



D J A S & Co. | NEWSLETTER | DATE OF ISSUE: 1ST NOVEMBER, 2020

November-2020 COMPLIANCE CALENDAR

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
01	02	03	04	05	06	07
						# IT TDS/TCS pmt Oct-20
08	09	10	11	12	13	14
		# GSTR 7 for TDS of Oct-20 # GSTR 8 for TCS of Oct-20	# GSTR 1 for Oct-20 (month)		# GSTR 6 for Oct-20 (ISD)	
15	16	17	18	19	20	21
# PF & ESI pmt & return for Oct-20					# GSTR 3B for T/o > 5 Cr for Oct-20 # GSTR 5 & 5A for Oct-20	
22	23	24	25	26	27	28
# GSTR 3B for T/o < 5 Cr for Oct-20 for Category A states		# GSTR 3B for T/o < 5 Cr for Oct-20 for Category B states				
29	30					
	# ITR for AY 2019-20					

Category A: Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana, Andhra Pradesh, Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman & Nicobar Islands and Lakshadweep

Category B: Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union territories of Jammu & Kashmir, Ladakh, Chandigarh and Delhi

Google calendar : <https://calendar.google.com/calendar/b/2?cid=aW5mby5kamFzQGdtYWlsLmNvbQ>

REIMBURSEMENTS – GST perspective

As per Black's law dictionary, reimburse means *to pay back, to make restoration, to repay that expended; to indemnify, or make whole*. It is an expense incurred by any person on behalf of other person who was liable to meet such expenses, basically called as principal, and then reclaiming back of such expense from the principal is called reimbursement. The person who incurs expense for the principal is called a pure agent.

Broadly speaking, a pure agent is the one who while making supply to the recipient, also incurs expenditure on some other supply on behalf of the recipient and claims reimbursement (as actual, without adding it to the value of his own supply). While the relationship between them (provider of service and recipient of service) in respect of the main service is on a principal to principal basis, the relationship between them in respect of reimbursement is that of a pure agent.

As per Rule 33 of CGST Rules, expenditure incurred by the pure agent and claimed as reimbursements shall **not be included in the value of supply** of the supplier who acted as pure agent of the recipient, as the liability for expense was of the recipient and not of the supplier who acted as pure agent.

However, there are certain conditions that needs to be fulfilled for exclusion of reimbursements from the value of supply by the supplier –

- The supplier shall make payment upon **authorisation** from the recipient
- The reimbursements shall be **separately indicated** in the invoice issued by the supplier
- The supplies procured by the supplier from third person on behalf of the recipient are **in addition to the main supplies** of the supplier to the recipient.

As the reimbursements are not included in the value of supply by the supplier, the supplier shall not levy GST on such reimbursements. In general trade practices, the supplier provides the copy of invoice of the third party for claiming reimbursement of expenditure incurred by him on behalf of the recipient. This signifies two very important aspect of reimbursement –

- The actual cost / expense incurred on behalf of the recipient has been reclaimed as reimbursements and there is no profit element hidden in such reimbursements.
- The supplier does not hold or intends to hold any title to the goods or services or both so procured as a pure agent.

Therefore, the reimbursements are generally supported by the invoice of the third party. In the absence of invoice from the third party the above two aspects cannot be established – whether there is any profit element in such reimbursements or whether the supplier has transferred the title of the goods to the recipient. In such cases, reimbursements is included in the value of supply of the supplier and GST is levied on the reimbursements along with the main supply provided by the supplier to the recipient.

IMPORTANT UPDATES OF OCTOBER – 2020

Indirect Taxes

The facility to file GSTR-3B and GSTR-1 with the EVC for companies, shall be withdrawn with effect from 1st November, 2020. However, facility to file NIL returns through OTP verification shall continue for all types of registered persons.

