THE FINANCE BILL 2022

EK SAMIKSHA...

(For Private Circulation Only)

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BL ON BUDGET 2022-23

BUDGET SNAPSHOTS OVER 75 YEARS

India has seen many Budgets in its 75-year history. Some were path-breaking and almost all of them moved the country forward one way or another

Finance Minister Manmohan Singh on his way, on July 24, 1991, to present the epic Budget that **liberalised the Indian economy** and laid the foundation for a faster pace of growth

Prime Minister Indira Gandhi getting ready to present the Union Budget on February 28, 1970. She was the **first woman FM** to present a Budget and her speech **highlighted bank nationalisation and Monopolies Act**

Arun Jaitley presenting the Modi government's first full Budget on February 28, 2015 where he **abolished wealth tax and announced that GST** will be in place by April 1, 2016 (it was finally introduced on July 1, 2017)

HM Patel, first non-Congress FM of the country, with his 1977-78 interim Budget. His **Budget speech was the shortest** — just 800 words

C Subramaniam giving finishing touches to the 1976-77 Budget. He increased revenues significantly by **expanding excise duties**

P Chidambaram with his team the day before his 1997-98 'Dream Budget' where he **cut personal income tax, corporate tax and peak Customs duty and simplified the excise duty structure**

Date: 6th February, 2022

Dear Madam/Sir,

Namaste!!

This year the Hon'ble FM presented the Budget 2022 in paperless form. The development of technology, the usage and the focus is seen all around. In the income tax field itself, with the integration of technology and use of Artificial Intelligence, extensive data mining and data collection is being done, which provide 360^0 profile of the Taxpayer. The available information is put before the Taxpayer in a proper format.

The examples of some of the transformation in income tax field are:

- Form 26AS to Annual Information Statement (AIS) giving details of all investments made during the year, deposits made and withdrawn, shares and securities purchased and sold, immoveable property purchased and sold, taxes paid, etc., etc.

- Starting with e-assessment now it is faceless assessment and further faceless appeals [CIT (A)]. Steps are being taken towards faceless Appellate Tribunal.

- Jhatpat Scheme for processing the returns filed has been introduced which targets in processing the return of income filed in 48 hours. In some cases, the Taxpayers have received the processed Intimation within few hours of filing return of income.

- The existing portal is replaced by the new portal.

The teething problem faced in implementation are being resolved and we will see some proposal in Finance Bill 2022 also in respect of the same.

The Tax Department has come forward by furnishing the collected information to the Taxpayers. Now, it is for the Taxpayers and the professionals as to how to use it. Whether still to go with *Chalta hei attitude* or consider the data, compare it with the facts as is available with him/her/it and file the true return and pay the taxes correctly.

The Hon'ble FM again deserves a round of loud applause for not tinkling with rates of taxes in Finance Bill 2022. It is always good to have consistency in tax policies.

As like all these years we restrict our Notes on Finance Bill, 2022- Direct Tax Proposals. In this Notes we have also included a summary note on changes under GST Law. Also, we are enclosing herewith an article titled "Charitable Trusts" under the heading 'Food for Thought' as contributed by Ms. Sonakshi Jhunjhunwala.

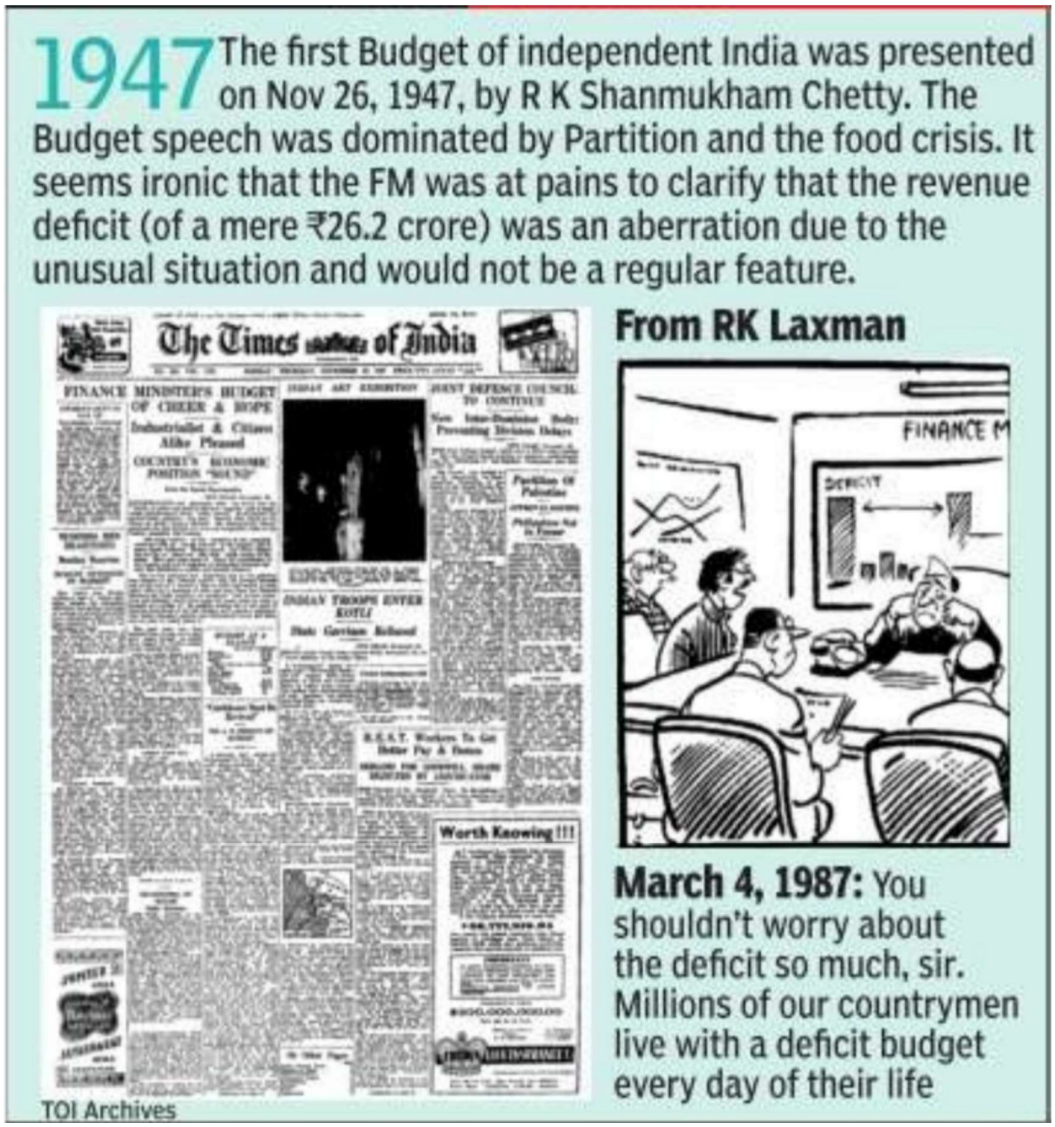
This Study Note of ours titled "The Finance Bill, 2022 – Ek Samiksha" is enclosed herewith. After you had an opportunity to go through the same, we may discuss this further at your convenience. We welcome any feedback / suggestions for improvement.

Happy Reading!

With Regards,

Yours Truly,

Team – S. S. Jhunjhunwala & Co.



Source: Times of India

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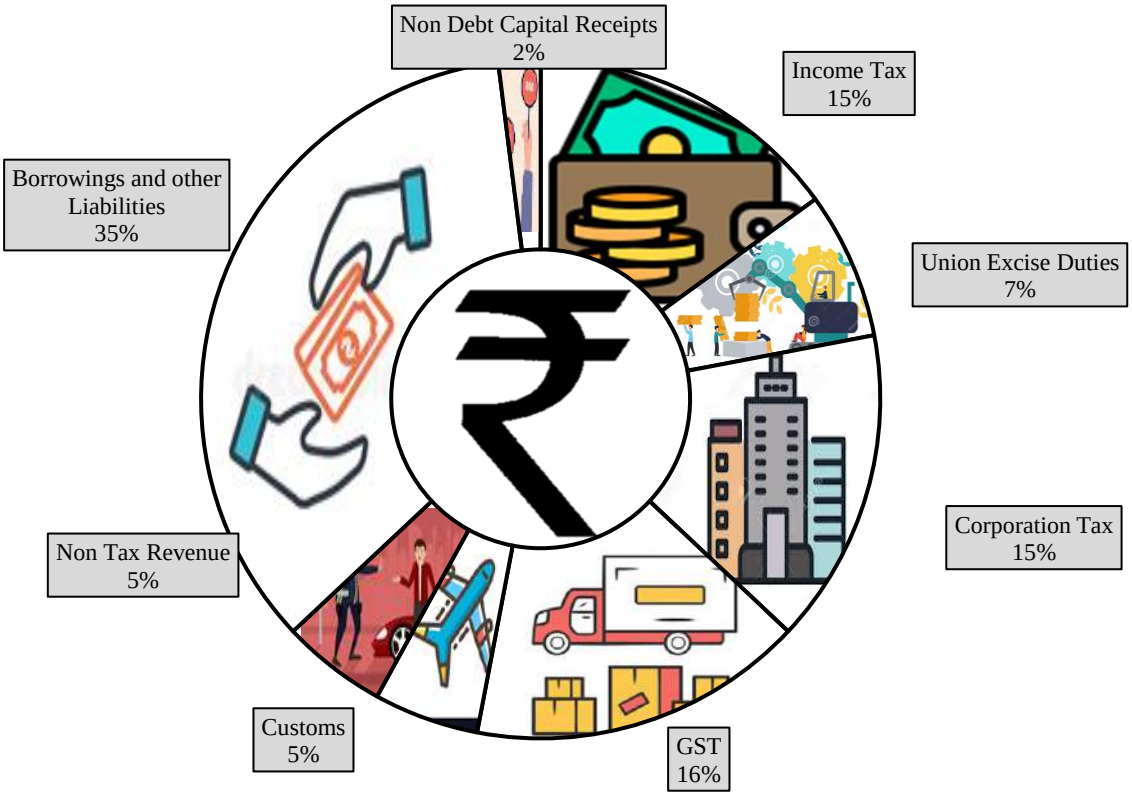

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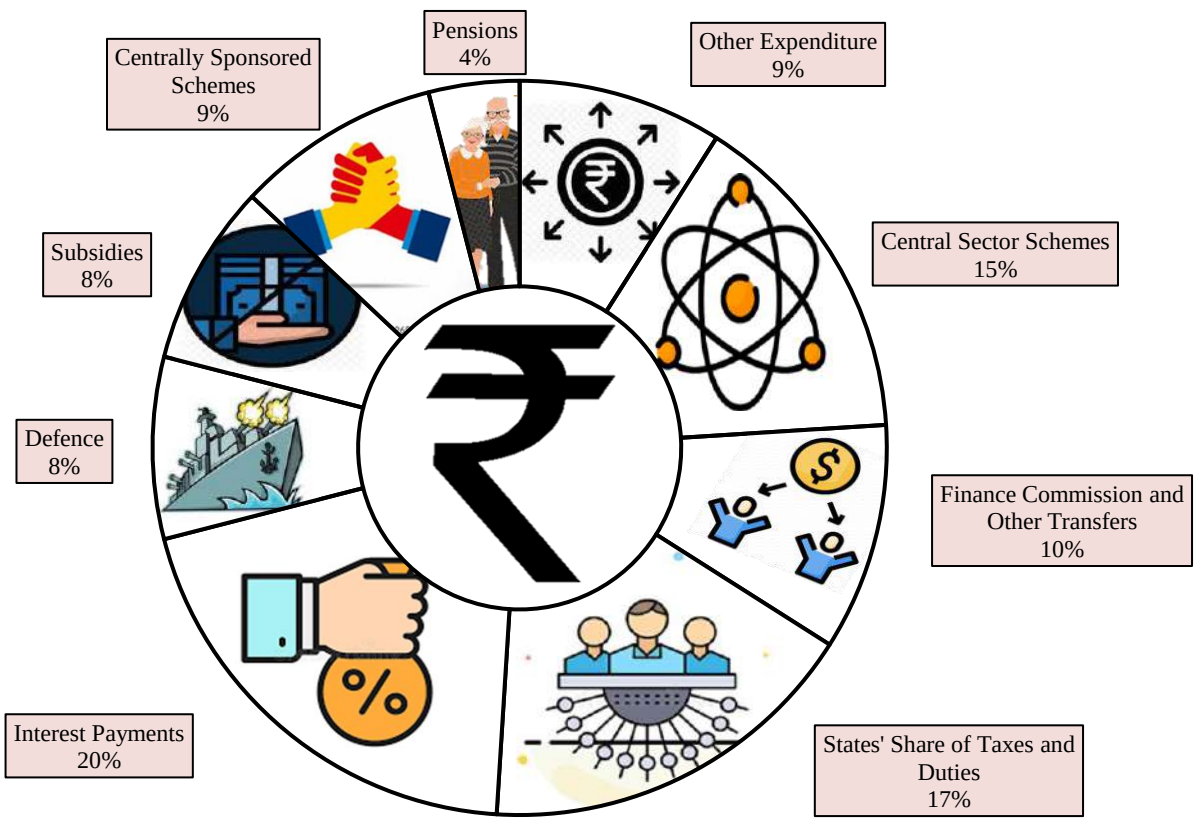
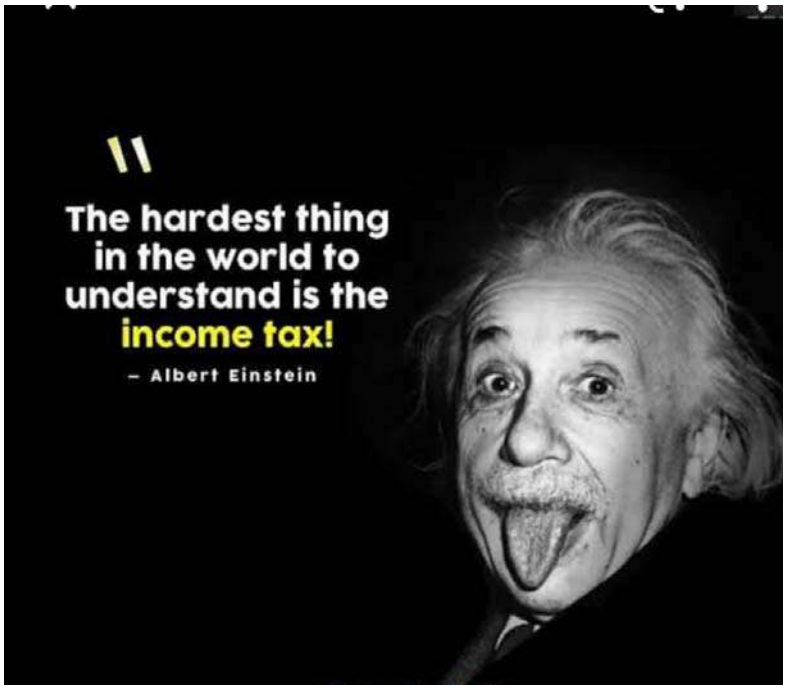


CONTENTS

In this note an attempt has been made to summarize various proposals of The Finance Bill, 2022 – Direct Tax Proposals. Specific guidance may be obtained before acting on the proposals and provisions.

It should be noted that the Finance Bill, 2022 will be discussed in the Parliament and is subject to any amendments that may be made pursuant to such discussion.

Now a days, two trends are seen, roll back of certain proposals and putting some new proposals at the time of enactment of the Bill. So when the Bill is enacted please have a relook at it to see changes between "Bill" and "Act"



FINANCE BILL, 2022 – AN INTRODUCTION

Finance Bill

The proposal of the government for levy of new taxes, modification of the existing tax structure or continuance of the existing tax structure beyond the period approved by the Parliament are submitted to the Parliament through this bill. It is the key document as far as taxes are concerned.

The provisions of Finance Bill, 2022 (hereafter referred to as "FB 22"), relating to direct taxes seek to amend the Income-tax Act, 1961 (hereafter referred to as 'the Act') to continue reforms in direct tax system through tax-incentives, removing difficulties faced by taxpayers and rationalization of various provisions.

INCOME TAX PROVISIONS

In this chapter, we have dealt with the proposed amendments to the Act by FB 22. We have made references from Notes on Clauses and Memorandum explaining the provisions of FB 22.

In this study note, we have made an attempt to put related amendments under one topic head and reference of the same is given at appropriate places.

1. Effective Dates:

- The amendments in income tax provisions are proposed to be effective from 1st April, 2023 relevant to the Assessment Year 2023–2024 unless otherwise specified.

- The amendments proposed in procedural section are effective for the proceedings taken on or after the date as specified.

- The amendments made in substantive sections are effective from the first day of the Assessment Year from which it is proposed to be effective.

2. Rates of Taxes:

a) Finance Act, 2020 introduced alternate tax calculation regime (the new regime) for individuals and HUFs under section 115BAC of the Act. To avail the tax rates as per new regime certain conditions are required to be followed. This is applicable from assessment year 2021-22. Individual / HUF are given an option whether to follow old regime or go for the new regime. **There is no change in basic limit and/or slab rates for the financial year 2022-23 relevant to assessment year 2023-24 under both regimes.**

Income	Rate of Tax under Old Regime			Rate of Tax under New Regime
	Age less than 60 years	Age 60 years or more but less than 80 years – Senior Citizen	Age 80 years or more – Very Senior Citizen	
Upto Rs. 2,50,000	Nil	Nil	Nil	Nil
Rs. 2,50,001 to Rs. 3,00,000	5%	Nil	Nil	5%
Rs. 3,00,001 to Rs. 5,00,000	5%	5%	Nil	5%
Rs. 5,00,001 to 7,50,000	20%	20%	20%	10%
Rs. 7,50,001 to 10,00,000	20%	20%	20%	15%
Rs. 10,00,001 to Rs. 12,50,000	30%	30%	30%	20%
Rs. 12,50,001 to Rs. 15,00,000	30%	30%	30%	25%
Above Rs. 15,00,000	30%	30%	30%	30%

Rebate u/s 87A of the Act of Rs. 12,500/- or the amount of tax payable whichever is less is admissible to tax payers having total income upto Rs. 5,00,000/-.

b) The rate of surcharge on individual and HUF remain unchanged (except for the changes discussed) and they are same for financial year 2022-23 relevant to assessment year 2023-24. The rates of surcharge are as under:

Existing		Proposed	
Income at which surcharge is leviable	**Rate of Surcharge**	**Income at which surcharge is leviable**	**Rate of Surcharge**
Above Rs. 50 Lakhs but upto Rs. 1 crore	10%	**No Change**	
Above Rs. 1 crore but upto Rs. 2 crore	15%		
Above Rs. 2 crore but upto Rs. 5 crore	25%		
Above Rs. 5 crore	37%		

The Finance Act, 2020 had introduced a higher surcharge for individuals falling in the rich and super-rich category. The higher surcharge on income tax results in the highest effective tax rate of between 38-42%. However, the Finance Act, 2020 also provided that the surcharge on income by way of dividend or income chargeable under section 111A and 112A (where STT is paid) of the Act, shall not exceed fifteen percent.

The FB 22 has now propose to provide the rate of surcharge on tax on long term capital gains arising on transfer of any type of assets shall not exceed 15 percent.

Thus, in respect of shares of a private company, the maximum effective long-term capital gains tax rate on sale of shares for resident Indian will reduce from 28.496% to 23.92% and for non-residents from 14.248% to 11.96%.

This step will further incentivize investments in start-ups especially from non-resident investors who will now benefit from a reduced tax of almost 3% at the time of exit. For resident investors, this will mean a reduction in the tax rate by almost 5%.

It is noteworthy to mention that the rate of surcharge on long term gain tax has been capped for all types of capital assets including real estate and not limited to shares of Indian companies.

Investors, founders and holders of employee stock options at startups are set to enjoy reduced tax burden on sale of shares. The budget has capped the surcharge on long-term capital gain (LTCG) tax at 15% for all listed and unlisted instruments as opposed to a graded surcharge regime going up to 37% earlier for unlisted securities. "This step will give a boost to the startup Community," the FM said. The tax rate on such long term capital gain, however, remains unchanged at 20%.

