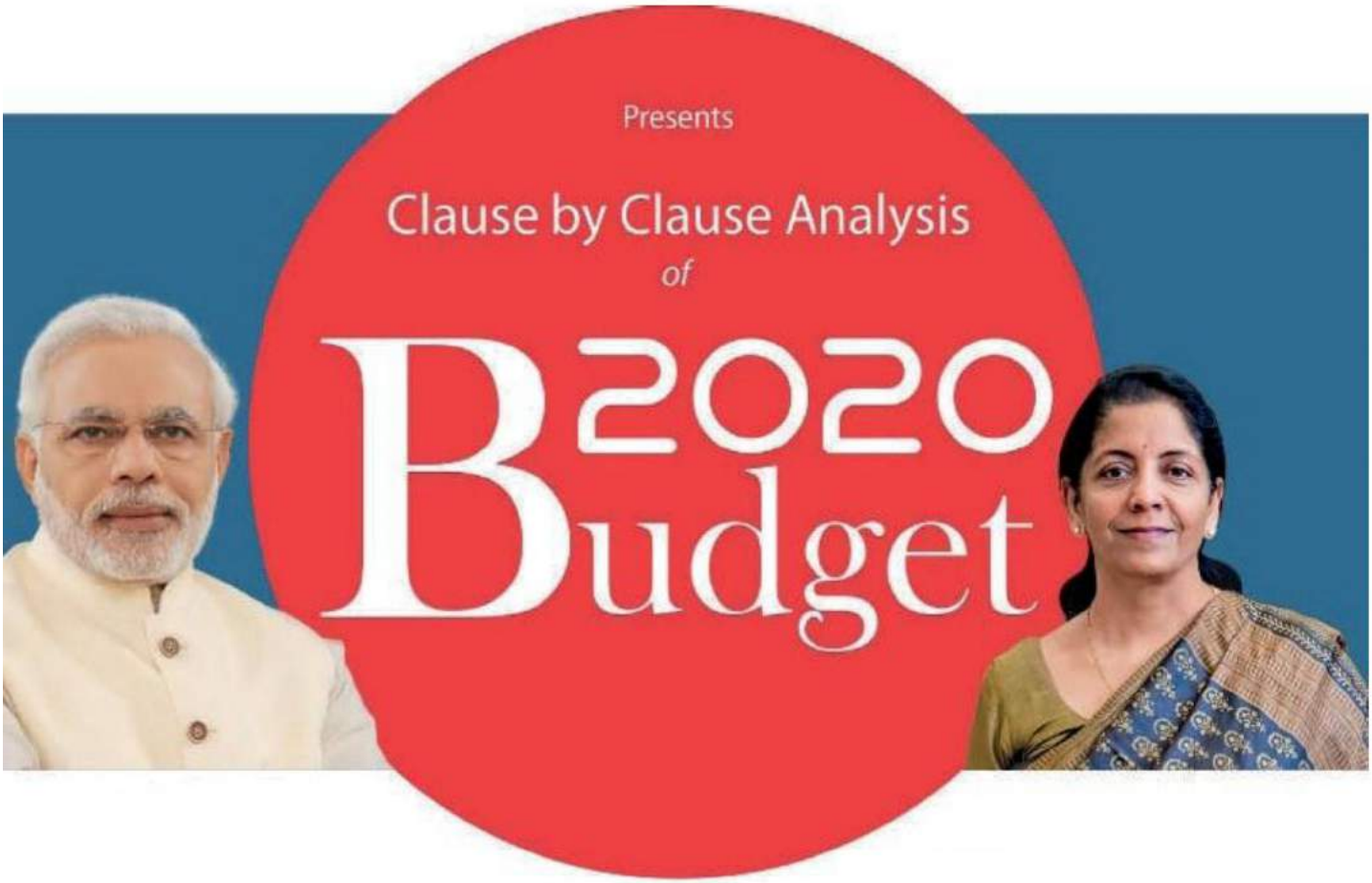
INDIA EXPERT

INDIA EXPERT



INDIA EXPERT

INDIA EXPERT

About Us

Offers its clients a full range of services. the company has been setup by a group young ,enthusiastic highly skilled and motivated professional who has taken experience from the top consulting firm and are extensively experienced in their chosen fields has providing a wide array of consultancy in the field of accounting. ,taxation assurance and business advisory service to various clients and other stakeholder.

We are the exclusive member in India of the association of international tax consultants an association of independent professional firm represented throughout Europe, us, Canada, south Africa, Australia and Asia

Index

1. Tax Rates

i. Personal Tax Rates

Option 1

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

**Senior Citizen Exumption Limit is Rs.3,00,000 and Super Senior Citizen (80 years and above Exumption Limit is Rs.5,00,000*

Option 2

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

**Note- Refer Para 2.1 for other terms & conditions*

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

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

Surcharge to be added

Income (Rs)	(AY 2021-22)
Upto 50 Lakhs	Nil
50 Lakhs - 1 Crore	10%
1 Crore - 2 Crore	15%
2 Crore - 5 Crore	25%
Above 5 Crore	37%

ii. Corporate tax rates

Income	Proposed rate of tax (A.Y.2021-22)
Domestic Company having total in- come less than 1 Crore	30%* / 22%** / 15%***
Domestic Company having total in- come more than 1 Crore but less than 10 Crore	30%* plus surcharge of 7%
Domestic Company having total in- come more than 10 Crore	30%* plus surcharge of 12%
Other Company having total income less than 1 Crore	40%
Other Company having total income more than 1 Crore but less than 10 Crore	40% plus 2%
Other Company having total income more than 10 Crore	40% plus 5%

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

**Further reduced tax rate of 22% plus 10% surcharge applicable for companies opting for section 115BAA

*** Further reduced tax rate of 15% plus 10% surcharge applicable for manufacturing and power generating companies opting for section 115BAB

iii. Firms

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

iv. Cooperative Societies

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

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

Concessional tax rates of 22% is applicable if opted for section 115BAD

2. Individual Tax

Concessional Income Tax Rate for Individuals and HUF

New Section 115BAC has been introduced in the act which has provided an option to the individual and HUF to opt for the new tax regime which has following key conditions:-

(1) This is an optional scheme i.e. assessee may or may not opt for the same.

