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LEGAL

SAMĀCĀRA OCTOBER 2023






SAMĀCĀRA – OCTOBER 2023

TEAM SAMĀCĀRA

INCOME TAX

			
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GOODS AND SERVICES TAX


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CIVIL, CRIMINAL, REAL ESTATE AND OTHER LAWS





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EDITORIAL

Dear All,

Our President of ICAI in his President message stated that *“In a historical juncture that will be etched in the annals of time, the global spotlight converged in New Delhi from 9th - 10th September 2023, as the esteemed leaders of the world came together under the resounding banner of ‘Vasudhaiva Kutumbakam’ for the most coveted G 20 summit organized under India’s Presidency. Aligned with its theme, the event witnessed the commitment of India to address issues of the world economy among the leaders and also to drive the world towards sustainability. Further, this momentous event not only showcased India’s able leadership but also increased its clout on the global stage”*. He further stated that *as a nation, we have undergone a remarkable path of growth and development, and this ascent serves as a compelling testament to our dedication to progress, unity, and sustainability. As dedicated partners in Nation Building, our profession shoulders a role not merely of significance but also of great responsibility. We stand at the crossroads of history, poised to make choices that will define the path forward for our nation and the world at large. In unity and shared purpose, we can build a world that truly lives up to the virtues of this profound philosophy – a world where the concept of “the world is one family” is not just a sentiment but a living reality for all.* On the GST front Just as in a cricket World Cup where strategies are vital for a win, the same holds for our financial ecosystem. GST Department has bowled 19 significant deliveries, hoping to score big for the nation's economic prosperity. These amendments, much like the dynamic game plans in cricket, aim to adapt to the evolving needs and provide a seamless experience for taxpayers. The recent GST changes, with their

complexities and nuances, can be compared to the various tactics employed by cricket teams, all aiming for a singular goal - **success**. The details of these amendments are given as an article. Just as cricket teams need to stay agile, adapt to changing match conditions, and always be prepared for surprises, taxpayers and businesses must approach these GST changes with a proactive mindset. One should learn that in the ever-evolving financial and regulatory landscape, being well-informed and adaptable is paramount. It's essential to keep up with the latest changes, understand their implications, and make necessary adjustments in operations and compliance. Like in cricket, where constant training, strategy updates, and skill enhancement are crucial, businesses should engage in regular consultations, and training, and stay updated to ensure they don't face any financial googlies. At the heart of it, the game of cricket and the game of business both require strategy, adaptability, and a keen understanding of the rules to succeed.

At SPCM also dedication and hard work of entire SPCM Family has paid off, and we appreciate and congratulate all to accomplish including the target of completing assignments of audits which were scheduled in the month of September 2023. I am proud of all partners, associates, articles, the management and admin staff of SPCM Family who have achieved the task within the stipulated time! Hearty congratulations!

Benjamin Franklin once said “**Tell me and I forget. Teach me and I remember. Involve me and I learn**”. It is a beautiful sentiment that reminds us of the of our peaks when we collaborate teach and learn. Telling is a superficial way of passing the information, whereas teaching and involving are conscious ways of passing on the knowledge, which blossoms in all who are involved in the process. Who else knows the benefit of this quote than a CA, who passes through the stage of learning through involvement?

I also recall upon the wisdom of Shri Lal Bahadur Shastri Ji, second Prime Minister of India, “*We all have to work in our respective spheres with*

the same dedication, the same zeal and the same determination which inspired and motivated the warrior on the battle front. And this has to be shown not by mere words, but by actual deeds.”

On a lighter note, the months of October to November are the months of festivals. Every day we see the sun rising to give us a message that darkness will always be beaten by light- that is the power of good over evil. Let us all follow the same and enjoy the festival of good defeating evil. It is a significant time for all too fast, meditate, and pray to the Divine Mother for inner strength and skills to combat their own demons (or problems) of life in the period of Navratri.

May you have a Happy and Auspicious Navratri and Dussehra-2023!

With Warm Regards,



CA. Suhas P. Bora

**Founder Partner,
SPCM and Associates,
Chartered Accountants**



GLIMPSE OF EVENT

Our mentor, CA Suhas P. Bora sir was invited by Sarhad College of Arts, Commerce and Science for Ganesh Aarti and to share his views on the topic, “*Success in Life*”.



(From left to right: - Mr. Wadekar, Mr. Anuj Nahar, CA Suhas P. Bora and other staff.)





