

# UNION BUDGET

2021-22  
DECODED



## ***E-Budget !***

First ever Paperless Union Budget  
due to pandemic.

## ***V shaped Recovery !***

"While there was a 23.9 per cent contraction in GDP in Q1, the recovery has been a V-shaped one as seen in the 7.5 per cent decline in Q2 and the recovery across all key economic indicators,"



**Chir Amrit Corporate School**  
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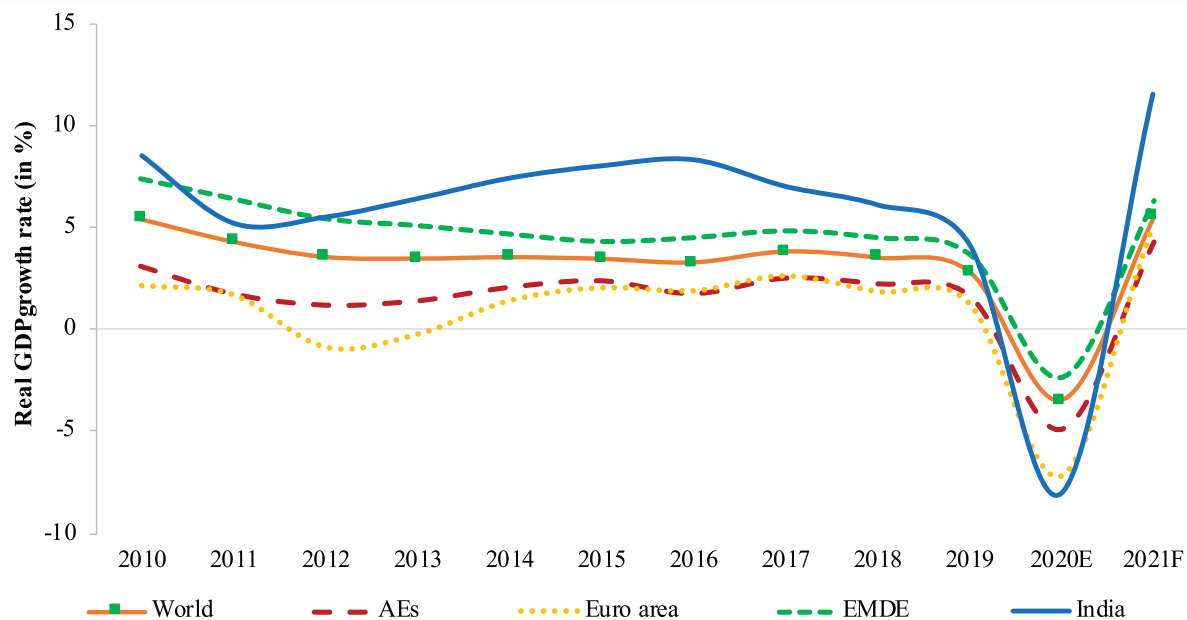
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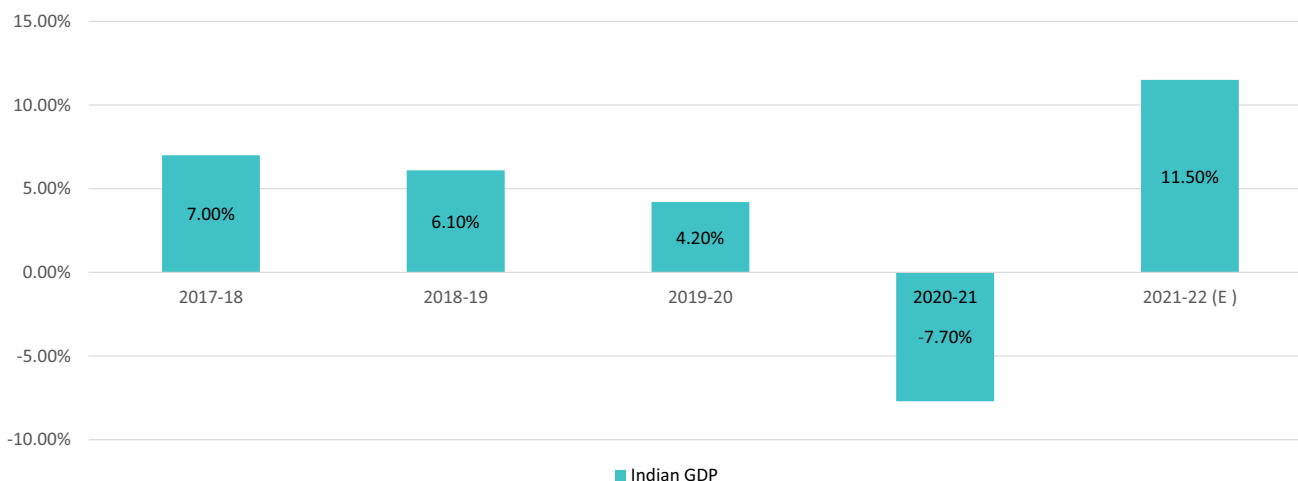
## Trends in GDP Growth



