



JBS フラッシュニュース

インド 新型コロナウイルス対応に関する速報 Vol. 4

お問い合わせ先

(EY India JBS)

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内容

各位

3月24日、モディ首相は新型コロナウイルスに関する演説を行い、25日0時から3週間にわたってインド全土においてロックダウンを行う旨発表し、インドに滞在する全ての人々に対して自宅又は滞在先に留まるよう呼びかけました。ロックダウンは当初発表では、4月14日終了の予定でした。延長が予想されていますが、政府からの正式な発表が待たれています。またインド政府は、企業活動の支障を軽減すべく、税務、会社法等に関して各種施策を発表しております。

1. CBICはGSTコンプライアンスに関する救済措置を発表
2. 税務年度2019-20年度の源泉税に関する減免証明書の申請に関する続報
3. インド政府は税金還付の促進を指示
4. インド政府がPM CARES 基金に対する会社従業員による寄付時の取り扱いにつき明確化
5. ビデオ会議またはその他オーディオ手段による臨時株主総会(EGM)開催に関する規定の明確化

1. CBICはGSTコンプライアンスに関する救済措置を発表

6 April 2020

COVID-19の状況を受けて、インド政府は企業におけるコンプライアンス負担を軽減すべく各種施策を発表してきました。間接税および関税の当局であるCBICも、GSTに関して以下のコンプライアンスの軽減に関する通達を行いました。

主な内容は以下です。

1. GSTR-3B申告

- 売上高が5千万ルピーまでの納税者は、利息および遅延手数料を支払うことなく、2020年2月から4月の期間におけるGSTR-3Bを提出することができる。
- 売上高が5千万ルピーを超える納税者は、遅延に対するフィーは免除される一方、軽減された延滞金利(期日から15日間は免除、以降は9%)が発生します。
- 金利および遅延に対するフィーの免除は、上記の場合においては、通知に明記された期日内に申告することが条件となります。

2. GSTR-1申告

- 2020年3月から5月までの月および2020年1月から3月までの四半期におけるGSTR-1の申告遅れに対するフィーについては、2020年6月30日まで申告を行う場合に限り免除されます。

また、コンポジションスキームの申告期限、インプットタックスクレジットに関する規定(CGST法36条4項)等、GST当局からの通知の発行期限、E-Way Bill (EWB)の有効期限等についても延長、緩和が発表されています。

詳細は[アラート](#)を参照願います。

2. 税務年度2019-20年度の源泉税に関する減免証明書の申請に関する統報

7 April 2020

源泉税に関する軽減税率(Lower TDS)の適用申請に関する期限延長、および緩和措置については既に通達が行われています(EYコロナ速報 Vol.3参照)が、税務当局(CBDT)は納税者の負担と困難を軽減すべく以下の方策を発表しました。

- a) 納税者がTRACESポータル上にて税務年度2019-20年度の源泉税の減免についての申請をタイムリーに行い、2020年4月3日時点でペンドイングの場合、納税者は税務当局のポータルを通じて申請書および必要な全ての文書/証拠を合わせて電子メールで提出のうえペンドイングであることを通知を行う。
- b) 税務当局は、電子メールで通知を受けた申請について2020年4月27日までに処理を行う。電子メールで発行された減免に関する証明書は、税務当局によって証明書が発行されるまで未納のままで、2019-20年度に納付/控除された金額に適用されるものとする。

3. インド政府は税金還付の促進を指示

9 April 2020

インド政府(GOI)は、COVID-19の混乱期間中における納税者の税務コンプライアンス負担を緩和すべく様々な措置を積極的に講じています。これまで直接税に関して政府は、各種税務コンプライアンスの期限の延長、延滞金利の引下げ、ペナルティの免除、源泉税の軽減税率の証明書の取り扱い等について既に施策を発表しました。

インド政府は、納税者を支援する更なる措置として4月8日に新たな発表を行いました。これは所得税法に基づいて50万ルピーまでの還付金の未払について直ちに手続きを行うというものです。当該措置は約140万の納税者に便益をもたらします。また、政府は約10万におよぶ中小事業主に対して、ペンドイングとなっているGSTおよび関税の還付を行うことを発表しました。発表によれば、還付総額は約1,800億ルピーが見込まれます。

