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CHART OF FORTHCOMING DUE DATES: -

a) GST due dates falling in the month of October 2021.

Sr No.	Particulars	Due Date
1.	GSTR-1 (Monthly)	11.10.21
2.	GSTR-1 (QRMP)	13.10.21
2.	GSTR-3B	20.10.21

b) Others due dates falling in the month of September 2021

Sr No.	Particulars	Due Date
1	TDS Payment	07.10.2021
2	ECB-2	07.10.2021
3	PF Payment	15.10.2021
4.	TDS Return	30.10.2021
5.	Form 8 (Financial Reports of an LLP)	30.10.2021
6.	Form MSME	31.10.2021

I. OVERVIEW:

o DEPOSITS UNDER COMPANIES ACT, 2013 - INCLUSION, APPLICABILITY, DPT 3 FILING:

Deposits are a means through which companies generally acquire funding. When the Directors are not in the verge to dilute their stake, they may opt for deposits from public at large. Section 73 to 76 of the Companies Act 2013 read with Rules made under Chapter V of the **Companies Act, 2013** regulate the invitation and acceptance of deposits.

As companies Act 2013, “**deposit**” includes any receipt of money by way of deposit or loan or in any other form, by a company, but does not include such categories of amount as may be prescribed under Rule 2(c) of the **Companies (Acceptance of Deposit) Rules, 2014**.

They include Any amount,

- Received from the Central Government or a State Government, or any such source where the repayment will be guaranteed by the State or the Centre.
- Received from foreign banks or international banks, foreign governments, multilateral financial institutions subject to the provisions of FEMA, 1999.
- Received by way of financial assistance or loan from Public Financial Institutions notified by the Central Government or Scheduled Banks or Insurance Companies.
- Received as a loan or facility from any banking company or the State Bank of India or any of its subsidiaries.
- Received by a company from any other company.
- Received against the issue of commercial paper or any other instruments issued in accordance with the RBI guidelines.
- Received against an offer made towards the subscription of securities, by way of share application money or advance towards allotment. The money shall be considered as a deposit provided:- a) The company fails to allot such securities within 60 days. b) And after the expiry of the aforesaid 60 days, the money that is received has still not been refunded in the next 15 days.
- Received from an employee of the company not exceeding his annual salary in the nature of non-interest bearing security deposit.
- Received amount that is non-interest bearing in nature or held in trust.
- Received from a director who provides a declaration stating that the amount is not given out of borrowings or a loan from any person.
- Raised by way of issue of debentures or bonds secured by a first charge or any other way.

- Brought in by the promoters as a loan, unsecured in nature, in pursuance with the stipulation of bank or lending financial institution.
- Accepted by Nidhi Company as per the provisions of Sec 406 of the Act.
- Received in the course/for the purpose of business as an advance:- a) Received in connection with consideration for property under an agreement. b) Received for the supply of capital goods under long term projects. c) For the supply of goods/provision of services as long as the advance is appropriated against the supply of goods/provision of services within 365 days of accepting the same.
- Received as a security deposit for the performance of a contract.

Non-Applicability

Companies may accept deposits from both, members and the general public as per the provisions of the Companies Act, 2013. Provisions of Section 73-76 of the Companies Act, 2013 shall not apply to :-

1. Banking Company
2. Non-Banking Financial Company as per RBI Act 1934
3. Any other company notified by the Central Government in consultation with the RBI.

Acceptance of Deposits by Private Companies

The Companies Act, 2013 prohibits private limited Companies to accept deposits from public at large. But the Private Company can accept deposits from its Directors, Members and relatives of Directors after fulfilling the conditions as prescribed in the deposit rules.

