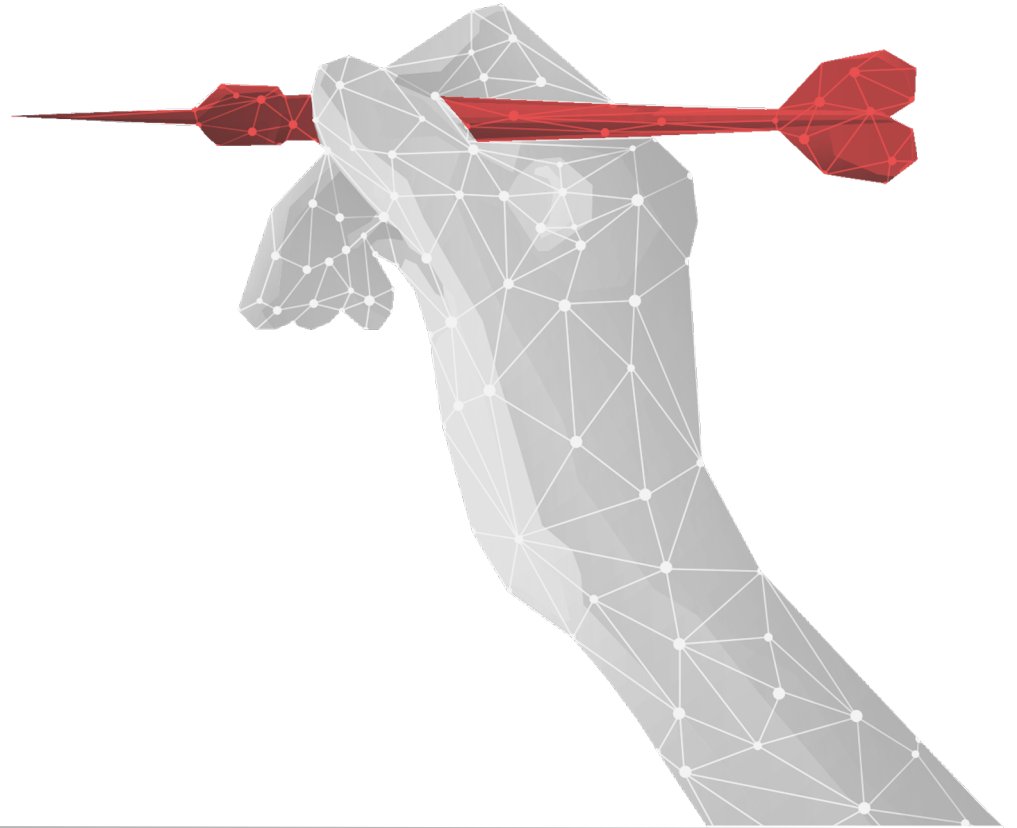


**J A A & ASSOCIATES**  
CHARTERED ACCOUNTANTS

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# Newsletter

June 2021

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# Significant economic presence ♦

The Concept of SEP was introduced to tax non-resident businesses who derived significant income from India – but were not taxed due to various reasons including technology as a medium of delivery. The amendment was made in 2018, however, the amounts were never specified:

- **The amount of aggregate payments** arising from the transaction(s) in respect of any goods, services or property carried out by a non-resident with any person resident in India, including the provision of download of data/ software in India during the year **shall be Rs. 2 crores**
- The **number of users** with whom systematic and continuous business activities are solicited or who are engaged in interaction **shall be 3 lakhs.**

## *03rd May 2021, CBDT vide G.S.R. 314(E) notified a threshold for SEP*

With the introduction of Base Erosion and Profit Shifting (BEPS) Action Plan 1 on Tax Challenges arising from Digitalisation, India has been looking to tax the business transaction in the E-commerce/ digital world.

### **Certain points to be looked into:**

- Treaties have to be renegotiated bilaterally - hence DTAA's /Treaties continue to have primacy
- The interplay between Equalisation Levy and SEP needs to be looked into when both the provision are in force parallelly.