4. インド政府がPM CARES 基金に対する会社従業員による寄付時の取り扱いについて明確化

10 April 2020

PM CARES 基金は、COVID-19のような何らかの緊急・困難な事態において、被災した人々の救済を行うことを目的とした国家基金が必要であることを念頭に設立されました。首相は当該基金の責任者であり、国防相、内閣大臣及び財務大臣が基金の構成員となります。

2020年3月31日に大統領による発令(Ordinance)によってPM CARES 基金が発表されましたが、PM CARES 基金が受領した所得については免税扱いになります。また、PM CARES 基金に対する寄付を行った者は、インド税法の規定に基づいて課税所得から100%控除が可能です。2020年3月31日付インド政府の発表によれば、2020年6月30日までにPM CARES 基金に対して行われた寄付は、税務年度2019-20年度における控除の対象になります。

また、多くの企業が、従業員の給与からPM CARES 基金への拠出を行うことを表明しています。当該ケースにおいて、2005年1月12日付けの通達No.2/2005によれば、税務当局(CBTD)は、従業員が雇用主を通じて、過去においてPM CARES 基金と同様の基金に寄付を行った場合、その寄付に対する控除は、基金が発行する証明書でなく、雇用主によって発行された証明書に基づいて認められるとしています。今回のPM CARES基金のウェブサイトに掲載されたFAQを通じて、企業の従業員がPM CARES 基金に行った寄付は、政府に代わって雇用主である企業が発行した証明書に基づいて控除の恩典が認められることを明確にしています。

またCBTDからも、2020年4月9日にPM CARES 基金に行われた寄付金がインド所得税法80条G項に基づいて控除の対象となることを明確にする公式発表を行いました。従業員が雇用主を通じてPM CARES 基金に寄付を行う場合、寄付が一括での支払いの形で行われるため、PM CARES 基金が従業員個人に対して寄付に関する証明書を発行することが困難です。こうしたケースにおいては、給与に関する源泉徴収証明書(Form 16)をもとに控除を認めるとしています。

(EYコメント)

CBTDによる公式発表は、PM CARES 基金のウェブサイト上のFAQsに法的な裏付けを与え、雇用主を通してPM CARES 基金に寄付を行った従業員に対して控除を認められることを明確にしています。

尚、政府の発令(Ordinance)は、税務年度2019-20年度にて、控除を可能にすべく寄付を行う期限が2020年6月30日まで延長されたことに留意する必要があります。

また、合わせて雇用主が行う税務コンプライアンスの期限が以下の通り延長されました。

- (a) 税務年度2019-20年度における第4四半期のForm24Qの提出期限を2020年5月31日から2020年6月30日まで延長。
- (b) 税務年度2019-20年度における従業員へのForm16の提出期限を2020年6月15日から2020年6月30日まで延長。

雇用主は、2020年6月30日までに従業員に代わってPM CARES 基金への一括寄付を行う一方で、従業員に対して2019-20年度のForm 16の発行を行うことが可能となります。尚、2020年財政法にて新たに導入された条項6に記されている軽減税率の恩典適用を2020年度から行う場合、PM CARES 基金への寄付金を控除することはできないことに留意が必要です。

5. ビデオ会議またはその他オーディオ手段による臨時株主総会(EGM)開催に関する規定の明確化

8 April 2020

企業省(MCA)は、4月8日の通達にて、COVID-19状況下にて緊急事項を取り扱うための会社法による普通決議および特別決議に関して明確化を行いました。

これによれば、会社はすべての緊急事項(通常のビジネス事項は除く)に対して、実際の総会を開催することなく、投票(Postal Ballots)や電子投票(E-Voting)にて承認を行うことが認められました。しかしながらEGMが不可欠な場合、事前に定められた条件にて、ビデオ会議(VC)または他のオーディオービジュアル手段(OAVM)にて開催することが認められます。