DUE DATES

Income Tax, PF and ESIC due date calendar for the month of October 2023:

DATE	DUE DATE FOR
07-10-2023	<ul style="list-style-type: none"> • Deposit of Tax deducted/collected for the month of September, 2023. • Deposit of TDS for the period July 2023 to September 2023 when Assessing Officer has permitted quarterly deposit of TDS under section 192, 194A, 194D or 194H.
15-10-2023	<ul style="list-style-type: none"> • Due date for issue of TDS Certificate for tax deducted under section 194-IA, 194-IB, 194M, 194S in the month of August, 2023. (Note: Applicable in case of specified person as mentioned under section 194S.) • Quarterly statement of TCS deposited for the quarter ending September 30, 2023. • Quarterly TCS certificate in respect of tax collected by any person for the quarter ending June 30, 2023 (Note: Due to extension of due date of TCS statement vide Circular no. 9/2023, dated 28-06-2023, the revised due date for furnishing TCS certificate shall be October 15, 2023) • Quarterly TDS certificate (in respect of tax deducted for payments other than salary) for the



DATE	DUE DATE FOR
	<p>quarter ending June 30, 2023 (Note: Due to extension of due date of TDS statement vide Circular no. 9/2023, dated 28-06-2023, the revised due date for furnishing TDS certificate shall be October 15, 2023)</p> <ul style="list-style-type: none"> • Upload declarations received from recipients in Form No. 15G/15H during the quarter ending September, 2023 • Payment of ESI Contribution for the month of September, 2023. • Payment of PF for the month of September, 2023.
30-10-2023	<ul style="list-style-type: none"> • Furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194-IB, 194M, 194S in the month of September, 2023. (Note: Applicable in case of specified person as mentioned under section 194S.) • Quarterly TCS certificate (in respect of tax collected by any person) for the quarter ending September 30, 2023
31-10-2023	<ul style="list-style-type: none"> • Income Tax Returns for Non-Corporates who needs Audit and Corporates for FY 2022-23 • Quarterly statement of TDS deposited for the quarter ending September, 2023 • Filing of return of income for the assessment year 2023-24 if the assessee (not having any international or specified domestic transaction)



DATE	DUE DATE FOR
	<p>is (a) corporate-assessee or (b) non-corporate assessee (whose books of account are required to be audited) or (c) partner of a firm whose accounts are required to be audited or the spouse of such partner if the provisions of section 5A apply.</p> <p>(Note: The due date of furnishing of Return of Income in Form ITR-7 in the case of assessee referred to in clause (a) of Explanation 2 to section 139(1) has been extended from October 31, 2023 to November 30, 2023, vide Circular no. 16/2023, dated 18-09-2023)</p> <ul style="list-style-type: none"> • Audit report under section 44AB for the assessment year 2023-24 in the case of an assessee who is also required to submit a report pertaining to international or specified domestic transactions under section 92E. • Report to be furnished in Form 3CEB in respect of international transaction and specified domestic transaction. • Furnishing of Audit report in Form no. 10B/10BB by a fund or trust or institution or any university or other educational institution or any hospital or other medical institution. <p>(Note: the due date for furnishing the Audit report in Form no. 10B/10BB has been extended from September 30, 2023 to October 31, 2023 vide Circular no. 16/2023, dated 18-09-2023)</p>

GST due dates for the month October 2023: -

DUE DATE	RETURN	PERIOD	DESCRIPTION
10 th October	GSTR-7 (Monthly)	September'23	Summary of Tax Deducted at Source (TDS) and deposited under GST laws.
10 th October	GSTR-8 (Monthly)	September'23	Summary of Tax Collected at Source (TCS) and deposited by E-commerce operators under GST laws.
11 th October	GSTR-1 (Monthly)	September'23	Summary of outward supplies where turnover exceeds Rs.5 crore or have not chosen the QRMP scheme for the quarter of July – September 2023.
13 th October	Furnishing Invoices in IFF Facility (Quarterly)	July – September 2023	Taxpayers who have opted for the Invoice Furnishing Facility (IFF) and choose to upload B2B outward supply invoices for first two months of the quarter. The B2B invoices relating to last month of the quarter are too uploaded while filing GSTR – 1 along with B2C invoices of entire quarter.
13 th October	GSTR-6	September'23	Details of ITC received and distributed by ISD.
13 th October	GSTR-5 (Monthly)	September'23	Summary of outward taxable supplies & tax payable by a non-resident taxable person.



