

## **Significant Income-Tax Related Changes Applicable For FY 2021-22**

On 1 February 2021, the Hon'ble Finance Minister of India, Mrs. Nirmala Sitharaman had presented Finance Bill, 2021. While moving the Bill for approval before the Lok Sabha, more than 100 amendments to Bill have been introduced. The Amended bill received the presidential nod and became an Act on 28 March 2021.

We have already sneaked into new financial year i.e. FY 2021-22 and as a taxpayer and even if one is not a taxpayer, there have been plethora of important changes in Income-tax provisions, applicable for current year, that one needs to be aware of. Here are some of the important Income-tax related changes applicable for FY 2021-22:

### **1. TDS/TCS to be deducted/collected at original (higher) rate on Non Salary Payments***[Applicable from 01 April 2021]*

Due to Covid-19 pandemic, the rates of TDS/TCS on most of the payments/receipts was reduced by 25% for the period starting from 14th May, 2020 to 31st March, 2021. However, this relief was available to taxpayer only upto 31 March 2021. From 01 April 2021 onwards, the taxpayer needs to deduct TDS/collect TCS at original rates (i.e. without considering concession of 25% rate)

### **2. High TDS/TCS rates for the Non-filers of Income-tax Return***[Applicable from 01 July 2021]*

- ◆ In view of newly inserted section 206AB of the Income-tax Act, 1961 ('the Act'), TDS at the rate of Higher of following rates would require to be deducted on any sum or income or amount paid, or payable or credited, by a taxpayer to specified person
  - Twice of the rate specified under provisions of the Act
  - Twice of rate or rates in force or
  - Five percent
- ◆ Specified person shall be:
  - Person who has not filed the Income-tax return ('ITR') for both of the two immediately preceding years before the previous

year in which tax is required to be deducted or collected, as the case may be; and

- the time limit for filing ITR u/s 139(1) of the Act has expired for both these AYs; and
- aggregate of TDS and TCS in his case is Rs. 50,000/- or more in each of these two previous years; and
- shall not include a non-resident who does not have a permanent establishment in India.

- ◆ Similar provisions are applicable for TDS deduction u/s 194IB of the Act
- ◆ Section not applicable where the tax is required to be deducted u/s 192, 192A, 194B, 194BB, 194LBC or 194N of the Act.
- ◆ Similarly, Section 206CCA of the Act is inserted to provide higher rate of TCS for non-filers of ITR on any sum or amount received by a person from a specified person
- ◆ Provision of section 206AA or 206CC of the Act [i.e. Higher rate of TDS/TCS in absence of PAN] will also be applicable to a specified person along with above provisions. Meaning thereby tax has to be deducted/collected at higher of the two rates provided in Section 206AB and 206AA, or in section 206CCA and 206CC of the Act

### **3. TDS on purchase of goods***[Applicable from 01 July 2021]*

- ◆ Specified Buyers of Goods, *responsible for paying any sum to any resident*, needs to deduct tax @0.1% of purchase amount exceeding Rs. 50 Lakh in view of newly inserted section 194Q of the Act
- ◆ TDS needs to be deducted at the time of credit of such sum to the account of the seller or at the time of payment thereof by any mode, whichever is earlier.
- ◆ Includes only buyers whose total sales, gross receipts or turnover from the business carried on by him exceeds Rs. 10 Crore during the F.Y. immediately preceding the F.Y. in which the purchase of goods is carried out excluding the persons notified by the Central Government

- ◆ Section 194Q of the Act shall not apply to transactions on which either TDS is deductible or TCS is collectible [except 206C(1H)] under any other provisions of the Act
- ◆ In case tax is deductible u/s 194Q and on the same transaction tax is collectible u/s 206C(1H), then Section 194Q will prevail and TDS shall be attracted. Unlike TCS being linked to actual receipt, TDS triggers at the earlier of credit/payment to seller.
- ◆ Consequential amendment has been made u/s 206AA to provide that in case PAN is not provided, TDS u/s 194Q shall be applicable @5%

Note: The term 'goods' has not been defined in the Act and therefore, this may lead to interpretational issues on the applicability of TCS on sale/TDS on purchase of unlisted shares, moveable properties etc.

