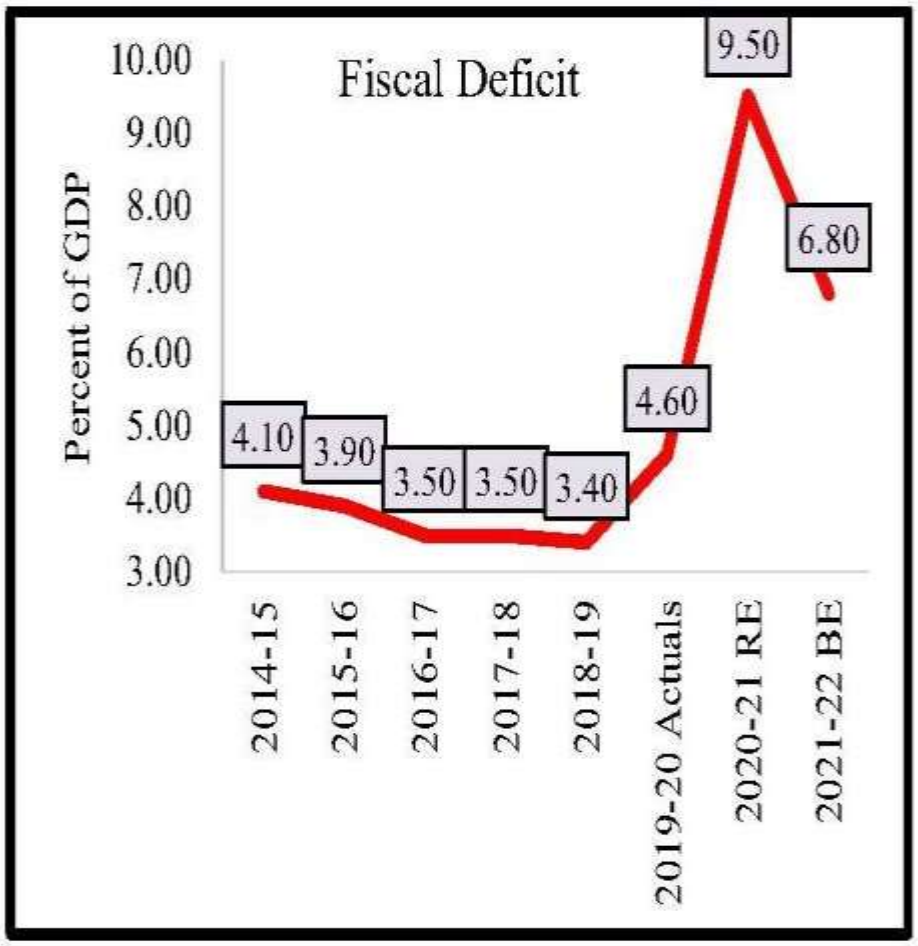
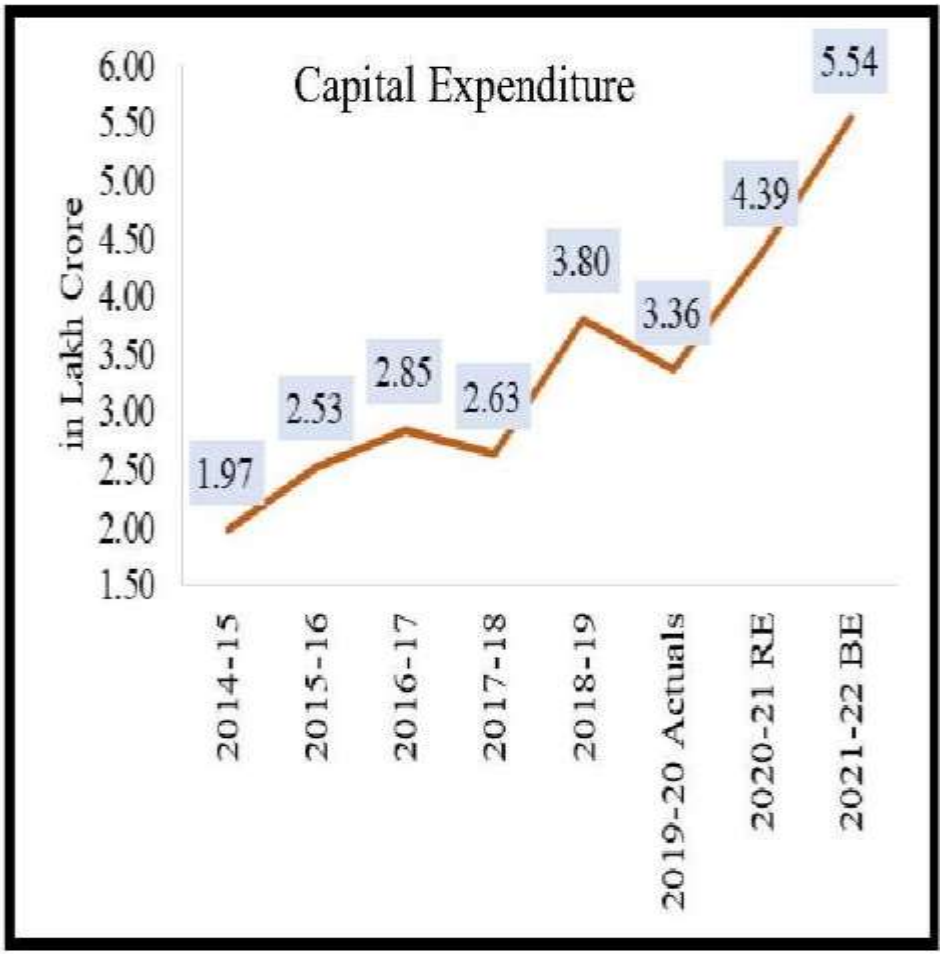
An overview of
Finance Bill, 2021 – Direct Taxes