The above rate of surcharge is applied on the tax amount. Provisions for marginal relief are provided. The surcharge is leviable on the total tax on crossing of the threshold of the total income provided. Thus, if an individual has a total income above Rs. 5 crores, surcharge at the rate of 37% is on the total tax on the income irrespective of different slabs of surcharge at different level.

c) FB 22 further provides that in case of Association of Persons consisting of only companies as its members, the rate of surcharge on the amount of income-tax shall not exceed 15 percent.

d) Surcharge will also be levied at the appropriate rates in cases where the tax is payable u/s 115JC of the Act (Alternate Minimum Tax – AMT as is applicable to non-corporate taxpayers).

e) The Health and Education Cess shall continue to be levied at the rate of 4% of income tax and surcharge.

f) **Effective rate of tax for Individuals:** Tax liability computed as per the slabs above would be increased by the following surcharge and cess:

Individuals having Total Income	**F.Y. 2021-22**		**F.Y. 2022-23**	
	Rate of Surcharge	**Effective tax rate**	**Rate of Surcharge**	**Effective tax rate**
Above Rs. 10 lakhs upto Rs. 50 lakhs	Nil	31.20%	No Change	
Above Rs. 50 lakhs upto Rs. 1 crore	10%	34.32%		
Above Rs. 1 crore upto Rs. 2 crore	15%	35.88%		
Above Rs. 2 crore upto Rs. 5 crore	25%	39.00%		
Above Rs. 5 crore	37%	42.74%		

Note: The above calculation is under the old regime. The similar effective rate of tax will apply under the new regime.

g) Rate of tax for Co-operative Societies:

Like individual / HUF, even for Co-operative Societies, an alternate tax calculation regime has been enacted by Finance Act 2020 under section 115BAD of the Act.

Co-operative Societies are given an option whether to follow old regime or go for new regime. There is no change in basic limit and/or slab rates for the financial year 2022-23 relevant to assessment year 2023-24.

Total Income	**Income tax**	**Surcharge**	**Health Education cess**	**Proposed Effective Rate**	**Existing effective rate**
	%	**%**	**%**	**%**	**%**
Co-operative Societies not opting for Section 115BAD:					
i) For income upto Rs. 10,000/-	10	Nil	4	10.40	10.40
ii) For income exceeding Rs. 10,000/- but not exceeding Rs. 20,000/-	20	Nil	4	20.80	20.80
iii) For income exceeding Rs. 20,000/- but not exceeding Rs. 1 crore	30	Nil	4	31.20	31.20
iv) For income exceeding Rs. 1 crore but upt to Rs. 10 crore	30	7	4	33.38	34.94
v) For income exceeding Rs. 10 crore	30	12	4	34.94	34.94

Resident Co-operative Societies opting for Section 115BAD:					
i) For income not exceeding Rs. 1 crore	22	Nil	4	22.88	22.88
ii) For income exceeding Rs. 1 crore	22	10	4	25.17	25.17

Note: Subject to conditions referred to in Section 115BAD of the Act.

h) **Rate of tax for Firms, LLP, Local authorities continues to be the same. The effective rates for Financial Year 2022-23 (Assessment Year 2023-24) are as under:**

	Income tax %	Surcharge %	Health and Education cess %	Proposed Effective Rate %	Existing effective rate %
Firm, LLP and Local authorities:					
For income upto Rs. 1 crore	30	Nil	4	31.20	31.20
For income exceeding Rs. 1 crore	30	12	4	34.94	34.94

i) **Rate of tax for Company - domestic and Company – foreign: The effective rates for Financial Year 2022-23 (Assessment Year 2023-24) are as under:**

Company – Domestic:					
	Income tax %	**Surcharge %**	**Health and Education cess %**	**Proposed Effective Rate %**	**Existing effective rate %**
i) For Companies incorporated on or after 01.03.2016 subject to conditions by Finance Act, 2016 specified u/s 115BA [refer note (A) and (B) below]					
a) For income upto Rs. 1 crore	25	Nil	4	26.00	26.00
b) For income exceeding Rs. 1 crore but not exceeding Rs. 10 crore	25	7	4	27.82	27.82
c) For income exceeding Rs. 10 crore	25	12	4	29.12	29.12
ii) Option of reduced rate of tax on giving up prescribed exemptions/ deduction / benefits as per section 115BAA as inserted by Taxation Laws	22	10	4	25.168	25.168

(Amendment) Act, 2019 [refer note (A) and (C) below]					
iii) Manufacturing company set up and registered on or after 1st October, 2019, as per conditions laid down by Taxation Laws (Amendment) Act, 2019 specified u/s 115BAB [refer note (A) and (D) below]	15	10	4	17.16	17.16
iv) For Companies where total turnover or gross receipts of the **previous year 2020-21 does not exceed Rs. 400 crore**					
a) For income upto Rs. 1 crore	25	Nil	4	26	N.A.
b) For income exceeding Rs. 1 crore but not exceeding Rs. 10 crore	25	7	4	27.82	N.A.
c) For income exceeding Rs. 10 crore	25	12	4	29.12	N.A.
v) Others					
a) For income upto Rs. 1 crore	30	Nil	4	31.20	31.20
b) For income exceeding Rs. 1 crore but not exceeding Rs. 10 crore	30	7	4	33.38	33.38
c) For income exceeding Rs. 10 crore	30	12	4	34.94	34.94

	Income tax %	Surcharge %	Health and Education cess %	Proposed Effective Rate %	Existing effective rate %
Company – Foreign					
For income upto Rs. 1 crore	40	Nil	4	41.60	41.60
For income exceeding Rs. 1 crore but not exceeding Rs. 10 crore	40	2	4	42.43	42.43
For income exceeding Rs. 10 crore	40	5	4	43.68	43.68

As stated above, the FB 22 further provides that in case of Association of Persons consisting of only companies as its members, the rate of surcharge on the amount of income-tax shall not exceed 15 percent.

j) In case of Firm, LLP, Companies, applicable tax rate will be applied on total income and no slab wise calculation is required to be made.

k) Company claiming benefit of reduced rates under sections 115BA, 115BAA and 115BAB of the Act has to fulfill following conditions while computing total income

(A) Cannot claim the following deductions (common for all the three sections):

i) Section 10AA - Special provisions in respect of newly established Units in Special Economic Zones
ii) Section 32(1)(iia) – Additional Depreciation
iii) Section 32AD - Investment in new plant or machinery in notified backward areas in certain States
iv) Section 33AB - Tea development account, coffee development account and rubber development account
v) Section 33ABA – Site Restoration Fund
vi) Section 35(1)(ii)/35(1)(iia)/35(1)(iii)/35(2AA)/35(2AB) – Expenditure on Scientific Research
vii) Section 35AD – Deduction in respect of expenditure on specified business
viii) Section 35CCC – Expenditure on Agricultural Extension Project
ix) Section 35CCD - Expenditure on Skill Development Project
x) Chapter VI-A – Part C – Other than provisions of section 80JJA

Depreciation under section 32, other than clause (iia) of sub-section (1) of the said section, is determined in the manner as may be prescribed.

(B) Company claiming benefit of reduced rates under section 115BA of the Act has to fulfill following additional conditions while computing total income:

✓ cannot claim the following deductions:

i. Section 32AC – Investment in new plant and machinery
ii. Section 35AC – Expenditure on eligible projects or schemes

✓ without set off of any loss carried forward from any earlier assessment year, if such loss is attributable to any of the deductions referred to in clause (i);

(C) Company claiming benefit of reduced rates under section 115BAA of the Act has to fulfill following additional conditions while computing total income:

✓ cannot claim deduction under any Part of Chapter VI-A other than section 80JJA and 80M

✓ 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 clause (i);

✓ without set off of any loss or allowance for unabsorbed depreciation deemed so under section 72A, if such loss or depreciation is attributable to any of the deductions referred to in clause (i);

(D) Company claiming benefit of reduced rates under section 115BAB of the Act has to fulfill following additional conditions while computing total income:

✓ cannot claim deduction under any Part of Chapter VI-A other than section 80JJA and 80M

✓ without set off of any loss or allowance for unabsorbed depreciation deemed so under section 72A, if such loss or depreciation is attributable to any of the deductions referred to in clause (i);

Thus, a domestic company has to answer following check list in order to determine applicable rate of tax to it.

Sr. No.	Particulars	Do you comply with this – Yes / No	Basic Rate of Tax
i)	Are you a new manufacturing company set up and register on or after 1st October, 2019 (u/s 115BAB)		15%
ii)	Are you willing to give up all exemptions / deduction / benefits under the tax (u/s 115BAA)		22%

iii)	Whether your gross turnover / receipt for the financial year 2020-21 was upto Rs. 400 crores		25%
iv)	Any other		30%

l) In other cases (including sections 92CE, 115-O, 115QA, 115R, 115TA or 115TD), the surcharge shall be levied at the rate of twelve percent.

m) **Rate of MAT / AMT**

The existing MAT of 15% and AMT of 18.5% continues to be same for Financial Year 2022-23. The effective rates under the MAT and AMT for the Financial Year 2022-23 relevant to Assessment Year 2023-24 would be as under:

Particulars	Basic Rate %	Sur-charge %	Cess %	Proposed Effective Rate %	Existing effective rate %
Firm, LLP, Local Authority (AMT)					
For income upto Rs. 1 crore	18.5	Nil	4	19.24	19.24
For income exceeding Rs. 1 crore	18.5	12	4	21.55	21.55
Domestic Company (MAT) not opting for provisions of section 115BAA or 115BAB					
For income upto Rs. 1 crore	15	Nil	4	15.6	15.6
For income exceeding Rs. 1 crore but not exceeding Rs. 10 crore	15	7	4	16.692	16.692
For income exceeding Rs. 10 crore	15	12	4	17.472	17.472
Company – Foreign (MAT)					
For income upto Rs. 1 crore	15	Nil	4	15.6	15.6
For income exceeding Rs. 1 crore but not exceeding Rs. 10 crore	15	2	4	15.912	15.912
For income exceeding Rs. 10 crore	15	5	4	16.38	16.38

If the Company is opting for rate of tax u/s 115BAA or 115BAB of the Act, then provisions of MAT are not applicable.

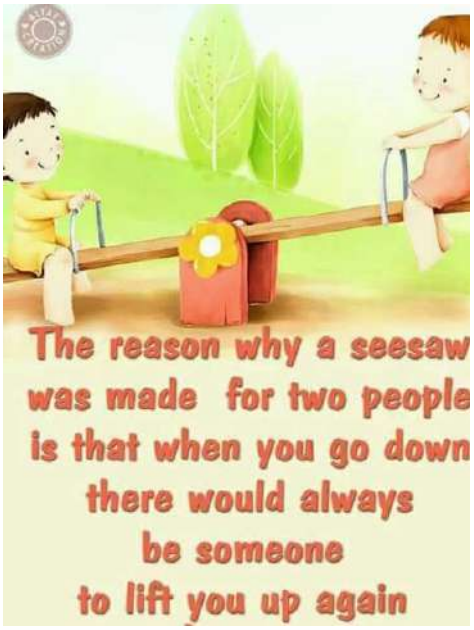
Co-operative Society not opting for provisions of Section 115BAD					
For income upto Rs. 1 crore	15	Nil	4	15.60	19.24
For income exceeding Rs. 1 crore but upto Rs. 10 crores	15	7	4	16.69	21.55
For income exceeding Rs. 10 crores	15	12	4	17.47	21.55

- (For co-operative societies, rate of AMT is proposed to be reduced from 18.5% to 15%)

- If the Co-operative Society is opting for rate of tax u/s 115BAD of the Act, then provisions of AMT is not applicable.

For Individual, HUF, AOP, BOI, Artificial Juridical Person not opting for provisions of section 115BAC, the rate of AMT would be					
For income upto Rs. 50 lakhs	18.5	Nil	4	19.24	19.24
Above Rs. 50 Lakhs but upto Rs. 1 crore	18.5	10	4	21.16	21.16
Above Rs. 1 crore but upto Rs. 2 crore	18.5	15	4	22.12	22.12
Above Rs. 2 crore but upto Rs. 5 crore	18.5	25	4	24.05	24.05
Above Rs. 5 crore	18.5	37	4	26.36	26.36

Individual and HUF opting for rate of tax u/s 115BAC of the Act, then provisions of AMT are not applicable.



n) **Rate of Tax Deduction at Source ('TDS'):**

Under the scheme of deduction of tax at source provided in the Act, every person responsible for payment of specified sum to any person is required to deduct tax at source at the prescribed rate and deposit it with the Central Government within specified time. However, no deduction is required to be made if the payments do not exceed prescribed threshold limit.

Below are the sections which are proposed to be newly inserted:

Sr. No.	Section	TDS to be deducted by	Rates
1.	194R (w.e.f. 01st July, 2022) (refer para 37 below)	Person responsible for providing benefit or perquisite	10%
2.	194S (w.e.f. 01st July, 2022) (refer para 4.3 below)	Buyer / transferee of VDA	1%

There is no other change in rate of TDS and/or threshold limits.

o) In the case of a resident taxpayers including domestic company, no surcharge and cess would be levied on the amount of tax deducted at source. However, surcharge and health and education cess would be applicable on tax deducted at source in the case of salary payments.

p) The surcharge and cess would continue to be payable on payments to the Non-resident tax payers.

3. Definition of Slump Sale [Section 2(42C)]:

Slump sale is defined in clause (42C) of section 2 of the Act, as the transfer of one or more undertaking, by any means, for a lump sum consideration without values being assigned to individual assets and liabilities in such sales. Vide the Finance Act, 2021, the definition of "slump sale" was amended to expand its scope to cover all forms of transfer under slump sale. However, inadvertently, in the last sentence there is reference to the word "sales" instead of "transfer".

Therefore, it is proposed to carry out consequential amendment by amending the provision of clause (42C) of section 2 of the Act, to substitute the word "sales" with the word "transfer".

Effective Date:

This amendment will take effect retrospectively from the 1st April, 2021 and will accordingly apply in relation to the assessment year 2021-22 and subsequent assessment years.

4. Virtual Digital Asset [Sections 2(47A), 56(2), 115BBH, 194S]:

Virtual Digital Assets (VDA) has gained tremendous popularity in recent times and trading in such VDA has increased substantially. Accordingly, a new scheme for taxation of such VDA has been proposed in the FB 22.

4.1 It is proposed to define VDA by inserting new Clause (47A) in Section 2 of the Act:

"(47A) "virtual digital asset" means—

(a) any information or code or number or token (not being Indian currency or foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme; and can be transferred, stored or traded electronically;

(b) a non-fungible token or any other token of similar nature, by whatever name called;

(c) any other digital asset, as the Central Government may, by notification in the Official Gazette specify:

Provided that the Central Government may, by notification in the Official Gazette, exclude any digital asset from the definition of virtual digital asset subject to such conditions as may be specified therein."

In the Explanation to the proposed clause the following terms are defined:

"For the purposes of this clause,—

(a) "non-fungible token" means such digital asset as the Central Government may, by notification in the Official Gazette, specify;

(b) the expressions "currency", "foreign currency" and "Indian currency" shall have the same meanings as respectively assigned to them in clauses (h), (m) and (q) of section 2 of the Foreign Exchange Management Act, 1999."

The use of words 'information', 'code', 'number' makes the definition of VDA all encompassing. Further the presence of '*or otherwise*' in the phrase "generated through cryptographic means or otherwise", may be interpreted to mean that even the information or code which is not generated through cryptographic means could also be covered under definition of VDA. Due to the wide definition, even credit card / debit card reward points, airline miles, digital vouchers, in-game currencies etc. could potentially be included within scope of VDA, as they may be (i) information / code / number / token generated through non – cryptographic digital means, (ii) which digitally represent value, (iii) represent inherent value or function as unit of account or store of value and (iv) transferred, stored or traded electronically. This may have unintended consequences and should be excluded from the scope of VDAs. A clarification to this effect will be welcome.

Effective Date:
This amendment will take effect from 1st April, 2022.

4.2) A new section 115BBH is proposed to provide the scheme of taxation of VDA.

The proposed section 115BBH seeks to provide that where the total income of an assessee includes any income from transfer of any VDA, the income tax payable shall be the aggregate of the amount of income-tax calculated on income of transfer of any VDA at the rate of 30% and the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the aggregate of the income from transfer of VDA.

However, no deduction in respect of any expenditure (other than cost of acquisition) or allowance or set off of any loss shall be allowed to the assessee under any provision of the Act while computing income from transfer of such asset.

Further, no set off of any loss arising from transfer of VDA shall be allowed against any income computed under any other provision of the Act and such loss shall not be allowed to be carried forward to subsequent assessment years.

The super-rich surcharge of 37% applicable on individuals having total income more than INR 5 crores should also be applicable to income earned from transfer of VDAs effectively taking the tax rate to 42.74%. Section 115BBH essentially puts an end to questions on characterization of income from VDAs in so far as characterization of such income should not matter as no deductions or set off or carry forward of losses are permitted under section 115BBH.

'PROPOSED TAXATION REGIME MAY BE IMPLEMENTED FROM APRIL 1, BUT IT DOESN'T MEAN THERE WAS NO TAX APPLICABLE FOR TRANSACTIONS BEFORE APRIL 1'

This is similar to the tax regime that currently exists with respect to taxation of winnings from games. The parliamentary intent appears to be to that transactions in this space are booming and hence need to be taxed at the higher rate of 30%. Prior to this amendment, it was possible to categorize transactions as either trading income and claim expenses or claim long term capital gain rate of 20% based on the facts of the case.

Effective Date:
This amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

4.3) Proposed new section for TDS (Section 194S):

In order to from the transactions so carried out in relation to these assets, it is proposed to insert section 194S to the Act to provide for deduction of tax on payment for transfer of VDA to a resident at the rate of one per cent of such sum. However, in case the payment for such transfer is–

(i) wholly in kind or in exchange of another VDA where there is no part in cash; or

(ii) partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such transfer, the person before making the payment shall ensure that the tax has been paid in respect of such consideration.

In case of specified persons, the provisions of section 203A (TDS/TCS Number) and 206AB (higher rate of TDS for non-filer of Return) will not be applicable.

It is proposed to provide that 'specified person' means a person:

(i) being an individual or Hindu undivided family whose total sales, gross receipts or turnover from the business carried on by him or profession exercised by him does not exceed one crore rupees in case of business or fifty

lakh rupees in case of profession, during the financial year immediately preceding the financial year in which such virtual digital asset is transferred;

(ii) being an individual or Hindu undivided family having income under any head other than the head 'Profits and gains of business or profession'.

Further, no tax is to be deducted in case the payer is the specified person and the value or the aggregate of such value of consideration to a resident is less than Rs. 50,000 during the financial year. In any other case, the said limit is proposed to be Rs. 10,000 during the financial year.

It is also proposed to provide that if tax has been deducted under section 194S, then no tax is to be collected or deducted in respect of the said transaction under any other provision of Chapter XVII of the Act.

It is proposed to empower the Board to issue guidelines, with the prior approval of the Central Government, to remove any difficulty arising in giving effect to the provisions of the section and every such guideline issued by the Board shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person responsible for paying the consideration on transfer of such virtual digital assets.

It is also proposed to provide that in case of a transaction where tax is deductible under section 194-O along with the proposed section 194S, then the tax shall be deducted under section 194S and not section 194-O.

Effective Date:
This amendment will take effect from 1st of July, 2022.

4.4) Gift of VDA [Section 56(2)]:

In order to provide for taxing the gifting of VDA, it is also proposed to amend Explanation to clause (x) of sub-section (2) of section 56 of the Act to provide that for the purpose of the said clause, the expression "property" shall include VDA.

Effective Date:
This amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

In a post budget interaction with media, Hon'ble FM has said that-

> "We have put out a document for consultation. That process is on. Once that process is over, we will know what is to be done in terms of regulation. Cryptocurrency has become generic for anything using blockchain technology. Currency is when an (monetary) authority issues it. Every individual cannot be mining currency. I cannot be sitting at home and mining currency. Is it not illicit? Currency cannot be issued by everybody. It has to be driven by the Central Bank. The Reserve Bank of India will come up with the digital currency.

Outside of it, buying and selling is happening and profits are being made; nothing stops me from taxing it. Taxing that does not actually bring legitimacy. Profits are being made from transaction, which we are taxing. Let me clarify; we are not taxing currency (digital) as it is yet to be issued. The budget proposes levying 30% tax on the profit being made in digital assets. We are also tracking every trail of, money and each transaction will also attract 1% tax deducted at source. So, the distinction now is very clear."