条件については、以下の表および添付の通達をご高覧願います。

- Relaxation/ facility to approve matters through postal ballot/e-voting and/or holding meetings through VC/OAVM is available for EGMs to be held till 30 June 2020.
- Separate VC/OAVM meeting procedures have been prescribed for companies which are mandatorily required to adopt e-voting/ postal ballot and for those not required.
- Recorded transcript of the meeting is required to be kept in safe custody and in case of a public company, the same should be uploaded on the website, if any.
- Companies have to be mindful of time zones while scheduling the meeting which could be outside the office hours of the company.
- Members attending through VC/ OAVM will be counted for the purpose of quorum u/s 103 of CA, 2013.
- Facility for joining the meeting through VC/OAVM to be kept open 15 minutes before and after the expiry of the scheduled time.
- Facility for remote e-voting shall be provided prior to the actual date of the meeting.
- Company shall provide helpline number for the shareholders who need assistance in using technology before or during the meeting.
- Appointment of proxy is not allowed for meetings through VC/OAVM. However, authorised representative of non-individual shareholders are allowed to vote.
- At least 1 independent director (if applicable) and auditor/ authorised representative of the auditor (who is qualified to be the auditor) shall attend the meeting through VC/OAVM.
- The framework proposed in this Circular can be adopted by the companies who have circulated the notice prior to the notification of this Circular provided consent of members has been obtained and a fresh notice of shorter duration containing the required disclosures is issued consequently.
- Resolutions approved through VC/OAVM shall be filed with the RoC within 60 days of the meeting (*at the time of sending this update there is no form prescribed by MCA for filing these resolutions*).
- All the documents pertaining to the respective agenda item to be made available to the members through electronic mode.

Companies not required to provide e-voting facility	Companies are required to provide e-voting facility/which have opted for such facility
<ul style="list-style-type: none"> ➤ Designated email address ('DMA') to be provided to all the members conveying their vote ➤ Confidentiality of password and other privacy issues of DMA to be strictly maintained ➤ On poll, voting to be conveyed only by sending emails to the DMA ➤ Facility to adjourn/call the meeting later provided for declaring results (where counting requires time) ➤ VC/OAVM facility must have capacity to allow at least 500 members or all members, whichever is lower to participate on first-come-first served basis 	<ul style="list-style-type: none"> ➤ Facility of remote e-voting to be provided before the actual date of meeting ➤ On poll, e-voting facility to be used ➤ Only members who are present in the meeting (through VC/OAVM) and not cast their vote through remote e-voting (provided they are otherwise not barred from doing so) shall be allowed to vote ➤ VC/OAVM facility must have capacity to allow at least 1000 members to participate on first-come-first served basis

F. No. 2/1/2020-CL-V
Government of India
Ministry of Corporate Affairs

5th Floor, 'A' Wing, Shastri Bhawan,
Dr. R. P. Road, New Delhi-110001
Dated: 8th April, 2020

To
All Regional Directors,
All Registrar of Companies,
All Stakeholders.

Subject: Clarification on passing of ordinary and special resolutions by companies under the Companies Act, 2013 and rules made thereunder on account of the threat posed by Covid-19.

Sir/Madam,

Several representations have been received in the Ministry for providing relaxations in the provisions of Companies Act, 2013 (the Act) or rules made thereunder to allow companies to pass ordinary and special resolutions of urgent nature, in view of the difficulties faced by the stakeholders on account of the threat posed by Covid-19. The issues raised in the said representations have been examined considering the overall situation at present.

2. The Act does not contain any specific provision for allowing conduct of members' meetings through video conferencing (VC) or other audio visual means (OAVM). It has been noted that section 108 of the Act and rules made thereunder provide for relevant companies to allow e-voting (including remote e-voting) in case of general meetings convened by them. Section 110 of the Act, on the other hand, allows the companies to pass resolutions (except items of ordinary business and items where any person has a right to be heard) through postal ballot (which includes electronic ballot and electronic voting under section 108). In view of the current extraordinary circumstances due to the pandemic caused by COVID-19 prevailing in the country, requiring social distancing, companies are requested to take all decisions of urgent nature requiring the approval of members, other than items of ordinary business or business where any person has a right to be heard, through the mechanism of postal ballot/e-voting in accordance with the provisions of the Act and rules made thereunder, without holding a general meeting, which requires physical presence of members at a common venue.

3. However, in case holding of an extraordinary general meeting (EGM) by any company is considered unavoidable, the following procedure needs to be adopted for conducting such a meeting on or before 30.06.2020, in addition to any other requirement provided in the Act or the rules made thereunder:

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A. For companies which are required to provide the facility of e-voting under the Act, or any other company which has opted for such facility -

