






# Annual closure

- Income Tax compliances

Presented by  
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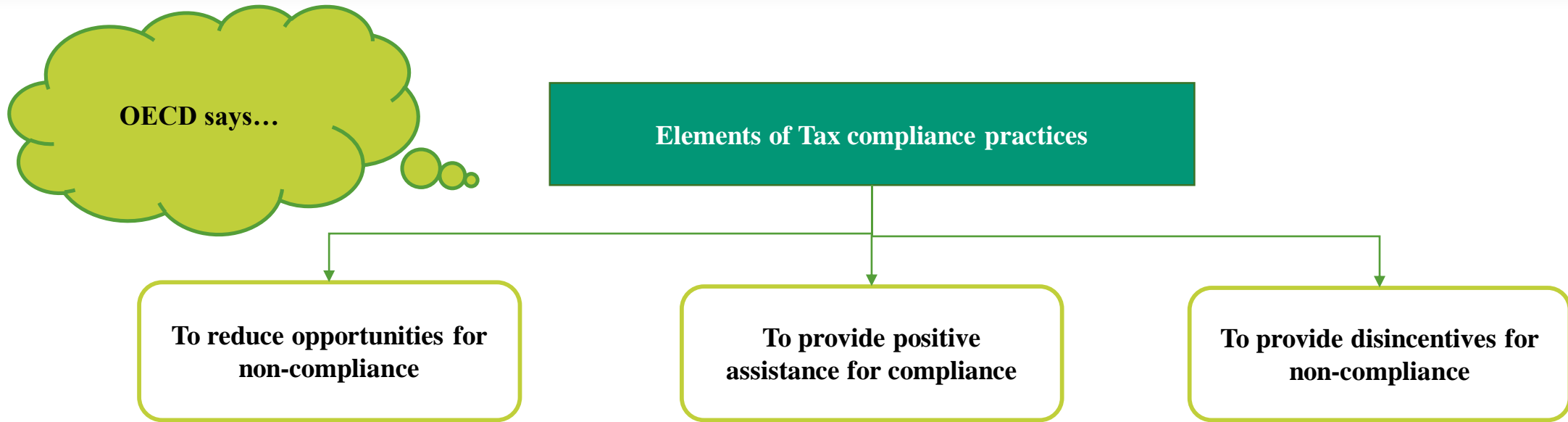


# What's in?

-  Background
-  Annual compliance – As a “RECIPIENT OF INCOME”
-  Annual compliance – As a “PAYER OF INCOME”
-  Annual compliance – Special cases
-  Concluding remarks

# Background

# ◆ Background



In recent times, Indian Govt is concentrating on the business compliance in order to plug in the loopholes for leakage of tax revenue.

Some measures are –

- TDS provisions for online games, business / professional perquisites etc.
- Extension in scope of AIS to aid in return filing