5. Tax Incentives to International Financial Services Centre (IFSC) [Sections 10(4E), 10(4F), 10(4G), 56(2) 80LA]:

Over the past few years several tax concessions have been provided to units located in International Financial Services Centre (IFSC) under the Act to make it a global hub of financial services sector.

In order to further incentivise operations from IFSC, it is proposed to provide the following additional incentives:

(i) It is proposed to amend clause (4E) of section 10 of the Act to extend the exemption under the said clause to the income accrued or arisen to or received by a non-resident as a result of transfer of offshore derivative instruments or over-the-counter derivatives entered into with an Offshore Banking Unit of an International Financial Services Centre, referred to in sub-section (1A) of section 80LA.

(ii) It is proposed to amend clause (4F) of section 10 to extend the exemption under the said clause to the income of a non-resident by way of royalty or interest, on account of lease of a ship in a previous year, paid by a unit of an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, if the unit has commenced its operations on or before the 31st March, 2024.

It is also proposed to define "ship" to mean a ship or an ocean vessel, an engine of a ship or an ocean vessel, or any part thereof.

(iii) It is proposed to insert clause (4G) in section 10 to provide exemption to any income received by a non-resident from portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of such non-resident, in an account maintained with an Offshore Banking Unit, in any International Financial Services Centre, referred to in sub-section (1A) of section 80LA, to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.

It is also proposed to provide that "portfolio manager" shall have the same meaning as assigned to it in clause (z) of sub-regulation (1) of regulation (2) of International Financial Services Centres Authority (Capital Market Intermediaries) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019;

(iv) It is proposed to amend the Explanation to clause (viib) of section 56 of the Act to provide that specified fund shall also include Category I or a Category II Alternative Investment Fund which is regulated under the International Financial Services Centres Authority Act, 2019.

(v) It is proposed to amend clause (d) of sub-section (2) of section 80LA of the Act to provide that in addition to the income arising from the transfer of an asset being an aircraft, the income arising from the transfer of an asset, being a ship, which was leased by a unit of the International Financial Services Centre to any person shall also be eligible for deduction under section (1A) of the section, subject to the condition that the unit has commenced operation on or before the 31st day of March, 2024.

It is also proposed to provide that ship shall have the same meaning as provided under clause (4F) of section 10.

Effective Date:
These amendments will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

6. Withdrawal of certain exemption [clauses (8), (8A), (8B) and (9) of section 10]:

Following exemption has been provided under section 10 of the Act:

- Clause (8) of the section 10 of the Act provides for exemption to the income of an individual who is assigned duties in India in connection with any co-operative technical assistance programmes and projects. Such co-operative technical assistance programmes and projects are required to be in accordance with an agreement entered by the Central Government and the Government of a foreign state (the terms thereof provide for the exemption given by this clause).

  Exemption is provided to both (i) the remuneration received by the individual from the foreign state for such duties and (ii) any other income accruing or arising outside India (which is not deemed to accrue or arise in India), in respect of which the individual is required to pay any income or social security tax to the Government of the foreign state.

- Clause (8A) of the said section provides for exemption on the remuneration or fee received by a consultant, directly or indirectly out of the funds made available to an international organization (agency) under a technical assistance grant agreement between the agency and the Government of a foreign state. The said clause also provides exemption to such consultant in respect of any income accruing or arising outside India (which is not deemed to accrue or arise in India), in respect of which the consultant is required to pay income or social security tax to the Government of the country of his or its origin.

  For the purposes of this clause, if the consultant is an individual he must be a foreign citizen or in case he is an Indian citizen he should be not ordinarily resident in India. In case the consultant is not an individual, such person is required to be non-resident.

  Consultant should be engaged by the agency for rendering technical services in India in connection with any technical assistance programme or project. Such technical assistance programme or projects are required to be in accordance with an agreement entered into by the Central Government and the agency and the agreement relating to the engagement of the consultant is required to be approved by the prescribed authority.

- Clause (8B) of the said section provides for exemption to an individual who is an employee of the consultant as referred to in clause (8A) of section 10. Such individuals are those who are assigned duties in India in connection with any technical assistance programme and project. These technical assistance programmes and projects are required to be in accordance with an agreement entered into by the Central Government and the agency.

  The exemption is provided to the remuneration received by such individual, directly or indirectly, for such duties from any consultant referred to in clause (8A) of section 10. Exemption is also provided to any income accruing or

arising outside India (which is not deemed to accrue or arise in India), in respect of which the individual is required to pay income or social security tax to the country of his origin.

The individual must be the employee of the consultant. He may be a foreign citizen or if he is an Indian citizen, he is not ordinarily resident in India. It is also required that the contract of service of the employee is approved by the prescribed authority before the commencement of his service.

- Clause (9) of the said section provides for exemption to the income of the family members of any individual or consultant as referred in clause (8), clause (8A) and clause (8B), who accompanies such individual or consultant to India. The exemption is provided to income accruing or arising outside India (which is not deemed to accrue or arise in India), in respect of which such member is required to pay any income or social security tax to the Government of that foreign state or country of origin of such member.

  The exemptions as provided under the above-mentioned clauses have outlived their utility in the era of simplification of tax laws and where exemptions and tax incentives are being phased out as a matter of stated policy of the Government. Further, if under a tax treaty, India gets a right to tax a particular income and the other country is expected to then relieve double taxation by exemption or credit method, providing exemption by India amounts to surrender of right of taxation by India in favour of the other country.

  Accordingly, it is proposed to amend clauses (8), (8A), (8B) and (9) of section 10 of the Act to provide that the provisions of the said clauses shall not apply to remuneration, fee or income of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2023.

Effective Date:
These amendments will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

7. Provisions relating to Charitable Trust and Institutions [Sections 10(23C), 11 to 13, 115BBI, 115TD, 115TE, 115TF, 143 and 271AAE]:
A charitable institution can avail exemption either under section 10(23C) of the Act (if it is eligible for the same) or under section 11 to 13 of the Act which applies to all charitable institutions. A charitable institution has to opt for one and it cannot be either or.

(i) Regime for any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 (hereinafter referred to as trust or institution under first regime); and

(ii) Regime for the trusts registered under section 12AA/12AB (hereinafter referred to as trust or institution under the second regime) income of whom is exempt under section 11 to 13 of the Act.

In the FB 22, it is proposed to rationalize the provisions of both the exemption regimes by-

(A) ensuring their effective monitoring and implementation;
(B) bringing consistency in the provisions of the two exemption regimes; and
(C) providing clarity on taxation in certain circumstances.

Some consequential amendments are also proposed following the amendments of past few years.

Many of the provisions of section 11 to 13 of the Act and section 10(23C) of the Act are on similar lines. The proposed amendments has further brought consistency under the two sets of exemptions. In our this Study Note we have dealt with amendments as proposed in section 11 to 13 of the Act and have only given reference of similar changes proposed under section 10(23C) of the Act. The changes which are applicable only to institutions covered under section 10(23C) of the Act are dealt with separately.

The proposals are discussed below:-

A. Ensuring effective monitoring and Implementation of two exemption regimes

A.1) Books of account to be maintained by the trusts or institutions under both the regimes:

a) Where the total income of any trust or institution under the second regime, as computed under this Act without giving effect to the provisions of section 11 and section 12 of the Act, exceeds the maximum amount which is not chargeable to income-tax in any previous year, it is required to get its accounts audited. Similar provision exists for the trusts or institutions under the first regime in the tenth proviso to clause (23C) of section 10 of the Act.

b) However, there is no specific provision under the Act providing for the books of accounts to be maintained by such trusts or institutions. In order to ensure proper implementation of both the exemption regimes, it is proposed to amend clause (b) of sub-section (1) of section 12A of the Act and tenth proviso to clause (23C) of section 10 of the Act to provide that where the total income of the trust or institution under both regimes, without giving effect to the provisions of clause (23C) of section 10 or section 11 and 12, exceeds the maximum amount which is not chargeable to tax, such trust or institution shall keep and maintain books of account and other documents in such form and manner and at such place, as may be prescribed.

Please note beside the Audit prescribed under the Act (as stated above) even under the Maharashtra Public Trust Act, 1950, a trust having annual income

above Rs. 25,000/- is required to gets its account audited. This is a much lower threshold prescribed.

The Audit Report under the Act is required to be given in Form 10B which requires an Auditor to state "in our opinion proper books of account have been kept by the head office and the branches of the above named trust / institution…..".

When an audit is required to be done, it goes without saying that primary books of accounts are being maintained. Unless books of accounts are there, how can there be an audit. Now it is proposed to be prescribed. For prescribing maintaining of primary books of accounts the proposal is superfluous.

Effective Date:
These amendments will take effect from 1st April, 2023 and will accordingly apply to the assessment year 2023-24 and subsequent assessment years.

A.2) Penalty for passing on unreasonable benefits to trustee or specified persons (new Section 271AAE):

Under section 13 of the Act, trusts or institution under the second regime are required not to pass on any unreasonable benefit to the trustee or any other specified person.

The proposed new section seeks to provide that, if during any proceeding under the Act, it is found that a person, being any trust or institution under the first or the second regime, has violated the provisions of twenty-first proviso to clause (23C) of section 10 (proposed to be inserted by the Finance Bill and discussed in subsequent paragraphs) or clause (c) of sub-section (1) of section 13, as the case may be, the Assessing Officer may direct that such person shall pay by way of penalty,

i) a sum equal to the aggregate amount of income applied, directly or indirectly, by such person, for the benefit of any person referred to in sub-section (3) of section 13 where the violation is noticed for the first time during any previous year; and

ii) a sum equal to two hundred percent of the aggregate amount of income of such person applied, directly or indirectly, by such person, for the benefit of any person referred to in sub-section (3) of section 13, where violation is noticed again in any subsequent previous year.

This proposal for levying penalty is under both the regimes.

Effective Date:
These amendments will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

A.3) Reference to the Principal Commissioner or Commissioner (PCIT/CIT) for the cancellation of registration/approval:

a) The Memorandum explains that the following issues related to the process of approval or registration, or cancellation or withdrawal thereof, have been noticed:

i) Under the new procedure, the provisional registrations or provisional approval or re-registrations or approvals in certain cases are granted in an automated manner and the respective rules have been amended accordingly. It is possible that in the process, even a non-genuine trusts or institutions may get exemption provided by these provisions.

ii) Under section 143(3) of the Act, the Assessing Officer has power to intimate to the prescribed authority any violation in section 10(23C) of the Act but there is no such provision for trusts claiming exemption under section 11 to 13 of the Act.

iii) No time limit prescribed for the PCIT/CIT to decide on references for the withdrawal of approval:

b) In order to address the above issues, it is proposed to amend the provisions of section 12AB of the Act and fifteenth proviso to clause (23C) of section 10 of the Act as follows:

(I) Sub-section (4) of section 12AB of the Act is proposed to be substituted with a new sub-section (4) to provide that where registration or provisional registration of a trust or an institution has been granted and subsequently,

(a) the Principal Commissioner or Commissioner has noticed occurrence of one or more specified violations during any previous year;

(b) the Principal Commissioner or Commissioner has received a reference from the Assessing Officer under the second proviso to sub-section (3) of section 143 for any previous year, or

(c) such case has been selected in accordance with the risk management strategy, formulated by the Board from time to time, for any previous year,

the Principal Commissioner or Commissioner shall—

(i) call for such documents or information from the trust or institution or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence or otherwise of any specified violation;

(ii) pass an order in writing cancelling the registration of such trust or institution, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violation have taken place;

(iii) pass an order in writing refusing to cancel the registration of such trust or institution, if he is not satisfied about the occurrence of one or more specified violation;

(iv) forward a copy of the order under clause (ii) or (iii), as the case may be, to the Assessing Officer and such trust or institution.

c) The term "specified violation" means:-

i) Income applied other than object of the trust;

ii) Income from business or profession which is not incidental to the object of the trust;

iii) Does not maintain separate books of account in respect of business income incidental of its object;

iv) Income is not applied for benefit of public by religious trust;

v) Income is applied for benefit of particular religious community or caste;

vi) Activity of the trust is not genuine.

d) Such order shall be passed before expiry of the period of six months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, on or after the 1st day of April, 2022, calling for any document or information, or for making any inquiry, under clause (i) of sub-section (4);

e) Similar amendments are proposed in respect of institutions covered under section 10(23C) of the Act referred hereto to as first regime of exemption.

f) Where the Assessing Officer is satisfied that any trust or institution has committed any specified violation, the Assessing Officer is required to

- Send a reference to the Principal Commissioner or Commissioner to withdraw the approval or registration; and

- No order making an assessment of the total income or loss of such trust or institution shall be made by him without giving effect to the order passed by the Principal Commissioner of Commissioner.

For the purpose of period of limitation for assessment, the period commencing from the date on which the Assessing Officer makes a reference to the Principal Commissioner or Commissioner ending with the date on which the copy of the order of Principal Commissioner of Commissioner is received to be excluded.

Earlier once the Registration was granted to a Trust under section 12A/12AA/12AB of the Act, it was valid for life time of the Trust unless cancelled in between. Then the new procedure was introduced by Finance Act, 2020 whereby scrutiny by centralized office of the prescribed authority was designated to look into renewal of Registration and/or Approval. Now by FB 22, again provision for yearly looking into it has been brought in and that to in a faceless era. Whether hearing will be granted in such proceedings ! We hope and pray that the provision is used judicially to catch only non-genuine cases and other Trusts in the process are not adversely affected.

Effective Date:
These amendments will take effect from 1st April, 2022.

B. Bringing consistency in the provisions of exemption between the two regimes:

As mentioned earlier, there is a requirement for alignment of certain provisions of the two regimes as they both intend to grant similar benefit.

B.1) Accumulation provisions:

i) The accumulation of income, as per the provisions of sub-section (2) of section 11 of the Act is allowed subject to the fulfilment of certain conditions while there are no such conditions specifically provided under the third proviso to clause (23C) of section 10 of the Act;

ii) Similarly, sub-section (3) of section 11 of the Act provides for the specific previous year in which the accumulated income will be subjected to tax in case of different types of violations. It, *inter alia*, provides that if the accumulated income is not applied within 5 years, it shall be taxed in the 6th year. While, on the other hand, there are no such specific provisions under clause (23C) of section 10 of the Act and therefore, if the accumulated income is not applied within 5 years, the same shall be taxed in the 5th year itself.

iii) In order to bring consistency in the two regimes, the following are proposed:-

- It is proposed to provide that unutilized accumulated income u/s 11(2) of the Act shall be deemed to be income of the last previous year of the period, for which the income is accumulated or set apart but not utilized for the purpose for which it is so accumulated or set apart (which will generally be 5th year as against the 6th year as per existing provisions).

- Following conditions are now proposed under section 10(23C) of the Act:

  (a) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;

  (b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5) of section 11; and

  (c) the statement referred to in clause (a) of Explanation 3 is furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year;

- It is proposed to insert a proviso to the proposed Explanation 3 to the third proviso to clause (23C) of section 10 of the Act to provide that in computing the period of five years referred to in sub-clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

- It is also proposed to insert an Explanation (Explanation 4) to third proviso to clause (23C) of section 10 to provide that any income referred to in the proposed Explanation 3 shall be deemed to be the income of the previous year in which the following takes place-

  (a) the income is applied for purposes other than wholly and exclusively to the objects for which the trust or institution under the first regime is established or ceases to be accumulated or set apart for application thereto, or

  (b) the income ceases to remain invested or deposited in any of the forms or modes specified in sub-section (5) of section 11, or

  (c) the income is not utilized for the purpose for which it is so accumulated or set apart during the period referred to in clause (a) of the proposed Explanation 3, (in the last previous year),

  (d) the income is credited or paid to any trust or institution under the first or second regime.

- It is proposed to insert an Explanation (Explanation 5) to third proviso to clause (23C) of section 10 of the Act to enable the Assessing Officer to allow trusts or institutions under the first regime in circumstances beyond their control to apply such accumulated income for such other

purpose in India as is specified in the application by such person subsequent to fulfilment of specified conditions. These other purposes are required to be in conformity with the objects for which the trust or institution under the first regime is established.

- It is proposed to insert a proviso to proposed Explanation 5 to third proviso to clause (23C) of section 10 of the Act to provide that the Assessing Officer shall not allow the application of any accumulated income, as referred to in the proposed Explanation 3, to be credited or paid to any trust or institution under the first or second regime, as referred to in clause (d) of proposed Explanation 4 to the third proviso to clause (23C) of section 10.

Effective Date:
These amendments will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

B.2) Bringing consistency in the provisions relating to payment to specified person:

Under section 13 of the Act, trusts or institutions under the second regime are required not to pass on any unreasonable benefit to the trustee or any other specified person. It is proposed to insert twenty first proviso in clause (23C) of section 10 of the Act to provide that where the income or part of income or property of any trust or institution under the first regime, has been applied directly or indirectly for the benefit of any person referred to in sub-section (3) of section 13, such income or part of income or property shall be deemed to be the income of such person of the previous year in which it is so applied. The provisions of sub-section (2), (4) and (6) of section 13 of the Act shall also apply to trust or institution under the first regime.

Effective Date:
This amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

B.3) The provisions of section 115TD to apply to any trust or institution under the first regime:

i) Chapter XII-EB was introduced by the Finance Act, 2016. It provides for the taxation of accreted income of the trust in certain cases. A society or a company or a trust or an institution carrying on charitable activity may voluntarily wind up its activities and dissolve or may also merge with any other charitable or non-charitable institution, or it may convert into a non-charitable organization. In order to ensure that the intended purpose of exemption availed by trust or institution is achieved, a specific provision in the Act was brought about for imposing a levy in the nature of an exit tax which is attracted when the organization is converted into a non-charitable organization or gets merged with a non-charitable organization or a charitable organization with dissimilar objects or does not transfer the assets to another charitable

organization. Accordingly, a new Chapter XII-EB consisting of Sections 115TD, 115TE and 115TF was inserted in the Act.

ii) The provisions of the Chapter XII-EB have been made applicable to only the trusts or institutions under the second regime. However, the provisions are not applicable to any trust or institution under the first regime.

iii) Hence, it is proposed to amend the provisions of section 115TD, 115TE and 115TF of the Act to make them applicable to any trust or institution under the first regime as well.

Effective Date:
These amendments will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

B.4) Filing of return by person claiming exemption under clause (23C) of section 10 of the Act

i) According to clause (ba) of sub-section (1) of section 12A of the Act, if a trust or institution under the second regime does not furnish return of income in accordance with the provisions of sub-section (4A) of section 139, within the time allowed under that section, then provisions of sections 11 and 12 are not applicable. There is no similar provision in the other regime.

ii) It is proposed to insert twentieth proviso to clause (23C) of section 10 of the Act to provide that for the purpose of exemption under this clause, any trust or institution under the first regime is required to furnish the return of income for the previous year in accordance with the provisions of sub-section (4C) of section 139 of the Act, within the time allowed under that section.

Effective Date:
This amendment will take effect from the 1st April, 2023, and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

C. <u>Providing clarity on taxation in certain circumstances</u>

There are various conditions prescribed for availing exemption under the two regimes. There is a need for clear provisions in the Act listing out how income is to be computed in case of non-compliance. It is proposed to provide for the same so that there is no dispute and the law is applied consistently.

C.1) Allowing certain expenditure in case of denial of exemption:

i) Different provisions mandate denial of exemption to the trusts or institutions under both the regimes. Some of the provisions under which exemption is not available for its violation are as follows:

(a) Having commercial receipts in excess of 20% of the annual receipts in violation of the provisions of proviso to section 2(15);

(b) Not getting the books of account audited;

(c) Not filing the return of income (presently specifically provided under the second regime only);

ii) There is presently lack of clarity on computation of taxable income in case of non-availability of exemption in these cases. For example, if the exemption is denied to the trust or institution for the late submission of the audit report, its entire receipts may be subjected to taxation and no deduction for any application may be allowed.

iii) In order to bring clarity in the computation of the income chargeable to tax in such cases, the following amendments are proposed: -

(a) It is proposed to insert sub-section (10) in section 13 of the Act to provide that where the provisions of sub-section (8) are applicable to any trust or institution under the second regime or such trust or institution violates the conditions prescribed under clause (b) or clause (ba) of sub-section (1) of section 12A, its income chargeable to tax shall be computed after allowing deduction for the expenditure (other than capital expenditure) incurred in India, for the objects of the trust or institution, subject to fulfilment of the following conditions, namely:

(i) such expenditure is not from the corpus standing to the credit of such trust or institution as on the last day of the financial year immediately preceding the previous year relevant to the assessment year for which the income is being computed;

(ii) such expenditure is not from any loan or borrowing;

(iii) claim of depreciation is not in respect of an asset, acquisition of which has been claimed as application of income in the same or any other previous year; and

(iv) such expenditure is not in the form of any contribution or donation to any person.