# TDS on purchases- 194Q



## Clarifications provided by the Government

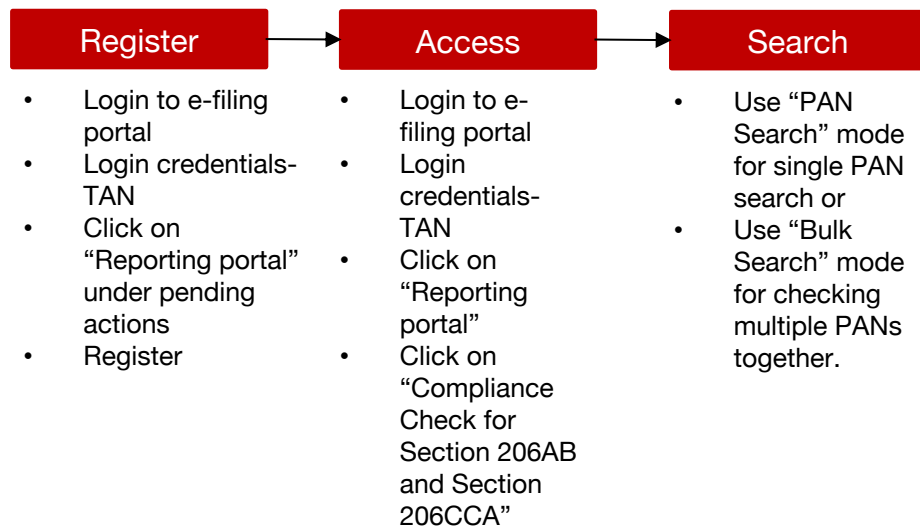
- Goods do not include transaction of shares and securities through a recognised stock exchange- **Will this section apply on transfer of Unlisted shares?**
- Buyer has already **accrued or paid** Rs. 50 lakhs or more up to 30th June 2021 to a seller, then this section will apply
- Invoice value is **without GST** if it is GST can be identified separately in the invoice
- For **purchase return**, if **money is refunded**, then the TDS can be **adjusted with the next purchase**
- Not applicable to a non-resident not having a PE in India
- Tax not required to be deducted if the seller is exempt from taxation
- Tax is **applicable** on **advance** payment
- This section will **not apply** in the **first year** of incorporation
- **Non-business** receipts are **not covered** under the 10 crore criteria
- **Multiple taxation:**
  - If transaction is covered by both 194O (TDS on e-commerce operators) and 194Q applies-Deduct under 194O
  - If both 194O and 206(1H) (TCS by seller) applies-Deduct under 194O
  - If both 194Q and 206(1H) applies-Deduct under 194Q

- Applicability- Buyer of goods who buys goods from a resident seller. To buyers whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the preceding financial year
- Transaction-TDS on purchase of goods has been made applicable from 1 July 2021 for sale value in excess of Rs. 50 lakhs
- Rate- 0.1% (5% if no PAN)
- Provision shall not apply in the following cases:
  - Tax is deductible under any of the provisions of this Act
  - tax is collectible under the provisions of section 206C (TCS) other than a transaction to which sub-section (1H) of section 206C applies.

# Higher rate of TDS u/s 206AB

Higher TDS and TCS if income tax returns are not filed for the previous two years by the deductee; subject to certain conditions

Compliance portal introduced for checking whether a person has filed TDS and TCS returns



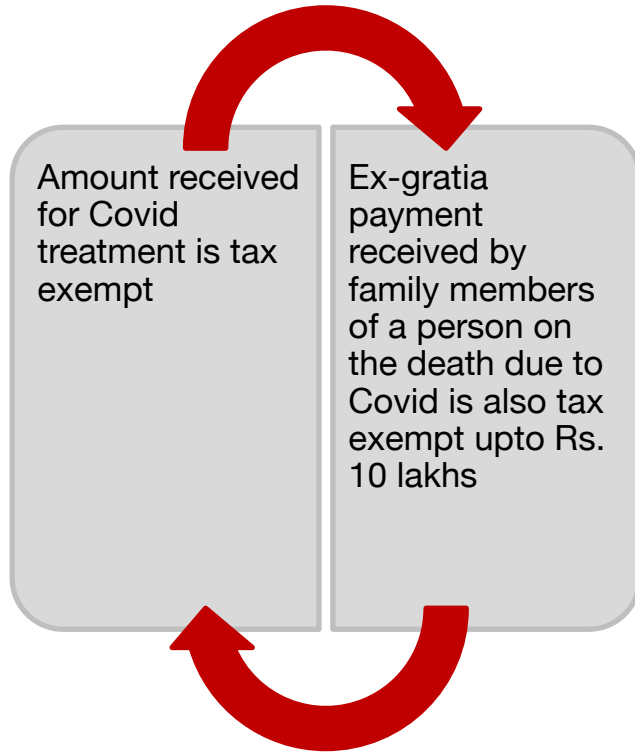
PAN	Return for the two immediately prior years	Rate
Furnished	Not furnished	Highest of: <ul style="list-style-type: none"> <li>At twice the rate specified in the relevant provision of the Act</li> <li>At twice the rate or rates in force</li> <li>At the rate of 5% - TDS/ 5% TCS</li> </ul>
Furnished	Furnished	Lower of: <ul style="list-style-type: none"> <li>At the rate specified under the relevant provisions of the Act</li> <li>At the rate or rates in force</li> </ul>
Not Furnished	Not furnished	Highest of: <ul style="list-style-type: none"> <li>At twice the rate specified in the relevant provision of the Act</li> <li>At twice the rate or rates in force</li> <li>At the rate of 20% - TDS / 5% TCS</li> </ul>