(2) The scheme is for an individual or a Hindu undivided family

(3) The income-tax payable in respect of the total income of a person, for any previous year starting from 2020-21 and onwards shall be computed at the rate of tax given below:-

Income (Rs)	Proposed rate of tax (FY 2020-21)
Upto 2,50,000	Nil
2,50,001-5,00,000	5%
5,00,001-7,50,000	10%
7,50,001-10,00,000	15%
10,00,000-12,50,000	20%
12,50,001-15,00,000	25%
15,00,001 and above	30%

(4) For the above scheme, following conditions needs to be fulfilled:-

- Leave travel concession u/s 10(5);
- House rent allowance u/s 10(13A)
- Allowance u/s 10(14) except those prescribed below:-
  - o Transport Allowance granted to a divyang employee to meet expenditure for the purpose of commuting between place of residence and place of duty
  - o Conveyance Allowance granted to meet the expenditure on conveyance in performance of duties of an office

- o Any Allowance granted to meet the cost of travel on tour or on transfer;
- o Daily Allowance to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty.

- Allowances to MPs/MLAs exempt u/s 10(17)
- Allowance for income of minor u/s 10(32)
- Exemption for SEZ unit contained in section 10AA
- Standard deduction, deduction for entertainment allowance and employment/professional tax
- Interest under section 24 in respect of self-occupied or vacant property. (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)
- Additional deprecation u/s 32(1)(iia)
- Deductions under section 32AD, 33AB, 33ABA
- Various deduction for donation for or expenditure on scientific research as per section 35
- Deduction under section 35AD or section 35CCC
- Deduction from family pension u/s 57(iia)
- Any deduction under chapter VIA except 80CCD(2) & 80JJAA (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).

(5) Another condition is that the assessee should not set off any brought forward losses and unabsorbed depreciation of past years is the same is attributable to any deduction specified above. Also, the assessee is also not allowed to set off loss from house property with any other head of income.

(6) If any of the above conditions are not satisfied in any year, the assessee has to be assessee as per normal provisions in that year.

(7) The option can be withdrawn only once where it was exercised by the individual or HUF having business income for a previous year other than the year in which it was exercised (i.e. First Year) and thereafter, the individual or HUF shall never be eligible to exercise option under this section.

However, the above rule is not applicable to any assessee who does not have/ creases to have business income.

Withdrawal of exemption on certain perquisites or allowances provided to UPSC Chairman and members and Chief Election Commissioner and Election Commissioners

Section 10(45) of the Act provides for exemption in respect of certain any allowance or perquisite as may be notified by the Central Government, paid to the serving/ retired Chairman or Members of UPSC shall not be included in computing their total income and hence shall be exempt from income-tax.

It is proposed to remove these exemptions and it proposed to:

(i) delete section 10 (45) of the Act;

(ii) amend section 8 of the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991, so as to delete the exemption from income-tax on value of rent-free residence, conveyance facilities, sumptuary allowance, medical facilities and other such conditions of service as are applicable to a Judge of the Supreme Court, paid to Chief Election Commissioner and other Election Commissioners.

Tax incentive for Affordable Housing

The existing provision of section 80EEA to provide a deduction in respect of interest up to Rs 1.5 Lakh on loan taken for residential house property from any financial institution subject to the following conditions:

i. loan has been sanctioned by a financial institution between 1st April, 2019 to 31st March 2020.

ii. the stamp duty value of house property does not exceed Rs 45 Lakh

iii. assessee does not own any residential house property on the date of sanction of loan.

In order to continue promoting purchase of affordable housing, the period of sanctioning of loan by the financial institution is proposed to be extended to 31st March, 2021.

Deferring TDS or tax payment in respect of income pertaining to Employee Stock Option Plan (ESOP) of start-ups.

ESOPs have been a significant component of the compensation for the employees of start-ups, as it allows the founders and start-ups to employ highly talented employees at a relatively low salary amount with balance being made up via ESOPs.

Currently, ESOPs are taxed as perquisites under section 17(2) of the Act read with Rule 3(8)(iii) of the Rules. The taxation of ESOPs is split into two components:

1 Tax on perquisite as income from salary at the time of exercise.

2 Tax on income from capital gain at the time of sale.

The tax on perquisite under the head Salary is required to be paid at the time of exercising of option which may lead to cash flow problem as this benefit of ESOP is in kind. In order to ease the burden of payment of taxes by the employees of the eligible start-ups or TDS by the start-up employer, it is proposed to amend section 192 of the Act to provide that a person, being an eligible start-up referred to in section 80-IAC, responsible for paying any income in the nature of ESOPs to the assessee being perquisite shall be taxable and tax on such income shall be collected within fourteen days —

(i) after the expiry of 48 months from the end of the relevant assessment year **(i.e. 5 years from the end of P.Y.)** or

(ii) from the date of the sale of such ESOPs by the assessee; or

(iii) from the date of which the assessee ceases to be the employee of the Start Up;

whichever is the earliest on the basis of rates in force of the financial year in which the said specified security or sweat equity share is allotted or transferred .

Similar amendments have been carried out in section 191 (for assessee to pay the tax direct in case of no TDS) and in section 156 (for notice of demand) and in section 140A (for calculating self-assessment).

Restriction on Employer Contribution to PF

Under the existing provisions of the Act, the contribution by the employer to the account of an employee in a recognized provident fund exceeding 12% of salary is taxable. Further, the amount of any contribution to an approved superannuation fund by the employer exceeding Rs. 1,50,000 is treated as perquisite in the hands of the employee. Similarly, the assessee is allowed a deduction under National Pension Scheme (NPS) for 14% of the salary contributed by the Central Government and 10% of the salary contributed by any other employer.

Presently, there is no combined upper limit for the purpose of deduction on the amount of contribution made by the employer.

Now, it is proposed to provide a combined upper limit of Rs. 7,50,000 in respect of employer's contribution in a year to NPS, superannuation fund and recognised provident fund and any excess contribution is proposed to be taxable.

Consequently, it is also proposed that any annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance at the credit of the fund or scheme may be treated as perquisite to the extent it relates to the employer's contribution which is included in total income.

New Residency Rules for Individuals

It is proposed to amend Section 6 of Income Tax Act so as to provide that –

(i) the exception provided in clause (b) of Explanation 1 of sub-section (1) to section 6 for visiting India in that year be decreased to 120 days from existing 182 days (i.e. a Citizen of India or PIO who came on visit to India now has to spend less than 120 days).

(ii) an individual or an HUF shall be said to be "not ordinarily resident" in India in a previous year, if the individual or the manager of the HUF has been a non-resident in India in 7 out of 10 previous years preceding that year. (Earlier it was 9 out of 10).