(b) It is also proposed to insert to provide that for the purposes of determining the amount of expenditure under this sub-section-

- the provisions of sub-clause (ia) of clause (a) of section 40 (non-deduction and/or non-payments of TDS) and sub-sections (3) and (3A) of section 40A (payment in cash excluding the prescribed threshold of Rs. 10,000/-) shall apply.

- no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any other provision of the Act.

(c) Similar changes have been proposed under section 10(23C) of the Act

Effective Date:
These amendments will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

C.2) Taxation of certain income of the trusts or institutions under both the regimes at special rate:

Denying exemption to the trust, for small amount of income applied in violation to the provisions creates difficulties to the trusts or institutions under both the regimes as there is ambiguity about the manner of taxation of such income. Further, there is need for special provision to ensure that the income applied in violation is taxed at special rate without deduction. Accordingly, in order to rationalize the provisions, the following amendments are proposed:-

(a) Passing on unreasonable benefit to the trustees / specified person:

- It is proposed to amend clause (c) of sub-section (1) of section 13 of the Act to provide that only that part of income which has been applied in violation to the provisions of the said clause shall be liable to be included in total income (instead of denying entire exemption to the trust).

- It is also proposed to insert twenty first proviso in clause (23C) of section 10 to specifically provide that where the income of any trust under the first regime, or any part of the such income or property, has been applied directly or indirectly for the benefit of any person referred to in sub-section (3) of section 13, such income or part of income or property shall be deemed to be income of such person of the previous year in which it is so applied. The provisions of sub-section (2), (4) and (6) of section 13 of the Act shall also apply to it.

(b) Investment not in accordance with the provisions of the Act:
It is proposed to amend clause (d) of sub-section (1) of section 13 of the Act to provide that only the that part of income which has been invested in violation to the provisions of the said clause shall be liable to be included in total income.

(c) Accumulated income not utilized:
It is proposed to insert *Explanation 4* in third proviso to clause (23C) of section 10 of the Act to specifically provide that income accumulated which is not utilized for the purpose for which it is so accumulated or set apart shall be deemed to be the income of such person of the previous year being the last previous year of the period, for which the income is accumulated or set apart.

(d) All the above income are required to be taxed at the rate of 30% under proposed new section 115BBI in the Act.

(e) The sub-section (2) of this new section seeks to provide that no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of the Act in computing specified income.

(f) *Explanation* to the proposed section defines "specified income" to mean:-

(i) income accumulated or set apart in excess of fifteen percent of the income where such accumulation is not allowed under any specific provisions of the Act; or

(ii) deemed income referred to in *Explanation 4* to third proviso to clause (23C) of section 10 or sub-section (3) of section 11 or sub-section (1B) of section 11;or

(iii) any income which is not exempt under clause (23C) of section 10 on account of violation of the provisions of clause (b) of third proviso of clause (23C) of section 10 or not to be excluded from total income under the provisions of clause (d) of sub-section (1) of section 13; or

(iv) any income which is deemed to be income under the twenty first proviso to clause (23C) of section 10 or which is not excluded from total income under clause (c) of sub-section (1) of section 13; or

(v) any income which is not excluded from total income under clause (c) of sub-section (1) of section 11.

Effective Date:
These amendments will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

C.3) Voluntary Contributions for the renovation and repair of temples, mosques, gurudwaras, churches etc., notified under clause (b) of sub-section (2) of section 80G:

i) Donations for the renovation and repair of temples, mosques, gurudwaras, churches etc., notified under clause (b) of sub-section (2) of section 80G of the Act are received for specific purposes. However, it is not clear if such donations are treated as corpus donations or are required to be applied or can be accumulated for a maximum period of 5 years.

ii) It is proposed to insert *Explanation 3A* in sub-section (1) of section 11 of the Act to provide that where the property held under a trust or institution includes any temple, mosque, gurdwara, church or other place notified under clause (b) of sub-section (2) of section 80G, any sum received by such trust or institution as a voluntary contribution for the purpose of renovation or repair of such temple, mosque, gurdwara, church or other place, may, at its option, be treated by such trust or institution as forming part of the corpus of the trust or the institution, subject to the condition that the trust or the institution,

(a) applies such corpus only for the purpose for which the voluntary contribution was made;

(b) does not apply such corpus for making contribution or donation to any person; and

(c) maintains such corpus as separately identifiable;

(d) invests or deposits such corpus in the forms and modes specified under sub-section (5) of section 11.

iii) It is also proposed to insert Explanation 3B in sub-section (1) of section 11 of the Act to provide that for the purposes of Explanation 3A, where any trust or institution has treated any sum received by it as forming part of the corpus and subsequently any of the conditions specified in clause (a), (b), (c) or clause (d) thereof are violated, such sum shall be deemed to be the income of such trust or institution of the previous year during which the violation takes place.

iv) Similar changes are proposed in section 10(23C) of the Act.

It is an option given to the Trust. If the Trust wants to avail of it, it is fine. Alternatively, it can be treated as a regular donation and if not spent during the year, it can be accumulated u/s 11(2) of the Act and hopefully within a period of five years repairs will be complete.

Effective Date:
These amendments will take effect retrospectively from 1st April, 2021 and will accordingly apply in relation to the assessment year 2021-22 and subsequent assessment years.

C.4) Clarifying that application will be allowed only when its actually paid:

Trust or institution under both the regimes are required to apply 85% of their income for the purposes specified. As is evident from the word “application”, it means actually paid. This is the position which has been held by different courts also. Accordingly, it is being clarified by inserting Explanations “[Explanation 3 to clause (23C) of section 10 and Explanation to section 11] to provide that any sum payable by any trust under the first or second regime shall be considered as application of income in the previous year in which such sum is actually paid by it irrespective of the previous year in which the

liability to pay such sum was incurred by such trust according to the method of accounting regularly employed by it. It is further proposed to insert proviso to the proposed Explanations [Explanation 3 to clause (23C) of section 10 and Explanation to section 11] to provide that where during any previous year, any sum has been claimed to have been applied by such trust, such sum shall not be allowed as application in any subsequent previous year.

Due to reconciliation of income with Form 26AS and now with Annual Information Statement (AIS), more and more trusts are following mercantile system of accounting. Under mercantile system of accounting, it is not possible to account for income on accrual basis and application of income (expenditure) on cash basis. The trusts have to account for both income as well as application of income (expenditure) on accrual basis. Out of the total application of income, now the trust is expected to keep a separate memoranda record as to how much is actually paid and how much is being carry forward as unpaid.

Amount paid in subsequent year out of earlier years unpaid amount is to be treated as application of income of subsequent year. How practical it would be to maintain such records for application of income on cash basis for a Trust where generally admin staff is not available and even when available they are not well qualified.

Effective Date:
These amendments will take effect from 1st April, 2022 and will accordingly apply to the assessment year 2022-23 and subsequent assessment years.

Consequential Amendments have been made in 10(23C) of the Act

Effective Date:
This amendment will take effect from 1st April, 2022.

8. Expenditure incurred in relation to exempt income [Section 14A]:
Section 14A of the Act provides that no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to income that does not form part of the total income as per the provisions of the Act (exempt income).

It is proposed to amend sub-section (1) of section 14A of the Act to insert the words "notwithstanding anything to the contrary contained in this Act" and further an Explanation has been proposed to be inserted to provide that notwithstanding anything to the contrary contained in this Act, the provisions of the said section shall apply and shall be deemed to have been always applied in a case where the income, not forming part of the total income, has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such income not form part of the total income.

The disputes have arisen in past, as to whether disallowance under section 14A of the Act can be made in cases where no exempt income has accrued, arisen or received by

the assessee during an assessment year. Various Courts and Appellate Tribunals have held that in the year in which there is no exempt income received, no disallowance u/s 14A of the Act be calculated. Also, the disallowance u/s 14A of the Act be restricted to the amount of the exempt income. This has diluted the disallowance u/s 14A of the Act read with Rule 8D.

It is explained in the Memorandum to FB 22 that such an interpretation is not in line with intention of the legislature. The following example is also given in the Memorandum - 'If during a previous year, an assessee incurs an expense of ₹1 lakh to earn non-exempt income of ₹1.5 lakh and also incurs an expense of ₹20,000/- to earn exempt income which may or may not have accrued/received during the year. By holding that provisions of section 14A of the Act does not apply in this year as the exempt income was not accrued/received during the year, it amounts to holding that ₹20,000/- would be allowed as deduction against non-exempt income of ₹1.5 Lakh even though this expense was not incurred wholly and exclusively for the purpose of earning non-exempt income'. Such an interpretation defeats the legislative intent of both section 14A as well as section 37 of the Act.

Therefore, in order to make the intention of the legislation clear and to make it free from any misinterpretation, it is proposed to insert an Explanation to section 14A of the Act to clarify that notwithstanding anything to the contrary contained in this Act, the provisions of this section shall apply and shall be deemed to have always applied in a case where exempt income has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such exempt income.

Earlier, the Hon'ble Delhi Court had in one of the most referred to decision of Cheminvest Ltd. v. CIT (378 ITR 33) held that section 14A will not apply if no exempt income is received or receivable during relevant previous year. There have been decisions of various Hon'ble High Courts and Hon'ble Tribunals as well wherein this principle has been followed. Further the Hon'ble Supreme Court has also dismissed the SLPs filed against the Hon'ble High Court Orders wherein it was upheld that there could be no disallowance u/s.14A in absence of any exempt income during that previous year. Some of the SLP dismissed were in the case of Chettinad Logistics Pvt Ltd, Oil Industry Development Board and GVK Project and Technical Services Ltd. However, the proposed amendment has sought to overrule all the decisions which were held in favour of the assessee by this amendment. Now whether or not exempt income is earned during the year, disallowance u/s. 14A of the Act will be attracted.

Effective Date:
This amendment will take effect from 1st April, 2022.

The main exempt income was "Dividend" which is no more an exempt income with effect from A.Y. 2021-22. So this proposal is not in respect of this income. Does it mean it is retrospective and will be applied to all pending matters. It will open another round of litigation.

9. Exemption of amount received for medical treatment due to Covid-19 [Sections 17 & 56(2)]:

The Finance Ministry has released a Press Statement on 25th June, 2021 where it was announced that income-tax shall not be charged on the amount received by a taxpayer for medical treatment from employer or from any person for treatment of COVID-19 during FY 2019-20 and subsequent years. It was further announced that in order to provide relief to the family members of such taxpayer, income-tax exemption shall be provided to ex-gratia payment received by family members of a person from the employer of such person or from other person on the death of the person on account of COVID-19 during FY 2019-20 and subsequent years. Also, it was stated that the exemption shall be allowed without any limit for the amount received from the employer and the exemption shall be limited to Rs. 10 lakh in aggregate for the amount received from any other persons.

In order to provide the relief as stated in the press statement, it is proposed to amend clause (2) of section 17 and to insert a new sub-clause in the proviso to state that any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family in respect of any illness relating to COVID-19 subject to such conditions, as may be notified by the Central Government, shall not be forming part of "perquisite".

Further, it is proposed to amend the proviso to Clause (x) of sub-section (2) of section 56 and insert two new clauses in the proviso so as to provide that-

(i) any sum of money received by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, in respect of any illness related to COVID-19 subject to such conditions, as may be notified by the Central Government in this behalf, shall not be the income of such person;

(ii) any sum of money received by a member of the family of a deceased person, from the employer of the deceased person (without limit), or from any other person or persons to the extent that such sum or aggregate of such sums does not exceed ten lakh rupees, where the cause of death of such person is illness relating to COVID-19 and the payment is, received within twelve months from the date of death of such person, and subject to such other conditions, as may be notified by the Central Government in this behalf, shall not be the income of such person.

Further, it is proposed to provide that for the purposes of both the clauses, "family" in relation to an individual shall have the same meaning as assigned to in the Explanation 1 to clause (5) of section 10. It is a restrictive meaning. Under this section "family" means-

(i) the spouse and children of the individual; and

(ii) the parents, brothers and sisters of the individual or any of them, wholly or mainly dependent on the individual.

This even does not cover grandchildren and / or grandparents.

The existing exemption available under section 56(2)(x) of the Act in respect of any sum of money received from any trust or institution registered under section 12A/12AA or 12AB of the Act will not be taxable. The exemption provided in respect of the amount received from Employer and others is over and above the existing exemption in respect of amount received from registered charitable trusts.

Effective Date:
These amendments will take effect retrospectively from 1st April, 2020 and will accordingly apply in relation to the assessment year 2020-21 and subsequent assessment years.

10. Deduction to the Donor [Section 35]:
Sub-section (1A) to section 35 of the Act was inserted by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 with effect from the 1st April, 2021. However, an inadvertent drafting error has crept in in the sub-section.

Hence, it is proposed to amend sub-section (1A) of section 35 of the Act to provide that the deduction claimed by the donor with respect to the donation given to any research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) of sub-section (1) of section 35 of the Act shall be disallowed unless such research association, university, college or other institution or company files the statement of donations.

Effective Date:
This amendment will take effect retrospectively from 1st April, 2021.

11. General allowability of expenses [Section 37]:
The said section provides for general allowability of expenditure laid out or expended wholly and exclusively for the purpose of business or profession.

Explanation 1 of sub-section (1) of the said section provides that if any expenditure is incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure.

It is proposed to insert a new Explanation 3 to the said sub-section to further clarify that the expression "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law" under Explanation 1, shall include and shall be deemed to have always included the expenditure incurred by an assessee,-

(i) for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India; or

(ii) to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such

benefit or perquisite by such person is in violation of any law or rule or regulation or guideline, as the case may be, for the time being in force, governing the conduct of such person; or

(iii) to compound an offence under any law for the time being in force, in India or outside India.

The issue has been explained in detail in Memorandum to FB 22. It has dealt with CBDT Circular, decisions of Hon'ble Supreme Court, decisions of Hon'ble High Courts and Appellate Tribunals. The issue mainly seems to have been arisen in respect of gift, travel facility, hospitality, cash or monetary grant provided by pharmaceutical and allied health sector to medical practitioners and professional association.

After dealing with various decision, the Memorandum states that the legal position is clear that the claim of any expense incurred in providing various benefits in violation of the provisions of Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002 shall be inadmissible under section sub-section (1) of section 37 of Act being an expense prohibited by the law.

Further, some taxpayers are seen to be claiming deduction on expenses incurred for a purpose which is an offence under foreign law or for compounding of an offence for violation of foreign law, claiming that provisions of Explanation 1 to sub-section (1) of section 37 of the Act applies only to offences which are prohibited by the domestic law of the country. In some case this view has also been accepted by the tribunal.

Earlier, the Hon'ble Hyderabad Tribunal has in the case of Mylan Laboratories Ltd. v. DCIT (180 ITD 555) had held that where assesse paid fine/penalty levied upon it by European commission for violating European union competition laws by way of accepting non-compete settlement amount from a European company, such payment could not be disallowed as per Explanation 1 to section 37(1). The view of the Hon'ble Tribunal has now been reversed by the proposed amendment wherein it has been stated that any expenditure incurred for any purpose which is an offense under or prohibited by any foreign law is also not an allowable expense for the company.

In order to disallow such expenses, the above Explanation is proposed to be inserted.

However, it is submitted that the Code of Ethics of Medical Council or any other profession has to be implemented by respective governing bodies of the profession and not by the Income Tax Act.

Anything done in violation of law – a statutory law is understandable. What is meant by 'rule', 'regulation' or 'guidelines'. Is it referring to statutory 'rule', 'regulation' or 'guidelines' or even to 'rule', 'regulation' or 'guidelines' of an organization.

Compounding fee is many a time is paid to settle an issue without an offence / guilt being proved. Can it still be disallowable?

It is going to be another litigative point.

Also, we need to consider that section 28(iv) of the Act is now highlighted in this FB 22. Assuming that such benefit is provided to a person, it will be income of that person u/s 28(iv) of the Act and at the same time it will be disallowed in the hands of the payer. We hope and wish that our - possible interpretation is held to be wrong.

Effective Date: This amendment will take effect from 1st April, 2022.

12. Allowability of deduction in respect of cess and surcharge [Section 40(a)]:

Sub-clause (ii) of clause (a) of the section 40(a) of the Act provides that any sum paid on account of any rate or tax levied on the profits or gains of any business or profession or assessed at a proportion of, or otherwise on the basis of, any such profits or gains shall not be deducted in computing the income chargeable under the head "profits and gains of business or profession".

It is proposed to insert a new Explanation 3 to sub-clause (ii) of clause (a) of the said section to clarify that for the purposes of sub-clause (ii), the term "tax" shall include and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax.

This will mean that cess and surcharge will not be allowable as deduction in computation of total income of tax payer. This issue is explained in detail in the Memorandum to FB 22. The case laws on the subject and the CBDT Circular has been dealt with in more than 5 pages in the Memorandum. Not agreeing with the same, it is proposed to include an Explanation retrospectively in the Act itself to clarify that for the purposes of this sub-clause, the term "tax" includes and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax. Amendment is made retrospectively to make clear the position irrespective of the circular of the CBDT.

Effective Date:

This amendment will take effect retrospectively from 1st April, 2005 and will, accordingly, apply in relation to the assessment year 2005-2006 and subsequent assessment years.

13. Deductions to be allowed on actual payment [Section 43B]:

Explanations 3C, 3CA and 3D of the section 43B of the Act provide that a deduction of any sum, being interest payable under clauses (d), (da), and (e) of the said section, shall be allowed if such interest has been actually paid and any interest referred to in the clauses which has been converted into a loan or borrowing or advance shall not be deemed to have been actually paid.

It is proposed to amend the Explanations 3C, 3CA and 3D of the section to provide that conversion of interest payable under clauses (d), (da), and (e) of the said section, into debenture or any other instrument by which liability to pay is deferred to a future date, shall also not be deemed to have been actually paid.

Effective Date:

These amendments will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

14. Reduction of Goodwill from block of assets to be considered as 'transfer' [Section 50]:

From the assessment year 2021-2022, goodwill of a business or profession is not considered as a depreciable asset and there would not be any depreciation on goodwill of a business or profession in any situation. In case where goodwill is purchased by an assessee, the purchase price of the goodwill will continue to be considered as cost of acquisition for the purpose of computation of capital gains under section 48 of the Act subject to the condition that in case depreciation was obtained by the assessee in relation to such goodwill prior to the assessment year 2021-22, then the depreciation so obtained by the assessee shall be reduced from the amount of the purchase price of the goodwill.

When the amendment was carried out through the Finance Act 2021, consequential amendment was carried out in section 50 of the Act by insertion of a proviso to clause (2) of that section. A further consequential amendment required is being proposed now.

Accordingly, it is proposed to clarify that for the purposes of section 50 of the Act, reduction of the amount of goodwill of a business or profession, from the block of asset in accordance with sub item (B) of item (ii) of sub-clause (c) of clause (6) of section 43, shall be deemed to be a transfer

Effective Date:

Since the amendment to the effect that goodwill of a business or profession is not a depreciable asset has been made applicable from assessment year 2021-2022 the above amendment will take effect retrospectively from 1st April 2021 and will accordingly apply in relation to the assessment year 2021-22 and subsequent assessment years.

15. Cash Credit [Section 68]:

The existing provisions of section 68 of the Act provide that where any sum is found to be credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.

It is proposed to insert a new proviso to the said section to provide that where the sum so credited consists of loan or borrowing or any such amount by whatever name called, any explanation offered by the assessee shall be deemed to be not satisfactory unless (a) the person in whose name such credit is recorded in the books of the assessee also offers an explanation about the nature and source of such sum so credited, and (b) such explanation in the opinion of the Assessing Officer has been found to be satisfactory. Consequential amendments are proposed in the other provisos.

