

VIEWS OF

**AGARWAL &  
DHANDHANIA**

CHARTERED ACCOUNTANTS

**BUDGET**

**2021-22**

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## Foreword

Dear Reader,

Finance Minister Nirmala Sitharaman presented her third but the first paperless Union Budget through her tablet in Parliament. This Budget assumes great significance as it comes amid the novel corona virus pandemic, which has led to massive economic disruption in India and around the world. While the country has witnessed strong economic recovery since lockdown restrictions were eased, there's still a long way to go. All eyes were on this Budget, with hopes that it will help revitalize the economy. Budget document says that the Indian economy is expected to rebound strongly in 2021-22 owing to the reform measures undertaken by the government. It further said that the real GDP growth is projected to contract by 7.7 per cent in 2020-21 as compared to a growth of 4.2 per cent in 2019-20.

This budget rests on six pillars – Health and well-being, Physical and Financial capital and infrastructure, Inclusive development for aspirational India, Reinvigorating human capital, Innovation and R&D and Minimum government and maximum governance. The finance minister has announced a total spend of around Rs 2 trillion on healthcare and mega national highway projects in election-bound states of Tamil Nadu, West Bengal, Assam and Kerala to give an impetus to the Covid-hit economy. The overall capital expenditure for FY 2021-22 is Rs.5.54 lakh crore. Another major highlight was the increase in the FDI limits in the insurance sector from 49% to 74%. The government plans to divest two PSUs as well as one insurance company.

In significant changes to the taxation process, Sitharaman announced the scrapping of income tax returns for senior citizens under certain conditions, new rules for removal of double taxation for NRIs and reduction of period from 6 years to 3 years for reopening of tax assessment under section 148. Startups will get an extension in their tax holiday for an additional year. Sitharaman also announced that the advance tax liability on dividend income shall arise after declaration of payment of dividend. At the conclusion of her speech, FM said the government will borrow about Rs 12 lakh crore in FY22, adding that the expenditure for the next fiscal has been pegged at Rs 34.83 lakh crore. A slump in government revenues amid the Covid-19 pandemic has led to a sharp rise in deficit and market borrowing. The FM announced that India's fiscal deficit is set to jump to 9.5 per cent of GDP as against projected 3.5 per cent in 2020-21. She announced a push to the textile industry

# Union Budget 2021-22

by 7 new Mega Investment Parks, a hike in custom duty on cotton and raw silk, a new cess on agriculture development, Rs 2.5 per litre on petrol and Rs 4 per litre on diesel, a central university in Leh, a focus on sea-weed farming with a new facility in Tamil Nadu and a new vehicle scrapping policy that aims to provide the auto sector a boost among other announcements. Sitharaman also announced that an additional 1 crore families will now benefit under the Centre's Ujjwala scheme.

Benchmark stock indices Nifty and Sensex gave a thumbs up to government's 'expansionary budget' as FM Sitharaman chose the path of additional borrowing instead of taxing the super-rich or raising taxes on high-income individuals. By the end of her speech, Sensex was at 47451.62, up by 1165.85 points.

FM Sitharaman said that the Budget preparation was undertaken under circumstances "like never before" and that the Centre is fully prepared to support and facilitate economic growth. The government's efforts are to revive the economy, address the gaps in the economy and building a strong foundation through infrastructure spending, investment in distressed sectors, especially MSMEs and focusing on a growth formula built around jobs through education, up-skilling and innovation.

Other notable moves include Strengthening the financial sector to build an ecosystem by boosting manufacturing through institutionalization of debt financing, monetizing assets through divestments and focusing on accelerating foreign investments. The creation of a Board for Advance Rulings and a Dispute Resolution committee for small taxpayers will pave the way for further tax certainty. All these announcements will eventually help in achieving India's vision of becoming a USD 5 trillion economy but this all will surely not be a piece of cake.

**1<sup>st</sup> February, 2021**

**Knowledge Cell Team - Publication**

## Key Highlights of Economic Survey 2020-21

India's economy could contract **7.7 per cent** in the financial year that ends on March 31, pulled down mainly by the coronavirus pandemic and the weeks-long nationwide lockdown to contain the disease. Expects the Indian economy to grow by 11 per cent during 2021-22. This is close to the growth forecast of 11.5 per cent made by the International Monetary Fund (IMF).



1. The gross tax revenue earned by the government during the period April to November 2020 fell by 12.6% to ₹10.26 lakh crore.
2. Disinvestment which was targeted at ₹2.1 lakh crore has only been ₹15,220 crore (7.2 per cent of the targeted amount) which according to the survey happened due to the coronavirus pandemic.
3. The fiscal deficit has also gone up and as of January 8, the union government borrowed a total of ₹10.72 lakh crore, 65% more than what it had borrowed in the corresponding period in the previous financial year.
4. The survey points out that the economy is recovering during the second half of this year. The government consumption is expected to grow by 17%, after contracting by 3.9% during the first half. On the other hand, private consumption is expected to contract by 0.6% in the second half, after having contracted by 18.9% during the first half.
5. The only sector expected to grow this year according to the survey is the agriculture sector which is expected to grow by 3.4%.
6. The Goods and Services Tax (GST) collections have also increased in the second half of the year as the monthly GST collections in December 2020 stood at ₹1.15 lakh crore.
7. Bank credit growth as of January 1 stood at 6.7%. Since September 2019, bank credit growth has been in the single digits.
8. Inflation between April and December 2020 stood at 6.6% in comparison to the previous year on account of high food inflation of 9.1%.
9. The survey clearly points out the impact of the coronavirus pandemic on the economy as CEA Subramanian said, "India focused on saving lives and livelihoods by its willingness to take short-term pain for long-term gain, at the onset of the Covid-19 pandemic.

*(sources: livemint)*

## Sector Wise Proposal - Health

### PM Atma Nirbhar Swasth Bharat Yojana



Outlay ₹64180 cr over 6 years & Support for Health and Wellness centres



Setting up of Integrated Public Health Labs & Establishing critical care hospital blocks



Strengthening NCDC & Expanding integrated health information portal



- Pneumococcal vaccine to be rolled across the country
- ₹35000 crore for Covid-19 Vaccine in 2021-22

### National Commission for Allied Healthcare Professionals Bill, 2020



### Mission Poshan 2.0

*Supplementary Nutrition Programme and Poshan Abhiyan to be merged and launched as Mission Poshan 2.0*

₹ 20,105 crore

Out of ₹ 24,435 crore allocated to the Women Child Development (WCD) Ministry, an amount of ₹ 20,105 crore has been assigned to Saksham Anganwadi and Poshan 2.0.





## Sector Wise Proposal - Industry

**World Class- infrastructure to Textile Sector**



MITRA Scheme to create world class infrastructure for global champions in textile sector leading to creation of 7 textile parks over 3 years.

**NIP (National Infrastructure Pipeline) Project expanded to 7400 projects**



**Sector-wise NIP projects**



**Manufacturing Global Champion in Next 5 Yr.**

PLI launched to create manufacturing global champions across 13 sectors with amount committed nearly ₹1.97 lakh crore in next 5 years starting FY2021-22

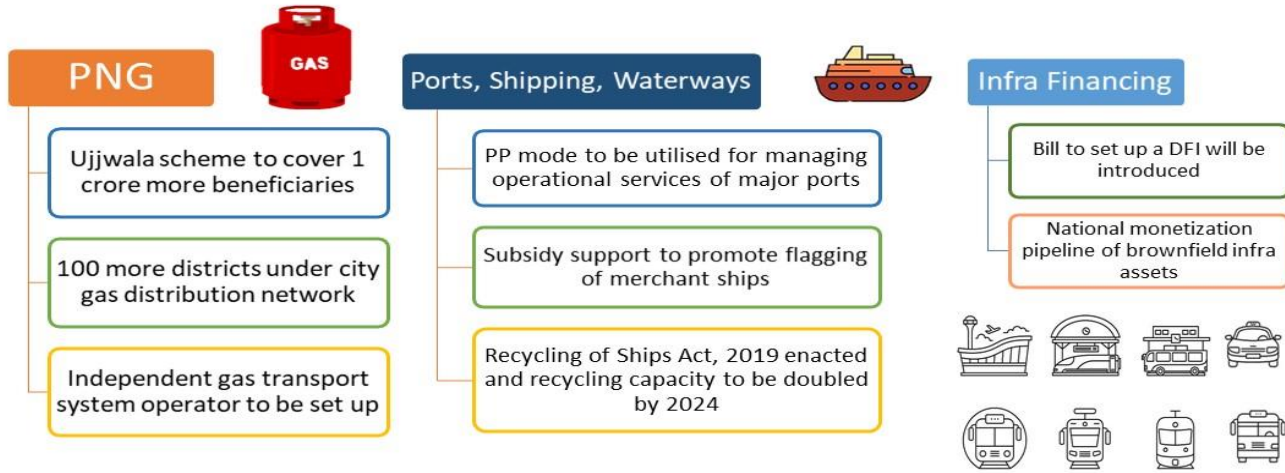




## Sector Wise Proposal - Infrastructure

### National Rail Plan

- Aims at developing adequate rail infrastructure by 2030 to cater to the projected traffic requirements up to 2050.
- The objective is to increase the modal share of rail in freight from the current level of 27 percent to 45 per cent
- 100% electrification of Broad Gauge Routes by 2023
- Indigenously developed automatic train protection system to be launched



## Sector Wise Proposal - Urban Development



## Prominent Themes of the Budget

### Power Sector



- ❖ 139 GW of installed capacity was added during 6 years connecting additional 2.8 crore households with addition of 1.41 lakh circuit km of transmission lines.
- ❖ Revamped reforms-based result-linked power distribution sector scheme will be launched with an outlay of ₹3,05,984 crore over 5 years.
- ❖ Hydrogen energy mission will be launched

### Fisheries



- ❖ Development of modern fishing harbours and fish landing centers.
- ❖ Multipurpose Seaweed Park to be set up in Tamil Nadu.