- I. EGMs, wherever unavoidable, may be held through VC or OAVM and the recorded transcript of the same shall be maintained in safe custody by the company. In case of a public company, the recorded transcript of the meeting, shall as soon as possible, be also made available on the website (if any) of the company.
- II. Convenience of different persons positioned in different time zones shall be kept in mind before scheduling the meeting.
- III. All care must be taken to ensure that such meeting through VC or OAVM facility allows two way teleconferencing or webex for the ease of participation of the members and the participants are allowed to pose questions concurrently or given time to submit questions in advance on the e-mail address of the company. Such facility must have a capacity to allow at least 1000 members to participate on a first-come-first-served basis. The large shareholders (i.e. shareholders holding 2% or more shareholding), promoters, institutional investors, directors, key managerial personnel, the chairpersons of the Audit Committee, Nomination and Remuneration Committee and Stakeholders Relationship Committee, auditors, etc. may be allowed to attend the meeting without restriction on account of first-come-first-served principle.
- IV. The facility for joining the meeting shall be kept open at least 15 minutes before the time scheduled to start the meeting and shall not be closed till the expiry of 15 minutes after such scheduled time.
- V. Before the actual date of the meeting, the facility of remote e-voting shall be provided in accordance with the Act and the rules.
- VI. Attendance of members through VC or OAVM shall be counted for the purpose of reckoning the quorum under section 103 of the Act.
- VII. Only those members, who are present in the meeting through VC or OAVM facility and have not cast their vote on resolutions through remote e-voting and are otherwise not barred from doing so, shall be allowed to vote through e-voting system or by a show of hands in the meeting.
- VIII. Unless the articles of the company require any specific person to be appointed as a Chairman for the meeting, the Chairman for the meeting shall be appointed in the following manner:
 - a. where there are less than 50 members present at the meeting, the Chairman shall be appointed in accordance with section 104;
 - b. in all other cases, the Chairman shall be appointed by a poll conducted through the e-voting system during the meeting.

- IX. The Chairman present at the meeting shall ensure that the facility of e-voting system is available for the purpose of conducting a poll during the meeting held through VC or OAVM. Depending on the number of members present in such meeting, the voting shall be conducted in the following manner:
- where there are less than 50 members present at the meeting, the voting may be conducted either through the e-voting system or by a show of hands, unless a demand for poll is made in accordance with section 109 of the Act, in which case, the voting shall be conducted through the e-voting system;
 - in all other cases, the voting shall be conducted through e-voting system.
- X. A proxy is allowed to be appointed under section 105 of the Act to attend and vote at a general meeting on behalf of a member who is not able to attend personally. Since general meetings under this framework will be held through VC or OAVM, where physical attendance of members in any case has been dispensed with, there is no requirement of appointment of proxies. Accordingly, the facility of appointment of proxies by members will not be available for such meetings. However, in pursuance of section 112 and section 113 of the Act, representatives of the members may be appointed for the purpose of voting through remote e-voting or for participation and voting in the meeting held through VC or OAVM.
- XI. At least one independent director (where the company is required to appoint one), and the auditor or his authorized representative, who is qualified to be the auditor shall attend such meeting through VC or OAVM.
- XII. Where institutional investors are members of a company, they must be encouraged to attend and vote in the said meeting through VC or OAVM.
- XIII. The notice for the general meeting shall make disclosures with regard to the manner in which framework provided in this Circular shall be available for use by the members and also contain clear instructions on how to access and participate in the meeting. The company shall also provide a helpline number through the registrar & transfer agent, technology provider, or otherwise, for those shareholders who need assistance with using the technology before or during the meeting. A copy of the meeting notice shall also be prominently displayed on the website of the company and due intimation may be made to the exchanges in case of a listed company.
- XIV. In case a notice for meeting has been served prior to the date of this Circular, the framework proposed in this Circular may be adopted for the meeting, in case the consent from members has been obtained in accordance with section 101(1) of the Act, and a fresh notice of shorter duration with due disclosures in consonance with this Circular is issued consequently.

- XV. All resolutions passed in accordance with this mechanism shall be filed with the Registrar of Companies within 60 days of the meeting, clearly indicating therein that the mechanism provided herein alongwith other provisions of the Act and rules were duly complied with during such meeting.