Vide Finance Act, 2012, it was provided that the nature and source of any sum, in the nature of share application money, share capital, share premium or any such amount

by whatever name called, credited in the books of a closely held company shall be treated as explained only if the source of funds is also explained in the hands of the shareholder. However, in case of loan or borrowing, the judicial decisions have held that only identity and creditworthiness of creditor and genuineness of transactions for explaining the credit in the books of account is sufficient and the onus does not extend to explaining the source of funds in the hands of the creditor.

The source of source was satisfactorily required to be proved only in the case of share application money, share capital, share premium or any similar amount in case closely held company. It is now proposed to widen the scope and to cover proving satisfactorily the source of source also in the case of loan or borrowing or any such amount by whatever name called.

It is therefore proposed to amend the provisions of section 68 of the Act so as to provide that the nature and source of any sum, whether in the form of loan or borrowing, or any such amount credited in the books of an assessee shall be treated as explained only if the source of funds is also explained in the hands of the creditor or entry provider. The use of the words "or entry provider" in the Memorandum is not understood. Is the department assuming that the loans and borrowing is all bogus and it is just a book entry provided by so called "Entry Provider". Somewhere there has to be a trust between Regulator and Taxpayer. For few wrong doers, the things cannot be generalized.

Let us consider a situation –

"During this un-precedent pandemic time, a Taxpayer was facing cashflow crunch in his business (this is a reality). He goes to some known persons and requests them to give him some loan, so that he can keep his business going. He is asking for a help but now with the help he has to tell the lender that please oblige me not only by giving the loan but also by giving your tax papers, bank statements and the explanation as to from where you got the money, as I have to prove it to the satisfaction of the Assessing Officer. Will it work?" If the Assessing Officer wants to verify source of such loan, he can always do so by cross verification with lender directly but asking borrower to get these details is a difficult compliance.

However, this additional onus of proof of satisfactorily explaining the source in the hands of the creditor, would continue to not apply if the creditor is a well regulated entity, i.e., it is a Venture Capital Fund, Venture Capital Company registered with SEBI.

Effective Date:
These amendments will take effect from 1st April, 2023, and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

16. Carry forward and set off of losses in case of certain companies [Section 79]:
In last Finance Act, certain relaxation were provided to facilitate strategic disinvestment and in continuity of the same, further relaxation has been proposed.

Sub-section (1) of section 79 of the Act, provides that where a change in shareholding has taken place during the previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, unless on the last day of the previous year, the shares of the company carrying not less than fifty-one per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of year or years in which the loss was incurred.

Sub-section (2) of the said section provides certain circumstances in which the provisions of sub-section (1) shall not apply.

It is proposed to amend the said sub-section (2) by inserting a new clause (f) to provide that nothing in sub-section (1) shall apply to an erstwhile public sector company subject to the condition that the ultimate holding company of such company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least fifty-one percent of the voting power of the erstwhile public sector company in aggregate.

It is further proposed to insert a new sub-section (3) in the said section to provide that notwithstanding anything contained in sub-section (2), if the condition specified in clause (f) of the said sub-section is not complied with in any previous year after the completion of strategic disinvestment, the provisions of sub-section (1) shall apply for such previous year and subsequent previous years.

'Erstwhile Public Sector Company' means a company which was a public sector company in earlier previous years and ceases to be a public sector company by way of strategic disinvestment by the Government;

'Strategic disinvestment' means sale of shareholding by the Central Government or any State Government in a public sector company which results in reduction of its shareholding to below fifty-one per cent along with transfer of control to the buyer.

These two terms as defined in Explanation to clause (d) of sub-section (1) of section 72A are proposed to be made applicable to this proposed amendment to section 79.

Effective Date:
These amendments will take effect from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-2023 and subsequent assessment years.

17. No set off of losses consequent to search, requisition and survey [Section 79A]:
Section 70 to section 80 of the Act deals with provisions relating to set off of or carry forward and set off of losses while computing the income under various heads and with respect to difference classes of persons. A new section is proposed to be inserted to deal with set off of losses in specified circumstances.

The proposed new section seeks to provide that notwithstanding anything contained in the Act, no set off of losses brought forward, or otherwise, or unabsorbed depreciation under sub-section (2) of section 32 of the Act shall be allowed to an assessee while computing his total income in any previous year which includes undisclosed income.

The expression "undisclosed income" is proposed to be defined as under:

> "For the purposes of this section, the expression "undisclosed income" means,-
>
> (i) any income of the previous year represented, either wholly or partly, by any money, bullion, jewellery or other valuable article or thing or any entry in the books of account or other documents or transactions found in the course of a search under section 132 or a requisition under section 132A or a survey under section 133A other than under sub-section (2A) of that section, which has-
>
> (A) not been recorded on or before the date of search or requisition or survey, as the case may be, in the books of account or other documents maintained in the normal course relating to such previous year; or
>
> (B) not been disclosed to the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner before the date of search or requisition or survey, as the case may be; or
>
> (ii) any income of the previous year represented, either wholly or partly, by any entry in respect of an expense recorded in the books of account or other documents maintained in the normal course relating to the previous year which is found to be false and which would not have been found to be so, had the search not been initiated or the survey not been conducted or the requisition not been made."

It is stated in the Memorandum that - allowing the adjustment of undisclosed income detected as a result of search or requisition or survey against the loss or unabsorbed depreciation is resulting in short levy of tax. The provision of non-adjustment of loss or unabsorbed depreciation against undisclosed income detected as a result of search

or requisition or survey would help in ensuring that proper tax is paid on income detected due to a search or survey and also result in increased deterrence against tax evasion.

Currently there is no provision in the Act to disallow such set-off and no distinction is made between undisclosed income which was detected owing to search and seizure or survey or requisition proceedings and income assessed in scrutiny assessment in the regular course of assessment though for incomes falling in section 68, section 69, section 69B etc., such restriction is there.

Therefore, it is proposed to insert a new section 79A in the Act to provide that notwithstanding anything contained in the Act, where consequent to a search initiated under section 132 or a requisition made under section 132A or a survey conducted under section 133A, other than under sub-section (2A) of section 133A, the total income of any previous year of an assessee includes any undisclosed income, no set off, against such undisclosed income, of any loss, whether brought forward or otherwise, or unabsorbed depreciation under sub-section (2) of section 32 shall be allowed to the assessee under any provision of this Act in computing his total income for such previous year.

Effective Date:
This amendment will take effect from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-2023 and subsequent assessment years.

18. Incentives to National Pension System (NPS) subscribers for state government employees [Section 80CCD]:

It is proposed to amend sub-section (2) to Section 80CCD of the Act so as to provide that the deduction under section 80CCD of the Act shall be allowed to the assessee, in respect of any contribution made by the State Government also to the account of the employee under a notified pension scheme, of the whole of the amount contributed by the State Government as it does not exceed fourteen percent of his salary in the previous year.

Effective Date:
This amendment will take effect retrospectively from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-2021 and subsequent assessment years.

19. Condition of releasing of annuity to a disabled person [Section 80DD]:

The provisions of the said section, provide for a deduction to an individual or Hindu undivided family, who is a resident in India, in respect of expenditure incurred for the medical treatment (including nursing), training and rehabilitation of a dependent, being a person with disability; or amount paid to Life Insurance Company or any other insurer or administrator or specified company, in respect of a scheme for the maintenance of a disabled dependent.

Sub-section (2) of the said section provides that deduction shall be allowed only if the payment of annuity or lump sum amount has been made for the benefit of the dependent, being a person with disability, in the event of the death of the individual or

the member of the Hindu undivided family in whose name subscription to the scheme has been made and the assessee nominates either the dependent or any other person to receive the payment on his behalf for the benefit of the dependent, being a person with disability.

Sub-section (3) of the said section provides that if the dependent with disability, predeceases the individual or the member of the Hindu undivided family, the amount deposited in such scheme shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee and shall accordingly be chargeable to tax as the income of that previous year.

It is proposed to modify sub-section (2) provide that the deduction shall be allowed –

(i) If the scheme provides for payment of annuity or lump sum amount for the benefit of a dependent, being a person with disability, in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made; or

(ii) On his attaining the age of sixty years or more or the member of the Hindu undivided family, and the payment or deposit to such scheme has been discontinued (this is now proposed to be inserted).

Further, it is proposed to insert a new sub-section (3A) to provide that the provisions of sub-section (3) shall not apply to the amount received by the dependent, being a person with disability, before his death, by way of annuity or lump sum by application of the condition referred to in the proposed sub-clause (ii) of clause (a) of sub-section (2).

Effective Date:
These amendments will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

20. Extension of date of incorporation for eligible start up for exemption [Section 80IAC]:

The existing provisions of the section 80-IAC of the Act provide for a deduction of an amount equal to one hundred percent of the profits and gains derived from an eligible business by an eligible start-up for three consecutive assessment years out of ten years, beginning from the year of incorporation, at the option of the assesses subject to the condition that,-

(i) the total turnover of its business does not exceed one hundred crore rupees,

(ii) it is holding a certificate of eligible business from the Inter-Ministerial Board of Certification, and

(iii) it is incorporated on or after 1st day of April, 2016 but before 1st day of April 2022.

Due to COVID pandemic there have been delays in setting up of such units. In order to factor in such delays and promote such eligible start-ups, it is proposed to amend the provisions of section 80-IAC of the Act to extend the period of incorporation of eligible start-ups to 31st March, 2023.

Effective Date:
This amendment will take effect from 1st April, 2022 and will accordingly apply in relation to the assessment year 2022-23 and subsequent assessment years.

21. Faceless Schemes under the Act [Section 92CA, 144C, 253 and 255]:
The Central Government has undertaken a number of measures to make the processes under the Act, electronic, by eliminating person to person interface between the taxpayer and the Department to the extent technologically feasible, and provide for optimal utilization of resources and a team-based assessment with dynamic jurisdiction. A series of futuristic reforms have been introduced in the domain of Direct Tax administration for the benefit of taxpayers and economy. This started with faceless assessment in electronic mode involving no human interface between taxpayers and tax officials. The faceless procedures are being introduced in a phased manner in the Act.

Provisions for notifying faceless schemes under sections 92CA, 144C, 253 and 264A were introduced in the Act through Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 with effect from 01.11.2020 and under section 255, was inserted through Finance Act, 2021 with effect from 01.04.2021. The date for issuing of directions for the faceless schemes for the following have been extended to 31st March, 2024:

S. No.	Section	Scheme	Existing Date of Limitation	Proposed Date of Limitation
1.	92CA	Faceless determination of arm's length price	31st day of March, 2022	31st day of March, 2024
2.	144C	Faceless Dispute Resolution Panel	31st day of March, 2022	31st day of March, 2024
3.	253	Faceless appeal to Appellate Tribunal	31st day of March, 2022	31st day of March, 2024
4.	255	Faceless procedure of Appellate Tribunal	31st day of March, 2023	31st day of March, 2024

To avoid delay in stabilization of the current information technology structure and systems, Finance Bill, 2022 proposes to extend the timeline for issuing directions for the purposes of faceless procedures under these Sections till March 31, 2024. Cognizance is also taken of the fact that for notification of scheme under Section 253 and Section 255, procedures will need to be formulated after due consultations with Ministry of Law & Justice.

Effective Date:
These amendments will take effect from 1st April, 2022.

22. Avoidance of tax by certain transactions in securities [Section 94]:

Section 94 of the Act contains provisions on dividend stripping and bonus stripping. Dividend / bonus stripping is an attempt to reduce the tax liability by an investor by investing in securities and units, within a specified time before the record date and receiving tax free dividend / income / additional units (as the case maybe). Thereafter, the investor exits from such security / original units after the record date at a price lower than the price at which such securities/units were purchased thereby incurring a loss. In order to prevent evasion of tax, Section 94(7) of the Act provides that loss (not exceeding the amount of dividend / income received by the taxpayer) arising on account of such purchase and sale of securities / units should not be taken into account for computing tax liability of the taxpayer. Similarly, section 94(8) of the Act provides that the loss, arising to an investor on account of purchase and sale of original units shall be ignored for the purpose of computing his total income chargeable to tax.

The FB 22 proposes to introduce the definition of 'units' in section 94 of the Act. Units are proposed to mean:

i) Unit of a business trust, i.e. Real Estate Investment Trust and Infrastructure Investment Trust;

ii) Units of a mutual fund or Unit Trust of India;

iii) Beneficial interest of an investor in an AIF including shares or partnership interests.

It also proposes to amend the definition of 'record date' to include reference to business trusts and AIFs.

It is also proposes to amend sub-section (8) of section 94 of the Act so as to provide that the provisions of the sub-section shall also be applicable to securities.

The current provisions of sub-section (8) of section 94 of the Act do not apply to bonus stripping undertaken in case of securities. It is also not applicable to units of Infrastructure Investment Trust (InvIT) or Real Estate Investment Trust (REIT) or Alternative Investment Funds (AIFs) as the definition of the term "unit" has not been modified subsequent to introduction of provisions relating to RETIs, InvITs etc. Further, the current provisions of sub-section (7) of section 94 of the Act, i.e. provisions pertaining to dividend stripping, are not applicable to the units of new pooled investment vehicles such as InvIT or REIT or AIFs. By virtue of these proposed amendments the provisions of dividend stripping and bonus stripping are proposed to be extended to units of business trusts such as InvIT or REIT and AIFs and also provisions of bonus stripping are proposed to be extended to securities.

The Hon'ble Bangalore Tribunal had in the case of DCIT v. B.G. Mahesh (64 SOT 39) held that where the assessee had purchased certain shares immediately prior to allotment of bonus shares and after allotment of those shares original shares whose value had reduced to almost 50 per cent were sold, said transaction was actually in nature of 'bonus stripping' covered under section 94(8), however, since said section

covered only 'units' and not 'securities', assessee's claim for set off of said loss could not be disallowed. Section 94(8) was applicable only to 'units' which meant units of Mutual Funds only. The proposed amendment has sought to overrule the aforementioned decision and included the term 'securities' in section 94(8).

Please note that the dividend income is now taxable in the hands of shareholder and therefore, provisions of section 94(7) of the Act in respect of dividend stripping including proposed changes to it will have limited applicability.

Effective Date:
These amendments will take effect from the 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

23. Concessional rate of tax for new domestic manufacturing company [Section 115BAB]:

Section 115BAB of the Act provides for an option of concessional rate of taxation @ 15 % for new domestic manufacturing companies provided that they do not avail of any specified incentives or deductions and fulfil certain other conditions.

Sub-section (2) of section 115BAB of the Act contains the conditions required to be fulfilled by such companies. Clause (a) of said sub-section (2) provides that the new domestic manufacturing company is required to be set up and registered on or after 01.10.2019, and is required to commence manufacturing or production of an article or thing on or before 31st March, 2023.

In order to provide relief to such companies, it is proposed to amend section 115BAB so as to extend the date of commencement of manufacturing or production of an article or thing, from 31st March, 2023 to 31st March, 2024.

Effective Date:
This amendment will take effect from 1st April, 2022 and will accordingly apply in relation to the assessment year 2022-23 and subsequent assessment years.

24. Withdrawal of concessional rate of taxation on foreign dividend [Section 115BBD]:

Section 115BBD of the Act provides for a concessional rate of tax of 15 % on the dividend income received by an Indian company from a foreign company in which the said Indian company holds 26 % or more in nominal value of equity shares (specified foreign company). This rate was aligned to the rate of tax provided under section 115-O of the Act.

Finance Act, 2020 abolished the dividend distribution tax provided in section 115-O to provide that dividend shall be taxed in the hands of the shareholder at applicable rates plus surcharge and cess.

In order to provide parity in the tax treatment in case of dividends received by Indian companies from specified foreign companies vis a vis dividend received from domestic companies, it is proposed to amend section 115BBD of the Act to provide

that the provisions of this section shall not apply to any assessment year beginning on or after the 1st day of April, 2023.

Effective Date:
This amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

25. Alternate Minimum Tax for Co-operative Society [Sections 115JC & 115JF]:
Section 115JC of the Act, inter alia, provides for the alternate minimum tax (AMT) payable by co-operative societies, which is at the rate of 18.5%. However, vide the Taxation Laws (Amendment) Act, 2019, the Minimum Alternate Tax (MAT) rate for companies was reduced to 15%. Therefore, in order to provide parity between co-operative societies and companies, it is proposed to modify sub-section (4) of section 115JC to reduce the AMT rate at which co-operative societies are liable to pay income-tax to 15%. Consequential amendment is also proposed in clause (b) of section 115JF in relation to the definition of "alternate minimum tax".

Effective Date:
These amendments will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

26. Power of the Board to issue Orders, Instructions in public interest [Section 119]:
Section 119 of the Act empowers the Board to issue orders, instructions and directions to other income-tax authorities for proper administration of the Act. Clause (a) of sub-section (2) of the said section gives powers to the Board to provide relaxation of provisions of certain sections of the Act such as 115P, 115S, 115WD, 139, 1211, 234A, 234B, 234C, 234E, etc.by way of general or special orders, in respect of any class of incomes or class of cases, for the purpose of proper administration of the work of assessment or collection of revenue or initiation of proceedings for the imposition of penalties and such other issues, in public interest.

It is proposed to insert section 234F and include it in the list of sections mentioned in clause (a) of sub-section (2) of section 119 of the Act, so as to enable the Board to issue such orders or instructions, as deemed fit.

Effective Date:
This amendment will take effect from 1st April, 2022.

27. Provisions relating to search assessment [Sections 132, 132B, 153B and 271AAB]:
In cases where search is initiated under section 132 of the Act or books of account, other documents or any assets are requisitioned under section 132A of the Act, on or after 1st April, 2021, assessment or reassessment is now made under sections 143 or 144 or 147 of the Act after the Finance Act, 2021.

In order to align the scheme of search assessments with the intent of the Act, it is proposed to—

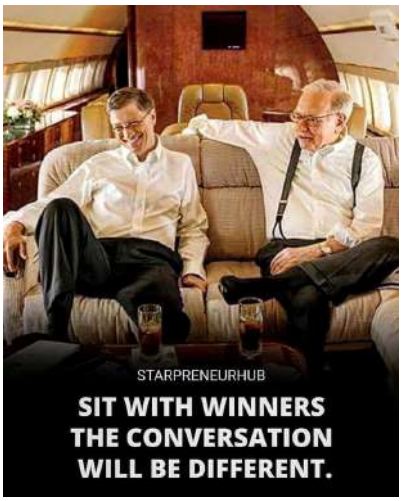
(i) amend sub-section (8) of section 132 to make the provisions of that section also applicable to assessment or reassessment or re-computation under sub-section (3) of 143 or section 144 or section 147, as the case may be,

(ii) amend clause (i) of sub-section (1) and sub-section (4) of section 132B to provide that these provisions shall also apply to assessment or reassessment or re-computation.

These amendments will take effect from 1st April, 2022.

(iii) amend section 153, by inserting a new clause to provide for exclusion of the period of limitation for the purpose of assessment, reassessment or re-computation, (not exceeding one hundred eighty days) commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee, in whose case such search is initiated or such requisition is made or to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to or to whom any books of account or documents seized or requisitioned, pertains or pertain to, or any information contained therein, relates to;

(iv) amend section 153B, by inserting a new clause to provide for exclusion of the period (not exceeding one hundred eighty days) commencing from the date on which a search is initiated under section 132 or a requisition is made under section 132A and ending on the date on which the books of account or other documents, or any money, bullion, jewellery or other valuable article or thing seized under section 132 or requisitioned under section 132A, as the case may be, are handed over to the Assessing Officer having jurisdiction over the assessee, in whose case such search is initiated under section 132 or such requisition is made under section 132A.



These amendments will take effect retrospectively from 1st April, 2021.

28. Income Tax Authority [Section 133A]:

Section 133A of the Act enables an income-tax authority to enter any place of business or profession or charitable activity within his jurisdiction to verify the books of account or other documents, cash, stock or other valuable article or thing, which may be useful for or relevant to any proceeding under this Act. Explanation to section

133A provides the definition of an income tax authority for the purposes of this section.

Through Taxation and Other Laws (Amendment and Relaxation of Certain Provisions) Act, 2020, the Explanation was amended to provide that any income-tax authority who is subordinate to the Principal Director General of Income-tax (Investigation) or the Director General of Income-tax (Investigation) or the Principal Chief Commissioner of Income-tax (TDS) or the Chief Commissioner of Income-tax (TDS), as the case may be shall only be considered as Income-tax authorities for the purposes of section 133A.