The Companies (Acceptance of Deposit Rules) states that:-

No company referred to in sub-section (2) of section 73 shall accept or renew any deposit from its members, if the amount of such deposits together with the amount of other deposits outstanding as on the date of acceptance or renewal of such deposits exceeds thirty five per cent of the aggregate of the Paid-up share capital, free Reserves and securities premium account of the company

Provided further that the maximum limit in respect of deposits to be accepted from members shall not apply to following classes of private companies, namely:-

- (i) a private company which is a start-up, for ten years from the date of its incorporation;
- (ii) a private company which fulfils all of the following conditions, namely:-

- (a) which is not an associate or a subsidiary company of any other company;
- (b) the borrowings of such a company from banks or financial institutions or anybody corporate is less than twice of its paid up share capital or fifty crore rupees, whichever is less ; and
- (c) such a company has not defaulted in the repayment of such borrowings subsisting at the time of accepting deposits under section 73:

Provided also that all the companies accepting deposits shall file the details of monies so accepted to the Registrar in Form DPT-3.]

Filing of Form DPT-3

Every Company (Whether, Small, Non Small, Private, Public, OPC etc.) to which deposit rules apply, shall on or before the 30th day of June, of every year, file with the Registrar, a return in Form DPT-3 mentioning the details of deposit.

As mentioned above, the private companies who have accepted monies which are not considered as deposits shall be required to file “**Particulars of the transactions not considered as deposit**” as per the Companies Act, 2013 and rules made thereunder in **Form DPT-3**.

II. INCOME TAX ACT

ALL ABOUT DIVIDEND INCOME, PAYMENT AND COMPLIANCES

Dividend income, payment and reporting has undergone major changes during the last and current financial year with increased taxation in the hands of the recipients and increased reporting requirements.

These days investment in shares and securities has become a favourite of most people and as a result many people have dividend income.

Also, a lot of the companies pay dividend therefore reporting and other compliances relating to dividend payments is important for them also.

Let's go through some of the major changes when it comes to dividend.

1) Taxation of dividend in the hands of the shareholders

One of the major changes in the taxation of dividend is the increased taxation of Dividend income in the hands of the shareholders.

From FY 2020-21, Section 10(34) exempting dividend Income from taxation has been completely withdrawn.

Earlier Domestic companies were required to pay dividend distribution tax (DDT) on payment of dividend but DDT has been done away with from 01.04.2020. Thus, if the dividend is distributed on or after 01-04-2020, the domestic companies shall not be liable to pay DDT and the shareholders will be liable to pay tax on such dividend.

Also, section 115BBDA, providing taxability of dividend over Rs 10 lakhs has been done away with meaning thereby that entire dividend income received by a person is now taxable in the hands of the shareholder.

The above changes have increased the tax liability of dividend income for shareholders but companies don't have to pay DDT on dividend distribution thereby reducing cost of dividends for them.

2) TDS on dividend payments

As per the Section 194, which shall be applicable to dividend distributed, declared or paid on or after 01-04-2020, an Indian company shall deduct tax at the rate of 10% from dividend distributed to **resident shareholders** if the aggregate amount of dividend distributed or paid during the financial year to a shareholder exceeds Rs. 5,000.

However, no **TDS** shall be deducted on dividend income of LIC, GIC or any other insurer in respect of any shares owned by it or in which it has full beneficial interest.

Also, TDS on dividend paid or distributed to **non-residents** will be applicable as per section 195 of the IT Act and the [Double Taxation Avoidance Agreement \(DTAA\)](#) with the country of residence.

3) Taxability and tax rate for non-resident shareholders

A non-resident generally holds shares of an Indian company as an investment and therefore any income derived by way of dividend is taxable under the head other sources except where such income is attributable to Permanent Establishment (PE) of such non-resident in India.

The dividend income, in the hands of a non-resident (including FPIs and non-resident Indian citizens (NRIs) is taxable at the rate of 20% as per section 115A of the Act without providing for deduction under any provisions of the Income-tax Act. However, if there is a beneficial rate of dividend as per DTAA that rate can be applied subject to conditions given in the DTAA and furnishing TRC etc.