(iii) an Indian citizen who is not liable to tax in any other country or territory shall be deemed to be resident in India.

3. Business Taxation

Deduction u/s 80M & 80JJAA allowed for domestic companies under section 115BAA and 115BAB opting for 15% or 22% tax rate

The Tax Amendment Act passed in December 2019 inserted section 115BAA and section 115BAB in the Act to provide domestic companies an option to be taxed at concessional tax rates provided they do not avail specified deductions and incentives. Some of the deductions prohibited are deductions under any provisions of Chapter VI-A under the heading "C. Deduction in respect of certain incomes" other than the provisions of section 80JJAA.

Now, it is proposed to amend the provisions of section 115BAA and section 115BAB to allow deduction under section 80JJAA (Deduction in respect of New Employment Generated) and section 80M (Dividend recieved), in case of domestic companies opting for concessional tax rate under these section.

Incentive for Power Generating Units

The benefit of the concessional rate of 15% under section 115BAB of the Act is proposed to be extended to business of generation of electricity, which otherwise may not amount to manufacturing or production of an article or thing. Accordingly, it is proposed to explain that, for the purposes of this section, manufacturing or production of an article or thing shall include generation of electricity.

Tax Audit Limit enhanced to Rs. 5 Cr with condition

Under section 44AB of the Act, every person carrying on business is required to get his accounts audited, if his total sales, turnover or gross receipts, in business exceed or exceeds Rs. 1 crore in any previous year. In case of a person carrying on profession he is required to get his accounts audited, if his gross receipt in profession exceeds Rs. 50 lakh in any previous year. In order to reduce compliance burden on small and medium enterprises, it is proposed to increase the threshold limit for a person carrying on business from Rs. 1 cr to Rs. 5 cr in cases where,-

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

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

Further, to enable pre-filling of returns in case of persons having income from business or profession, it is required that the tax audit report may be furnished by the said assessees at least one month prior to the due date of filing of return of income. This implies that the due date of filing tax audit will be 30th September for all assesses and 30th October in case the assessee is liable for tranfer pricing audit.

Further, the due date for filing return of income under section 139 is proposed to be amended to 31st October of the assessment year.

Also, the distinction between a working and a non-working partner of a firm for the purpose of determining the due date of filling returns has been removed.

Incentives for start-ups

The existing provisions of section 80-IAC of the Act provide for a deduction of an amount equal to 100% of the profits and gains derived from an eligible business by an eligible start-up for 3 consecutive A.Y. out of seven years, at the option of the assessee, subject to the condition that the eligible start-up is incorporated on or after 1st April 2016 but before 1st April 2021 and the total turnover of its business does not exceed Rs. 25 crores.

In order to further rationalise the provisions relating to start-ups, it is proposed to amend section 80-IAC of the Act so as to provide that-

(i) the deduction under the said section 80-IAC shall be available to an eligible start-up for a period of 3 consecutive A.Y. out of 10 years beginning from the year in which it is incorporated;

(ii) the deduction under the said section shall be available to an eligible start-up, if the total turnover of its business does not exceed Rs. 100 crores in any of the previous years beginning from the year in which it is incorporated..

Incentive to Housing Sector for affordable housing project (deduction u/s 80-IBA of the Act)

The existing provisions of section 80-IBA of the Act provides that where the gross total income of an assessee includes any profits and gains derived from the business of developing and building affordable housing projects, there shall, subject to certain conditions specified therein, be allowed a deduction of an amount equal to 100% of the profits and gains derived from such business. But, the conditions contained in the said section prescribes that the project is approved by the competent authority during the period from 1st June, 2016 to 31st March, 2020.

In order to boost the housing sector under affordable housing scheme, the period of approval of the project by the competent authority is proposed to be extended to 31st March, 2021.

Allowing carry forward of losses or depreciation in certain amalgamations

Section 72AA of the Act provides for carry forward of accumulated losses and unabsorbed depreciation allowance in the case of amalgamation of banking company with any other banking institution under a scheme sanctioned and brought into force by the Central Government under section 45 (7) of the Banking Regulation Act, 1949. This section operates notwithstanding anything contained in sub-clause (i) to (iii) of clause (1B) of section 2 or section 72A of the Act.

In order to address the issue faced by the amalgamated public sector banks and public sector General Insurance Companies, it is proposed to extend the benefit of this section to amalgamation of,-

(i) one or more corresponding new bank or banks with any other corresponding new bank under a scheme brought into force by the Central Government under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or both, as the case may be,

or

(ii) One or more Government company or companies with any other Government company under a scheme sanctioned and brought into force by the Central Government under section 16 of the General Insurance Business (Nationalisation) Act, 1972.

"Corresponding new bank" is proposed to be given the meaning as assigned to it in clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or clause (b) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

"Government company" is proposed to be given the meaning assigned to it in section 2(45) of the Companies Act, 2013. In addition, it is to be engaged in the general insurance business and has come into existence by operation of section 4 or section 5 or section 16 of the General Insurance Business (Nationalisation) Act, 1972.

"General insurance business" is proposed to be given the meaning assigned to it in clause (g) of section 3 of the General Insurance Business (Nationalisation) Act, 1972.

Relaxation of condition to Business Trust

Section 115UA of the Act provides for a taxation regime applicable to business trusts. Under the said regime, the total income of the trust, excluding capital gains income is charged at the maximum marginal rate. Further, the income by way of interest and rent, received by the business trust from a Special Purpose Vehicle (SPV) is accorded pass through treatment i.e. there is no taxation of such interest or rental income in the hands of the trust and no withholding tax at the level of SPV. The business trusts are also required to furnish return of income and adhere to other reporting requirements.

The definition of "business trust" has been provided in section 2(13A) of the Act, to mean a trust registered as an Infrastructure Investment Trust (InvIT) or a Real Estate Investment Trust (REIT) under the relevant regulations made under the Securities and Exchange Board of India (SEBI) Act, 1992 and the units of which are required to be

listed on a recognised stock exchange in accordance with the relevant regulations.

Now, the benefit has been extended to unlisted business trusts also.

Allowing deduction for amount disallowed under section 43B, to insurance companies on payment basis.

Section 44 of the Act provides that computation of profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or a co-operative society shall be computed in accordance with the rules contained in the First Schedule to the Act.

Section 43B of the Act provides for allowance of certain deductions, irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by the assessee, only in the previous year in which such sum is actually paid.

As per Rule 5 of the First Schedule, the deduction of expenditure was subject to the provisions of Sec 43B but there is no provision of allowance of the expenses in subsequent year on actual payment.