### Migrant Workers & Labourers

- ❖ One nation one ration card scheme under implementation in 32 states and UTs.
- ❖ A portal to be launched for gig, building and construction workers
- ❖ Social security benefits will be extended to gig and platform workers



### Agriculture



- ❖ Extending coverage of SWAMITVA Scheme to all states/UTs
- ❖ Expansion of Operation Green scheme to include 22 perishable products
- ❖ 1000 more mandis to be integrated with e-NAM



## Sector Wise Proposal – Human Capital

### Education

- Revamped Post Matric Scholarship Scheme for welfare of SCs
- 100 new Sainik schools
- 750 Eklavya schools in tribal areas

### Skills

- Realigning National Apprenticeship Training scheme for graduates and diploma holders in Engineering
- Partnership with UAE and Japan in area of skill development and recognition

### R&D

- National Research Foundation with outlay of ₹50,000 crore over 5 years
- National Language Translation Mission to boost internet access
- Deep Ocean Mission for ocean exploration and biodiversity conservation



### Higher Education Commission of India

Standard setting

Regulation

Accreditation

Funding

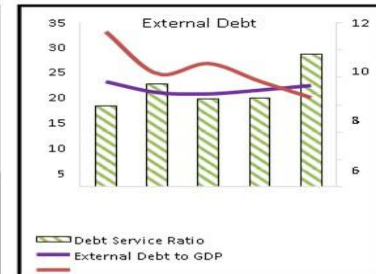
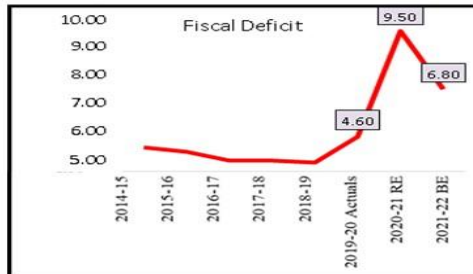
## Fiscal Position & Financial Reforms

### Fiscal Position

- Allowing a normal ceiling of net borrowing for the states at 4% of GDP for 2021-22
- Additional Borrowing ceiling of 0.5% of GDP subject to conditions
- NSSF loan to FCI for food subsidy to be replaced by making budget provisions.
- ₹1,18,452 crore as Revenue Deficit grant to 17 states in 2021-22











### Financial Reforms

- Rationalised single Securities Markets Code by 2022
- World class fintech hub at GIFT IFSC
- Permanent institutional framework for Corporate bond market
- SEBI as regulator and greater role for WDR for development of commodity market ecosystem
- Investor charter as a right across all financial products
- Amending the Insurance Act, 1938 to increase the FDI limit with safeguards
- Asset Reconstruction Company Limited and Asset Management Company to resolve stressed assets problem of PSBs.



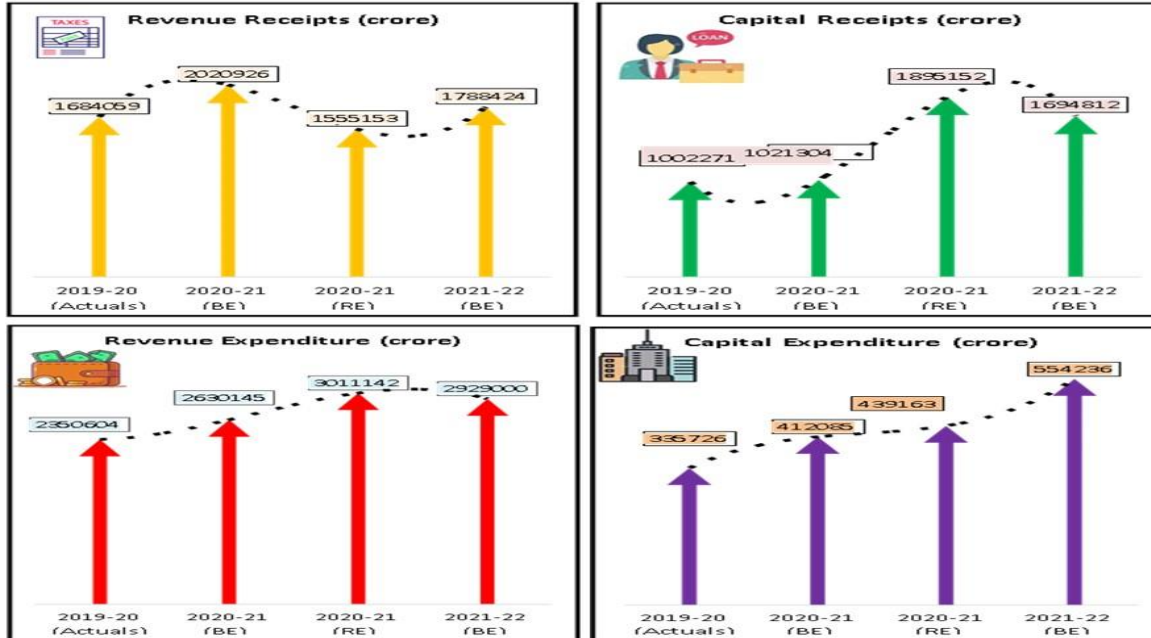
Sources: Budget Documents

## EXPENDITURE ON VARIOUS KEY AREAS (At a Glance) – INR in Crore

				
Ministry of Housing and Urban Affairs <b>INR 54581</b>	Ministry of Health & Family Welfare <b>INR 73932</b>	Ministry of Railways <b>INR 110055</b>	Ministry of Road Transport and Highways <b>INR 118101</b>	Ministry of Education <b>INR 93224</b>
				
Ministry of Rural Department <b>INR 133690</b>	Ministry of Customer Affairs, Food & Public Distribution <b>INR 256948</b>	Ministry of Agriculture & Farmer's Welfare <b>INR 131531</b>	Ministry of Home Affairs <b>INR 166547</b>	Ministry of Defense <b>INR 478196</b>



## BUDGET AT A GLANCE (INR in Crores)



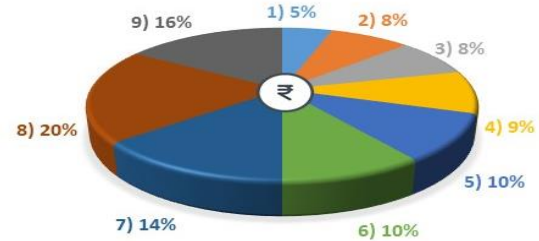


## BUDGET AT A GLANCE

### RUPEE COMES FROM



### RUPEE GOES TO



RUPEE COMES FROM	2020-21	2021-22
1) Borrowings and Other Liabilities	20%	36%
2) GST	18%	14%
3) Corporation Tax	18%	15%
4) Income Tax	17%	13%
5) Non Tax Revenue	10%	8%
6) Union Excise Duties	7%	6%
7) Non Debt Capital Receipts	6%	5%
8) Customs	4%	3%

RUPEE GOES TO	2020-21	2021-22
1) Pensions	6%	5%
2) Subsidies	6%	8%
3) Defence	8%	8%
4) Centrally Sponsored Schemes	9%	9%
5) Finance Commission and Transfers	10%	10%
6) Other Expenditure	10%	10%
7) Central Sector Schemes	13%	14%
8) Interest Payments	18%	20%
9) States' Share of Taxes and Duties	20%	16%

Downgrade in % in compared to PY

Upgrade in % in compared to PY

No Change

## DIRECT TAXATION PROPOSALS

### Exemption from filing income tax returns for senior citizens (75 years and above)

Who only have pension and interest income. The paying bank will deduct the necessary tax on their income.

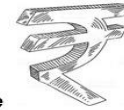


Income Tax Appellate Tribunal to be made faceless



### Reduction time limit for Re-Opening of assessment

**Dispute Resolution Committee**  
Constitution of a Dispute Resolution Committee for small tax payers



Increase in limit for tax audit for persons who carry out 95% of their transactions digitally

Eligibility for claiming tax holiday for start ups proposed to be extended by one more year

Dividend payment to REIT/InvIT to be exempted from TDS



Additional deduction of ₹1.5 lakh shall be available for loans taken up till 31 March 2022 for purchase of affordable house

Filing of returns will also cover capital gains from listed securities, dividend income, etc.

## INDIRECT TAXATION PROPOSALS



### 1 Strengthening the ITC Matching provision

Clause (aa) introduced in Sec 16(2), to allow ITC only if debit note are uploaded by supplier

### 2 Stringent Measures To Curb Fake ITC

Any person, being beneficiary of passing or availing fraudulent ITC, will be liable for similar penalty leviable to the person who commits specified offences

### 3 Remove mandatory requirement of Audit

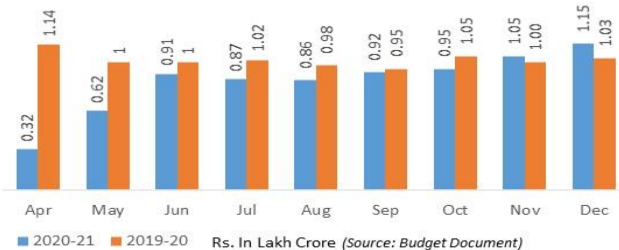
Remove the mandatory requirement of getting annual accounts audited and reconciliation statement submitted by professional.

### 4 Provisional Attachment to Protect Revenue

In certain proceeding, Commissioner has the power to attach any property & Bank account provisionally.

### 5 Omission Of Outdated Exemption

Rationalisation of customs duty structure by eliminating outdated exemptions



## Direct Tax Proposals

### Tax Rates

#### (A) Individual/ HUF:

(I) The Slab for Individual/ HUF, whether Incorporated or not, or every artificial Juridical person:( Less than 60 years)



#### Slab Rates

##### Income

Upto Rs. 2,50,000

##### Tax Rate

Nil

Rs.2,50,001 to Rs. 5,00,000

5% (Income <= Rs.5,00,000, Tax liability= Nil)

Rs.5,00,001 to Rs. 7,50,000

10%

Rs.7,50,001 to Rs. 10,00,000

15%

Rs.10,00,001 to Rs. 12,50,000

20%

Rs. 12,50,001 to Rs. 15,00,000

25%

Above Rs.15,00,000

30%

(II) The option shall be exercised for every previous year where the individual or the HUF has no business income, and in other cases the option once exercised for a previous year shall be valid for that previous year and all subsequent years.