DUE DATE	RETURN	PERIOD	DESCRIPTION
18 th October	CMP-08	July-September 2023	Form to declare the details or summary of self-assessed tax which is payable for a given quarter by taxpayers who are registered as composition taxable person or taxpayer who have opted for composition levy.
20 th October	GSTR-3B (Monthly)	September'23	Summary of outward supplies, ITC claimed, and net tax payable for taxpayers with turnover more than Rs.5 crore in the last FY or have not chosen the QRMP scheme for the quarter of July – September 2023.
20 th October	GSTR-5A (Monthly)	September'23	Summary of outward taxable supplies and tax payable by OIDAR.
25 th August	GST Challan for all Quarterly filers	July-September 2023	GST Challan Payment if no sufficient ITC for July 2023, (for all Quarterly Filers).
25 th October	GST Challan for all Quarterly filers	July-September 2023	GST Challan Payment if no sufficient ITC for September 2023, (for all Quarterly Filers).

**INCOME TAX****Gist of CBDT Notifications and Circular****1) Income Tax Department committed to speedy processing of Income Tax Return:****Date of notification: September 05, 2023****Effective Date: September 05, 2023**

CBDT vide its notification dated September 05, 2023 notified the average processing time of ITRs (after verification) has been reduced to 10 days for Returns filed in AY 2023-24, compared to 82 days in AY 2019-20 and 16 days in AY 2022-23.

Due to a lack of specific information or action on the part of taxpayers, the Department is unable to process the following categories of ITRs:

1. About 14 lakh ITRs for AY 2023-24 which have been filed but are yet to be verified by the taxpayers as on 04.09.2023. Failure to verify the Returns causes delays in processing as the Return can only be taken up for processing once the verification has been completed by the taxpayer. Taxpayers are urged to complete the verification process immediately.

2. About 12 lakh verified ITRs in which further information has been sought by the Department, for which requisite communication has been sent to the taxpayers through their registered e-filing accounts. Taxpayers are requested to respond to such communication expeditiously. In certain instances ITRs have been processed and refunds have been calculated, but the Department is unable to issue them because taxpayers have not yet validated the bank account to which the refund is to be credited. Taxpayers are required to validate their bank accounts via the e-filing portal.

2) Advance Pricing Agreement Report for FY 2022-23

Date of notification: September 01, 2023

Effective Date: September 01, 2023

CBDT vide its notification dated September 01, 2023 published Indian APA Report for FY 2022-23. The APA program was adopted in July 2012.

The Indian APA program has resulted in taxpayers having had certainty on transfer pricing issues for five to nine years (depending on whether rollback provisions apply to an Agreement), the government has been able to focus limited resources on more productive audits and other procedures.

The report estimated that the 516 signed APAs have resulted in the finalisation of taxation on income worth approximately Rs. 19,000 crore. This equates to a tax payment of approximately Rs. 7,000 Crore that is non-litigation situation with no appeal. CBDT also signed the maximum number of BAPAs in any financial year till date, with the signing on 32 BAPAs. The BAPAs were signed as a consequence of entering into Mutual Agreements with India's treaty partners namely Finland, the UK, the US, Denmark, Singapore, and Japan. The APA



programme has been successful in creating a favourable economic environment for multinational corporations doing business in India.

3) CBDT to undertake Special Campaign 3.0 for Swachhata and disposal of pending matters

Date of circular: September 11, 2023

Effective Date: September 11, 2023

CBDT vide its circular dated September 11, 2023 announced the commencement of the Special Campaign 3.0 for Swachhata and disposal of pending matters w.e.f October 02, 2023.

The Government of India undertook Special Campaign 2.0 for Swachhata in Government offices and disposal of pending matters from October 02, 2022 to October 31, 2022. Central Board of Direct Taxes (CBDT) along with subordinate offices of Income Tax Department enthusiastically participated in the Special Campaign 2.0. In the Special Campaign 2.0, the Department resolved more than 46,000 public grievances on CPGRAMS portal and disposed of around 7,000 grievance appeals from December, 2022 till July, 2023.



GST



GIST OF GST NOTIFICATIONS

NOTIFICATION NO.	DATE	SUBJECT / HIGHLIGHTS
04/2023-Integrated Tax	29-09-2023	CBIC has provided Simplified registration Scheme for overseas supplier of online money gaming
03/2023-Integrated Tax	29-09-2023	CBIC has notified the supply of online money gaming as the supply of goods on import of which, integrated tax shall be levied and collected under sub-section (1) of section 5 of the Integrated Goods and Services Tax Act,2017
02/2023-Integrated Tax	29-09-2023	CBIC to notify all goods or services which may be exported on payment of integrated tax and on which the supplier of such goods or services may claim the refund of tax paid.