# ◆ Direct Tax collections in India

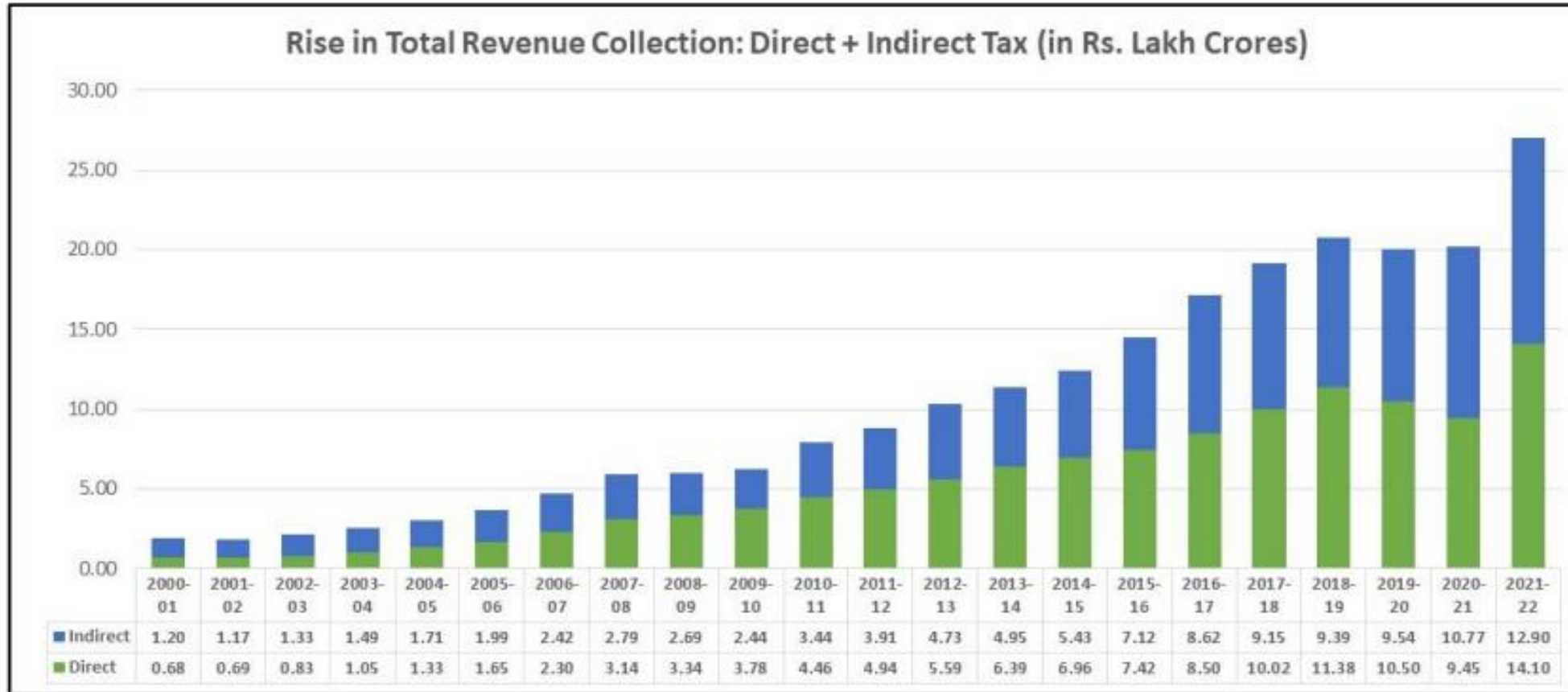


Figure 1

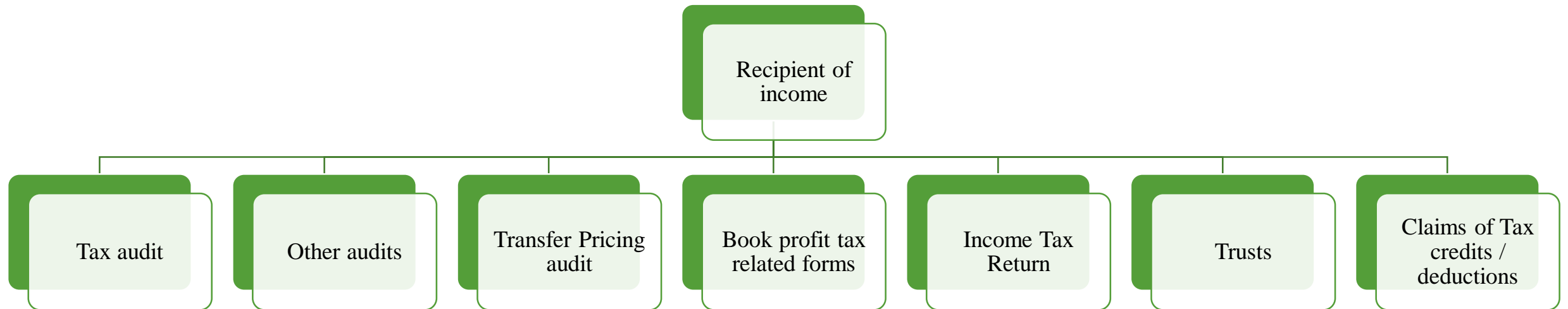
Source: PIB Press release dated April 14, 2022