Where the dividend is received in respect of GDRs of an Indian Company or Public Sector Company (PSU) purchased in foreign currency, the tax shall be charged at the rate of 10%. Also, dividend income of an investment division of an offshore banking unit shall be taxable at the rate of 10%.

4) Deductions from dividend income

Where dividend is shown as business income, the taxpayer can claim the deductions of all those expenditures which have been incurred to earn the dividend income such as collection charges, interest on loan etc. Whereas if dividend is taxable under the head other sources, the taxpayer can claim deduction of only interest expenditure which has been incurred to earn that dividend income to the extent of 20% of total dividend income.

No deduction shall be allowed for any other expenses including commission or remuneration paid to a banker or any other person for the purpose of realizing such dividend.

5) Reporting requirements on payments/distribution of dividends

From FY 2020-21, the reporting requirements for a company paying dividends has also increased.

Any company which has paid/distributed/declared dividend during financial year 2020-21 and onwards needs to file information of such payment/distribution in Statement of financial Transactions.

This statement was due to be filed by 30th June'2021 for dividends paid during FY 20-21. Such statement needs to be filed for dividend payouts for subsequent financial years also.

The Govt. in its endeavor to make return filing process easy and ensuring pre-filled data in the IT Return has made it compulsory for companies to file information of such dividend payment.

The data filed through this SFT will be pre-filled in the ITR form of the persons receiving such dividend also the same will be available for viewing in annual information system (Form 26AS) of such person.

Dividend whether final or Interim paid or distributed is to be reported through SFT. Moreover, even deemed dividend under section 2(22)(e) must be reported in such statement of financial transactions.

There is no threshold limit for filing SFT for dividend. Therefore, Dividend payment of any amount must be reported through SFT.

III. COMPANY LAW

DUE DATE OF AGM EXTENDED BY TWO MONTHS

- Finally, the update for which we all were waiting is here. The Ministry has released an **Office Memorandum on 23rd September, 2021** regarding the **extension of due date of AGM by 2 months**. Accordingly, the MCA has advised the **ROCs** to release order for their respective jurisdictions, providing for extension of due date of AGM by 2 months beyond the date by which companies are required to hold their AGM for the **F.Y. 2020-21**.
- **Points of consideration:**
 1. The due date is **not extended up to 30th November, 2021** for all Companies. It is only for those Companies whose due date of conducting AGM is **30th September, 2021**.
 2. The period of 2 months is to be calculated keeping in view the provisions of **Section 96(1)**, more specifically, the provision of maximum gap of **15 months between 2 AGMs**.
 3. No such extension is provided for **first AGMs**.
 4. There's no need of filing **form GNL-1** to seek extension of due date of AGM.
 5. This extension also covers:
 - a. **Pending applications** filed in **form GNL-1**, which are yet to be approved.
 - b. **Rejected applications** filed in **form GNL-1**.

c. **Approved applications** filed in form **GNL-1**, where the extension was approved for a period of **less than 2 months**.

6. This extension shall not apply to those Companies which have already received extension of **more than 2 months**.

Illustration:

Company	Due date	Extended due date
A	30 th September, 21	30 th November, 21
B	25 th September, 21	25 th November, 21
C	21 st September, 21	21 st November, 21

IV. GST

TAX COLLECTION AT SOURCES IN GST

What is Electronic-Commerce?

As per section 2(44) of the **CGST Act, 2017**, 'Electronic Commerce' means the supply of goods or services or both over digital or electronic network.

Who is Electronic Commerce Operator?

As per section 2(45) of the CGST Act, 2017, 'Electronic Commerce Operator' means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce

Analysis:

Every E-Commerce transaction involves 3 below parties and two types of transaction:

1. Seller;
 2. Buyer;
- E-Commerce Operator
Types of transactions:
 1. Between Seller & Buyer- Sale of Goods
 2. Between Seller & E-Commerce Operator- Provision of market place.