Source: IMF

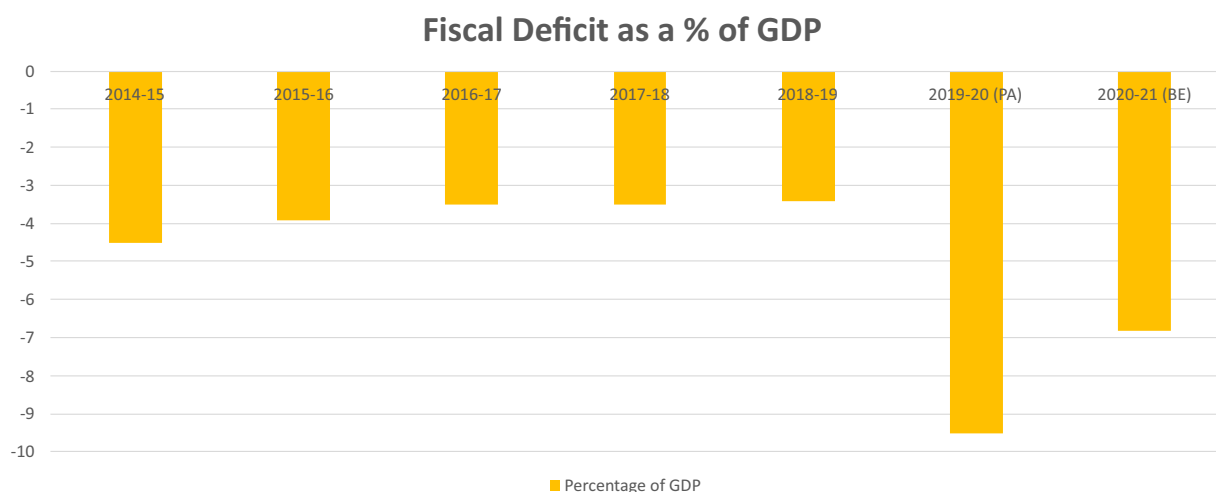
Note: E is Estimate, F is Forecast

## GDP Growth in India





## Fiscal Deficit – Trend of 5 years

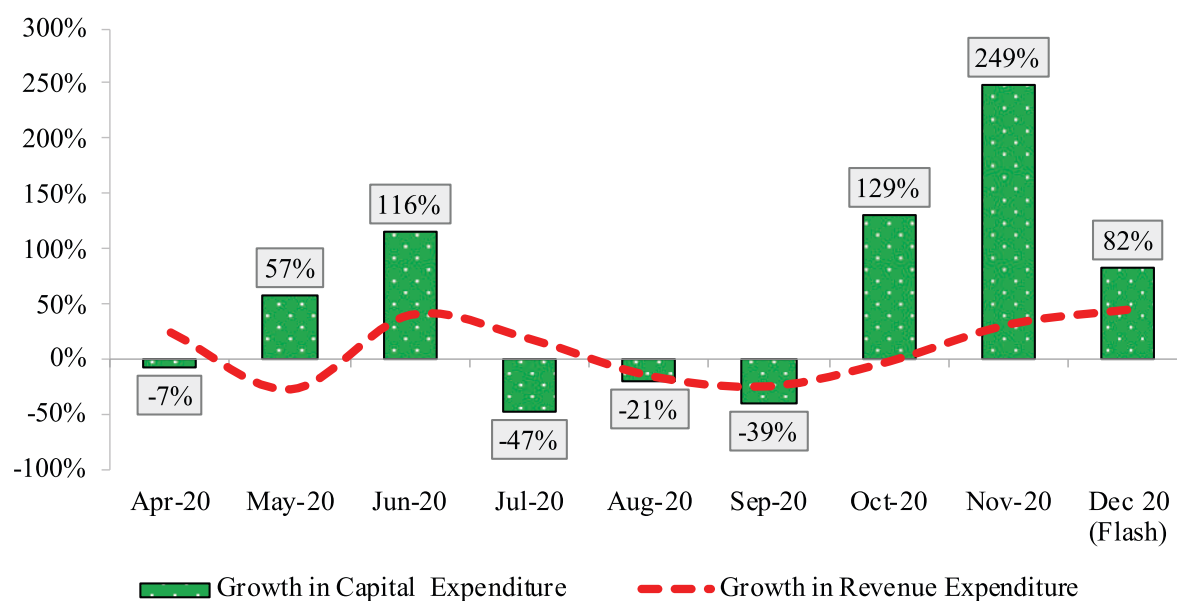


BE : Budget Estimates

PA : Provisional Actuals

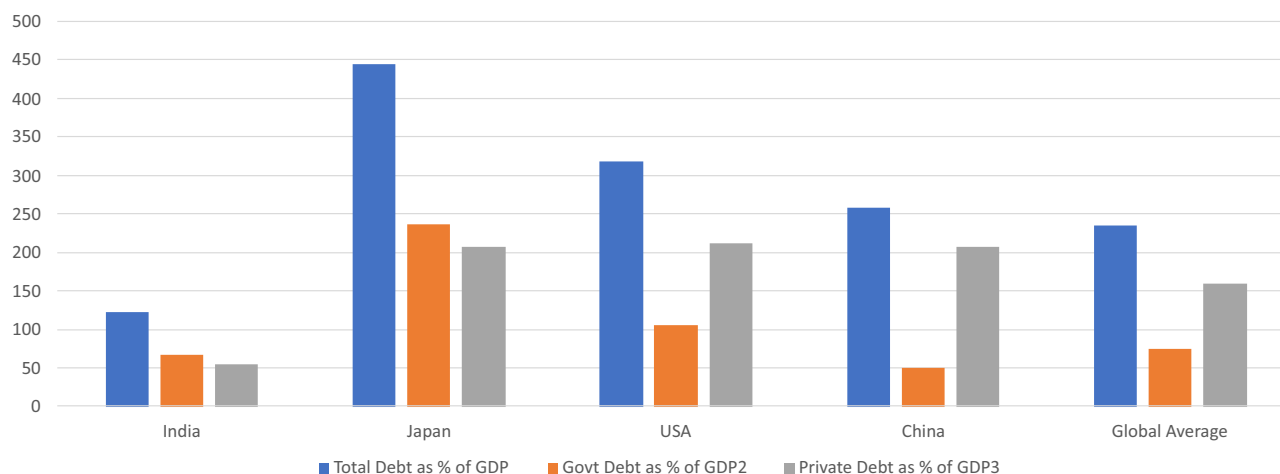
Source : Union Budget Document & CGA

## Central Govt. Expenditure MoM



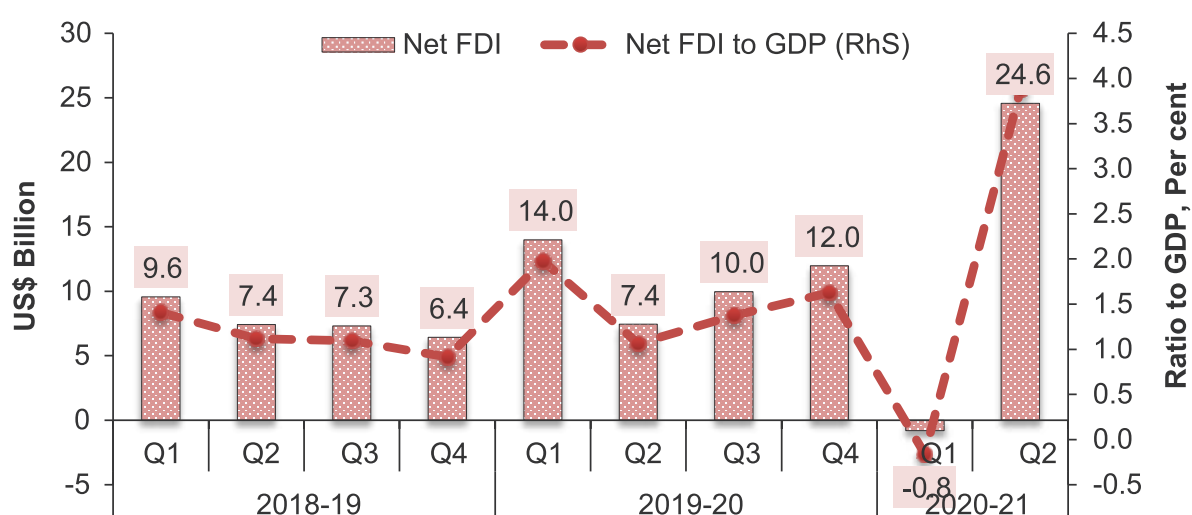
Source: Department of Expenditure

## Debt to GDP Ratio



Source : Economic Survey