Annual Closure – Income Tax compliances

# Annual compliance

- *As a “Recipient of Income”*

# Overview



# Tax audit

## Who should comply?

### ☐ Assessee carrying on Business

- ☐ If cash receipts/ expenditure doesn't exceed 5% of total receipt/ expenditure resp. - Tax audit applies if total sales > INR 10 Crore
- ☐ Otherwise – Tax audit applies if total sales > INR 1 Crore

### ☐ Assessee carrying on Profession

- ☐ Tax audit applies if gross receipts > INR 50 Lakhs

### ☐ Assessee opted for presumptive scheme u/s 44AE, 44BB and 44BBB and offers lesser income than prescribed

### ☐ Assessee opted for presumptive scheme u/s 44ADA, offers lesser income than prescribed and income exceeds BEL

### ☐ Assessee opted for presumptive scheme u/s 44AD, opts out of such scheme, for the 5-year period and income exceeds BEL

## How to comply?

### ☐ File Form 3CA / 3CB + 3CD signed by the auditor on/before September 30 / October 31 of AY

### ☐ “True and correct” – Tax audit report

*(Section 44AB r.w. Rule 6G)*



# Tax audit

## Penal/ Other consequences of non-compliance

- ☐ Section 271B –
  - ☐ 0.5% of turnover earned during the relevant PY restricted to INR 1,50,000
- ☐ No penalty in case of reasonable circumstances –
  - ☐ Tax auditor deceased/ resigned
  - ☐ Reasons beyond the control of the assessee such as books of accounts destroyed due to natural calamity etc.
- ☐ Return of Income turns out to be “defective”;
- ☐ If not cured, treated as “Invalid” leading to penalty for non-filing of return of income u/s 271F



Q&A?

1. *Can statutory auditor be different from tax auditor?*
2. *Should assessee accept the form filed by tax auditor?*
3. *Can tax audit report be filed after due date?*
4. *Can tax audit report be revised?*
5. *Can disallowance be made based on tax audit report?*

# Other audits

## Form 3AE

*(Sec 35, Rule 6AB)*

- Audit report to be filed to claim deduction in respect of preliminary expenditure u/s 35D
- To be filed on/before September 30 / October 31 of AY

## Form 3CE

*(Sec 44DA, Rule 6GA)*

- Audit report for Permanent Establishments offering income u/s 44DA
- To be filed on/before September 30 / October 31 of AY

## Form 10B

*(Rule 16CC, Rule 17B)*

- Applicable for trusts/ institutions having income > INR 5 crores / received foreign contributions / applied outside India
- Audit report to be filed on/before September 30 of AY

## Form 10BB

*(Rule 16CC, Rule 17B)*

- Applicable for other trusts/ institutions
- Audit report to be filed on/before September 30 of AY

# ◆ Transfer Pricing audit

Any assessee having income from  
“international transactions” as defined  
u/s 92B of IT Act

**Who is required to  
comply?**

**When to comply?**

On/before October 31 of AY

File Form 3CEB signed by the auditor  
(Section 92E r.w. Rule 10E)

**How to comply?**

**Penal consequences**

Section 271BA – INR 1,00,000

# ◆ Transfer Pricing documentation

## Documentation requirements

- ☐ Ownership structure
- ☐ Profile of the multinational group
- ☐ Industry in which the group operates and business of each Aes
- ☐ Nature & description of international transactions
- ☐ FAR analysis
- ☐ Record of uncontrolled transactions
- ☐ Method selected for determining ALP
- ☐ Workings for determining ALP and adjustments to be made, if any
- ☐ Assumptions, policies, terms, conditions, price negotiations etc.

