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He is the fellow member of the Institute of Chartered Accountants of India. He did his graduation from **Shri Ram College of Commerce**, Delhi University and awarded the best student of the college. He is also in the **merit list** of ICAI in CA Final. He is also Law Graduate and completed his LLM in International Taxation from Vienna University, Austria, Europe. He has authored 3 books on International Taxation and Transfer Pricing.

He has been elected to NIRC of The Institute of Chartered Accountants of India (ICAI) for the period 2019-2022. He is Chairman of Direct Tax Committee of NIRC of ICAI. He is President of Tax Research Foundation, an NGO doing research in the field of taxation. He has been nominated as YIN India Representative for a period of 2 years for International Fiscal Association – India Branch (A Netherland based body). He is partner in APT & Co LLP, Chartered Accountants having head offices at Delhi and 18 branches all over India.

He has delivered more than 900 lectures at national and international level. He is visiting faculty member at **National Academy of Direct Taxes, Nagpur, DTRTIs, Shri Ram College of Commerce**, ICAI, ICSI, ICWAI and Management Institutes. He is also faculty member of Certification Course on International Taxation for CAs. He was special invitee of **Direct Tax Committee of ICAI and International Taxation Committee of ICAI**. He has experience of handling various International Taxation including Transfer Pricing matters of big corporate.

He worked as Finance Analyst in P & G. He has won many laurels during school, college and CA student life. He presented many papers in International, National and regional conferences on various topics of Tax. He is a good orator and held many responsible positions.

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1. Tax Rates

i. Personal Tax Rates

Option 1

Individuals other than Senior Citizen

Income (Rs)	Proposed rate of tax (FY 2021-22)
Upto 2,50,000	Nil
2,50,001-5,00,000	5%
5,00,001-10,00,000	20%
10,00,001 and above	30%

Senior Citizen (Between 60 – 80 years of age)

Income (Rs)	Proposed rate of tax (FY 2021-22)
Upto 3,00,000	Nil
3,00,001-5,00,000	5%
5,00,001-10,00,000	20%
10,00,001 and above	30%

Super Senior Citizen (Between above 80 years of age)

Income (Rs)	Proposed rate of tax (FY 2021-22)
Upto 5,00,000	Nil
5,00,001-10,00,000	20%
10,00,001 and above	30%

Option 2

Income (Rs)	Proposed rate of tax (FY 2021-22)
Upto 2,50,000	Nil
2,50,001-5,00,000	5%
5,00,001-7,50,000	10%
7,50,001 – 10,00,000	15%
10,00,001 – 12,50,000	20%
12,50,001-15,00,000	25%
15,00,001 and above	30%

**Note- No deduction*

Note: Cess of 4% is leviable on the amount of income tax and surcharge, if any.

Rebate under Section 87A continues for a resident individual (whose income does not exceed 5,00,000. The amount of rebate is 100% of income tax calculated before education cess or 12,500 whichever is less.

Surcharge to be added

Income (Rs)	Proposed rate of tax (FY 2021-22)	Old rate of Tax (FY 2020-21)
Upto 50 Lakhs	Nil	Nil
50 Lakhs - 1 Crore	10%	10%
1 Crore - 2 Crore	15%	15%
2 Crore - 5 Crore	25%	25%
Above 5 Crore	37%	37%

*Surcharge on Dividend income and capital gains u/s 111A & 112A will be restricted to 15% only.

ii. Corporate tax rates

Income	Proposed rate of tax (FY 2021-22)
Domestic Company having total income less than 1 Crore	30%*
Domestic Company having total income more than 1 Crore but less than 10 Crore	30%* plus surcharge of 7%
Domestic Company having total income more than 10 Crore	30%* plus surcharge of 12%
Other Company having total income less than 1 Crore	40%
Other Company having total income more than 1 Crore but less than 10 Crore	40% plus 2%
Other Company having total income more than 10 Crore	40% plus 5%

Note: Cess of 4% shall be levied over and above the above taxes.
*Reduced rate of 25% shall be applicable where total turnover / receipts in the last P.Y. does not exceed Rs 400 Cr

iii. Firms

Flat tax rate of 30% and surcharge @ 12% of income tax if net income exceeds Rs 1 Cr. Additionally, cess of 4% is applicable.

iv. Cooperative Societies

Particular	Rate of Tax
Having total income of less than 10,001	10%
Having total income of more than 10,000 but less than 20,001	1,000 plus 20% of total income in excess fo Rs.10,000
Having total income of more than 20,000	3,000 plus 30% of total income in excees of Rs. 20,000

Note: Surcharge @ 12% of income tax if net income exceeds Rs.1 Crore is applicable. Additionally, cess of 4% shall be levied.

2. Individual Tax

2.1 Withdrawal of exemption on Interest received on employee's contribution to PF/RPF [AY 2022-23 onwards]

Section 10(11) of the Act provides for exemption with respect to any payment from a provident fund to which the Provident Funds Act, 1925 applies or from any other provident fund set up by the Central Government and notified by it in this behalf in the Official Gazette.

Similarly, Section 10(12) provides for exemption with respect to the accumulated balance due and becoming payable to an employee participating in a recognised provident fund, to the extent provided in rule 8 of Part A of the Fourth Schedule

As a result of above exemption u/s 10, entire interest accrued/ received on employees' contribution is exempt from tax without any threshold limit. As a result, many employees are contributing huge amounts under employees' contribution as there is no cap on the same.

In order to limit the exemption, it is proposed to insert proviso to Section 10(11) and 10(12) of the Act, providing that the provisions of these clauses shall not apply to the interest income accrued during the previous year in the account of the person to the extent it relates to the amount or the aggregate of amounts of contribution made by the person exceeding Rs. 2,50,000 in a previous year in that fund, on or after 1st April, 2021.

2.2 Exemption for LTC Cash Scheme [AY 2021-22 only]

Under the existing provisions of the Act, section 10(5) of the Act provides for exemption in respect of the value of travel concession or assistance received by or due to an employee from his employer or former employer for himself and his family, in connection with his proceeding on leave to any place in India. In view of the situation arising out of outbreak of COVID pandemic, it is proposed to provide tax exemption to cash allowance in lieu of LTC.

Hence, it is proposed to insert second proviso in section 10(5), so as to provide that, for the assessment year 2021-2022, the value in lieu of any travel concession or assistance received by, or due to, an individual shall also be exempt under this clause subject to fulfilment of conditions to be prescribed.

It is also proposed to clarify by way of an Explanation that where an individual claims and is allowed exemption under the second proviso in connection with prescribed expenditure, no exemption shall be allowed under this clause in respect of same prescribed expenditure to any other individual.

The conditions for this purpose shall be prescribed in the Income-tax Rules in due course and shall, inter alia, be as under:

- The employee exercises an option for the deemed LTC fare in lieu of the applicable LTC in the Block year 2018-21;
- "specified expenditure" means expenditure incurred by an individual or a member of his family during the specified period on goods or services which are liable to tax at an aggregate rate of 12% or above under various GST laws and goods are purchased or services procured from GST registered vendors/service providers;
- "specified period" means the period commencing from 12-10-2020 and ending on 31-03-2021;
- the amount of exemption shall not exceed Rs. 36,000 per person or one-third of specified expenditure, whichever is less;
- the payment to GST registered vendor/service provider is made by an account payee cheque drawn on a bank or account payee bank draft, or use of electronic clearing system through a bank account or through such other electronic mode as prescribed under Rule 6ABBA and tax invoice is obtained from such vendor/service provider;
- If the amount received by, or due to an individual as per the terms of his employment, from his employer in relation to himself and his family, for the LTC is more than what is allowable to such person under the above discussed provisions, the exemption

under the proposed amendment would be available only to the extent of exemption admissible under above listed provisions.

As per the proposed amendment, in case of any employee who have received cash in lieu of LTC concession for the block years 2018-21 from his employer and the employee has incurred expenditure on any goods or services (attracting GST @ 12% or more), then the employee is entitled to an exemption of Rs. 36,000 per person or 1/3rd of the expenditure made, whichever is less.

2.3 Extension of date of sanction of loan for affordable residential house property [AY 2022-23]

The existing provision of the section 80EEA of the Act, inter alia, provides a deduction in respect of interest on loan taken for a residential house property from any financial institution up to one lakh fifty-thousand rupees subject to the condition that the loan has been sanctioned during the period beginning on 01-04-2019 and ending on 31-03-2021. There are further conditions that the stamp duty value of residential house property does not exceed Rs.45,00,000 and the assessee does not own any residential house property on the date of sanction of loan. This provision allows deduction to the first-time home buyers, in respect of interest on home loan. In order to help such first-time home buyers further, it is proposed to extend the benefit for one more year to 31st March 2022.