Presented by: CA. Sanjay K. Agarwal
Email: agarwal.s.ca@gmail.com

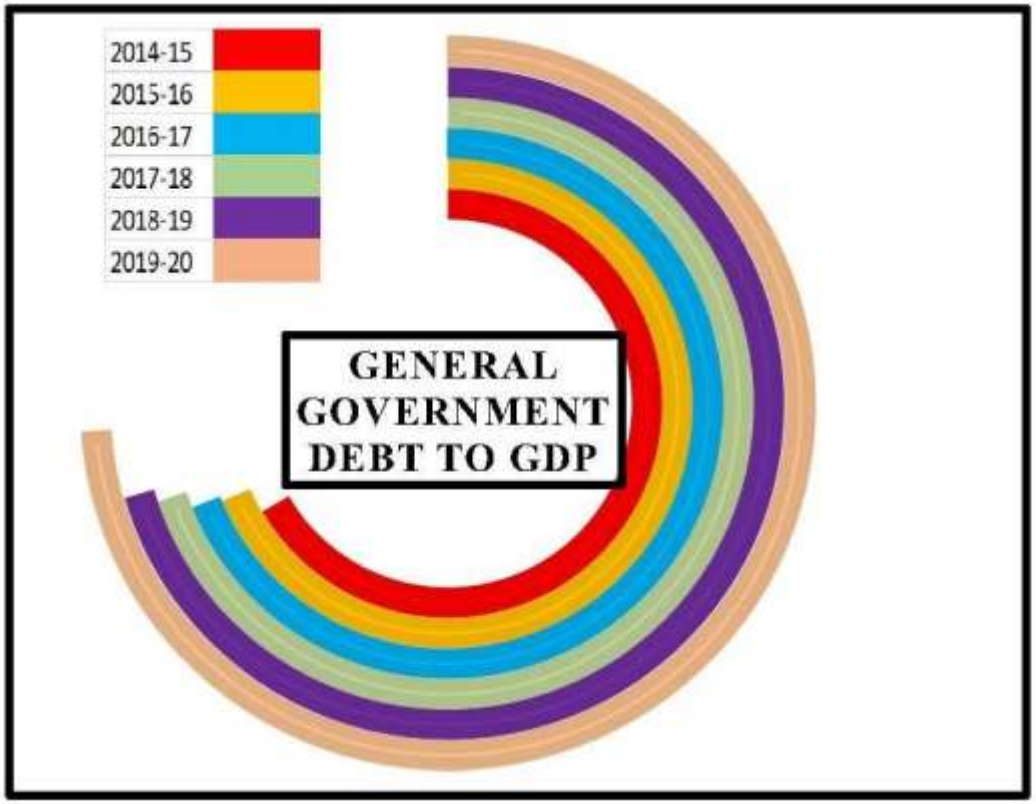
(I) Budget at a Glance

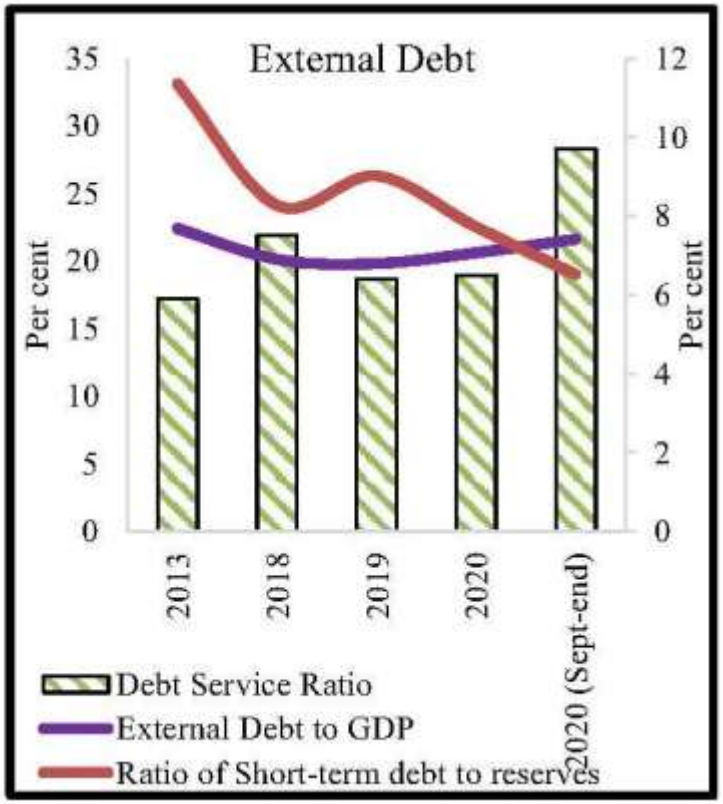
FISCAL POSITION



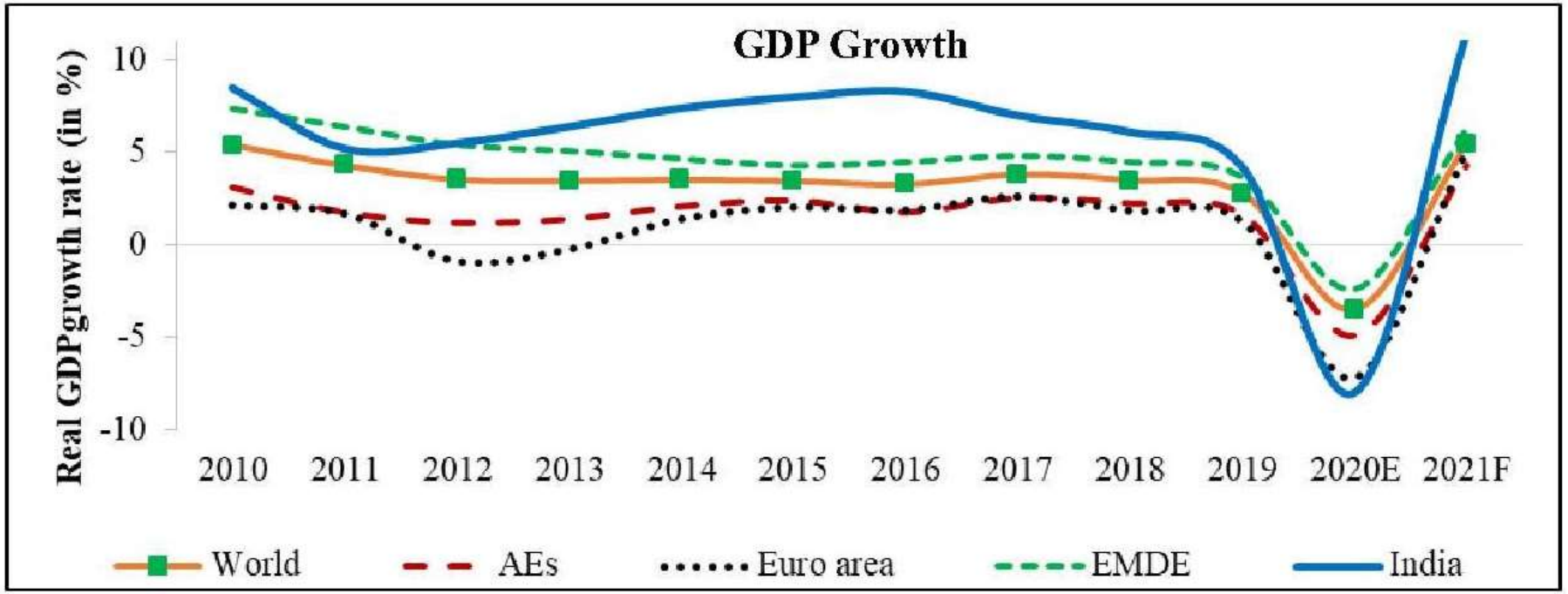


DEBT ANALYSIS

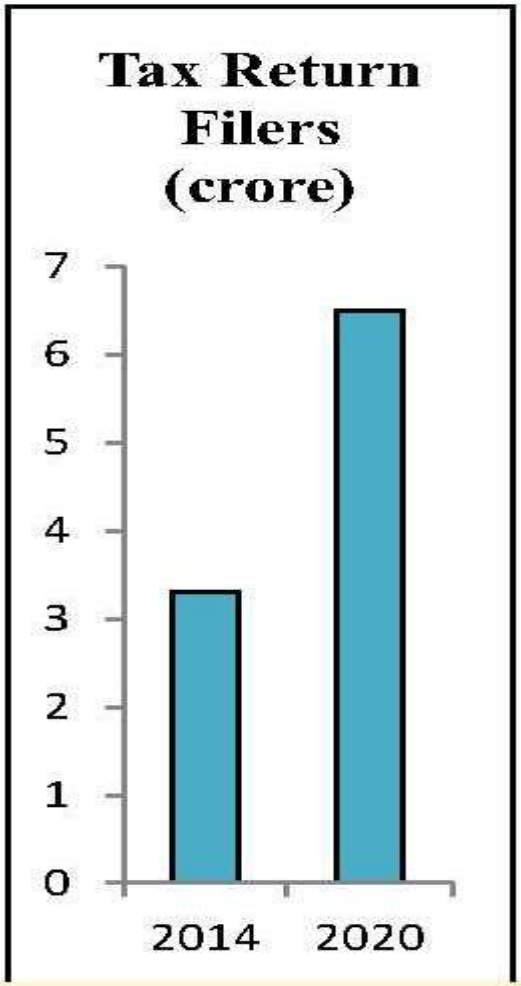


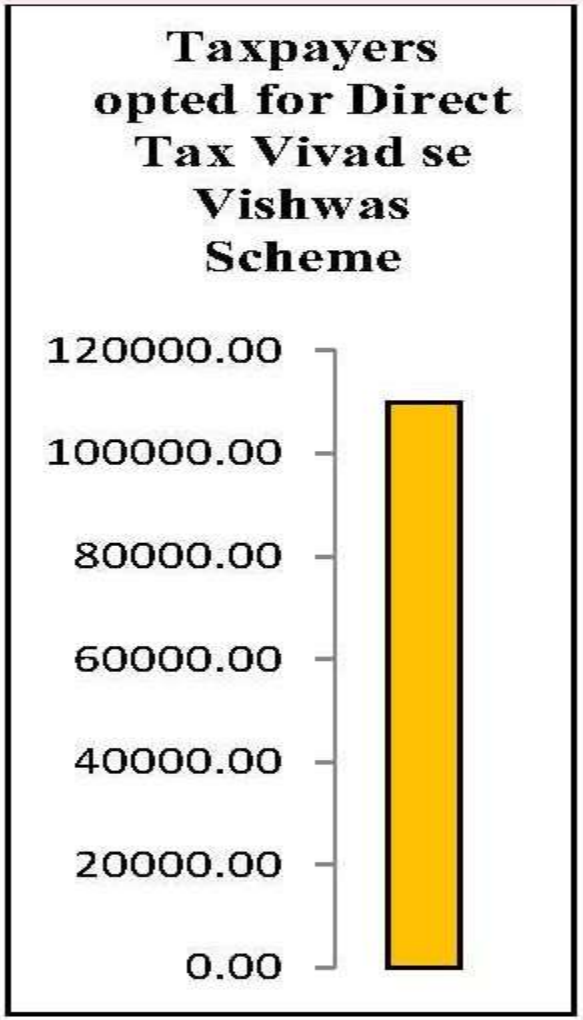


PROJECTED GDP RECOVERY

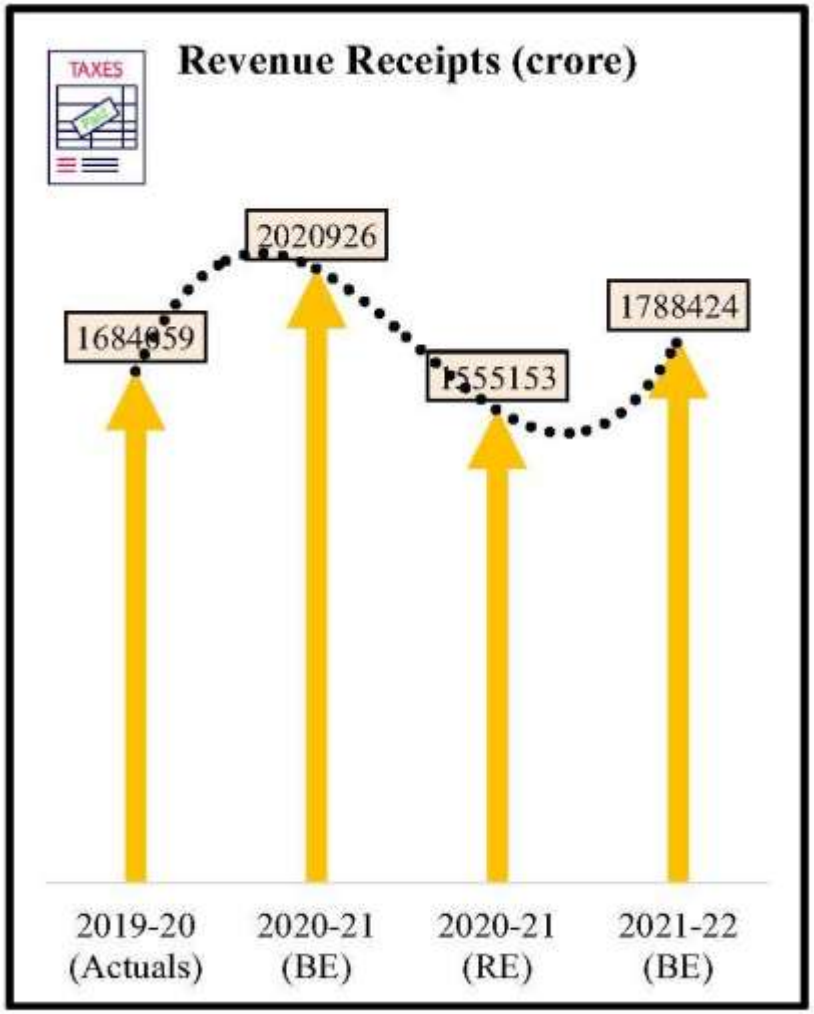


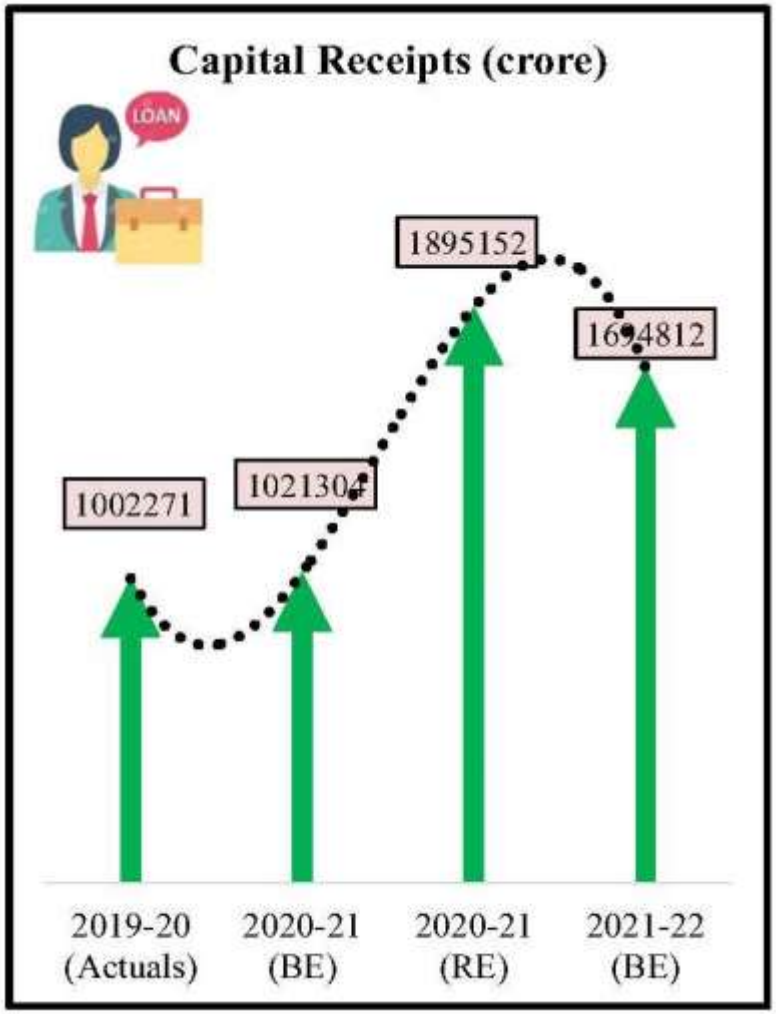
PEEK ON RETURN FILING



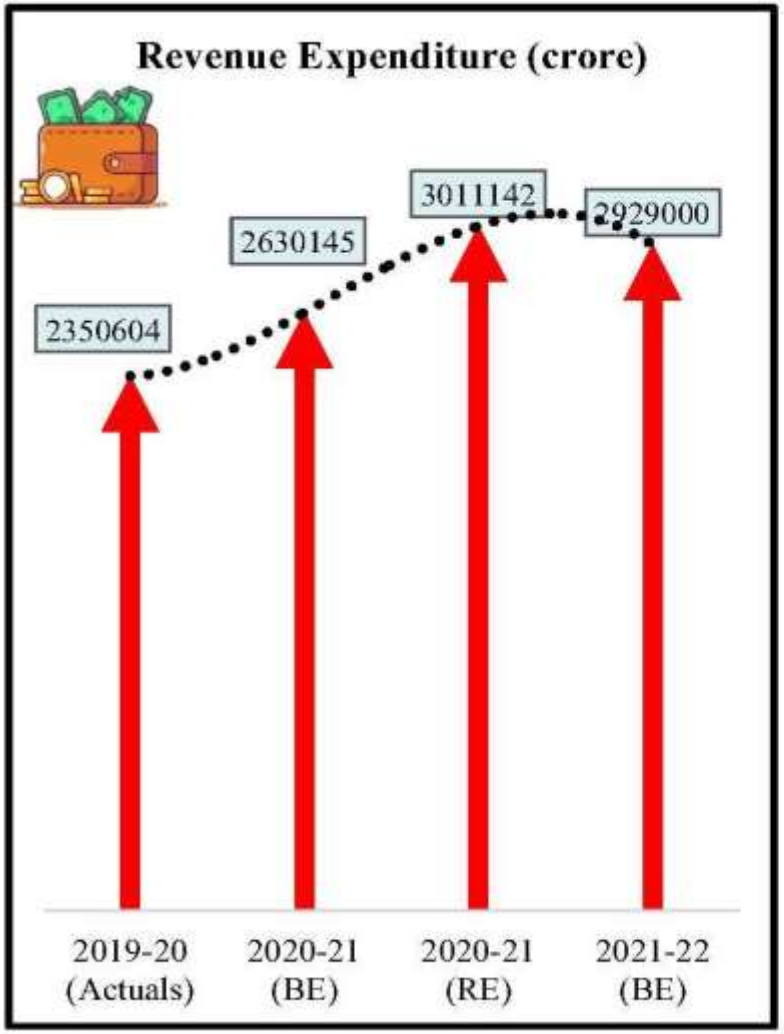


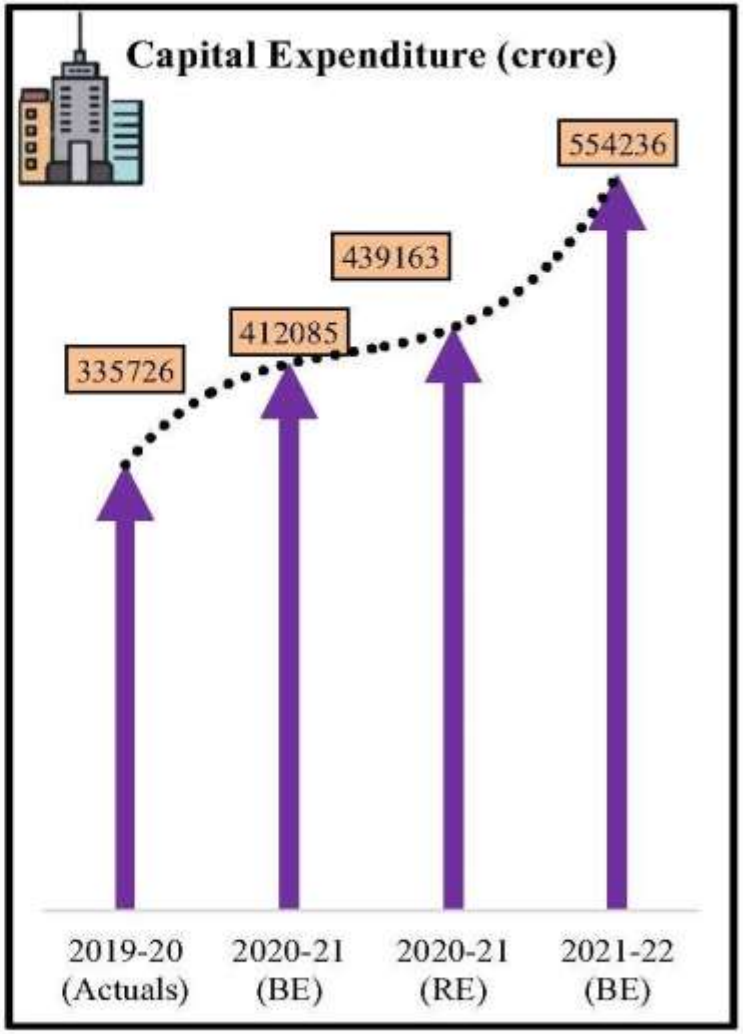
BUDGET AT A GLANCE



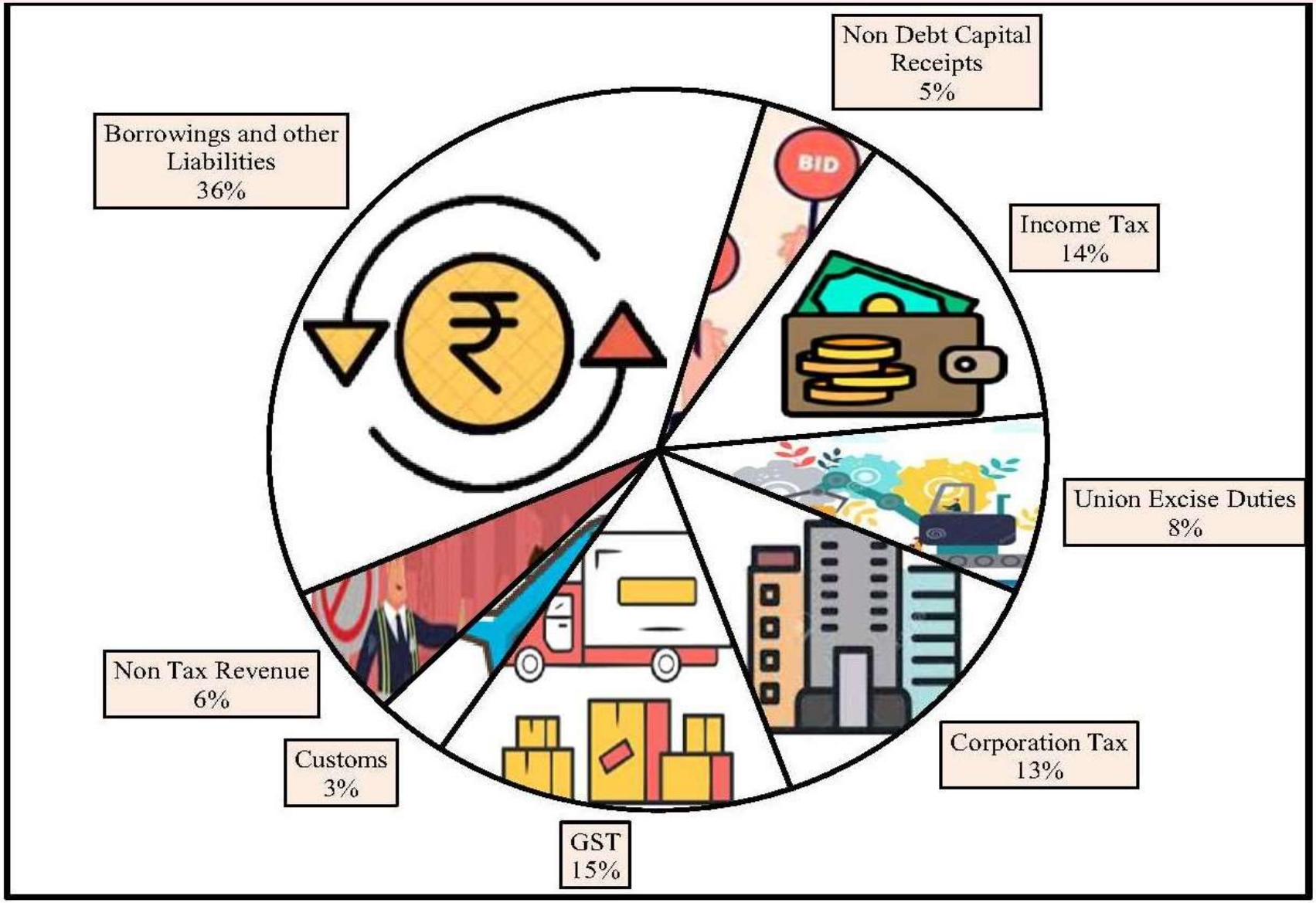


BUDGET AT A GLANCE

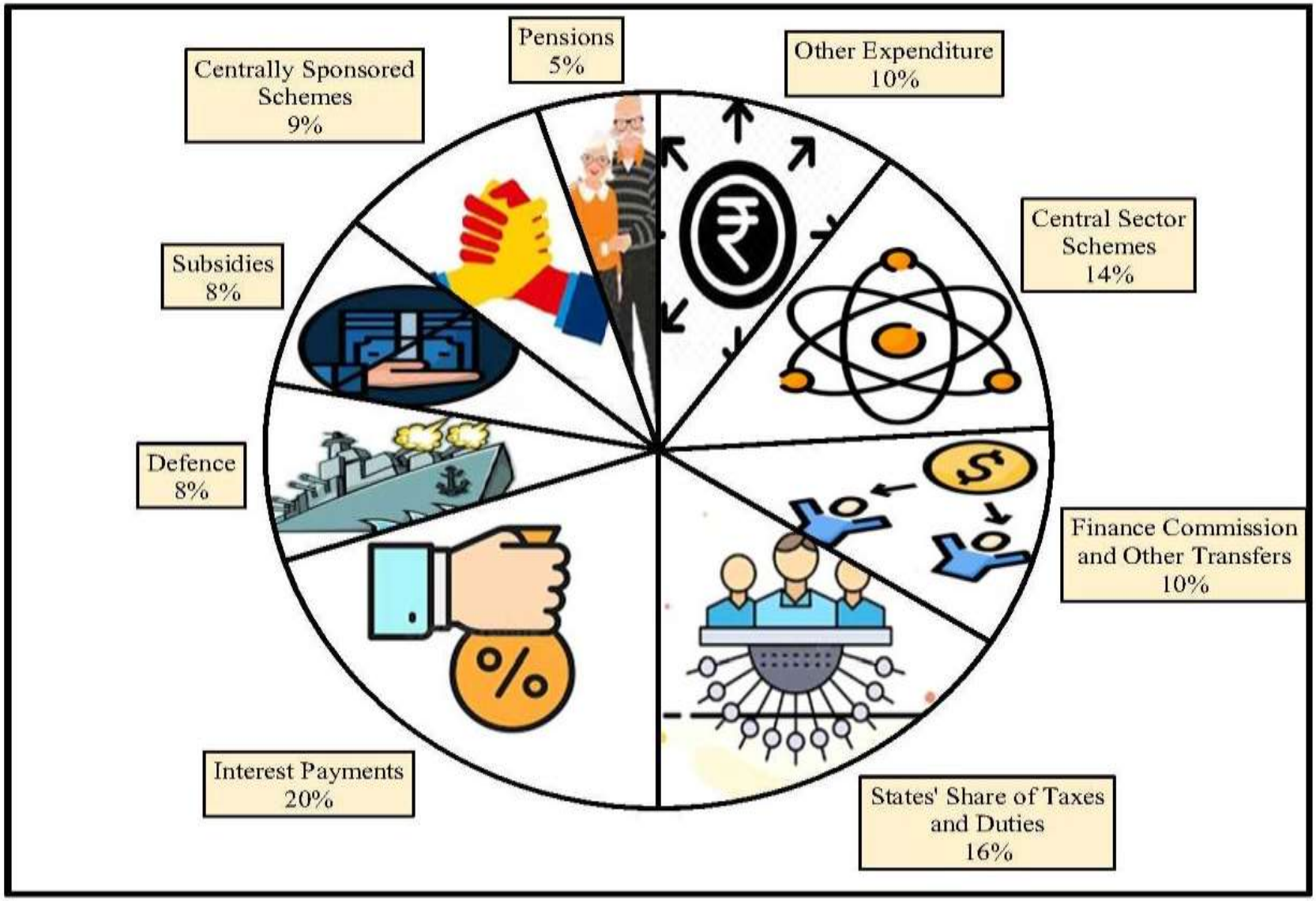




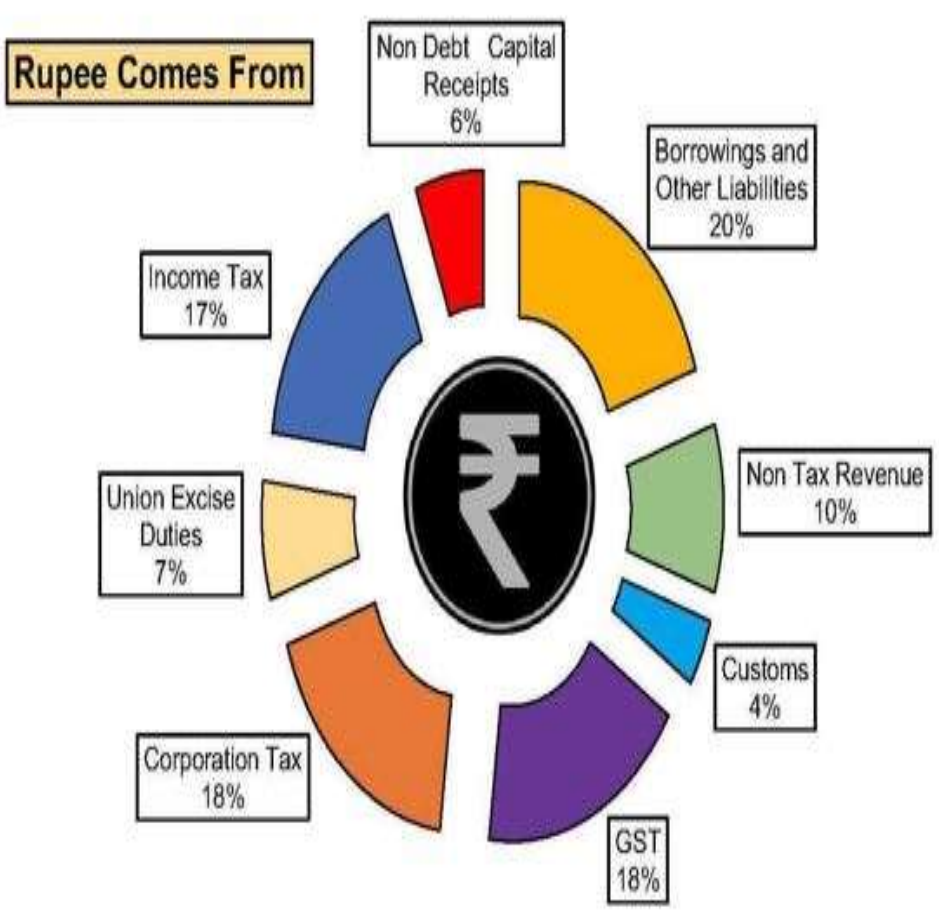
Rupee comes in

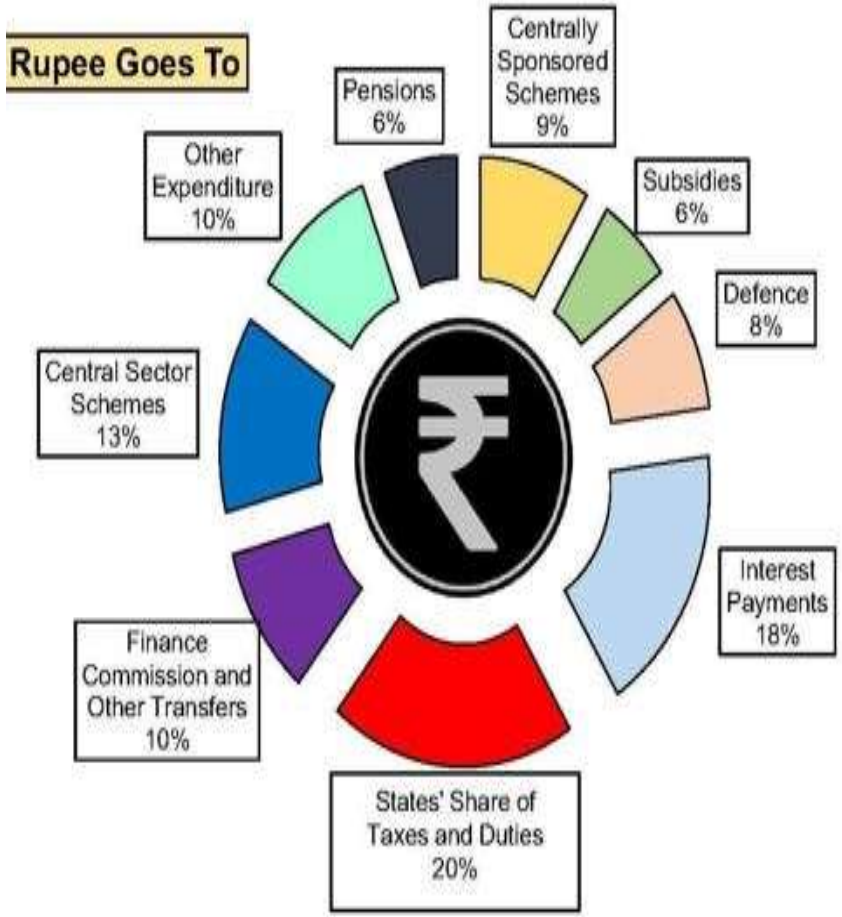


Rupee goes out



Rupee Comes in and Rupee Goes Out for FY 2020-21

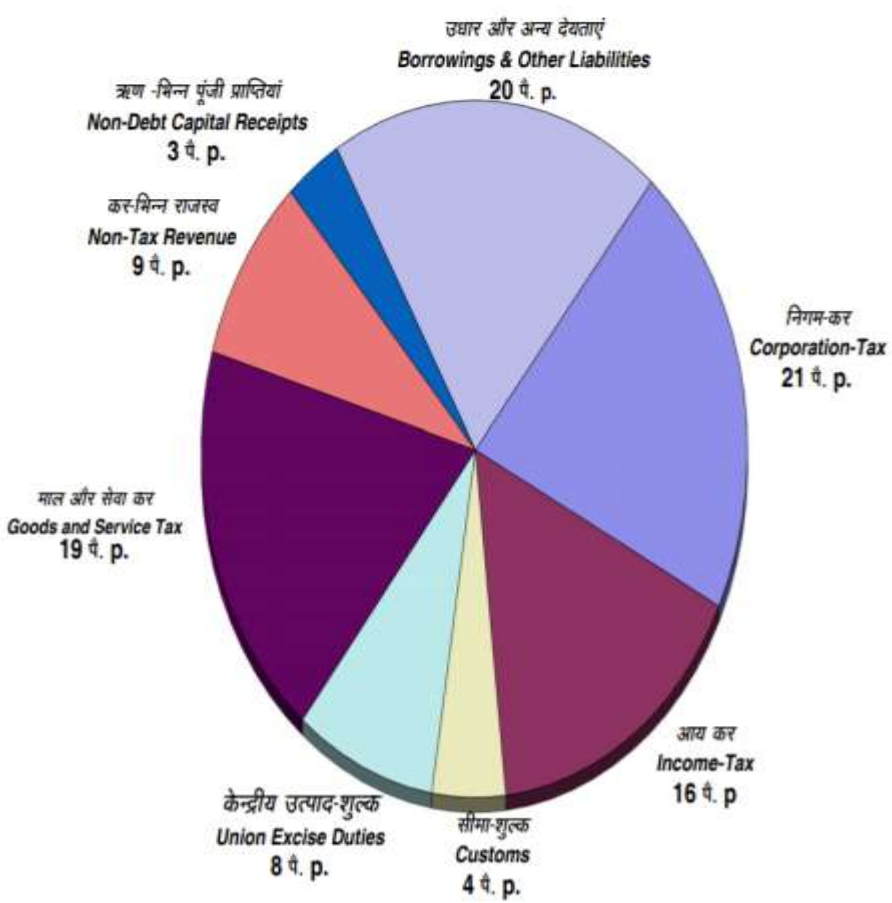




Rupee Comes in and Rupee Goes Out for FY 2019-20

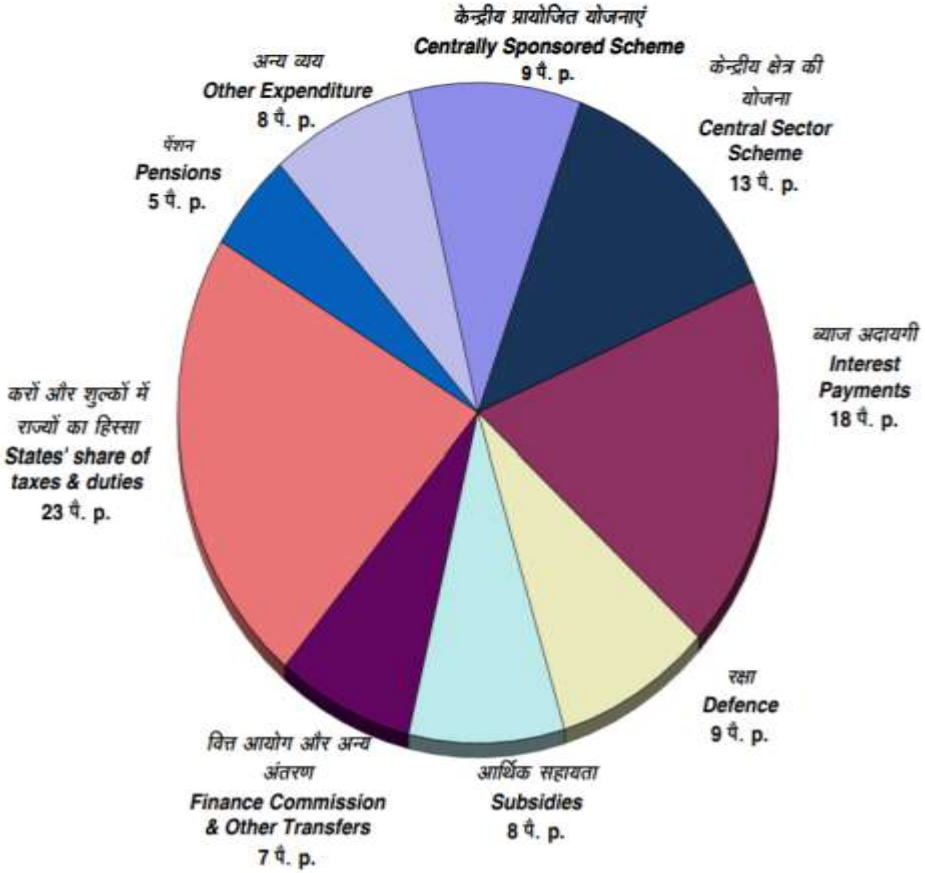
रुपया कहां से आता है Rupee Comes From

(बजट Budget 2019-20)



रुपया कहां जाता है Rupee Goes To

(बजट Budget 2019-20)



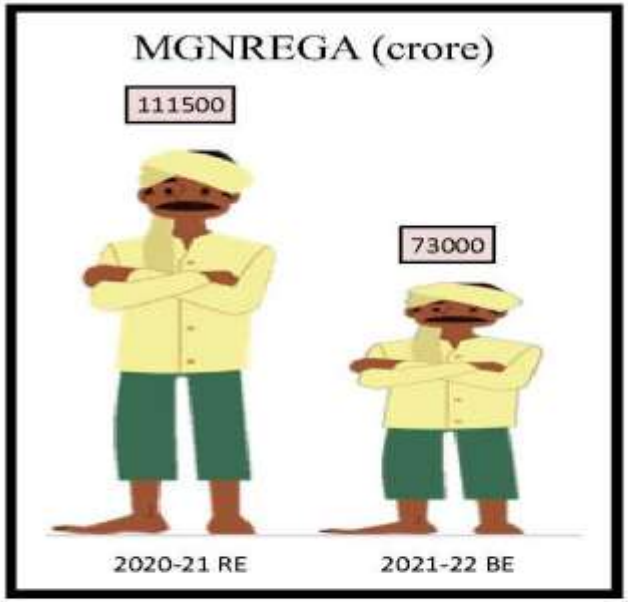
YEAR ON YEAR ANALYSIS OF RUPEE COMES IN

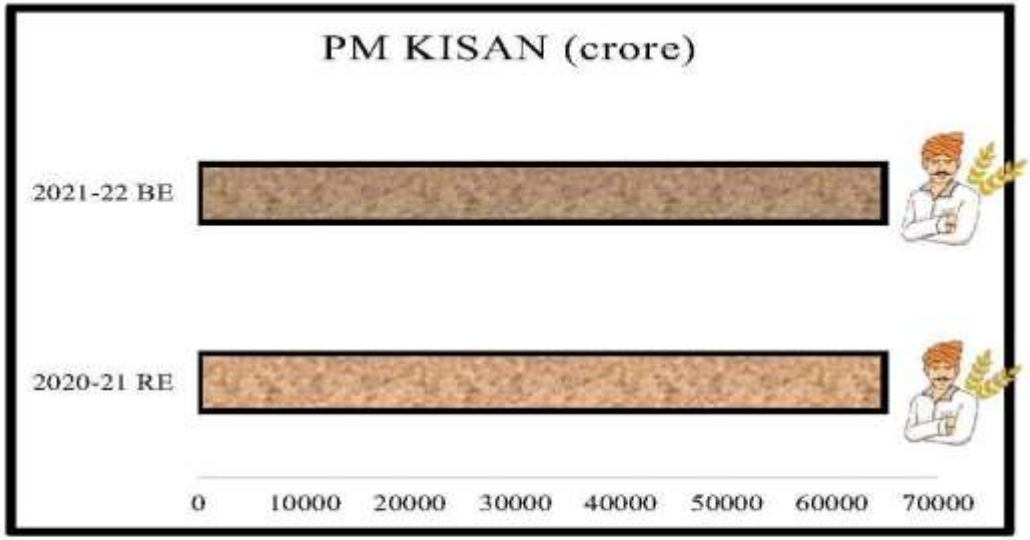
Category	Finance Bill 2019	% Change	Finance Bill 2020	% Change	Finance Bill 2021
Income Tax	16	6%	17	-18%	14
Union Excise Duties	8	-13%	7	14%	8
Corporation Tax	21	-14%	18	-28%	13
GST	19	-5%	18	-17%	15
Customs	4	0%	4	-25%	3
TOTAL TAXES	**68**	**-6%**	**64**	**-25%**	**53**
Borrowings & Other liabilities	20	0%	20	80%	36
Non Debt-Capital Receipts	3	100%	6	-17%	5
Non Tax Revenue	9	11%	10	11%	6