## Penal consequences

Section 271G – 2% of value of international transaction

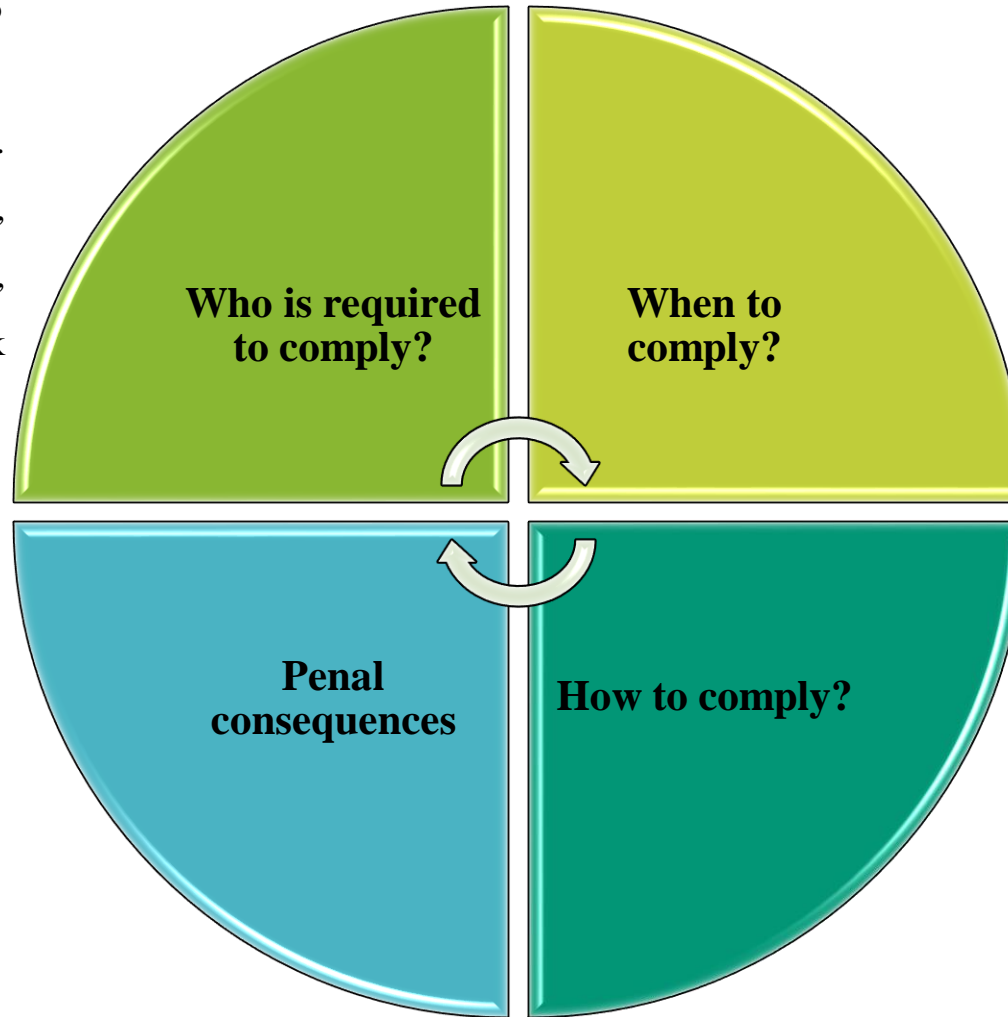


*Why is it relevant as a part of annual closure?*

# ◆ Book profit tax

- ❑ Company whose income is less than 15% of book profits
- ❑ Certain non-company assesseees (viz. claiming tax holiday, weighted deductions, Chapter VI-A Heading “C” deductions), whose income is less than 18.5% of book profits

File Form 29B/ Form 29C duly signed by the auditor



On/before September 30 / October 31 of AY

No direct penalty provided for under the Act



# Trusts

## Form 9A (Rule 17(1))

- Opting deemed application (*incase 85% of income could not be applied owing to non-receipt of income during PY/ other reasons*) under Explanation 1 to 11(1)
- To be filed on/ before due date for filing ROI

## Form 10 (Rule 17(2))

- Option to accumulate / set apart income for specific purposes u/s 11(2)(a)
- To be filed on/before due date for filing ROI

## Form 10BE (Rule 18AB)

- Certificate of donation to be issued by trusts/ institutions to donors
- To be issued on/before May 31 of AY

## Form 10BD (Rule 18AB)

- Statement to be filed by trusts/ institutions
- To be filed on/before May 31 of AY

# Income Tax return

Who is required to comply?