### Applicability

- All payments other than Salary / other interest payments
- Where in each of the preceding 2 years, TDS/TCS > Rs. 50,000
- Not applicable to Non-resident (Without PE)
- Applicable from 1 July 2021

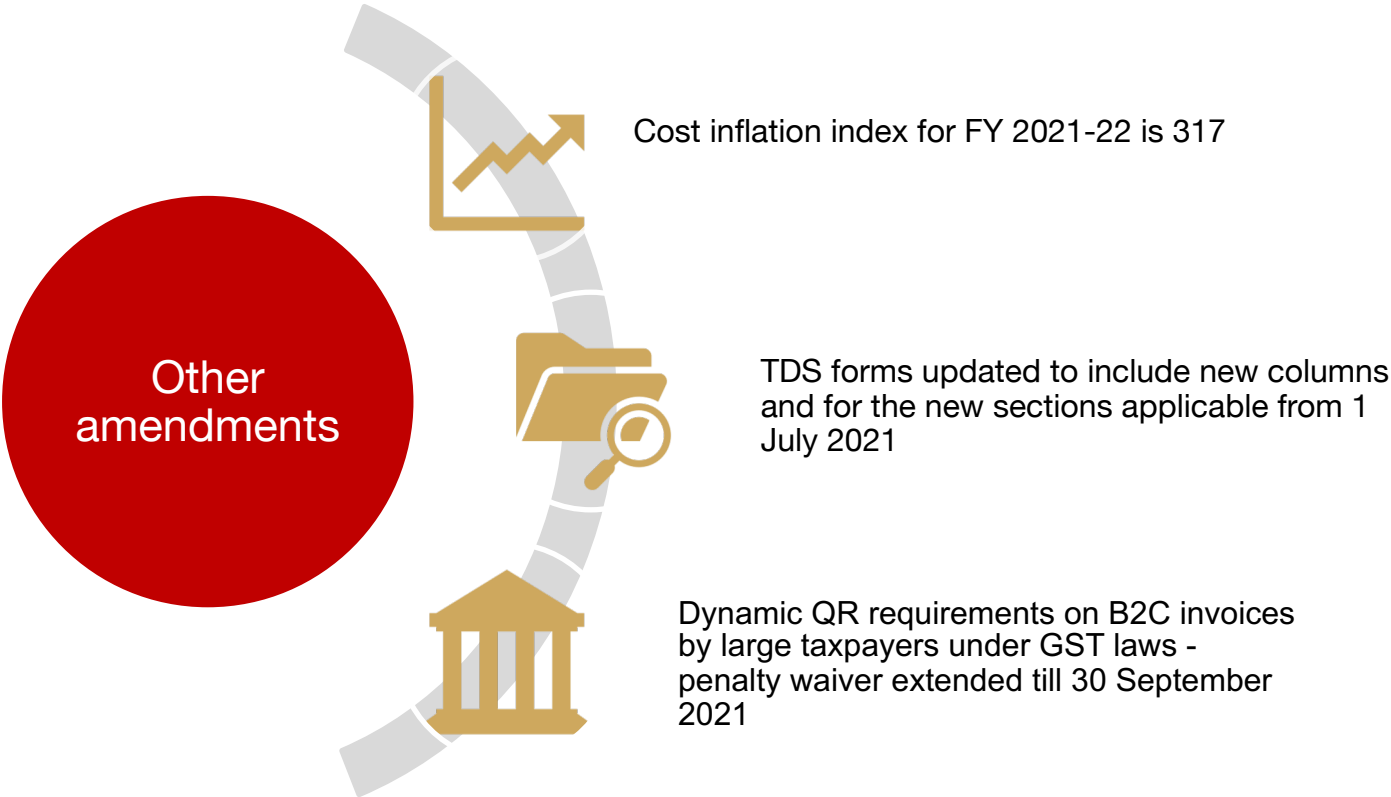
# Payment for COVID treatment ♦

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- Applicable from FY 2019-20 onwards as per the press release
- The amount can be received by the employer or any other person for claiming the exemption