Therefore, it is proposed to insert a proviso after clause (c) of the said rule 5 to provide that any sum payable by the assessee which is added back under section 43B in accordance with clause (a) of the said rule shall be allowed as deduction in computing the income under the rule in the previous year in which such sum is actually paid.

Rationalizing the provisions of Section 35AD

Under the existing provisions of law, a domestic company which opted for concessional tax rate under section 115BAA or section 115BAB of the Act, which does not claim deduction under section 35AD, may also be denied normal depreciation under section 32 due to operation of sub-section (4) of section 35AD.

It is proposed to amend sub-section (1) of section 35AD to make the deduction thereunder optional. It is further proposed to amend

sub-section (4) of section 35AD to provide that no deduction will be allowed in respect of expenditure incurred under sub-section (1) in any other section in any previous year or under this section in any other previous year, if the deduction has been claimed by the assessee and allowed to him under this section.

This implies that a company opting for concessional tax rate of 22% is eligible for normal depreciation u/s 32.

Dividend Distribution Tax abolished

It is proposed to carry out amendments so that dividend or income from units are taxable in the hands of shareholders or unit holders at the applicable rate. Now, the domestic company or specified company or mutual funds are not required to pay any DDT. It is also proposed to provide that the deduction for expense under section 57 of the Act shall be maximum 20 per cent of the dividend or income from units.

Further, a new section 80M has been inserted to remove the cascading affect, with a change that set off will be allowed only for dividend distributed by the company one month prior to the due date of filing of return, in place of due date of filing return earlier.

Section 194 is also amended to include dividend for tax deduction at the rate of 10% with the threshold limit of Rs. 5,000 instead of Rs. 2,500 for dividend paid other than cash.

4. Capital Gains

Increase variation limit of 5 % to 10% in 43CA, 50C and 56

Section 43CA of the Act provides that where the consideration declared to be received or accruing as a result of the transfer of land or building or both, is less than the Stamp Duty value, the stamp duty value shall for the purpose of computing profits and gains from transfer of such assets, be deemed to be the full value of consideration. The said section also provide that where the stamp duty value does not exceed 105% 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.

Section 50C of the Act provides that where the consideration declared to be received or accruing as a result of the transfer of land or building or both, is less than the stamp duty value, the stamp duty value shall be deemed to be the full value of the consideration and capital gains shall be computed on the basis of such consideration under section 48 of the Act. The said section also provides that where the stamp duty value does not exceed 105% 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 section 48, be deemed to be the full value of the consideration. Similar, provision was also there u/s 56(2)(x)

Thus, the present provisions of section 43CA, 50C and 56 of the Act provide for safe harbour of 5%. It is, therefore, proposed to increase the above mentined limit to 10%.

Change in FMV as on 1-04-2001

The existing provisions of section 55 of the Act provide that for computation of capital gains, an assessee shall be allowed deduction for cost of acquisition of the asset and also cost of improvement, if any. However, for computing capital gains in respect of an asset acquired

before 1st April, 2001, the assessee has been allowed an option of either to take the fair market value of the asset as on 1st April, 2001 or the actual cost of the asset as cost of acquisition.

Now, It is proposed to amend the provision to provide that in case of a capital asset, being land or building or both, the fair market value of such an asset on 1st April, 2001 shall not exceed the stamp duty value of such asset as on 1st April, 2001 where such stamp duty value is available.

5. Changes in International Tax

Relief from Section 94B to Branches of Foreign Banks operating in India

Section 94B of the Act provides that deductible interest or similar expenses exceeding Rs. 1 crore of an Indian company, or a permanent establishment (PE) of a foreign company, paid to the associated enterprises (AE) shall be restricted to

- 30% of EBITDA or
- interest paid or payable to AE, whichever is less.

Further, a loan is deemed to be from an AE if an AE provides implicit or explicit guarantee in respect of that loan. AE for the purposes of this section has the meaning assigned to it in section 92A of the Act. This section was inserted in the Act through the Finance Act, 2017 in order to implement the measures recommended in BEPS Action Plan 4 of OECD.

It is, therefore, proposed to amend section 94B of the Act so as to provide that provisions of interest limitation would not apply to interest paid in respect of a debt issued by a lender which is a PE of a non-resident, being a person engaged in the business of banking, in India.

Safe Harbour Rules & APA for profit attribution to PE

Section 92CB of the Act empowers the CBDT for making safe harbour rules to which the determination of the arm's length price (ALP) under section 92C or section 92CA of the Act shall be subject to. As per Explanation to said section the term "safe harbour" means circumstances in which the Income-tax Authority shall accept the transfer price declared by the assessee. This section was inserted in the Act to reduce the number of transfer pricing audits and prolonged disputes especially in case of relatively smaller assessees. Besides reduction of disputes, these rules also provides certainty as well.

Further, section 92CC of the Act empowers the Board to enter into an advance pricing agreement (APA) with any person, determining the

ALP or specifying the manner in which the ALP is to be determined, in relation to an international transaction to be entered into by that person. APA provides tax certainty in determination of ALP for 5 future years as well as for 4 earlier years (Rollback).

SHR provides tax certainty for relatively smaller cases for future years on general terms, while APA provides tax certainty on case to case basis not only for future years but also Rollback years. Both SHR and the APA have been successful in reducing litigation in determination of the ALP.

Now, It is proposed to have Safe Harbour Rules and APA for the attribution of profits to the PE u/s 9(1)(i) in accordance with rule 10 of the Rules which may result in avoidable disputes in a number of cases..

Amendment in Dispute Resolution Panel (DRP)

Section 144C of the Act provides that in case of certain eligible assessees, viz., foreign companies and any person in whose case transfer pricing adjustments have been made under sub-section (3) of section 92CA of the Act, the Assessing Officer (AO) is required to forward a draft assessment order to the eligible assessee, if he proposes to make any variation in the income or loss returned which is prejudicial to the interest of such assessee. These eligible assessee may file his objection to the DRP and DRP has 9 months to pass directions which are binding on the AO.

The benefit of DRP is not expanded tof following cases:-

(A) cases, where the AO proposes to make any variation which is prejudicial to the interest of the assessee, within the ambit of section 144C where return was not filled;

(B) expand the scope of the said section by defining eligible assessee as a non-resident not being a company, or a foreign company.