Now, this deduction, introduced from AY 2020-21onwards to encourage the first-time home buyers wherein a deduction of up to Rs. 1,50,000 p. a. (in addition to deduction under section 24(b)) for loan sanctioned has been extended from 31.03.2021 to 31.03.2022.

2.4 Insertion of new section 89A to remove the hardship regarding mismatch of year of taxability and subsequent allowance of foreign tax credit [AY 2022-23]

In case of residents who had opened retirement fund accounts in a country outside India, the income tax act provides for taxation on accrual basis while some countries provides for taxation on withdrawal basis which results in non-allowance of foreign tax

credit withheld outside India since the year of taxability mismatches amongst India and other country.

In order to remove this genuine hardship, it is proposed to insert a new section 89A to the Act to provide that the income of a specified person from specified account shall be taxed in the manner and in the year as prescribed by the Central Government.

Whereas –

"Specified person" means a person resident in India who opened a specified account in a notified country while being non-resident in India and resident in that country.

"Specified account" means as an account maintained in a notified country which is maintained for retirement benefits and the income from such account is not taxable on accrual basis and is taxed by such country at the time of withdrawal or redemption.

"Notified country" means a country notified by the Central Government for the purposes of this section in the Official Gazette.

2.5 Taxation of proceeds of high premium unit linked insurance policy (ULIP) [AY 2021-22]

Section 10(10D) of the Act provides for the exemption for the sum received under a life insurance policy, including the sum allocated by way of bonus on such policy in respect of which the premium payable for any of the years during the terms of the policy does not exceed 10% of the actual capital sum assured.

Under the existing provisions of the Act, there is no cap on the amount of annual premium being paid by any person during the term of the policy. In order to limit the amount of investment in ULIP, it is proposed to provide for the followings:

i) Insert Explanation 3 to the section 10(10D) of the Act to define ULIP as a life insurance policy which has components of both investment and insurance and is linked to a unit as defined in regulation (3)(ee) of the IRDA (ULIP) Regulations, 2019 dated the 8th day of July, 2019.

ii) Insert fourth proviso to section 10(10D) of the Act to provide that the exemption under this clause shall not apply with respect to any ULIP issued on or after the 1st February, 2021, if the amount of premium payable for any of the previous year during the term of the policy exceeds Rs. 2,50,000.

iii) Insert fifth proviso to this clause to provide that, if premium is payable by a person for more than one ULIPs, issued on or after the 1st February, 2021, exemption under this clause shall be available only with respect to such policies aggregate premium whereof does not exceed the amount of Rs. 2,50,000, for any of the previous years during the term of any of the policy.

iv) Insert sixth proviso to this clause providing that the provisions of fourth and fifth provisos shall not apply to any sum received on the death of a person.

v) Insert seventh proviso to this clause to enable CBDT to issue guidelines with the approval of Central Government for the purpose of removing the difficulty and to lay every guideline issued by the Board before each House of Parliament and to make it binding on the income-tax authorities and the assessee.

vi) Provide that a ULIP [to which exemption under section 10(10D) of the Act does not apply on account of the applicability of the fourth and fifth proviso] is a capital asset under section 2(14) of the Act.

vii) Provide for the deemed taxation of profit and gains from the redemption of ULIP [to which exemption under section 10(10D) of the Act does not apply on account of the applicability of the fourth and fifth proviso] as capital gains by inserting new sub-section (1B) in section 45 and to take power to prescribe rules for calculation of such capital gains.

viii) Include such ULIPs [to which exemption under section 10(10D) of the Act does not apply on account of the applicability of the fourth and fifth proviso] in the definition of equity oriented fund in section 112A so as to provide them same treatment as unit of equity oriented fund.

ix) Thus provisions of section 111A and 112A would apply on sale/ redemption of such ULIPs.

STT is also made applicable on maturity or partial withdrawal from ULIP

2.6 Advance tax instalment for dividend income [AY 2021-22]

Section 234C of the Act provides for payment of interest by an assessee who does not pay or fails to pay on time the advance tax instalments as per section 208 of the Act.

The first proviso of the section 234C(1) provides for certain exclusions that if the shortfall in the advance tax instalment or the failure to pay the same on time is on account of the income listed therein, no interest under section 234C shall be charged provided the assessee has paid full tax in subsequent advance tax instalments.

As the divided income is uncertain and cannot be estimated, it is proposed to include dividend income also in the above exclusion.

2.7 Relaxation for senior citizen from filing ITR (New Section 194P) [AY 2021-22]

It is proposed to insert a new section 194P to the Act, which proposes to provide relief to the senior citizens of the age of 75 years or above from the compliance of section 139 of the Act which provides for filing of return of income.

A senior citizen of the age of 75 year or above is not required to file the return of income, if the following conditions are satisfied –

- The senior citizen is resident in India and of the age of 75 or more during the previous year;
- He has only pension income and may also have interest income from the same bank (specified bank - to be notified by the CG) in which he is receiving his pension income;
- He shall be required to furnish a declaration to the specified bank. The declaration shall be containing such particulars, in such form and verified in such manner, as may be prescribed.

Once the declaration is furnished, the specified bank would be required to compute the income of such senior citizen after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A of the Act, for the relevant assessment year and deduct income tax on the basis of rates in force. Once this is done, there will not be any requirement of furnishing return of income by such senior citizen for this assessment year.

3. Business Taxation

3.1 Payment by employer of employee contribution to a fund on or after due date will be disallowed [AY 2021-22]

Section 2(24) of the Act provides that income to include any sum received by the assessee from his employees as contribution to any provident fund or superannuation fund or any fund set up under the provisions of ESI Act or any other fund for the welfare of such employees. Section 36(1) of the Act provides for various deductions allowed while computing the income under the head Profits and gains of business or profession if the said sum is paid on or before the due date.

However, as per judgement of many High Courts like Delhi High Court in case of AMIL Ltd Vs CIT, it was held that the said deposit is covered under Section 43B and should be allowed if the same actually paid by the assessee on or before the due date for furnishing the return of the income under section 139(1). There are many conflicting judgements also.

Accordingly, in order to provide certainty, it is proposed to –

- amend section 36(1)(va) of the Act by inserting another explanation to the said clause to clarify that the provision of section 43B does not apply and deemed to never have been applied for the purposes of determining the due date under this clause; and
- amend section 43B of the Act by inserting Explanation 5 to the said section to clarify that the provisions of the said section do not apply and deemed to never have been applied to a sum received by the assessee from any of his employees to which provisions of section 2(24)(x) applies.

3.2 Depreciation on Goodwill [AY 2021-22]

Section 2(11) of the Act provides the definitions of block of assets as a group of assets falling within a class of assets comprising,

(a) tangible assets, being buildings, machinery, plant or furniture and

(b) intangible assets, being know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature,

in respect of which the same percentage of depreciation is prescribed.

Hon'ble Supreme Court in the case Smiff Securities Limited [(2012)348 ITR 302 (SC)] held that the Goodwill of a business or a profession is an asset within the meaning of section 32 of the Act and depreciation on goodwill is allowable under the said section

Now, amendment is proposed in Section 2(11) and Section 32(1)(ii) for goodwill of a business or profession will not be considered as a depreciable asset and there would not be any depreciation on goodwill of a business or profession in any situation. However, in a case where goodwill is purchased by an assessee, the purchase price of the goodwill will continue to be considered as cost of acquisition for the purpose of computation of capital gains under section 48 of the Act subject to the condition that in case depreciation was obtained by the assessee in relation to such goodwill prior to the assessment year 2021-22, then the depreciation so obtained by the assessee shall be reduced from the amount of the purchase price of the goodwill.

3.3 No Presumptive taxation u/s 44ADA for LLPs [AY 2021-22]

There is no bar for LLPs to claim the benefit of section 44ADA of the Act relating to special provision for computing profits and gains of profession on presumptive basis. Now, The said benefit has been taken away from the Limited Liability Partnership (LLP) as defined under section 2(1)(n) of Limited Liability Partnership Act, 2008. Now, LLP are required to maintain books of accounts in all case.

3.4 Rental income also allowed as deduction u/s 80-IBA for affordable housing [AY 2022-23]

The existing provision of the section 80-IBA of the Act provides that where the gross total income of an assessee includes any profits and gains derived from the business of developing and building affordable housing project, there shall, subject to certain conditions specified therein, be allowed a deduction of an amount equal to 100% of the profits and gains derived from such business. One of the conditions is that the project is approved by the competent authority after the 1st day of June 2016 but on or before the 31st day of March 2021.