(III) The option shall not be valid for a previous year or previous years, as the case may be, if the Individual or HUF fails to satisfy the conditions and other provisions of the Act shall apply

(IV) Tax payer opting for reduced rates shall submitted the income tax return —

- (a) (i) Leave travel concession as contained in clause (5) of section 10;
  - (ii) House rent allowance as contained in clause (13A) of section 10;
  - (iii) Some of the allowance as contained in clause (14) of section 10;
  - (iv) Allowances to MPs/MLAs as contained in clause (17) of section 10;
  - (v) Allowance for income of minor as contained in clause (32) of section 10;
  - (vi) Exemption for SEZ unit contained in section 10AA;
  - (vii) Standard deduction, deduction for entertainment allowance and employment/professional tax as contained in section 16;
  - (viii) Interest under section 24 in respect of self-occupied or vacant property referred to in sub-section (2) of section 23. (Loss under the head income from house property for rented house shall not be allowed to be set off under any other head and would be allowed to be carried forward as per extant law);
  - (ix) Additional depreciation under clause (iia) of sub-section (1) of section 32;
  - (x) Deductions under section 32AD, 33AB, 33ABA;
  - (xi) Various deduction for donation for or expenditure on scientific research contained in sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35;
  - (xii) Deduction under section 35AD or section 35CCC;
  - (xiii) Deduction from family pension under clause (iia) of section 57;
  - (xiv) Any deduction under chapter VIA (like section 80C, 80CCC, 80CCD, 80D, 80DD, 80DDB, 80E, 80EE, 80EEA, 80EEB, 80G, 80GG, 80GGA, 80GGC, 80IA, 80-IAB, 80-IAC, 80-IB, 80-IBA, etc). However, deduction under sub-section (2) of section 80CCD (employer contribution on account of employee in notified pension scheme) and section 80JJAA (for new employment) can be claimed
- (b) without set off of any loss, -
- (i) carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in (a) above; or
  - (ii) under the head house property with any other head of income;
- (c) by claiming the depreciation, if any, under section 32, except clause (iia) of sub-section (1) thereof, determined in such manner as may be prescribed; and

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(d) without any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being in force.

**Note:**

- **A resident individual is entitled for rebate under section 87A if his total income does not exceed Rs. 5,00,000. The amount of rebate shall be 100% of income-tax or Rs. 12,500, whichever is less.**
- **Tax Payer has been given option to pay tax at reduced rates.**

**In case of Non-resident person-amount of tax would be increased by a surcharge-**

<b>Income</b>	<b>Rate(%)</b>
Below two crores	Same as Resident tax payer.
Between two to five crores	25%
Exceeding five crores	37%

**(V)** In case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year:

<b>Slab Rates</b>	
<b>Income</b>	<b>Tax Rate</b>
Up to Rs. 3,00,000	Nil
Rs. 3,00,001 to Rs. 5,00,000	5%(Income <= Rs.5,00,000, Tax liability= Nil)
Rs. 5,00,001 to Rs. 10,00,000	20%
Above Rs.10,00,000	30%

**(VI)** In case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year:

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Slab Rates	
Income	Tax Rate
Up to Rs. 5,00,000	Nil
Rs. 5,00,001 to Rs. 10,00,000	20%
Above Rs.10,00,000	30%

## (B) Co-operative Societies:

In case of Co-operative Societies, the rates of income-tax are as given below. The rates will be continued to be same as those specified for Assessment Year 2019-20.

Slab Rates	
Income	Tax Rate
Up to Rs. 10,000	10%
Above Rs. 10,000-Rs. 20,000	20%
Above 20,000	30%

## (C) Firms:

In the case of firms, the rate will continue to be the same as that specified for Assessment Year 2019-20. The rate of income-tax in case of firm is @ 30% which will further be increased by "Health and Education Cess on Income Tax" @ 4%.

## (D) Local Authorities:

In the case of Local Authorities, the rate will continue to be the same as that specified for Assessment Year 2019-20. The rate of income-tax in case of local authority is @ 30% which will further be increased by Health and Education Cess on Income Tax" @ 4%.



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The amount of income-tax computed in accordance with all above (B), (C) & (D) provisions shall be increased by a surcharge at the rate of 12% such income-tax in case of all the above assesses having a total income exceeding one Crore rupees.

However, the total amount payable as income-tax and surcharge on total income exceeding Rs. 1 Crore shall not exceed the total amount payable as income-tax on a total income of one Crore rupees by more than the amount of income that exceeds Rs. 1 Crore.

## (E) Companies:

Income Tax Slab Rate		Surcharge Rate	
Assessee	Tax Rate	Total Income	Rate
In Case of Domestic Company (where its total turnover or the gross receipt in the previous year 2018-19 does not exceed 400 crore rupees)	25%	Above 1 Crore but not exceed 10 Crore	7%
		Above 10 Crore	12%
In Case of Domestic Company (where its total turnover or the gross receipt in the previous year 2018-19 exceed 400 crore rupees)	30%	Above 1 Crore but not exceed 10 Crore	7%
		Above 10 Crore	12%
In case of Company other than a domestic company- i) On the total income as consists of, — (a) royalties received from the Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976 or (b) Fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,	50%	Above 1 Crore but not exceed 10 Crore	2%
		Above 10 Crore	5%

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and where such agreement has, in either case, been approved by the Central Government.			
In case of Company other than a domestic company-	40%	Above 1 Crore but not exceed 10 Crore	2%
ii) Other Than Above mentioned in (i)		Above 10 Crore	5%

➤ In other cases, (including sections 115-O, 115QA, 115R, 115TA or 115TD) the surcharge shall be levied at the rate of twelve percent.

## Optional

Income Tax Slab Rate		Surcharge Rate	
Assessee	Tax Rate	Income	Rate
All Domestic Company	22%	-	10%
New Domestic Manufacturing Company	15%	Above 1 Crore but not exceed 10 Crore	7%
		Above 10 Crore	12%

Condition for opting reduced rate of 15% (**Section 115BAB**): -

- were set up and registered on or after 1 October 2019 and commence manufacturing on or before 31 March 2023;
- were not formed by splitting up or reconstructing an existing business (a certain level of relaxation applies in this regard);
- use no machinery or plant previously used for any purpose (a certain level of flexibility applies in this regard);
- are not engaged in any business other than the manufacture or production of goods or research in relation to, or the distribution of, such goods; and
- do not avail of specified exemptions or incentives.

Taxpayers have the option of availing of the reduced tax rate. However, once a taxpayer opts to be governed by Section 115BAB of the IT Act, they cannot subsequently opt out.

A 10% surcharge will be levied. Hence, the effective tax rate for companies which opt to pay tax under Section 115BAB of the IT Act will be 17.16%.

Companies which opt for a reduced rate under Section 115BAB of the IT Act will be exempted from MAT.

## **Exclude the Goodwill from the Definitions of Block of Assets:**

### **Section 2**

#### **Existing Provision:**

Block of Assets means a group of assets comprising

- A. Tangible Assets- Buildings, Machineries, Plant or Furniture
- B. Intangible Assets- Know How, Patent, Copy Right, Trade Mark, Licenses, Franchises and any other business or commercial rights of similar nature.

#### **Proposed Provision:**

It is proposed to amend the said clause so as to exclude goodwill of a business or profession from the purview of "block of asset".

**Implication:** Goodwill shall not be considered as an Asset.

**WEF:** 01-04-2021

## **Exemption of Income**

### **Section 10 (4D)**

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## **Existing Provision:**

Section 10 (4D) Any income as a result of transfer of capital asset referred to in clause (viib) or section 47, on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in convertible foreign exchange, to the extent such income accrued or arisen to, or is received in respect of units held by a non-resident.

## **Proposed provision:**

After the words "attributable to units held by non-resident, the words "or is attributable to the investment division of offshore banking unit, as the case may be," shall be inserted. And the various explanations as per the clause specified.

**Implication:** Favorable Compliance for Units Operating in IFSC GIFT city and changes for various definitions for Specified fund and Offshore Banking Unit.

**W.E.F.:** 1<sup>st</sup> Day of April 2022

Newly Inserted clause:

(4E) Any income as a result of transfer of non deliverable forward contracts entered into with an offshore banking unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, which fulfils such conditions as may be prescribed.

(4F) Any income of a non-resident by way of royalty, on account of lease of an aircraft in a previous 22 year, paid by a unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA subject to condition specified.

## **Income from property held for charitable or religious purpose**

### **Section 11**

## **Existing Provision:**

The section provides exemption in respect of income derived from property held under trust wholly for charitable or religious purpose.

## **Proposed to section:**

Such voluntary contributions should be invested in one or more of the forms or modes specified in 11(5) maintained for such corpus.

New insertion:

**(A) application** out of the corpus shall not be considered as application for charitable or religious purposes for the purposes of clause (a) and (b) of sub-section (1), provided when it is invested or deposited back, into one or more of the forms or modes specified in sub-section (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 and to the extent it is deposited back. **(B) Application** from loans and borrowings shall not be considered as application for Charitable or religious purposes for the purposes of clause (a) and (b) of sub-section (1), Provided when such loan or borrowing is repaid from the income of that previous year, such Repayment shall be allowed as application in the previous year in which it is repaid and to The extent it is repaid. It is also proposed to insert a new Explanation 5 to the said sub-section so as to provide 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 Proceeding the previous year, shall be allowed. Explanation to sub-section (2) provides that if any trust or institution accumulates or set Off apart its income then payment or credit out of such accumulation, to exempt entities as Prescribed in the Explanation, shall not be treated as application. Clause (d) of sub-section (3) Provides that such income, credited or paid to entities prescribed, shall be deemed to be Income of the trust or institution. Explanation to sub-section (2) provides that if any trust or institution accumulates or set Off apart its income then payment or credit out of such accumulation, to exempt entities as Prescribed in the Explanation, shall not be treated as application. Clause (d) of sub-section.