Exempting non-resident from filing of Income-tax return in certain conditions

The current provisions of section 115A of the Act provide relief to non-residents from filing of return of income where the non-resident is not liable to pay tax other than the TDS which has been deducted on the dividend or interest income, the same relief was not been available to non-residents whose total income consists of the income by way of royalty or FTS. Now, the benefit has been extended to royalty and FTS income as well.

Enabling provisions for MLI

It is proposed to amend section 90(1)(b) of the Act so as to provide that the Central Government may enter into an agreement with the Government of any country outside India or specified territory outside India for, inter alia, the avoidance of double taxation of income under the Act and under the corresponding law in force in that country or specified territory, as the case may be, without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this agreement for the indirect benefit of residents of any other country or territory).

Similar amendment has also been proposed in section 90A of the Act.

Deferring the provisions of Significant Economic Presence

For the purposes of determining SEP of a non-resident in India, threshold for the aggregate amount of payments arising from the specified transactions and for the number of users were required to be prescribed in the Rules. However, since discussion on this issue is still going on in G20-OECD BEPS project, these numbers have not been notified yet. G20-OECD report is expected by the end of December 2020. In the circumstances, it is proposed to defer the applicability of SEP to starting from assessment year 2022-23. Certain drafting changes have also been made while deferring the proposal.

Enlarging the scope of Source Rule

A new explanation 3A has been inserted to provide that the income attributable to the operations carried out in India, as referred to in Explanation 1 to Section 9, shall include income from—

(i) such advertisement which targets a customer who resides in India or a customer who accesses the advertisement through internet protocol address located in India;

(ii) sale of data collected from a person who resides in India or from a person who uses internet protocol address located in India; and

(iii) sale of goods or services using data collected from a person who resides in India or from a person who uses internet protocol address located in India

As per the discussion going on in international forum, countries generally agree that income from advertisement that targets Indian customers or income from sale of data collected from India or income from sale of goods and services using such data collected from India, needs to be accounted for in Indian revenue . Hence, it is proposed to amend the source rule to clarify this position.

This amendment will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years. However, for attribution of income related to SEP transaction or activities the amendment will take effect from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-23 and subsequent assessment years.

Enlarging the scope of Royalty

Section 9(1)(vi) deems certain income by way of royalty to accrue or arise in India. Explanation 2 of said clause defines the term "royalty" to, inter alia, mean the transfer of all or any rights (including the granting of a licence) in respect of any copyright, literary, artistic or scientific work including films or video tapes for use in connection

with television or tapes for use in connection with radio broadcasting, but not including consideration for the sale, distribution or exhibition of cinematographic films.

Due to exclusion of consideration for the sale, distribution or exhibition of cinematographic films from the definition of royalty, such royalty is not taxable in India even if the DTAA gives India the right to tax such royalty. Such a situation is discriminatory against Indian residents, since India is foregoing its right to tax royalty in case of a non-resident from another country without that other country offering similar concession to Indian resident. Hence, it is proposed to amend the definition of royalty so as not to exclude consideration for the sale, distribution or exhibition of cinematographic films from its meaning.

Further, CBDT has been empowered u/s 295 to make rules to provide for the manner in which and the procedure by which the income shall be arrived at in the case of,-

(i) operations carried out in India by a non-resident; and

(ii) transaction or activities of a non-resident

Exemption in respect of certain income of WOS of Abu Dhabi Investment Authority and Sovereign Wealth Fund.

In order to promote investment of sovereign wealth fund, including the wholly owned subsidiary (WOS) of Abu Dhabi Investment Authority (ADIA), it is proposed to insert a new clause in the said section so as to provide ***exemption to any income of a specifed person in the nature of DIVIDEND, interest or long-term capital gains*** arising from an investment made by it in India, whether in the form of debt or equity, in a company or enterprise carrying on the business of developing, or operating and maintaining, or developing, operating or maintaining any infrastructure facility as defined in Explanation to section 80-IA(4)(i) of the Act or such other business as may be notified by the Central Government in this behalf.

In order to be eligible for exemption, the investment is required to be made on or before 31st March, 2024 and is required to be held for at least three years.

For the purpose of this exemption, ***"specifed person"*** is proposed to be defined to mean,-

(a) a wholly owned subsidiary of the ADIA, which is a resident of the United Arab Emirates (UAE) and which makes investment, directly or indirectly, out of the fund owned by the Government of the United Arab Emirates; and

(b) a sovereign wealth fund which satisfies the following conditions:

A. It is wholly owned and controlled, directly or indirectly, by Government of a foreign country;

B. It is set up and regulated under the law of the foreign country;

C. Its earnings are credited either to the account of the Government of the foreign country or to any other account designated by that Government such that no portion of the earnings inures any benefit to any private person;

D. Its asset vest in the Government of the foreign country upon dissolution;

E. It does not undertake any commercial activity whether within or outside India; and

F. It is notified by the Central Government in the Official Gazette for this purpose

Exemption in respect of certain income of Indian Strategic Petroleum Reserves Limited

It is now proposed to insert a new section 10(48C) to provide exemption to any income accruing or arising to Indian Strategic Petroleum Reserves Limited (ISPRL), being a wholly owned subsidiary of Oil Industry Development Board under the Ministry of Petroleum

and Natural Gas, as a result of an arrangement for replenishment of crude oil stored in its storage facility in pursuance to directions of the Central Government in this behalf.

This exemption shall be subject to the condition that the crude oil is replenished in the storage facility within three years from the end of the financial year in which the crude oil was removed from the storage facility for the first time.

6. Tax Administration and Compliance

Modification of e-assessment scheme

Section 143 of the Act provides the manner for processing and assessment of return of income (ITR) where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142 of the Act. Section 143(3A) provides that the Central Government may make a scheme, by notification in the Official Gazette, for the purposes of making assessment of total income or loss of the assessee under section 143(3) so as to impart greater efficiency, transparency and accountability by certain means specified therein. Accordingly, E-assessment Scheme, 2019 was notified under section 143(3A) of the Act.

Now, the scope of section 143(3A) has been expanded to include the reference of section 144 of the Act relating to best judgement assessment in the said sub-section.

New System of e-appeal

It is proposed to insert new sub-section (6A) in section 250 of the Act to provide for the following: —

- Empowering Central Government to notify new an e-appeal scheme for disposal of appeal by CIT(A) so as to impart greater efficiency, transparency and accountability.
- Eliminating the interface between the CIT (A) and the appellant in the course of appellate proceedings to the extent technologically feasible.
- Optimizing utilization of the resources through economies of scale and functional specialisation.
- Introducing an appellate system with dynamic jurisdiction in which appeal shall be disposed of by one or more CIT(A).