To help migrant labourers and to promote affordable rental, it is proposed to allow deduction under section 80-IBA of the Act also to such rental housing project which is notified by the Central Government in the Official Gazette and fulfils such conditions as specified in the said notification.

Further, the deadline 31st March 2021 has been extended to 31st March 2022.

3.5 Conversion of Urban Cooperative Bank into Banking Company to be tax neutral [AY 2021-22]

Section 44DB of Act provides for computing deductions in the case of business re-organization of cooperative banks. In other words, conversion of cooperative bank to company is not covered under said section.

It is proposed to expand the scope of business reorganization to include conversion of a primary co-operative bank to a banking company and the deductions available under section 44DB of the Act shall also be made applicable in relation to such conversion of primary co-operative bank to the banking company.

Further, it is also proposed that transfer of a capital asset by the primary co-operative bank to the banking company as a result of conversion shall not be treated as transfer under section 47 of the

Act. Consequently, the allotment of shares of the converted banking company to the shareholders of the predecessor primary co-operative bank shall not be treated as transfer under the said section of the Act.

3.6 Relaxation for strategic disinvestment of PSUs [AY 2021-22]

Section 2(19AA) of the Act defines that -demerger", in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 391 to 394 of the Companies Act, 1956, by a demerged company of its one or more undertakings to any resulting company on satisfaction of conditions prescribed in the said clause.

Section 72A of the Act provides that the accumulated loss and unabsorbed depreciation of the amalgamating company or companies shall be deemed to be the accumulated losses and unabsorbed depreciation of the amalgamated company or companies in specified cases and subject to the conditions specified in the said section.

It is proposed to relax the above provisions for public sector companies (PSUs) in order to facilitate strategic disinvestment by the Government. Accordingly, it is proposed to carry out the following amendments-

(1) It is proposed to amend section 2(19AA) of the Act to insert Explanation 6 to clarify that the reconstruction or splitting up of a public sector company into separate companies shall be deemed to be a demerger, if

- such reconstruction or splitting up has been made to transfer any asset of the demerged company to the resultant company; and
- the resultant company is a public sector company on the appointed date indicated in the scheme approved by the Government or any other body authorised under the provisions of the Companies Act, 2013 or any other Act governing such public sector companies in this behalf; and

- fulfils such other conditions as may be notified by the Central Government in the Official Gazette.

(2) It is proposed to amend section 72A(1) of the Act,

(a) to provide that the provision of section 72A(1) shall also apply in case of amalgamation of one or more public sector company or companies with one or more public sector company or companies.

(b) to provide that the provision of section 72A(1) shall also apply in case of amalgamation of an erstwhile public sector company with one or more company or companies, if

- the share purchase agreement entered into under strategic disinvestment restricted immediate amalgamation of the said public sector company; and
- the amalgamation is carried out within five year from the end of the previous year in which the restriction on amalgamation in the share purchase agreement ends.

(c) to provide that the accumulated loss and the unabsorbed depreciation of the amalgamating company, in case of an amalgamation referred to in clause (c) above, which is deemed to be loss or, as the case may be, allowance for unabsorbed depreciation of the amalgamated company shall not be more than the accumulated loss and unabsorbed depreciation of the public sector company as on the date on which the public sector company ceases to be a public sector company as a result of strategic disinvestment;

3.7 Extension of date of incorporation for eligible start up for exemption and for investment in eligible start-up [AY 2022-23]

As per the existing provisions of the section 80-IAC of the Act, the eligible start-up is required to be incorporated on or after 1st day of April, 2016 but before 1st day of April 2021. Similarly, the benefit of section 54GB is also available till 31st March 2021.

3.8 Increase in safe harbour limit of 10% to 20% for home buyers and real estate developers selling such residential units [AY 2021-22]

Section 43CA of the Act, *inter alia*, provides that where the consideration declared to be received or accruing as a result of the transfer of land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government (i.e. -stamp valuation authority||) for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall for the purpose of computing profits and gains from transfer of such assets, be deemed to be the full value of consideration. The said section also provide that where the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty does not exceed one hundred and ten per cent of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration.

In order to boost the demand in the real-estate sector and to enable the real-estate developers to liquidate their unsold inventory at a lower rate to home buyers, it is proposed to increase the safe harbour threshold from existing 10% to 20% under section 43CA of the Act, if the following conditions are satisfied:-

- The transfer of residential unit takes place during the period from 12th November, 2020 to 30th June, 2021
- The transfer is by way of first time allotment of the residential unit to any person
- The consideration received or accruing as a result of such transfer does not exceed Rs. 2 crore.

Consequential relief has also been provided in Section 56(2)(x).

3.9 Limits for tax audit in certain cases increased from Rs.5 to Rs.10 cr [AY 2021-22]

Under section 44AB of the Act, every person carrying on business is required to get his accounts audited, if his total sales, turnover or gross receipts, in business exceed or exceeds Rs. 1 crore in any previous year.

Finance Act 2020 has increased the threshold limit of tax audit for a person carrying on business was increased from Rs. 1 crore to Rs. 5 crore in cases where,-

(i) aggregate of all receipts in cash during the previous year does not exceed 5% of such receipt; and

(ii) aggregate of all payments in cash during the previous year does not exceed 5% of such payment.

In order to promote digital economy with more non-cash transactions, the compliance burden will be reduced by increasing the threshold from Rs. 5 crore to Rs. 10 crore in the specified cases as stated above.

4. Capital Gains

4.1 Issuance of zero coupon bond by infrastructure debt fund [AY 2022-23]

Section 2(48) of the Act provides the definition of zero coupon bond, as a bond issued by any infrastructure capital company or infrastructure capital fund or public sector company or scheduled bank and in respect of which no payment and benefit is received or receivable before maturity or redemption. These are required to be notified by the Central Government in the Official Gazette.

For providing the same benefit infrastructure debt fund [which are notified by the Central Government in the Official Gazette under section 10(47) of the Act] to issue zero coupon bond necessary amendments are proposed in section 2(48) of the Act.

Consequential amendment has also been proposed in section 194A(3)(x) to provide for non-deduction of TDS.

4.2 Enhancing the scope of Slump Sale [AY 2021-22]

Section 50B of the Act contains special provision for computation of capital gains in case of slump sale.

Section 2(42C) of the Act defines -slump sale to mean the transfer of one or more undertakings as a result of sale for lump sum consideration without value being assigned to individual assets and liabilities in such cases.

This has been interpreted by some courts that other means of transfer listed in section 2(47) of the Act, in relation to definition of the word transfer in relation to capital asset like exchange, relinquishment etc, are excluded.

It is proposed to amend the scope of the definition of the definition of slump sale by amending the provision of section 2(42C) of the Act so that all types of transfer as defined in section 2(47) of the Act are included within its scope.

4.3 New provision of transfer of capital asset to partner on dissolution or reconstitution [AY 2022-23]

The existing provisions of section 45 of the Act inter alia, provides that any profits or gains arising from the transfer of a capital asset shall be chargeable to income-tax under the head Capital gains and shall be deemed to be the income of the previous year in which such transfer takes place.

Further section 45(4) of the said section, provides that the profits or gains arising from the transfer of a capital asset by way of distribution of capital assets on the dissolution of a firm or other association of persons or body of individuals (not being a company or a co-operative society) or otherwise, shall be chargeable to tax as the income of such firm or other association of persons or body of individuals of the previous year in which the said transfer takes place. Further, the fair market value of the asset on the date of such transfer shall be deemed to be the full value of the consideration for the purposes of section 48.

In this regard, it has been noticed that there is uncertainty regarding applicability of provisions of aforesaid sub-section to a situation where assets are revalued or self- generated assets are recorded in the books of accounts and payment is made to partner or member which is in excess of his capital contribution.

New section 45(4) of the Act has been proposed to be applied in a case where a specified person who receives during the previous year any capital asset at the time of dissolution or reconstitution of the specified entity. The capital asset represents the balance in the capital account of such specified person in the books of the specified entity at the time of its dissolution or reconstitution.

In this situation, the profit and gains arising from the receipt of such capital asset by the specified person shall be chargeable to income-tax as income of the specified entity under the head capital gains and shall be deemed to be the income of such specified entity of the previous year in which the capital asset was received by the specified person. For the purposes of section 48 of the Act, the fair market value

of the capital asset on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset. The balance in the capital account of the specified person in the books of account of the specified entity is to be calculated without taking into account increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset.