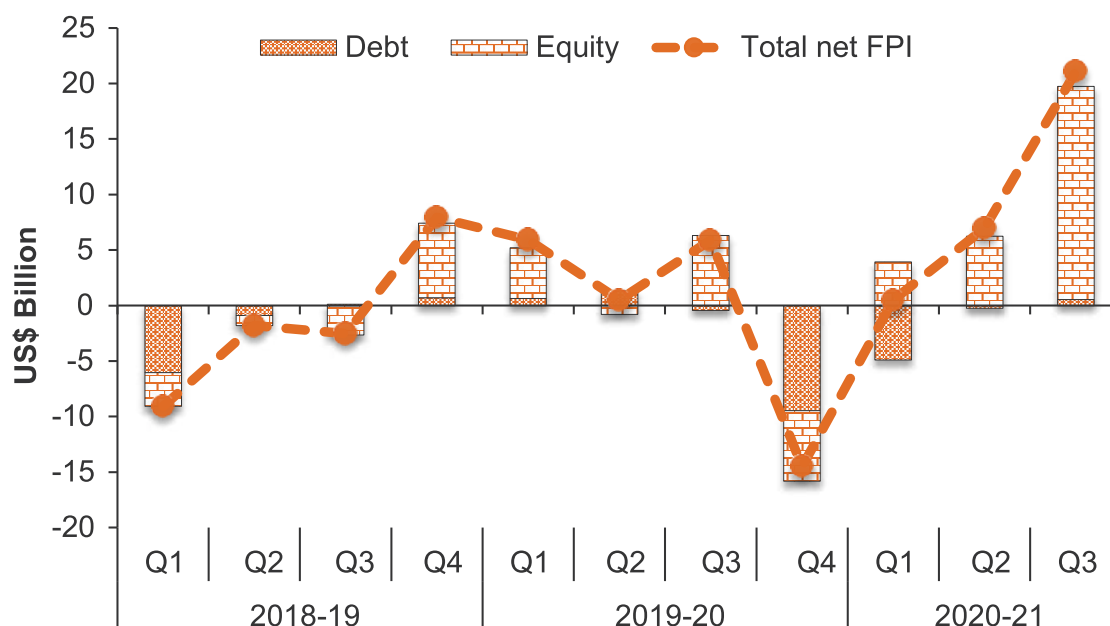
## Foreign Direct Investment Flow



Source: RBI

Note: The net FDI inflows in Oct 2020 were to the tune of US\$ 4.6 billion.

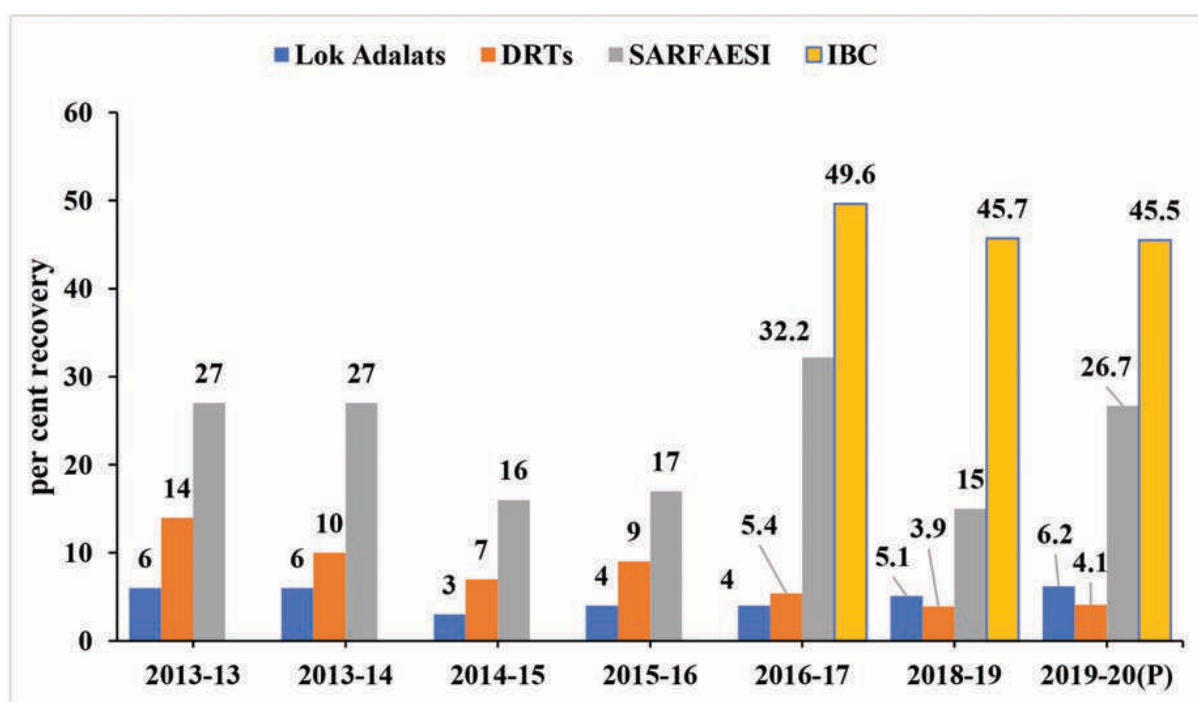
## Foreign Portfolio Investment Flow



Source: National Securities Depository Limited (NSDL).

Note: Total net FPI is summation of debt, equity, hybrid and VRR, however, only debt and equity are depicted in above chart as they together account for more than 90 per cents of the total net FPI.