It is also proposed to empower the Central Government, for the purpose of giving effect to the scheme made under the proposed sub-section, by notification in the Official Gazette, to direct that any of the provisions of this Act relating to jurisdiction and procedure of disposal of appeal shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. Such directions are to be issued on or before 31st March 2022.

New power to authorize survey operations under section 133A of the Act.

Under the existing provisions of section 133A of the Act, an income-tax authority as defined therein (JCIT or above) is empowered to conduct survey at the business premises of the assessee under his jurisdiction with the prior approval of JCIT.

It is proposed to substitute the proviso to sub-section (6) of section 133A to provide that,-

(A) in a case where the information has been received from the prescribed authority, no income-tax authority below the rank of Joint Director or Joint Commissioner, shall conduct any survey under the said section without prior approval of the Joint Director or the Joint Commissioner, as the case may be; and

(B) in any other case, no income-tax authority below the rank of Commissioner or Director, shall conduct any survey under the said section without prior approval of the Commissioner or the Director, as the case may be.

Stay by ITAT on payment of 20% or more

As per Section 254(2A), ITAT may, after considering the merits of the application made by the assessee, pass an order of stay for a maximum period of 180 days in any proceedings against the order of the CIT(A). The said period of 180 days can be extended to 365 days where the appeal is not disposed of and the ITAT on being satisfied that the delay is not attributable to the assessee.

The third proviso of the said sub-section also provides that if such appeal is not so disposed of within the period allowed under the first proviso or the period or periods extended or allowed under the second proviso, which shall not, in any case, exceed 365 days, the order of stay shall stand vacated after the expiry of such period or periods, even if the delay in disposing of the appeal is not attributable to the assessee.

It is proposed to provide that ITAT may grant stay under the first proviso subject to the condition that the assessee deposits not less than 20% of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act, or furnish security of equal amount in respect thereof.

The total stay granted by ITAT cannot exceed 365 days.

Insertion of Taxpayer's Charter in the Act

It is proposed to insert a new section 119A in the Act to empower the Board to adopt and declare a Taxpayer's Charter and issue such orders, instructions, directions or guidelines to other income-tax authorities as it may deem fit for the administration of Charter.

7. Penalty

New E-penalty

It is proposed to insert a new section 274(2A) so as to provide that the Central Government may notify an e-scheme for the purposes of imposing penalty so as to impart greater efficiency, transparency and accountability by,—

(a) eliminating the interface between the AO and the assessee in the course of proceedings to the extent technologically feasible;

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

(c) introducing a mechanism for imposing of penalty with dynamic jurisdiction in which penalty shall be imposed by one or more income-tax authorities.

It is also proposed to empower the Central Government, for the purpose of giving effect to the scheme made under the proposed sub-section, for issuing notification in the Official Gazette, to direct that any of the provisions of this Act relating to jurisdiction and procedure of imposing penalty shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. Such directions are to be issued on or before 31st March, 2022.

Penalty for Fake Invoices

In the recent past after the launch of GST, several cases of fraudulent input tax credit (ITC) claim have been caught by the GST authorities. In these cases, fake invoices are obtained by suppliers registered under GST to fraudulently claim ITC and reduce their GST liability. These invoices are found to be issued by racketeers who do not actually carry on any business or profession. They only issue invoices without actually supplying any goods or services. The GST shown to have been charged on such invoices is neither paid nor is intended to be paid.

It is proposed to introduce a new provision to levy penalty on a person, if it is found during any proceeding under the Act that in the books of accounts maintained by him there is a

(i) false entry or

(ii) any entry relevant for computation of total income of such person has been omitted to evade tax liability.

The penalty payable by such person shall be equal to the aggregate amount of false entries or omitted entry.

It is also propose to provide that any other person, who causes in any manner a person to make or cause to make a false entry or omits or causes to omit any entry, shall also pay by way of penalty a sum which is equal to the aggregate amounts of such false entries or omitted entry.

The false entries is proposed to include use or intention to use –

(a) forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence; or

(b) invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both; or

(c) invoice in respect of supply or receipt of goods or services or both to or from a person who do not exist

New Penalty u/s 271K

A new penalty has been proposed u/s 271K to enable the AO to levy penalty not less than Rs.10,000 to Rs.1,00,000 on charitable institutions who failed to provide the details of the donor within precribed time.

8. Tax Deduction at Source

Reducing the rate of TDS on fees for technical services (other than professional services) from 10% to 2%

Section 194J of the Act provides that any person, not being an individual or a HUF, who is responsible for paying to a resident any sum by way of fees for professional services, or fees for technical services, or any remuneration or fees or commission by whatever name called (other than those on which tax is deductible under section 192 of the Act, to a director), or royalty or any sum referred to in clause (va) of section 28, shall, at the time of payment or credit of such sum to the account of the payee, deduct an amount equal to 10% as TDS.

For TDS to be deducted on payment to non-professionals for technical service provided was always in dispute w.r.t. TDS u/s 194J or 194C. Now, to reduce litigation and bring certainity, it is proposed to reduce rate for TDS in section 194J in case of fees for technical services (other than professional services) to 2% from 10%. The TDS rate in other cases under section 194J would remain same at 10%.

Enlarging the scope of TDS on interest u/s 194A

Section 194A of the Act governs interest other than interest on securities. The exemption from deducting TDS was available in case of payment of interest by a co-operative society (other than a co-operative bank) to a member or to income credited or paid by a co-operative society to any other co-operative society.

In order to extend the scope of this section to interest paid by large co-operative society, it is proposed to amend to provide that a co-operative society shall be liable to deduct TDS u/s 194A, if-

(a) the total sales, gross receipts or turnover of the co-operative society exceeds Rs.50 crore during the financial year immediately preceding the financial year in which the interest is credited or paid; and

(b) the amount of interest, or the aggregate of the amount of such interest, credited or paid, or is likely to be credited or paid, during the financial year is more than Rs. 50,000 in case of payee being a senior citizen and Rs. 40,000, in any other case.

New TDS on E-commerce transactions

In order to widen and deepen the tax net by bringing participants of e-commerce within tax net, it is proposed to insert a new section 194-O in the Act so as to provide for a new levy of TDS at the rate of 1% with the following key points:

1. The TDS is to be paid by e-commerce operator for sale of goods or provision of service facilitated by it through its digital or electronic facility or platform;

2. E-commerce operator is required to deduct tax at the time of credit of amount of sale or service or both to the account of e-commerce participant or at the time of payment thereof to such participant by any mode, whichever is earlier.

