member dealing generally with his original work.



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Q. Whether a Chartered Accountant in practice can give public interviews and also whether he can furnish details about himself or his firm in such interviews?

A. A Chartered Accountant in practice can give public interviews. While doing so, due care should be taken to ensure that such interviews or details about the members or their firms are not given in a manner highlighting their professional attainments, which may hit clauses (6) & (7) of Part-I of the First Schedule to the Chartered Accountants Act, 1949. Any detail which is given, must, in addition to meeting above requirements, be given only on a specific question being posed, and of factual nature only.

Q. Whether a member can appear on television/ Radio or give lectures at Forums?

A. Yes, Council direction under Clause (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949 as appearing in Code of Ethics, 2009, prescribes that a member may appear on television/Radio or give lectures at forums and may give his name and describe himself as chartered accountant. Special qualifications or specialized knowledge directly relevant to the subject matter of the programme may also be given. But no reference should be made, in the case of practicing member to the name and address or services of his firm. What he may say or write must not be promotional of him or his firm but must be an objective professional view of the topic under consideration.

Q. A Chartered Accountant in practice during a TV interview, handed over a bio-data of his firm to the Chairperson. Such bio-data detailed the standing of the international firm with which the firm was associated.

It also detailed the achievements of the concerned partner and his recognition as an expert in the field of taxation in the country. The chairperson read out the said bio-data during the interview. Is it a professional misconduct? (Case Study)

A. Yes, Clause (6) of Part I of the First Schedule to the Act prohibits solicitation of client or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means since it shall constitute professional misconduct. The member would be held guilty of professional misconduct under Clause (6) of Part I of the First Schedule to the Chartered Accountants Act, 1949 under the given circumstances.

Q. Can a Chartered Accountant in practice/ Firm of Chartered Accountants post the particulars of himself/ itself on a website?

A. Yes, the Council has approved the detailed guidelines for posting the particulars on Website by Chartered Accountants in practice and firm(s) of Chartered Accountants in practice.

Q. Whether website of any Chartered Accountant can provide a link to the website of ICAI, its Regional Councils and Branches and also to the websites of Govt. /Govt. Departments/Regulatory authorities and other professional bodies?

A. Yes, it is permitted that website may provide link to the website of ICAI, its Regional Councils and Branches and also to the websites of Govt./ Govt. Departments/Regulatory authorities and other professional bodies.

Q. Whether the information contained in the website of the Chartered Accountants and/ or Chartered Accountants' firms can be circulated on their own or through e-mail or by any other mode or technique?

A. Paras (3) & (4) of Website Guidelines issued by ICAI prescribe that the Chartered Accountants and/or Chartered Accountants' firms should ensure that none of the information contained in the website be circulated on their own or through e-mail or by any other mode or technique except on a specific "pull" request. The Chartered Accountants and/or Chartered Accountants' Firms would ensure that their Websites are run on a "pull" model and not a "push" model of the technology to ensure that any person who wishes to locate the Chartered Accountants or Chartered Accountants' firms would only have access to the information and the information should be provided only on the basis of specific "pull" request.



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TCS ON SALE OF GOODS SECTION 206C(1H) - JUDICIAL REVIEW

Clause 84 of the Memorandum of objects was introduced to widen the scope of section 206C to include TCS on sale of goods.

The provision as enacted reads as follows: 95. In section 206C of the Income-tax Act with effect from the 1st day of October, 2020,—

(I) after sub-section (1F), the following sub-sections shall be inserted, namely:—

(1H) Every person, being a seller, who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year, other than the goods being exported out of India or goods covered in sub-section (1) or sub-section (1F) or sub-section (1G) shall, at the time of receipt of such amount, collect from the buyer, a sum equal to 0.1 per cent. of the sale consideration exceeding fifty lakh rupees as income-tax:

Provided that if the buyer has not provided the Permanent Account Number or the Aadhaar number to the seller, then the provisions of clause (ii) of sub-section (1) of section 206CC shall be read as if for the words “five per cent.”, the words “one per cent.” had been substituted:

Provided further that the provisions of this sub-section shall not apply, if the buyer is liable to deduct tax at source under any other provision of this Act on the goods purchased by him from the seller and has deducted such amount. Explanation.—For the purposes of this sub-section,— “seller” means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the sale of goods is carried out, not being a person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.’