**WEF- 01.04.2021**

**Goodwill not to be considered as depreciable Assets**

**Section- 32**

**Existing Provision:** Newly Inserted

## **Conditions for claim of depreciation on fixed assets:**

Deduction on account of depreciation on tangible assets (building, machinery, plant and furniture) and intangible assets (know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature) acquired on or after the 1st day of April, 1998, and are owned, wholly or partly by the assessee and are used wholly and exclusively for the purpose of business and profession while computing the income under the head 'Profits and gains of business or profession.

## **Proposed to the provision:**

In clause (ii), after the words, figures and letters, "after the 1st day of April, 1998," the words "not being goodwill of a business or profession," shall be inserted.

## **Implication:**

Goodwill of a business or profession not to be considered depreciable asset and no depreciation to be allowed on the same assets.

**W.E.F:** 01.04.2021

## **Other Deductions of various expenses**

### **Section 36**

#### **Existing Provision:**

Any sum received by the assessee from any of his employees to which the provisions of 2(24)(x) apply, if such sum is credited by the assessee to the employee's account in the relevant fund or funds on or before the due date. **Explanation 1.**—For the purposes of this clause, —due date means the date by which the assessee is required as an employer to credit an employee's contribution to the employee's account in the relevant fund under any Act, rule, order or notification issued thereunder or under any standing order, award, contract of service or otherwise.

**Proposed Provision:**

**Explanation 2.**—For the removal of doubts, it is hereby clarified that the provisions of section 43B shall not apply and shall be deemed never to have been applied for the purposes of determining the “due date” under this clause.

**Implication:**

Deduction shall be allowed irrespective of sum has been credited into employee’s account in the relevant fund or funds on or before the due date

**Deduction on actual Payment Basis:**

**Section - 43B**

**Existing Provision:**

Employer’s contribution towards SPF, RPF, Approved Gratuity Fund, Approved Superannuation Fund, New Pension Scheme, Any funds as per law are allowed in deduction only if depositing those funds on or before the due dates of ROI.

**Proposed Provision:**

**New Explanation Inserted:** —The provisions of this section shall not/ deemed never to be applied for sum received by the assessee from any of his employees to which the provisions of 2(24)(x) applies.”.

**Implication:**

Deduction shall be allowed irrespective of sum has been credited into employee’s account in the relevant fund or funds on or before the due date

**W.E.F: 01-04-2021**



## Full Value of Consideration for Transfer of Assets in Certain Cases:

### Section 43CA

#### Existing Provision:

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 10% 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.

#### Proposed Provision:

**(A).** 110% shall be substituted by 120%. If following conditions are satisfied:

1. Transfer of residential unit takes place between the 12.11.2020 to 30.06.2021
2. such transfer is by way of first-time allotment of the residential unit to any person and
3. Consideration received or accruing does not exceed Rs. 2 Cr.

**(B).** after sub-section (4), the following Explanation shall be inserted, namely: —

Meaning of Residential Unit: Independent housing unit with separate facilities for living, cooking and sanitary requirement distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household.

#### Implication:

The amendment will provide relaxation by way of increase in the rate of variation allowed while calculating value by the authority for the purpose of payment of stamp duty.

**W.E.F.:** 01.04.2021

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## Relaxation given in Audit of Books of Accounts

### Section - 44AB

#### Existing Provision:

Every person— (a) If turnover of any business in any previous year does not exceed Rs. 5Cr (Conditionally cash transaction should be less than 5% of turnover).

#### Proposed provision:

Limit of Rs. 5 cr. has been increased to Rs 10 cr. (Conditionally cash transaction should be less than 5% of turnover)

#### Implication:

Assessee with turnover not exceeding Rs. 10 Cr. Shall not be liable to tax audit done.

### W.E.F.: 01.04.2021

## Ambit of assessee increased under Presumptive basis for professional:

### Section - 44ADA

#### Existing Provision:

Eligibility Resident assessee in India engaged in profession as referred in Sec 44AA

**Proposed Provision** – Eligibility: Resident assesses in India shall be substituted by assesses being individual, HUF or partnership firm other than LLP as per LLP Act, 2008.

**Implication:**

Ambit of assessee has been increased to cover individual, HUF and Partnership firm other than LLP.

**WEF: 01.04.2021**

**Increase the tax ambit under the head of Income from Capital gain**

**Section:** 45 Section 45 (1B)

**Existing Provision:** Newly inserted

**Proposed Provision:**

Any profits or gains arising from investment in unit linked insurance plan (ULIP) receipt of any such amount including the amount allocated by way of bonus on such policy by such person shall be Chargeable to income-tax under the head "Capital gains" and shall be deemed to be the income of such person of the previous year in which such amount was received and the income taxable shall be calculated in prescribed manner. sub-section (4A) proposed that where a specified person (**a person who is partner of a firm or member of other association of persons or body of individuals**) receives during the previous year any capital asset at the time of dissolution or reconstitution of the specified entity, which represents the balance in his capital account in the books of accounts of such specified entity at the time of its dissolution or reconstitution, then any profits or gains arising from receipt of such capital asset by the specified person shall be chargeable to income-tax as income of such 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 such capital asset was received by the specified person.

**Implication:**

Tax burden for assessee involved in such transaction will increase and proper disclosure should be made by the Tax payer.



**WEF:**

1<sup>st</sup> day of July 2021

**Section: 47(Viiac)- Newly Inserted**

**Proposed Provision:**

It proposed that any transfer, in a relocation\* of a capital asset by the original fund to the resulting fund.

**Section: 47(Viid) - Newly Inserted**

**Proposed Provision:** It states 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.

**Implication:** No tax burden to assessee involved in above mentioned respective.

**WEF:** 1<sup>st</sup> day of April 2022

**Mode of Computation of Capital Gain**

**Section: 48-** Newly Inserted

**Proposed Provision:** It proposed that in case of specified entity (a person who is partner of a firm or member of other association of persons or body of individuals) referred to in sub-section (4A) of section 45, the amount included in the total income of such specified entity which is attributable to the capital asset being transferred, calculated in the prescribed manner.

**Implication:** No financial Impact on Tax payer.

## **Special provision for computation of capital gains in case of depreciable assets**

**Section: 50 (ii) - The following proviso shall be Inserted namely;**

### **Proposed Provision:**

In a case where **goodwill** of a business or profession forms part of a block of asset for the assessment year beginning on the 1st day of April, 2020 and depreciation thereon has been obtained by the assessee under the Act, the written down value of that block of asset and short term capital gain, if any, shall be determined and computed in prescribed manner.

**Implication:** Tax burden for involved assessee in transfer of goodwill will be treated as short term capital gain.

**WEF:** 1<sup>st</sup> day of April 2021

## **Exemption of Long term Capital Gain Tax on Transfer of Residential Property if Net Consideration is invested in the Equity Shares of a new Start-up SME Company**

**Section: 54GB**

## **Existing Provision:**

The provisions of **section 54GB** of the **Income Tax Act** exempts the capital gain arising from transfer of a long term capital assets being a 'residential property', if the amount is invested in subscription of the equity shares of the eligible company up to 31st March 2021.

**Proposed Provision:** The period of extension of capital gains arising from for sale of residential property for investment in start-ups has been extended up to 31st March 2022.

**Implication:** Tax relief for involved assessee for more one year.

**WEF:** 1<sup>st</sup> day of April 2021.

## **Tax enhancement in transfer of goodwill treated as short term capital gain**

### **Section: 55**

#### **Existing Provision:**

In relation to a capital asset, being goodwill of a business or profession, or a trade mark or brand name associated with a business or profession, or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, or tenancy rights, or stage carriage permits, or loom hours, the cost of acquisition of such asset by the assessee by purchase from a previous owner, means the amount of the purchase price of the previous owner.

**Proposed Provision:** If the above mentioned Capital assets are acquired as per prescribed section 49(1)(i) to (iv) where acquisitions in form of (by succession, inheritance, under gift or will, any distribution of assets of HUF), than cost of acquisition will be purchase price of previous owner. **Apart from above mentioned way of acquisitions, the purchase price is NIL.**

**Provided where capital asset ,being goodwill** Provided that where the capital asset, being goodwill of a business or profession, in respect of which a deduction on account of depreciation under sub-section (1) of section 32 has been obtained by the assessee in any previous year preceding the previous year relevant to the assessment year commencing on or after the 1st day of April, 2021, that the total amount of depreciation obtained by the assessee under sub-section (1) of section 32 before the assessment year commencing on the **1st day of April, 2021 shall be reduced from the** amount of purchase price.

**Implication:**

Tax burden for involved assessee in transfer of goodwill will be treated as short term capital gain.

**WEF:** 1<sup>st</sup> day of April 2021.

**Increase in % in provision relating to Taxability of Gift**

**Section:**56(2)(x)

**Existing Provision:**

Where any person receives, in any previous year, from any person or persons on or after the 1st day of April, 2017-

- (a) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;
- (b) any immovable property, -
  - (A) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;
  - (B) for a consideration, the stamp duty value of such property as exceeds such consideration, if the amount of such excess is more than the higher of the following amounts, namely: -
    - (i) the amount of fifty thousand rupees; and

(ii) the amount equal to **ten per cent of the consideration**

**Proposed Provision:**

It proposed that the provisions of sub-item (ii) of item (B) shall have effect as if for the words “**ten per cent**” the words “**twenty per cent.**” had been substituted.

**Implication:**

Tax relief for involved assessee to extended of more 10% value of Assets.