Further, another new section 45(4A) of the Act has been proposed to be applied in a case where a specified person receives during the previous year any money or other asset at the time of dissolution or reconstitution of the specified entity. The money or other asset is required to be in excess of the balance in the capital account of such specified person in the books of accounts of the specified entity at the time of its dissolution or reconstitution. In this situation, the profits or gains arising from the receipt of such money or other asset by the specified person shall be chargeable to income-tax as income of the specified entity under the head "Capital gains" and shall be deemed to be the income of such specified entity of the previous year in which the money or other asset was received by the specified person. For the purposes of section 48 of the Act,

- value of the money or the fair market value of other asset on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset; and
- the balance in the capital account of the specified person in the books of accounts of the specified entity at the time of its dissolution or reconstitution shall be deemed to be the cost of acquisition.

The balance in the capital account of the specified person in the books of account of the specified entity is to be calculated without taking into account increase in the capital account of the specified person due to revaluation of any asset or due to self- generated goodwill or any other self-generated asset.

For the purposes of these two sub-sections,-

- specified person is proposed to be defined as a person who is partner of a firm or member of other association of persons or body of individuals (not being a company or a cooperative society), in any previous year;
- specified entity is proposed to be defined as a firm or other association of persons or body of individuals (not being a company or a cooperative society);and
- self-generated goodwill and self-generated assets are proposed to be defined as goodwill or asset, as the case may be, which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession.

Consequential amendment is also proposed in section 48 of the Act to provide that in case of specified entity, the amount included in the total income of such specified entity under section 45(4A) which is attributable to the capital asset being transferred, shall be reduced from the full value of the consideration to compute income charged under the head capital gains. This is to be calculated in the manner to be prescribed later.

5. Changes in International Tax

5.1 Rationalisation of the provisions of Equalisation Levy [AY 2020-21]

Under section 165A of Finance Act, 2016, as inserted by section 153 of the Finance Act, 2020, Equalisation Levy is to be levied at the rate of 2% of the amount of consideration received or receivable by an e-commerce operator from e-commerce supply or services made or provided or facilitated, by it-

(i) to a person resident in India; or

(ii) to a non-resident in the specified circumstances as referred to in sub-section (3); or

(iii) to a person who buys such goods or services or both, using internet protocol address located in India.

For this purpose, E-commerce supply or service is defined as to mean:-

(i) online sale of goods owned by the e-commerce operator;

(ii) online provision of services provided by the e-commerce operator;

(iii) online sale of goods or provision of services or both, facilitated by the e-commerce operator; or

(iv) any combination of activities listed in clause (i), (ii) or clause (iii);

Section 10(50) of the Act provides for the exemption for the income arising from any specified service provided on or after the date on which the provisions of Chapter VIII of the Finance Act, 2016 comes into force or arising from any e- commerce supply or services made or provided or facilitated on or after the 1st day of April, 2021 and chargeable to equalisation levy under that Chapter.

For providing clarity in the above provisions, it is proposed to carry out the following amendments in the Finance Act, 2016:-

- Insert an Explanation to section 163 of the Finance Act, 2016, clarifying that consideration received or receivable for specified services and consideration received or receivable for e-commerce supply or services shall not include consideration

which are taxable as royalty or fees for technical services in India under the Income-tax Act read with DTAA.

- Insert an Explanation to clause (cb) of section 164 of the Finance Act, 2016, providing that for the purposes of defining e-commerce supply or service, "online sale of goods" and "online provision of services" shall include one or more of the following activities taking place online:
  - (a) Acceptance of offer for sale;
  - (b) Placing the purchase order;
  - (c) Acceptance of the Purchase order;
  - (d) Payment of consideration; or
  - (e) Supply of goods or provision of services, partly or wholly
- Amend section 165A of the Finance Act, 2016, to provide that consideration received or receivable from e-commerce supply or services shall include:

(i) consideration for sale of goods irrespective of whether the e-commerce operator owns the goods; and

(ii) consideration for provision of services irrespective of whether service is provided or facilitated by the e-commerce operator.

It is also proposed to amend section 10(50) of the Act to -

(i) provide that section 10(50) will apply for the e-commerce supply or services made or provided or facilitated on or after 1st April, 2020.

(ii) clarify that exemption under section 10(50) will not apply for royalty or fees for technical services which is taxable under the Act read with the agreement notified by the Central Government under section 90 or section 90A of the Act.

define e-commerce supply or services under section 10(50) as the meaning assigned to it in clause (cb) of section 164 of Chapter VIII of the Finance Act,2016.

5.2 Tax incentives for units located in IFSC [AY 2022-23]

Government has establishment a world class financial services centre known as IFSC. Units located in IFSC enjoy some concession. In order to make location in IFSC more attractive, it is proposed to provide the following additional incentives:

1. It is proposed to amend section 9A of the Act to provide that the Central Government may, by notification in the Official Gazette, specify that any one or more of the conditions specified under section 9A of the Act shall not apply (or apply with modification) to an eligible investment fund or its eligible fund manager, if the fund manager is located in an IFSC and has commenced operations on or before the 31st day of March, 2024.
2. It is also proposed to amend section 10(4D) of the Act so as to provide that the exemption under this clause shall also be available in case of any income accrued or arisen to, or received to the investment division of offshore banking unit to the extent attributable to it and computed in the prescribed manner.
3. It is also proposed to amend the expression "specified fund" to include under the purview the investment division of offshore banking unit which has been granted a category III AIF registration and fulfils other conditions to be prescribed including the condition of maintaining separate books for its investment division. The investment division of offshore banking unit is proposed to be defined as an investment division of a banking unit of a non-resident located in an IFSC and which has commenced operation on or before the 31st day of March, 2024.
4. It is also proposed to insert new clause (4E) in of section 10 of the Act so as to exempt any income accrued or arisen to, or received by a non-resident as a result of transfer of non-deliverable forward contracts entered into with an offshore banking unit of International Financial Services Centre which commenced operations on or before the 31st day of Mach, 2024 and fulfils prescribed conditions.

5. It is also proposed to insert new clause (4F) in of section 10 of the Act so as to exempt any income of a non-resident by way of royalty on account of lease of an aircraft in a previous year paid by a unit of an International Financial Services Centre, if the unit is eligible for deduction under section 80LA for that previous year and has commenced operation on or before the 31st day of the March, 2024.
6. It is also proposed to insert new clause (23FF) in of section 10 of the Act so as to exempt any income of the nature of capital gains, arising or received by a non-resident, which is on account of transfer of share of a company resident in India by the resultant fund and such shares were transferred from the original fund to the resultant fund in relocation, if capital gains on such shares were not chargeable to tax had that relocation not taken place.

"Original Fund" is proposed to be defined as a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions, namely:—

(a) the fund is not a person resident in India;

(b) the fund is a resident of a country or a specified territory with which DTAA has been entered into; or is established or incorporated or registered in a country or a specified territory notified by the Central Government in this behalf;

(c) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident; and

(d) fulfils such other conditions as prescribed;

"Relocation" is proposed to be defined as transfer of assets of the original fund to a resultant fund on or before the 31st day of March, 2023, where consideration for such transfer is discharged in the form of share or unit or interest in the resulting fund to the shareholder or unit holder or interest holder of the original fund in the same proportion in which the share or unit or interest was held by such shareholder or unit holder or interest holder in such original fund.

"Resultant fund" is proposed to be defined as a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership, which-

(a) has been granted a certificate of registration as a Category I or Category II or Category III Alternative Investment Fund, and is regulated by SEBI; and

(b) is located in any IFSC as referred to in section 80LA(1A).

7. It is also proposed to amend section 47 of the Act to insert new clauses in the said section so as to provide that any transfer, in relocation, of a capital asset by the original fund to the resultant fund shall not be considered as transfer for capital gain tax purpose. It is also proposed to provide another clause to provide that any transfer by a shareholder or unit holder or interest holder, in a relocation, of a capital asset being a share or unit or interest held by him in the original fund in consideration for the share or unit or interest in the resultant fund shall not be treated as transfer for the purpose of capital gains.

5.3 Relaxation of provisions for exemption related to Sovereign Wealth Fund (SWF) and Pension Fund (PF) [AY 2021-22]

Section 10(23FE) of the Act provides for the exemption to specified persons from the income in the nature of dividend, interest or long-term capital gains arising from an investment made by it in India.

Specified persons are SWF or PF which fulfils conditions prescribed therein and are specified for this purpose by the Central Government through notification in the Official Gazette. This provision was introduced through the Finance Act, 2020 to encourage investments of SWF and PF into infrastructure sector of India.