NOTIFICATION NO.	DATE	SUBJECT / HIGHLIGHTS
11/2023- Central Tax (Rate)	29-09-2023	CBIC to amend Notification No 01/2017- Central Tax (Rate) dated 28.06.2017 to notify GST rate of 28% for Specified actionable claims.
51/2023- Central Tax	29-09-2023	CBIC to make amendments (Third Amendment, 2023) to the CGST Rules, 2017 in supersession of Notification No. 45/2023 dated 06.09.2023
50/2023- Central Tax	29-09-2023	CBIC to amend Notification No. 66/2017-Central Tax dated 15.11.2017 to exclude specified actionable claims as defined in clause (102A) of section 2 of the said Act.
49/2023- Central Tax	29-09-2023	CBIC to notify supply of online money gaming, supply of online gaming other than online money gaming and supply of actionable claims in casinos under section 15(5) of CGST Act.
48/2023- Central Tax	29-09-2023	CBIC to amend Notification No. 30/2023-CT dated 31st July, 2023, notifies the following special procedure to be followed” the words and figures “with effect from 1st day of January 2024” shall be inserted and shall be deemed to have been inserted with effect from the 31st July 2023. This notification outlines requirements related to packing machines, records maintenance, and monthly statements.



NOTIFICATION NO.	DATE	SUBJECT / HIGHLIGHTS
47/2023- Central Tax	25-09-2023	CBIC to appoint adjudicating authority for notice issued to M/s Inkuat Infrasol Pvt. Ltd., Bhiwandi, Thane. The notification outlines specifics about the appointment of an adjudicating authority for the indicated notice and entity.
45/2023- Central Tax	06-09-2023	GST Notification No. 45/2023 New Rule 31B and 31C inserted after Rule 31A to clear how to determine value of supply for online gaming including online gaming and actionable claims in case of casino gaming.



GST UPDATES

1. Advisory: Time limit for Reporting Invoices on the IRP Portal

Government to impose a time limit on reporting old invoices on the e-invoice IRP portals for taxpayers with AATO greater than 100 crores.

To ensure timely compliance, taxpayers in this category will not be allowed to report invoices older than 30 days on the date of reporting.

Please note that this restriction will apply to the all-document types (Invoices/Credit note/Debit note) for which IRN is to be generated.

It is further to clarify that there will be no such reporting restriction on taxpayers with AATO less than 100 crores, as of now.

In order to provide sufficient time for taxpayers to comply with this requirement, which may require changes to your systems, it is proposed to implement it from 1st November 2023 onwards.

2. Geocoding Functionality for the Additional Place of Business

GSTN is pleased to inform that the geocoding functionality for the "Additional Place of Business" address is now active across all States and Union Territories. This builds upon the geocoding functionality earlier implemented for the principal place of business, operational since February 2023.

3. Last date of ITC availment, Invoice correction in the return for 31st October-2023

- a. Claiming of ITC in respect of any invoice or debit note in the return & books of accounts & gstr-1 return of the October month.
- b. Declaration of the details of credit notes in the return & books of accounts.
- c. Rectification of particulars in details of outward supplies for the period 1st April-2022 to 31st March-2023.
- d. Rectification of particulars furnished in a return for the period 1st April-2022 to 31st March 2023.

It is further clarified that the said compliances in respect of a financial year can be carried out in the relevant return or the statement filed/ furnished up to November 30 of the next financial year, or the date of furnishing annual return for the said financial year, whichever is earlier.

**Ministry of Corporate Affairs (MCA)****UPDATES****1) Limited Liability Partnership (Second Amendment) Rules, 2023.****Date of Notification: September 01, 2023****Effective Date: Date of publication in the official gazette**

MCA vide its notification dated September 01, 2023 notified the Limited Liability Partnership (Second Amendment) Rules, 2023. The said amendment rules substitute form 3 and 4 in the Limited Liability Partnership Rules, 2009.

Form 3 is for Information regarding LLP Agreement or subsequent change in LLP Agreement Form 4 is for Notice of appointment, cessation, change in details of Designated Partner and consent to be Designated Partner.