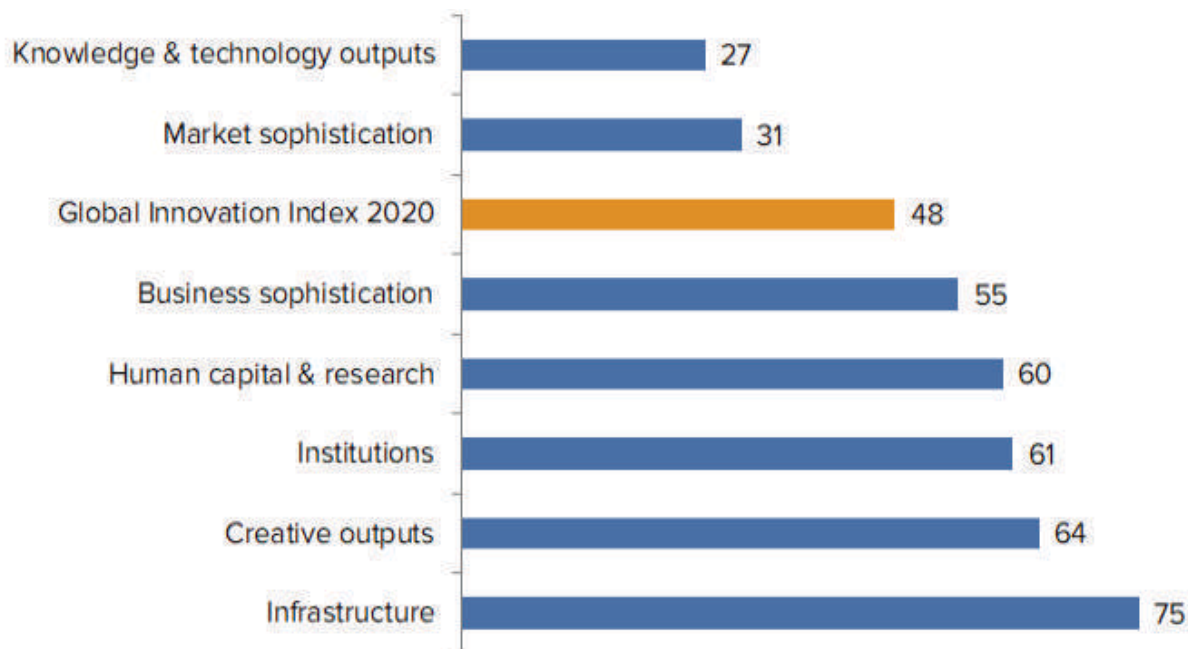
## NPAs of SCBs Recovered Through Various Channels



Source: Off-site returns, RBI and IBBI

Note: P: Provisional

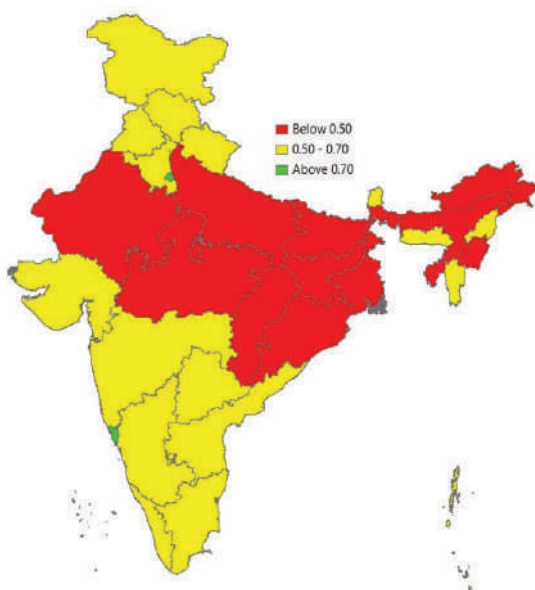
## Global Innovation Index



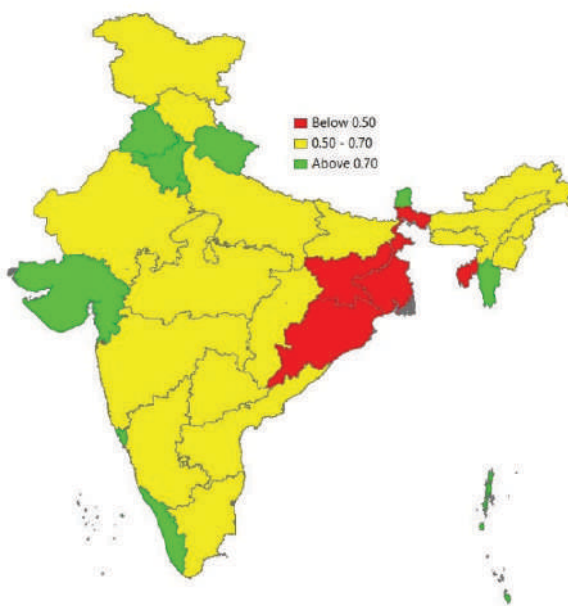
Source: GII 2020 Report

## BNI

BNI for India (Rural + Urban) 2012



BNI for India (Rural + Urban) 2018



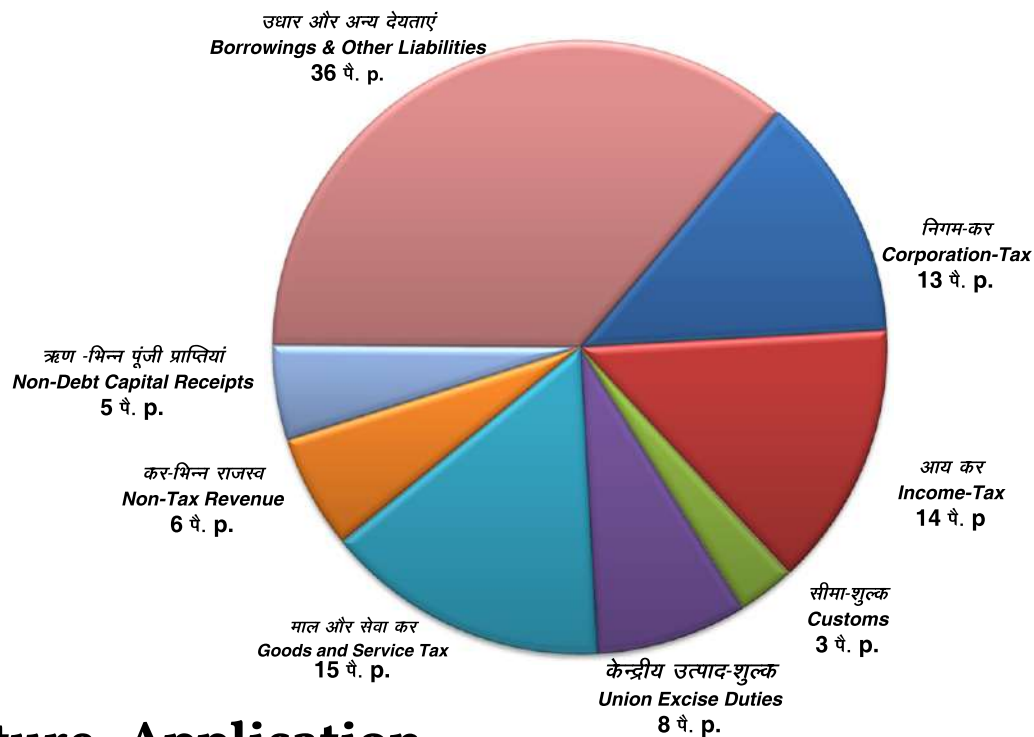
Source: Survey calculations.