3. The tax at 1% is required to be deducted on the gross amount of such sales or service or both.

4. Any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant shall be deemed to be amount credited or paid by the e-commerce operator to the e-commerce participant and shall be included in the gross amount of such sales or services for the purpose of deduction of income-tax.

5. The sum credited or paid to an e-commerce participant (being an individual or HUF) by the e-commerce operator shall not be subjected to provision of this section, if the gross amount of sales or services or both of such individual or HUF, through e-commerce operator, during the previous year does not exceed Rs. 5 lakh and such e-commerce participant has furnished his Permanent Account Number (PAN) or Aadhaar number to the e-commerce operator.

6. A transaction in respect of which tax has been deducted by the e-commerce operator under this section or which is not liable to deduction under the exemption discussed in the previous bullet, there shall not be further liability on that transaction for TDS under any other provision of Chapter XVII-B of the Act. This is to provide clarity so that same transaction is not subjected to TDS more than once. However, it has been clarified that this exemption will not apply to any amount received or receivable by an e-commerce operator for hosting advertisements or providing any other services which are not in connection with the sale of goods or services referred to in sub-section (1) of the proposed section.

7. "e-commerce operator" is defined to mean any person who owns, operates or manages digital or electronic facility or platform for electronic commerce and is a person responsible for paying to e-commerce participant.

8. "e-commerce participant" is defined to mean a person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce.

9. "electronic commerce" is defined to mean the supply of goods or services or both, including digital products, over digital or electronic network.

10. "services" is defined to include fees for technical services and fees for professional services, as defined in section 194J.

11. Consequential amendments are being proposed in section 197 (for lower TDS), in section 204 (to define person responsible for paying any sum).

12. Section 206AA is also amended to provide for TDS at 5 per cent. in non-PAN/ Aadhaar cases.

New TCS on LRS and Foreign Tours

It is proposed to levy TCS on overseas remittance under LRS and for sale of overseas tour package, as under:

- An authorised dealer receiving an amount or an aggregate of amounts of Rs.7,50,000 or more in a financial year for remittance out of India under the LRS of RBI, shall be liable to collect TCS, if he receives sum in excess of said amount from a buyer being a person remitting such amount out of India, at the rate of 5%.
- A seller of an overseas tour program package who receives any amount from any buyer, being a person who purchases such package, shall be liable to collect TCS at the rate of 5%.
- In non PAN/Aadhaar cases the rate shall be 10% in both the cases.
- The above TCS provision shall not apply if the buyer is,
    a. liable to deduct tax at source under any other provision of the Act and he has deducted such amount.
    b. the Central Government, a State Government , an embassy, a High Commission, legation, commission, consulate, the trade representation of a foreign State, a local authority as defined in Explanation to section 10(20) or any other person notified by the Central Government in the Official Gazette for this purpose subject to such conditions as specified in that notification.
- "authorised dealer" is proposed to be defined to mean a person authorised by the Reserve Bank of India under FEMA Law to deal in foreign exchange or foreign security.
- "Overseas tour program package" is proposed to be defined to mean any tour package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expense of similar nature or in relation thereto.

New TCS on Sales exceeding Rs. 50 lakhs

A new levy of TCS on sale of goods above specified limit, was introduced which is as under:

- A seller of goods is liable to collect TCS at the rate of 0.1 per cent. on consideration received from a buyer in a previous year in excess of Rs. 50 Lakh
- In non-PAN/ Aadhaar cases the rate shall be 1%.
- Only those seller whose total sales, gross receipts or turnover from the business carried on by it exceed Rs. 10 crore during the financial year immediately preceding the financial year, shall be liable to collect such TCS.
- Central Government may notify person, subject to conditions contained in such notification, who shall not be liable to collect such TCS.
- No TCS is to be collected from the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate, the trade representation of a foreign State, a local authority as defined in Explanation to section 10(20) or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to conditions as prescribed in such notification.
- No such TCS is to be collected, if the seller is liable to collect TCS under other provision of section 206C or the buyer is liable to deduct TDS under any provision of the Act and has deducted such amount.

Amending definition of "work" in section 194C

Section 194C of the Act provides for the deduction of tax on payments made to contractors. The section provides that any person responsible for paying any sum to a resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract shall at the time of such credit or at the time of payment

whichever is earlier deduct an amount equal to 1% in case payment is made to an individual or an HUF and 2% in other cases. Clause (iv) of the Explanation of the said section defines "work". Sub-clause (e) of this definition includes manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer within the definition. However, it excludes manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer.

It has been noted that some assessees are using the escape clause of the section by getting the contract manufacturer to procure the raw material supplied through its related parties. As a result, a substantial amount of income escapes the tax net.

Therefore, to bring clarity in the section and plug the leakage, it is proposed to amend the definition of "work" under section 194C to provide that in a contract manufacturing, the raw material provided by the assessee or its associate shall fall within the purview of the 'work' under section 194C. Associate is proposed to be defined to mean a person who is placed similarly in relation to the customer as is the person placed in relation to the assessee under the provisions contained in clause (b) of sub-section (2) of section 40A of the Act.

Amending definition of "work" in section 194C

Section 194C of the Act provides for the deduction of tax on payments made to contractors. The section provides that any person responsible for paying any sum to a resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract shall at the time of such credit or at the time of payment whichever is earlier deduct an amount equal to 1% in case payment is made to an individual or an HUF and 2% in other cases. Clause (iv) of the Explanation of the said section defines "work". Sub-clause (e) of this definition includes manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer within the definition. However, it excludes manufacturing or supplying a product according

to the requirement or specification of a customer by using material purchased from a person, other than such customer.

It has been noted that some assessees are using the escape clause of the section by getting the contract manufacturer to procure the raw material supplied through its related parties. As a result, a substantial amount of income escapes the tax net.

Therefore, to bring clarity in the section and plug the leakage, it is proposed to amend the definition of "work" under section 194C to provide that in a contract manufacturing, the raw material provided by the assessee or its associate shall fall within the purview of the 'work' under section 194C. Associate is proposed to be defined to mean a person who is placed similarly in relation to the customer as is the person placed in relation to the assessee under the provisions contained in clause (b) of sub-section (2) of section 40A of the Act.