2) Constitution of the Company Law Committee.**Date of Order: September 13, 2023****Effective Date: September 13, 2023**

MCA vide its order dated September 13, 2023, in continuation of its order number F.No. 2/1/2018-CL-V dated September 05, 2022, F.No. 2/1/2018-CL-V dated September 23, 2021, F.No. 2/1/2018-CL-V dated September 17, 2020, F.No. 2/1/2018-CL-V dated September 18, 2019, further extended the tenure of the Company Law Committee for a period of one year i.e. till September 16, 2024.

3) Clarification on holding of Annual General Meeting (AGM) and EGM through video Conference (VC) or other Audio visual means (OAVM) passing of Ordinary and Special resolutions.

Date of Order: September 25, 2023**Effective Date: September 25, 2023**

MCA vide its Circular dated September 25, 2023, clarified that companies whose AGMs are due in the Year 2023 or 2024, are allowed to conduct their AGMs through VC or OAVM on or before 30th September, 2024 in accordance with the requirements laid down in Para 3 and Para 4 of the General Circular No. 20/2020 dated May 05, 2020.

MCA further clarified that this circular shall not be construed as conferring any extension of statutory time for holding of AGMs by the companies under the Companies Act, 2013 (the Act) and the companies which have not adhered to the relevant statutory timelines shall be liable to legal action under the appropriate provisions of the Act.

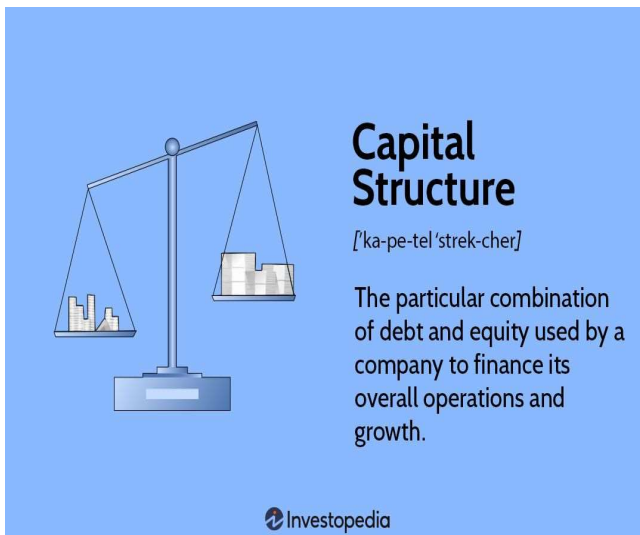
4) Name reservation application process

MCA vide its update dated September 29, 2023 informed the stakeholders that the processing of application forms for the purpose of name reservation and incorporation at the Central Reservation Centre (CRC) is faceless and randomized. The applications if sent for resubmissions are normally not processed by the same official who has processed the application at the first instance.

The stakeholders requested to inform the Ministry in case of any malpractice or irregularity on the part of any official/officer at CRC or any professional with supporting evidences at CVO-MCA@GOV.IN for taking action in accordance with the extent CVC guidelines

CAPITAL STRUCTURING

Finance is the life blood of any business- big or small. Finance is required to run a business. Finance is needed for setting up a company, setting up factory shed and warehouse and acquiring office space, for working capital, for sales and distribution and for marketing. A company which uses its capital judiciously is able to report healthy bottom lines and profitability numbers.



Capital structure of a company refers to the long-term financing structure comprising equity, debt and retained earnings. Financial structure refers to the financing mix when short term financing options for short-term working capital needs are added to the capital structure. Capital structure refers to the specific mix of debt and equity used to finance a company's assets and operations.

A company depends on three kinds of capital, namely:

- Equity
- Debt and
- Preference capital or hybrid capital

Equity Capital

Equity capital is the money owned by the shareholders or owners. It consists of two different types

- **Retained earnings:** Retained earnings are part of the profit that has been kept separately by the organisation and which will help in strengthening the business.
- **Contributed Capital:** Contributed capital is the amount of money which the company owners have invested at the time of opening the company or received from shareholders as a price for ownership of the company.

Debt Capital

Debt capital is referred to as the borrowed money that is utilised in business. There are different forms of debt capital.