**WEF:** 1<sup>st</sup> day of April, 2022.

## **Carry Forward and Set Off Of Accumulated Business Losses And Unabsorbed Depreciation**

### **Section 72A**

**Existing Provision:** Newly inserted clause:

**Proposed provision:**

In section 72A of the Income-tax Act, in sub-section (1),– Clause (c) one or more public sector company or companies with one or more public sector company or companies; or Clause (d) 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,

The following shall be inserted, namely:– ‘Provided that the accumulated loss and the unabsorbed depreciation of the amalgamating company, in case of an amalgamation referred to in clause (d), which is deemed to be the loss or, as the case may be, the 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

**Implication:**

This shall restrict the losses to be carried forward to additional period of time after amalgamation.

## **Deduction of Interest on Loan for affordable residential house property now for Loans Sanctioned upto 31.03.2022**

### **Section 80 EEA**

**Existing Provision:**

The existing provisions of section 80EEA of the Act provide for a deduction in respect of interest on loan taken from any financial institution for acquisition of an affordable residential house property. The deduction allowed is up to one lakh fifty thousand rupees and is subject to certain conditions. One of the conditions is that loan has been sanctioned by the financial institution during the period from 1st April, 2020 to 31st March, 2021.

**Proposed Provision:**

To extend the benefit of aforesaid provision by further 1 year (i.e. upto 31.03.2022)

**Implication:**

Affordable Housing sector will continue to get a boost.

**W.E.F.** 1<sup>st</sup> April 2022



## Extension of period for incorporation of Eligible Startups

### Section 80-IAC

#### Existing Provision:

To initiate the development of start-ups in India and provide a competitive platform, Section 80-IAC states that an eligible start-up shall be allowed a deduction of an amount equal to 100 per cent of the profits and gains if the start-up is incorporated on or after 1<sup>st</sup> day of April 2016 but before the 1<sup>st</sup> day of April 2021.

#### Proposed Provision:

To extend the benefit of aforesaid provision by further 1 year (i.e. up to 31.03.2022)

#### Implication:

To carry forward the vision of Atma Nirbahar Bharat and promote Startups in India.

## Deduction in respect of Profits and Gains from Affordable Rental Housing Projects

### Section 80 IBA

#### Existing Provision:

This section says there will be total i.e.100% of net profits or gains, will be deducted from the gross total income of the assessee, if they are derived from a business of developing and building housing projects. However, the assessee has to fulfil certain conditions, specified under this section, to avail the deduction, which are as follows- It should be an Affordable Housing Project, which is approved by the competent



authority after the 1st day of June, 2016, but on or before the 31st day of March, 2021 and the project should be completed within a period of five years from the date of approval by the competent authority. Here both the above mentioned conditions should be fulfilled.

**Proposed Provision:**

1. Insertion of sub section (1A) to the said section so as to provide for hundred per cent deductions of the profits and gains derived from the business of developing and building affordable rental housing project.
2. There is amendment in the approval authority now approve till 2022 by the competent authority.
3. It is also proposed to insert a new clause (da) in sub-clause (6) to define the expression "rental housing project"

**Implication:**

Affordable Housing sector will continue to get a boost in its sluggish growth with the inclusion of rental housing projects.

**W.E.F.** 1<sup>st</sup> April 2022

**80LA (Deduction for certain Income of offshore banking units & IFS Centers)**

**Existing Provision:** 100% of income from 5 consecutive years generated by an offshore banking unit or international financial services centre is eligible for tax deductions. After this period of 5 years, there is a 50% tax deduction available for the following 5 years.

**Proposed Provision:** 100% of income from any 10 consecutive years from 15 Years generated by an international financial services (IFS) centre is eligible for tax deductions.

**Implications:** Tax Relief to IFS to Invest in India.

**W.E.F:** 1<sup>st</sup> day of April 2022.

## Relief from taxation in income from retirement benefit account

### Section 89 A

#### Existing Provision: Insertion of New Section

#### Proposed Provision:

Where a specified person has income accrued in a specified account, such income shall be taxed in such manner and in such year as may be prescribed.

Explanation.—For the purposes of this section,— (a) “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; (b) “specified account” means an account maintained in a notified country by the specified person in respect of his retirement benefits and the income from such account is not taxable on accrual basis but is taxed by such country at the time of withdrawal or redemption;

(c) “notified country” means a country as may be notified by the Central Government in the Official Gazette for the purposes of this section.



#### Implication:

Relief from taxation in income from retirement benefit account maintained in a notified country

W.E.F. 1<sup>st</sup> April 2022

#### Inclusion of a unit linked insurance fund

### Section 112 A

**Existing Provision:**

As per Section 112A, long-term capital gains arising from transfer of an equity share, or a unit of an equity oriented fund or a unit of a business trust shall be taxed at 10% (without indexation) of such capital gains.

**Proposed Provision:**

It is proposed to amend the said Explanation to the section so as to include a fund set up under a scheme of an insurance company comprising unit linked insurance policies to which exemption under clause (10D) of section 10 does not apply on account of the applicability of the fourth and fifth proviso thereof within the definition of “equity oriented fund”.

**Implication:**

Section 112A shall also apply to a fund set up under a scheme of an insurance company comprising unit linked insurance policies to which exemption under clause (10D) of section 10 does not apply.

**W.E.F.** 1<sup>st</sup> April 2021

**Re computation of Book Profit by Assessing Officer in Advance Pricing Agreement**

**Section 115 JB**

**Existing Provision: Insertion of New Section**

**Proposed Provision:**

In clause (fb), in sub-clause (B), in the long line, in clause (iid), in sub-clause (B) the word dividend is inserted.

Insertion of sub section 2D after sub section 2C to empower the Board to make rules to provide for the manner of recomputing the book of profit of the past year for the purposes of payment of tax of the company, if there is any increase in book of profit in the previous year due to income of a past year included in the book profit on account of an advance pricing agreement or secondary adjustment.

## **Relating to Apportionment of Income between Spouses & Assessee**

**Section 139:** Explanation 2 In this sub-section, due date means (a)

### **Existing Provision**

Explanation 2: In this sub-section, due date for filing of return means: (a) where the assessee other than an assessee referred to in clause (aa)] is: (i) a company; or (ii) a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force; or (iii) a working partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force, will **be 30th day of September of the assessment year;**

### **Proposed Provision**

Explanation 2: In this sub-section, due date for filing of return means: (a) where the assessee other than an assessee referred to in clause (aa)] is: (i) a company; or (ii) a person (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force; or (iii) a working partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force, or (iv) The spouse of such partner if the provisions of section 5A applies to such spouse will be **30th day of September of the assessment year;**

### **Implication:**

Apportionment of income between spouses governed by Portuguese Civil Code are 5A of Income Tax Act 1961 where income is divided between Husband and Wife then due date for filing return for both will be 30th day of September of the assessment year.

**W.E.F:** 1st day of April, 2021.

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## Due of return in case of Section 92E applicable

**Section 139:** Explanation 2 In this sub-section, due date means (aa)

### Existing Provision

Explanation 2: In this sub-section, due date for filing of return means:

(aa) in the case of an assessee who is required to furnish a report referred to in section 92E, the **30th day of November of the assessment year**.

### Proposed Provision

Explanation 2: In this sub-section, due date for filing of return means:

(aa) in the case of an assessee including the partners of the firm being such assessee, who is required to furnish a report referred to in section 92E, the **30th day of November of the assessment year**.

### Implication:

Due to amendment now partners of the Firm whose is required to furnish report u/s 92E there partners return filing due date also will be 30th day of November of the assessment year.

**W.E.F:** 1st day of April, 2021.

### Due date of Belated Return (3 months prior)

**Section 139 (4):** Belated Return

### Existing Provision

Any person who has not furnished a return within the time allowed to him under sub-section (1), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

## **Proposed Provision**

Any person who has not furnished a return within the time allowed to him under sub-section (1), may furnish the return for any previous year **at any time within three months prior to** the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

## **Implication:**

Belated return u/s 139(4) can be filed December of that assessment year or before the completion of the assessment, whichever is earlier. This amendment will take effect from **1st day of April, 2021**.

## **Due date of Revised Return u/s 139(5)**

### **Section 139 (4):** Revised Return

**Existing Provision** - If any person, having furnished a return under sub-section (1) or sub-section (4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

**Proposed Provision**- If any person, having furnished a return under sub-section (1) or sub-section (4), discovers any omission or any wrong statement therein, he may furnish a **revised return at any time within three months before the end of the relevant assessment year** or before the completion of the assessment, whichever is earlier.

**Implication:** Revised return u/s 139(5) can Revise the return within **three months before the end of the relevant assessment year** or before the completion of the assessment, whichever is earlier.

**W.E.F:** 1st day of April, 2021.



## **Relating to Defective Return**

**Section 139 (9):** Proviso to explanation is Inserted **New Pro Proviso to explanation to Sec 139(9).** Provided that the Board may, by notification in the Official Gazette, specify that any of the conditions specified in clauses (a) to (f) to the Explanation shall not apply to such class of assessee or shall apply with such modifications, as may be specified in such notification.

### **Implication:**

Through official Gazette Board may specify modify conditions for defective return u/s 139(9) for some class of assessee

**W.E.F:** 1st day of April, 2021.

## **Enhance the ambit of Notice to assessee for filing of Return**

**Section 142:** Inquiry before assessment

**Proviso to Sec 142(1)(i) is Inserted-** It is proposed to insert a second proviso in the said clause so as to empower the prescribed income-tax authority also to serve notice under clause (i) of sub-section (1) of the said section for the purposes of that clause.

**Implication:** From this amendment not only the Assessing Officer but also the prescribed income-tax authority also to serve notice to assessee for filing of return.