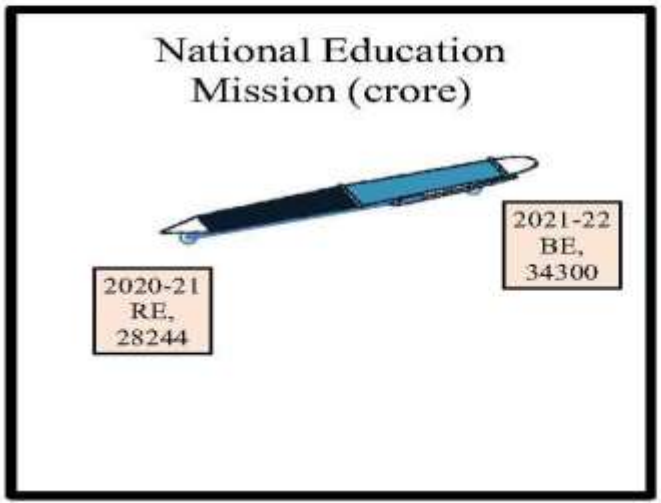
YEAR ON YEAR ANALYSIS OF RUPEE GOES OUT

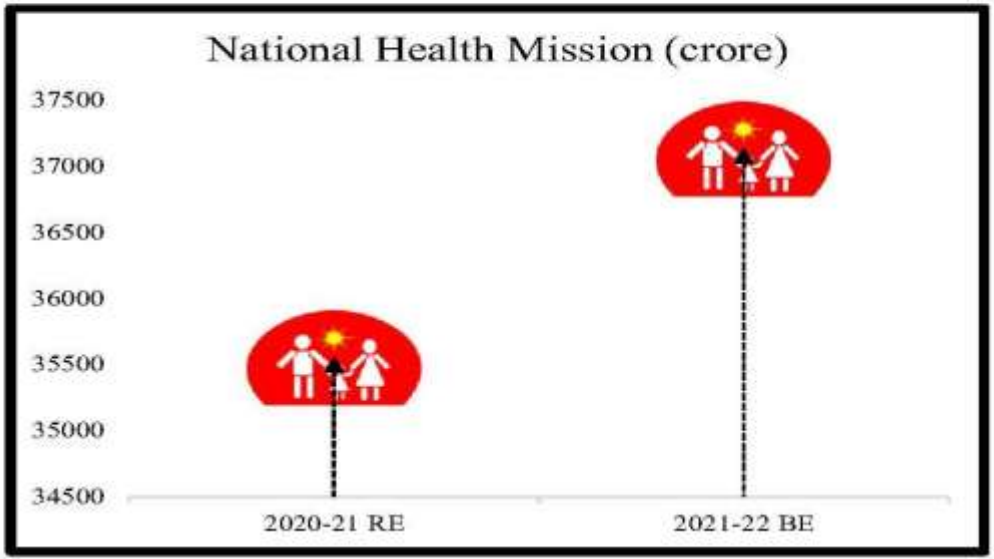
Category	Finance Bill 2019	% Change	Finance Bill 2020	% Change	Finance Bill 2021
Centrally Sponsored Schemes	9	0%	9	0%	9
Pensions	5	20%	6	-17%	5
Other Expenditure	8	25%	10	0%	10
Central Sector Schemes	13	0%	13	8%	14
Finance Commission & Other Transfers	7	43%	10	0%	10
States Share of Taxes & Duties	23	-13%	20	-20%	16
Interest Payments	18	0%	18	11%	20
Defence	9	-11%	8	0%	8
Subsidies	8	-25%	6	33%	8

ALLOCATION TO MAJOR SCHEMES

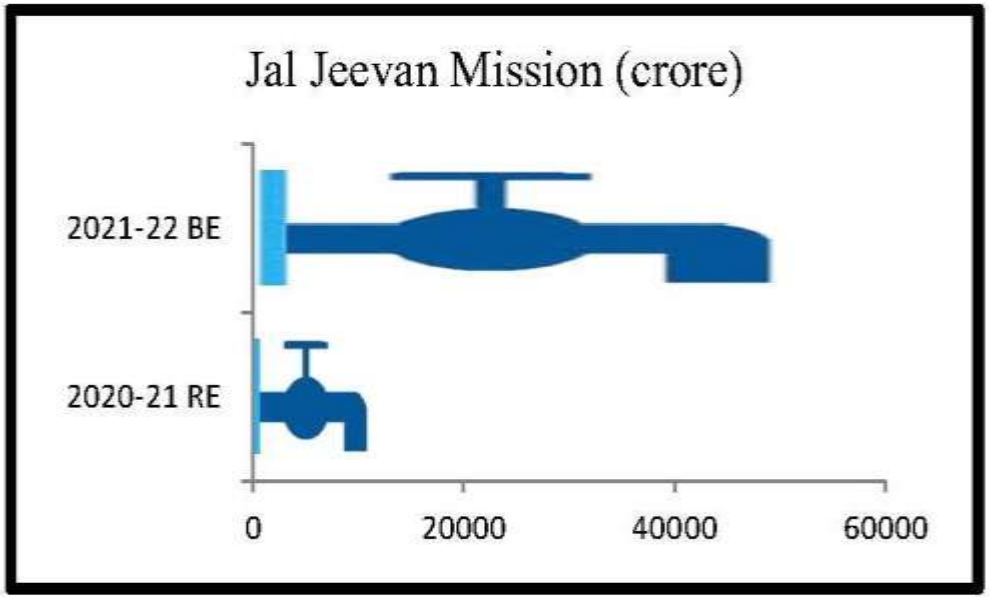


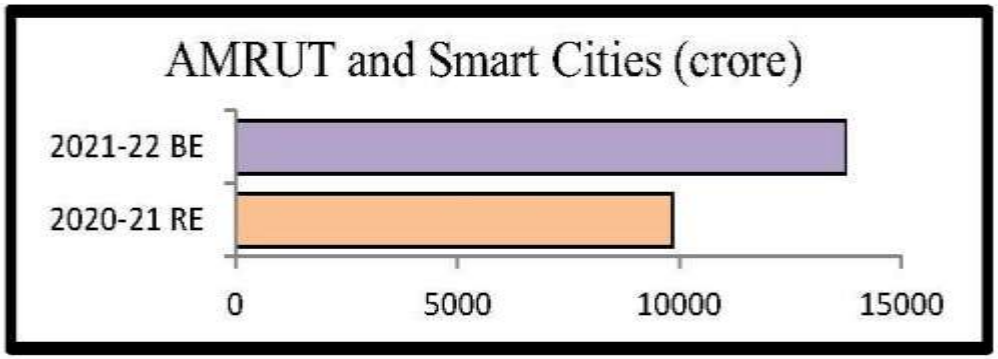


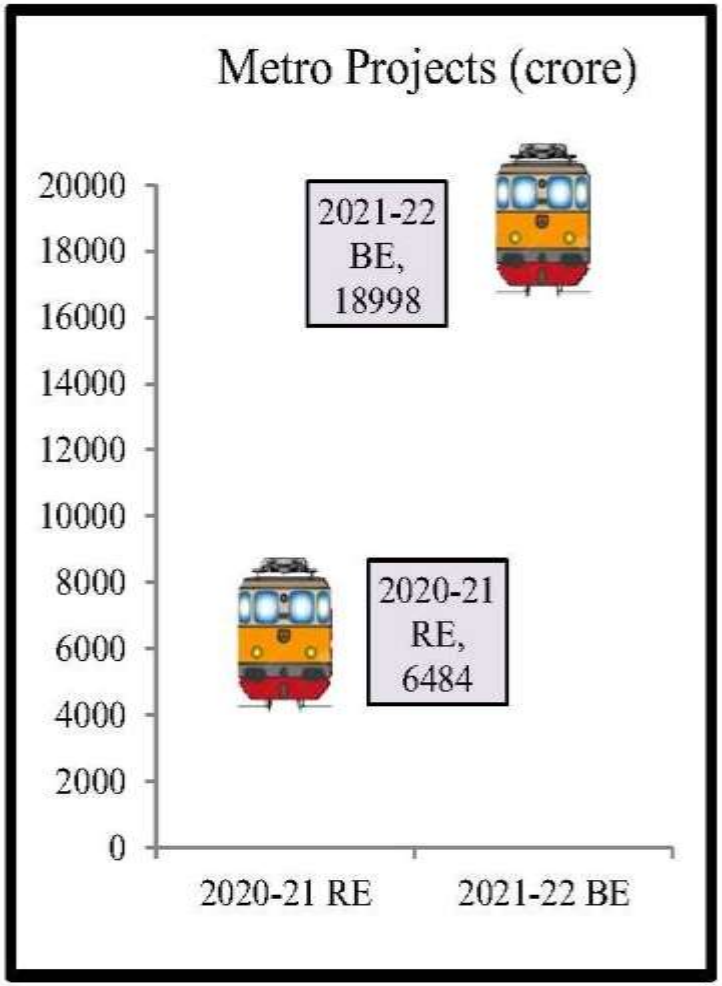




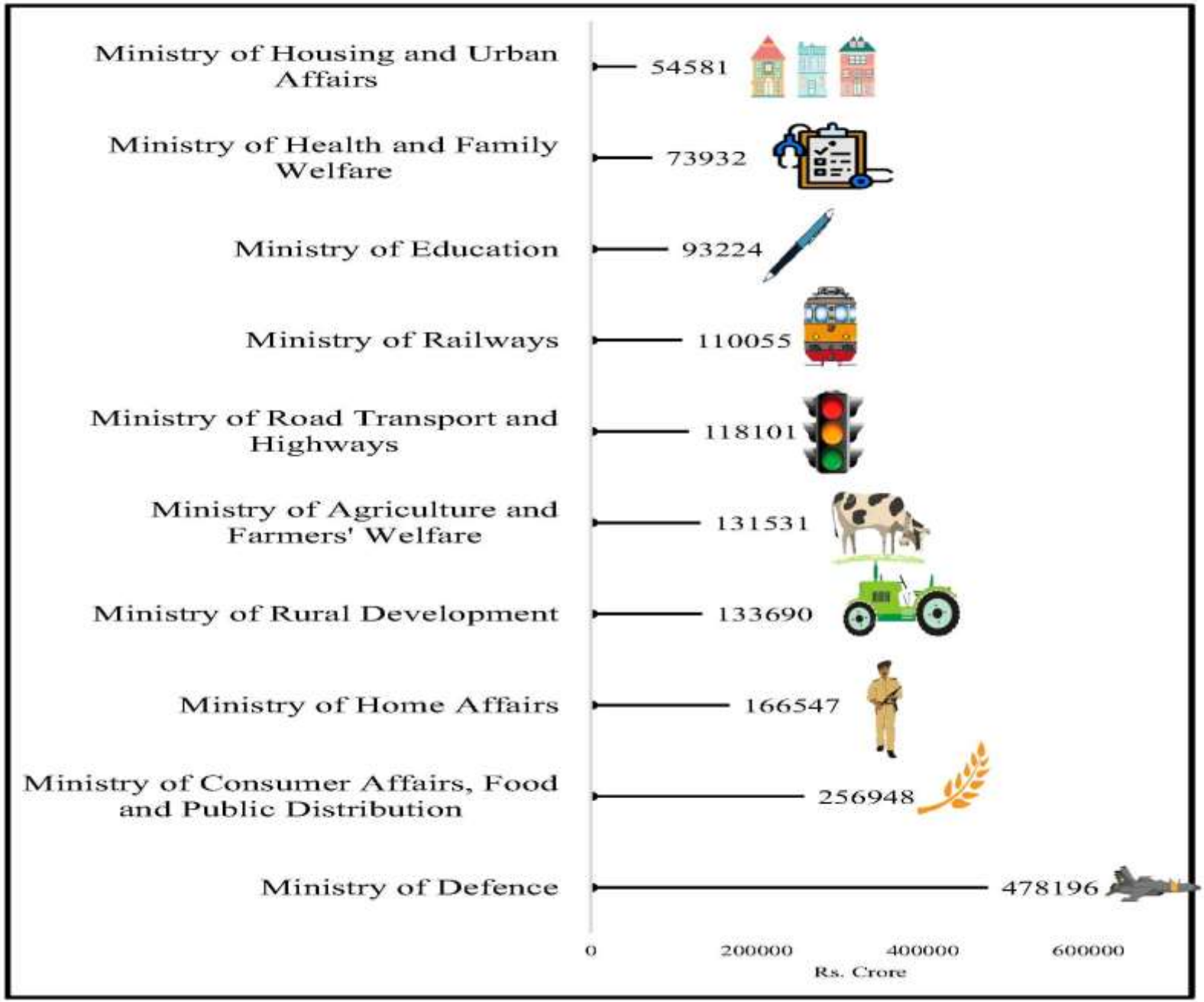
ALLOCATION TO MAJOR SCHEMES







Major Allocations



(II) Proposed Amendments under Direct Taxes in the Finance Bill, 2021

Proposed Amendments under Direct Taxes in the Finance Bill, 2021

A. Rates of Income-tax

B. Tax incentives

C. Removing difficulties faced by taxpayers

D. Rationalisation of various provisions

Note: The applicable date being 01.04.2022 and 01.04.2021 denotes the amendment is applicable w.e.f. A.Y. 2022-23 and AY 2021-22 respectively.

A. Rates of Income-tax
(Clause 2 & the First Schedule)

Brief Impact:

A. Individual, Hindu undivided family, association of persons, body of individuals, artificial juridical person.

I. The rate of income tax is same. Tax slab and rates remain unchanged.

Total income	New tax rate* (AY 2022-23)	Existing tax rate* (AY 21-22)
Up to INR 250,000**	Nil	Nil
INR 250,001 to INR 500,000	5%	5%
INR 500,001 to INR 1,000,000	20%	20%
Above INR 1,000,000	30%	30%

* Health & Education cess and surcharge as applicable.

** Basic exemption limit for resident individuals above 60 years but less than 80 years of age (i.e. Senior Citizen) at any time during the FY is INR 300,000 and for resident individuals 80 years of age or more (i.e. Super Senior Citizen) is INR 500,000 (unchanged).

2. From the AY 2021-22,Individual & HUF have an option to opt for taxation under section 115BAC of the Act.

Tax Rates under section 115 BAC

A Section 115BAC will also provide an option to Individual or HUF to pay Lower income tax slab rates if the Individual or HUF shall satisfied the certain condition. An individual and HUF have an option to pay tax at the following rates mentioned below:

Tax Rates under section 115 BAC

The rate of income tax is same. Tax slab and rates remain unchanged.

Total income	Rate of tax*
Up to Rs 2,50,000	Nil
From Rs 2,50,001 to Rs 5,00,000	5 per cent.
From Rs 5,00,001 to Rs 7,50,000	10 per cent.
From Rs 7,50,001 to Rs 10,00,000	15 per cent.
From Rs 10,00,001 to Rs 12,50,000	20 per cent.
From Rs 12,50,001 to Rs 15,00,000	25 per cent.
Above Rs 15,00,000	30 per cent.:

Tax Rates under section 115 BAC

This option shall be available if the Individual or HUF fulfil the following Condition:

(1)The Assessee shall not avail following exemption or deduction prescribed under following section

Section	Clause	Name
10	5	Leave Travel concession
10	13A	House rent allowance
10	14	Allowances
10	17	Allowances to MPs/MLAs
10	32	Allowance for income of minor
10AA		Exemption for SEZ
16		Deductions from Salaries
24	(b)	Interest in respect of self-occupied or vacant property
32(1)	iia	Additional Depreciation

Tax Rates under section 115 BAC

Section	Clause	Name
32AD		Investment in new plant or machinery in notified backward areas in certain states
33AB		Tea development account
33ABA		Site restoration Fund
35(1)	(ii)(iia) (iii)	Expenditure on Scientific Research
35(2AA)		Expenditure on Scientific Research
35AD		Deduction in respect of expenditure on specified business
35CCC		Expenditure on Agricultural extension project
57	iia	Deduction from family pension

Tax Rates under section 115 BAC

Further, The Assessee shall not claim any deduction as specified under Chapter VI-A of the Income tax Act. However Assessee can claim exemption of Section 80CCD(2) and 80JJAA of the chapter VI A

(2) The assessee shall not have right to set off any loss under the head "Income from the House Property" or 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);

(3)The Assessee shall claim the depreciation any, under any provision of section 32, except clause (iia) of sub-section (1) of the Section 32, determined in such manner as may be prescribed; and

(4) The assessee shall not take any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being in force.

(5) All of the carried forwarded losses and unabsorbed depreciation shall be deemed to be provided for, on exercise of the option provided in this section. However, in case any depreciation allowance pending to be allowed to the assessee on 01.04.2020 and the assessee exercise the said option, the amount of such depreciation allowance pending to be allowed **shall be added to the value of block of assets as on 01.04.2020. [Proviso to 115BAC(3)]**

Tax Rates under section 115 BAC

Manner of Exercising of the Option

(a) In case of the Individual or HUF having no business income, such option shall be exercised for every previous year before filling return of income.

(b) In case assessee having Business income, the option shall be exercised before the due date specified under section 139(1) of the Act. The option once exercised shall be valid for subsequent assessment year also.

Points to be noted:

It is further proposed to amend section 115JC of the Act so as to provide that the provisions relating to AMT shall not apply to such individual or HUF having business income.

It is also proposed to amend section 115JD of the Act so as to provide that the provisions relating to carry forward and set off of AMT credit, if any, shall not apply to such individual or HUF having business income.

TAX EFFECT OF PROPOSED SECTION 115BAC

	Example 1		Example 2	
	OLD (GTI = 10L)	**NEW (GTI = 10L)**	**OLD (GTI = 15L)**	**NEW (GTI = 15L)**
Salary	10,00,000.00	10,00,000.00	15,00,000.00	15,00,000.00
Less: Standard Deduction	50,000.00		50,000.00	
Taxable Income (A)	**9,50,000.00**	**10,00,000.00**	**14,50,000.00**	**15,00,000.00**
Deduction				
U/s 24 - Interest on Home Property	2,00,000.00	-	2,00,000.00	-
80C - LIC/NSC/PPF etc.	1,50,000.00	-	1,50,000.00	-
80CCD – NPS	50,000.00	-	50,000.00	-
80D – Mediclaim				
Self	25,000.00	-	25,000.00	-
Parents	25,000.00	-	25,000.00	-
Total Deduction (B)	**4,50,000.00**	**-**	**4,50,000.00**	**-**

Contd....

	Example 1		Example 2	
	OLD (GTI = 10L)	**NEW (GTI = 10L)**	**OLD (GTI = 15L)**	**NEW (GTI = 15L)**
Total Taxable Income (A-B)	5,00,000.00	10,00,000.00	10,00,000.00	15,00,000.00
Computation of Tax				
Upto 2.5 Lac	-	-	-	-
2.5Lac - 5Lac	12,500.00	12,500.00	12,500.00	12,500.00
5Lac - 7.5Lac	-	25,000.00	50,000.00	25,000.00
7.5Lac - 10Lac	-	37,500.00	50,000.00	37,500.00
10Lac - 12.5Lac	-	-	-	50,000.00
12.5Lac - 15Lac	-	-	-	62,500.00
15Lac Above	-	-	-	-
Total Tax	12,500.00	75,000.00	1,12,500.00	1,87,500.00
(less) Rebate u/s 87A	(12,500.00)	-	-	-
ADD: Cess @ 4%	-	3,000.00	4,500.00	7,500.00
Total Tax Liability	**-**	**78,000.00**	**1,17,000.00**	**1,95,000.00**

TAX EFFECT OF PROPOSED SECTION 115BAC

	Example 3		Example 4	
	OLD (GTI = 20L)	**NEW (GTI = 20L)**	**OLD (GTI = 25L)**	**NEW (GTI = 25L)**
Salary	20,00,000.00	20,00,000.00	25,00,000.00	25,00,000.00
Less: Standard Deduction	50,000.00		50,000.00	
Taxable Income (A)	**19,50,000.00**	**20,00,000.00**	**24,50,000.00**	**25,00,000.00**
Deduction				
U/s 24 - Interest on Home Property	2,00,000.00	-	2,00,000.00	-
80C - LIC/NSC/PPF etc.	1,50,000.00	-	1,50,000.00	-
80CCD – NPS	50,000.00	-	50,000.00	-
80D – Mediclaim				
Self	25,000.00	-	25,000.00	-
Parents	25,000.00	-	25,000.00	-
Total Deduction (B)	**4,50,000.00**	**-**	**4,50,000.00**	**-**

Contd....

	Example 3		Example 4	
	OLD (GTI = 20L)	**NEW (GTI = 20L)**	**OLD (GTI = 25L)**	**NEW (GTI = 25L)**
Total Taxable Income (A-B)	15,00,000.00	20,00,000.00	20,00,000.00	25,00,000.00
Computation of Tax				
Upto 2.5 Lac	-	-	-	-
2.5Lac - 5Lac	12,500.00	12,500.00	12,500.00	12,500.00
5Lac - 7.5Lac	50,000.00	25,000.00	50,000.00	25,000.00
7.5Lac - 10Lac	50,000.00	37,500.00	50,000.00	37,500.00
10Lac - 12.5Lac	75,000.00	50,000.00	75,000.00	50,000.00
12.5Lac - 15Lac	75,000.00	62,500.00	75,000.00	62,500.00
15Lac Above		1,50,000.00	1,50,000.00	3,00,000.00
Total Tax	2,62,500.00	3,37,500.00	4,12,500.00	4,87,500.00
(less) Rebate u/s 87A	-	-	-	-
ADD: Cess @ 4%	10,500.00	13,500.00	16,500.00	19,500.00
Total Tax Liability	**2,73,000.00**	**3,51,000.00**	**4,29,000.00**	**5,07,000.00**

A. Surcharge in case of Individual & HUF

II. The amount of income-tax computed (in accordance with the Provisions of the Income Tax & provisions of the Section 115BAC, not having income under section 115AD of the Act) shall be increased by a surcharge at the rate of:

Particulars	Surcharge
Taxable income < INR 50 lacs	-
INR 50 lacs < taxable income < INR 1 crore	10%*
INR 1 crore < taxable income < INR 2 crore	15%*
INR 2 crore < taxable income < INR 5 crore	25%**
Taxable income > INR 5 crore	37%**

For A.Y. 2022-23 the total income of the Assessee including the income by way of Dividends or income in accordance with the Provisions of the section 111A and 112A of the Act.

****The above surcharge rate is applicable only if the total income of the assessee excluding the income in accordance with the provision of the section 111A and 112A of the Act. But if the total income of the Assessee included income by way of the Dividend or the income in accordance with***

The amount of income-tax computed (on all category of income without excluding dividend or capital gains in case if the income is taxable under section 115A, 115AB, 115AC, 115ACA and 115E) shall be increased by a surcharge at the rate of

Particulars	Surcharge
Taxable income < INR 50 lacs	-
INR 50 lacs < taxable income < INR 1 crore	10%
INR 1 crore < taxable income < INR 2 crore	15%
INR 2 crore < taxable income < INR 5 crore	25%**
Taxable income > INR 5 crore	37%**

The above surcharge rate is applicable only if the total income of the assessee excluding the income by way of Dividend or income in the nature of the section 115AD . But if the total income of the Assessee included income by way of the Dividend or the income in the nature of section 115AD of the income tax Act, the rate of the surcharge does not exceed 15% on the income tax calculated on that part of income of the Act.

B. Co-operative Societies

I. The rates of income-tax have been specified in Paragraph B of Part III of the First Schedule to the Bill.

II. The rates of income-tax will continue to be the same as those specified for Assessment Year 2020-21.

Total income	Tax rate*
Up to Rs. 10,000	10%
Rs. 10,000 to Rs. 20,000	20%
Above Rs. 20,000	30%

II. Surcharge of 12% would continue to be applicable where the total income of Co-orporative Society(except resident co-operative society opting under section 115BAD) exceeds Rs 1.00 Crore. [Subject to Marginal Relief]

Section 115 BAD :Incentive to Resident Co-operative Societies

(1) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, the income-tax payable in respect of the total income of a person, being a co-operative society resident in India, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2021, shall, at the option of such person, be computed at the rate of twenty-two per cent., if the conditions contained in sub-section (2) are satisfied:

Provided that where the person fails to satisfy the conditions contained in sub-section (2) in computing its income in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment year.

(2) For the purposes of sub-section (1), the total income of the co-operative society shall be computed,—

(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or under any of the provisions of Chapter VI-A other than the provisions of section 80JJAA;

(ii) 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); and

(iii) by claiming the depreciation, if any, under section 32, other than clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed.

(3) The loss and depreciation referred to in clause (ii) of sub-section (2) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year:

Provided that where there is a depreciation allowance in respect of a block of asset which has not been given full effect to prior to the assessment year beginning on the 1st day of April, 2021, corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2020 in such manner as may be prescribed, if the option under sub-section (5) is exercised for a previous year relevant to the assessment year beginning on the 1st day of April, 2021.