# Union Budget-At a Glance

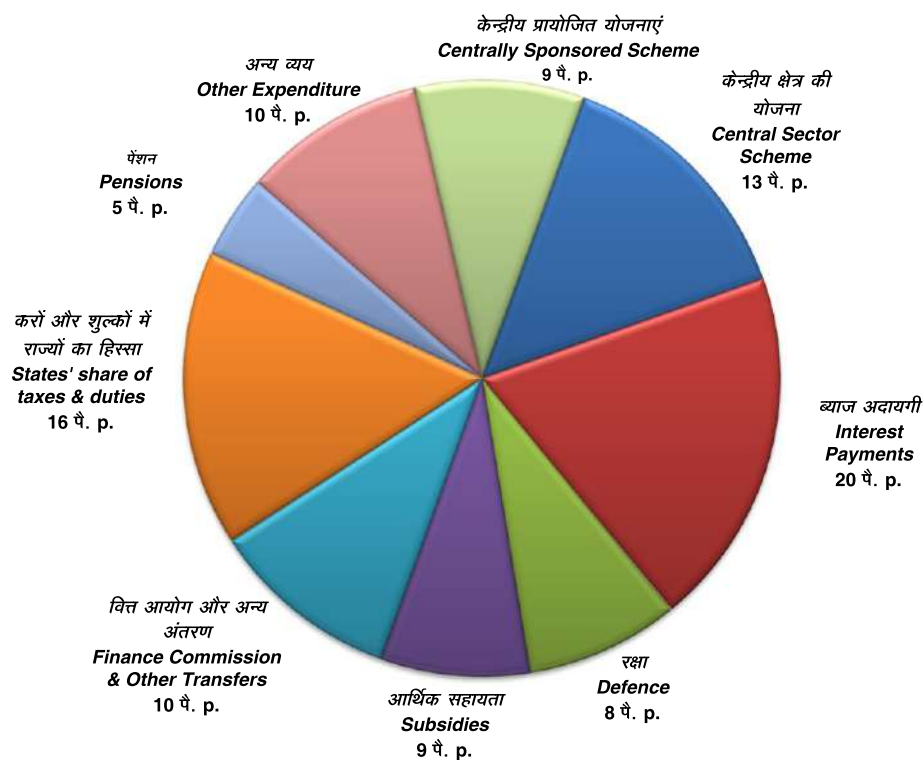
## Revenue Sources

Source : Union Budget 2021-2022



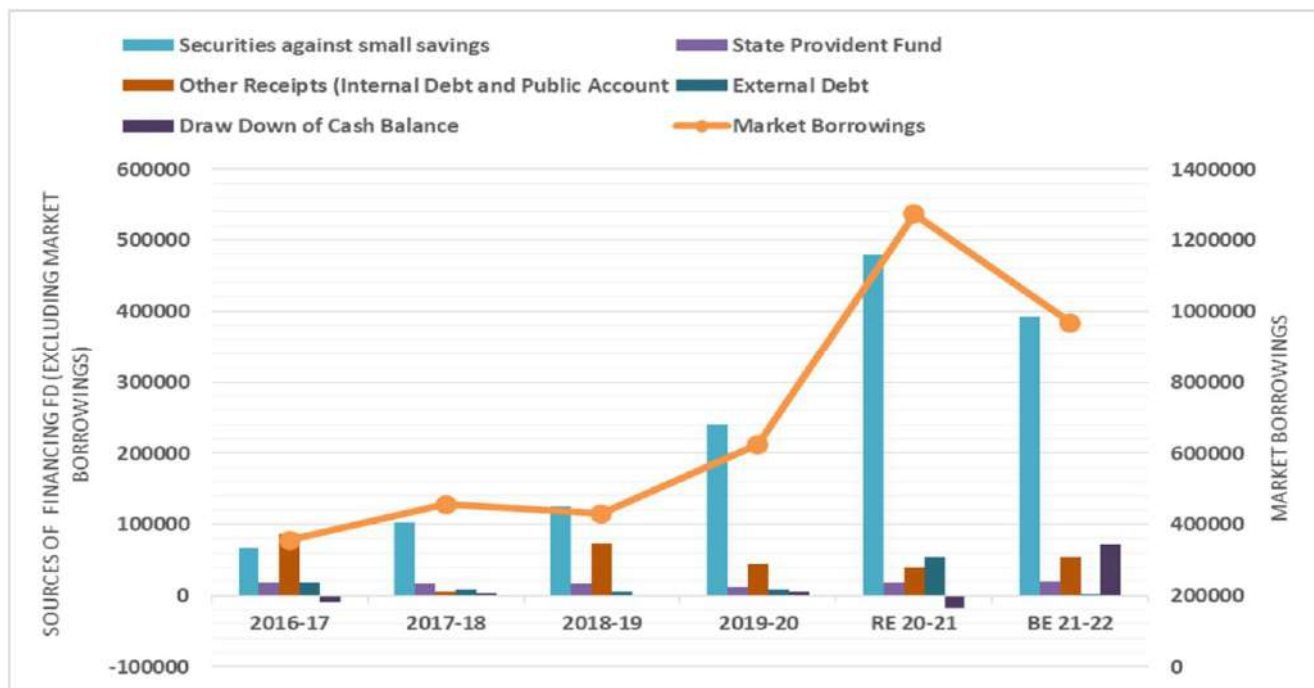
## Expenditure- Application

Source : Union Budget 2021-2022



## Sources of Deficit Financing

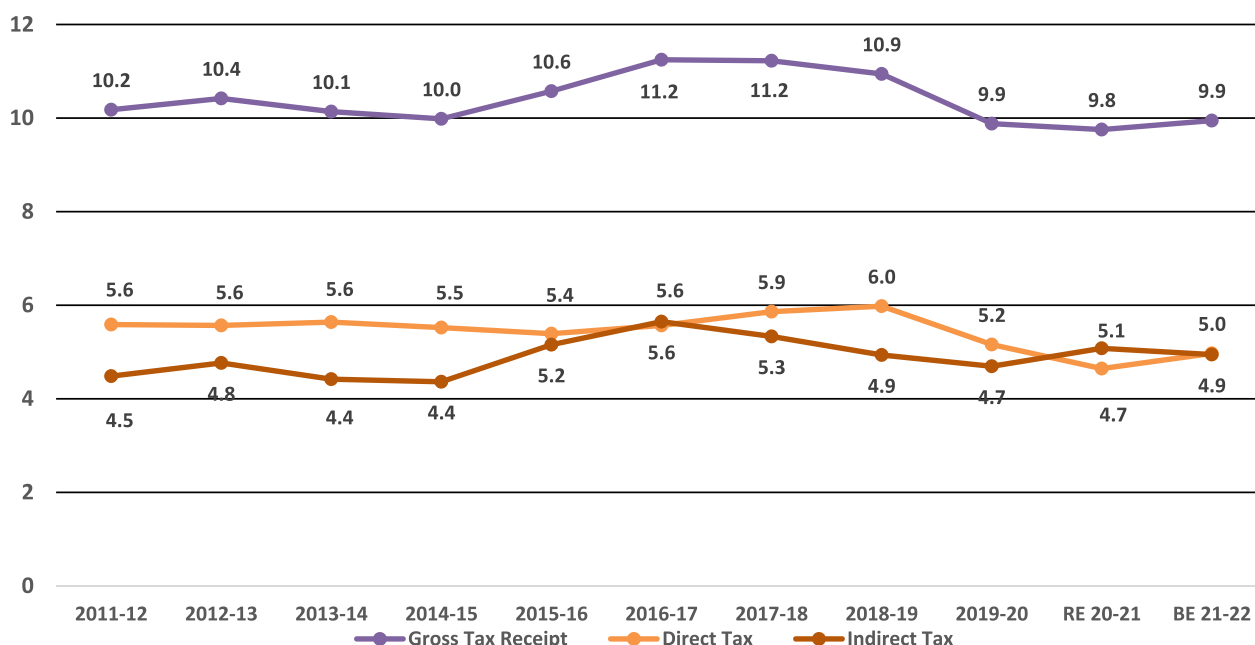
(₹ in crore)