- **Long Term Bonds:** These types of bonds are considered the safest of the debts as they have an extended repayment period, and only interest needs to be repaid while the principal needs to be paid at maturity.
- **Short Term Commercial Paper:** This is a type of short-term debt instrument that is used by companies to raise capital for a short period of time

Preference Capital

Preference shares, more commonly referred to as preferred stock, are shares of a company's stock with dividends that are paid out to shareholders before common stock dividends are issued. If the company enters bankruptcy, preferred stockholders are entitled to be paid from company assets before common stockholders.



Most preference shares have a fixed dividend, while common stocks generally do not. Preferred stock shareholders also typically do not hold any voting rights, but common shareholders usually do.

Dynamics of Debt and Equity

Both debt and equity can be found on the balance sheet. Company assets, also listed on the balance sheet, are purchased with debt or equity. Capital structure can be a mixture of a company's long-term debt, short-term debt, common stock, and preferred stock. A company's proportion of short-term debt versus long-term debt is considered when analyzing its capital structure.

When analysts refer to capital structure, they are most likely referring to a firm's debt-to-equity (D/E) ratio, which provides insight into how risky a company's borrowing practices are. Usually, a company that is heavily financed by debt has a more aggressive capital structure and therefore poses a greater risk to investors. This risk, however, may be the primary source of the firm's growth.

Optimal Capital Structure

Companies that use more debt than equity to finance their assets and fund operating activities have a high leverage ratio and an aggressive capital structure. A company that pays for assets with more equity than debt has a low leverage ratio and a conservative capital structure. That said, a high leverage ratio and an aggressive capital structure can also lead to higher growth rates, whereas a conservative capital structure can lead to lower growth rates.

Analysts use the D/E ratio to compare capital structure. It is calculated by dividing total liabilities by total equity. Savvy companies have learned to incorporate both debt and equity into their corporate strategies. At times, however, companies may rely too heavily on external funding and

debt in particular. Investors can monitor a firm's capital structure by tracking the D/E ratio and comparing it against the company's industry peers.

Firms in different industries will use capital structures better suited to their type of business. Capital-intensive industries like auto manufacturing may utilize more debt, while labor-intensive or service-oriented firms like software companies may prioritize equity.

To determine the company's optimal capital structure, the company needs to take into account factors such as weighted average cost of capital, risk and expected return, business risk, industry averages, the potential cost of financial distress, company's tax status, and application of financial models for this purpose.

Companies need to determine the capital structure that maximizes the company's market value by minimizing their cost of capital. An optimal capital structure should result in the lowest WACC. The same is estimated by calculating the marginal cost of each source of financing used and thereafter taking a weighted average of the same.

Factors Determining Capital Structure

Following are the factors that play an important role in determining the capital structure:

- 1. Costs of capital:**

It is the cost that is incurred in raising capital from different fund sources. A firm or a business should generate sufficient revenue so that the cost of capital can be met and growth can be financed.

- 2. Degree of Control:**

The equity shareholders have more rights in a company than the preference shareholders or the debenture shareholders. The capital

structure of a firm will be determined by the type of shareholders and the limit of their voting rights.

3. **Trading on Equity:**

For a firm which uses more equity as a source of finance to borrow new funds to increase returns. Trading on equity is said to occur when the rate of return on total capital is more than the rate of interest paid on debentures or rate of interest on the new debt borrowed.

4. **Government Policies:**

The capital structure is also impacted by the rules and policies set by the government. Changes in monetary and fiscal policies result in bringing about changes in capital structure decisions.

How Do Analysts and Investors Use Capital Structure?

A company with too much debt can be seen as a credit risk. Too much equity, however, could mean the company is underutilizing its growth opportunities or paying too much for its cost of capital (as equity tends to be more costly than debt). Unfortunately, there is no magic ratio of debt to equity to use as guidance to achieve real-world optimal capital structure. What defines a healthy blend of debt and equity varies depending on the industry the company operates in, its stage of development, and can vary over time due to external changes in interest rates and regulatory environment.

Conclusion

Capital structure is vital as it determines the overall stability of a firm. Here are some of the other factors that highlight the importance of capital structure:

1. A firm having a sound capital structure has a higher chance of increasing the market price of the shares and securities that it possesses. It will lead to a higher valuation in the market.
 2. A good capital structure ensures that the available funds are used effectively. It prevents over or under capitalisation.
 3. It helps the company in increasing its profits in the form of higher returns to stakeholders.
 4. A proper capital structure helps in maximising shareholder's capital while minimising the overall cost of the capital.
 5. A good capital structure provides firms with the flexibility of increasing or decreasing the debt capital as per the situation.
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THANK
YOU!

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