

Intimation towards difference in tax liability reported in GST returns

The Goods and Services Tax Council in its 48th meeting, had recommended insertion of a new Rule 88C¹ to the Central Goods and Services Tax Rules, 2017 ('CGST Rules 2017'). In terms of the said rule, where the tax liability as reported in Form GSTR-1 of a tax period (monthly or quarterly) exceeds the liability as paid in Form GSTR-3B of the respective tax period, the taxpayer shall be intimated of the said difference. Thereby, requiring the taxpayer to either pay the differential tax or explain the reason for such difference.

The functionality towards implementation of Rule 88C has now been enabled on the GST portal. Hence, the portal (basis the pre-defined parameters) would send an intimation in Form GST DRC-01B (Part A) to the taxpayer, seeking reasons for the difference or payment of differential tax liability within seven days. The response is to be filed in Part B of Form GST DRC-01B.

Importantly, the taxpayer is bound to respond to the intimation. On a failure to respond or pay the differential tax, the taxpayer will be barred from filing the return in Form GSTR-1 for the subsequent tax period².

In terms of the Law Committee report, to begin with, cases with difference in the liability declared in Form GSTR-1 and Form GSTR-3B when more than 20% and

more than Rs. 25 lakhs may be taken for the purpose of intimation under Rule 88C. There is, however, no official declaration towards the said limits.

To assist taxpayers with respect to this new functionality, a detailed FAQ and manual has now been issued³. The key clarifications in the FAQs are as follows:

Q. On which class of taxpayers is Form DRC-01B applicable?

Ans. Applicable to various taxpayers including regular taxpayers, SEZ units and SEZ developers, casual taxpayers, taxpayers registered under composition scheme.

Q. The taxpayer has not filed the Form DRC-01B for the previous Tax period. Can he still file GSTR-1/IFF for the current Tax period?

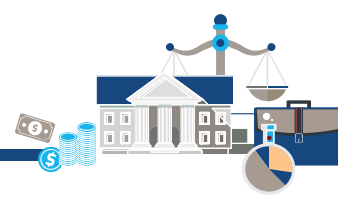
Ans. The taxpayer will not be able to file GSTR-1 / IFF for the subsequent period.

Q. How will a taxpayer be intimated that he has to submit reply in Form DRC-01B Part B?

¹ Inserted vide Notification No. 26/2022-Central Tax, dated December 26, 2022.

² Rule 59(6)(d) of the CGST Rules, 2017

³ FAQ can be seen at: <https://shorturl.at/KMPW0>



Ans. The taxpayer will receive an intimation via email and SMS, which will include the Reference Number of the intimation notice.

The intimation will be available on return period wise at GST portal as follows: *Services > Returns > Return Compliance > Liability Mismatch DRC-01B.*

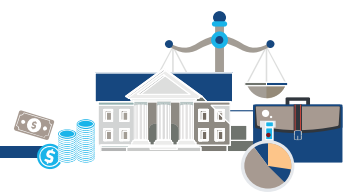
Q. After filing the reply for DRC-01B Part B, how much time will it take to unblock the form GSTR-1/IFF?

Ans. The GSTR-1 / IFF for the subsequent period can be filed immediately after filing the reply in part B of Form GST DRC-01B.

Dhruva Comments:

Rule 88C and the ensuring mechanism has been introduced as a safeguard against all the cases wherein tax liability gets reported in Form GSTR-1 but not deposited in Form GSTR-3B. However, considering the quantum of similar notices already being issued to the taxpayers in Form ASMT-10 basis the scrutiny of returns, the intimation in Form DRC-01B would further add to the burden of undertaking compliances (specially as it bars the filing of Form GSTR-1).

Taxpayers would henceforth need to be more vigilant at the time of filing the returns and specially towards any adjustments made in Form GSTR-3B which has an impact of reducing the tax liabilities (which have not been considered in Form GSTR-1).



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