C. Partnership Firms

The rates of income-tax will continue to be the same as those specified for Assessment Year 2020-21 i.e. **a partnership firm (including LLP) is taxable at 30%.**

Add:

I. Surcharge of 12% would continue to be applicable where the total income of firm exceeds Rs 1.00 Crore. **[Subject to Marginal Relief*]**

II. Health & Education cess as applicable.

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

D. Local Authority (for A.Y. 2022-23)

The rates of income-tax will continue to be the same as those specified for Assessment year 2021-22 i.e. **a local authority is taxable at 30%**

Add:

Surcharge of 12% would continue to be applicable where the total income of Local Authority exceeds Rs. 1.00 Crore **[Subject to Marginal Relief*]**

Health & Education cess as applicable.

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

E. Domestic Company

I. Paragraph E of Part III to the First Schedule: In the case of domestic companies the rate of income-tax shall be @ 25% (plus applicable surcharge and health & education cess) of the total income **where the total turnover or gross receipts of previous year 2019-20 does not exceed Rs. 400.00** crore and in all other cases the rate of income-tax shall be 30% (plus applicable surcharge and health & education cess) of the total income (Unchanged).

A. For a domestic company having total turnover/ gross receipts in the previous year (2019-20) not exceeding INR 400 Crores:

Particulars	Taxable income < INR 1 crore	Taxable income >INR 1 crore and < INR 10 crore	Taxable income > INR 10 crore
Corporate tax	25%	25%	25%
Surcharge	-	7%	12%
Corporate tax + surcharge	25%	26.75%	28%
Health & Education cess	4%	4%	4%
Effective tax rate	26%	27.82%	29.12%

B. For a domestic company having total turnover/ gross receipts in previous year 2019-20 exceeding INR 400 Crores

Particulars	Taxable income < INR 1 crore	INR 1 crore < taxable income < INR 10 crore	Taxable income > INR 10 crore
Corporate tax	30%	30%	30%
Surcharge	-	7%	12%
Corporate tax + surcharge	30%	32.10%	33.60%
Health & Education cess	4%	4%	4%
Effective tax rate	31.20%	33.38%	34.94%

For A.Y. 2022-23 *In the case of domestic companies the rate of income-tax shall be 25% (plus applicable surcharge and health & education cess) of the total income* ***where the total turnover or gross receipts of previous year 2019-20 does not exceed Rs. 400.00 crore.***

For the AY 2020-21, Domestic company has an option to opt for Taxation under section 115BAA or Section 115BAB of the income tax Act, where rate of tax is 15 percent in section 115BAB and 22 percent in section 115BAA. Surcharge is 10 per cent. in both cases.

F. Foreign Company

I. The rates of income-tax will continue to be the same as those specified for assesment year 2021-22 i.e. **a foreign company is taxable at 40%** *[Health & Education cess and surcharge as applicable]*.

Particulars	Taxable income < INR 10 million	INR 10 million < taxable income < INR 100 million	Taxable income > INR 100 million
Corporate tax	40%	40%	40%
Surcharge	-	2%	5%
Corporate tax + surcharge	40%	40.80%	42.00%
Health & Education cess	4%	4%	4%
Effective tax rate	41.60%	42.43%	43.68%

Option to Domestic Companies for taxation

However, domestic companies also have an option to opt for taxation under section 115BAA or section 115BAB of the Act on fulfillment of conditions contained therein. The tax rate is 15 per cent in section 115BAB and 22 per cent. in section 115BAA. Surcharge is 10 per cent. in both cases.

- TLAA (Tax Laws Amendment Act, 2019) inserted section 115BAA in the Act to provide domestic companies an option to be taxed at concessional tax rates provided they do not avail specified deductions and incentives. It is now proposed to amend the provisions of section 115BAA to not allow deduction under any provisions of Chapter VI-A other than section 80JJAA or section 80M, in case of domestic companies opting for taxation under these sections.
- TLAA inserted section 115BAB in the Act to provide domestic companies an option to be taxed at concessional tax rates provided they do not avail specified deductions and incentives. It is now proposed to amend the provisions of section 115BAB to not allow deduction under any provisions of Chapter VI-A other than section 80JJAA or section 80M, in case of domestic companies opting for taxation under these sections.

Contd....

(4) In case of a person, having a Unit in the International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, which has exercised option under sub-section (5), the conditions contained in sub-section (2) shall be modified to the extent that the deduction under the said section shall be available to such Unit subject to fulfilment of the conditions contained in that section.

(5) Nothing contained in this section shall apply unless option is exercised by the person in such manner as may be prescribed on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for any previous year relevant to the assessment year commencing on or after the 1st day of April, 2021 and such option once exercised shall apply to subsequent assessment years.

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.'.

B. TAX INCENTIVES

B. Tax Incentive

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
1.	Exemption for LTC Cash Scheme	Proviso to s.10(5)	5	01-04-2021
2.	Incentives for affordable rental housing	80-IBA	26	Outer limit for eligible project extended to 31-03-2022
3.	Tax incentives for units located in International Financial Services Centre (IFSC)	9A, 10, 47, 49, 56, 79, 80LA & 115AD	4,5,15,17, 21,23 & 30	- New Provisions applicable from 01-04-2022 - Outer limit to commence operations extended to 31-03-2024

B. Tax Incentive

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
4.	Issuance of zero coupon bond by infrastructure debt fund	2(48) & 194A	3 & 45	01-04-2021 & 01-04-2022
5.	Tax neutral conversion of Urban Cooperative Bank into Banking Company	44DB & 47	13 & 15	01-04-2021
6.	Facilitating strategic disinvestment of public sector company	2(19AA) & 72A	3 & 22	01-04-2021
7.	Extension of date of sanction of loan for affordable residential house property	80EEA	24	Upto 01-04-2022
8.	Extension of date of incorporation for eligible start up for exemption and for investment in eligible start-up	80-IAC & 54GB	19 & 25	Upto 01-04-2022

1. Amendment for Tax Exemption to Cash allowance in lieu of LTC [Clause 5]

- **Amended section 10(5) of the Income-tax Act, w.e.f. 01/04/2020 [Clause 5]**

Section 10(5)

In the case of an individual, the value of any travel concession or assistance received by, or due to, him,—

a. *from his employer for himself and his family, in connection with his proceeding on leave to any place in India ;*

b. *from his employer or former employer for himself and his family, in connection with his proceeding to any place in India after retirement from service or after the termination of his service,*

subject to such conditions as may be prescribed (including conditions as to number of journeys and the amount which shall be exempt per head) having regard to the travel concession or assistance granted to the employees of the Central Government :

Provided that the amount exempt under this clause shall in no case exceed the amount of expenses actually incurred for the purpose of such travel.

Provided further that for the assessment year beginning on the 1st day of April, 2021, the value in lieu of any travel concession or assistance received by, or due to, such individual shall also be exempt under this clause subject to the fulfillment of such conditions (including the condition of incurring such amount of such expenditure within such period), as may be prescribed.

Explanation 1— For the purposes of this clause, "family", in relation to an individual, 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;

Explanation 2.—For the removal of doubts, it is hereby clarified that where an individual claims exemption and the exemption is allowed under the second proviso in connection with the prescribed expenditure, no exemption shall be allowed under this clause in respect of such prescribed expenditure to any other individual.

Note: *New words are introduced as given in bold.*

Brief Impact:

Section 10(5): Under the existing provisions of the Act, clause (5) of section 10 of the Act provides for exemption in respect of the actual expenditure incurred by employee for him self and his family, in connection with his proceeding on leave to any place in India. During the outbreak of COVID pandemic, it was not at all possible for people to visit any place during the FY 2020-21, it is proposed to provide tax exemption to cash allowance in lieu of LTC. **Hence, it is proposed to insert second proviso in clause 5 of section 10, so as to provide that, for the AY 2021 - 22, the value in lieu of any travel concession or assistance received by, or due to, an individual shall also be exempt under this clause subject to fulfilment of conditions to be prescribed in the Income-tax Rules in due course and shall, inter alia, be as under:**

a. The employee exercises an option for the deemed LTC fare in lieu of the applicable LTC in the Block year 2018-21.
b. Specified expenditure means expenditure incurred by an individual or a member of his family during the specified period on goods or services which are liable to tax at an aggregate rate of twelve per cent or above under various GST laws and goods are purchased or services procured from GST registered vendors/service providers.

Contd....

c. Specified period means the period commencing from 12th day of October, 2020 and ending on 31st day of March, 2021.

d. The amount of exemption shall not exceed thirty-six thousand rupees per person or one-third of specified expenditure, whichever is less.

e. The payment to GST registered vendor/service provider is made by an account payee cheque drawn on a bank or account payee bank draft, or use of electronic clearing system through a bank account or through such other electronic mode as prescribed under Rule 6ABBA and tax invoice is obtained from such vendor/service provider.

f. If the amount received by, or due to an individual as per the terms of his employment, from his employer in relation to himself and his family, for the LTC is more than what is allowable to such person under the above discussed provisions, the exemption under the proposed amendment would be available only to the extent of exemption admissible under above listed provisions.

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

2. Incentives for Affordable Rental Housing [Clause 26]

Amendment in Section 80-IBA [w.e.f 1st April 2022]

- **Insertion of sub-section (1A) to section 80-IBA [Clause 26]**

  80-IBA(1A): *Where the gross total income of an assessee includes any profits and gains derived from the business of developing and building rental housing project, there shall be allowed a deduction of an amount equal to hundred per cent. of the profits and gains derived from such business.*

- **Amendment in clause (a) to sub-section (2) to section 80-IBA [Clause 26]**

  80-IBA(2)(a): *The project is approved by the competent authority after the 1st day of June, 2016, but on or before the 31st day of March ~~2021~~ 2022.*

- **Insertion of clause (da) to sub-section (6) to section 80-IBA [Clause 26]**

  80-IBA(6)(da): *"rental housing project" means a project which is notified by the Central Government in the Official Gazette under this clause on or before the 31st day of March, 2022 and fulfils such conditions as may be specified in the said notification.*

Brief Impact:

Hon'ble Finance Minister Smt. Nirmala Sitharman in her budget speech said that *"…to keep up the supply of affordable houses, I propose that affordable housing projects can avail a tax holiday for one more year – till 31st March, 2022.*

We are committed to promote supply of Affordable Rental Housing for migrant workers. For this, I propose to allow tax exemption for notified Affordable Rental Housing Projects…."

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

Sub-section 1A is inserted to Section 80-IBA, wherein an assessee will be **allowed deduction of an amount equal to 100% of the Profits & Gains derived from business of developing and building rental housing project**.

Further, it is also proposed that the outer time limit for 31st March 2021 in this section for getting the affordable housing project approved be **extended to 31st March 2022** and same outer time limit be also provided for the proposed affordable rental housing project.

3. Tax incentives for units located in International Financial Services Centre (IFSC) [Clause 4, 5, 15, 17, 21, 23 & 30]

Amendment in Section 9A [w.e.f 1st April 2022]

- **Insertion of sub-section (8A) to section 9A [Clause 4]**

  9A(8A): *The Central Government may, by notification in the Official Gazette, specify that any one or more of the conditions specified in clauses (a) to (m) of sub-section (3) or clauses (a) to (d) of sub-section (4) shall not apply or shall apply with such modifications, as may be specified in such notification, in case of an eligible investment fund and its eligible fund manager, if such fund manager is located in an International Financial Services Centre, as defined in clause (a) of the Explanation to section 80LA, and has commenced its operations on or before the 31st day of March, 2024.*

Amendment in Section 10 [Clause 5]

- **Amendment in clause (4D) to section 10 [Clause 5]**

  *After the words "attributable to units held by non-resident (not being the permanent establishment of a non-resident in India)", the words "**or is attributable to the investment division of offshore banking unit, as the case may be,**" shall be inserted*

- **Insertion of new Clause (aa) to Explanation to Clause 4D to Section 10 [Clause 5]**

  10(4D)(aa): *"investment division of offshore banking unit" means an investment division of a banking unit of a non-resident located in an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA and which has commenced its operations on or before the 31st day of March, 2024*

*__Note:__ *New words are introduced as given in bold.*

- **Substitution of Clause (c) to Explanation to Clause 4D to Section 10 [Clause 5]**

(c): *"specified fund" means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate,—*

i. *which has been granted a certificate of registration as a Category III Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992);*

ii. *which is located in any International Financial Services Centre;*

iii. *of which all the units are held by non-residents other than unit held by a sponsor or manager;*

- **Substitution of Clause (c) to Explanation to Clause 4D to Section 10 [Clause 5] (Contd…..)**

(c): "*specified fund*" *means*,—

i. a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate-

I. which has been granted a certificate of registration as a Category III Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992

II. which is located in any International Financial Services Centre; and

III. of which all the units other than unit held by a sponsor or manager are held by non-residents; or

**Note: New words are introduced as given in bold.*

- **Substitution of Clause (c) to Explanation to Clause 4D to Section 10 [Clause 5] (Contd.....)**

(c):

ii. investment division of an offshore banking unit, which has been-

I. granted a certificate of registration as a Category III Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 or which has commenced its operations on or before the 31st day of March, 2024; and

II. fulfils such conditions including maintenance of separate accounts for its investment division, as may be prescribed;

*__Note:__ New words are introduced as given in bold.

- **Insertion of Clause 4E to Section 10 [Clause 5]**

10(4E): *"any income accrued or arisen to, or received by a non-resident as a result of transfer of nondeliverable forward contracts entered into with an offshore banking unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, which fulfils such conditions as may be prescribed;"*

- **Insertion of Clause 4F to Section 10 [Clause 5]**

10(4F): *"any income of a non-resident by way of royalty, on account of lease of an aircraft in a previous year, paid by a unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, if the unit—*

i. is eligible for deduction under the said section for that previous year; and

ii. has commenced its operations on or before the 31st day of March, 2024."

- **Insertion of Clause 23FF to Section 10 [Clause 5]**

10(23FF): *any income of the nature of capital gains, arising or received by a non-resident, which is on account of transfer of share of a company resident in India, by the resultant fund and such shares were transferred from the original fund to the resultant fund in relocation, and where capital gains on such shares were not chargeable to tax if that relocation had not taken place.*

Explanation.—For the purposes of this clause, the expressions "original fund", "relocation" and "resultant fund" shall have the meanings respectively assigned to them in the Explanation to clause (viiac) and clause (viiad) of section 47;

Amendment in Section 47 [Clause 15]

- **Insertion of Clause (viiac) to Section 47 [Clause 15]**

  47(viiac): *"any transfer, in a relocation, of a capital asset by the original fund to the resulting fund;"*

- **Insertion of Clause (viiad) to Section 47 [Clause 15]**

  47(viiad): *"any transfer by a shareholder or unit holder or interest holder, in a relocation, of a capital asset being a share or unit or interest held by him in the original fund in consideration for the share or unit or interest in the resultant fund"*

- **Insertion of Explanation to Clause (viiac) & (viiad) to Section 47 [Clause 15]**

  Explanation- *– For the purposes of clauses (viiac) and (viiad),—*

  a) *"original fund" means a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfills the following conditions, namely-*

- **Insertion of Explanation to Clause (viiac) & (viiad) to Section 47 [Clause 15] (Contd…)**

Explanation-

i. *the fund is not a person resident in India;*

ii. *the fund is a resident of a country or a specified territory with which an agreement referred to in sub-section (1) of section 90 or subsection (1) of section 90A has been entered into; or is established or incorporated or registered in a country or a specified territory as may be notified by the Central Government in this behalf;*

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

iv. *fulfils such other conditions as may be prescribed*

- **Insertion of Explanation to Clause (viiac) & (viiad) to Section 47 [Clause 15] (Contd……..)**

Explanation-

b) "relocation" means transfer of assets of the original fund to a resultant fund on or before the 31st day of March, 2023, where consideration for such transfer is discharged in the form of share or unit or interest in the resulting fund to the shareholder or unit holder or interest holder of the original fund in the same proportion in which the share or unit or interest was held by such shareholder or unit holder or interest holder in such original fund;

c) "resultant fund" means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership, which—

i. has been granted a certificate of registration as a Category I or Category II or Category III Alternative Investment Fund, and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012 made under the Securities and exchange Board of India Act, 1992; and

ii. is located in any International Financial Services Centre as referred to in sub-section (1A) of section 80LA;'

Amendment in clause (iii) to sub-section (1) to section 49 [Clause 17]

Where the capital asset became the property of the assessee

(i) on any distribution of assets on the total or partial partition of a Hindu undivided family.

(ii) under a gift or will

(iii)

a) by succession, inheritance or devolution, or

b) on any distribution of assets on the dissolution of a firm, body of individuals, or other association of persons, where such dissolution had taken place at any time before the 1st day of April, 1987, or

c) on any distribution of assets on the liquidation of a company, or

d) under a transfer to a revocable or an irrevocable trust, or

e) under any such transfer as is referred to in clause (iv) or clause (v) or clause (vi) or clause (via) or clause (viaa) or clause (viab) or clause (vib) or clause (vic) or clause (vica) or clause (vicb) or clause (vicc) or ***clause (viiac) or clause (viiad) or*** *clause (xiii) or clause (xiiib) or clause (xiv) of section 47;*

**Note: New words are introduced as given in bold.*

Amendment in Section 56 [Clause 21]

- **Insertion of Provision in sub-clause (b) to item B to sub-section(2) to section 56 [Clause 21]**

  Provided also that in case of property being referred to in the second proviso to sub-section (1) of section 43CA, the provisions of sub-item (ii) of item (B) shall have effect as if for the words "ten per cent.", the words "twenty per cent." had been substituted;

- **Amendment in Proviso to clause (c) to sub-section(2) to section 56 [Clause 21]**

  56(2)(x)(c): *…..by way of transaction not regarded as transfer under clause (i) or 90aa[clause (iv) or clause (v) or] clause (vi) or clause (via) or clause (viaa) or clause (vib) or clause (vic) or clause (vica) or clause (vicb) or clause (vid) or clause (vii)* ***or clause (viiac) or clause (viiad)*** *of section 47; or….*

*__Note:__ *New words are introduced as given in bold.*

Amendment in Section 79 [Clause 23]

- **Insertion of new clause to sub-section(2) to section 79 [Clause 21]**

  79(2)(e): *to a company to the extent that a change in the shareholding has taken place during the previous year on account of relocation referred to in the Explanation to clause (viiac) and (viiad) of section 47.*

Amendment in Section 115AD [Clause 30]

- **Amendment in sub-section (1) to section 115AD [Clause 30]**

  *In the opening portion, after the words "a specified fund", the words "**or investment division of an offshore banking unit**" shall be inserted*

- **Amendment in clause (b) to sub-section (1) to section 115AD [Clause 30]**

  115AD(1)(b)(i): *the amount of income-tax calculated on the income in respect of securities referred to in clause (a), if any, included in the total income,—*

  (A) at the rate of twenty per cent in case of Foreign Institutional Investor;

  (B) at the rate of ten per cent in case of specified fund ***or investment division of an offshore banking unit.***

*__Note:__ *New words are introduced as given in bold.*

Amendment in Section 115AD [Clause 30]

- **Amendment in sub-section (1) to section 115AD [Clause 30]**

  *In the opening portion, after the words "a specified fund", the words "**or investment division of an offshore banking unit**" shall be inserted*

- **Amendment in clause (b) to sub-section (1) to section 115AD [Clause 30]**

  115AD(1)(b)(i): *the amount of income-tax calculated on the income in respect of securities referred to in clause (a), if any, included in the total income,—*

  (A) at the rate of twenty per cent in case of Foreign Institutional Investor;

  (B) at the rate of ten per cent in case of specified fund ***or investment division of an offshore banking unit.***

**Note:* *New words are introduced as given in bold.*

- **Insertion of new sub-section(1B) to section 115AD [Clause 30]**

115AD(1B): *Notwithstanding anything contained in subsection (1), in case of investment division of an offshore banking unit, the provisions of this section shall apply to the extent of income that is attributable to the investment division of such banking units, referred to in sub-clause (ii) of clause(c) to the Explanation to clause (4D) of section 10, as a Category-III portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 made under the Securities And Exchange Board of India Act, 1992, calculated in such manner as may be prescribed.*

- **Amendment in sub-section (2) to section 115AD [Clause 30]**

after the words "the specified fund" at both the places where they occur, the words ***"or investment division of an offshore banking unit"*** *shall be inserted.*

- **Insertion of new Clause in Explanation to section 115AD [Clause 30]**

Explanation(aa): *the expression "investment division of offshore banking unit" shall have the meaning assigned to it in clause (aa) of the Explanation to clause (4D) of Section 10;*

***Note:** *New words are introduced as given in bold.*

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

Section 9A(8A): An eligible investment fund or its eligible fund manager, if the fund manager is located in International Financial Service Centre (IFSC), has commenced operation on or before 31st March, 2024, then CG may by notification in Official Gazette, specify that any one or more of the conditions specified in Section 9A(3) & 9A(4) shall not apply or may apply with modification.

Section 10(4D): As per the current provision of section 10(4D) of the Act, any income accrued or arisen to, or received by a specified fund as a result to transfer of capital asset u/s 47 of the Act on a recognized stock exchange located in any IFSC and where the consideration for such transaction is paid or payable in convertible foreign exchange shall be exempt for non- resident. Now government has widened the scope of this section by amendment and included **investment division of offshore banking unit** also along with non resident.

Further explanation (aa) to section 10(4D) is also inserted wherein definition of "investment division of offshore banking unit" is provided which is as under:

"investment division of offshore banking unit" means an investment division of a banking unit of a non-resident located in an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA and which has commenced its operations on or before the 31st day of March, 2024'

Explanation C to section 10(4D): Explanation "c" is substituted with a new expression of "Specified Fund" which also include the investment division of offshore banking unit which has been granted a category III AIF registration and fulfils other conditions to be prescribed including the condition of maintaining separate books for its investment division. The investment division of offshore banking unit is proposed to be defined as an investment division of a banking unit of a non resident located in an International Financial Services Centre and which has commenced operation on or before the 31st day of March, 2024.

Section 10(4E): New section 10(4E) is inserted to provide exemption to income accrued or arisen to, or received by a non-resident as a result of transfer of non-deliverable forward contracts entered into with an offshore banking unit of International Financial Services Centre which commenced operations on or before the 31st day of Mach, 2024 and fulfils prescribed conditions.

Section 10(4F): New section 10(4F) is inserted to provide exemption to income of a non-resident by way of royalty on account of lease of an aircraft in a previous year paid by a unit of an International Financial Services Centre, if the unit is eligible for deduction under section 80LA for that previous year and has commenced operation on or before the 31st day of the March, 2024.

Section 10(23FF): New section 10(23FF) is inserted to provide exemption to income of the nature of capital gains, arising or received by a non-resident, which is on account of transfer of share of a company resident in India by the resultant fund and such shares were transferred from the original fund to the resultant fund in relocation, if capital gains on such shares were not chargeable to tax had that relocation not taken place.

Section 47(viiac) : New clause 47(viiac) is inserted to provide that any transfer, in relocation, of a capital asset by the original fund to the resultant fund shall not be considered as transfer for capital gain tax purpose.

Section 47(viiad) : New clause 47(viiad) is inserted to provide that any transfer by a shareholder or unit holder or interest holder, in a relocation, of a capital asset being a share or unit or interest held by him in the original fund in consideration for the share or unit or interest in the resultant fund shall not be treated as transfer for the purpose of capital gains.

Definition of "Resultant fund"

A fund established or incorporated in India in the form of a trust or a company or a limited liability partnership, which-

(a) has been granted a certificate of registration as a Category I or Category II or Category III Alternative Investment Fund, and is regulated under the SEBI (Alternative Investment Fund) Regulations, 2012, made under the SEBI, 1992 (15 of 1992); and

(b) is located in any International Financial Services Centre as referred to in sub-section (1A)

Definition of "Original Fund"

A fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions, namely:-

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

(b) the fund is a resident of a country or a specified territory with which an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A has been entered into; or is established or incorporated or registered in a country or a specified territory notified by the Central Government in this behalf;

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

(d) fulfils such other conditions as prescribed;

Definition of "Relocation"

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

Section 80LA: Following amendment are made to section 80LA of the Act:

- Deduction under 80LA is also available to a unit of IFSC if it is registered under the IFSC Authority Act, 2019 and thereby removing the earlier requirement of obtaining permission under any other relevant law.
- Income arising from transfer of an asset, being an aircraft or aircraft engine which was leased by a unit referred to in clause (c) of sub-section (2) of section 80LA to a domestic company engaged in the business of operation of aircraft before such transfer shall also be eligible for 100% deduction subject to condition that the unit has commenced operation on or before the 31st March 2024.
- In case the unit is registered under the IFSC Authority Act, 2019 then the copy of permission shall mean a copy of the registration obtained under the IFSC Authority Act, 2019

Section 115AD: Provision of Section 115AD shall also be applicable to investment division of an offshore banking unit in the same manner as it applies to specified fund.