**W.E.F:** 1<sup>st</sup> day of April, 2021.

## **Discrepancies between Income Tax return and Audit Report**

**Section 143(1)(a)(iv) & (v):** Assessment

## Existing Provision

The total income or loss shall be computed after making the following adjustments, namely:

- (i) Any arithmetical error in the return;
- (ii) An incorrect claim, if such incorrect claim is apparent from any information in the return;
- (iii) Disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139;
- (iv) Disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return.
- (v) Disallowance of deduction claimed under sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or section 80-IE, if the return is furnished beyond the due date specified under sub-section (1) of section 139; or
- (vi) Addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return.

## Proposed Provision-

**143(1)(a)(iv)** of the said Act, it is proposed to amend the said sub-clause so as 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. & **143(1)(a)(v)** of the said Act, it is proposed to amend the said sub-clause so as to provide that any deduction admissible under section 10 AA or under any of the provisions of Chapter VIA under the heading "C.—Deductions in respect of certain incomes" shall be allowed, if the return of income is furnished on or before the due date specified under the sub-section (1) of section 139 of the said Act.

**Implication** - This amendment will affect increase in income if reported in Audit report but not shown in income tax return and disallowance of all deductions allowed.

**W.E.F:** 1st day of April, 2021.

## Shorter Time limit to Intimation

**Section 143:** Proviso for time limit for issuing intimation

**Existing Provision** - That no intimation under this section shall be sent after the expiry of one year and 6 months as the case may be from the end of the financial year in which the return is furnished.

**Proposed Provision** - It is also proposed to amend the said section so as to reduce the time limit specified for sending intimation under sub-section (1) from one year to nine months and to reduce the time limit for sending notice under sub-section (2) from six months to three months from the end of the financial year in which the return is furnished.

**Implication** - Speedy completion of Assessment.

**W.E.F:** 1st day of April, 2021.

## Income escaping assessment

### Section 147

#### Substitution of New Section in place of existing

If any income chargeable total, in the case of an assessee, has escaped assessment for any assessment year, the Assessing officer may, subject to the provisions of sections 148 to 153, assess or reassess such income and also any other income chargeable to tax which has escaped



assessment and which comes to his notice subsequently in the course of the proceedings under this section, or recomputed the loss or the depreciation allowance or any other allowance, as the case may be, for such assessment year.

This amendment will take effect from **1st day of April, 2021**.

## **Issue of notice where income has escaped assessment**

### **Section 148**

#### **Substitution of New Section in place of existing**

->The Assessing Officer shall serve on the assessee a notice along with a copy of order passed under clause (d) of section 148A, requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139.

->But **no notice** under the said section shall be issued **unless** 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 and **prior approval of the specified authority** to issue such notice has been obtained by the Assessing Officer.

->**The proposed Explanation 1** to the said section provides for the purposes of the said section and section 148A, that information which suggests that the **income chargeable to tax has escaped assessment means** any information flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time or any final objection raised by the Comptroller and Auditor General of India to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act.

->**The proposed Explanation 2** provides that where

(i) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A, on or after the 1st day of April, 2021, in the case of the assessee; or

(ii) survey is conducted under section 133A in the case of the assessee; or  
(iii) the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned in case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or  
(iv) the Assessing officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee, the Assessing officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the three assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.  
->**The proposed Explanation 3** provides that the "specified authority" shall mean the specified authority referred to in section 151  
**W.E.F:** 1st day of April, 2021.

## **Conducting inquiry and providing opportunity before issue of notice under section 148**

### **Section 148A**

**Existing Provision** - Newly inserted Section

**Proposed Provision** - the Assessing Officer shall, before issuing any notice under section 148: (a) conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that income chargeable to tax has escaped assessment; (b) provide an opportunity of being heard to the assessee, with the prior approval of specified authority, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice

under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a); (c) consider the reply of assessee furnished, if any, in response to the show cause notice referred to in clause (b); and (d) decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148, by passing an order, with the prior approval of specified authority, **within one month from the end of the month in which the reply referred to in clause (c) is received by him**, or where **no such reply is furnished**, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires.

**Implication** - Providing opportunity to the Assessee before issue of notice under section 148 and this is in favor of assessee that he can satisfy the AO of why notice should not be issued to him.

**W.E.F:** 1st day of April, 2021.

## Time limit for notice issued u/s 148

### Section 149

#### Substitution of New Section in place of existing

**No notice under section 148** shall be issued for the relevant assessment year –

(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b); (b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of accounts or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has **escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year**. Provided that **no notice under section 148** shall 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 commencement of the Finance Act, 2021. Further, the provisions of this section shall not apply to cases where a notice under section 153A or section 153C read with section 153A is required to be issued in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or before the 31st day of March, 2021 and for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice under clause (b) of section 148A; or the period during which the proceeding under section 148A is stayed by an order or injunction of any court shall be excluded and also where immediately after the exclusion of such period, the period of limitation available to the Assessing Officer for passing an order under clause (d) of section 148A is less than seven days, such remaining period shall be extended to seven days and the period of limitation in sub-section (1) shall be deemed to be extended accordingly.

**Implication** - Assessee with income escaping assessment **is less than 50 Lacs.** than assessment time limit is 3 years and books of accounts are with Department than 10 Years.

**W.E.F:** 1st day of April, 2021.

**Sanction for issue of notice.**

## **Section 151**

### **Substitution of New Section in place of existing**

For the purpose of section 148, specified authority shall be:

- (i) Principal Commissioner of Income-tax or Principal Director of Income-tax or Commissioner of Income-tax or Director of Income-tax, if three years or less than three years have elapsed from the end of the relevant assessment year;
- (ii) Principal Chief Commissioner of Income-tax or Principal Director General of Income-tax, or where there is no Principal Chief Commissioner of Income-tax or Principal Director General of Income-tax, Chief Commissioner of Income-tax or Director General of Income-tax, if **more than three years have elapsed** from the end of the relevant assessment year.

**Implication** - For Serving Notice to Assessee if more than 3 Years have elapsed than AO must take sanction from the above mentioned Income Tax Authorities.

**W.E.F:** 1st day of April, 2021.

## **Faceless assessment of income escaping assessment**

### **Section 151A**

Conducting of **enquiries or issuing show-cause notice or passing order** under section 148A (before issuance of notice under section 148) in the **scheme to be notified** as specified under the said section.

**Implication** - Faceless assessment of income escaping assessment will be available in the **scheme to be notified** by Department of Income Tax and so no need of personally visiting Department every now and then.

**W.E.F:** 1st day of April, 2021.

### **Section 153 Time limit for completion of Assessment, Reassessment and Re-computation.**

**Existing Provision** - No order of assessment shall be made under section 143 or section 144 at any time **after the expiry of twenty-one months** from the end of the assessment year in which the income was first assessable





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**Proposed Provision** - For the assessment year commencing on or after the 1st April, 2021, the time limit for making an assessment order under sections 143 or 144 shall be **reduced from the existing twenty-one months to nine months** from the end of the assessment year in which the income was first assessable.

**Implication** - Reduction in time limit of Assessment, Reassessment and Re- computation from 21 months to 9months.

**W.E.F:** 1st day of April, 2021.

## **Assessment in case of Search or Requisition**

### **Section 153A**

**Existing Provision** - Notwithstanding anything contained in ssection139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003, the Assessing Officer shall:

- (a) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years 3 [and for the relevant assessment year or years] referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;
- (b) assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made 4 [and for the relevant assessment year or years]

**Proposed Provision** - The search or requisition shallonly apply where search or requisition is made on or before 31st March, 2021. Consequently, assessments under section 153A and 153C shall not be made in respect of a search or requisition made on or after 1st April, 2021.

**Implication** - Limiting the **Search or Requisitions** from the existing Scenario.

**W.E.F:** 1st day of April, 2021.

## **Assessment of income of any other person Section 153C**

**Existing Provision** - Newly inserted Proviso to Sec 153C subsection (3)

**Proposed Provision** - Nothing contained in the said section shall apply in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or after 1st day of April, 2021.

**W.E.F:** 1st day of April, 2021.

## **Exemption of insurance companies or insurers and business trust from TDS (TDS on Dividend)**

### **Section 194:**

#### **Existing Provision**

TDS on dividend income will be deducted at the rate of 10%: Provided that no such deduction shall be made, if (a) the dividend is paid by the company by any mode other than cash; and (b) the amount of such dividend distributed or paid or likely to be distributed or paid during the financial year by the company to the shareholder, does not exceed Rs. 5000/ in respect of any dividends referred to in section 115-O.s

**Proposed Provision** - The provisions of this section shall not apply to such income credited or paid to certain insurance companies or insurers and business trust by a special purpose vehicle or payment of dividend to any other person as may be notified.

**Implication** - Exemption of insurance companies or insurers and business trust from TDS. This amendment will take effect from 1st day of April, 2021.

**No TDS to deducted on zero coupon bond issued by infrastructure debt fund.**

## **Section 194A**

### **Existing Provision**

TDS to be deducted by cooperative society if and only if the gross receipt or turnover exceeds 50 crore during PFY and the amount of interest is more than 50,000 in case of payee being a senior citizen and forty thousand rupees in any other case.

**Proposed Provision:** infrastructure debt fund will also be included within the purview of clause (x) of the said Sub-section so as to provide that tax shall not be deducted on income in relation to a zero coupon bond issued by infrastructure debt fund.

**Implication** - No TDS to deducted on zero coupon bond issued by infrastructure debt fund.

**W.E.F:** - 1st day of April, 2021.

**Payment of rent by certain individuals or Hindu undivided family**

## **Section 194IB**

**Existing Provision-** Sub-section (1) of the said section provides that any person, being an individual or a Hindu undivided family (other than those referred to in the second proviso to section 194-I) responsible for paying to a resident any income by way of rent exceeding fifty thousand rupees for a month or part of a month during the previous year, shall deduct an amount equal to five per cent. of such income as income-tax thereon. Sub-section (4) of the said section provides that in a case where the tax is required to be deducted as per the provisions

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of section 206AA, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be.

**Proposed Provision** - Sub-section (4) of the said section provides that in a case where the tax is required to be deducted as per the provisions of section 206AA and 206AB, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be.