Source : Budget Document

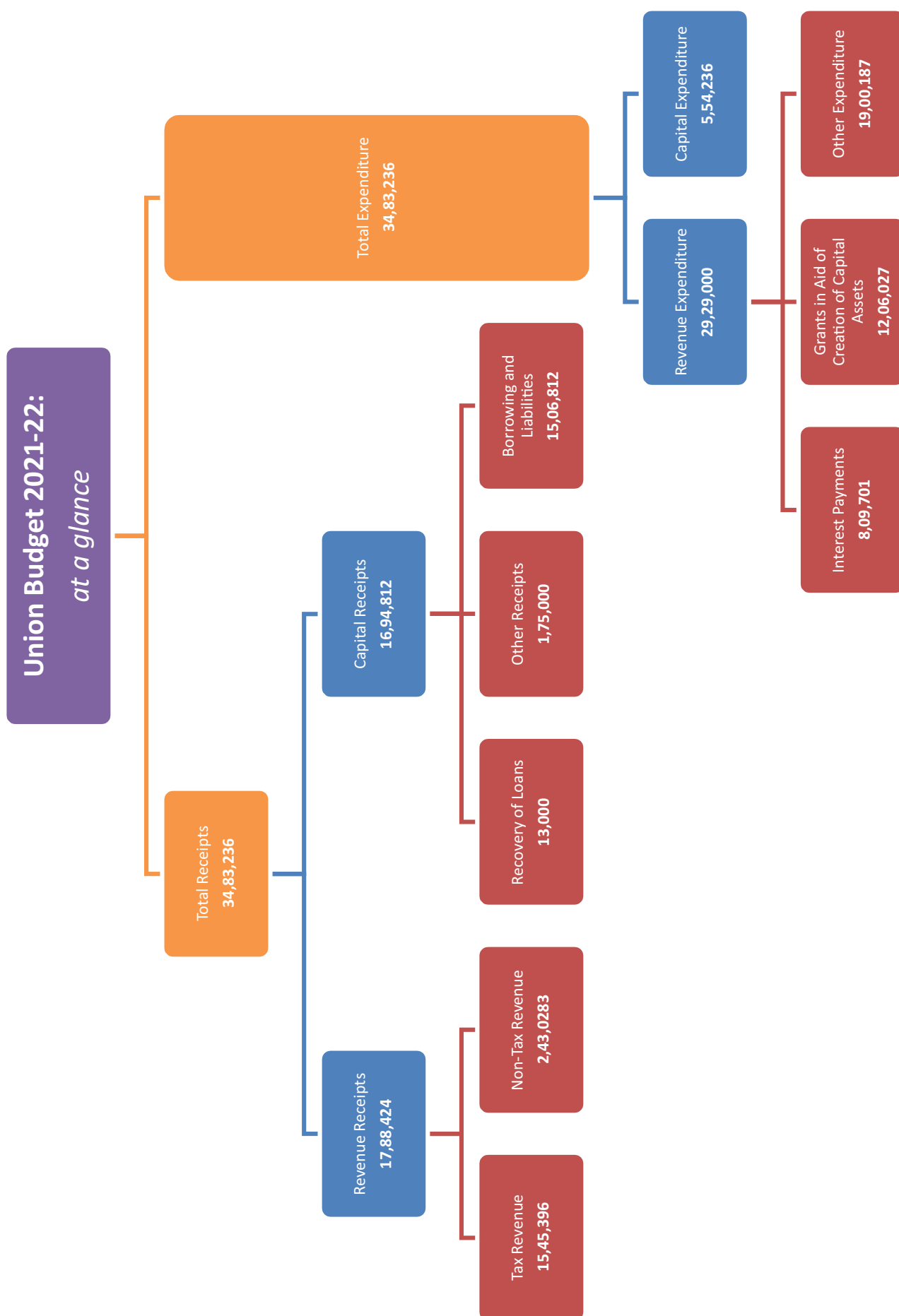
## Trends in Tax Receipts

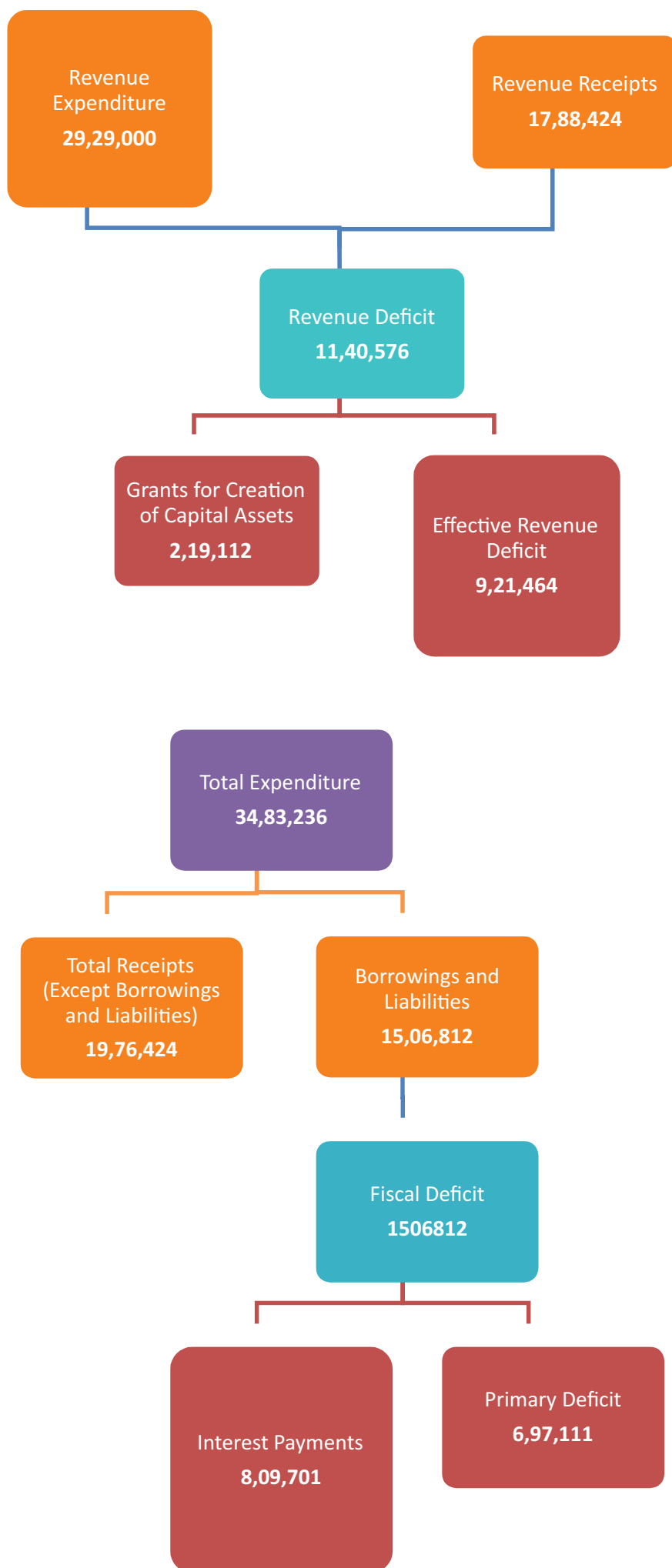
(% of GDP)



Source : Budget Document

Note : GDP for BE 2021-2022 has been projected at Rs. 22287379 crore assuming 14.4% growth over the estimated GDP of Rs. 19481975 crore for 2020-2021 (RE).





The background of the slide is a repeating pattern of various financial and business-related icons in a light gray color. These icons include: a briefcase, a document with a dollar sign, a group of three people, a piggy bank, a safe, a lightbulb, a clock, a bar chart, a pie chart, a magnifying glass over a dollar sign, a stack of coins, a gear, a brain with gears, a person in a suit, a smartphone with a dollar sign, a percentage sign, and a handshake. The icons are arranged in a grid-like fashion, creating a textured background.

# ***HIGHLIGHTS OF IMPORTANT AMENDMENTS RELATING TO INCOME TAX***



## Rates of Taxes

- No change in comparison to A.Y. 2021-22
- Tables reproduced for reference

**For Individuals (Other than Senior Citizen and Super Senior Citizen), HUF, AOP, BOI and Artificial Juridical Person Whether Incorporated or Not\*#**

Rate of Tax	For A.Y. 2022-23
Nil	Up to Rs. 2,50,000
5%	From Rs. 2,50,001 to Rs. 5,00,000
20%	From Rs. 5,00,001 to Rs. 10,00,000
30%	Exceeding Rs. 10,00,000
Surcharge @ 10% (subject to marginal relief)	When total income exceeds Rs. 50 Lakhs but does not exceeds Rs. 1 crore
Surcharge @ 15% (subject to marginal relief)	When total income exceeds Rs. 1 crore but does not exceeds 2 crore
Surcharge @ 25% (subject to marginal relief)	When total income exceeds Rs. 2 crore but does not exceeds Rs. 5 crore
Surcharge @ 37% (subject to marginal relief)	When total income exceeds Rs. 5 crore

**For Senior Citizens – being a resident in India (i.e. whose age is more than or equal to 60 years but less than 80 years\*#**

Rate of Tax	For A.Y. 2022-23
Nil	Up to Rs. 3,00,000
5%	From Rs. 3,00,001 to Rs. 5,00,000
20%	From Rs. 5,00,001 to Rs. 10,00,000
30%	Exceeding Rs. 10,00,000