In order to remove the difficulties in meeting some of the conditions by SEF & PF, the followings amendments are proposed in the Bill:

- Allowing Alternate Investment Fund (AIF) to invest up to 50% in non-eligible investments

Presently SWF/PFs may invest in a Category-I or Category-II Alternative Investment Fund, having 100% investment in eligible infrastructure company. It is proposed to:

(a) relax the condition of 100% to 50%.

(b) allow the investment by Category-I or Category-II AIF in an Infrastructure Investment Trust (InvIT).

(c) Exemption under this clause shall be calculated proportionately, in case if aggregate investment of AIF in infrastructure company or companies or in InvIT is less than 100%.

- Investment through holding company

Presently, SWF/PFs are not allowed to invest through holding company. It is proposed to allow the same subject to the following conditions:

(a) Holding company should be a domestic company.

(b) It should be set up and registered on or after 1st April, 2021.

(c) It should have minimum 75% investments in one or more infrastructure companies.

(d) Exemption under this clause shall be calculated proportionately, in case if aggregate investment of holding company in infrastructure company or companies is less than 100%

- Investment in NBFC- IDF/IFC (non-banking finance company-infrastructure debt fund/Infrastructure finance company)

  Presently, SWF/PFs are not allowed to invest in NBFC-IFC/IDF. It is proposed to allow the same subject to the following conditions:

(a) NBFC-IDF/IFC should have minimum 90% lending to one or more infrastructure entities.

(b) Exemption under this clause shall be calculated proportionately, in case if aggregate lending of NBFC-IDF or NBFC-IFC in infrastructure company or companies is less than 100%.

- Loan or borrowings by SWF/Pension Fund

  Presently, SWF/PFs are not allowed to have loans or borrowings or deposit or investments as there is a condition that no benefit

should enure to private person. It is proposed to provide that there should not be any loan or borrowing for the purpose of making investment in India. It is also proposed to provide that the condition regarding no benefit to private person and assets going to government on dissolution would not apply to any payment made to creditor or depositor for loan taken or borrowing other than for the purpose of making investment in India.

- Commercial activity

  Presently, SWF/PFs are not allowed to undertake any commercial activity. This condition is proposed to be removed and replaced with a condition that SWF/PFs shall not participate in day to day operation of investee. However, appointing director and executive director for monitoring the investment would not amount to participation in day to day operation. The term "investee" is proposed to define to mean a business trust or a company or an enterprise or an entity or a category I or II Alternative Investment Fund or an Infrastructure Investment Trust or a domestic company or an Infrastructure Finance Company or an Infrastrure Debt Fund, in which the SWF or PF, as the case may be, has made the investment, directly or indirectly, under the provisions of this clause.

- Liable to Tax

Presently, some PFs are liable to tax in their country though given exemption subsequently. It is proposed to amend this sub-clause to provide that if pension fund is liable to tax but exemption from taxation for all its income has been provided by the foreign country under whose laws it is created or established, then such pension fund shall also be eligible.

- Rules to prescribe the method of calculation

  It is also proposed to provide that the Central Government may prescribe the method of calculation of 50% or 75% or 90%referred above.

5.4 Relaxation from MAT to companies [AY 2021-22]

Section 115JB of the Act provides for MAT at the rate of 15% of its book profit, in case tax on the total income of a company computed under the provisions of the Act is less than the 15% of book profit. Book profit for this purpose is computed by making certain adjustments to the profit disclosed in the profit and loss account prepared by the company in accordance with the provisions of the Companies Act, 2013.

Presently no adjustment in computation of book profit under section 115JB is allowed on account of additional income of past year(s) included in books of account of current year on account of secondary adjustment under section 92CE or on account of an Advance Pricing Agreement (APA) entered with the taxpayer under section 92CC. Moreover, in case of foreign companies, dividend income is now taxable in the hand of foreign companies at concessional tax rate provided in the DTAA (generally 10%) which may result in additional MAT liability for foreign company. To provide relief in above situation, it is proposed to,-

(i) provide that in cases where past year income is included in books of account during the previous year on account of an APA or a secondary adjustment, the Assessing Officer shall, on an application made to him in this behalf by the assessee, recompute the book profit of the past year(s) and tax payable, if any, during the previous year, in the prescribed manner. Further, the provision of section 154 of the Act shall apply so far as possible and the period of four years specified in sub-section (7) of section 154 shall be reckoned from the end of the financial year in which the said application is received by the Assessing Officer.

(ii) to provide similar treatment to dividend as already there for capital gains on transfer of securities, interest, royalty and Fee for Technical Services (FTS) in calculating book profit for the purposes of section 115JB of the Act, so that both specified dividend income and the expense claimed in respect thereof are

reduced and added back, while computing book profit in case of foreign companies where such income is taxed at lower than MAT rate due to DTAA.

5.5 DTAA relief granted to FII for WHT on dividends [AY 2021-22]

Section 196D of the Act provides for deduction of tax on income of FII from securities at the rate of 20%. The DTAA applicable to these FIIs provides for lower WHT rates.

Now, it is proposed to insert a proviso to section 196D of the Act to provide that benefit of lower WHT rate as provided in DTAA should be provided to FIIs provided such payee has furnished the tax residency certificate (TRC). In simple words, TDS for FIIs shall be deducted at the rate of 20% or rate or rates of income-tax provided in DTAA, whichever is lower on providing valid TRC and Form 10F.

6. Penalty

6.1 Provisional attachment in Fake Invoice cases [AY 2021-22 onwards]

Section 281B of the Act contains provisions which provide that in cases of assessment or reassessment, the Assessing Officer may provisionally attach any property of the assessee, if necessary, in order to protect the interest of revenue. This can be done only with prior approval of Pr.CCIT / Pr.DGIT / CCIT / DGIT / Pr.CIT / Pr.DIT / CIT / DIT of Income-tax. Such provisional attachment is valid for a period of 6 months. Further, the said section allows the assessee to furnish a bank guarantee of the value of the property so attached for revocation of the provisional attachment. The above bank guarantee shall be invoked if the assessee fails to pay his tax demand on time. The powers under this section can only be exercised by the Assessing Officer.

Section 271AAD of the Act was inserted vide the Finance Act, 2020 to impose penalty on a person or a person who causes such person to make a false entry or omit an entry from his books of accounts. It is an anti-abuse provision. Upon initiation of such penalty proceedings, it is highly likely that the taxpayer may also evade the payment of such penalty, if imposed. Hence, in order to protect the interest of revenue, it is proposed to amend the provision of section 281B of the Act to enable the Assessing Officer to exercise the powers under this section during the pendency of proceedings for imposition of penalty under section 271AAD of the Act, if the amount or aggregate of amounts of penalty imposable is likely to exceed Rs. 2 crore.

7. Tax Administration and Compliance

7.1 Extending due date for filing ITR in some cases [AY 2021-22 onwards]

In the case of a firm liable for Transfer Pricing Audit (Form 3CEB), the due date for filing of original return of income is the 30th November of the assessment year. Since the total income of such partner can be determined after the books of accounts of such firm have been finalized, it is proposed that the due date of such partner be extended to 30th November of the assessment year.

7.2 Reducing time limit to file belated return and revise return [AY 2021-22]

Presently, the belated or revised returns under section 139(4) and 139(5) respectively of the Act can be filed during the assessment year itself or before the completion of the assessment, whichever is earlier.

Now, the time limit for filing of belated or revised returns of income, as the case may be, has been proposed to reduce by 3 months. Thus, the belated return or revised return could now be filed 3 months before the end of the relevant assessment year i.e. up to 31st December of the AY or before the completion of the assessment, whichever is earlier.

7.3 Relaxation for difficulties in cases of defective returns [AY 2021-22]

It is proposed to delegate certain power to CBDT by empowering the Board to specify, vide notification that any of the conditions specified under explanation to section 139(9) shall not apply for a class of assessee or shall apply with such modifications, as maybe specified in such notification.

7.4 Reduction of time-line for completing assessment

Section 153 of the Act contains provisions in respect of time-limit for completion of assessment, reassessment and re-computation under the Act. The sub-section (1) of the said section provides that the time-limit for passing an assessment order under section 143 or 144 of the Act shall be 21 months from the end of the assessment year in which the income was first assessable. However, this time limit had earlier been curtailed in order to improve the efficacy and efficiency of the Department to give effect to computerization of processes under the Act. As a result, the time limit for completion of assessment proceedings under sections 143 or 144 of the Act was reduced to 18 months for A.Y. 2018-19 and 12 months for A.Y. 2019-20 and subsequent assessment years vide the Finance Act, 2017.