GST annual return in form GSTR-9 and GST audit reconciliation statement in form GSTR-9C has been extended to 31st December, 2020 for FY 2018-19. However, there is no such extension for FY 2019-20, which is also due on 31st December, 2020.

With effect from 1st April, 2021, all taxpayers having turnover > Rs. 5.0 crores in the preceding must capture 6 digit HSN code in all their invoices and taxpayers having turnover less than Rs. 5.0 crores must capture 4 digit HSN code in their B2B invoices. Taxpayers having turnover less than Rs. 5.0 crores shall have the option of not mentioning HSN in their invoices for unregistered supplies.

The division bench of Hon'ble Madras High Court has set aside the single bench order and held that assessee is not entitled to carry forward and set off of unutilized credit of Education Cess, Secondary and Higher Education Cess, and Krishi Kalyan Cess against the Output Liability of GST in terms of Section 140 of the CGST Act, 2017.

Taxpayers having turnover less than Rs. 5.0 crores in FY 2019-20 has been exempted from filing of GST audit reconciliation statement in Form GSTR-9C. However, no such relaxation has been extended to GST annual return in Form GSTR-9.

Direct Taxes

The CBDT has extended due date of filing declaration under Vivad se Vishwas Act, 2020 to 31st December, 2020. The declarant can make payment without any additional amount by 31st March, 2021.

Due date for filing of Income Tax Returns for individuals have been extended by a month to 31st December, 2020 and the due date for those taxpayers whose accounts need to be audited has been extended to 31st January, 2021.

CBDT has notified variation limits for transfer pricing u/s 92C of the Income Tax Act, 1961 to be 1% in case of wholesale trading and 3% in case of others vide Notification No. 83/2020/F. No. 500/1/2014-APA-II dated 19th October, 2020.

Hon'ble Karnataka High Court has held that Third Party Administrator (TPA), who are responsible for making payment to hospitals for rendering services on medical/health insurance policies issued by insurance companies, are liable to deduct tax at source under section 194J from payments made to hospitals.

Bangalore ITAT has pronounced an import judgment holding that Assessing Officer should scrutinize valuation report prepared under DCF method and if necessary, he can carry out fresh valuation either by himself or by calling a final determination from an independent valuer to confront assessee. He cannot change method of valuation and he has to follow DCF method only.

Corporate Law

Due dates for following forms have been extended till 31st December, 2020.

- MSME-1
- DPT-3
- PAS-6
- DIR-3 KYC
- LLP Form 11

MCA has relaxed the minimum one director being resident in India condition under section 149 of the Companies Act, 2013. It has been relaxed for financial year 2020-21 in wake of COVID-19 outbreak. This is also applicable for Limited Liability Partnership firms as per Limited Liability Partnership Act, 2008.

Business Update

CBIC has issued guidelines on faceless assessments for customs. This is in line with the Turant Customs initiative by the Government. It is estimated that it will help in slashing release time to only few minutes and few hours, substantially lower than the present clearance times averaging three to four days.

The Industrial Relation (Central) Rules, 2020, has been published for public comments which is in supersession of the Industrial Tribunal (Procedure) Rules, 1949, Industrial Tribunal (Central Procedure) Rules, 1954, Industrial Disputes (Central) Rules, 1957, and Industrial Employment (Standing Orders) Central Rules, 1946. This is expected to become law w.e.f. 1st April, 2021.

ABOUT US

D J A S & Co. is a chartered accountants firm headed by young and passionate Chartered Accountants who understand the dynamics of the changing need of industries from regulation & compliance perspective and keep themselves abreast with almost every day updates / changes in Indian and International law. Known for their impeccable record in delivering value to their business partners in the form of taxation consultancy, litigation handling, auditing & assurance and processes / system improvement - their values of customer first, transparency with client, knowledge centric approach for employees and article assistants while maintaining their integrity is worth calling out for.

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IF YOU THINK COMPLIANCE IS EXPENSIVE, TRY NON – COMPLIANCE

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