It is proposed to amend the Explanation to section 133A of the Act to provide that income tax authority shall be sub-ordinate to Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner, as the case may be, specified by the Board.

Effective Date:
This amendment will take effect from 1st April, 2022.

29. Filing of Updated Return [Section 139, 140B, 144, 153, 234A, 234B, 276CC]:
Section 139 of the Act is related to the provisions for filing of Income Tax Return by taxpayers.

- Sub-section (1) of section 139 of the Act casts responsibility on the taxpayer to furnish a return within a definite time period or up to a particular date, that is, the due date.

- Sub-section (4) of section 139 of the Act facilitates filing of a belated return after the expiry of due date, if such return is furnished before 3 months prior to the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

- Similarly, sub-section (5) of section 139 of the Act provides the taxpayer an opportunity to revise the return filed under sub-section (1) or sub-section (4) in case of any omission or wrong statement, after due date, which is to be filed 3 months before the end of the assessment year or before the completion of assessment, whichever is earlier.

This additional timeline for filing a revised/belated return may not be adequate when we factor in utilization of huge information and data available coupled with the "nudge approach" that motivates the taxpayer towards the desired objective of voluntary tax compliance, starting with filing of correct tax returns.

Therefore, it is proposed to introduce a new provision in section 139 of the Act for filing an updated return of income by any person, whether he has filed a return previously for the relevant assessment year, or not. The proposal for updated return over a period longer than that is provided in the existing provisions of Income-tax Act would on the one hand bring use of huge data with the IT Department to a logical

conclusion resulting in additional revenue realization and on the other hand, it will facilitate ease of compliance to the taxpayer in a litigation free environment.

The following amendments to the Act are proposed for incorporating the above provisions: -

A. A new sub-section (8A) in section 139 is proposed to be introduced to provide for furnishing of updated return under the new provisions.

(i) Any person, whether or not he/she/it has furnished a return whether original, revised or belated for the relevant assessment year, may furnish an updated return of his/her/its income or the income of any other person in respect of which he/she/it is assessable under the Act, for the previous year relevant to such assessment year, within twenty four months from the end of the assessment year.

(ii) The proposed sub-section (8A) of section 139 shall not apply, if the updated return, is a loss return or has the effect of decreasing the total tax liability determined or results in refund or increases the refund due on the basis of return already filed for the relevant assessment year.

(iii) A person shall not be eligible to furnish an updated return under the proposed sub-section (8A) of section 139, if: –

(a) search has been initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of such person, or

(b) a survey has been conducted under section 133A, other than subsection (2A) of that section, in the case such person, or

(c) a notice has been issued to the effect that any money, bullion, jewellery or valuable article or thing, seized or requisitioned under section 132 or section 132A in the case of any other person belongs to such person, or

(d) a notice has been issued to the effect that any books of account or documents, seized or requisitioned under section 132 or section 132A in the case of any other person, pertain or pertains to, or any other information contained therein, relate to, such person.

The above clauses a) to d) is for the assessment year relevant to the previous year in which such search is initiated or survey is conducted or requisition is made and two assessment years preceding such assessment year.

(e) an updated return has already been furnished by him under the proposed subsection (8A) of section 139 of the Act for the relevant assessment year, or

(f) any proceeding for assessment or reassessment or re-computation or revision of income under the Act is pending or has been completed for the relevant assessment year in his case, or

(g) the Assessing Officer has information in respect of such person for the relevant assessment year in his possession under the Prevention of Money Laundering Act, 2002 or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 or the Prohibition of Benami Property Transactions Act, 1988 or The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 and the same has been communicated to him, prior to the date of his filing of the Updated Return, or

(h) information for the relevant assessment has been received under an agreement referred to in sections 90 or 90A of the Act in respect of such person and the same has been communicated to him, prior to the date of his filing of the Updated return, or

(i) any prosecution proceedings have been initiated for the relevant assessment year in respect of such person, prior to the date of his filing of the Updated return, or

(j) he is a person or belongs to a class of persons, as maybe notified by the Board in this regard.

(iv) It has also been proposed to amend sub-section (9) of section 139 to provide that a return filed under the proposed sub-section (8A) of the said section 139 shall be defective unless such return is accompanied by the proof of payment of tax as required under the proposed section 140B.

B. A new section 140B has been proposed to provide for the tax required to be paid for opting to file a return under the proposed provisions i.e. sub-section (8A) of section 139 of the Act.

I. Where no return furnished earlier for the relevant assessment year prior to filing of the Updated Return: The tax payable shall be computed after taking into account the following:-

(i) the amount of tax, if any, already paid as advance tax;

(ii) any tax deducted or collected at source;

(iii) any relief of tax claimed under section 89;

(iv) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India;

(v) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section; and

(vi) any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD.

II. Where an Original / Revised or Belated Return has been filed for the relevant assessment year prior to filing of the Updated Return: The tax payable shall be computed after taking into account the following:-

(i) the amount of relief or tax, referred to in sub-section (1) of section 140A, the credit for which has been taken in the earlier return;

(ii) tax deducted or collected at source, on any income which is taken into account in computing total income and which has not been claimed in the earlier return;

(iii) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India on such income which has not been claimed in the earlier return;

(iv) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been claimed in the earlier return;

(v) any tax credit claimed, to be set off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return.

The aforesaid tax shall be increased by the amount of refund, if any, issued in respect of such earlier return.

III) The tax as computed in Point I and II above shall be increased by interest, late filing fees, etc.

IV) **Additional Income tax:** In addition to the amounts payable as per Point I, II and III above, a person is required to also pay an additional income tax. The additional income tax, payable at the time of furnishing the Updated Return, shall be equal to-

- 25% of the aggregate of tax and interest payable, as determined in sub-paragraphs I or II and III above, if such return is furnished after expiry of the time limit to file belated / revised return but within 12 months from end of the Assessment Year.

- 50% of the aggregate of tax and interest payable, as determined in sub-paragraphs I or II and III above, if such return is furnished after expiry of 12 months but within 24 months from end of the Assessment Year.

It is also clarified that for the purposes of computation of "additional income-tax", tax shall include surcharge and cess, by whatever name called, on such tax.

C. Amendment in section 234B of the Act

In the cases where an earlier return has been furnished for the relevant assessment year, interest payable under section 234B of the Act shall be computed on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax, where, "assessed tax" means the tax on the total income as declared in the Updated return after taking into account the reliefs mentioned in Point B-II.

D. Other Consequential Amendments

(i) Where no earlier return has been furnished, the interest payable under section 234A of the Act shall be computed on the amount of the tax on the total income as declared in the Updated Return. No further interest u/s. 234A of the Act is payable on the amount of additional income tax as per section 140B.

(ii) Interest payable under section 234C of the Act, where an earlier return has not been furnished, shall be computed after taking into account the income furnished in the Updated Return.

(iii) For the computation of additional income tax, the interest payable shall be interest chargeable under any provision of the Income-tax Act, on the income as per the Updated Return, as reduced by interest paid in the earlier return, if any.

(iv) Updated Returns also to be subject to proceedings for best judgement assessments u/s. 144 of the Act.

(v) Where an Updated Return is furnished, an Order of assessment under section 143 or 144 of the Act may be made at any time before the expiry of 9 months from the end of the financial year in which the Updated Return was furnished.

(vi) No prosecution shall be initiated against a person u/s. 276CC of the Act for failure to furnish in due time the Return of Income under sub-section 1 of section 139 of the Act, if such person has furnished an Updated Return for the relevant assessment year.

Effective Date:

These amendments will take effect from 1st April, 2022.

Let's take the case of salaried person who has filed his returns for assessment year 2020-21 (financial year ended March 31, 2020), and he has forgotten to include certain interest income of Rs 50,000. Assuming he is in the 31.2% rate slab, the tax on this undisclosed interest income would be Rs 15,600 and penal interest up to April 2022 may be about Rs 5,000. The aggregate liability works out to Rs 20,600. Under the proposed scheme, the additional tax will be Rs 10,300 (50% of Rs, 20,600, as more than one year has lapsed since the end of the assessment year). Thus, the total tax payable will be Rs 30,900.

The point has been raised whether one should go for filing updated return by paying such additional tax or not.

The benefits are:

- Satisfaction of having filed correct return of income;
- Saving from penalty proceedings;
- Ranging from 50% to 200% of differential tax;
- Relief from prosecution proceedings;

A decision has to be taken by each taxpayer considering his/her/it facts. One can only say when you come to know about an error or a mistake, one should correct it.

30. Amendment in Faceless Assessment under the Act [Section 144B]:

Various difficulties are being faced by the administration and the taxpayers in the operation of the faceless assessment procedure. In view of the difficulties being faced, it is proposed that the existing provisions of the section 144B of the Act may be amended to streamline the process of faceless assessment in order to address the various legal and procedural problems being faced in the implementation of the said section.

Therefore, it is proposed to substitute existing section 144B of the Act with a new section 144B, wherein the following changes have been proposed as compared to the erstwhile provisions –

(a) the provisions of the proposed section shall apply even to reassessment proceedings u/s. 147 of the Act.

(b) technical units (TU), to perform the function of providing technical assistance which now also includes technical assistance with respect to Double Tax Avoidance Agreements.

(c) Review of income determination proposal added to functions of Review Unit (RU).

(d) **Personal hearing is compulsorily to be granted in case where such request is made by the assesse vis-à-vis earlier provisions wherein discretionary powers were vested with the Assessing Officer.**

(e) Regional Faceless Assessment Centers have been removed.

[These amendments will take effect from 1st April, 2022]

(f) Under the existing provisions, the assessment order passed under faceless assessment shall be void if the procedure mentioned in the section is not followed. This has resulted in large number of disputes and bringing question to the validity of assessment order passed thereunder. To avoid such situation, it is, proposed to omit this sub-section from the date of its inception. Hence

even if procedure prescribed u/s. 144B is not followed, assessment order will not be non-est.

This is fine for department but if proper procedure is not followed, where the Taxpayer will go.

[This amendment will take effect retrospectively from 1st April, 2021]

The Hon'ble Delhi High Court in the case of Bharat Aluminium Company limited reported in TS-19-HC-2022(DEL) allowed the writ petition preferred by Bharat Aluminium Company Limited, held that Assessee has a vested right to personal hearing in a faceless assessment proceedings, thus, the personal hearing shall be given if an Assessee asks for it which cannot depend upon the facts of each case. Expounded that the word 'may' in Section 144B(7)(viii) should be read as 'must' or 'shall', thus, held that the requirement of giving a reasonable opportunity of personal hearing is mandatory.

The proposed amendment is in line with the ratio of the above decision.

Effective Date:
This amendment will take effect from 1st April, 2022 except for clause (f) which will take effect retrospectively from 01st April, 2021.

31. Provisions relating to reassessment [Sections 148, 148A, 148B, 149 and 153]:
The Finance Act, 2021 amended the procedure for reassessment of income in the Act with effect from the 1st April, 2021. The said amendment modified, section 147, section 148, section 149 and also introduced a new section 148A in the Act.

Some important proposals in reassessment procedure are as under:

i) Under the existing provisions, there is a requirement to obtain approval of specified authorities before issuing a notice for re-assessment at three instances, i.e. (i) at the time of serving a show-cause notice to the taxpayer under section 148A(b); (ii) at the time of passing of an order by the AO after taking into account reply by the taxpayer to the notice under section 148A(d); and (iii) at the time of actually issuing a notice. In order to prevent such an duplication, the FB 22 proposes that prior approval should be required only once, i.e. at the time of passing of the order under section 148A (d).

These amendments will take effect from 1st April, 2022.

ii) The FB 22 proposes to clarify that 'information which suggests that income has escaped assessment' includes:

- any audit objection, or
- any information received from a foreign jurisdiction under an agreement or directions contained in a court order, or
- information received under a scheme notified for faceless collection of information under section 135A of the Act.

The intention to change the standard from 'reason to believe' to 'information which suggest that income has escaped assessment' was to bring about more objectivity in the standard for initiating re-assessment proceedings. But due to lack of clarity it has not happened so.

There is no clarity on what exactly is meant by the term 'audit objection' in the context of it constituting 'information which suggests that income has escaped assessment'.

iii) In terms of timelines for conducting re-assessment proceedings, section 149 of the Act provides that no notice may be issued under section 148 if

(a) three years have elapsed from the end of the relevant AY; or

(b) if three but not more than ten years have elapsed from the end of the relevant AY in cases where the AO has in his possession books of accounts or other documents or evidence which reveal that income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to Rs. 50 lakhs.

The FB 22 proposes to enhance the scope of (b) above by including within its scope, income chargeable to tax represented in the form of expenditure in respect of a transaction or in relation to an event or occasion, or an entry or entries in the books of accounts.

(iv) Further, to correct the inadvertent drafting errors and align the provisions with the intent of the section, certain amendments have been proposed.

Effective Date:
These amendments will take effect from 1st April, 2022.

32. Modification and revision of Notice of Demand [Section 156A]:
A new section is proposed to be inserted in relation to modification and revision of Notice of Demand.

It is proposed to provide that where any tax, interest, penalty, fine or any other sum in respect of which a notice of demand has been issued under section 156, is reduced as a result of an order of an Adjudicating Authority as defined in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016, the Assessing Officer shall modify the demand payable in conformity with such order and shall thereafter serve on the assessee a notice of demand specifying the sum payable, if any, and such notice of demand shall be deemed to be a notice under section 156 and the provisions of this Act shall apply accordingly.

It is further proposed to provide that where the order referred to in sub-section (1) is modified by the National Company Law Appellate Tribunal or the Supreme Court, as the case may be, the modified notice of demand as referred to in sub-section (1), issued by the Assessing Officer shall be revised accordingly.

Effective Date:
These amendments will take effect from 1st April, 2022.

33. Litigation management for appeal by revenue [Section 158AA and 158AB]:
Section 158AA of the Act provides that where the Commissioner or Principal Commissioner is of the opinion that any question of law arising in the case of an assessee (relevant case) is identical with a question of law arising in his case for another assessment year (other case) which is pending in appeal before the Supreme Court against an order of High Court which was in favour of assessee, he may direct the Assessing Officer to make an application to the Appellate Tribunal stating that an appeal on the question of law in the relevant case may be filed when the decision on the question of law becomes final in the other case, subject to the acceptance of the same by the assessee. A sunset clause is proposed to be inserted in sub-section (1) of section 158AA to provide that no direction shall be given under the said sub-section on or after 1st April, 2022.

A new section 158AB in the Act is proposed to be inserted, to provide that where a collegium of Chief Commissioners or Principal Commissioners or Commissioners is of the opinion that any question of law arising in the case of an assessee for any assessment year ("relevant case") is identical with a question of law already raised in his case or in the case of any other assessee for an assessment year, which is pending before the jurisdictional High Court or the Supreme Court in favour of such assessee ("other case"), it may, decide and intimate the Commissioner or Principal Commissioner not to file any appeal, at this stage, to the Appellate Tribunal under sub-section (2) of section 253 or to the High Court under sub-section (2) of section 260A against the order of the Commissioner (appeals) or the Appellate Tribunal, as the case may be.

Further, the Commissioner or Principal Commissioner shall, on receipt of a communication from the collegium, direct the Assessing Officer to make an application to the Appellate Tribunal or jurisdictional High Court, as the case may be, in the prescribed form within 60 from the date of receipt of the order of the Commissioner (Appeals) or within 120 days from the date of receipt of the order of the Appellate Tribunal, as the case may be, stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the other case. The Commissioner or Principal Commissioner shall direct the Assessing Officer to make such an application only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case, and in case no such acceptance is received, the Commissioner or Principal Commissioner shall proceed in accordance with the provisions contained in sub-section (2) of section 253 or in sub-section (2) of section 260A.

Furthermore, where the order of the Commissioner (Appeals) or the order of the Appellate Tribunal, as the case may be, in the relevant case is not in conformity with the final decision on the question of law in the other case as and when such order is received, the Commissioner or Principal Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal or the jurisdictional High Court, as the

case may be, against such order. The Appeal in the relevant case shall be filed within a period of 60 days from the date on which the Order of the Jurisdictional High Court or the Supreme Court, in the other case, is communicated to the Principal Commissioner or Commissioner.

Earlier, the Commissioner had the power to prevent appeals in a Relevant Case only when the Other Case was pending in the Supreme Court. The fact that such a power has been extended even to cases pending at the High court is a welcome move and should go a long way in reducing duplicity of matters and therefore the amount of litigation

Effective Date:
This amendment will take effect from 1st April, 2022.

34. Succession to business otherwise than on death [Sections 170 & 170A]:
Chapter XV of the Act refers to liability in certain special cases. Section 170 of the Act, governs the procedure of taxation in case of succession to business in the event of reorganization or restructuring of the business.

In practice once an entity starts the process of reorganization by filing an application with the adjudicating authority or any High Court, the period of time involved in coming to a conclusion with respect to such reorganization is found to be a long-drawn process and is not time-bound. The reorganization often is from a preceding date. During the pendency of the court proceedings the income tax proceedings and assessments are carried on and often completed on the predecessor entities only. Courts have held such proceedings and consequent assessments illegal as the predecessor assessee ceases to exist in the midst of a perfectly valid and legal proceeding.

Till the decision of the court is received, the proceedings of the Act have to be continued in the case of the predecessor only and such proceedings once completed, cannot become illegal as a result of subsequent order of any court. Therefore, with a view to clarify that such proceedings under the Act are valid, it is proposed to insert a sub-section (2A) to section 170, to provide that the assessment or other proceedings pending or completed on the predecessor in the event of a business reorganization, shall be deemed to have been made on the successor.

Further, it is seen that post such reorganization, the affairs of the successor entity go through a complete change with effect from the date from which such reorganization takes place. However, due to the indefinite timeline involved in issuing such orders, there is a gap between the effectivity of such order and the date on which such order is issued by the competent authority. This also affects the final accounts of such entities as they are unable to modify their already filed returns in accordance with the reorganization. It is proposed to insert a new section 170A to the Act, to enable for the entities going through such business reorganization, for filing of modified returns for the period between the date of effectivity of the order and the date of issuance of final order of the competent authority.

Earlier, the Hon'ble Supreme Court in the case of Dalmia Power Ltd. v. ACIT (269 Taxman 352) has held that where pursuant to scheme of amalgamation approved by NCLT, transferor companies had been succeeded by transferee companies after due date for filing revised return, Department was to consider revised returns filed beyond prescribed timeline after taking into account scheme of amalgamation as sanctioned by NCLT. By way of the proposed Amendment, the view of the Hon'ble Supreme Court has been given legislative approval.

The proposed new sub-section (2A) provides a deeming provision in order to save and validate the proceedings and to hold the assessment or other proceedings pending or completed on the predecessor in the event of a business reorganization, to be held in the hands of the successor. It inserts an Explanation to define the expressions,-

(i) "business reorganization" means the reorganization of business involving the amalgamation or de-merger or merger of business of one or more persons;

(ii) "pendency" to mean the period commencing from the date of filing of application for such reorganization of business before the High Court or tribunal or the date of admission of an application for corporate insolvency resolution by the Adjudicating Authority as defined in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016 and ending with the date on which the order of such High Court or tribunal or such Adjudicating Authority, as the case may be, is received by the Principal Commissioner or the Commissioner.

Earlier the Hon'ble Supreme Court in the case of Maruti Suzuki India Limited reported in TS-707-SC-2019-TP dismissed the revenue's appeal challenging the decision of the Hon'ble High Court wherein the Hon'ble High Court quashed assessment framed in the name of non-existent amalgamating company (Suzuki Powertrain India). Hon'ble Supreme Court noted that Assessing Officer was informed about company's closure pursuant to amalgamation, still notice was issued u/s 143(2) in the name of erstwhile entity. Further, called the notice a substantive illegality and not a procedural violation of the nature adverted to in Section 292B. It also went onto clarify that participation in the proceedings by the assessee in the circumstances could not operate as an estoppel against law.

The Hon'ble Delhi High Court in the case of Dimension Apparels Private Limited reported in TS-610-HC-2014(DEL) invalidated the assessment as assessee was 'non-

existent' by virtue of amalgamation. Going by the lines of section 170(2), it held that assessment for period prior to 'succession' date must be made on successor (i.e 'amalgamated company') when predecessor could not be found. Further held that framing of assessment against non- existing company a jurisdictional defect, not procedural and not curable u/s 292B.