Requirement to file ROI

Company,  
Partnership  
firm

Other  
persons,  
whose total  
income >  
BEL

R but not  
OR who

Persons  
incurring  
electricity  
expenditure  
of > INR 1  
Lakh

Persons  
who have  
deposited >  
INR 1 crore  
in current  
account

Persons  
who  
incurred >  
INR 2 lakh  
towards  
foreign  
travel

Trusts  
whose total  
income  
before  
claiming  
exemption  
u/s 11/12  
exceeds  
BEL

Political  
parties  
whose total  
income  
before  
claiming  
exemption  
u/s 13A  
exceeds  
BEL

News  
agencies,  
MF, ST,  
Research  
associations  
etc. who  
total income  
before  
claiming  
exemption  
u/s 10  
exceeds  
BEL

Business  
trust,  
Investment  
fund,  
University /  
college/ edu  
inst.  
Undertaking  
research

Holds beneficial  
ownership/  
otherwise of an  
asset outside India

Has signing  
authority in any  
bank accounts  
outside India

Beneficiary of  
asset outside India

# Income Tax return

## How to comply?

Individual			
ITR – 1 (Sahaj)	Resident and ordinarily resident except <ul style="list-style-type: none"><li>• Director in a company or</li><li>• Holder of unlisted equity shares or</li><li>• In whose hands, TDS has been deducted u/s 194N</li><li>• Whose income-tax on ESOP is deferred</li></ul>	Upto INR 50 Lakhs	<ul style="list-style-type: none"><li>• Income from salary</li><li>• 1 house property,</li><li>• other sources (Interest etc.)</li><li>• Agricultural income up to INR 5,000</li></ul>
ITR – 2	Resident / Non-resident	-	Any income except PGBP
ITR – 3	Resident / Non-resident	-	Any income including PGBP
ITR – 4 (Sugam)	Resident except <ul style="list-style-type: none"><li>• Director in a company or</li><li>• Holder of unlisted equity shares or</li><li>• In whose hands, TDS has been deducted u/s 194N</li><li>• Whose income-tax on ESOP is deferred</li></ul>	Upto INR 50 Lakhs	Offering presumptive income u/s 44AD, 44ADA, 44AE





# Income Tax return

HUF			
ITR – 2	Resident / Non-resident	-	Any income except PBGP
ITR – 3	Resident / Non-resident	-	Any income including PGBP
ITR – 4 (Sugam)	Resident except <ul style="list-style-type: none"> <li>• Holder of unlisted equity shares or</li> <li>• In whose hands, TDS has been deducted u/s 194N</li> </ul>	Upto INR 50 Lakhs	Offering presumptive income u/s 44AD, 44ADA, 44AE

Partnership Firm			
ITR – 4 (Sugam)	Resident except <ul style="list-style-type: none"> <li>• Holder of unlisted equity shares or</li> <li>• In whose hands, TDS has been deducted u/s 194N</li> </ul>	Upto INR 50 Lakhs	Offering presumptive income u/s 44AD, 44ADA, 44AE
ITR – 5	Any partnership firm	-	-

LLP			
ITR – 5	Resident / Non – resident	No Limit on income	Any nature of income



# Income Tax return

Company			
ITR – 6	Resident / Non – resident company except Section 8 company claiming exemption under Section 11	No limit on income	Any nature of income
Charitable trusts/ institutions/ Political party/ Research ass./ News agencies/ MF / Trade unions / Business Trust/ Investment fund			
ITR – 7	Resident / Non – resident	No limit on income	Any nature of income
Other persons such as AOP/ BOI/ Artificial juridical persons			
ITR – 5	Resident / Non – resident	No limit on income	Any nature of income

# Income Tax return

## When to comply?

Assessee required to furnish Form 3CEB



30<sup>th</sup> November of AY

Assessee other than the above who is

- company; or
- a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force; or
- Partner of a firm whose accounts are required to be audited under this Act or under any other law



31<sup>st</sup> October of AY

Any other assessee



31<sup>st</sup> July of AY

Q&A?