From the reading of the legal provisions of section 206C(1H), the following issues arise for consideration:

1. **MEANING OF GOODS** – It is important to under the consideration for sale of goods. The word “Goods” is not defined in the Income Tax Act. The definition of Goods under GST Act may be more relevant for the purpose of this Section. As per Section 2(52) of the GST Act, “Goods” means every kind of movable property other than money and securities but includes actionable claims, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply. This definition is also common for the purpose of Sale of Goods Act 1930. Therefore, any person dealing in the above goods are expected to follow the TCS requirements.
2. **SALE OF PROPERTIES** – The question for consideration is whether receipt for sale of immovable properties are covered for TCS or not. The sale of properties distinctly covered under Section 194IA for value exceeding Rs. 50 lakhs. Sale of more than one immovable property, each less than 50 lakhs but aggregate value more than Rs. 50 lakhs by a builder to a customer is not covered under Section 194IA. The receipts for sales made by builders to customers are not covered under Section 206C(1H) since the subject matter of sale does not fall under the definition of “Goods”.
3. **SERVICES**: The said section is not applicable for sale of services. At times, it is not clear, whether the subject matter is sale of goods or sale of services such as sale of software, for which the Board may have to clarify.
4. **PERSON**: The Section is applicable to every person being a seller and ‘person’ as defined u/s 2(31) of the Act includes Individual, HUF, Company, Firm, AOP, BOI, Coop Societies, Local Authority and Artificial Judicial Person.
5. **BUSINESS**: They should be engaged in the business carried on by him. Adventure in the nature of trade or one of rare is not required. It should be carried on meaning a continuous activity.



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6. **EXEMPTED TRANSACTIONS:** The provisions of Section 206C(1H) is not applicable if the buyer is liable to deduct tax at source under any other provision of this Act on the goods purchased by him from the seller and has deducted such amount. The Chapter XVII – BB and the Memorandum of Objects were with an intent to widen the tax base and to bring the buyers into the tax net. In a case where buyer is required to deduct TDS and has deducted so, it only captures the seller into tax net but not the buyer. The whole objective is defeated by the exemption provided and the law and the memorandum of self contradicting in nature
7. **SELLER:** “seller” means a person whose total sales, gross receipts or turnover from the business carried on by him exceed Rs 10 Cr during the financial year immediately preceding the financial year in which the sale of goods is carried out. To decide whether a seller is obliged to comply or not, his qualifying turnover needs to be looked into.
8. **QUALIFYING TURNOVER:** The turnover or gross receipts from the business shall exceed Rs 10 crores of the financial year immediately preceding the financial year. The law does not make it mandatory to comply continuously once a seller is obliged to follow. This will lead to a situation where provisions are applicable and not applicable for different years depending on the quantum of turnover, less than or more than Rs. 10 Crore. The provisions of the Act will oscillate with the fluctuations in the turnover of the person.
9. **AMOUNT RECEIVED:** The law envisages that the seller shall collect from the buyer a sum equal to 0.1% of the sale consideration at the time of receipt of such amount.
10. **EXEMPTION:** This section does not provide for exemption to the buyers who propose to use the goods as raw materials as is provided u/s 206(1A) to the class of transactions covered u/s 206(1). Since there is no exempted category of sales for the purpose of Section 206C(1H), sales exceeding Rs 50 lakhs to every category of purchaser, being manufacturers, distributors, whole sellers, retailers, merchant exporters, Industry to Industry, B2B, B2C, all required to adhere to the provision causing enormous amount of work, both for collection and remittance and also to upload the huge data base of purchases and TCS to e-TDS portal. The Central Govt retained the powers to exempt certain class of “sellers” but not the buyers.
11. **SALE OF MOTOR VEHICLES TO DISTRIBUTORS.** The question for consideration is whether the sale of automobiles to distributors and dealers is covered u/s 206C(1F) of 206C(1H)? Provisions of 206C(1H) excludes sales of goods covered in subsection (1) or sub-section (1F) or sub-section (1G). Therefore 206C(1H) is not applicable for sale of motor vehicles to distributors. Even the provisions of section 206C(1F) is also not applicable in view of the clarification issued by the CBDT in Circular 22/2016 dated 8th June 2016. Question I: Whether tax collection at source (‘TCS’) at the rate of 1 % is on sale of Motor Vehicle at retail level or also on sale of motor vehicles by manufacturers to dealers/distributors, Answer: To bring high value transactions within the tax net, section 206C of the Act has been amended to provide that the seller shall collect the tax at the rate of one per cent from the purchaser on sale of motor vehicle of the value exceeding ten lakh rupees, This is brought to cover all transactions of retail sales and accordingly it will not apply on sale of motor vehicles by manufacturers to dealers/ distributors.
12. **SALE OF JEWELLERY TCS** on sale of jewellery was introduced u/s 206C(1D) and due to protest by the traders, the provision was omitted by the Finance Act, 2017. However, the definition of goods includes jewellery and hence the TCS is back on sale of jewellery excepting that the threshold value has gone up to Rs 50 lakhs in a year.
13. **NO LIABILITY CLAUSE TO PAY:** The obligation to collect tax is cast under 206C(1), (1C), (1F), (1G) and (1H) and such persons are required to collect as income tax. However, sub-section 3 of Section 206C casting liability to pay within the prescribed time refers to the class of persons under subsection 1 and sub-section (1C) and omits unintentionally the class of persons covered under sub-section (1F), (1G) and 1(H). In other words, there is a liability to collect but no duty to pay for the class of persons falling under sub-section (1F), (1G), (1H) in the absence of a enabling clause. The sub-section 3 of Section 206C is reproduced below:

206C(3) Any person collecting any amount under sub-section (1) or sub-section (1C) shall pay within the prescribed time the amount so collected to the credit of the Central Government or as the Board directs:



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14. **QUALIFYING AMOUNT:** The amount on which the tax needs to be collected shall be limited only to the consideration for sale of goods. In the absence of sale of goods and amount received, the liability does not exist. The liability arises on amount received in advance or in arrears.
15. **CANCELLATION OF SALE:** Upon cancellations, the seller is required to refund only the sale consideration received but not the TCS amount since such TCS amount is already credited as prepaid taxes and will appear in Form 26AS and the buyer cannot insist for refund of the TCS amount.
16. **TCS ON BAD DEBTS RECOVERED:** Situation will also be different if after the sale of the goods, the seller treats whole or any part of the debt as bad debt and subsequently recovers some portion of the bad debt. Difficulty arises in interpreting, whether the bad debts recovered is a part of sale consideration or not. Of course, it is an amount received from a buyer belatedly and the only nexus between the seller and the buyer is on account of sale of goods and the amount received is only for the sale consideration with timing differences and cannot become anything else in the hands of the seller. The treatment in the books of seller as bad debts recovered, cannot take away his liability under Section 206C(1H).
17. **ADHOC SALE CONSIDERATION:** Wherever the amount collected from the buyers is an ad hoc amount, the seller need to gross it up and remit the TCS accordingly.
18. **EXEMPTED SALES:** Wherever, the buyer deducts TDS, the seller is not liable for TCS as per second proviso to Section 206C(1H). It is not always clear to the seller whether or not the buyer will do TDS and if so on what portion of the sale consideration. This particularly happens in the case of turn-key projects or composite contracts. The overlapping of both TDS and TCS can not be ruled out when both the seller and the buyer act cautiously
19. **TWICE GROSSING UP:** Every time the seller receives part of the sale consideration in advance, the seller is mandated to remit that portion of GST to the GST authorities. He is also required to remit TCS under Section 206C(1H). Difficulty arises in calculation of the amount required to be remitted as the seller needs to calculate GST first and then calculate TCS later, both on grossing up basis requiring tedious calculations.
20. **TIME OF LIABILITY:** There is a class of difference between 206C(1), 206C(1C) and 206C(1H). In subsection 206C(1) and 206C(1C), the seller needs to collect TCS at the time of debiting the amount payable by the buyer or at the time of receipt, whichever is earlier. Conspicuously, such timing stipulation is absent in 206C(1H). The liability under 206C(1H) arises only on receipt basis.
21. **NEED TO RAISE AN INVOICE** In order to collect TCS under Section 206C(1H) also under other TCS provisions, the seller needs to raise an invoice including the amount of TCS, account in the books as a TCS liability even though not payable. Even though the TCS amount is debited to the buyer, the liability under Section 206C(1H) does not arise till the time the amount is collected.
22. **MISMATCH BETWEEN BOOKS AND 26AS:** Due to the requirement of TCS arising on collection basis, there are timing differences between the year of purchase made by the buyer and the TCS credit amount appearing in Form 26AS. This will lead to reconciliation differences between the books of the buyer and Form 26AS in such a manner that the purchases as in Form 26AS will never match with the purchases in the books of the buyer. This also may lead to selecting the cases for scrutiny on the basis of mismatches.
23. The entire industry having faced and still facing series of set backs of recession, effect of demonetisation and the present pandemic COVID 19 and with the introduction of the provisions of section 206C(1H), will face hardship not only on cash flows, but also on account of enormous compliance burden.