#### **4. Penalty, if PAN and Aadhar not linked till 30 June 2021**

Recently, the Central Board of Direct Tax ('CBDT') *vide* Notification no. 20/2021 dated 31 March 2021, has extended the due date for linking of Aadhar with PAN for the taxpayers to 30 June 2021. Failure to which taxpayer will be liable to pay late fees upto Rs. 1000 under section 234H of the Act. It is pertinent to note that on account of failure to link/intimate the PAN with Aadhar till notified due date, PAN will become inoperative and taxpayer has to face the other consequences (as applicable for non-furnishing/quoting of PAN) apart from the notified late fees.

#### **5. Tax on Interest on Provident Fund***[Applicable from 01 April 2021]*

Interest accruing on employee's contribution to specified provident funds during the year, on contributions in excess of Rs. 5,00,000 per annum will now be taxable in case there is no contribution to such fund by the employer.

In case employer also contributes to such fund, then the interest income accrued during the previous year in it to the extent it relates to the contribution made by the employees over Rs. 2,50,000 per annum will be taxable.

#### **6. Ensure timely deposition of employee's contribution to PF, ESI or any other employee welfare funds to avoid disallowances***[Applicable from 01 April 2021]*

Pursuant to insertion of Explanation 2 and 5 to Section 36(1)(va) and Section 43B of the Act respectively, it has been clarified that relaxation of payment of Employees' contribution on or before the due date of filing ITR per se Section 43B of the Act shall not be allowed. Now Employer has to deposit employees' contribution to these funds on time as per the due date under the relevant Act in order to claim the deduction in the respective A.Y. Else the deduction shall not be allowable at all.

#### **7. No Depreciation on Goodwill***[Applicable from AY 2021-22]*

From FY 2020-21, Goodwill is no more an asset for the purpose of claiming depreciation under the Act. Consequently:

- ◆ Where goodwill is purchased by the taxpayer, the purchase price of the goodwill will be considered as cost of acquisition for the purpose of computation of capital gains under section 48 of the Act
- ◆ Where depreciation was claimed by the taxpayer in relation to such goodwill prior to the AY 2021-22, then the depreciation so claimed shall be reduced from the amount of the purchase price of the goodwill for the purpose of computation of cost of acquisition.

#### **8. Pre-filled ITR Forms***[Applicable from AY 2021-22]*

- ◆ Per se speech of Finance Minister on Budget, 2021 proposals, to ease filing of returns, details of capital gains from listed securities, dividend income, and interest from banks, post office, etc. will now be pre-filled in ITR Forms. Earlier Pre-filed ITR form was available for Salaried employees where Income was reflected on basis of Form 16, but now the scope has been expanded.
- ◆ Recently CBDT notified Income-tax (4<sup>th</sup> amendment) Rules, 2021 *vide* notification no. 16/2021 dated 12 March 2021, wherein it has amended Rule 114E of the Income-tax Rules, 1962 to enhance the scope of transaction to be reported under the statement of financial transaction (SFT) by the certain class of person(s)/reporting entity.

CBDT notified that Recognized Stock Exchange, Depository, Recognized Clearing Corporation and Registrar to an issue and share transfer agent shall report transactions relating to capital gains on transfer of listed securities or units of mutual funds.

Further, a Company has to report transactions of dividend income. Banking Company or a Co-operative Bank, Post Master General, and Non-banking financial company shall report transactions of interest income.

- ◆ It is worthy to note that for AY 2021-22, ITR1 to 4 can be filled using single JSON Utility (as Excel & Java version of ITR utilities has been discontinued from AY 2021-22), wherein Import of Prefill file is mandatory. Although the government has provided the facility of 'Pre-filled' data for ease of filing ITR, however taxpayers must cross check all the pre-filled information before uploading of ITR.

**9. Reduction in time limit for filing ITR***[Applicable from AY 2021-22]*

Last date for filing of belated or revised ITR form has been reduced to 3 months before the end of relevant assessment year or before the completion of the assessment whichever is earlier. In other words, Original/revised ITR for the AY 2021-22 u/s 139 can now only be filed maximum upto 31 December 2021 with late fees, if applicable.

**10. No ITR filing for Senior Citizen aged 75 years or more***[Applicable from AY 2021-22]*

Resident senior-citizen aged 75 years or more, earning pension income only (may have interest income from bank in which pension is received) would be exempt from filing of ITR. Exemption shall be subject to furnishing of declaration to the bank by senior citizen.