Surcharge @ 10% (subject to marginal relief)	When total income exceeds Rs. 50 Lakhs but not exceeding Rs. 1 crore
Surcharge @ 15% (subject to marginal relief)	When total income exceeds Rs. 1 crore but does not exceeds Rs. 2 crore
Surcharge @ 25% (subject to marginal relief)	When total income exceeds Rs. 2 crore but does not exceeds Rs. 5 crore
Surcharge @ 37% (subject to marginal relief)	When total income exceeds Rs. 5 crore

\* Individual resident can avail rebate u/s 87A of the IT Act of Rs. 12,500 or amount of tax, whichever is less where his total income does not exceed Rs. 5,00,000/-

**For Super Senior Citizens – being a resident in India (i.e. whose age is more than or equal to 80 years)<sup>#</sup>**

Rate of T ax	For A.Y. 2022-23
Nil	Up to Rs. 5,00,000
20%	From Rs. 5, 00,001 to Rs. 10,00,000
30%	Exceeding Rs. 10,00,000
Surcharge @ 10% (subject to marginal relief)	When total income exceeds Rs. 50 Lakhs but not exceeding Rs. 1 crore
Surcharge @ 15% (subject to marginal relief)	When total income exceeds Rs. 1 crore but but does not exceeds 2 crore.
Surcharge @ 25% (subject to marginal relief)	When total income exceeds Rs. 2 crore but does not exceeds 5 crore.
Surcharge @ 37% (subject to marginal relief)	When total income exceeds Rs. 5 crore.

**For Certain Individuals and HUF (Rates Under Special Cases if Option u/s 115 BAC is exercised)<sup>#</sup>**

Rate of Tax	For A.Y. 2022-23
Nil	Up to Rs. 2,50,000
5%	From Rs. 2,50,001 to Rs. 5,00,000
10%	From Rs. 5,00,001 to Rs. 7,50,000
15%	From Rs. 7,50,001 to Rs. 10,00,000
20%	From Rs. 10,00,001 to Rs. 12,50,000
25%	From Rs. 12,50,001 to Rs. 15,00,000
30%	Exceeding Rs. 15,00,000
Surcharge @ 10% (subject to marginal relief)	When total income exceeds Rs. 50 Lakhs but not exceeding Rs. 1 crore
Surcharge @ 15% (subject to marginal relief)	When total income exceeds Rs. 1 crore but but does not exceeds 2 crore.
Surcharge @ 25% (subject to marginal relief)	When total income exceeds Rs. 2 crore but does not exceeds 5 crore.
Surcharge @ 37% (subject to marginal relief)	When total income exceeds Rs. 5 crore.