**Implications** - TDS is also to be deducted as per the provisions of Sec. 206AB.

**W.E.F:** - 1st day of July, 2021.

## **Deduction of tax in case of specified senior citizen Section 194P**

**Existing Provision** - Newly Inserted Section

**Proposed Provision** - Sub-section (1) of the said section seeks to provide that Notwithstanding anything contained in the provisions of Chapter XVII-B, in case of a specified senior citizen, the specified bank shall, after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A, compute the total income of such specified senior citizen for the relevant assessment year and deduct income-tax on such total income on the basis of the rates in force. Sub-section (2) of the said section seeks to provide that the provisions of section 139 shall not apply to a specified senior citizen for the assessment year relevant to the previous year in which the tax has been deducted under sub-section (1).

**Implication** - Due to this Insertion of this Section, the Banks will deduct TDS after giving effect to all deductions allowable and rebate allowable to Senior Citizen and so now Senior Citizen will not require to file return.



**W.E.F:** - 1st April, 2021.

**Deduction of tax at source on payment of certain sum for purchase of goods.**

## **Section 194Q**

**Existing Provision** - Newly Inserted Section

**Proposed Provision** - Any person, being a buyer who is responsible for paying any sum to any resident (hereafter in this section referred to as the seller) for purchase of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year, shall, 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, deduct an amount equal to 0.1% of such sum exceeding fifty lakh rupees as Income Tax.

**Implication** - Now onwards the on purchase of goods having value exceeding fifty lakh rupees the Buyers shall deduct TDS at a rate of 0.1%.

**W.E.F:** - 1st July, 2021.

**Income of Foreign Institutional Investors from securities.**

## **Section 196D**

**Existing Provision** - Deduction of tax on any income referred to in clause (a) of sub-section (1) of section 115AD, not being income by way of interest referred to in section 194LD of the Income-tax Act, payable to a Foreign Institutional Investor, being the person responsible for making the payment, at the rate of 20%

**Proposed Provision** - Proviso to the said section is inserted which provides that where an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A applies to the payee and if the payee has furnished a certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A, as the case may be, then, income tax thereon shall be deducted at the rate of 20% or at the rate or rates of income-tax provided in such agreement for such income, whichever is lower.

**Implication** - If DTAA as specified in Sec 90A is there, then TDS is to be deducted at 20% or rate specified in Double Taxation Avoidance Agreement whichever is lower.

**W.E.F:** - 1st April, 2021.

## **TDS on payments made to non-residents and residents not having a PAN**

### **SEC.206AA**

#### **Existing Provision:**

Any person entitled to receive any sum or income or amount, on which TDS shall be deducted, shall furnish his PAN to deductor, failing which TDS shall be deducted at the higher of the following rates, namely:—

- a) Rate as applicable for that part of income
- b) Rate in force (rate as specified in act)
- c) **20%**

**Proposed Provision (Insertion):** Provided further that where the tax is required to be deducted under section 194Q, if for the “words 20%”, the “words “5%.” had been substituted.

**Implication:** Tax Relaxation to NR And Resident not having PAN (if any)

**TDS - non-filers of income-tax return.  
Section 206AB (Newly inserted)**

**Proposed Provision:** TDS is required to deduct under the provisions of TDS on any sum or income or amount paid, or payable or credited, by a person to a specified person, TDS shall be deducted at the higher of the following rates, namely:—

- (i) at twice the rate specified in the relevant provision of the Act; or
- (ii) at twice the rate or rates in force; or
- (iii) at the rate of five per cent.

**Implication:** Recovery of Tax from non-filers.

**W.E.F:** 1<sup>st</sup> day of July 2021.

**TCS (collection of tax) for non-filers of ITR**

**Section:** 206CCA (Newly inserted)

**Proposed Provision:** TCS is required to deduct under the provisions of TCS on any sum or income or amount paid, or payable or credited, by a person to a specified person, TCS shall be collected at the higher of the following rates, namely:—

- (i) at twice the rate specified in the relevant provision of the Act; or
- (ii) at twice the rate or rates in force; or
- (iii) at the rate of five per cent.

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**Implication:** Recovery of tax from Non-filers.

**W.E.F:** 1<sup>st</sup> day of July 2021.

**Constitution of one or more Interim Board**

**Section:** 245AA

**Existing Provisions:** Newly inserted section

**Proposed Provision:** To resolve the pending application for proceeding before Assessing Officer in minimum time, the Central Government has in opinion:

- (1) To constitute one or more Interim Boards for Settlement, as may be necessary, for the settlement of pending applications.
- (2) 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.”
- (3) If the Members of the Interim Board differ in opinion on any point, the point shall be decided according to the opinion of the majority.

**Implication:** The Income-tax Settlement Commission so constituted shall cease to operate on or after the 1st day of February, 2021. The newly formed Interim Board shall replace function and power of the existing settlement commission. Hence these clauses have been added in the in this section.

**WEF:** 1st February, 2021

**Income Tax Settlement Commission Cease to operate**

**Section:** 245B



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**Existing Provision:** Tax Settlement Commission, a quasi-judicial body, was set up under section 245B of Income-tax Act 1961. This commission comprises persons of integrity and outstanding ability, having special knowledge of and experience in, problems relating to direct taxes and business accounts.

**Proposed Provision:** Income-tax Settlement Commission so constituted shall cease to operate on or after the 1st day of February, 2021.

**Implication:** The Central Government shall constitute one or more Interim Boards for Settlement, as may be necessary, for the settlement of pending applications. After the Feb-1-2021, Tax Settlement Commission will be cease to act.

**WEF:** 1st February, 2021.

## **Power of chairman to transfer cases from one bench to another** **Section : 245BC**

**Existing Provision:** On the application of the Assessee or the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner and after notice to them, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to another Bench.

**Amendment:** Provisions of this section shall not apply on or after the 1st day of February, 2021.

**Implication:** The Interim Board shall decide the method and procedure along with authority to transfer cases from one board to another.

**WEF:** 1st February, 2021.

## **Decision to be by majority**

## **Section: 245BD**

**Existing Provision:** Earlier, If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Settlement Commission and such point or points shall be decided according to the opinion of the majority of the Members of the Settlement Commission who have heard the case, including those who first heard it.

**Amendment:** The provisions of this section shall not apply on or after the 1st day of February, 2021.

**Implication:** If the Members of the Interim Board differ in opinion on any point, the point shall be decided according to the opinion of the majority. Hence there is no such effect on the method of decision.

**WEF:** This amendment will take effect retrospectively from 1st February, 2021.

## **Application for settlement commission**

### **Section: 245C**

**Existing Provisions:** Earlier, regarding any pending proceeding before any Assessing Officer. An Assessee may, at any stage of a settlement of case relating to him, make an application in the prescribed form and manner, containing a full disclosure of his income which has not been disclosed before Assessing Officer.

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**Proposed Provision:** Since, Income-tax Settlement Commission shall cease to operate on or after the 1st day of February, 2021. No such application shall be made to the settlement commission for pending cases.

**Implication:** The application for settlement commission will no longer be filed.

**W.F.H:** This amendment will take effect retrospectively from 1st February, 2021.

## **Procedure on receipt of an application under Section 245D**

**Section:** 245D

**Existing Provision:** There are procedures and deadlines to make decision on the admission of application from applicant under section 245C.

**Proposed provision:** In sub-section (2C), after the second proviso, Provided also that where in respect of an application, an order, which was required to be passed under this sub-section on or before the 31st day of January, 2021, has not been passed on or before the 31st day of January, 2021, such application shall deemed to be valid.

(ii) In sub-section (6B), for the words "amend any order passed by it", the words "amend any order passed" shall be substituted and shall be deemed to have been substituted

(iii) after sub-section (8), the following sub-sections shall be inserted and shall be deemed to have been inserted, namely:

(9) On and from the 1st day of February, 2021, the provisions of sub-sections (1), (2), (2B), (2C), (3), (4), (4A), (5), (6) and (6B) shall apply to pending applications allotted to Interim Board with the following modifications, namely:

(i) for the words "Settlement Commission", wherever they occur, the words "Interim Board" shall be substituted;

(ii) for the word "Bench", the words "Interim Board" shall be substituted;

(iii) for the purposes of this section, the date referred to in sub-section (2) of section 245M shall be deemed to be date on which the application was made under section 245C and received by the Interim Board

(iv) where the time-limit for amending any order or filing of rectification application as per sub-section (6B) expires on or after the 1st day of February, 2021, in computing the period of limitation, the period commencing from the 1st February, 2021 and ending on the end of the month in which the Interim Board is constituted shall be excluded and where immediately after exclusion of such period, the remaining

period available to the Interim Board for amending the order or to the Principal Commissioner or Commissioner or the applicant for filing of application is less than sixty days, such remaining period shall be extended to sixty days and the period of limitation shall be deemed to have been extended accordingly.

(10) On and from the 1st day of February, 2021, the provisions of sub-sections (6A) and (7) shall have effect as if for the words “Settlement Commission”, the words “Settlement Commission or Interim Board of Settlement” had been substituted.

(11) The Central Government may by notification in the Official Gazette, make a scheme, for the purposes of settlement in respect of pending applications by the Interim Board, so as to impart greater efficiency, transparency and accountability by—

- (a) Eliminating the interface between the Interim Board and the assessee in the course of proceedings to the extent technologically feasible;
- (b) Optimizing utilization of the resources through economies of scale and functional specialization;
- (c) Introducing a mechanism with dynamic jurisdiction.

(12) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (11), 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 said notification: **Provided that no such direction shall be issued after the 31st day of March, 2023.**

(13) Every notification issued under sub-section (11) and sub-section (12) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

**Implication:** All the above amendment has been brought into effect in the view of newly formed Interim Board instead of Tax Settlement Commission. There is change in key words, references which were used in the light of Tax Settlement Commission, now has been undertaken considering the Interim Board.