Since then, the assessment procedure has been completely overhauled by the introduction of the Faceless Assessment Scheme, 2019. The assessment procedure is now conducted in a completely faceless and jurisdiction-less way where all internal and external communication is made electronically and different aspects of the assessment procedure like verification, scrutiny of books of accounts etc. are carried on by different units. The person-to-person interface between the taxpayer and the Department has been eliminated. This team-based approach for assessment with a dynamic jurisdiction is technologically driven and very efficient. Thus, the time required for completion of assessment procedure needs to be further reduced.

It has been proposed that the time limit for completion of assessment proceedings may be reduced further by 3 months. Thus the time for completing of assessment is proposed to be 9 months from the end of the assessment year in which the income was first assessable, for the assessment year 2021-22 and subsequent assessment years.

7.5 Return processing and issue of notice for regular assessment

The existing provisions of section 143(1)(a) of the Act provides that at the time of processing of return of income made under section 139, or in response to a notice under section 142(1), the total income

or loss shall be computed after making the adjustments specified in clauses (i) to (vi) therein.

It is proposed to amend the provisions of section 143(1) of the Act,-

(i) to allow for the adjustment on account of increase in income indicated in the audit report but not taken into account in computing the total income.

(ii) to give consequential effect to amendment carried out in section 80 AC vide Finance Act, 2018.

(iii) to reduce the time limit for sending intimation under section 143(1) of the Act from 1 year to 9 months from the end of the financial year in which the return was furnished.

Further, it is also proposed to reduce the time limit for issue of notice for regular assessment under section 143(2) of the Act from 6 months to 3 months from the end of the financial year in which the return is furnished.

7.6 Income escaping assessment and search assessments [w.e.f. 1-4-2021]

Under the Act, the provisions related to income escaping assessment (re-assessment) provide that if the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may assess or reassess or re-compute the total income for such year under section 147 of the Act by issuing a notice under section 148 of the Act. However, such reopening is subject to the time limits prescribed in section 149 of the Act. (Presently 6 years)

In cases where search is initiated u/s 132 of the Act or books of account, other documents or any assets are requisitioned under section 132A of the Act, assessment is made in the case of the assessee, or any other person, in accordance with the special provisions of sections 153A, 153B, 153C and 153D, of the Act that deal specifically with such cases. (Presently block assessment of 6 years or 10 years in specified case 10 years as well)

The Bill proposes a completely new procedure of assessment of such

cases by reduction in time limit by which a notice for assessment or reassessment or re-computation can be issued. The salient features of new procedure are as under:-

(i) The provisions of section 153A and section 153C, of the Act are proposed to be made applicable to only search initiated under section 132 of the Act or books of accounts, other documents or any assets requisitioned under section 132A of the Act, on or before 31st March 2021.

(ii) Assessments or reassessments or in re-computation in cases where search is initiated under section 132 or requisition is made under 132A, after 31st March 2021, shall be under the new procedure.

(iii) Section 147 proposes to allow the Assessing Officer to assess or reassess or re-compute any income escaping assessment for any assessment year (called relevant assessment year).

Before such assessment or reassessment or re-computation, a notice is required to be issued under section 148 of the Act, which can be issued only when there is information with the Assessing officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year. Prior approval of specified authority is also required to be obtained before issuance of such notice by the Assessing Officer.

(iv) It is proposed to provide that any information which has been flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board shall be considered as information which suggests that the income chargeable to tax has escaped assessment. The flagging would largely be done by the computer based system.

(v) Further, a final objection raised by the CAG to the effect that the assessment in the case of the assessee for the relevant assessment year has not been in accordance with the provisions of the Act shall also be considered as information which suggests that the income chargeable to tax has escaped assessment.

(vi) Further, in search, survey or requisition cases initiated or made

or conducted, on or after 1st April, 2021, it shall be deemed that the Assessing officer has information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the 3 assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or requisition is made or any material is seized or requisitioned or survey is conducted.

(vii) New Section 148A of the Act proposes that before issuance of notice the Assessing Officer shall conduct enquiries, if required, and provide an opportunity of being heard to the assessee. After considering his reply, the Assessing Office shall decide, by passing an order, whether it is a fit case for issue of notice under section 148 and serve a copy of such order along with such notice on the assessee. The Assessing Officer shall before conducting any such enquiries or providing opportunity to the assessee or passing such order obtain the approval of specified authority. However, this procedure of enquiry, providing opportunity and passing order, before issuing notice under section 148 of the Act, shall not be applicable in search or requisition cases.

(viii) The time limitation for issuance of notice under section 148 of the Act is proposed to be provided in section 149 of the Act and is as below:

- in normal cases, no notice shall be issued if 3 years have elapsed from the end of the relevant assessment year. Notice beyond the period of 3 years from the end of the relevant assessment year can be taken only in a few specific cases.
- in specific cases where the Assessing Officer has in his possession evidence which reveal that the income escaping assessment, represented in the form of asset, amounts to or is likely to amount to Rs. 50 lakh or more, notice can be issued beyond the period of 3 year but not beyond the period of 10 years from the end of the relevant assessment year;
- Another restriction has been provided that the notice under section 148 of the Act cannot be issued at any time in a case

for the relevant assessment year beginning on or before 1st day of April, 2021, if such notice could not have been issued at that time on account of being beyond the time limit prescribed under the provisions of clause (b), as they stood immediately before the proposed amendment.

- Since the assessment or reassessment or re-computation in search or requisition cases (where such search or requisition is initiated or made on or before 31st March 2021) are to be carried out as per the provision of section 153A, 153B, 153Cand 153D of the Act, the aforesaid time limitation shall not apply to such cases.
- It is also proposed that for the purposes of computing the period of limitation for issue of section 148 notice, the time or extended time allowed to the assessee in providing opportunity of being heard or period during which such proceedings before issuance of notice under section 148 are stayed by an order or injunction of any court, shall be excluded. If after excluding such period, time available to the Assessing Officer for passing order, about fitness of a case for issue of 148 notice, is less than seven days, the remaining time shall be extended to seven days.

(ix) The specified authority for approving enquiries, providing opportunity, passing order under section 148A of the Act and for issuance of notice under section 148 of the Act are proposed to be —

(a) PCIT or PDIT or CIT or DIT, if three years or less than three years have elapsed from the end of the relevant assessment year;

(b) PCCIT or PDGIT or CCIT or DGIT, if more than three years have elapsed from the end of the relevant assessment year.

(x) Once assessment or reassessment or re-computation has started the Assessing officer is proposed to be empowered (as at present) to assess or reassess the income in respect of any issue which has escaped assessment and which comes to his notice subsequently in the course of the proceeding under this procedure notwithstanding that the procedure prescribed in

section 148A was not followed before issuing such notice for such income.

7.7 Issue of Notice u/s 142(1) [w.e.f. 1-4-2021]

Section 142(1)(i) of the Act provides the Assessing Officer the authority to issue notice to an assessee, who has not submitted a return of income, asking for submission of return for conducting inquiry before assessment. This is necessary to bring into the fold of taxation non-filers or stop filers who have transactions resulting in income. However, this power can be currently invoked only by the Assessing Officer.

In order to enable centralized issuance of notices etc. in an automated manner, it is proposed to amend the provisions of section 142(1)(i) to empower the prescribed income-tax authority besides the Assessing Officer to issue notice under the said clause.

7.8 New Dispute Resolution Committee [w.e.f. 1-4-2021]

In order to provide early tax certainty to small and medium taxpayers, it is proposed to introduce a new scheme for preventing new disputes and settling the issue at the initial stage. The new scheme is proposed to be incorporated in a new section 245MA and has the following features

(i) The Central Government shall constitute one or more Dispute Resolution Committee (DRC).

(ii) This committee shall resolve disputes of such persons or class of person which shall be specified by the Board. The assessee would have an option to opt for or not opt for the dispute resolution through the DRC.

(iii) Only those disputes where the returned income is Rs. 50 lakh or less (if there is a return) and the aggregate amount of variation proposed in specified order is Rs. 10 lakh or less shall be eligible to be considered by the DRC.

(iv) If the specified order is based on a search initiated under section 132 or requisition made under section 132A or a survey initiated under 133A or information received under Exchange of

Information, such specified order shall not be eligible for being considered by the DRC.

(v) Assessee would not be eligible for benefit of this provision if there is detention, prosecution or conviction under various laws as specified in the proposed section.

(vi) Board will prescribe some other conditions in due course which would also need to be satisfied for being eligible under this provision.