*Any concession for non-residents?*

*Is e-verification required to be done before due date?*



# Income Tax return

## Penal consequences of non-compliance

- ☐ Penalty u/s 271F – Rs. 5,000 for non-filing of ROI before end of AY
- ☐ Prosecution u/s 276CC - Imprisonment for a term up to 7 years and fine
- ☐ Interest u/s 234A @ 1% p.m. for the period of delay in payment of self-assessment tax
- ☐ Section 80 - Losses not allowed to be set off / carry forward, except unabsorbed depreciation, Loss from House Property
- ☐ Section 144 - Best Judgement Assessment
- ☐ No claim of tax holiday u/s 10AA

## How can I make good such non-compliance?

- ☐ File a Belated Return on/before Dec 31 of AY
- ☐ File an Updated Return within 2 years from the end of AY
- ☐ Pay taxes and File Return of Income, pursuant to condonation granted by CBDT, if any

# Claims of tax credits/ deductions

## Form 10BA

(Sec 80GG, Rule 11B)

- To claim deduction in respect of rent paid by non-salaried persons u/s 80GG
- No due date prescribed under the Act; Preferable to file along with return of income

## Form 10DA

(Sec 80JJAA, Rule 19AB)

- To claim deduction in respect of employee expenditure u/s 80JJAA
- To be filed along with Return of Income

## Form 56F

(Section 10AA r.w. Rule 16D)

- To claim tax holiday u/s 10AA
  - on/before September 30/ October 30 of AY
- \*Based on a CBDT notification dated 29-07-2021, Form 56F stands removed. However, it is still available for e-filing*

## Form 67

(Section 90, Rule 128)

- To claim Foreign Tax Credit in respect of taxes paid outside India on doubly taxed income
- To be filed on/ before end of AY

## Form 12BB

(Rule 26C and Section 192)

- To be filed by an employee with employer for claiming deductions against his / her income
- No due date prescribed under the Act; Practically, to be filed before end of AY

# Annual compliance

- *As a “Payer of Income”*

# Equalisation Levy

## Chargeability

### EL 1.0

- Introduced w.e.f **June 1, 2016** as Chapter VIII of Finance Act, 2016 (Section 163 to Section 180)
- EL refers to ‘tax’ leviable on ‘consideration received/ receivable’ for any ‘specified service’
- Rate – 6% of consideration (**similar to TDS**)

### EL 2.0

- Scope of EL extended by Finance Act 2020 w.e.f. **April 1, 2020**
- Section 165A - EL leviable on
  - ☐ ‘consideration received/ receivable’
  - ☐ by an ‘*e-commerce operator*’
  - ☐ from ‘*e-commerce supply or services*’
  - ☐ made or provided or facilitated by it
- Rate – 2% of consideration
- EL to be remitted by NR E-commerce operator

## How to comply?

Form 1 to be furnished on/before June 30 of the following FY

Belated / Revised return can be filed within 2 years from the end of relevant FY

## Penal consequences of non-compliance

Penalty = INR 100 / day (No cap)

**Note:** If reasonable cause for non-compliance is explained to the satisfaction of AO, no penalty shall be levied



# Certificates / Statements of income distribution

<b>Form 16</b> <i>(Rule 31)</i>	TDS certificate to be provided to payee on/before 15 <sup>th</sup> June of immediately following FY
<b>Form 64A</b> <i>(Rule 12CA(2)(i), Section 115UA)</i>	Statement of income paid / credited by Business trust to be filed on/before 30 <sup>th</sup> November of following FY
<b>Form 64B</b> <i>(Rule 12CA(2)(ii), Section 115UA)</i>	Statement of income distributed to be given to Unit-holders of Business Trust on/before 30 <sup>th</sup> June of following FY
<b>Form 64C</b> <i>(Rule 12CB(1)(i), Section 115UB)</i>	Statement of income distributed to be given to Unit-holders of AIF (Category I and Category II) On/before 30 <sup>th</sup> June of following FY
<b>Form 64D</b> <i>(Rule 12CB(1)(ii), Section 115UB)</i>	Statement of income paid / credited by AIF (Category I and Category II) to be filed On/before 15 <sup>th</sup> June of following FY
<b>Form 64E</b> <i>(Rule 12CC(2)(i), Section 115TCA)</i>	Statement of income paid / credited by Securitization Trust to be filed On/before 30 <sup>th</sup> November of following FY
<b>Form 64F</b> <i>(Rule 12CC(2)(ii), Section 115TCA)</i>	Statement of income distributed to be given to investors in securitization trust On/before 30 <sup>th</sup> June of following FY