**WEF:** This amendment will take effect retrospectively from 1st February, 2021.

## **Power of Settlement Commission to order provisional attachment to protect revenue**

**Section: 245DD**

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**Existing Provision:** The settlement commission is empowered to provisionally attach property belonging to the applicant for protecting the interest of the revenue.

**Amendment:** New subsection inserted

Subsection (3): The power of the Settlement Commission under this section shall be exercised by the Interim Board and the provisions of this section shall mutatis mutandis apply to the Interim Board as they apply to the Settlement Commission.

**Implication:** The Interim board shall replace the settlement commission in exercising the power to protect interest of the revenue.

**WEF:** This amendment will take effect retrospectively from 1st February, 2021.

## **Powers and procedures of Settlement commission**

### **Section: 245F**

**Existing provision:** Since the Income-tax Settlement Commission so constituted under section 245B shall cease to operate on or after the 1st day of February, 2021.

**Proposed provision:** On and from the 1st day of February, 2021, the powers and functions of the Settlement Commission under this section shall be exercised or performed, by the Interim Board and all the provisions of this section shall mutatis mutandis apply to the Interim Board as they apply to the Settlement Commission.

**Implication:** All the powers of settlement commission have been entrusted to Interim Board.

**WEF:** This amendment will take effect retrospectively from 1st February, 2021.

## **Functions of Interim Board**

### **Section: 245G& 245H:**

**Insertion to this section:** Provided that on or after the 1st day of February, 2021, functions of the Settlement Commission under this section shall be performed by the Interim Board and the provisions of this section shall mutatis mutandis apply to Interim Board as they apply to the Settlement Commission.

**Implication:** The same function of Settlement Commission and provisions of this section will apply to Interim Board also.

**WEF:** This amendment will take effect retrospectively from 1st February, 2021.

## **Withdrawal of Application**

### **Section: 245M**

#### **Insertion of new section:**

- 1 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.
- 2 Provided further that the income-tax authority shall not be entitled to use the material and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of proceedings before it.

**Implication:** In cases of pending application filed, the assessee can withdraw their application within three month from the date of commencement of the Finance Act, 2021.

**WEF:** This amendment will take effect retrospectively from 1st February, 2021.

## INDIRECT TAX PROPOSALS

### Goods and Services Tax

#### AMENDMENTS IN THE CGST ACT:

##### Applicability of GST on within Organization certain transaction

##### Section: 7

**Existing Provision:** - As per Section 7 (1)

- (a) All forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.
- (b) Imports of services for a consideration whether or not in the course or furtherance of business.

**Proposed provision:** - Introduce of new clause (aa) in sub-section (1) of section 7 of the CGST Act is being Inserted, retrospectively with effect from the 1<sup>st</sup> July, 2017, So as to ensure levy of tax on activities or transactions involving supply of goods or services by any person, other than individual, to its member or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

**Implication:** GST registered person other than individual provide any services to its member or constituents or vice versa for cash, deferred Payment or other valuable consideration shall be liable to tax. For example: Partnership firm enter in transaction with partner in cash, deferred consideration or other transaction which can be valued. Such transaction is liable to treat as taxable supply.

**WEF:** Retrospectively from 1<sup>st</sup> July 2017.



## GST Input can be claimed only after filing of GSTR-1

### Section: 16

#### Existing Provision:

Section 16(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and, in the manner, specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

- (a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;
- (b) He has received the goods or services or both.
- (c) subject to the provisions of section 41, the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and
- (d) He has furnished the return under section 39:

(3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.

(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

**Proposed provision:** A new clause (aa) to the sub-section (2) of the section 16 of CGST Act is being inserted to provide that input tax credit on invoice or debit note may be availed only when the details of such invoice or debit note have been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note.



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**Implication:-** Before introducing this clause Recipient can claim ITC on the basis of invoice or Debit note. However, after introducing this clause Recipient can claim ITC after the supplier filed GSTR -1 and communicate to Recipient.

**W.E.F.:** Prospectively it means when notified by Government.

## Withdrawal the mandate of Audit requirement under GST

### Section: 35

**Existing Provision:** - Section 35(5) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.

**Proposed Provision:** - Sub-section (5) of section 35 of the CGST Act is being omitted so as to remove the mandatory requirement of getting annual accounts audited and reconciliation statement submitted by specified professional.

**Implication:** - As per Section 35(5) Any Supplier has turnover exceeds 2 crore is compulsory to get his account audited by a chartered accountant or a cost accountant. Now as per proposed provision section 35(5) is omitted it means now not require to be audited by Chartered Accountant and Cost Accountant.

**W.E.F.-** Prospectively it means when notified by Government.

## Audit under GST not required for registered person other than ISD



## **Section: 44**

### **Existing Provision:**

1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.

Provided that the Commissioner may, on the recommendations of the Council and for reasons to be recorded in writing, by notification, extend the time limit for furnishing the annual return for such class of registered persons as may be specified therein:

Provided further that any extension of time limit notified by the Commissioner of State tax or the Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

**Proposed Provision:** Section 44 of the CGST Act is being substituted so as to remove the mandatory requirement of furnishing a reconciliation statement duly audited by specified professional and to provide for filing of the annual return on self-certification basis. It further provides for the commissioner to exempt a class of taxpayers from the requirement of filing the annual return.

**Implication:** - Before amendment, Every registered person whose turnover is above 2 crore other than Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person shall be compulsory to audited his accounts and reconcile as per annual return 9 under 9C by chartered accountant and Cost accountant.

After amendment not require to audit by chartered accountant or cost accountant. It may be self- certification basis.

**W.E.F.** - Prospectively it means when notified by Government.

## Interest on GST liability only after adjusting input of GST

### Section: 50

**Existing Provision:** Section 50(1) Every person who is liable to pay tax in accordance with the provisions of this Act or the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council.

**Proposed Provision:** Section 50 of the CGST Act is being amended, retrospectively, to substitute the proviso to sub-section (1) so as to charge interest on net cash liability with effect from 1<sup>st</sup> July, 2017

**Implication:** Before amendment, if any tax liability require paying but fails by supplier then require to pay interest on tax but after amendment, The Supplier to pay Interest to on only on net cash liability.

It means after set off Input tax credit if any amount to require to pay then interest to be charge.

**W.E.F.:** Retrospectively, i.e. from 1<sup>st</sup> July 2017.

## General provisions relating to determination of tax

### Section: 75 (12)

**Existing provision:** N/A ( New Inserted Explanation)

**Proposed Provision:** – The expression "self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39 of CGST.

**Implication:** Ease in Compliances

## **Provisional attachment to protect revenue in certain cases**

### **Section 83**

**Existing Provision:** Where during the pendency of any proceedings under [section 62, 63, 64, 67, 73 & 74](#), the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may, by order in writing attach provisionally any property (including bank account) belonging to the taxable person in such manner as may be prescribed.

**Proposed Provision:** Where, after the initiation of any proceeding under Chapter XII, XIV & XV, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue it is necessary so to do, he may, by order in writing, attach provisionally, any property, including bank account, belonging to the taxable person or **any person specified in sub-section (1A) of section 122**, in such manner as may be prescribed.

**Implication:** The coverage of proposed section is increased by covering the below mentioned persons who (Covered under 122(1A))

- Supplies any goods/services/both without issue of any invoice or incorrect/false invoice.
- Issues any invoice/bill without supply of goods/services/both.
- Takes/utilises ITC without actual receipt of goods/services/both either fully/partially.
- Takes/distributes ITC in contravention of [section 20](#) or the rules made there under.

## **Appeals to Appellate Authority**

**Section:** 107

**Existing Provision: NA (Newly Inserted)**

**Proposed Provision:** No appeal shall be filed against an order under Sec 129(3), unless a sum equal to 25% of the penalty has been paid by the appellant.

**Implications:** As per the insertion in the above section there is upfront payment of at least 25% of the calculated penalty by Dept. for filing appeal against order.

**Goods in transit cannot be seized u/s 129**

**Section: 130 and 129**

**Existing Provision:** - As per Section 130 (1) Notwithstanding anything contained in this Act, if any person—

- (i) supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or
  - (ii) does not account for any goods on which he is liable to pay tax under this Act; or
  - (iii) supplies any goods liable to tax under this Act without having applied for registration; or
  - (iv) contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or
  - (v) uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance,
- then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122

**Proposed provision:** - Section 130 of the CGST Act is being amended to delink the proceedings under that section relating to confiscation of goods or conveyances and levy of penalty from the proceedings under section 129 relating to detention, seizure and release of goods and conveyances in transit.

**Implication:** - Before amendment Section 130 covers penalty of section 129 also but after amendment, The proceeding under section 129 Those confiscation, detention, seizure and release of goods and conveyance in transit not cover in section 130. There is delink with section 129.

**W.E.F.:** Prospectively it means when notified by Government.

## AMENDMENTS IN THE IGST ACT:

### Section 16 of IGST Act

Existing Provision:

16. (1) "zero rated supply" means any of the following supplies of goods or services or both, namely:— (a) export of goods or services or both; or (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

(2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

(3) A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely:— (a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or (b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder.

Proposed Provision:

Section 16 of the IGST Act is being amended so as to:

- (i) Zero rate the supply of goods or services to a Special Economic Zone developer or a Special Economic Zone unit only when the said supply is for authorised operations;
- (ii) Restrict the zero-rated supply on payment of integrated tax only to a notified class of taxpayers or notified supplies of goods or services; and
- (iii) link the foreign exchange remittance in case of export of goods with refund.

Implication:

It is clarification nature amendment. Before Amendment it is not clarify that refund of IGST in case zero rated Supply to which type of operation.

Now, only authorised operation in zero rated supply may eligible to refund. However, Foreign exchange will be received on export of goods. Previously zero rated supply will be on under bond or letter of undertaking or payment of IGST and claim refund in future. At current Some notified taxpayer compulsory to pay integrated tax then in future claim IGST.


**W.E.F:** Prospectively i.e. When act notified by the Government.

*Thank  
you*





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