These decisions are proposed to be overruled.

The Hon'ble Madras High Court in the case of Vedanta Limited reported in TS-608-HC-2021(MAD), wherein the Hon'ble High Court dismissed writ petition against reassessment and held proceedings to be valid since the error of issuing the notice u/s 148 in the name of a non-existent entity was rectified by the Revenue during the course of proceedings and PAN was not incorrectly mentioned. Held that where the notice was communicated to an unknown person, alien to the Assessee, then Section 292B could not have helped the Revenue but where the notice was intended to be issued to a person to whom it was to be issued and such person acknowledged the PAN and responded to correspondences then there was no reason to disbelieve the Revenue that the name mentioned wrongly was a mistake to be fit within the provisions of Section 292B.

The proposed amendment is in a way in the line of this decision.

Effective Date:
This amendment will take effect from 1st April, 2022.

35. Liability of a Director of a Private Company [Section 179]:

Section 179 of the Act enables Income tax authorities to hold each director of a private company jointly and severally liable for payment of tax due from such private company where such tax cannot be recovered from the company itself, unless the director proves that the non-recovery of tax is not due to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company. While the language of the provision itself is quite broad, the title of the section is limited to "Liability of directors of private company in liquidation". The FB 22 proposes to align the title with the scope of the provision by amending the title of Section 179 to "Liability of directors of private company", thereby ensuring that orders under Section 179 can be issued even if the relevant company is not under liquidation.

By expanding the scope of the title, the Government has brought to the notice of tax officials that this provision may be used against directors of private companies regardless of whether the Company is under liquidation or not. This may increase the probabilities of directors having to prove that the non-recovery is not due to any gross neglect, misfeasance or breach of duty on their part. The tests of gross neglect / misfeasance / breach of duty themselves are wide in nature, and directors may need to be wary of this heightened probability due to the proposed change.

Further, Explanation to the section clarifies that the expression "tax due" in the section includes penalty, interest of any other sum payable under the Act. In order to avoid unnecessary litigation and to provide further clarity, it is also proposed to insert

the word "fees" in the scope of the expression "tax due" under Explanation to the section.

Effective Date:
This amendment will take effect from 1st April, 2022.

36. TDS on sale of immovable property [Section 194-IA]:

Section 194-IA of the Act provides for deduction of tax on payment on transfer of certain immovable property other than agricultural land. Sub-section (1) of the said section provides for deduction of tax by any person responsible for paying to a resident any sum by way of consideration for transfer of any immovable property (other than agricultural land) at the time of credit or payment of such sum to the resident at the rate of one percent of such sum as income-tax thereon. Sub-section (2) provides that no deduction of tax shall be made where the consideration for the transfer of an immovable property is less than fifty lakh rupees.

As per the provisions of the said section, TDS is to be deducted on the amount of consideration paid by the transferee to the transferor. This section does not take into account the stamp duty value of the immovable property, whereas, as the provisions of section per 43CA and 50C of the Act, for the computation of income under the head "Profits and gains from business or profession" and "capital gains" respectively, the stamp duty value is also to be considered. Thus there is inconsistency in the provisions of section 194-IA and sections 43CA and 50C of the Act.

It is now proposed to amend section 194-IA of the Act to provide that in case of transfer of an immovable property (other than agricultural land), TDS is to be deducted at the rate of one percent of such sum paid or credited to the resident or the stamp duty value of such property, whichever is higher. In case the consideration paid for the transfer of immovable property and the stamp duty value of such property are both less than fifty lakh rupees, then no tax is to be deducted under section 194-IA.

Stamp duty value shall have the meaning assigned to it in clause (f) of the Explanation to clause (vii) of sub-section (2) of section 56.

Effective Date:
This amendment will take effect from 1st April, 2022.

37. TDS and TCS at higher rate [Sections 194IB, 206AB and 206CCA]:

In order to widen and deepen the tax-base and to nudge taxpayers to furnish their return of income, Finance Act, 2021 inserted sections 206AB and 206CCA in the Act. The said sections provide for special provision for deduction and collection of tax at source respectively, in case of specified persons at higher rates specified therein.

"Specified person" has been defined to mean a person who has not filed the returns of income for both the two assessment years relevant to the two previous years immediately preceding the financial year in which tax is required to be deducted or collected, for which the time limit for filing return of income under sub-section (1) of section 139 has expired; and the aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in each of these two previous

years. Government has provided online utility to taxpayers to check whether the person is specified person or not.

Further, the provisions of section 206AB of the Act are not applicable in relation to transactions on which tax is to be deducted under sections 192, 192A, 194B, 194BB, 194LBC or 194N of the Act.

It is proposed to reduce two years requirement to one year by amending sections 206AB and 206CCA of the Act to provide that "specified person" to mean as a person who has not filed its return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is to be deducted or collected, as the case may be, and the amount of tax collected and deducted at source is Rs. 50,000 or more in the said previous year.

However, in order to reduce the additional burden on individual and Hindu undivided family (HUF) taxpayers covered under section 194-IA (TDS on Sale of immoveable property), 194-IB (TDS on payment of rent) and 194M (TDS on certain payments by Individual/HUF) of the Act for whom simplified tax deduction system has been provided without requirement of TAN, it is proposed that the provisions of section 206AB will not apply in relation to transactions on which tax is to be deducted under the said sections of the Act.

In addition to above, it is also proposed to rectify a drafting error in sections 206AB and 206CCA of the Act wherein the terms "deductor" and "collectee" respectively were used incorrectly. Further, since the returns are now being furnished electronically, it is also proposed that in place of 'filing' of return, the term 'furnishing' of return may be substituted.

Further, as a consequential amendment in section 194-IB of the Act it is also proposed to omit the reference of section 206AB from sub-section (4) of the said section.

Effective Date:
These amendments will take effect from 1st April, 2022.

38. TDS on benefit or perquisite of a business or profession [Section 194R]:
As per clause (iv) of section 28 of the Act, the value of any benefit or perquisite, whether convertible into money or not, arising from business or exercise of profession is to be charged as business income in the hands of the recipient of such benefit or perquisite.

The proposed new section provides that the person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession by such resident, shall, before providing such benefit or perquisite, as the case may be, to such resident, ensure that tax has been deducted in respect of such benefit or perquisite at the rate of ten percent of the value or aggregate of value of such benefit or perquisite.

It is further proposed to provide that in a case where the benefit or perquisite, as the case may be, is wholly in kind or partly in cash and partly in kind but such part in

cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite shall, before releasing the benefit or perquisite, ensure that tax has been paid in respect of the benefit or perquisite.

It is also proposed to provide that the provision of the said section shall not apply in case of a resident where the value or aggregate of value of the benefit or perquisite provided or likely to be provided to such resident during the financial year does not exceed twenty thousand rupees.

It is also proposed to provide that the provisions of the section shall not apply to a person being an individual or a Hindu undivided family, whose total sales, gross receipts or turnover does not exceed one crore rupees in case the of business or fifty lakh rupees in the case of profession, during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided by such person.

It is also proposed to clarify that the expression "person responsible for providing" means the person providing such benefit or perquisite, or in case of a company, the company itself including the principal officer thereof.

Effective Date:
This amendment will take effect from 1st July, 2022.

39. Consequence for failure to deduct/collect or payment of tax – Computation of interest [Sections 201 and 206C]:

Section 201 of the of the Act deals with the consequences of persons who fail to deduct tax or after deducting, fail to deposit the same to the credit of the Central Government. Sub-section (1A) of section 201 of the Act provides that if any person who is liable to deduct tax at source does not deduct it or after so deducting fails to pay the same to the credit of the Central Government, then he shall be liable to pay simple interest at the rates specified therein. Similarly, sub-section (7) of section 206C of the Act provides that if any person who is liable to collect tax at source does not collect it or after so collecting fails to pay the same to the credit of the Central Government, then he shall be liable to pay interest at rates specified therein.

It has been observed that computation of interest under the said provisions in case where the default for deduction/collection of tax or payment of tax continues is subject matter of frequent litigation.

In order to make the intention of the legislation clear and to make it free from any misinterpretation, it is proposed to:

(i) amend sub-section (1A) of section 201 of the Act to provide that where any order is made by the Assessing Officer for the default under sub-section (1) of the said section, the interest shall be paid by the person in accordance with the order made by the Assessing Officer in this regard;

(ii) amend sub-section (7) of section 206C to provide that where any order is made by the Assessing Officer for the default under sub-section (6A) of the said section, the interest shall be paid by the person in accordance with the order made by the Assessing Officer in this regard.

Effective Date:
These amendments will take effect from 1st April, 2022.

40. Refund of TDS paid for non-resident [Sections 239A, 246A and 248]:
Section 248 of the Act provides that in a case where, under an agreement or other arrangement, a person who has deducted tax on any income paid to a non-resident, other than interest, under section 195 of the Act, he may appeal to the Commissioner (Appeals) for a declaration that no tax was deductible on such income, if he claims that such tax is to be borne by him since no tax was required to be deducted on such income. Such appeal can be filed after making payment of tax so deducted to the credit of the Government account. Further, section 249 of the Act lays down that an appeal under section 248 of the Act should be filed within 30 days of making payment of such tax to the Government account.

To obtain a refund of the tax deducted and paid by a person, where it was not deductible, as per the provisions of section 248 of the Act, a taxpayer has no recourse to approach the Assessing Officer with such request. He has to necessarily enter the appellate process by filing an appeal before the Commissioner (Appeals). At the same time, the agreement or arrangement, under which the tax has been deducted and paid, is not brought on the record of the Assessing Officer or examined by him.

In view of the above, it is proposed that a new section 239A may be inserted in the Act to provide that such a person, who has made the deduction of tax under such an agreement or arrangement and borne the tax liability, when no tax deduction was required, may file an application for refund of such tax deducted before the Assessing Officer.

Further, it is proposed that the Assessing Officer shall dispose of the abovementioned application for refund within a period of six months from the end of the month in which such application has been received, after making any such enquiry as he may consider necessary. The Assessing Officer may allow or reject such application by an order in writing, however, no such application shall be rejected unless an opportunity of being heard is given to the applicant.

Such person can, if he is not satisfied with the order of the Assessing Officer, go into appeal against such order before the Commissioner (Appeals), under section 246A of the Act. Accordingly, the provisions of section 248 of the Act will not apply in cases where the date of tax payment, to the credit of Central Government is on or after 1st April, 2022.

Effective Date:
These amendments will take effect from 1st April, 2022.

41. Dispute resolution committee [Section 245MA]:

Finance Act, 2021 introduced a new chapter XIX-AA in the Act consisting of section 245MA for constituting Dispute Resolution Committee ("DRC") for specified persons who may opt for dispute resolution under the said section and who fulfil specified conditions mentioned in the said section. This was introduced to provide early tax certainty to small and medium taxpayers. Only those disputes where the returned income is fifty lakh rupee or less (if there is a return) and the aggregate amount of variation proposed in specified order is ten lakh rupees or less shall be eligible to be considered by the DRC.

After the resolution of the dispute by the DRC the assessed income of the person who had applied to DRC has to be determined, which will be followed by, inter alia, initiation of penalty proceedings, if any and issuance of demand notice under section 156 of the Act. However, the existing provisions of the said section do not contain any provision which will enable the Assessing Officer to pass an order giving effect to the order or directions of the Dispute Resolution Committee under the said section.

Therefore, it is proposed to insert a new sub-section to this section 245MA of the Act to enable the Assessing Officer to pass an order giving effect to the resolution of dispute by the DRC. However, since DRC is an alternate dispute resolution mechanism itself, a taxpayer may opt for approaching either the Dispute Resolution Panel under section 144C of the Act or the DRC under section 245MA of the Act, and the AO shall pass the final order in conformity with the order by the DRC even in the case of an eligible assessee.

Effective Date:

This amendment will take effect from 1st April, 2022.

42. Revision of TPO's Order [Sections 263 and 153]:

Section 263 of the Act contains the provision for revision of order which is erroneous in so far as it is prejudicial to the interests of revenue. An order under section 263 of the Act can be passed within two years from the end of the financial year in which the order sought to be revised was passed.

As per provisions of section 92CA of the Act, if the Assessing Officer considers it necessary or expedient, he may, with the approval of the Principal Commissioner or Commissioner refer the computation of arm's length price (ALP) in an International Transaction or specified domestic transaction entered into by an assessee, to the Transfer Pricing Officer (TPO). The TPO passes an order determining the ALP in an international transaction or specified domestic transaction under the provisions of section 92CA of the Act and send it to the Assessing Officer for final income determination. However, it is not clear as to who has the power under section 263 of the Act to revise the order of the TPO passed under section 92CA of the Act.

Therefore, it is proposed to amend the provisions of section 263 of the Act so as to provide that the Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or Commissioner who is assigned the jurisdiction of transfer pricing may call for and examine the record of any proceeding under this Act, and if he considers that any order passed by the TPO, working under his jurisdiction, to be

erroneous in so far as it is prejudicial to the interests of revenue, he may pass an order directing revision of the order of TPO. Consequential changes are also proposed in the provisions of section 153 of the Act to provide two months' time to the Assessing Officer to give effect to the order of TPO consequent to the directions in the revision order.

Further, in section 153 of the Act, it is proposed to

(i) provide that the provisions of sub-sections (3) and (5) of that section shall also be applicable to order passed by Transfer Pricing Officer under section 92CA,

(ii) to insert sub-section (5A) to provide that where the Transfer Pricing Officer gives effect to an order or direction under section 263 of the Act by means of an order under section 92CA of the Act and forwards such order to the Assessing Officer, the Assessing Officer shall proceed to modify the order of assessment or reassessment or re-computation, in conformity with such order of the Transfer Pricing Officer, within two months from the end of the month in which such order of the Transfer Pricing Officer is received by him,

(iii) provide that the said provisions of the sub-section (6) shall also be applicable to orders referred to in the sub-section (5A) inserted in the Act.

Earlier, the Hon'ble Mumbai Tribunal had in the case of Tata Communications Limited v. DCIT (41taxmann.com 486) held that that the CIT cannot exercise the revisionary jurisdiction under section 263 of the Act on the order passed under section 92CA(3) of the Act by the TPO. Once the Commissioner cannot exercise jurisdiction, then the order passed by the Assessing Officer cannot be set aside as the order of the TPO under section 92CA (4) of the Act is binding on the Assessing Officer. This decision placed reliance on an earlier decision of Mumbai Tribunal in the case of Essar Steel Ltd. 55 SOT 1. The proposed amendment has overruled the findings of the Hon'ble Mumbai and other Tribunals.

The proposed amendment has upheld and confirmed the finding of the decision of the Hon'ble Hyderabad Tribunal in the case of Agro Tech Foods Ltd. v. DCIT (187 ITD 763) wherein it was held that TP order is also part of assessment order and is thus amenable to jurisdiction of the CIT u/s. 263 of the Act and particularly on the issues which were not considered by the TPO and DRP.

Effective Date:
These amendments will take effect from 1st of April, 2022.

43. Power to Commissioner (Appeals) to levy penalties on undisclosed income on search cases [Sections 271AAB, 271AAC and 271AAD]:

Sections 271AAB, 271AAC and 271AAD of the Act under Chapter XXI contain provisions which give powers to the Assessing Officer to levy penalty in cases involving undisclosed income in cases where search has been initiated u/s 132 or otherwise, or for false entry etc. in books of account.

Under Chapter XXI of the Act which deals with penalties, Commissioner (Appeals) has concomitant powers with Assessing Officer to levy penalty in eligible cases under section 270A, section 271, section 271A, section 271AA, section 271G, section 271J which deal with deliberate concealment, non-disclosure and omission by an assessee to evade tax.

Similarly, sections 271AAB, 271AAC, 271AAD penalize actions pertaining to undisclosed income, unexplained credits or expenditures, or deliberate falsification or omission in books of accounts. Therefore, in order to improve deterrence against noncompliance among tax payers, it is proposed to amend the sections 271AAB, 271AAC and 271AAD by enabling the Commissioner (Appeals) to levy penalty under these sections to the along with Assessing Officer.

Effective Date:
These amendments will take effect from 1stApril, 2022.

44. Offences and Prosecution under Chapter XXII [Sections 271C, 276AB, 276B, 278A, 278AA]:

a) Sections 269UC/UE/UL along with other provisions of Chapter XX-C have been made inapplicable with effect from 1st July, 2002 vide Finance Act, 2002. Section 269UP was introduced providing that the provisions of the Chapter shall not apply to or in relation to, the transfer of any immovable property effected on or after 1st July, 2002. Consequently, prosecution provisions under section 276AB of the Act are not relevant, as launching prosecution against offences committed more than twenty years ago, that is prior to 2002 would be beyond reasonable time.

Since such cases involve transfer of immovable property, it is not improbable that prosecution cases launched previously while the relevant provisions were still in effect might be ongoing. Therefore, in order to take those cases to logical conclusion without any interpretational issue arising on applicability of the section or otherwise, it is proposed to amend section 276AB of the Act to align it with the provisions of the Act that have been made inapplicable, by providing a sunset clause. Hence, it is proposed that no fresh prosecution proceeding shall be initiated under this section on or after 1st April, 2022.

b) Sections 278A and 278AA are related to punishment with prosecution against persons for failure to pay tax to the credit of Central Government under Chapter XVIIB for tax deducted at source. However, similar provisions for offence with respect to tax collected at source under Chapter XVII-BB, providing for punishment with prosecution against persons failing to pay tax collected at source is not there under sections 278A and 278AA.Therefore, it is proposed to include section 276BB under sections 278A and 278AA owing to the similar nature of offences that are punishable under section 276B and section 276BB.

Effective Date:
These amendments will take effect from 1stApril, 2022.

45. Penalty for failure to answer questions, sign statements, furnish information, return or statement, etc. [Section 272A]:

Section 272A of the Act provides for penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections etc. At present, the amount of penalty for failures listed under sub-section (2) of section 272A is one hundred rupees for every day during which the failure continues.

It is proposed to increase the amount of penalty for failures listed under sub-section (2) of section 272A of the Act to five hundred rupees for everyday from the existing sum of one hundred rupees for every day.

Effective Date:

This amendment will take effect from 1st April, 2022.

46. Submission of statements by producers of cinematograph films [Section 285B]:

Under section 285B of the Act, the producer of cinematographic films is obliged to furnish within 30 days from the end of the financial year or from the date of completion of the film, whichever is earlier, a statement containing particulars of all payments over Rs. 50,000/- in the aggregate made by him or due from him to each person engaged by him.

It is proposed to widen the scope of section 285B of the Act to include persons engaged in specified activities to expand the reporting requirements in Form 52A. "Specified Activities" would mean event management, documentary production, production of programs for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Effective Date:

This amendment will take effect from 1st April 2022.

Summary Notes on changes in GST Law

Note: (a) CGST Act means Central Goods and Services Tax Act, 2017
(b) IGST Act means Integrated Goods and Services Tax Act, 2017
(c) UTGST Act means Union Territory Goods and Services Tax Act, 2017

Amendments carried out in the Finance Bill, 2022, vide clause 99 to 113 will come into effect from a date to be notified, as far as possible, concurrently with the corresponding amendments to the similar Acts passed by the States & Union territories with legislature. Amendments carried out in the Finance Bill, 2022, vide clause 114 to 123 will come into effect on the date of its enactment.