(vii) The DRC, subject to such conditions as may be prescribed, shall have the powers to reduce or waive any penalty imposable under this Act or grant immunity from prosecution for any offence under this Act in case of a person whose dispute is resolved under this provision.

(viii) The Central Government has also been empowered to make a scheme by notification in the Official Gazette for the purpose of dispute resolution under this provision. The scheme shall impart greater efficiency, transparency and accountability by eliminating interface to the extent technologically feasible, by optimising utilisation of resources and introducing dynamic jurisdiction. The Central Government may, for the purposes of giving effect to the scheme, by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification.

7.9 New Board for Advance Ruling

As large number of applications are pending before AAR since last many years. There is a need to look for an alternative method of providing advance ruling which can give rulings to taxpayers in timely manner. Hence, it is proposed to constitute a Board of Advance Ruling and to make the following amendments in the existing provisions of AAR:-

(ii) The Authority for Advance Rulings shall cease to operate with effect from such date, as may be notified by the Central Government in the Official Gazette.

(iii) It is proposed that the Central Government shall constitute one or more Board for Advance Rulings for giving advance rulings under the said Chapter on and after the notified date. Every such Board shall consist of two members, each being an officer not below the rank of Chief Commissioner. Advance rulings of such Board shall not be binding on the applicant or the Department and if aggrieved, the applicant or the Department may appeal against the ruling or order passed by the Board before the High Court.

(iv) Since the work of Authority shall be carried out by the Board for Advance Rulings on and after the notified date, amendments are proposed to be made to the various provisions of the Chapter to this effect.

(v) Section 245Q (which deals with filing of application) is proposed to be amended to provide that the pending application with the Authority i.e. in respect of which order under section 245R(2) or section 245R(4) has not been passed before the notified date shall be transferred to the Board for Advance Rulings along with all records, documents or material, by whatever name called and shall be deemed to be records before the Board for all purposes.

(vi) The Central Government is also proposed to be empowered to make a scheme by notification in the Official Gazette for the purpose of giving advance ruling by Board of Advance Ruling under this provision. The scheme shall impart greater efficiency, transparency and accountability by eliminating interface to the extent technologically feasible, by optimising utilisation of resources and introducing dynamic jurisdiction. The Central Government may, for the purposes of giving effect to the scheme, by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification.

(vii) A new section 245W is proposed to be inserted to provide for appeal to High Court against the order passed or ruling pronounced by the Board for Advance Ruling. This appeal can

be filed by the applicant as well as by the Department. Such appeal shall be filed within sixty days from the date of the communication of such ruling or order, in such form and manner as may be prescribed. However, where the High Court is satisfied, on an application made in this behalf, that the appellant was prevented by sufficient cause from presenting the appeal within the period specified in this section, it may allow a further period of thirty days for filing such appeal. The Central Government shall be empowered to notify a scheme for filing of appeal by the Assessing Officer so as to impart greater efficiency, transparency and accountability by optimising utilisation of the resources through economies of scale and functional specialisation; introducing a system with dynamic jurisdiction. The Central Government may, for the purposes of giving effect to the scheme, by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification.

7.10 Faceless ITAT

In order to ensure that the reforms initiated by the Department to reduce human interface from the system reaches the next level, it is imperative that a faceless scheme be launched for ITAT proceedings on the same line as faceless appeal scheme. This will not only reduce cost of compliance for taxpayers, increase transparency in disposal of appeals but will also help in achieving even work distribution in different benches resulting in best utilisation of resources.

Therefore, it is proposed to insert new sub-sections in the section 255 of the Act so as to provide that the Central Government may notify a scheme for the purposes of disposal of appeal by the ITAT so as to impart greater efficiency, transparency and accountability by,—

(a) eliminating the interface between the ITAT and parties to the appeal in the course of proceedings to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing an appellate system with dynamic jurisdiction. It is also proposed to empower the Central Government, for the purpose of giving effect to the scheme made under the proposed sub-section, for issuing notification in the Official Gazette, to direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification.

7.11 Abolishment of Income-tax Settlement Commission

It is proposed to discontinue Income-tax Settlement Commission (ITSC) and to constitute Interim Board of settlement for pending cases. The various amendments proposed are as under:

- ITSC shall cease to operate on or after 1st February, 2021
- No application under section 245C of the Act for settlement of cases shall be made on or after 1st February, 2021;
- All applications that were filed under section 245C of the Act and not declared invalid under sub-section (2C) of section 245D of the Act and in respect of which no order under section 245D(4) of the Act was issued on or before the 31st January, 2021 shall be treated as pending applications.
- Where in respect of an application, an order, which was required to be passed by the ITSC under section 245(2C) of the Act on or before the 31st day of January, 2021 to declare an application invalid but such order has not been passed on or before 31st January, 2021, such application shall be deemed to be valid and treated as pending application.
- The Central Government shall constitute one or more Interim Board for Settlement (hereinafter referred to as the Interim Board), as may be necessary, for settlement of pending applications. Every Interim Board shall consist of three members, each being an officer of the rank of Chief Commissioner, as may be nominated by the Board. If the Members of the Interim Board differ in opinion on any point, the point shall be decided according to the opinion of majority.

- On and from 1st February, 2021, the provisions related to exercise of powers or performance of functions by the ITSC viz. provisional attachment, exclusive jurisdiction over the case, inspection of reports and power to grant immunity shall apply mutatis mutandi to the Interim Board for the purposes of disposal of pending applications and in respect of functions like rectification of orders for all orders passed under sub-section (4) of section 245D of the Act. However, where the time-limit for amending any order or filing of rectification application under section 245(6B) of the Act expires on or after 1st February, 2021, in computing the period of limitation, the period commencing from 1st February, 2021 and ending on the end of the month in which the Interim Board is constituted shall be excluded and the remaining period shall be extended to sixty days, if less than sixty days.
- With respect to a pending application, the assessee who had filed such application may, at his option, withdraw such application within a period of three months from the date of commencement of the Finance Act, 2021 and intimate the Assessing Officer, in the prescribed manner, about such withdrawal.
- Where the option for withdrawal of application is not exercised by the assessee within the time allowed, the pending application shall be deemed to have been received by the Interim Board on the date on which such application is allotted or transferred to the Interim Board.
- The Board may, by an order, allot any pending application to any Interim Board and may also transfer, by an order, any pending application from one Interim Board to another Interim Board.
- Where the pending application is allotted to an Interim Board or transferred to another Interim Board subsequently, all the records, documents or evidences, with whatever name called, with the ITSC shall be transferred to such Interim Board and shall be deemed to be the records before it for all purposes.
- Where the assessee exercises the option to withdraw his application, the proceedings with respect to the application shall

abate on the date on which such application is withdrawn and the Assessing Officer, or, as the case may be, any other income-tax authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance with the provisions of this Act as if no application under section 245C of the Act had been made. However, for the purposes of the time-limit under sections 149, 153, 153B, 154 and 155 and for the purposes of payment of interest under section 243 or 244 or, as the case may be, section 244A, for making the assessment or reassessment, the period commencing on and from the date of the application to the ITSC under section 245C of the Act and ending with the date on which application is withdrawn shall be excluded. Further, the income-tax authority shall not be entitled to use the material and other information produced by the assessee before the ITSC or the results of the inquiry held or evidence recorded by the ITSC in the course of proceeding before it. However, this restriction shall not apply in relation to the material and other information collected, or results of the inquiry held or evidence recorded by the Assessing Officer, or, as the case may be, other income-tax authority during the course of any other proceeding under this Act irrespective of whether such material or other information or results of the inquiry or evidence was also produced by the assessee or the Assessing officer before the ITSC.

- The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of settlement in respect of pending applications by the Interim Board, so as to impart greater efficiency, transparency and accountability by eliminating the interface between the Interim Board and the assessee in the course of proceedings to the extent technologically feasible; optimising utilisation of the resources through economies of scale and functional specialisation; and introducing a mechanism with dynamic jurisdiction. The Central Government may, for the purposes of giving effect to the said scheme, by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification.

8. Tax Deduction at Source

8.1 No TDS on payment of Dividend to business trust [AY 2020-21]

This amendment proposes to amend second proviso to section 194 of the Act to further provide that the provisions of section 194 i.e. TDS on dividend shall also not apply to dividend income credited or paid to a business trust by a special purpose vehicle or payment of dividend to any other person as may be notified. This means that no TDS needs to be deducted to AIF Category III also.