9. Miscellaneous Amendments

Charitable Trust (New Section 12AB introduced)

It is proposed to amend relevant provisions of the Act to provide that,-

(i) similar to exemptions under clauses (1) and (23C), exemption under clause (46) of section 10 shall be allowed to an entity even if it is registered under section 12AA subject to the condition that the registration shall become inoperative. If the entity wishes to make it operative in the future, it will have to file an application and then it would not be entitled for deduction under clause (46) from the date on which the registration becomes operative.

(ii) the registration under section 12AA would also become inoperative in case of an entity exempt under clause (23C) of section 10 as well, to have uniformity. The condition about making it operative again would also be similar to what is proposed for clause (46) of section 10.

(iii) an entity approved, registered or notified under clause (23C) of section 10, section 12AA or section 35 of the Act, as the case may be, shall be required to apply for approval or registration or intimate regarding it being approved, as the case may be, and on doing so, the approval, registration or notification in respect of the entity shall be valid for a period not exceeding five previous years at one time calculated from 1st April, 2020.

(iv) an entity already approved under section 80G shall also be required to apply for approval and on doing so, the approval, registration or notification in respect of the entity shall be valid for a period not exceeding five years at one time.

(v) application for approval under section 80G shall be made to Principal Commissioner or Commissioner.

(vi) an entity making fresh application for approval under clause (23C) of section 10, for registration under section 12AA, for approval under section 80G shall be provisionally approved or

registered for three years on the basis of application without detailed enquiry even in the cases where activities of the entity are yet to begin and then it has to apply again for approval or registration which, if granted, shall be valid from the date of such provisional registration. The application of registration subsequent to provisional registration should be at least six months prior to expiry of provisional registration or within six months of start of activities, whichever is earlier.

(vii) the application pending for approval, registration, as the case may be, shall be treated as application in accordance with the new provisions, wherever they are being provided for.

(viii) deduction under section 80G/ 80GGA to a donor shall be allowed only if a statement is furnished by the donee who shall be required to furnish a statement in respect of donations received and in the event of failure to do so, fee and penalty shall be levied.

(ix) similar to section 80G of the Act, deduction of cash donation under section 80GGA shall be restricted to Rs 2,000/- only.

Rationalisation of provision relating to Form 26AS

The Form 26AS as prescribed in the Rules, inter-alia, contains the information about tax collected or deducted at source. However, with the advancement in technology and enhancement in the capacity of system, multiple information in respect of a person such as sale/ purchase of immovable property, share transactions etc. are being captured or proposed to be captured. In future, it is envisaged that in order to facilitate compliance, this information will be provided to the assessee by uploading the same in the registered account of the assessee on the designated portal of the Income-tax Department, so that the same can be used by the assessee for filing of the return of income and calculating his correct tax liability.

As the mandate of Form 26AS would be required to be extended beyond the information about tax deducted, it is proposed to introduce a new section 285BB in the Act regarding annual financial

statement. This section proposes to mandate the prescribed income-tax authority or the person authorised by such authority to upload in the registered account of the assessee a statement in such form and manner and setting forth such information, which is in the possession of an income-tax authority, and within such time, as may be prescribed.

Verification of ITR and AR

Section 140 of the Act provides that in case of company the return is required to be verified by the managing director (MD) thereof. Where the MD is not able to verify for any unavoidable reason or where there is no MD, any director of the company can verify the return. It is also provided that in case of a company in whose case application for insolvency resolution process has been admitted by the Adjudicating Authority (AA) under the Insolvency and Bankruptcy Code, 2016 (IBC), the return has to be verified by the insolvency professional appointed by such AA. Similarly, in case of a limited liability partnership (LLP), the return has to be verified by the designated partner of the LLP or by any partner, in case there is no such designated partner. Therefore, it is proposed to amend clause (c) and (cd) of section 140 of the Act so as to enable any other person, as may be prescribed by the Board to verify the return of income in the cases of a company and a limited liability partnership. Further, section 288 of the Act provides for the persons entitled to appear before any Income-tax Authority or the Appellate Tribunal, on behalf of an assessee, as its "authorised representative", in connection with any proceedings under that Act.

While the IBC empowers the Insolvency Professional or the Administrator to exercise the powers of the Board of Directors or corporate debtor, it has been reported that lack of explicit reference in section 288 of the Act for an Insolvency Professional to act as an authorised representative of the corporate debtor has been raising certain practical difficulties. Therefore, it is proposed to amend sub-section (2) of section 288 to enable any other person, as may be prescribed by the Board, to appear as an authorised representative.

Filing of statement of donation by donee to cross-check claim of donation by donor

An exempt entity may accept donations or certain sum for utilisation towards their objects or activities in respect of which the payer, being the donor, gets deduction in computation of his income. At present, there is no reporting obligation by the exempt entity receiving donation/ any sum in respect of such donation/ sum. With the advancement in technology, it is now feasible to standardise the process through which one-to-one matching between what is received by the exempt entity and what is claimed as deduction by the assessee. This standardisation may be similar to the provisions relating to the tax collection/ deduction at source, which already exist in the Act. Therefore, the entities receiving donation/ sum may be made to furnish a statement in respect thereof, and to issue a certificate to the donor/ payer and the claim for deduction to the donor/ payer may be allowed on that basis only. In order to ensure proper filing of the statement, levy of a fee and penalty may also be provided in cases where there is failure to furnish the statement.

Incentive to co-operative societies

It is proposed to insert a new section 115BAD to provide that,-

(i) A co-operative society resident in India shall have the option to pay tax at 22 % for assessment year 2021-22 onwards in respect of its total income so however that if it fails to satisfy the conditions in any previous year, the option shall become invalid and other provisions of the Act shall apply;

(ii) the condition for concessional rate shall be that the total income of the co-operative society is computed,—

(a) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or under any provisions of Chapter VI-A;

(b) without set off of any loss 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; and

(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;

(iii) the loss and depreciation referred to in (ii)(b) above shall be deemed to have been allowed.

(iv) the concessional rate shall not apply unless option is exercised by the co-operative society in the prescribed manner on or before the due date of filling of return of income.

(vi) the option so exercised cannot be withdrawn;

(vii) The surcharge applicable to such co-operative society shall be levied at 10%.

(viii) It is further proposed to amend section 115JC of the Act so as to provide that the provisions relating to Alternate Minimum Tax (AMT) shall not apply to such co-operative society.

Connect with Us:

CORPORATE OFFICE
P-6/90, Connaught circus
Connaught Place New
Delhi 11001
Phone no.9555555480
Email.info@indiaexpert.in
www.indiaexpert.in