4. Issuance of Zero Coupon Bond by Infrastructure Debt Fund [Clause 3]

Insertion of words "infrastructure debt fund or" in clause (48) in section 2 of the Income-tax Act, w.e.f. 01.04.2022 [Clause 3]

In section 2 of the Income-tax Act,—

in clause (48), with effect from the 1st day of April, 2022,—

(I) in sub-clause (a), after the words "infrastructure capital fund or", the words "infrastructure debt fund or" shall be inserted;

(II) in sub-clause (b), after the words "infrastructure capital fund or", the words "infrastructure debt fund or" shall be inserted;

(III) the Explanation shall be numbered as Explanation 1 thereof and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:—

'Explanation 2.—For the purposes of this clause, the expression "infrastructure debt fund" shall mean the infrastructure debt fund notified by the Central Government in the Official Gazette under clause (47) of section 10.'.

Brief Impact:

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

In order **to enable infrastructure debt fund** [which are notified by the Central Government in the Official Gazette under clause (47) of section 10 of the Act] **to issue zero coupon bond necessary amendments are proposed in clause (48) of section 2 of the Act. Rules 2F and 8B of Income-tax Rules shall be amendment subsequently after the Finance Bill 2021 is enacted**.

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

5. Tax neutral conversion of Urban Cooperative Bank into Banking Company (Clause-13)

Amendment in section 44DB w.e.f. 1st day of April 2021:-

Insertion of phrase in section 44DB(3)

(3) The amount of deduction allowable to the successor co-operative bank ***or to the converted banking company*** under section 32, section 35D, section 35DD or section 35DDA shall be determined in accordance with the formula—

AXB/C where

A = the amount of deduction allowable to the predecessor co-operative bank if the business reorganisation had not taken place;

B = the number of days comprised in the period beginning with the date of business reorganisation and ending on the last day of the financial year; and

C = the total number of days in the financial year in which the business reorganisation has taken place.

Amendment in section 44DB w.e.f. 1st day of April 2021:-

Insertion of phrase in section 44DB(4)

(4) The provisions of section 35D, section 35DD or section 35DDA shall, in a case where an undertaking of the predecessor co-operative bank entitled to the deduction under the said section is transferred before the expiry of the period specified therein to a successor co-operative bank ***or to a converted banking company*** on account of business reorganisation, apply to the successor co-operative bank ***or to the converted banking company*** in the financial years subsequent to the year of business reorganisation as they would have applied to the predecessor co-operative bank, as if the business reorganisation had not taken place.

Amendment in section 44DB w.e.f. 1st day of April 2021:-

Insertion of clause in section 44DB(5)

After clause (c) the following clause shall be inserted

(ca) "banking company" shall have the meaning assigned to it in clause (c) of section 5 of Banking Regulation Act, 1949;

Insertion of phrase in section 44DB(5)

(d) "business reorganisation" means the reorganisation of business involving the amalgamation or demerger of a co-operative bank ***or conversion of a primary cooperative bank***;

Amendment in section 44DB w.e.f. 1st day of April 2021:-

Insertion of clause in section 44DB(5)

After clause (d) the following clauses shall be inserted

'(da) "conversion" means transition of a primary co-operative bank to a banking company under the scheme of the Reserve Bank of India as notified vide its circular number DCBR. CO. LS. PCB. Cir. No. 5/07.01.000/2018-19, dated the 27th September, 2018;

(db) "converted banking company" means a banking company formed as a result of conversion from primary co-operative bank

Amendment in section 44DB w.e.f. 1st day of April 2021:-

Insertion of phrase in section 44DB(5)

(h) "predecessor co-operative bank" means the amalgamating co-operative bank or the demerged co-operative bank or ***the primary co-operative bank which has been succeeded as a result of conversion***, as the case may be;

Insertion of clause in section 44DB(5)

After clause (h) the following clause shall be inserted

'(ha) "primary co-operative bank" shall have the meaning assigned to it in clause (ccv) of section 5 of the Banking Regulation Act, 1949;'.

Amendment in section 47 w.e.f. 1st day of April 2021:-

Insertion of phrase in section 47(vica) & 47(vicb)

(vica) any transfer in a business reorganisation, of a capital asset by the predecessor co-operative bank to the successor co-operative bank ***or to the converted banking company***;

(vicb) any transfer by a shareholder, in a business reorganisation, of a capital asset being a share or shares held by him in the predecessor co-operative bank if the transfer is made in consideration of the allotment to him of any share or shares in the successor co-operative bank ***or to the converted banking company***;.

Substitution in explanation to section 47(vicb)

Explanation.—For the purposes of clauses (vica) and (vicb), the ~~***expressions "business reorganisation", "predecessor co-operative bank"***~~ ***expressions "business reorganisation", "converted banking company", "predecessor co-operative bank" and*** ~~***and***~~ "successor co-operative bank" shall have the meanings respectively assigned to them in section 44DB

Contd....

Brief Impact:

The above amendments in section 44DB & section 47 of the Act has been made with a view to provide a tax neutral way of conversion of urban co-operative banks to banking companies.

In view of the circular issued by RBI for voluntary transition of primary cooperative bank [urban co-operative banks (UCB)] into a banking company by way of transfer of Assets and Liabilities, the above amendments were made to avoid any undue hardship due to application of the capital gain provisions of the Act of the predecessor co-operative bank and the converted banking company.

Moreover, the allotment of shares of the converted banking company to the shareholders of the predecessor co-operative bank will not be regarded as transfer.

Hence, the deduction u/s 32, 35D, 35DD and section 35DDA will be apportioned between the predecessor co-operative bank and converted banking company. Also, the transfer of assets and liabilities by the predecessor co-operative bank to the converted banking company will not be regarded as transfer, thus, no capital gain will arise on such transaction.

6. Facilitating strategic disinvestment of public sector company (Clause3&22)

Amendment in section 2(19AA) w.e.f. 1st day of April 2021:-

Insertion of explanation in section 2(19AA)

"Explanation 6.— For the purposes of this clause, the reconstruction or splitting up of a public sector

company into separate companies shall be deemed to be a demerger, if such reconstruction or splitting up has been made to transfer any asset of the demerged company to the resulting company and the resulting company—

(i) is a public sector company on the appointed day indicated in such scheme, as may be approved by the Central Government or any other body authorised under the provisions of the Companies Act, 2013 or any other law for the time being in force governing such public sector companies in this behalf; and

(ii) fulfils such other conditions as may be notified by the Central Government in the Official Gazette in this behalf;";

Amendment in section 72A w.e.f. 1st day of April 2021:-

Substitution of clause (c) in section 72A(1)

(c) one or more public sector company or companies with one or more public sector company or companies; or

(d) an erstwhile public sector company with one or more company or companies, if the share purchase agreement entered into under strategic disinvestment restricted immediate amalgamation of the said public sector company and the amalgamation is carried out within five year from the end of the previous year in which the restriction on amalgamation in the share purchase agreement ends,

Amendment in section 72A w.e.f. 1st day of April 2021:-

Insertion of proviso in section 72A(1)

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

Amendment in section 72A w.e.f. 1st day of April 2021:-

Insertion of explanation in section 72A(1)

Explanation.—For the purposes of clause (d),—

(i) "control" shall have the same meaning as assigned to in clause (27) of section 2 of the Companies Act, 2013;

(ii) "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;

(iii) "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.'.

Brief Impact:

The above amendments in section 72A & section 2(19AA) of the Act has been made with a view to facilitate strategic disinvestment of public sector companies.

The central government has taken various steps to achieve its divestment targets, these amendments were also made to assist the divestment of public sector companies. Earlier section 72A(1) was only applicable on public sector companies engaged in the business of operation of aircrafts with one or more companies in similar business.

Post the amendments in the above sections, all the resulting companies, which were formed as a result of the divestment of any public sector companies, can avail the benefit of carry forward and set off of the accumulated losses and unabsorbed depreciation.

Theses changes in the Act will encourage the private bidders to take part in the divestment process of public sector companies operating in any sector.

7. Extension of date of sanction of loan for affordable residential house property (Clause 24)

Amendment in section 80EEA w.e.f. 1st day of April 2022:-

Substitution of word in section 80EEA(3)(i)

(3) The deduction under sub-section (1) shall be subject to the following conditions, namely:—

(i) the loan has been sanctioned by the financial institution during the period beginning on the 1st day of April, 2019 and ending on the 31st day of March, ~~*2021*~~ *2022*;

Brief Impact:

The above amendments in section 80EEA of the Act has been made with a view to provide benefit of deduction u/s 80EEA of Rs. 1,50,000/- from the total income to encourage the first home buyers to purchase his own house.

This provision allows deduction to the first time home buyers, in respect of interest on home loan. In order to help such first time home buyers further, it is proposed to amend the provision of section 80EEA of the Act to extend the outer date for sanction of loan from 31st March 2021 to 31st March 2022.

This extension of the deduction will also boost the infrastructure industry.

8. Extension of date of incorporation for eligible start up for exemption and for investment in eligible start-up (Clause 19& 25)

Amendment in section 80-IAC w.e.f. 1st day of April 2021:-

Substitution of word in explanation to section 80-IAC

(ii) "eligible start-up" means a company or a limited liability partnership engaged in eligible business which fulfils the following conditions, namely:—

(a) it is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, ~~*2021*~~ *2022*;

Substitution of word in proviso to section 54GB(5)

(5) The provisions of this section shall not apply to any transfer of residential property made after the 31st day of March, 2017.

[Provided that in case of an investment in eligible start-up, the provisions of this sub-section shall have the effect as if for the figures, letters and words "31st day of March, 2017", the figures, letters and words "31st day of March, ~~*2021*~~ *2022*" had been substituted.]

Brief Impact:

The above amendments in section 80-IAC & 54GB of the Act has been made with a view to encourage the start up and investments in them, the time limit to set such eligible business & invest in such businesses has been extended till 31st March, 2022. This amendment will also boost the vision of "Make in India" & "Aatmanirbhar Bharat".

Now, the exemption from capital gain arising due to transfer of a residential property u/s 54GB by investing into shares of a start up business will be available till 31st March, 2022.

C. REMOVING DIFFICULTIES FACED BY TAXPAYERS

C. Removing difficulties faced by taxpayers

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1.	Increase in safe harbour limit of 10% for home buyers and real estate develop selling such residential units	43CA & 56(2)(x)	10 & 21	01.04.2021
2.	Relaxation for certain category of senior citizen from filing return of income-tax	139	47	01.04.2021
3.	Rationalisation of provisions related to Sovereign Wealth Fund (SWF) and Pension Fund (PF)	10(23FE)	5	01.04.2021
4.	Addressing mismatch in taxation of income from notified overseas retirement fund	89A	28	01.04.2022
5.	Rationalisation of provisions of Minimum Alternate Tax (MAT)	115JB	31	01.04.2021

C. Removing difficulties faced by taxpayers

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
6.	Exemption of deduction of tax at source on payment of Dividend to business trust in whose hand dividend is exempt	194	44	01.04.2020
7.	Rationalisation of the provision concerning withholding on payment made to Foreign Institutional Investors (FIIs)	196D	49	01.04.2021
8.	Rationalisation of provisions relating to tax audit in certain cases	44AB	11	01.04.2021
9.	Advance tax instalment for dividend income	234C	53	01.04.2021
10.	Raising of prescribed limit for exemption under sub-clause (iiiad) and (iiiae) of clause (23C) of section 10 of the Act	10(23C)	5	01.04.2022

C. Removing difficulties faced by taxpayers

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
11.	Extending due date for filing return of income in some cases, reducing time to file belated return and to revise original return and also to remove difficulty in cases of defective returns	139	32	01.04.2021

1. Increase in safe habour limit of 10% for the home buyers and real estate developers selling such residential unit (Clause 10 & 21)

Insertion of Proviso to Section 43CA(1) w.e.f 01.04.2021

"Provided further that in case of transfer of an asset, being a residential unit, the provisions of this proviso shall have the effect as if for the words "one hundred and ten per cent.", the words "one hundred and twenty per cent." had been substituted, if the following conditions are satisfied, namely:—

(I)the transfer of such residential unit takes place during the period beginning from the 12th day of November, 2020 and ending on the 30th day of June, 2021;

(ii)such transfer is by way of first time allotment of the residential unit to any person; and

(iii) the consideration received or accruing as a result of such transfer does not exceed two crore rupees.';

Insertion of Explanation to Section 43CA(4) w.e.f 01.04.2021

'Explanation.—For the purposes of this section, "residential unit" means an independent housing unit with separate facilities for living, cooking and sanitary requirement, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household.'.

Brief Impact:

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

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

Insertion of Proviso to section 56(2)(x) of the Income-tax Act w.e.f 01.04.2021

"Provided also that in case of property being referred to in the second proviso to sub-section (1) of section 43CA, the provisions of sub-item (ii) of item (B) shall have effect as if for the words "ten per cent.", the words "twenty per cent." had been substituted;";

Amendment in Proviso to section 56(2)(x) of the Income-tax Act w.e.f 01.04.2022

"(IX) by way of transaction not regarded as transfer under clause (i) or 1[clause (iv) or clause (v) or] clause (vi) or clause (via) or clause (viaa) or clause (vib) or clause (vic) or clause (vica) or clause (vicb) or clause (vid) or clause (vii) ***or clause (viiac) or clause (viiad)*** of section 47; or"

Brief Impact:

Further it is proposed to provide the consequential relief to buyers of these residential units by way of amendment in clause (x) of sub-section (2) of section 56 of the Act by increasing the safe harbour from 10% to 20%. Accordingly, for these transactions, circle rate shall be deemed as sale/purchase consideration only if the variation between the agreement value and the circle rate is more than 20%.years.

2. Relaxation for certain category of senior citizen from filing return of income-tax (Clause 47)

Insertion of section 194-P w.e.f. 01.04.2021

'194P. (1) Notwithstanding anything contained in the provisions of Chapter XVII-B, in case of a specified senior citizen, the specified bank shall, after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A, compute the total income of such specified senior citizen for the relevant assessment year and deduct income-tax on such total income on the basis of the rates in force.

(2) The provisions of section 139 shall not apply to a specified senior citizen for the assessment year relevant to the previous year in which the tax has been deducted under subsection (1).

Explanation.— For the purposes of this section,—

(s)"specified bank" means a banking company as the Central Government may, by notification in Official Gazette, specify;

(t)"specified senior citizen" means an individual, being a resident in India—

(xxxviii)who is of the age of seventy-five years or more at any time during the previous year;

(xxv)who is having income of the nature of pension and no other income except the income of the nature of interest received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and

(xxiii)has furnished a declaration to the specified bank containing such particulars, in such form and verified in such manner, as may be prescribed.'.

Contd....

Brief Impact:

This section will provide big relief to senior citizens having age of 75 year or above who have only pension and interest income as it relax them from compliance from filing the return of income. In order to get relaxation they shall be required to furnish a declaration to the specified bank. The declaration shall be containing such particulars, in such form and verified in such manner, as may be prescribed.

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

3. Rationalisation of provisions related to Sovereign Wealth Fund (SWF) & Pension Fund (PF) (Clause 5)

Amendment in section 10(23FE) w.e.f. 1st day of April 2021:-

Substitution of word in section 10(23FE)(iii)

(c) a Category-I or Category-II Alternative Investment Fund regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 (15 of 1992), having ~~**hundred per cent**~~ ***not less than fifty per cent*** investment in one or more of the company or enterprise or entity referred to in item (b) ***or in an Infrastructure Investment Trust referred to in sub-clause(i) of clause (13A) of section 2; or***:

Amendment in section 10(23FE) w.e.f. 1st day of April 2021:-

Insertion of items in section 10(23FE)(iii)

The following items shall be inserted after item (c)

(d) a domestic company, set up and registered on or after the 1st day of April, 2021, having minimum seventy five per cent. investments in one or more of the companies or enterprises or entities referred to in item (b); or

(e) a non-banking financial company registered as an Infrastructure Finance Company as referred to in notification number RBI/2009-10/316 issued by the Reserve Bank of India or in an Infrastructure Debt Fund, a non-banking finance company, as referred to in the Infrastructure Debt Fund-Non-Banking Financial Companies (Reserve Bank) Directions, 2011, issued by the Reserve Bank of India, having minimum ninety per cent. lending to one or more of the companies or enterprises or entities referred to in item (b):

Amendment in section 10(23FE) w.e.f. 1st day of April 2021:-

Insertion of provisos in section 10(23FE)

The following proviso shall be inserted after the third proviso to the section

Provided also that in case a Category-I or Category- II Alternative Investment Fund referred to in item (c) of sub-clause (iii) has investment of less than one hundred per cent. in one or more of the companies or enterprises or entities referred to in item (b) of the said sub-clause or in an Infrastructure Investment Trust referred to in item (c) of the said sub-clause, income accrued or arisen or received or attributable to such investment, directly or indirectly, which is exempt under this clause shall be calculated proportionately to that investment made in one or more of the companies or enterprises or entities referred to in item (b) of the said sub-clause or in the Infrastructure Investment Trust referred to in item (c) of the said sub-clause, in such manner as may be prescribed:

Amendment in section 10(23FE) w.e.f. 1st day of April 2021:-

Insertion of provisos in section 10(23FE)

The following proviso shall be inserted after the third proviso to the section

Provided also that in case a domestic company referred to in item (d) of sub-clause (iii) has investment of less than one hundred per cent. in one or more of the companies or enterprises or entities referred to in item (b) of the said sub-clause, income accrued or arisen or received or attributable to such investments, directly or indirectly, which is exempt under this clause shall be calculated proportionately to the investment made in one or more of the companies or enterprises or entities referred to in item (b) of the said sub-clause, in such manner as may be prescribed:

Amendment in section 10(23FE) w.e.f. 1st day of April 2021:-

Insertion of provisos in section 10(23FE)

The following proviso shall be inserted after the third proviso to the section

Provided also that in case a non-banking finance company registered as an Infrastructure Finance Company or Infrastructure Debt Fund, referred to in item (e) of sub-clause (iii), has lending of less than one hundred per cent. in one or more of the companies or enterprises or entities referred to in item (b) of the said sub-clause, income accrued or arisen or received or attributable to such lending, directly or indirectly, which is exempt under this clause shall be calculated proportionately to the lending made in one or more of the companies or enterprises or entities referred to in item (b) of the said sub-clause, in such manner as may be prescribed:

Provided also that in case a sovereign wealth fund or pension fund has loans or borrowings, directly or indirectly, for the purposes of making investment in India, such fund shall be deemed to be not eligible for exemption under this clause.

Amendment in section 10(23FE) w.e.f. 1st day of April 2021:-

Insertion of provisos in explanation 1 to section 10(23FE)

The following proviso shall be inserted after the clause (b)(iv)

Provided that the provisions of sub-clause (iii) and (iv) shall not apply to any payment made to creditors or depositors for loan taken or borrowing for the purposes other than for making investment in India;

Substitution of words in the clause (b)(v)

(v) it does ~~not undertake any commercial activity whether within or outside India~~ participate in the day to day operations of investee but the monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director shall not be considered as participation in the day to day operations of the investee; and

Amendment in section 10(23FE) w.e.f. 1st day of April 2021:-

Insertion of words in explanation 1 to section 10(23FE)

The following words shall be inserted in clause (c)

(c) a pension fund, which—

(i) is created or established under the law of a foreign country including the laws made by any of its political constituents being a province, State or local body, by whatever name called;

(ii) is not liable to tax in such foreign country ***or if liable to tax, exemption from taxation for all its income has been provided by such foreign country***;

(iii) satisfies such other conditions as may be ~~***prescribed; and***~~ ***prescribed***

Amendment in section 10(23FE) w.e.f. 1st day of April 2021:-

Insertion of sub clauses in explanation 1 to section 10(23FE)

The following sub clauses shall be inserted after clause (c)(iii)

(iiia) it does not participate in the day to day operations of investee but the monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director shall not be considered as participation in day to day operations of the investee; and

Amendment in section 10(23FE) w.e.f. 1st day of April 2021:-

Insertion of explanations in section 10(23FE)

The following explanations shall be inserted after explanation 1 to the section

Explanation 2.— For the purposes of this clause,—

(i) "investee" means a business trust, or a company, or an enterprise, or an entity, or a Category I or Category II Alternative Investment Fund, or an Infrastructure Investment Trust or a domestic company, or an Infrastructure Finance Company or an Infrastructure Debt Fund referred to in item (e) of sub-clause (iii), in which the sovereign wealth fund or the pension fund, as the case may be, has made the investment, directly or indirectly, under the provisions of this clause;

Amendment in section 10(23FE) w.e.f. 1st day of April 2021:-

Insertion of explanations in section 10(23FE)

The following explanations shall be inserted after explanation 1 to the section

Explanation 2.— For the purposes of this clause,—

(ii) "loan and borrowing" means—

(a) any loan taken or borrowing by a sovereign wealth fund from, or any deposit or investment made in a sovereign wealth fund by, any person other than the Government of the country in which the sovereign wealth fund is set up;

(b) any loan taken or borrowing by a pension fund from or any deposit or investment made in a pension fund by, any person but shall not include the deposit or investment which represents statutory obligations and defined contributions of one or more funds or plans established for providing retirement, social security, employment, disability, death benefits or any similar compensation to the participants or beneficiaries of such funds or plans, as the case may be.

Amendment in section 10(23FE) w.e.f. 1st day of April 2021:-

Insertion of explanations in section 10(23FE)

The following explanations shall be inserted after explanation 1 to the section

Explanation 3.—For the purposes of this clause, the Central Government may prescribe that the method of calculation of "fifty per cent." referred to in item (c) or "seventy-five per cent." referred to in item (d) or "ninety per cent." referred to in item (e), of sub-clause (iii) shall be such as may be prescribed;'

Brief Impact:

The above amendments in section 10(23FE) of the Act has been made with a view to encourage foreign sovereign wealth funds and provident funds to increase their investment in the infrastructure sector of India.

To fulfil the above purpose following relaxations are provided by making certain amendments

- Reducing the minimum percentage of investment by AIF-I & AIF-II in eligible infrastructure company to 50% instead of 100%.
- SWF/PF are now allowed to invest through domestic holding companies subject to some conditions. Where earlier no investment was allowed through holding companies.
- SWF/PF are now allowed to invest in NBFC(Infrastructure Finance Company/Infrastructure Debt Fund) subject to some conditions. Where earlier no investment was allowed in such NBFCs.

Contd....

- Earlier SWF/PF were not allowed to have any borrowings or loans to avail the benefit of section 10(23FE). However, this condition has been relaxed and now, even the SWF/PF are not allowed to invest in India using borrowed funds but they can have loans or borrowings for other purposes.
- Presently, SWF/PFs are not allowed to undertake any commercial activity. This condition is proposed to be removed and replaced with a condition that SWF/PFs shall not participate in day to day operation of investee.

4. Addressing mismatch in taxation of income from notified overseas retirement fund (Clause 28)

Insertion of section 89A w.e.f. 1st day of April 2022:-

The following section shall be inserted after section 89 of the Act

89A. Where a specified person has income accrued in a specified account, such income shall be taxed in such manner and in such year as may be prescribed.

Explanation.—For the purposes of this section,—

(a) "specified person" means a person resident in India who opened a specified account in a notified country while being non-resident in India and resident in that country;

(b) "specified account" means an account maintained in a notified country by the specified person in respect of his retirement benefits and the income from such account is not taxable on accrual basis but is taxed by such country at the time of withdrawal or redemption;

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

Brief Impact:

The above section 89A has been inserted in the Act with a view to avoid any undue hardship faced by a person who is a resident in India, but was a non-resident in previous year due to the mismatch in the year of taxability.

There is a mismatch in the year of taxability of withdrawal from retirement funds by residents who had opened such fund when they were non-resident in India and resident in foreign countries. At present the withdrawal from such funds may be taxed on receipt basis in such foreign countries, while on accrual basis in India.

The rules for the same will be prescribed in due course.

5. Rationalisation of provisions of Minimum Alternate Tax (MAT) (Clause-31)

Amendment in section 115JB w.e.f. 1st day of April 2021:-

Amendment in sub-section 2, Explanation 1

Explanation 1.— For the purposes of this section, "book profit" means the profit as shown in the statement of profit and loss for the relevant previous year prepared under sub-section (2), as increased by—

(fb) the amount or amounts of expenditure relatable to income accruing or arising to an assessee, being a foreign company, from,—

(B) the interest, *__dividend,__ royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII,

if any amount referred to in clauses (a) to (i) is debited to the statement of profit and loss or if any amount referred to in clause (j) is not credited to the statement of profit and loss, and as reduced by,—

(iid) the amount of income accruing or arising to an assessee, being a foreign company, from,—

(B) the interest, *__dividend,__ royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII,

*__Note:__ *new words are introduced as given in bold to widen the scope of the section.*

Brief Impact:

Bill seeks to amend Explanation 1 to section115JB of the act to allow adjustment of dividend income earned and expenses incurred for earning such income by foreign company on its investment in India being the same is taxable at concessional rate as provided in Double Taxation Avoidance Agreement (DTAA) which are lower than the rate of tax applicable u/s 115JB.