I. AMENDMENTS IN THE CGST ACT, 2017:

S. No.	Amendment	Clause of the Finance Bill, 2022
1.	A new clause (ba) to sub-section (2) of section 16 of the CGSTAct is being inserted to provide that input tax credit with respect to a supply can be availed only if such credit has not been restricted in the details communicated to the taxpayer under section 38. Further, sub-section (4) of section 16 of the CGST Act is being amended so as to provide for an extended time for availment of input tax credit by a registered person in respect of any invoice or debit note pertaining to a financial year upto thirtieth day of November of the following financial year.	[99]
2.	Clause (b) and (c) of sub-section (2) of section 29 of the CGSTAct are being amended so as to provide that the registration ofa person is liable for cancellation, where – (i) a person paying tax under section 10 has not furnished the return for a financial year beyond three months from the due date of furnishing of the said return; (ii)a person, other than those paying tax under section 10, has not furnished returns for such continuous tax period as may be prescribed.	[100]
3.	Sub-section (2) of section 34 of the CGST Act is being amended so as to provide for an extended time for issuance of credit notes in respect of any supply made in a financial year upto thirtieth day of November of the following financial year.	[101]

4.	Section 37 of the CGST Act is being amended so as to: (i) provide for prescribing conditions and restrictions for furnishing the details of outward supply and for communication of the details of such outward supplies to concerned recipients; (ii) do away with two-way communication process in return filing; (iii) provide for an extended time upto thirtieth day of November of the following financial year for rectification of errors in respect of details of outward supplies furnished under sub-section (1); (iv) provide for tax period-wise sequential filing of details of outward supplies under sub-section (1).	[102]
5.	Section 38 of the CGST Act is being substituted for prescribing the manner as well as conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing.	[103]
6.	Section 39 of the CGST Act is being amended so as to: (i) provide that the non-resident taxable person shall furnish the return for a month by thirteenth day of the following month; (ii) provide an option to the persons furnishing return under proviso to sub-section (1), to pay either the self-assessed tax or an amount that may be prescribed; (iii) provide for an extended time upto thirtieth day of November of the following financial year, for rectification of errors in the return furnished under section 39; (iv) provide for furnishing of details of outward supplies of a tax period under sub-section (1) of section 37 as a condition for furnishing the return under section 39 for the said tax period.	[104]
7.	Section 41 of the CGST Act is being substituted so as to do away with the concept of "claim" of eligible input tax credit on a "provisional" basis and to provide for availment of self-assessed input tax credit subject to such conditions and restrictions as may be prescribed.	[105]
8.	Sections 42, 43 and 43A of the CGST Act are being omitted so as to do away with two-way communication process in return filing.	[106]
9.	Section 47 of the CGST Act is being amended so as to provide for levy of late fee for delayed filing of return under section 52. Further, reference to section 38 is being removed consequent to the amendment in section 38 of the CGST Act.	[107]

10.	Consequent to the amendment in section 38 of the CGST Act, sub-section (2) of section 48 of the CGST Act is being amended so as to remove reference to section 38 therefrom.	[108]
11.	Section 49 of the CGST Act is being amended so as to: (i) provide for prescribing restrictions for utilizing the amount available in the electronic credit ledger; (ii) allow transfer of amount available in electronic cash ledger under the CGST Act of a registered person to the electronic cash ledger under the said Act or the IGST Act of a distinct person; (iii) provide for prescribing the maximum proportion of output tax liability which may be discharged through the electronic credit ledger.	[109]
12.	Sub-section (3) of section 50 of the CGST Act is being substituted retrospectively, with effect from the 1st July, 2017, so as to provide for levy of interest on input tax credit wrongly availed and utilized.	[110]
13.	Sub-section (6) of section 52 of the CGST Act is being amended so as to provide for an extended time upto thirtieth day of November of the following financial year for rectification of errors in the statement furnished under sub- section (4).	[111]
14.	Section 54 of the CGST Act is being amended so as to: (i) explicitly provide that refund claim of any balance in the electronic cash ledger shall be made in such form and manner as may be prescribed; (ii) provide the time limit for claiming refund of tax paid on inward supplies of goods or services or both under section 55 as two years from the last day of the quarter in which the said supply was received; (iii) extend the scope of withholding of or recovery from refunds in respect of all types of refund; (iv) provide clarity regarding the relevant date for filing refund claim in respect of supplies made to a Special Economic Zone developer or a Special Economic Zone unit by way of insertion of a new sub-clause (ba) in clause (2) of Explanation thereto.	[112]
15.	Consequent to the amendment in section 38 of the CGST Act, sub-section (2) of section 168 of the CGST Act is being amended so as to remove reference to section 38 therefrom.	[113]
16.	Notification No. 9/2018 – Central Tax, dated the 23rd January, 2018, is being amended so as to notify www.gst.gov.in, retrospectively, with effect from 22nd June, 2017, as the Common Goods and Services Tax Electronic Portal, for all functions provided under Central Goods and Services Tax Rules, 2017, other	[114]

	than those provided for e-way bill and for generation of invoices under sub-rule (4) of rule 48 of the CGST Rules.	
17.	Notification No. 13/2017 – Central Tax, dated the 28th June, 2017, is being amended retrospectively, with effect from the 1st day of July, 2017, so as to notify rate of interest under sub- section (3) of section 50 of the CGST Act as 18%.	[115]

II. AMENDMENTS IN THE IGST ACT, 2017:

S. No.	Amendment	Clause of the Finance Bill, 2022
1.	Notification No. 6/2017 – Integrated Tax, dated the 28th June, 2017, is being amended retrospectively, with effect from the 1st day of July, 2017, so as to notify rate of interest under sub- section (3) of section 50 of the CGST Act as 18%.	[118]

III. AMENDMENTS IN THE UTGST ACT, 2017

S. No.	Amendment	Clause of the Finance Bill, 2022
1.	Notification number 10/2017 – Union Territory Tax, dated the 30th June, 2017, is being amended retrospectively, with effect from the 1st day of July, 2017, so as to notify rate of interest under sub-section (3) of section 50 of the CGST Act as 18%.	[121]

IV. RETROSPECTIVE AMENDMENTS OF GST RATE NOTIFICATIONS

S. No.	Amendment	Clause of the Finance Bill, 2022
1.	Central Tax, Union Territory Tax and Integrated Tax on supply of unintended waste generated during the production of fish meal (falling under heading 2301), except fish oil, is being exempted during the period commencing from the 1st day of July, 2017, and ending with the 30th day of September, 2019 (both days inclusive), subject to the condition that if said tax has been collected, the same would not be eligible for refund.	[116,119,122]

2.	Service by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee or by whatever name it is called by the State Governments, has been declared as an activity or transaction which shall be treated neither as a supply of goods nor a supply of service *vide* notification No. 25/2019- Central Tax (R) dated 30.09.2019, notification No. 24/2019- Integrated Tax (R) dated 30.09.2019 and notification No. 25/2019- Union Territory Tax (R) dated 30.09.2019. These notifications have been given retrospective effect from 01.07.2017. However, no refund shall be made of tax which has been collected, but which would not have been so collected, had the said notifications been in force at all material times.	[117,120,123]

GST Collection is growing

Food for Thought:

Charitable Trusts:

- By Ms. Sonakshi Jhunjhunwala

There is a feeling that the majority of the citizens of the country are paying taxes and the government of the country is providing all requisite facilities and infrastructure related to food, home, education, medical, travel, etc. to the citizens of the country. If that be so, why charitable institutions like Infosys Foundation, Reliance Foundation, Birla Foundation, TATA Trust, Make a Wish Foundation, etc. (as well as smaller trust with annual spending on charitable objects ranging from few thousands to few lakhs) play a very important role in the field of social cause.

Let us try and understand, *why do we do charities*?

- We believe in theory of Karma. We believe if we do some good, that some good would come back towards betterment of our lives. We, therefore, want to do charity for a good Karma.
- Secondly, many of us feel we are taking so much from the nature, from the environment, from the society, so it is our duty to pay them back in doing charity.
- Some do it to gain pride of name.
- Some do it with the real feeling of helping others who are more in need than them.

The reason may be anything, the point is that most of the able persons have a desire to do something for others.

The second question is *why do we need charitable trusts*?

- If we take example of our own country, our population is so large that the Government may not have resources to fulfill the basic needs of all people of this country.

- Also, it is noticed that the facilities provided by the Government are several times found to be lacking in standard. If we talk about city of Mumbai, condition of several municipal schools and municipal hospitals is eye opening.

- To do bigger project with charitable object, it may not be feasible for a single person to carry out completely due to financial as well as administrative constraints. We therefore need charitable institutions where many likeminded people come together, collect funds, create the required administrative infrastructure and carry on the project. The bigger institutions can make school, colleges, hospitals, health centers, etc.

- Even for spreading of spiritual knowledge require a large set up.

- The individual having a desire to contribute a small amount may contribute to this bigger organizations and they in turn spend for such cause.

To give you a very small example, today morning only I was reading an appeal from a charitable institution. It stated that it is providing free of cost milk, bread, fruits like banana, orange, tomato, etc. to 600 to 700 cancer patients and to their caretakers coming from outstation. The fortunate patients may get some financial help for the treatment in the hospital but there is a hardly any other arrangement for stay of patients and their caretakers. Many a time, some of them are seen sleeping on footpaths.

Who will provide them stay facility, food, blankets, etc., etc. Is Government resourceful enough to handle this? Are individuals in their individual capacity have a resource and time to do the needful? Whether we like or not the answer is NO. This is where the role of charitable organizations comes in.

These charitable organizations vary in size and strength:

a) In families creating some charitable trusts, their business entities and individuals contribute as per their willingness and capabilities and from such trust, they contribute to other trusts who have identified project or they pay for school fees, medical bills of some needy persons who may be able to approach them.

b) Then comes bigger families, industrialist, they have a bigger trusts and do bigger works and

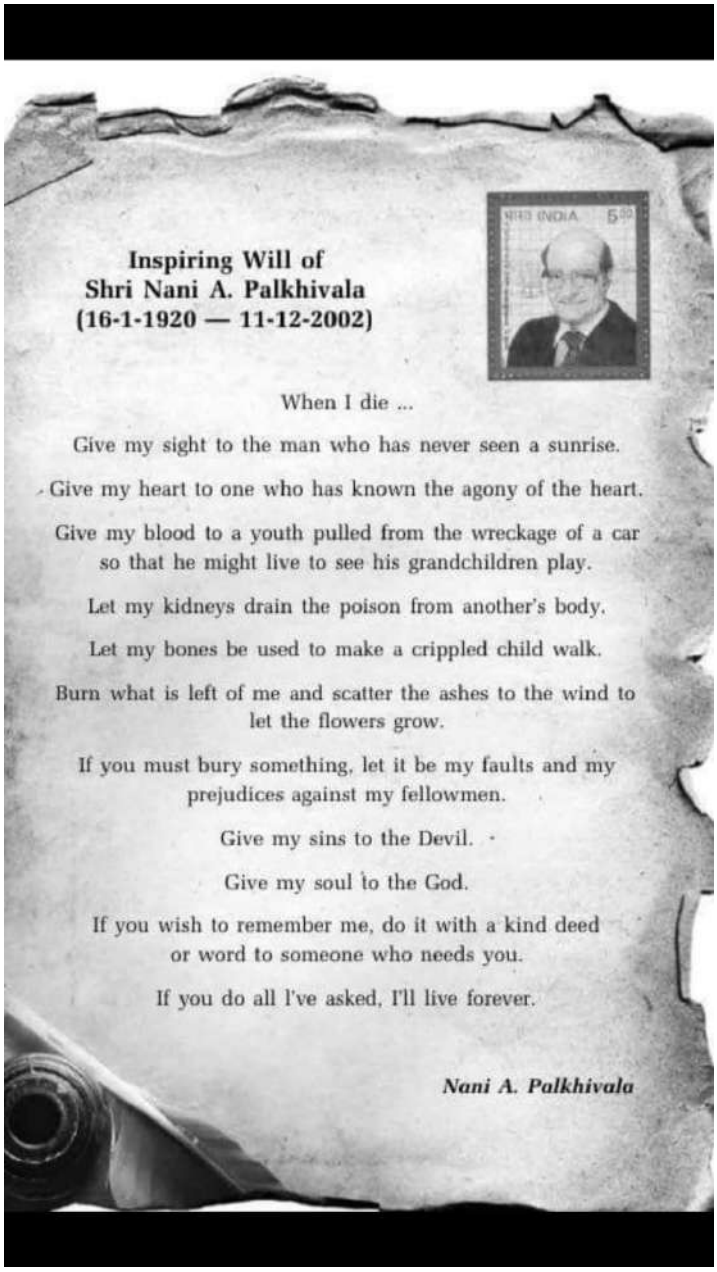
c) Then the giants of the industry (the few names are already given above) have bigger trusts carrying out bigger charitable objects.

The point we are trying to make here is that from very very small scale to the giant size charitable organizations do their work as per their capabilities and resources and directly or indirectly are sharing some responsibilities of the Government.

If that is so, why year after year regulations are brought in to monitor and regulate such organizations. The smaller organization does not have a resources to keep full fledge accountant, clerks in the trust but still they are year after year burdened with more and more compliances.

Earlier the basic exemptions were given for lifetime of the Trust (Registration u/s 12A/12AA/ 12AB of the Act). By Finance Act 2020, it is enacted that it will be renewed every five years and now more powers are given to review it every year. There may be some trusts who may

be misusing provisions granting exemptions. Catch them and punish them but why burden all the trusts? *Please have trust on Trusts* and give them minimum required compliances, so that they can better utilize their time and resources in carrying on charitable objects rather than going to professionals for resolving their tax issues. The day Government feels that it is now capable to providing to every citizen of the country the basic facilities, remove the exemptions and still thereafter anybody wants to do charity, let him do that after paying the requisite tax. Till then let the Trusts work in a cordial atmosphere of trust.



Inspiring Will of
Shri Nani A. Palkhivala
(16-1-1920 — 11-12-2002)

When I die ...

Give my sight to the man who has never seen a sunrise.

Give my heart to one who has known the agony of the heart.

Give my blood to a youth pulled from the wreckage of a car so that he might live to see his grandchildren play.

Let my kidneys drain the poison from another's body.

Let my bones be used to make a crippled child walk.

Burn what is left of me and scatter the ashes to the wind to let the flowers grow.

If you must bury something, let it be my faults and my prejudices against my fellowmen.

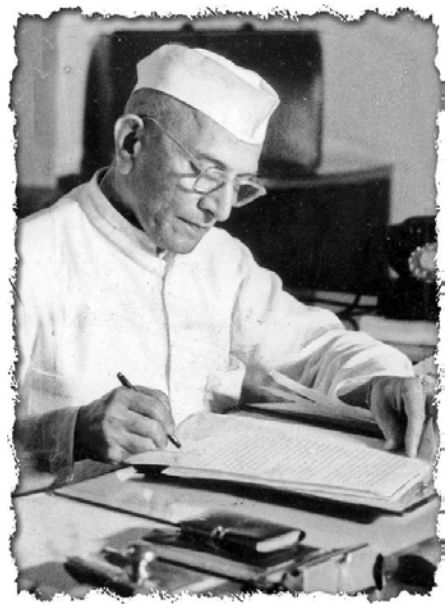
Give my sins to the Devil.

Give my soul to the God.

If you wish to remember me, do it with a kind deed or word to someone who needs you.

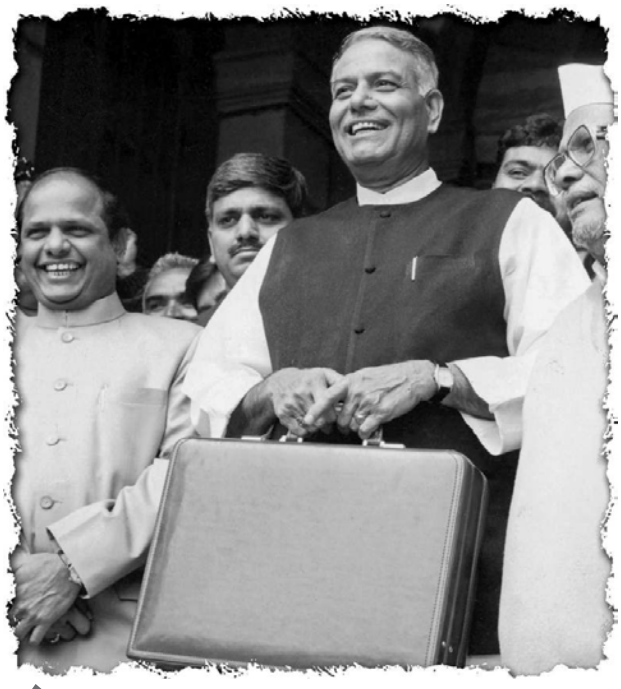
If you do all I've asked, I'll live forever.

Nani A. Palkhivala

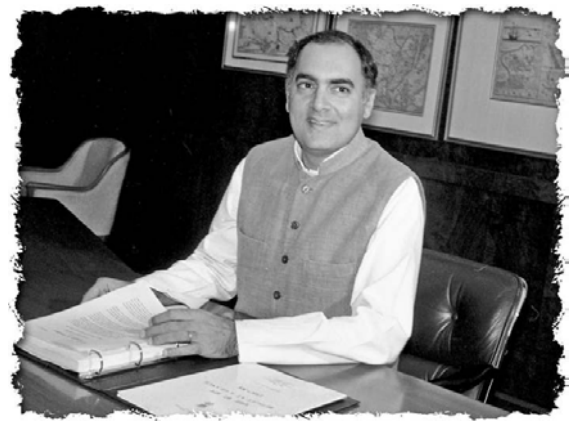


Finance Minister Morarji Desai finetuning his 1962-63 Budget speech. **He holds the record of presenting the maximum number of Budgets so far — eight full and two interim Budgets**. He went on to become India's first non-Congress Prime Minister

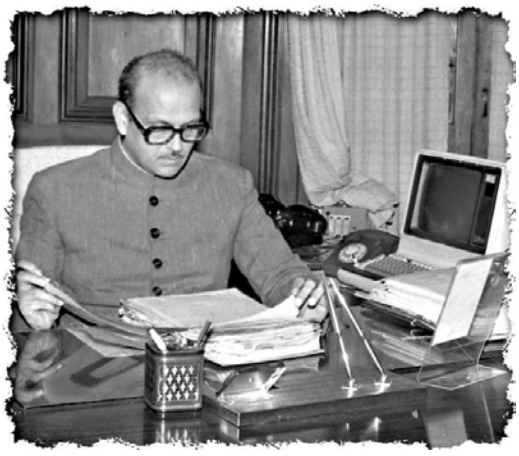
TT Krishnamachari **introduced wealth tax** in his 1957-58 Budget. He also announced India's **first Voluntary Disclosure Scheme** (VDS)



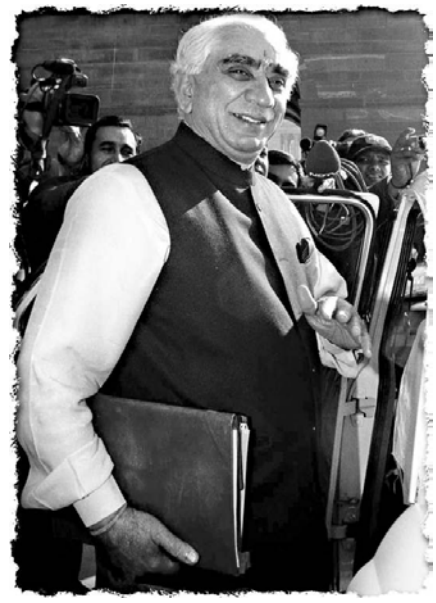
Yashwant Sinha on his way to present the 2000-01 'Millennium' Budget which **laid the roadmap for India's IT sector** and phased out IT export incentives



PM Rajiv Gandhi is all smiles after giving a final read to his 1987-88 Budget that introduced **Minimum Alternate Tax and zero-based budgeting**



VP Singh in his 1986-87 Budget commenced the **dismantling of the licence raj** and made a modest beginning at **indirect tax reforms**



Jaswant Singh leaves the North Block to present the 2004-05 interim Budget where he announced many **populist measures for agriculture, co-operative and health sectors apart from benefits for small-scale industries and government employees**

GUP SHUP

Lalaji : **Naini, why are you looking so sad.**

Naini : **What to do? Everything is now online – shopping online, banking online, contacting friends and relatives online and for doing this online, I have to call one of you for assistance. Also, the opportunities of going out has reduced.**

Nanu : **Even in profession, we feel outdated as everything is progressively becoming online – MCA filing and proceedings online, GST filing and proceedings online, income tax filing and proceedings online and so on.**

Rasmalai : **So, what is the problem? Technology is great.**

Rasgulla : **There is no age limit in learning. If you start learning it with open mind, technology is easy to learn.**

Champ : **And then you will also enjoy it yaar.**

Naini : **But you are missing to connect with nature, close family and friends.**

Big B : **Ya ! that needs to be improved as well.**

Khush : **So, let's come to a partnership**

Lalaji : **You teach us values of life, encourage us and take us to connect with nature, family and friend.**

Big Sis : **And we will help you in Technology…….. Simple!**

Jai Ho – सब का मंगल हो

आजादी का अमृत महोत्सव