# Others



# Others



Income tax portal 2.0 released

An online end to end tracking of all the tax payers- From return to assessment

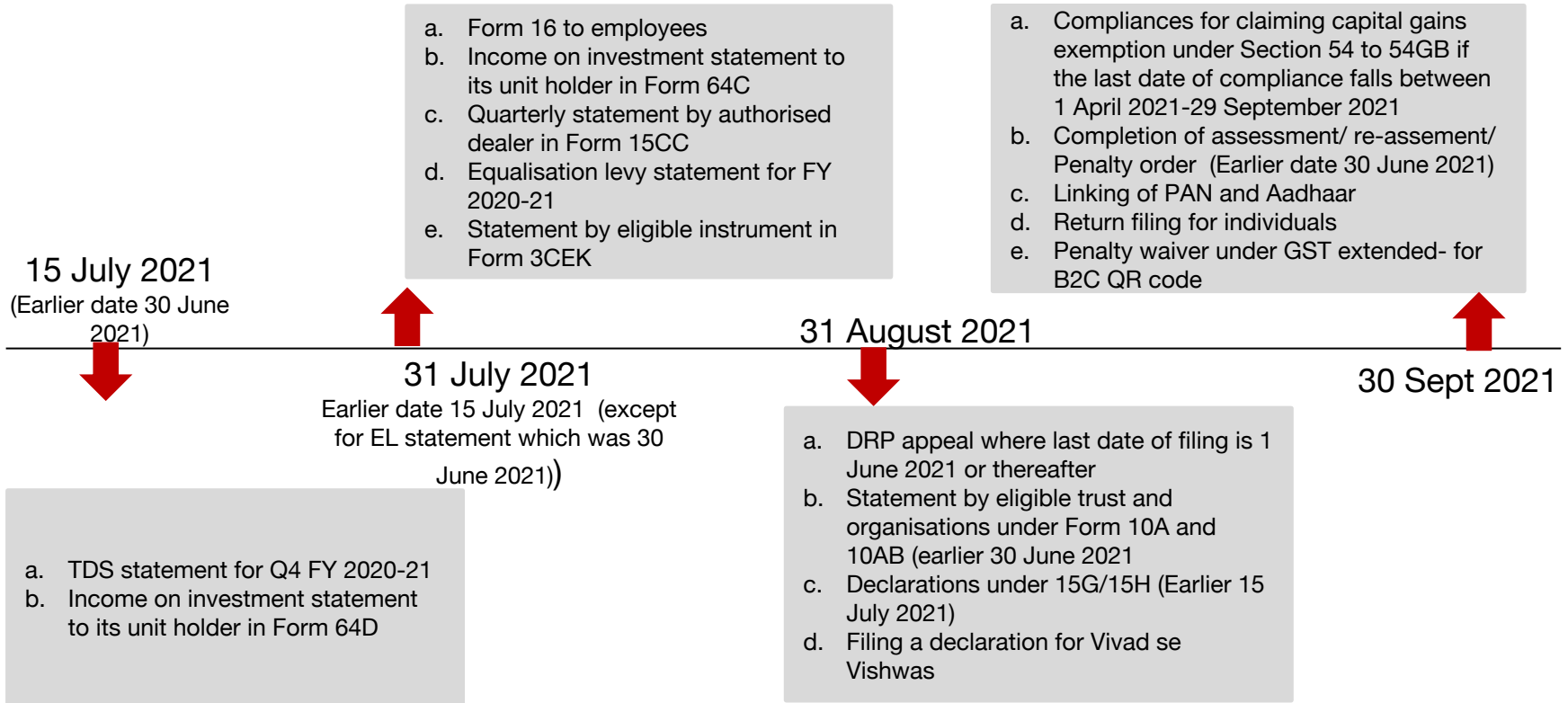
Ease of filings of returns and forms with pre-filled formats

15CB request by the client shall be made online

15CB shall be provided online in the portal

15CA will also be online

# Timelines extension





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**Thank You**

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