8.2 New TDS on purchase of goods [applicable w.e.f. 01.07.2021]

A new section 194Q is proposed to be inserted to provide for deduction of TDS by person responsible for paying any sum to any resident for purchase of goods @ 0.1%. It is proposed that TDS under this section is only required to be deducted by those person (i.e. buyer) whose total sales or gross receipts or turnover from the business carried on by him exceed Rs. 10 Crores during the financial year immediately preceding the financial year in which the purchase of goods is carried out.

Tax is required to be deducted by such person, if the purchase of goods by him from the seller is of the value or aggregate of such value exceeding Rs. 50 Lakhs in the previous year. It is proposed to provide that the provisions of this section shall not apply to –

(i) a transaction on which tax is deductible under any provision of the Act; and

(ii) a transaction, on which tax is collectible under the provisions of section 206C other than transaction to which section 206C(1H) applies.

This means, if on a transaction a TDS or TCS is required to be carried out under any other provision, then it would not be subjected to TDS under this section other than a transaction where TCS is required

under section 206C(1H) as well as TDS under this section, then on that transaction only TDS under this section shall be carried out.

Central Government is proposed to be empowered by notification in the Official Gazette to exempt a person from obligation under this section on fulfilment of conditions as may be specified in that notification.

Board with the approval of the Central Government has been empowered to issue guidelines for removing difficulty in giving effect to the provisions of this section.

Consequential amendment is also proposed in section 206AA(1) of the Act and insert second proviso to further provide that where the tax is required to be deducted under section 194Q and PAN is not provided, the TDS shall be at the rate of 5%.

8.3 Insertion of new section 206AB and 206CCA – TDS/ TCS on non-filers of ITR at higher rates [applicable w.e.f. 01.07.2021]

It is proposed to insert a new section 206AB in the Act as a special provision providing for higher rate for TDS for the non-filers of income-tax return. Similarly, it is proposed to insert a section 206CCA in the Act as a special provision for providing for higher rate of TCS for non-filers of income-tax return.

Proposed section 206AB of the Act would apply on any sum or income or amount paid, or payable or credited, by a person (herein referred to as deductee) to a specified person. This section shall not apply where the tax is required to be deducted under sections 192, 192A, 194B, 194BB, 194LBC or 194N of the Act. The proposed TDS rate in this section is higher of the followings rates –

- twice the rate specified in the relevant provision of the Act; or
- twice the rate or rates in force; or
- the rate of 5%

If the provision of section 206AA of the Act is applicable to a specified person, in addition to the provision of this section, the tax shall be

deducted at higher of the two rates provided in this section and in section 206AA of the Act.

Proposed section 206CCA of the Act would apply on any sum or amount received by a person (herein referred to as collectee) from a specified person. The proposed TCS rate in this section is higher of the following rates –

- twice the rate specified in the relevant provision of the Act; or
- the rate of 5%

If the provision of section 206CC of the Act is applicable to a specified person, in addition to the provision of this section, the tax shall be collected at higher of the two rates provided in this section and in section 206CC of the Act.

"Specified person" proposes to means a person who has not filed the returns of income for both of the two assessment years relevant to the two previous years which are immediately before the previous year in which tax is required to be deducted or collected, as the case may be. Further the time limit for filing tax return under section 139(1) of the Act has expired for both these assessment years.

There is another condition that aggregate of TDS and TCS in his case is Rs. 50,000 or more in each of these two previous years. Specified person shall not include a non-resident who does not have a permanent establishment in India.

9. Miscellaneous Amendments

9.1 Definition of the term —Liable to tax [AY 2021-22]

It is proposed to insert section 2(29A) to the Act providing the definition of the term, "liable to tax". The term "liable to tax" in relation to a person means that there is a liability of tax on that person under the law of any country and will include a case where subsequent to imposition of such tax liability, an exemption has been provided.

9.2 Rationalization of the provision of Charitable Trust and Institutions to eliminate possibility of double deduction while calculating application or accumulation [AY 2022-23]

In order to rationalize the provisions of charitable trust, it has been proposed that-

a) Voluntary contributions made with a specific direction that it shall form part of the corpus shall be invested or deposited in one or more of the forms or modes specified in section 11(5) maintained specifically for such corpus.

b) Application out of corpus shall not be considered as application for charitable or religious purposes for the purposes of third proviso of section 11(23C) and section 11(a) and section 11(b). However, when it is invested or deposited back, into one or more of the forms or modes specified in section 11(5) maintained specifically for such corpus from the income of the previous year, such amount shall be allowed as application in the previous year in which it is deposited back to corpus to the extent of such deposit or investment.

c) Application from loans and borrowings shall not be considered as application for charitable or religious purposes for the purposes of third proviso of section 11(23C) and section 11(a) and section 11(b). However, when loan or borrowing is repaid from the income of the previous year, such repayment shall be allowed as application in the previous year in which it is repaid to the extent of such repayment.

d) Clarify in both section 10(23C) and section 11 that for the computation of income required to be applied or accumulated during the previous year, no set off or deduction or allowance of any excess application, of any of the year preceding the previous year, shall be allowed.

9.3 Raising of threshold limit for approval u/s 10(23) (iiiad) & (iiiae) from Rs. 1 to 5 Cr [AY 2022-23]

In order to provide benefit to small trust and institutions, it has been proposed that the exemption under sub-clause (iiiad) and (iiiae) shall be increased to Rs 5 crore and such limit shall be applicable for an assessee with respect to the aggregate receipts from university or universities or educational institution or institutions as referred to in sub-clause (iiiad) as well as from hospital or hospitals or institution or institutions as referred to in sub-clause (iiiae).

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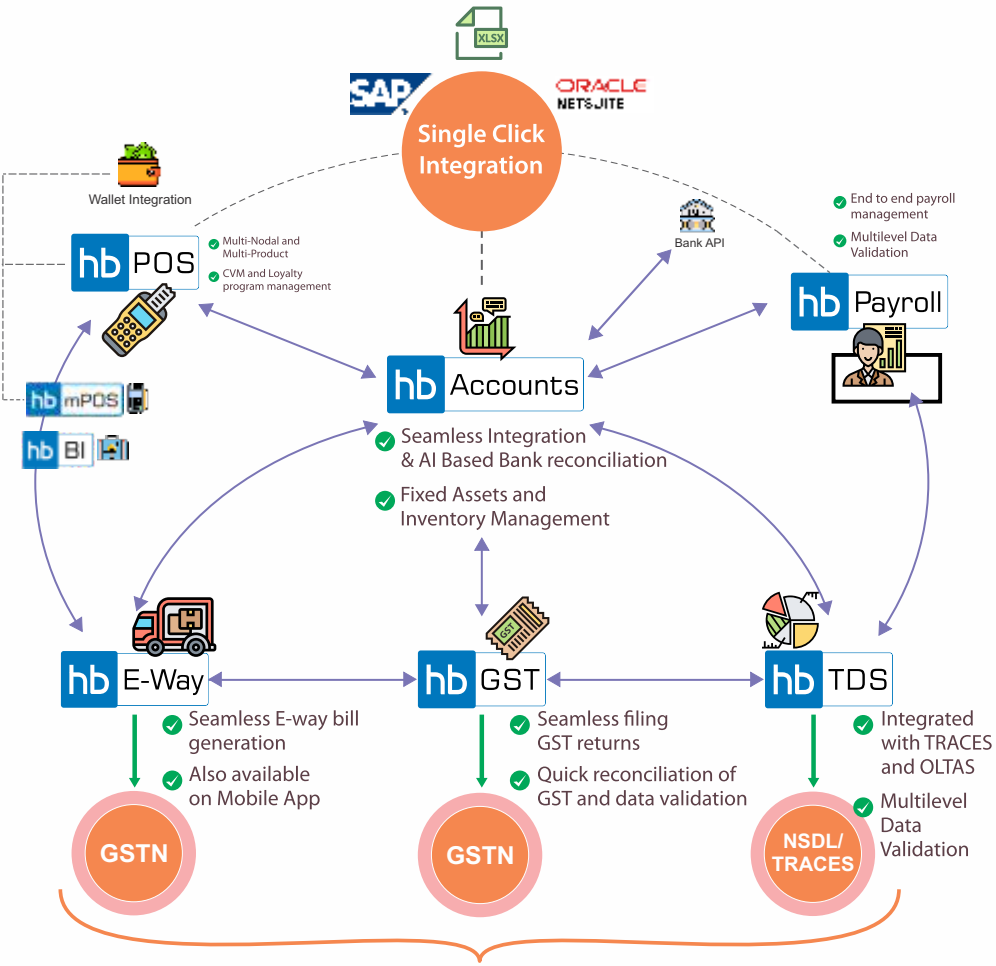

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