B. For companies which are not required to provide the facility of e-voting under the Act -

- I. EGM, wherever unavoidable, may be held through VC or OAVM and the recorded transcript of the same shall be maintained in safe custody by the company. In case of a public company, the recorded transcript of the meeting, shall as soon as possible, be also made available on the website (if any) of the company.
- II. Convenience of different persons positioned in different time zones shall be kept in mind before scheduling the meeting.
- III. All care must be taken to ensure that such meeting through VC or OAVM facility allows two way teleconferencing or webex for the ease of participation of the members and the participants are allowed to pose questions concurrently or given time to submit questions in advance on the e-mail address of the company. Such facility must have a capacity to allow at least 500 members or members equal to the total number of members of the company (whichever is lower) to participate on a first-come-first-served basis. The large shareholders (i.e. shareholders holding 2% or more shareholding), promoters, institutional investors, directors, key managerial personnel, the chairpersons of the Audit Committee, Nomination and Remuneration Committee and Stakeholders Relationship Committee, auditors, etc. may be allowed to attend the meeting without restriction on account of first-come-first-served principle.
- IV. The facility for joining the meeting shall be kept open at least 15 minutes before the time scheduled to start the meeting and shall not be closed till the expiry of 15 minutes after such scheduled time.
- V. Attendance of members through VC or OAVM shall be counted for the purpose of reckoning the quorum under section 103 of the Act.
- VI. Unless the articles of the company require any specific person to be appointed as a Chairman for the meeting, the Chairman for the meeting shall be appointed in the following manner:
 - a. where there are less than 50 members present at the meeting, the Chairman shall be appointed in accordance with section 104;
 - b. in all other cases, the Chairman shall be appointed by a poll conducted in a manner provided in succeeding sub-paragraphs.

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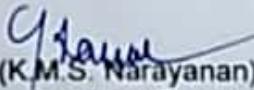
- VII. Atleast one independent director (where the company is required to appoint one), and the auditor or his authorized representative, who is qualified to be the auditor shall attend such meeting through VC or OAVM.
- VIII. A proxy is allowed to be appointed under section 105 of the Act to attend and vote at a general meeting on behalf of a member who is not able to attend personally. Since general meetings under this framework will be held through VC or OAVM, where physical attendance of members in any case has been dispensed with, there is no requirement of appointment of proxies. Accordingly, the facility of appointment of proxies by members will not be available for such meetings. However, in pursuance of section 112 and section 113 of the Act, representatives of the members may be appointed for the purpose of voting through remote e-voting or for participation and voting in the meeting held through VC or OAVM.
- IX. Where institutional investors are members of a company, they must be encouraged to attend and vote in the said meeting through VC or OAVM.
- X. The company shall provide a designated email address to all members at the time of sending the notice of meeting so that the members can convey their vote, when a poll is required to be taken during the meeting on any resolution, at such designated email address.
- XI. The confidentiality of the password and other privacy issues associated with the designated email address shall be strictly maintained by the company at all times. Due safeguards with regard to authenticity of email address(es) and other details of the members shall also be taken by the company.
- XII. During the meeting held through VC or OAVM facility, where a poll on any item is required, the members shall cast their vote on the resolutions only by sending emails through their email addresses which are registered with the company. The said emails shall only be sent to the designated email address circulated by the company in advance.
- XIII. Where less than 50 members are present in a meeting, the Chairman may decide to conduct a vote by show of hands, unless a demand for poll is made by any member in accordance with section 109 of the Act. Once such demand is made, the procedure provided in the preceding sub-paragraphs shall be followed.
- XIV. In case the counting of votes requires time, the said meeting may be adjourned and called later to declare the result.

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- XV. The notice for the general meeting shall make disclosures with regard to the manner in which framework provided in this Circular shall be available for use by the members and also contain clear instructions on how to access and participate in the meeting. The company should also provide a helpline number through the registrar & transfer agent, technology provider, or otherwise, for those shareholders who need assistance with using the technology before or during the meeting. A copy of the notice shall also be prominently displayed on the website of the company.
- XVI. In case a notice for meeting has been served prior to the date of this Circular, the framework proposed in this Circular may be adopted for the meeting in case the consent from members has been obtained in accordance with section 101(1) of the Act, and a fresh notice of shorter duration with due disclosures in consonance with this Circular is issued consequently.
- XVII. All resolutions passed in accordance with this mechanism shall be filed with the Registrar of Companies within 60 days of the meeting clearly indicating therein that the mechanism provided herein alongwith other provisions of the Act and rules were duly complied with.
4. The companies referred to in paragraphs 3 (A) and 3 (B) above, shall ensure that all other compliances associated with the provisions relating to general meetings viz making of disclosures, inspection of related documents by members, or authorizations for voting by bodies corporate etc as provided in the Act and the articles of association of the company are made through electronic mode.
5. This issues with the approval of the competent authority.

Yours faithfully,


(K.M.S. Narayanan)
Assistant Director

Copy to:-

1. e-Governance Section and Web Contents Officer to place this circular on the Ministry's website
2. Guard File

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