Similar to treatment of capital gains on transfer of securities, interest, royalty and Fee for Technical Services (FTS) in calculating book profit, foreign companies shall be allowed to exclude dividend income earned by it on investment in Indian Companies and to add back expenses incurred for earning such dividend income from the book profit for the year being the tax thereon shall be payable at concessional tax rate as prescribed in DTAA.

Insertion of clause (2D) in section 115JB of the Income-tax Act, w.e.f. 01.04.2021

"(2D) In the case of an assessee being a company, where there is an increase in book profit of the previous year due to income of past year or years included in the book profit on account of an advance pricing agreement entered into by the assessee under section 92CC or on account of secondary adjustment required to be made under section 92CE, the Assessing Officer shall, on an application made to him in this behalf by the asssessee, recompute the book profit of the past year or years and tax payable, if any, by the assessee during the previous year under sub-section (1), in such manner as may be prescribed and the provisions of section 154 shall, so far as may be, apply and the period of four years specified in sub-section (7) of that section shall be reckoned from the end of the financial year in which the said application is received by the Assessing Officer."

Brief Impact:

Further, it is proposed to insert sub-section (2D) therein so as to empower the Board to make rules to provide for the manner of recomputing the book of profit of the past year for the purposes of payment of tax of the company, if there is any increase in book of profit in the previous year due to income of a past year included in the book profit on account of an advance pricing agreement or secondary adjustment.

As such, additional income of past year(s) included in books of account of current year on account of secondary adjustment u/s 92CE or on account of an Advance Pricing Agreement (APA) entered with the taxpayer u/s 92CC, shall be excluded from the computation of book profit for current year and the same will be included in the books profit of such preceding year or years to which such income pertains to by making an application to assessing officer to revise the book profit and tax payable thereon for such years. And the time limit of 4 years as provided u/s 154 of the act shall be considered from the date of application to AO.

6. Exemption of deduction of tax at source on payment of Dividend to business trust in whose hand dividend is exempt (Clause 44)

Insertion of clauses to 2nd proviso to section 194 w.e.f. 1st day of April 2020:-

(d) a "business trust", as defined in clause (13A) of section 2, by a special purpose vehicle referred to in the Explanation to clause (23FC) of section 10;
(e) any other person as may be notified by the Central Government in the Official Gazette in this behalf.

Brief Impact:

The above amendments in section 194 of the Act has been made with a view to exempt the dividend income of business trust which they receive from a special purpose vehicle.

This amendment was made to prevent unnecessary refund cases for the business trust as the dividend income of business trust is ultimately not taxable in the hands of the business trust.

7. Rationalisation of the provision concerning withholding on payment made to Foreign Institutional Investors (FIIs) (Clause 49)

Insertion of proviso to section 196D(1) w.e.f. 1st day of April 2021:-

The following proviso shall be inserted in subsection 1 to section 196D

Provided that where an agreement referred to in subsection (1) of section 90 or sub-section (1) of section 90A applies to the payee and if the payee has furnished a certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A, as the case may be, then, income-tax thereon shall be deducted at the rate of twenty per cent. or at the rate or rates of income-tax provided in such agreement for such income, whichever is lower.

Brief Impact:

The above amendments in section 196D of the Act has been made with a view to assist the Foreign Institutional investors (FIIs).

Earlier on the dividend income of the Foreign Institutional investors the payer had to deduct tax @ 20% at the time of credit or payment which ever was earlier. However, due to the above amendment if the FII furnishes the Tax Residency Certificate (TRC) & Form 10-F ,and India has a double taxation avoidance agreement as mentioned in section 90/90A of the Act with that country or specified territory then tax needs to be deducted at the rate 20 % or rate or rates of income-tax provided in such agreement for such income,which ever is lower.

8. Rationalisation of provisions relating to tax audit in certain cases (Clause 11)

Amendment in section 44AB w.e.f 01.04.2021

Every person

(a)who carrying on business shall, if his total sales, turnover or gross receipts as the case may be, in business exceed or exceeds one crore rupees in any previous year

***Provided that** in the case of a person whose—*

(a)aggregate of all amounts received including amount received for sales, turnover or gross receipts during the previous year, in cash, does not exceed five per cent of the said amount; and

(b) aggregate of all payments made including amount incurred for expenditure, in cash, during the previous year does not exceed five per cent of the said payment,

*this clause shall have effect as if for the words "one crore rupees", the words "~~five crore rupees~~" **ten crore Rupees** had been substituted; or]*

Brief Impact:

This section is proposed incentive to promote digital economy and to further reduce compliance burden of small and medium enterprises, it is proposed to increase the threshold from five crore rupees to ten crore rupees in cases listed above.

9. Advance tax instalment for dividend income (Clause 53)

Amendment in first proviso of clause(d) section 234C w.e.f 01.04.2021

~~(d) income of the nature referred to in sub-section (1) of section 115BBDA,]~~ **"(d) the amount of dividend income,"**

Insertion of Explanation 2section 234C(1) of the Act w.e.f 01.04.2021

Explanation 2.—For the purposes of this sub-section, the term "dividend" shall have the meaning assigned to it in clause (22) of section 2, but shall not include sub-clause (e) thereof.

Brief Impact:

This relaxation help the taxpayers from payment of interest under section 234C of the Act in cases where accurate determination of advance tax liability is not possible due to the intrinsic nature of the income.

10. Raising of prescribed limit for exemption under sub-clause (iiiad) and (iiiae) of clause (23C) of section 10 of the Act (Clause 5)

Amendment in section 10(23C) w.e.f. 1st day of April 2022:-

(I) In sub-clause (iiiad), for the words "receipts of such university or educational institution do not exceed the amount of annual receipts as may be prescribed", the words ***"receipts of the person from such university or universities or educational institution or educational institutions do not exceed five crore rupees"*** *shall be substituted;*

(II) in sub-clause (iiiae),—

(A) for the words "receipts of such hospital or institution do not exceed the amount of annual receipts as may be prescribed; or", the words ***"receipts of the person from such hospital or hospitals or institution or institutions do not exceed five crore rupees."*** *shall be substituted;*

(B) after sub-clause (iiiae), the following Explanation shall be inserted, namely:—

"Explanation.—For the purposes of sub-clauses (iiiad) and (iiiae), it is hereby clarified that if the person has receipts from university or universities or educational institution or institutions as referred to in sub-clause (iiiad), as well as from hospital or hospitals or institution or institutions as referred to in sub-clause (iiiae), the exemptions under these clauses shall not apply, if the aggregate of annual receipts of the person from such university or universities or educational institution or institutions or hospital or hospitals or institution or institutions, exceed five crore rupees; or";

Brief Impact:

Clause (23C) of section 10 of the Act provides for exemption of income received by any person on behalf of different funds or institutions etc. specified in different subclauses.

Sub-clauses (iiiad) of clause (23C) of the section 10 provides for the exemption for the income received by any person on behalf of university or educational institution as referred to in that sub-clause. The exemptions under the said sub-clause are available subject to the condition that the annual receipts of such university or educational institution do not exceed the annual receipts as may be prescribed.

Similarly, sub-clauses (iiiae) of clause (23C) of the section provides for the exemption for the income received by any person on behalf of hospital or institution as referred to in that sub-clause. The exemptions under the said sub-clause are available subject to the condition that the annual receipts of such hospital or institution do not exceed the annual receipts as may be prescribed.

Contd....

The presently prescribed limit for these two sub-clauses is Rs 1 crore as per Rule 2BC of the Income-tax Rule.

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

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

11. Extending due date for filing return of income in some cases, reducing time to file belated return and to revise original return and also to remove difficulty in cases of defective returns (Clause 32)

Amendment in Explanation 2 to section 139(1) w.e.f. 1st day of April 2021:-

Explanation 2.—In this sub-section, "due date" means,—

(a) where the assessee other than an assessee referred to in clause (aa) is—

(iii) a partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force, ***or the spouse of such partner if the provisions of section 5A applies to such spouse**

the 31st day of October of the assessment year

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

****Note:*** *new words are introduced as given in bold to widen the scope of the section.*

Brief Impact:

As per the provisions of section 5A of the Act, assessee covered by Portuguese Civil Code required to allocate certain portion of their income to their spouse. Whereas, an assessee who is a partner in a firm liable to audit under any provision of this act or any other law for the time being in force, due date for filing of income tax return for such assessee is 31st October of the Assessment Year. Now, in order to facilitate apportionment of income to spouse of such assessee in accordance with provisions of section 5A of the act, due date for filing of Income Tax Return for spouse of such assessee has been changed to 31st October of the Assessment Year as well.

Further, it has been proposed to change the due date of filing of income tax return for the assessee, being partner in any firm liable to furnish report u/s 92E of the act, to 30th November of the Assessment Year in line with the due date of furnishing return for the firm itself.

Amendment in sub section (4) and (5) of section 139 w.e.f. 1st day of April 2021:-

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

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

Brief Impact:

In line with the time taken to process the return of income has been reduced significantly in last few years, the due date for filing of belated returns or revised returns have been reduced by three months to 31st December of the assessment year from earlier due date of 31st March.

Note: *new words are introduced as given in bold to widen the scope of the section.*

Insertion of Proviso to Explanation to section 139(9) w.e.f. 1st day of April 2021:-

"Provided that the Board may, by notification in the Official Gazette, specify that any of the conditions specified in clauses (a) to (f) to the Explanation shall not apply to such class of assessees or shall apply with such modifications, as may be specified in such notification."

Brief Impact:

It has been proposed that in order remove grievances and to provide for relaxation in genuine cases, the CBDT shall be authorized to notify that any of the conditions as prescribed under clause (a) to (f) of the Explanation to Section 139(9) shall not apply for a class of assessee or shall apply with such modifications, as maybe specified in such notification.

D. RATIONALISATION OF VARIOUS PROVISIONS

D. Rationalisation of Various Provisions

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
1.	Payment by employer of employee contribution to a fund on or before due date	36(1)(va) & 43B	8 & 9	01.04.2021
2.	Constitution of Dispute Resolution Committee for small and medium taxpayers		66	01.04.2021
3.	Constitution of the Board for Advance Ruling	Chapter XIX - B	67 to 77	01.04.2021
4.	Income escaping assessment and search assessments	132	35 to 40 & 42 to 43	01.04.2021
5.	Allowing prescribed authority to issue notice under clause (i) of sub-section (1) of section 142	142	33	01.04.2021

D. Rationalisation of Various Provisions

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
6.	Provision for Faceless Proceedings before the Income-tax Appellate Tribunal (ITAT) in a jurisdiction less manner	255	78	01.04.2021
7.	Discontinuance of Income-tax Settlement Commission	245C	54-65	01.02.2021
8.	Reduction of time limit for completing assessment	153	41	01.04.2021
9.	Rationalisation of the provision of Charitable Trust and Institutions to eliminate possibility of double deduction while calculating application or accumulation	10(23C), 11 & 12	5 & 6	01.04.2022
10.	Taxation of proceeds of high premium unit linked insurance policy (ULIP)	10(10D)	3, 5, 14 & 29	01.02.2021

D. Rationalisation of Various Provisions

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
11.	Rationalisation of the provision of slump sale	50B	3	01.04.2021
12.	Rationalisation of provision of transfer of capital asset to partner on dissolution or reconstitution	45(4) & (4A)	14 & 16	01.04.2021
13.	Provisional attachment in Fake Invoice cases	281B	79	01.04.2021
14.	Rationalisation of the provisions of Equalisation Levy	165A of FA, 2016 & 10(50)	5 & 159	01.04.2020 & 01.04.2021
15.	Depreciation on Goodwill	2(11), 32	7, 18 & 20	01.04.2021
16.	Rationalisation of the provision relating to processing of returned income and issuance of notice under sub-section (2) of section 143 of the Act	143(1) & (2)	34	01.04.2021

D. Rationalisation of Various Provisions

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
17.	Adjudicating authority under the PBPT Act	71 of PBPT Act	142 to 147	01.07.2021
18.	Rationalisation of the provision of presumptive taxation for professionals under section 44ADA	44ADA	12	01.04.2021
19.	Clarification regarding the scope of Vivad se Vishwas Act, 2020		160	17.03.2020
20.	Definition of the term —Liable to tax	10(23FE)	3	01.04.2021
21.	Income Declaration Scheme (IDS) amendment	Chapter IX of FA, 2016	159	01.06.2016
22.	Tax Deduction at Source (TDS) on purchase of goods	194P & 206AA	48 & 50	01.07.2021

D. Rationalisation of Various Provisions

S. No.	Brief	Section / Schedule	Clause No.	Effective date [i.e. w.e.f.]
23.	TDS/TCS on non filer at higher rates	206AA	46, 51 & 52	01.07.2021
24.	Taxability of Interest on various funds where income is exempt	10(11)	5	01.04.2022

1. Payment by employer of employee contribution to a fund on or before due date (Clause 8 & 9)

Insertion of Explanation 2 to Section 36(1)(va) of the Income-tax Act, w.e.f. 01.04.2021 [Clause 8]

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

Insertion of Explanation 5 to Section 43B of the Income-tax Act, w.e.f. 01.04.2021 [Clause 9]

Explanation 5.—For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply and shall be deemed never to have been applied to a sum received by the assessee from any of his employees to which the provisions of sub-clause (x) of clause (24) of section 2 applies.".

Contd....

Brief Impact:

It is proposed that the employee's contribution to the Provident and Other Funds shall only be allowed as deduction u/s 36(1)(va) if the same is deposited with the relevant Fund within the due date as prescribed under the Relevant Act and not due date of filing return of income under section 139 of the Act.

The amendment proposes to reverse the judicial decision pronounced by various Courts that the due date as specified for deposit of employers share of contribution to Provident/ Other Fund shall not be same in respect of employee's share.

2. Constitution of Dispute Resolution Committee for small and medium taxpayers (Clause 66)

Insertion of chapter XIX-AA w.e.f. 1st day of April 2021:-

The following section 245MA shall be inserted

245MA. (1) The Central Government shall constitute, one or more Dispute Resolution Committees, as may be necessary, in accordance with the rules made under this Act, for dispute resolution in the case of such persons or class of persons, as may be specified by the Board, who may opt for dispute resolution under this Chapter in respect of dispute arising from any variation in the specified order in his case and who fulfils the specified conditions.

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

Insertion of chapter XIX-AA w.e.f. 1st day of April 2021:-

The following section 245MA shall be inserted

(3) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of disputeresolution under this Chapter, so as to impart greater efficiency, transparency and accountability by—

(a)eliminating the interface between the Dispute Resolution Committee and the assessee in the course of dispute resolution proceedings to the extent technologically feasible;

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

(c) introducing a dispute resolution system with dynamic jurisdiction.

Insertion of chapter XIX-AA w.e.f. 1st day of April 2021:-

The following section 245MA shall be inserted

(4) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (3), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the said notification:

Provided that no such direction shall be issued after the 31st day of March, 2023.

(5) Every notification issued under sub-sections (3) and (4) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

Insertion of chapter XIX-AA w.e.f. 1st day of April 2021:-

The following section 245MA shall be inserted

Explanation.— For the purposes of this section,—

(a) "specified conditions" in relation to a person means a person who fulfils the following conditions, namely:—

(I) where he is not a person,—

(A) in respect of whom an order of detention has been made under the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974:

Provided that—

(i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or

Insertion of chapter XIX-AA w.e.f. 1st day of April 2021:-

The following section 245MA shall be inserted

(ii) such order of detention being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9, of the said Act; or

(iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of the said section, or on the basis of the report of the Advisory Board under section 8, read with subsection (6) of section 12A, of the said Act; or

(iv) such order of detention has not been set aside by a court of competent jurisdiction;

Contd....

Insertion of chapter XIX-AA w.e.f. 1st day of April 2021:-

The following section 245MA shall be inserted

(B) in respect of whom prosecution for any offence punishable under the provisions of the Indian Penal Code, the Unlawful Activities (Prevention) Act, 1967, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Prohibition of Benami Transactions Act, 1988, the Prevention of Corruption Act, 1988 or the Prevention of Money Laundering Act, 2002 has been instituted and he has been convicted of any offence punishable under any of those Acts;

(C) in respect of whom prosecution has been initiated by an income-tax authority for any offence punishable under the provisions of this Act or the Indian Penal Code or for the purpose of enforcement of any civil liability under any law for the time being in force, or such person has been convicted of any such offence consequent upon the prosecution initiated by an Income-tax authority;

(D) who is notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992;

(II) such other conditions, as may be prescribed.

Insertion of chapter XIX-AA w.e.f. 1st day of April 2021:-

The following section 245MA shall be inserted

(b) "specified order" means such order, including draft order, as may be specified by the Board, and,—

(i) aggregate sum of variations proposed or made in such order does not exceed ten lakh rupees;

(ii) such order is not based on search initiated under section 132 or requisition under section 132A in the case of assessee or any other person or survey under section 133A or information received under an agreement referred to in section 90 or section 90A;

(iii) where return has been filed by the assessee for the assessment year relevant to such order, total income as per such return does not exceed fifty lakh rupees.

Brief Impact:

Government has always been striving to reduce disputes and provide tax certainty While pending disputes are being resolved or adjudicated, it is important that in future there is less number of disputes from fresh assessments. Hence, in order to provide early tax certainty to small and medium taxpayers, it is proposed to introduce a new scheme for preventing new disputes and settling the issue at the initial stage.

The new scheme is proposed to be incorporated in a new section 245MA and has the following features

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

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

(iii) Only those disputes where the returned income is 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.

Brief Impact:

(iv) If the specified order is based on a search initiated under section 132 or requisition made under section 132A or a survey initiated under 133A or information received under an agreement referred to in section 90 or section 90A,of the Act, such specified order shall not be eligible for being considered by the DRC.

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

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

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

Brief Impact:

(viii) The Central Government has also been empowered to make a scheme by notification in the Official Gazette for the purpose of dispute resolution under this provision. The scheme shall impart greater efficiency, transparency and accountability by eliminating interface to the extent technologically feasible, by optimising utilisation of resources and introducing dynamic jurisdiction. The Central Government may, for the purposes of giving effect to the scheme, by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. However, no such direction shall be issued after the 31st day of March, 2023. Every such notification shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

3. Constitution of the Board for Advance Ruling (Clause 67 to 77)

Existing Provisions:

With a view to avoiding dispute in respect of assessment of tax liability and to provide tax certainty, a scheme of Advance Rulings was incorporated in the Act vide the Finance Act, 1993 by inserting a new **Chapter XIX-B**.

Under these provisions the Authority for Advance Rulings (AAR) pronounces rulings on the applications of the non-resident/residents and such rulings are binding both on the applicants and the Tax department. AAR consists of a Chairman and various Vice-Chairman, revenue members and law members. There are three benches of the Authority. The principal bench consists of Chairman, one revenue member and one law member. The other benches consist of one Vice-Chairman, one revenue member and one law member, 43 each. A bench cannot function if the post of Chairman or Vice-Chairman is vacant. As per section 245-O of the Act, persons eligible for appointment as Chairman of AAR are retired judges of the Supreme Court, retired Chief Justice of a High Court or retired Judge of a High Court who has served in that capacity for at least seven years. Similarly, the persons eligible for appointment as Vice-Chairman are retired judges of a High Court.

As per past experience, the posts of Chairman and Vice-Chairman have remained vacant for a long time due to non-availability of eligible persons. This has seriously hampered the working of AAR and a large number of applications are pending since last many years. There is, therefore, a need to look for an alternative method of providing advance ruling which can give rulings to taxpayers in timely manner.

Hence, it is proposed to constitute a Board of Advance Ruling and to make the following amendments in the existing provisions of AAR:-
(These amendments will take effect from 1st April, 2021)

I. The Authority for Advance Rulings shall cease to operate with effect from such date, as may be notified by the Central Government in the Official Gazette (hereinafter referred to as the notified date). **[Clause 68]**

II. Since the work of Authority shall be carried out by the Board for Advance Rulings on and after the notified date, amendments are proposed to be made to the various provisions of the Chapter to this effect. **[Clause 67-77]**

III. It is proposed that the Central Government shall constitute one or more Board for Advance Rulings for giving advance rulings under the said Chapter on and after the notified date. Every such Board shall consist of two members, each being an officer not below the rank of Chief Commissioner. Advance rulings of such Board shall not be binding on the applicant or the Department and if aggrieved, the applicant or the Department may appeal against the ruling or order passed by the Board before the High Court. **[Clause 69]**

IV. Section 245N is proposed to be amended to incorporate the definitions of the Board of Advance Rulings, notified date, Member of the Board of Advance Rulings and change in the definition of Authority to include the Board for Advance Rulings. **[Clause 67]**

V. Section 245-O is proposed to be amended to provide that the Authority constituted under the said section shall cease to operate on or after the notified date. **[Clause 68]**

VI. Section 245-OB shall be inserted to provide for the constitution of the Board of Advance Rulings. **[Clause 69]**

VII. Section 245P is proposed to be amended to provide that on or from the notified date, the provisions of the said section shall have effect as if for the words —Authority‖, the words —Board for Advance Rulings‖ had been substituted; **[Clause 70]**

VIII. Section 245Q (which deals with filing of application) is proposed to be amended to provide that the pending application with the Authority i.e. in respect of which order under section 245R(2) or section 245R(4) has not been passed before the notified date shall be transferred to the Board for Advance Rulings along with all records, documents or material, by whatever name called and shall be deemed to be records before the Board for all purposes. **[Clause 71]**

IX. Section 245R (which deals with the procedure) is proposed to be amended to provide that on or from the notified date, the provisions of the said section shall have effect as if for the words —Authority‖, the words —Board for Advance Rulings‖ had been substituted and the provisions of the said section shall apply mutatis mutandi to the Board for Advance Rulings as they apply to the Authority. **[Clause 72]**

X. The Central Government is also proposed to be empowered to make a scheme by notification in the Official Gazette for the purpose of giving advance ruling by Board of Advance Ruling under this provision. The scheme shall impart greater efficiency, transparency and accountability by eliminating interface to the extent technologically feasible, by optimising utilisation of resources and introducing dynamic jurisdiction. The Central Government may, for the purposes of giving effect to the scheme, by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. However, no such direction shall be issued after the 31st day of March, 2023. Every such notification shall, as soon as may be after the notification is issued, be laid before each House of Parliament. **[Clause 72]**

XI. Section 245S (which deals with the applicability of advance ruling and makes it binding on the assessee and the Department) is proposed to be amended to provide that nothing contained in the said section shall apply on and after the notified date. **[Clause 73]**

XII. Section 245T (which deals with advance ruling to be void in certain situation) is proposed to be amended to provide that on or from the notified date, the provisions of the said section shall have effect as if for the words —Authority, the words —Board for Advance Rulings had been substituted. Also, a specific reference to advance ruling pronounced by the Authority shall be amended to make it advance ruling pronounced under sub-section (6) of section 245R so that the Board for Advance Ruling can also exercise powers under the said section in respect of rulings pronounced by the present Authority. **[Clause 74]**

XIII. Section 245U is proposed to be amended to provide that on or from the notified date, the powers of the —Authority‖ under the said section shall be exercised by the —Board for Advance Rulings‖ and the provisions of the said section shall apply mutatis mutandi to the Board for Advance Rulings as they apply to the Authority. **[Clause 75]**

XIV. Section 245V is proposed to be amended to provide that nothing contained in the said section shall apply on and after the notified date. **[Clause 76]**

XV. References to Customs Act, 1962, Central Excise Act, 1944 and Finance Act, 1994 in the definition of applicant in section 245N and in section 245Q relating to application for advance ruling is proposed to be omitted. **[Clause 67 & 71]**

XVI. A new section 245W is proposed to be inserted to provide for appeal to High Court against the order passed or ruling pronounced by the Board for Advance Ruling. This appeal can be filed by the applicant as well as by the Department. Such appeal shall be filed within sixty days from the date of the communication of such ruling or order, in such form and manner as may be prescribed. However, where the High Court is satisfied, on an application made in this behalf, that the appellant was prevented by sufficient cause from presenting the appeal within the period specified in this section, it may allow a further period of thirty days for filing such appeal. The Central Government shall be empowered to notify a scheme for filing of appeal by the Assessing Officer so as to impart greater efficiency, transparency and accountability by optimising utilisation of the resources through economies of scale and functional specialisation; introducing a system with dynamic jurisdiction. The Central Government may, for the purposes of giving effect to the scheme, by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. However, no such direction shall be issued after the 31st day of March, 2023. Every such notification shall, as soon as may be after the notification is issued, be laid before each House of Parliament. **[Clause 77]**

4. Income Escaping Assessment and Search Assessments [Clause 35 to 40 and 42 to 43]

Substitution of Section 147 w.e.f. 1st day of April 2021:-

If any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the Assessing Officer may, subject to the provisions of sections 148 to 153, assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year (hereafter in this section and in sections 148 to 153 referred to as the relevant assessment year)

Explanation.—For the purpose of assessment or reassessment under this section, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, irrespective of the fact that the provisions of section 148A have not been complied with.