**11. Filing of Form 10-IE for opting new tax regime for Individuals and HUFs**

The Budget 2020 had introduced a new tax regime under section 115BAC of the Act giving an option to individuals and HUF taxpayers to pay income tax at the lower rates with certain conditions. The aforesaid new tax rates are applicable for income earned from 1 April 2020 (FY 2020-21), which relates to AY 2021-22. However, to opt for the such concessional tax rate, the taxpayer would require to file Form 10-IE on or before due date of filing of ITR u/s 139(1) of the Act.

**12. Relief from payment of Interest u/s 234C of the Act in case of Dividend Income***[Applicable from AY 2021-22]*

Dividend income is uncertain and cannot be estimated, thus no interest shall be charged provided, if the shortfall in advance tax instalments is due to inclusion of such estimated dividend income [excluding deemed dividend u/s 2(22)(e)]

**13. Additional safe harbour limit @10% on transfer of land or building or both is available only upto 30 June2021**

Where sale consideration for the transfer of land or building or both, is less than the stamp duty value, such value be deemed to be the full value of consideration for the purpose of capital gain. Finance Act, 2021 has increased the safe harbour limit from 10% to 20%, i.e. if the stamp duty valuation does not exceed 120% of the consideration declared, deeming provision shall not apply.

Increase in safe harbour limit from 10% to 20% is subject to the following conditions: -

- ◆ Transfer of residential unit during 12<sup>th</sup> November, 2020 to 30th June, 2021
- ◆ Transfer is by way of first time allotment of the residential unit to any person
- ◆ Transfer consideration does not exceed Rs. 2 Crore

**14. Tax Audit u/s 44AB of the Act not required, if turnover/gross receipts don't exceed Rs. 10 Crore [Applicable from AY 2021-22]**

Finance Act2021 has further increased the threshold limit from Rs. 5 crores to Rs. 10 Crores for applicability of tax audit for the taxpayers with cash receipts and payments not exceeding 5% of total receipts and payments respectively. It is pertinent to note that payment or receipt by way of cheque or bank draft, which is not account payee, shall be deemed to be cash payments or receipts for computing the 5% threshold.

**15. Hindu undivided family (HUF) not eligible taxpayer for presumptive taxation scheme for professionals[Applicable from AY 2021-22]**

Finance Act, 2021has removed limited liability partnerships (LLPs) and Hindu undivided family (HUF) from the scope of presumptive taxation regime available for the professionals.

**16. Miscellaneous Key amendments:**

- ◆ Dividend payment by Special Purpose Vehicle to REITs and Inv ITs shall be exempt from withholding tax [*With retrospective effect from 1<sup>st</sup> April, 2020*]
- ◆ Unit-Linked Insurance Plan (ULIP) issued after *01 Feb 2021* with high premium (i.e. premium for the year exceeding Rs. 2,50,000), will be eligible for concessional tax rate of 10% on long term capital gains u/s 112A of the Act only if minimum equity component (90% or 65%) is maintained throughout the term of such insurance policy
- ◆ Now notice u/s 143(2) of the Act for selection of ITR for scrutiny assessment will be issued within the three months from the end of the financial year in which the return is furnished [*Applicable from 01 April 2021*]
- ◆ Non-resident e-commerce operator is not required to charge 2% equalisation levy on value of sale of goods owned by or services provided by residents or Non-residents having permanent establishment in India (to which such sale or provision is effectively connected) through digital platform of such e-commerce operator [*Applicable from AY 2021-22*]
- ◆ From FY 2020-21 itself, any income in the nature of royalty or fee for technical services that is taxable under the Act read with DTAA would not be chargeable to Equalisation levy.
- ◆ Due date for the filing of original ITR shall be 31st October in case of spouse of a partner of a firm, whose accounts are required to be audited under the Income-tax Act or under any other law for the time being in force, if the provisions of section 5A apply to them. Where such firm is required to furnish report under Section 92E of the Act, date has been extended to 30th November of that Assessment year.
- ◆ Corpus donations received by the charitable trusts and institutions can be claimed as exempt u/s 11/10(23C) of the Act, only when invested or deposited in modes specified u/s 11(5) of the Act maintained specifically for such corpus [*Applicable from AY 2022-23*]
- ◆ Assessment u/s 143(3) or 144 of the Act for AY 2021-22 and subsequent years will now be completed within 9 months from the end of the AY in which income is first assessable.

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