Brief taxability under GST:

Between Seller & Buyer: GST on entire value of goods/services

Between Seller & E-Commerce Operator: GST on commission value/Other charges earned by ECO

Registration of Seller:

1. U/s 22(1) of the CGST Act, 2017, Every supplier shall be liable to be registered, if his aggregate turnover in a financial year exceeds 20 lakhs (10 lakhs in case of special category states)

(Unless and until such person is engaged exclusively in supply of goods or services that are not liable to tax or wholly exempt from tax)

2. However, persons who supply goods through electronic commerce operator which collects TCS u/s 52 is required to obtain compulsory registration irrespective of aggregate turnover.

- Persons engaged in exclusive supply of following services are not liable to registration as tax on supply of such services is paid by electronic commerce operator u/s 9(5)
[Section 24(ix)]

1. Services by way of transportation of passengers by radio-taxi, motor cab and motor cycle

2. Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites, or other commercial places meant for residential or lodging purposes except if turnover crosses above threshold of 20/10 lakhs

3. Services by way of house-keeping, such as plumbing, carpentering etc except if turnover crosses above threshold of 20/10 lakhs

[Notification No 17/2017- CT (Rate)]

Registration of Electronic Commerce operator:

Compulsory Registration:

1. Electronic Commerce operator who is required to collect tax u/s 52

2. Electronic commerce operator who is required to pay tax under section 9(5)

Collection of Tax U/s 52: (w.e.f October 1, 2018)

Electronic Commerce operator is required u/s 52 of the CGST Act, 2017, to collect tax at 0.5% on the net value of taxable supplies during month by registered persons

[i.e., taxable supplies less return & other than supplies of 9(5)] where consideration is collected by the operator

[Notification No 51/2018- Central Tax] & [Notification No 52/2018- Central Tax]

Analysis:

1. TCS not required on supplies which are not leviable to tax under the GST (required only on taxable supplies)
 2. TCS not required for supplies on which tax is paid by electronic commerce operator u/s 9(5)
- TCS is not required on supplies which are returned by the buyers
 1. Consideration should be collected by the electronic commerce operator to levy TCS
 2. Seller should be registered person

Payment deadline for Electronic Commerce Operator:

Tax collected by ECO is required to be deposited by 10th of the succeeding month (Form GST PMT-06).

The amount is required to be paid in cash only & balance in credit ledger cannot be used & shall be available to the seller in his Electronic Cash Ledger.

Filing of statement by Electronic Commerce Operator (Section 52 & Rule 67):

Every operator who collects tax is required to furnish a statement, electronically, containing the details of Outward supplies of goods or services or both effected through it, including supplies of goods or services or both returned through it, and the amount collected by way of tax by 10th of the succeeding month (Form GSTR-8).

The details are then available to the supplier for claiming in his cash ledger

V. FEMA

LEGAL ENTITY IDENTIFIER (LEI)

INTRODUCTION AND PURPOSE OF LEGAL ENTITY IDENTIFIER

The Legal Entity Identifier (LEI) code is conceived as a key measure to improve the quality and accuracy of financial data systems for better risk management post the Global Financial Crisis.

The LEI is designed to enable the identification and linking of parties to financial transactions to manage counterparty risk. Its goal is to help improve the measuring and monitoring of systemic risk and support more cost-effective compliance with regulatory reporting requirements.

REGULATORY AUTHORITY OF LEI

The Global LEI System (GLEIS) has been set up by regulatory authorities [including G20 and the Financial Stability Board (FSB)] to address the global financial crisis. The online portals of the Financial Stability Board (FSB), Regulatory Oversight Committee and Global Legal Entity Identifier Foundation provide general information on the status of the global LEI system.