Substitution of Section 148 w.e.f. 1st day of April 2021:-

Before making the assessment, reassessment or recomputation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:

Provided that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice.

Explanation 1.—For the purposes of this section and section 148A, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means,—

(i) any information flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;

(ii) any final objection raised by the Comptroller and Auditor General of India to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act.

Explanation 2.—For the purposes of this section, where,—

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

(ii) a survey is conducted under section 133A in the case of the assessee on or after the 1st day of April, 2021; or

(iii) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned in case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or

(iv) the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee,

the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the three assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.

Explanation.3—For the purposes of this section, specified authority means the specified authority referred to in section 151.

New Section 148A inserted after section 148 w.e.f. 1st day of April 2021:-

The Assessing Officer shall, before issuing any notice under section 148, —

(a) **conduct any enquiry**, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;

(b) **provide an opportunity of being heard to the assessee**, with the prior approval of specified authority, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);

(c) **consider the reply of assessee furnished**, if any, in response to the show-cause notice referred to in clause (b);

(d) **decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148**, by passing an order, with the prior approval of specified authority, within one month from the end of the month in which the reply referred to in clause (c) is received by him, or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires:

Provided that the provisions of this section shall not apply in a case where,—

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

(b) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any money, bullion, jewellery or other valuable article or thing, seized in a search under section 132 or requisitioned under section 132A, in the case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or

(c) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search under section 132 or requisitioned under section 132A, in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee.

Explanation.—For the purposes of this section, specified authority means the specified authority referred to in section 151.

Section 149 substituted w.e.f. 1st day of April 2021:-

(1) No notice under section 148 shall be issued for the relevant assessment year,—

(a) if three years have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);

(b) if three years, but not more than ten years, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of accounts or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more for that year:

Provided that no notice under section 148 shall be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if such notice could not have been issued at that time on account of being beyond the time limit specified under the provisions of clause (b) of sub-section (1) of this section, as they stood immediately before the commencement of the Finance Act, 2021:

Provided further that the provisions of this sub-section shall not apply in a case, where a notice under section 153A, or section 153C read with section 153A, is required to be issued in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, on or before the 31st day of March, 2021:

Provided also that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded:

Provided also that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of section 148A is less than seven days, such remaining period shall be extended to seven days and the period of limitation in sub-section (1) shall be deemed to be extended accordingly.

(2) The provisions of sub-section (1) as to the issue of notice shall be subject to the provisions of section 151.

Section 151 substituted w.e.f. 1st day of April 2021:-

151. Specified authority for the purposes of section 148 and section 148A shall be,—

(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;

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

Section 151A Amended w.e.f. 1st day of April 2021:-

(1) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of assessment, reassessment or re-computation under section 147 or issuance of notice under section 148 ***or conducting of enquiries or issuance of show-cause notice or passing of order under section 148A** or sanction for issue of such notice under section 151, so as to impart greater efficiency, transparency and accountability by—

***Note:** *new words are introduced as given in bold to widen the scope of the section.*

Section 153A amended w.e.f. 1st day of April 2021:-

153A(1) Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003 ***but on or before the 31st day of March, 2021**, the Assessing Officer shall—

Sub-Section (3) inserted to Section 153C w.e.f. 1st day of April 2021:-

(3) Nothing contained in this section shall apply in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or after the 1st day of April, 2021.

Note: *new words are introduced as given in bold to widen the scope of the section.*

Brief Impact:

It has been proposed to completely reform the mechanism of income escaped assessment or assessment/ reassessment in case of search operation conducted u/s 132 of the act or assessment/ reassessment in case of books of accounts, other documents or any assets requisitioned u/s 132A of the Act. Salient features of said reforms are as under:

a. **Revocation of provisions of section 153A and 153C of the act:** It has been proposed that provisions of section 153A and 153C of the act shall be applicable only for the search operations conducted u/s 132 or requisitions made u/s 132A on or before 31st March 2021. In respect of search operation conducted u/s 132 or requisitions made u/s 132A after 31st March, 2021, assessment or reassessment shall be conducted in pursuance of amended provisions of section 147 r.w.s. 148 of the act.

Contd....

Brief Impact:

b. **New provision of section 148 introduced w.e.f. 01.04.2021 to prescribe the scope where assessment or reassessment proceedings can be initiated u/s 147 of the act by issuance of notice u/s 148 of the act:** It has been proposed that old provisions of section 148 of the act has been replace by new provision whereby assessing officer can issue notice u/s 148 of the act for filing of return of income prior to initiation of assessment / reassessment u/s 147 of the act only when he is in the possession of an **information** which suggests that any income for the period under consideration has escaped assessment and the assessing officer had obtained prior approval of the specified authority as prescribed under amended provisions of section 151 of the act to issue such notice.

Information will constitute information flagged by risk management strategy formulated by the board from time to time and/ or final objection raised by C&AG to the effect that assessment of income has not been in accordance with provisions of the act.

Brief Impact:

In following cases, **assessing officer shall be deemed to be in possession of information** to initiate proceedings u/s 147 r.w.s. 148 **for three assessment years immediately preceding the assessment year relevant to the previous year in which following action has been initiated**:

- In case of search conducted u/s 132 or requisition made u/s 132A after 31.03.2021
- A survey is conducted u/s 133A after 31.03.2021
- AO is satisfied that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned in case of any other person after 31.03.2021, belongs to the assessee and prior approval of Pr. CIT or CIT has been obtained.
- AO is satisfied that any books of account or documents, seized or requisitioned in case of any other person after 31.03.2021, pertains or pertain to, or any information contained therein, relate to, the assessee and prior approval of Pr. CIT or CIT has been obtained.

Contd....

c. **Introduction of enquiry proceeding u/s 148A prior to issuance of notice u/s 148 of the act:** It has been proposed that a new section 148A shall be inserted w.e.f. 01.04.2021, in pursuance of which assessing officer being in possession of any information may conduct an enquiry in regards to information available if he requires to seek certain further details in such regards from the assessee only after obtaining prior approval from the specified authorities as prescribed u/s 151 of the act.

After completion of enquiry, assessing officer shall issue a SCN as to why a notice under section 148 should not be issued on the basis of information available and results of enquiry conducted after obtaining prior approval. Thereafter, a reasonable opportunity of being heard shall be provided to the assessee to file necessary reply to such SCN **i.e. atleast 7 days and at max 30 days or any further extension on specific application** and thereafter considering the reply of assessee and after obtaining prior approval, **a speaking order shall be passed within one month from the end of month in which reply is received or within one month from the end of period by which reply is to be filed by assessee but the same was not filed**.

Contd....

d. Vide amended provisions of Section 147, it has been proposed to allow the Assessing Officer to assess or reassess or re-compute any income escaping assessment for any assessment year where the assessing officer had issued notice u/s 148 of the act.

e. Provisions of section 149 of the act have been amended completely and time limits for issuance of notice u/s 148 of the act has been proposed as under:

- Upto 3 years from the end of assessment year, or
- Beyond 3 years and upto 10 years from the end of relevant assessment year, in case assessing officer is in possession of information that ***income exceeding or likely to exceed Rs. 50 Lakh chargeable to tax represented in form of asset*** had escaped assessment for such year.
- Further, it has been provided for that in cases relevant to AY 2014-15 to AY 2020-21, notice u/s 148 shall be issued in accordance with law applicable prior to enactment of Finance Act, 2021.

Aforesaid time limits shall exclude time allowed to assessee for filing response to SCN issued u/s 148A or period during which proceedings u/s 148A have been stayed by an order or injunction of any court. Further, in case time limit for issuance of order u/s 148A after aforesaid extension remains less than 7 days, then the said time limit shall be extended to seven days and period of limitation for issuance of notice u/s 148 of the act shall be extended accordingly.

Analysis regarding section 149

Now, after enactment of revised provisions, in non-search cases as well, assessment upto AY 2011-12 can be initiated if any information is received regarding assets of Rs. 50 Lakh acquired in such year which remained untaxed.

f. Specified Authority u/s 151 of the act:

- In case of upto 3 years from end of relevant AY, Principal Commissioner or Principal Director or Commissioner or Director.
- In case beyond 3 years but upto 10 years, Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General.

g. Vide amendment in section 151A of the act, conducting of enquiry u/s 148A of the act and issuance of SCN u/s 148A has to be made in a faceless manner.

5. Allowing prescribed authority to issue notice under 142(1)(i) [Clause 33]

Second Proviso to section 142(1)(i) inserted w.e.f. 1st day of April 2021:-

"Provided further that a notice under this sub-section for the purposes of this clause may also be served by the prescribed income-tax authority,"

Brief Impact:

In line with the policy of the government to make all the processes under the Act, where physical interface with the assessee is required, fully faceless by eliminating person to person interface between the taxpayer and the department, and in order to enable centralized issuance of notices etc. in an automated manner, it is proposed to amend the provisions of 142(1)(i) to empower the prescribed income-tax authority besides the Assessing Officer to issue notice under the said clause

6. Provision for Faceless Proceedings before the Income-tax Appellate Tribunal (ITAT) in a jurisdiction less manner (Clause 78)

Amendment in Section 255 w.e.f. 1st day of April 2021:-

Insertion of Sub-section 7, 8 & 9,

"(7) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of disposal of appeals by the Appellate Tribunal so as to impart greater efficiency, transparency and accountability by—

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

(b) optimizing utilization of the resources through economies of scale and functional specialization;

(c) introducing an appellate system with dynamic jurisdiction.

(8) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (7), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply to such scheme or shall apply with such exceptions, modifications and adaptations as may be specified in the said notification.

Provided that *no such direction shall be issued after the 31st day of March, 2023.*

(9) Every notification issued under sub-section (7) and sub-section (8) shall, as soon as may be after the notification is issued, be laid before each House of Parliament."

Brief Impact:

In order to ensure the reforms initiated by the Department to reduce human interface & greater efficiency, transparency and accountability, it is imperious that a faceless scheme be launched for ITAT proceedings on the same line as faceless appeal scheme. This will be beneficial to reduce the cost of compliance for taxpayers, increase the transparency in disposal of appeals, it will also help in achieving even work distribution in different benches resulting in best utilization of resources.

Therefore, it is proposed to insert new sub-sections in section 255 so as to provide that the CG may notify a scheme for the purposes of disposal of appeal by ITAT to enable it to impart much efficiency, transparency & accountability by presenting new appellate system with dynamic jurisdiction. optimizing utilization of the resources and eliminating the interface between the ITAT and parties.

7. Discontinuance of Income-tax Settlement Commission (Clause 54 to 65)

It is proposed to discontinue Income-tax Settlement Commission (ITSC) and to constitute Interim Board of settlement for pending cases [clause 61-64]. The various amendments proposed are as under:

I. ITSC shall cease to operate on or after 1st February, 2021. **[Clause 55-58]**

II. No application under section 245C of the Act for settlement of cases shall be made on or after 1st February, 2021; **[Clause 59]**

III. All applications that were filed under section 245C of the Act and not declared invalid under sub-section (2C) of section 245D of the Act and in respect of which no order under section 245D(4) of the Act was issued on or before the 31st January, 2021 shall be treated as pending applications. **[Clause 54]**

IV. Where in respect of an application, an order, which was required to be passed by the ITSC under section 245(2C) of the Act on or before the 31st day of January, 2021 to declare an application invalid but such order has not been passed on or before 31st January, 2021, such application shall be deemed to be valid and treated as pending application. **[Clause 60]**

V. The Central Government shall constitute one or more Interim Board for Settlement (hereinafter referred to as the Interim Board), as may be necessary, for settlement of pending applications. Every Interim Board shall consist of three members, each being an officer of the rank of Chief Commissioner, as may be nominated by the Board. If the Members of the Interim Board differ in opinion on any point, the point shall be decided according to the opinion of majority. **[Clause 55]**

VI. On and from 1st February, 2021, the provisions related to exercise of powers or performance of functions by the ITSC viz. provisional attachment, exclusive jurisdiction over the case, inspection of reports and power to grant immunity shall apply mutatis mutandis to the Interim Board for the purposes of disposal of pending applications and in respect of functions like rectification of orders for all orders passed under sub-section (4) of section 245D of the Act. However, where the time-limit for amending any order or filing of rectification application under section 245(6B) of the Act expires on or after 1st February, 2021, in computing the period of limitation, the period commencing from 1st February, 2021 and ending on the end of the month in which the Interim Board is constituted shall be excluded and the remaining period shall be extended to sixty days, if less than sixty days. **[Clause 60]**

VII. With respect to a pending application, the assessee who had filed such application may, at his option, withdraw such application within a period of three months from the date of commencement of the Finance Act, 2021 and intimate the Assessing Officer, in the prescribed manner, about such withdrawal. **[Clause 65]**

VIII. Where the option for withdrawal of application is not exercised by the assessee within the time allowed, the pending application shall be deemed to have been received by the Interim Board on the date on which such application is allotted or transferred to the Interim Board. **[Clause 65]**

IX. The Board may, by an order, allot any pending application to any Interim Board and may also transfer, by an order, any pending application from one Interim Board to another Interim Board. **[Clause 65]**

X. Where the pending application is allotted to an Interim Board or transferred to another Interim Board subsequently, all the records, documents or evidences, with whatever name called, with the ITSC shall be transferred to such Interim Board and shall be deemed to be the records before it for all purposes. **[Clause 65]**

XI. Where the assessee exercises the option to withdraw his application, the proceedings with respect to the application shall abate on the date on which such application is withdrawn and the Assessing Officer, or, as the case may be, any other income-tax authority before whom the proceeding at the time of making the application was pending, shall dispose of the case in accordance 54 with the provisions of this Act as if no application under section 245C of the Act had been made. However, for the purposes of the time-limit under sections 149, 153, 153B, 154 and 155 and for the purposes of payment of interest under section 243 or 244 or, as the case may be, section 244A, for making the assessment or reassessment, the period commencing on and from the date of the application to the ITSC under section 245C of the Act and ending with the date on which application is withdrawn shall be excluded. Further, the income-tax authority shall not be entitled to use the material and other information produced by the assessee before the ITSC or the results of the inquiry held or evidence recorded by the ITSC in the course of proceeding before it. However, this restriction shall not apply in relation to the material and other information collected, or results of the inquiry held or evidence recorded by the Assessing Officer, or, as the case may be, other income-tax authority during the course of any other proceeding under this Act irrespective of whether such material or other information or results of the inquiry or evidence was also produced by the assessee or the Assessing officer before the ITSC. **[Clause 65]**

XII. The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of settlement in respect of pending applications by the Interim Board, so as to impart greater efficiency, transparency and accountability by eliminating the interface between the Interim Board and the assessee in the course of proceedings to the extent technologically feasible; optimising utilisation of the resources through economies of scale and functional specialisation; and introducing a mechanism with dynamic jurisdiction. The Central Government may, for the purposes of giving effect to the said scheme, by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. However, no such direction shall be issued after the 31st March, 2023. Every such notification issued shall, as soon as may be after the notification is issued, be laid before each House of Parliament. **[Clause 60]**

These amendments will take effect from 1st February, 2021.

8. Reduction of time limit for completing assessment (Clause 41)

Insertion of Third Proviso in section 153(1) w.e.f. 1st day of April 2021:-

"Provided also that in respect of an order of assessment relating to the assessment year commencing on or after the 1st day of April, 2021, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words ***"nine months"*** *had been substituted."*

Brief Impact:

The time limit for completing of assessment is proposed to be completed within nine months from the end of relevant AY for the AY 2021-22 & subsequent assessment years.

The shorter time period for scrutiny will reduces the compliance burden on the taxpayers who find it easier to explain matters pertaining to a recent previous year which also improve the ease of doing business. Further, it will enhance the ability of Department to detect & bring to tax any leakages of revenue as the instances of tax evasion come to the notice of the Department within a shorter span of time.

9. Rationalisation of the provision of Charitable Trust and Institutions to eliminate possibility of double deduction while calculating application or accumulation (Clause 5&6)

Existing Provisions (Section 10(23C), 11 & 12):

Exemption to funds, institutions, trusts etc. carrying out religious or charitable activities is provided under clause (23C) of section 10 of the Act and sections 11 and 12 of the Act. Section 12A of the Act, inter alia, provides for procedure to make application for the registration of the trust or institution to claim exemption under section 11 and 12. Section 12AB is the new section which comes into effect from the 1st April, 2021.

Under the existing provisions of the Income-tax Act, 1961, corpus donations received by trusts, institutions, funds etc. are exempt as follows:

a) Explanation to third proviso to clause (23C) of section 10 provides that income of the funds or trust or institution or any university or other educational institution or any hospital or other medical institution, shall not include income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus.

b) Clause (d) of sub-section (1) of Section 11 provides that voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution shall not be included in the total income of the trust or institution.

These entities are not allowed to accumulate more than 15% of their income or accumulate for specific purpose up to 5 years, other than corpus donations referred above. Instances have come to the notice where the these entities claim the corpus donations to be exempt and at the same time claim their application as part of the mandatory 85% application from income other than such corpus. This results in a situation where the corpus income has been exempted and its application has been claimed as application against the mandatory 85% application of non-corpus income.

Instances have also come to the notice where these entities take loans or borrowings and make application for charitable or religious purposes out of the proceeds of loans and borrowings. Such loans or borrowings when repaid, are again claimed as application. This results in unintended double deduction.

Both these situations, at times, also result in paper loss which is claimed by the assessee as carry forward resulting in unintended short application (less than 85%) in following years.

Contd....

Brief Impact in respect of proposed amendment u/s 10(23C), 11 & 12:

To ensure that there is no double counting while calculating application or accumulation, it has been proposed that

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

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

Contd....

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

d) Clarify in both clause (23C) of section 10 and section 11 that for the computation of income required to be applied or accumulated during the 58 previous year, no set off or deduction or allowance of any excess application, of any of the year preceding the previous year, shall be allowed

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

10. Taxation of proceeds of high premium unit linked insurance policy (ULIP) (Clause 3, 5, 14 & 29), (Clause 154 to 158)

Exiting Provisions:

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

Under the existing provisions of the Act, there is no cap on the amount of annual premium being paid by any person during the term of the policy. Instances have come to the notice where high net worth individuals are claiming exemption under this clause by investing in ULIP with huge premium. Allowing such exemption in policy/policies with huge premium defeats the legislative intent of this clause. The intention was to provide benefit to small and genuine cases of life insurance.;

Contd....

Brief Impact in respect of proposed amendment u/s 10(10D):

I. **Insert Explanation 3 to the clause (10D) of section 10** of the Act to define ULIP as a life insurance policy which has components of both investment and insurance and is linked to a unit as defined in clause (ee) of regulation (3) of the Insurance Regulatory and Development Authority of India (Unit Linked Insurance Products) Regulations, 2019 dated the 8th day of July, 2019. `

II. **Insert fourth proviso to clause (10D) of section 10 of the Act** to provide that the exemption under this clause shall not apply with respect to any ULIP issued on or after the 1st February, 2021, if the amount of premium payable for any of the previous year during the term of the policy exceeds two lakh and fifty thousand rupees.

Contd....

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

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

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

Contd....

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

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

VII. Include such ULIPs [to which exemption under section 10(10D) of the Act does not apply on account of the applicability of the fourth and fifth proviso] in the definition of equity oriented fund in section 112A so as to provide them same treatment as unit of equity oriented fund. Thus provisions of section 111A and 112A would apply on sale/redemption of such ULIPs.

These amendments will take effect from 01/04/2021 and will accordingly apply to A.Y. 2021-22 and subsequent assessment years.

Contd....

Consequential amendment has also been proposed in Finance (No 2) Act, 2004 to make security transaction tax applicable on maturity or partial withdrawal with respect to unit linked insurance policy issued by insurance company on or after the 1st February, 2021 [to which exemption under clause (10D) of section 10 of the Act does not apply on account of the applicability of the fourth and fifth proviso].

This amendment will take effect from 1st February, 2021.

11. Rationalization of the provision of slump sale (Clause 3)

Amendment in Sub-section 42C of Section 2 w.e.f. 1st day of April 2021:-

Amendment in Section 2(42C):

*(42C) 'Slump sale' means the transfer of one or more ~~undertakings as a result of the sale~~ '**Undertaking, by all means**' for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.'*

Insertion of Explanation 3 in section 2(42C):

'Explanation 3- For the purpose of this clause, "transfer" shall have the meaning assigned to it in clause (47).'

Contd....

Brief Impact:

Section 50B of the Act contains special provision for computation of capital gains in case of slump sale. Section 2(42C) defines "slump sale" to mean the transfer of one or more undertakings as a result of sale for lump sum consideration without value being assigned to individual assets and liabilities in such cases. This has been interpreted by some courts that other means of transfer listed in section 2(47), in relation to definition of the word "transfer" in relation to capital asset like exchange, relinquishment etc., are excluded.

It is now proposed to clarify that all types of 'transfer' as defined in section 2(47) are included under the definition of Slump Sale.

12. Rationalization of provision of transfer of capital asset to partner on dissolution or reconstitution (Clause 14 & 16)

Amendment in section 45 w.e.f. 1st day of April 2021:-

Substitution of section 45(4),

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

(4) *Notwithstanding anything contained in sub-section (1), where a specified person receives during the previous year any capital asset at the time of dissolution or reconstitution of the specified entity, which represents the balance in his capital account in the books of accounts of such specified entity at the time of its dissolution or reconstitution then any profits or gains arising from receipt of such capital asset by the specified person shall be chargeable to income-tax as income of such specified entity under the head "Capital gains" and shall be deemed to be the income of such specified entity of the previous year in which such capital asset was received by the specified person and notwithstanding anything to the contrary contained in this Act, for the purposes of section 48,—*

(a) fair market value of the capital asset on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset; and

(b) the cost of acquisition of the capital asset shall be determined in accordance with the provisions of this Chapter:

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

Explanation.—For the purposes of this sub-section,—

(i) "specified entity" means a firm or other association of persons or body of individuals (not being a company or a cooperative society);

(ii) "self-generated goodwill" and "self-generated asset" mean goodwill or asset, as the case may be, which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession;

(iii) "specified person" means a person who is partner of a firm or member of other association of persons or body of individuals (not being a company or a cooperative society), in any previous year.

Contd....

Brief Impact:

The profit and gains arising from the receipt of any capital asset which represents the balance in the capital account, by the specified person shall be chargeable to income-tax as income of the specified entity under the head 'capital gains' at the time of dissolution or reconstitution of the specified entity and shall be deemed to be the income of such specified entity of the previous year in which the capital asset was received by the specified person.

For the purposes of section 48, the FMV of the capital asset on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset. The balance in the capital account of the specified person in the books of account of the specified entity is to be calculated without taking into account increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset.

Insertion of sub-section 4A in section 45, w.e.f 1st Day of April, 2021

"(4A) Notwithstanding anything contained in sub-section (1), where a specified person receives during the previous year any money or other asset at the time of dissolution or reconstitution of the specified entity, which is in excess of the balance in his capital account in the books of accounts of such specified entity at the time of its dissolution or reconstitution, then any profits or gains arising from receipt of such money or other asset by the specified person shall be chargeable to income-tax as income of such specified entity under the head "Capital gains" and shall be deemed to be the income of such specified entity of the previous year in which such money or other asset was received by the specified person and notwithstanding anything to the contrary contained in this Act, for the purposes of section 48,—

(a) value of any money or the fair market value of other asset on the date of such receipt shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset; and

(b) the balance in the capital account of the specified person in the books of accounts of the specified entity at the time of its dissolution or reconstitution shall be deemed to be the cost of acquisition:

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

Explanation.—For the purpose of this sub-section, the expressions "specified entity", "self-generated goodwill", "self-generated asset" and "specified person" shall have the meaning respectively assigned to them in sub-section (4)'.

Insertion of Clause (iii) in section 48, w.e.f. 1st Day of April 2021

"(iii) in case of specified entity referred to in sub-section (4A) of section 45, the amount included in the total income of such specified entity under sub-section (4A) of section 45 which is attributable to the capital asset being transferred, calculated in the prescribed manner:".

Brief Impact:

New proposed section sub-section (4A) of section 45 of the Act applies in a case where a specified person receives during the previous year any money or other asset in excess of the balance in the capital account of such specified person in the books of accounts of specified entity at the time of dissolution or reconstitution.

For the purposes of section 48 of the Act,

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

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

13. Provisional attachment in Fake Invoice cases (Clause 79)

Insertion of words in section 281B w.e.f. 1st day of April 2021:-

The following words shall be inserted in section 281B(1) shall be inserted

(1) Where, during the pendency of any proceeding for the assessment of any income or for the assessment or reassessment of any income which has escaped assessment ***or for imposition of penalty under section 271AAD where the amount or aggregate of amounts of penalty likely to be imposed under the said section exceeds two crore rupees***, the [Assessing] Officer is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the [Principal Chief Commissioner or] Chief Commissioner, [Principal Commissioner or] Commissioner, [Principal Director General or] Director General or [Principal Director or] Director], by order in writing, attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule.