# Annual compliance

## – *Special cases*

# Statement of Financial transactions

Who is required to file?	When?
Banking Companies & Co-operative Banks	Cash payment for the purchase of POs (Pay orders) / DDs (Demand drafts) for amounts annually totalling Rs 10 lakh or more.
	Cash payment exceeding Rs 10 lakh for purchasing any prepaid RBI instruments like RBI bonds, etc.
	Deposits or withdrawals amounting to Rs 50 lakh or more from any number of current accounts of a person with the bank.
Banking Companies, Co-operative Banks and Post Offices	Deposit totalling Rs 10 lakh or more in bank accounts, other than current or time deposit accounts, of a person.
Banking Company, Co-operative Bank, Post Master General of Post office, Nidhi	Cash payment aggregating to INR 1 lakh or more in a year or Rs 10 lakh or more in any other mode of payment against any credit card bill which is issued to a customer in a year
A company / an institution issuing debentures or bonds	Receipt exceeding Rs 10 lakh or more in a year from an individual for acquiring such debentures/bonds
Any company issuing shares	Receipt exceeding INR 10 lakhs in a year from an individual for acquiring such shares. This includes share application money received.
Listed companies	Share buyback from a person for an amount totalling Rs 10 lakh or more
Manager/Trustee of a Mutual Fund	Receipt equal to or exceeding Rs 10 lakh in a year from an individual acquiring the units of such Mutual Fund
A Dealer of Foreign Exchange	Receipt from a person for sale of a foreign currency or expenses incurred in such foreign currency via a debit/credit card or via the issue of draft or traveller's cheque or any other financial instrument for an amount annually totalling Rs 10 lakh or more.
Inspector-General/Sub-Registrar appointed under the Registration Act, 1908	Sale/Purchase by a person of immovable property for Rs30 lakhs or more of sale value or value as per the stamp valuation authority.
Persons liable for audit u/s 44AB of the Income Tax Act	Cash receipt exceeding Rs 2 lakh by a person for sale of goods or rendering of services (other than the ones specified above)

# ◆ Statement of Financial transactions

## When to file?

Form 61A to be filed on/ before 31<sup>st</sup> May of the following PY

## Penal consequences of non-compliance

Initial penalty u/s 271FA - Rs. 500/ day until due date for filing SFT on issue of notice by IT authorities

In case such assessee continues to be the assessee in default by not answering to such notice, Penalty – Rs. 1000 / day of such default.

# Master file

Forms	Who has to file?	When to file?
Form 3CEAA – Part A (Sec 92D, Rule 10DA)	Every constituent entity of international group	On/before due date for filing Return of Income
Form 3CEAA – Part B (Section 92D, Rule 10DA)	Every constituent entity of international group whose- <ul style="list-style-type: none"> <li>Consolidated group revenue of an international group <b>for the accounting year</b> as per the CFS &gt; INR 500 Crore</li> <li>and</li> <li>Aggregate value of international transactions <b>for the accounting year</b> as per the books of account &gt; INR 50 Crore (or) Aggregate value of international transactions <b>for the accounting year</b> in respect of purchase, sale, transfer, lease or use of intangible assets as per the books of account &gt; INR 10 Crore</li> </ul>	
Form 3CEAB	Designated constituent entity	30 days before due date for filing of Form 3CEAA

## **Penal consequences of non-compliance**

Penalty of Rs. 5,00,000

# ◆ Country by Country Reporting (CbCR)

Forms	Who has to file?	When to file?
Form 3CEAD (Sec 286, Rule 10DB)	Resident Parent entity of the international group, if the consolidated group revenue as per the CFS for the accounting year preceding to reporting accounting year > INR 5,500 Crores.	On/before 31 <sup>st</sup> March of AY
Form 3CEAC	Resident constituent entities, if parent entity is a non-resident	On/before 31 <sup>st</sup> January of AY
Form 3CEAE	Designated constituent entity for filing Form 3CEAC	No time limit prescribed; Preferably to be filed anytime before filing Form 3CEAC