STRUCTURE OF LEI CODE

LEI is a 20-digit unique code to identify parties to financial transactions worldwide. It consists of long alphanumeric code based on the ISO 17442 standard developed by the International Organization for Standardization (ISO) and has the following structure:

- **Characters 1-4**, a four-character prefix assigned by the ROC Secretariat, unique to each Local Operating Unit (LOU) (for LEIL-3358)
- **Characters 5-6**, 2 reserved characters - 00
- **Characters 7-18**, 12 characters generated and assigned to an entity by the LOU according to transparent and sound allocation policies
- **Characters 19-20**, 2 check digits under ISO 17442

WHO NEEDS TO APPLY FOR LEI CODES?

1. RBI Circular for NEFT/RTGS Transactions:

- In accordance with the latest RBI circular dated January 05, 2021, the RBI states that LEI Number is required for all payment transactions of value of INR 50 crore and above undertaken.
- In case you are using RTGS/NEFT for carrying out transactions of value 50 crores or above for FX Payments, Money Market Payments, Vendor Payments, Inter-company payments or any other, the LEI number would be required.

2. IRDAI Circular for Insurers and corporate borrowers (IRDAI circular dated June 05, 2020):

The IRDAI circular is applicable to both term loan borrowers and debenture issuers. Debentures, term loans as well as Bonds, both would be included in computing the overall exposure that an insurer or financial institution has to be a corporate borrower either in the form of term loan or debentures or in any other form of debt.

3. RBI Circular for Non derivatives markets and for Large Borrowers

The RBI Circular covers participants in a non-derivative markets and borrowers of banks in a phased manner to apply for an LEI.

Non-derivative markets include Government securities markets, money markets (markets for any instrument with a maturity of one year or less) and non-derivative forex markets (transactions that settle on or before the spot date) that is cash, tom and spot transactions.

4. Remaining Participants as per Reserve Bank of India has mandated the implementation of the LEI System

All participants in the Over the Counter (OTC) markets for Rupee Interest Rate derivatives, foreign currency derivatives and credit derivatives in India, in a phased manner as mentioned below: -

1. Phase I - Entities regulated by RBI / SEBI / IRDA / PFRDA and Corporates with Net Worth above Rs 10000 mn- August 1, 2017

2. Phase II - Corporates with Net Worth between Rs 2000 mn and Rs 10000 mn- August 1, 2017

3. Phase III - Corporates with Net Worth between Rs 700 mn and Rs 2000 mn- December 1, 2017

4. Phase IV - Corporates with Net Worth of Rs 700 mn and below- March 31, 2018

Please note that entities without an LEI code would not be eligible to participate in the OTC derivative markets, after the date specified in the schedule.

THE PROCESS TO APPLY FOR AN LEI: -

A legal entity seeking an LEI will be required to register as a user on our LEI website (i.e. www.ccilindia-lei.co.in).

The authorized official will select the option to "Create an Account" and fill in the required details. The officials will receive a confirmation e-mail to activate and verify his/her account.

"An LEI is valid for one year from the date of issuance/last renewal date."

Disclaimer:

The issues of concern raised, conclusions reached, and views expressed in the presentation are matters of opinion. Our opinion is based on our understanding of the law and regulations prevailing as of the date of this Note and our experience with the tax and / or regulatory authorities. However, there can be no assurance that the tax authorities or regulators may not take a position contrary to our views. Legislation, its judicial interpretation and the policies of the tax and / or regulatory authorities are also subject to change from time to time, and these may have a bearing on the advice that we have given. Accordingly, any change or amendment in the law or relevant regulations would necessitate a review of our comments and recommendations contained in this Note. Unless specifically requested, we have no responsibility to carry out any review of our comments for changes in laws or regulations occurring after the date of issue of this Note. This presentation is prepared exclusively for knowledge upgradation of members of SUFI and not for solicitation of any assignment. This presentation may not be distributed or otherwise made available to other parties without our consent. Umesh P Gosar & Associates, its promoters, employees and or agents, neither owe nor accept any duty of care or any responsibility to any other party, whether in contract or in tort (including without limitation, negligence or breach of statutory duty) however arising, and shall not be liable in respect of any loss, damage or expenses of whatever nature which is caused to any other party.

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