Brief Impact:

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

14. Rationalisation of the provisions of Equalisation Levy [Clause 159 & 5]

In the Finance Act, 2016,—

(a) the following amendments shall be made and shall be deemed to have been made with effect from the 1st day of April, 2020, namely:—

(i) in section 163, in sub-section (3), the following proviso shall be inserted, namely:—

"Provided that the consideration received or receivable for specified services and for e-commerce supply or services shall not include the consideration, which are taxable as royalty or fees for technical services in India under the Income-tax Act, read with the agreement notified by the Central Government under section 90 or section 90A of the said Act.";

(ii) in section 164, in clause (cb), the following Explanation shall be inserted, namely:—

'Explanation.—For the purposes of this clause, "online sale of goods" and "online provision of services" shall include one or more of the following online activities, namely:—

(a) acceptance of offer for sale; or

(b) placing of purchase order; or

(c) acceptance of the purchase order; or

(d) payment of consideration; or

Contd....

(e) supply of goods or provision of services, partly or wholly;'

(iii) in section 165A, in sub-section (3),—

(A) in the opening portion, for the words 'section, "specified circumstances" mean—', *the following shall be substituted, namely:—'section,—(a) "specified circumstances" mean—';*

(B) after clause (a) as so amended, the following clause shall be inserted, namely:—

"(b) consideration received or receivable from ecommerce supply or services shall include—

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

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

Amendment in Section 10(50) of Income Tax Act (Clause 5)

Section 10(50): Any income arising from any specified service provided on or after the date on which the provisions of Chapter VIII of the Finance Act, 2016 comes into force and chargeable to equalization levy under that Chapter.

Amendment: (I) for the figures "2021", the figures "2020" shall be substituted;

(II) for the Explanation, the following Explanations shall be substituted, Explanation I: For the removal of doubts it is hereby clarified that the income referred to in this clause shall not include and shall be deemed never to have been included any income which is chargeable to tax as royalty or fees for technical services in India under this Act read with the agreement notified by the Central Government under section 90 or section 90A.

Explanation 2: For the purposes of this clause,—(i) "e-commerce supply or services" shall have the meaning assigned to it in clause (cb) of section 164 of the Finance Act, 2016;

(ii) "specified service" shall have the meaning assigned to it in clause (i) of section 164 of the Finance Act, 2016.'.

Contd....

Brief Impact:

Under section 165A of Finance Act, 2016, as inserted by section 153 of the Finance Act, 2020, Equalization Levy is to be levied at the rate of two per cent of the amount of consideration received or receivable by an e-commerce operator.

Need arises for some clarification to correctly reflect the intention of various provisions concerning this levy.

To insert an Explanation to section 163 of the Finance Act, 2016, clarifying that consideration received or receivable for specified services and consideration received or receivable for e-commerce supply or services shall not include consideration which are taxable as royalty or fees for technical services. To insert an Explanation to clause (cb) of section 164 of the Finance Act, 2016, providing that for the purposes of defining e-commerce supply or service, online sale of goods‖ and online provision of services‖ shall include one or more of certain specified activities taking place online. To amend section 165A of the Finance Act, 2016, to provide that consideration received or receivable from e-commerce supply or services shall include two further provisions.

Brief Impact:

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

(i) provide that section 10(50) will apply for the e-commerce supply or services made or provided or facilitated on or after 1st April, 2020.
(ii) clarify that exemption under section 10(50) will not apply for royalty or fees for technical services which is taxable under the Act read with the agreement notified by the Central Government under section 90 or section 90A of the Act.
(iii) define e-commerce supply or services under section 10(50) as the meaning assigned to it in clause (cb) of section 164 of Chapter VIII of the Finance Act, 2016.

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

15. Depreciation on Goodwill [Clause 7, 18 and 20]

Insertion of words "not being goodwill of business or profession" in Section 32 of the Income-tax Act, 1961 [Clause 7]

In section 32 of the Income-tax Act, in sub-section (1),—

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

(b) in Explanation 3, in clause (b), after the words "or commercial rights of similar nature", the words ", not being goodwill of a business or profession" shall be inserted.

Insertion of proviso in Clause 2 of Section 50 of the Income-tax Act, 1961 [Clause 18]

In section 50 of the Income-tax Act, in clause (2), the following proviso shall be inserted, namely:—

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

Contd....

Substitution of Clause (a) in Section 55(2) of Income Tax Act, 1961 [Clause 20]

"(a) in relation to a capital asset, being goodwill of a business or profession, or a trade mark or brand name associated with a business or profession, or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, or tenancy rights, or stage carriage permits, or loom hours,—

(i) in the case of acquisition of such asset by the assessee by purchase from a previous owner, means the amount of the purchase price; and

(ii) in the case falling under sub-clauses (i) to (iv) of sub-section (1) of section 49 and where such asset was acquired by the previous owner (as defined in that section) by purchase, means the amount of the purchase price for such previous owner; and

(iii) in any other case, shall be taken to be nil:

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

Contd....

Brief Impact:

On the reading of the provisions laid in Sec 2 (11)-Definition of Block of Assets r.w.s Sec 32(1)- Depreciation on Assets, it was observed that the Goodwill of Business or Profession was not specifically provided as an asset in the definition under either of the two sections, however when the matter of Depreciation on Goodwill of Business or Profession came before the Hon'ble Supreme Court, the apex court in the case of Smiff Secirities Limited [(2012) 348 ITR 302 (SC)] held that Goodwill of Business or Profession is a depreciable asset u/s 32 of the act. The justification of Depreciation on Goodwill of Business or Profession was not available in the manner there is need to provide for depreciation in case of other Intangible Assets or Plant & Machinery.

Hence, it has been decided to propose that Goodwill of Business or Profession will not be considered as a depreciable asset and there would not be any depreciation on goodwill in any situation. Further, in order to give effect to this decision the amendment in Section 2(11), Section 32(1)(ii), Section 55 and Section 50 has been brought w.e.f. from 01.04.2021 and will accordingly apply to assessment year 2021-22 and subsequent assessment years.

16. Rationalisation of the provision relating to processing of returned income and issuance of notice under section 143 (2) [Clause 34]

Amendment in Second Proviso to section 143(1) w.e.f. 1st day of April 2021:-

Provided further that no intimation under this sub-section shall be sent after the expiry of ~~**one year**~~ **nine months** from the end of the financial year in which the return is made.

Brief Impact:

In line with the amendment to section 139(4) & 139(5) of the ac in regards to due date for filing of belated and/or revised return of income, due to reduction of time taken for processing of return of income by computerized mechanism of the Income Tax Department, last date of issuing intimation u/s 143(1) of the act has been reduced from 31st March of the assessment year to 31st December of the assessment year.

Amendment in Clause (a) to section 143(1) w.e.f. 1st day of April 2021:-

(a) the total income or loss shall be computed after making the following adjustments, namely:—

(iv) disallowance of expenditure ***or increase in income** indicated in the audit report but not taken into account in computing the total income in the return;

(v) disallowance of deduction claimed under *~~sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or section 80-IE, if~~ **section 10AA or under any of the provisions of Chapter VI-A under the heading "C.-Deductions in respect of certain incomes** the return is furnished beyond the due date specified under sub-section (1) of section 139; or

Note: *new words are introduced as given in bold to widen the scope of the section.*

Brief Impact:

It has been proposed to extend the scope of adjustments to total income of assessee as prescribed under provisions of section 143(1)(a) of the act on following accounts:

- In respect of any information reported by the tax auditor in the tax audit report but the same has not been included in the total income declared by the assessee in its return of income, adjustment to total income of assessee can be made u/s 143(1)(a) of the act whereas prior to said amendment, only expenses reported to be disallowed by the tax auditor in tax audit report were adjusted. For instance, in case tax auditor reports delay in deposit of statutory dues related to employees contribution to statutory funds by employer, the same amount is deemed income u/s 2(24)(x) and the same shall be adjusted by the CPC while processing the return u/s 143(1) itself.
- In line with provisions of section 80AC whereby deductions available under Chapter VI-A is allowable only in case where return of income has been filed within due dates prescribed u/s 139(1) of the act, adjustment to total income of assessee can be made u/s 143(1)(a) of the act at the time of computerized processing of income.

Amendment to Proviso to section 143(2) w.e.f. 1st day of April 2021:-

Provided that no notice under this sub-section shall be served on the assessee after the expiry of ~~six~~ **three** months from the end of the financial year in which the return is furnished.

Brief Impact:

It has been proposed to amend the time limit for issuance of notice u/s 143(2) of the act by reducing the same by three month. Prior to amendment the notice u/s 143(2) of the act was required to be issued within 6 months from the end of the financial year in which the return was filed but now the same has been reduced from 6 months to 3 months from the end of financial year in which return was filed.

17. Adjudicating Authority under the PBPT Act [Clauses 142-147]

These provisions under the Prohibition of Benami Property Transaction Act, 1988 (Principal Act) shall be applicable from 01.07.2021 (Clause 142)

Amendment of Section 2

In Section *2*(1), for the words "appointed under", the words "*referred to in*" shall be substituted.

Substitution of Section 7: ***The competent authority authorized under subsection (1) of section 5 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 shall be the Adjudicating Authority to exercise jurisdiction, powers and authority conferred by or under this Act.***

Omission of Sections 8 to 17 of the Principal Act

Contd....

Amendment of Section 26 (7): After the proviso to the Explanation, the following proviso shall be inserted-

Provided that where the time limit for passing order under this sub-section expires during the period beginning from the 1st day of July, 2021 and ending on the 29th day of September, 2021, the time limit for passing such order shall be extended to the 30th day of September, 2021.

Amendment of Section 68(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

~~(*b*) the manner of appointing the Chairperson and the Member of the Adjudicating Authorities under sub-section (*2*) of section 9;~~

~~(*c*) the salaries and allowances payable to the Chairperson and the Members of the Adjudicating Authority under sub-section (*1*) of section 13;~~

Brief Impact:

Section 71 of the PBPT Act, *inter alia*, provides that CG may, by notification, provide that until the Adjudicating Authorities are appointed and the Appellate Tribunal is established under the PBPT Act, the Adjudicating Authority appointed under section 6(1) of the PMLA and the Appellate Tribunal may discharge the functions of the Adjudicating Authority and the Appellate Tribunal, respectively, under the PBPT Act for such period and in respect of such cases or class of cases as may be specified in the said notification.

Since there is no appointment of the Adjudicating Authority under the PBPT Act, the Adjudicating Authority under the PMLA is discharging the functions of the Adjudicating Authority under the PBPT Act. **It is now proposed to provide that the Competent Authority constituted under sub-section (1) of section 5 of the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 (SAFEMA) shall be the Adjudicating Authority under the PBPT Act which shall commence discharging the function from 1st July, 2021.**

18. Rationalization of the provision of presumptive taxation for professionals under section 44ADA [Clause 12]

Amendment in Section 44 ADA of Income Tax Act 1961 with effect from 01.04.2021

In sub-section (1), for the words "in the case of an assessee, being a resident in India, who", the words, brackets, letter and figures "in case of an assessee, being an individual, Hindu undivided family or a partnership firm other than a limited liability partnership as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008, who is a resident in India, and" shall be substituted.

Brief Impact:

The provisions of section 44ADA of the Act were made applicable to individual, HUF and partnership firm but not a LLP because LLP are required to maintain books of accounts in any case under LLP Act.

It is proposed to make this position clear in the law. Hence it is proposed to amend sub-section (1) of section 44ADA of the Act to provide that the provision of this section shall apply to an assessee, being an individual, HUF or partnership firm, not being an LLP. This amendment will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

19. Clarification regarding the scope of Vivad se Vishwas Act, 2020 [Clause 160]

Insertion of Explanation(s) in Section 2 (1) of Direct Tax Vivad se Vishwas Act, 2020

In the Direct Tax Vivad se Vishwas Act, 2020, the following amendments shall be made and shall be deemed to have been made with effect from the 17th day of March, 2020, namely:—

(a) in section 2, in sub-section (1),—

(i) in clause (a), the following Explanation shall be inserted, namely:—

'Explanation.—For the removal of doubts, it is hereby clarified that the expression "appellant" shall not include and shall be deemed never to have been included a person in whose case a writ petition or special leave petition or any other proceeding has been filed either by him or by the income-tax authority or by both before an appellate forum, arising out of an order of the Settlement Commission under Chapter XIX-A of the Income-tax Act, and such petition or appeal is either pending or is disposed of.';

(ii) in clause (j), after the second proviso, the following Explanation shall be inserted, namely:—

Contd....

'Explanation.—For the removal of doubts, it is hereby clarified that the expression "disputed tax", in relation to an assessment year or financial year, as the case may be, shall not include and shall be deemed never to have been included any sum payable either by way of tax, penalty or interest pursuant to an order passed by the Settlement Commission under Chapter XIX-A of the Income-tax Act.';

(iii) in clause (o), the following Explanation shall be inserted, namely:—

'Explanation.—For the removal of doubts, it is hereby clarified that the expression "tax arrear" shall not include and shall be deemed never to have been included any sum payable either by way of tax, penalty or interest pursuant to an order passed by the Settlement Commission under Chapter XIX-A of the Income-tax Act.'.

Contd....

Brief Impact:

The settlement provisions under the Income-tax Act, 1961 (Income-tax Act) provide for an alternate mechanism to a taxpayer who chooses to exit the regular process of assessment which would have resulted into determination of tax liability and instead approached the Income Tax Settlement Commission (ITSC) for settlement of his case under Chapter XIX-A of the Income-tax Act. As the VsV was enacted for the resolution of disputed tax and not for the taxes covered by an order in pursuance to the settlement of a case under Chapter XIX-A of the Income-tax Act, such cases as are covered by Chapter XIX-A of the Income-tax Act (whether they have attained finality or not) have always been, therefore, intended to be outside the purview of VsV.

With a view to remove any ambiguity, it is proposed to amend the provisions of VsV to clarify the original legislative intent for which the definitions of ―appellant in section 2(1)(a), disputed tax‖ in section 2(1)(j) and tax arrear‖ in section 2(1)(o), of the VsV are proposed to be amended by way of removal of doubts by this Bill. The said amendments are proposed to take effect retrospectively from the 17th March 2020.

20. Definition of the term "Liable to Tax" [Clause 3]

Amendment in Section 2 (29A) of the Income-tax Act, w.e.f. 01.04.2021

In section 2 of the Income-tax Act,—clause (29A) shall be renumbered as clause (29AA) thereof and before clause (29AA) as so renumbered, the following clause shall be inserted, namely:—

'(29A) "liable to tax", in relation to a person, means that there is a liability of tax on such person under any law for the time being in force in any country, and shall include a case where subsequent to imposition of tax liability, an exemption has been provided;';

Brief Impact:

The Act currently does not define the term "liable to tax" though this term is used in section 6, in clause (23FE) of section 10 and various agreements entered into under section 90 or section 90A of the Act. Hence, it is proposed to insert clause (29A) to section 2 of the Act providing its definition. The term ―liable to tax‖ in relation to a person means that there is a liability of tax on that person under the law of any country and will include a case where subsequent to imposition of such tax liability, an exemption has been provided. This amendment will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

21. Income Declaration Scheme (IDS) Amendment [Clause 159]

In section 191, in the proviso, after the word "refundable", the words "*without any interest*" shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2016.

Brief Impact:

The Income Declaration Scheme, 2016 (the Scheme) contained in Chapter-IX of the Finance Act, 2016 provided an opportunity to the persons who had not disclosed any income in the past to come clean and make payment of tax, surcharge & penalty.

A proviso was inserted in section 191 of the Finance Act, 2016 vide Finance (No. 2) Act, 2019 empowering the Board to specify a class of persons to whom such tax paid in excess shall be refundable. **It is now proposed to amend the proviso of section 191 of the Finance Act, 2016, so as to provide that the excess amount of tax, surcharge or penalty paid in pursuance of a declaration made under the Scheme shall be refundable to the specified class of persons without payment of any interest.**

This amendment will take effect retrospectively from 1st June, 2016.

22. Tax Deduction at Source (TDS) on purchase of Goods [Clause 48 and 50]

Insertion of Section 194Q of the Income Tax Act, 1961 [w.e.f. 01.07.2021] [Clause 48]

'(1) Any person, being a buyer who is responsible for paying any sum to any resident (hereafter in this section referred to as the seller) for purchase of any goods of the value or aggregate of such value exceeding fifty lakh rupees in any previous year, shall, at the time of credit of such sum to the account of the seller or at the time of payment thereof by any mode, whichever is earlier, deduct an amount equal to 0.1 per cent. of such sum exceeding fifty lakh rupees as income-tax.

Explanation.—For the purposes of this sub-section, "buyer" means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the purchase of goods is carried out, not being a person, as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.

(2) Where any sum referred to in sub-section (1) is credited to any account, whether called "suspense account" or by any other name, in the books of account of the person liable to pay such income, such credit of income shall be deemed to be the credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

(3) If any difficulty arises in giving effect to the provisions of this section, the Board may, with the previous approval of the Central Government, issue guidelines for the purpose of removing the difficulty.

(4) Every guideline issued by the Board under sub-section (3) shall, as soon as may be after it is issued, be laid before each House of Parliament, and shall be binding on the income tax authorities and the person liable to deduct tax.

(5) The provisions of this section shall not apply to a transaction on which—

(a) tax is deductible under any of the provisions of this Act; and

(b) tax is collectible under the provisions of section 206C other than a transaction to which sub-section (1H) of section 206C applies.'.

Insertion of proviso in section 206AA(1) of the Income-tax Act, w.e.f. 01.07.2021 [Clause 50]

In section 206AA of the Income-tax Act, in sub-section (1), after the proviso, the following proviso shall be inserted with effect from the 1st day of July, 2021, namely:—

'Provided further that where the tax is required to be deducted under section 194Q, the provisions of clause (iii) shall apply as if for the words "twenty per cent.", the words "five per cent." had been substituted.'

Contd....

Brief Impact:

It is proposed to provide for TDS by person responsible for paying any sum to any resident for purchase of goods. The rate of TDS is kept very low at 0.1%. To ensure that compliance burden is only on those who can comply with it, it is proposed that the tax is only required to be deducted by those person (i.e buyer) whose total sales, gross receipts or turnover from the business carried on by him exceed ten crore rupees during the financial year immediately preceding the financial year in which the purchase of goods is carried out. Central Government is proposed to be empowered by notification in the Official Gazette to exempt a person from obligation. Tax is required to be deducted by such person, if the purchase of goods by him from the seller is of the value or aggregate of such value exceeding fifty lakh rupees in the previous year. It is also proposed to provide that the provisions of this section shall not apply to,-

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

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

Contd....

- There is one exception to this general rule. If on a transaction TCS is required under sub-section (1H) of section 206C as well as TDS under this section, then on that transaction only TDS under this section shall be carried out.
- It is also proposed to consequentially amend sub-section (1) of section 206AA of the Act and insert second proviso to further provide that where the tax is required to be deducted under section 194Q and Permanent Account Number (PAN) is not provided, the TDS shall be at the rate of five per cent.
- These amendments will take effect from 1st July, 2021.

23. TDS/TCS on non filer at higher rates [Clause 46, 51 & 52]

Ammendement of Section 194-IB [w.e.f 01.07.2021] [Clause 46]

In section 194-IB of the Income-tax Act, in sub-section (4), for the words, figures and letters "section 206AA, such", the words, figures and letters "section 206AA or section 206AB, such" shall be substituted with effect from the 1st day of July, 2021.

Insertion of New Section 206AB [w.e.f 01.07.2021] [Clause 51]

'206AB. (1) Notwithstanding anything contained in any other provisions of this Act, where tax is required to be deducted at source under the provisions of Chapter XVIIB, other than sections 192, 192A, 194B, 194BB, 194LBC or 194N on any sum or income or amount paid, or payable or credited, by a person (hereafter referred to as deductee) to a specified person, the tax shall be deducted at the higher of the following rates, namely:—

(i) at twice the rate specified in the relevant provision of the Act; or

(ii) at twice the rate or rates in force; or

(iii) at the rate of five per cent..

Contd....

(2) If the provisions of section 206AA is applicable to a specified person, in addition to the provision of this section, the tax shall be deducted at higher of the two rates provided in this section and in section 206AA.

(3) For the purposes of this section "specified person" means a person who has not filed the returns of income for both of the two assessment years relevant to the two previous years immediately prior to the previous year in which tax is required to be deducted, for which the time limit of 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:

Provided that the specified person shall not include a non resident who does not have a permanent establishment in India.

Explanation.—For the purposes of this sub-section, the expression "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.'.

Contd....

Insertion of New Section 206CCA [w.e.f 01.07.2021] [Clause 52]

'206CCA. (1) Notwithstanding anything contained in any other provisions of this Act, where tax is required to be collected at source under the provisions of Chapter XVII-BB,

on any sum or amount received by a person (hereafter referred to as collectee) from a specified person, the tax shall be collected at the higher of the following two rates, namely:—

(i) at twice the rate specified in the relevant provision of the Act; or

(ii) at the rate of five per cent.

(2) If the provisions of section 206CC is applicable to a specified person, in addition to the provisions of this section, the tax shall be collected at higher of the two rates provided

in this section and in section 206CC.

(3) For the purposes of this section "specified person" means a person who has not filed the returns of income for both of the two assessment years relevant to the two previous years immediately prior to the previous year in which tax is required to be collected, for which the time limit of 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:

Provided that the specified person shall not include a non resident who does not have a permanent establishment in India.

Explanation.—For the purposes of this sub-section, the expression "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.'.

Brief Impact:

It is proposed to insert a new section 206AB in the Act as a special provision providing for higher rate for TDS for the non-filers of income-tax return. Similarly it is proposed to insert a section 206CCA in the Act as a special provision for providing for higher rate of TCS for non-filers of income-tax return. Proposed section 206AB of the Act would apply on any sum or income or amount paid, or payable or credited, by a person (herein referred to as deductee) to a specified person. This section shall not apply where the tax is required to be deducted under sections 192, 192A, 194B, 194BB, 194LBC or 194N of the Act. The proposed TDS rate in this section is higher of the followings rates:-

- twice the rate specified in the relevant provision of the Act; or
- twice the rate or rates in force; or
- the rate of five per cent
- Proposed section 206CCA of the Act would apply on any sum or amount received by a person (herein referred to as collectee) from a specified person. The proposed TCS rate in this section is higher of the following rates:-
- twice the rate specified in the relevant provision of the Act; or
- the rate of five percent

Consequential amendment is proposed in sub-section (4) of section 194-IB of the Act.

This amendment will take effect from 1st July, 2021.

24. Taxability of Interest on various funds where income is exempt (Clause 5)

Insertion of Proviso in clause (11) with effect from 1st April, 2022

"Provided that the provisions of this clause shall not apply to the income by way of interest accrued during the previous year in the account of a person to the extent it relates to the amount or the aggregate of amounts of contribution made by that person exceeding two lakh and fifty thousand rupees in any previous year in that fund, on or after the 1st day of April, 2021 and computed in such manner as may be prescribed;";

(ii) in clause (12), the following proviso shall be inserted, namely:—

"Provided that the provisions of this clause shall not apply to the income by way of interest accrued during the previous year in the account of a person to the extent it relates to the amount or the aggregate of amounts of contribution made by that person exceeding two lakh and fifty thousand rupees in any previous year in that fund, on or after the 1st day of April, 2021 and computed in such manner as may be prescribed;";

Brief Impact:

Clause (11) of section 10 of the Act provides for exemption with respect to any payment from a provident fund to which the Provident Funds Act, 1925 applies or from any other provident fund set up by the Central Government and 79 notified by it in this behalf in the Official Gazette. Similarly, Clause (12) of this section provides for exemption with respect to the accumulated balance due and becoming payable to an employee participating in a recognised provident fund, to the extent provided in rule 8 of Part A of the Fourth Schedule Instances have come to the notice where some employees are contributing huge amounts to these funds and entire interest accrued/received on such contributions is exempt from tax under clause (11) and clause (12) of section 10. This exemption without any threshold benefits only those who can contribute a large amount to these funds as their share. Accordingly, it is proposed to insert proviso to clause(11) and clause (12) of section 10, providing that the provisions of these clauses shall not apply to the interest income accrued during the previous year in the account of the person to the extent it relates to the amount or the aggregate of amounts of contribution made by the person exceeding two lakh and fifty thousand rupees in a previous year in that fund, on or after 1st April, 2021, computed in such manner as may be prescribed.

Thank You...!!!

Presented by: CA. Sanjay K. Agarwal

Email: agarwal.s.ca@gmail.com