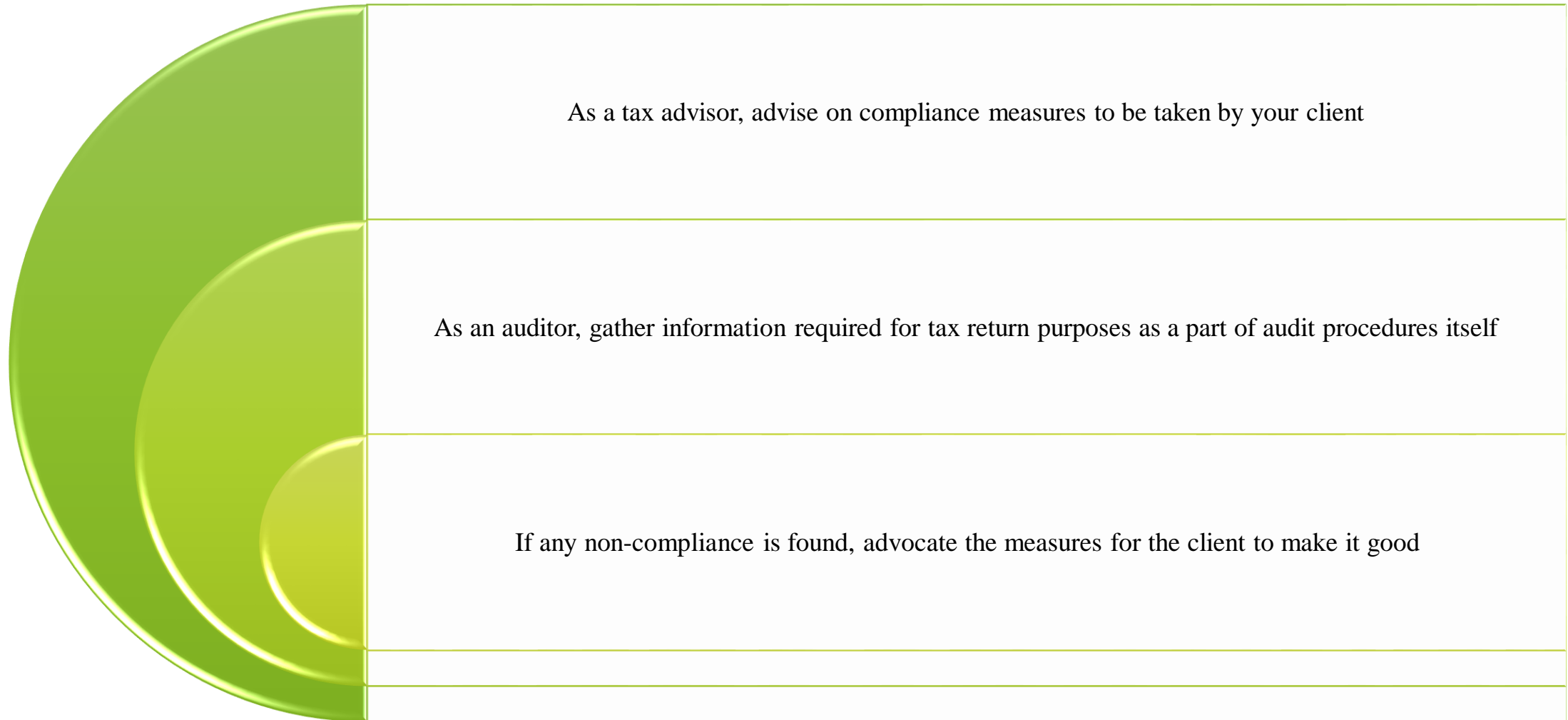
## Penal consequences of non-compliance

If period of delay does not exceed one month – INR 5,000/ day

If period of delay exceeds one month – INR 15,000/ day

# Concluding remarks

# ◆ What is our role?



# Thank you

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