<sup>#</sup> Where the total income includes any income chargeable under section 111A and 112A of the IT Act, the rate of surcharge shall not exceed 15%.

### For Co-operative Society

Rate of Tax	For A.Y. 2022 -23
10%	Up to Rs. 10,000
20%	From Rs. 10,001 to Rs. 20,000
30%	Exceeding Rs. 20,000
Surcharge @ 12% (subject to marginal relief)	When total income exceeds Rs. 1 crore

### For Certain Co-operative Society (Rates Under Special Cases)

Rate of Tax	For A.Y. 2022 -23
22 % of total income	Option U/ s 115 BA D exercised
Surcharge @ 10 % (subject to marginal relief)	On the total tax liability u/s 115 BAD

### For Firm and Local Authority

Rate of Tax	For A.Y. 2022 -23
30%	Whole of the total income
Surcharge @ 12% (subject to marginal relief)	When total income exceeds Rs. 1 crore

### For Domestic Company

Rate of Tax	For A.Y. 2022-23
25 % of total income	Total turnover/Gross Receipt in previous year 2018-19 was upto Rs. 400 crore
30 % of total income	Total turnover/Gross Receipt in previous year 2018-19 exceeds Rs. 400 crore
Surcharge @ 7 % (subject to marginal relief)	when total income exceeds Rs. 1 crore but does not exceeds Rs. 10 crore
Surcharge @ 12 % (subject to marginal relief)	when total income exceeds Rs. 10 crore

### For Certain Domestic Company (Rates Under Special Cases)

Rate of Tax	For A.Y. 2022-23
22 % of total income	Option U/s 115 BAA exercised
15 % of total income	Option U/s 115 BAB exercised
Surcharge @ 10 % (subject to marginal relief)	On the total tax liability u/s 115BAA or 115BAB

### For Company other than Domestic Company

Rate of Tax	For A.Y. 2022-23
50 %	Specific Royalty/FTS
40 %	Balance Total Income
Surcharge @ 2 % (subject to marginal relief)	When total income exceeds Rs. 1 crore but does not exceeds Rs. 10 Crore
Surcharge @ 5 % (subject to marginal relief)	When total income exceeds Rs. 10 crore

### Cess on Income Tax

Particulars	Existing
Health and Education Cess	4% of income tax including surcharge

## Exemption to Employees for LTC Cash Scheme on Spending More!

- As per the existing provisions of section 10(5) of IT Act, value of leave travel concession (“LTC”) or assistance received by or due to an employee from his employer or former employer for himself and his family, in connection with his proceeding on leave to any place in India is exempt from tax, subject to conditions specified in Rule 2B. The important condition is that a person must travel.
- On account of outbreak of COVID, many employees have not been able to travel. Hence, it is proposed to insert second proviso to section 10(5) to provide that in lieu of applicable LTC, the exemption shall be available to the employee for deemed LTC, subject to certain conditions as follows:
  - The employee exercises an option for the deemed LTC fare in lieu of applicable LTC in the block year 2018-21
  - Incur expenditure in nature of **specified expenditure** during **specified period**.
    - “Specified expenditure” means expenditure incurred by an individual or a member of his family during the specified period on goods and services which are liable to tax at 12% or more, and goods and services are procured from GST registered vendors/service providers
    - “Specified Period” means the period commencing from 12.10.2020 and ending on 31.03.2021
  - The payment is made by account payee bank draft or account payee cheque or through ECS or such other electronic mode as specified in rule 6ABBA and tax invoice is obtained.
  - Amount of exemption shall be lower of Rs. 36,000/- per person or 1/3<sup>rd</sup> of the specified expenditure.
- It is also proposed to clarify by way of an Explanation that where an individual claims and is allowed exemption for the proposed expenditure, no exemption shall be allowed under this clause in respect of same specified expenditure to any other individual. Hence, only one person can claim the exemption of such specified expenditure.
- *w.e.f. 01.04.2021 (for AY 2021-22)*



## Extension of deduction u/s 80-IBA to Rental Housing Projects & Extension for Time Limit for approval

- As per the existing provisions of section 80-IBA of IT Act, any profit and gains arising from the **business of developing and building affordable housing project**, there shall be allowed a deduction of 100% of such profits or gains derived from such business, subject to certain conditions specified therein. One of such condition is that projects under the scheme is approved by competent authority during the period 01.06.2016 to 31.03.2021.
  - Time limit to obtain approval from competent authority u/s 80-IBA for projects has also been extended from 31.03.2021 to 31.03.2022.
- It is further proposed to allow deduction u/s 80-IBA in respect of profits and gains from **rental housing project** which shall be notified by the Central Government in the Official Gazette and fulfils such conditions as specified in the said notification.
- *w.e.f. 01.04.2022 (for AY 2022-23)*

## Tax Incentives for Units Located in International Financial Services Centre ("IFSC")

- **Relaxation in certain conditions for not being treated as Business Connection in India**
  - The existing provisions u/s 9A provides that in case of an eligible investment fund which meets certain specified conditions, the fund management activities carried out by the fund manager shall not be treated as business connection in India and accordingly, income of such fund shall not be treated as accrued or arise in India.
  - In order to further incentivise the eligible investment fund or its eligible fund manager established in an IFSC, it is proposed to provide authority to the central government to grant exemptions from the conditions mentioned in Section 9A to an eligible investment fund or its eligible fund manager, if the fund manager is located in an IFSC and has commenced operations on or before 31.03.2024
  - *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*
- **Exemption provided to the Investment Division of Offshore Banking unit located in IFSC**
  - The existing Section 10(4D) provides exemption to the income accrued or arised to a Specified Fund which has been registered as a Category III AIF, on account of transfer of capital assets on a recognised stock exchange located in an IFSC.
  - The above benefit has now proposed to be extended to the investment division of an offshore banking unit located in an IFSC and which has commenced operations on or before 31.03.2024.
  - The definition of the term 'investment division of offshore banking unit', 'specified fund' has been proposed under newly inserted clause (aa) & revised clause (c) to the Explanation to Section 10(4D) respectively.
  - It has also been proposed to insert a new clause (4E) in Section 10 to provide exemption to the income accrued or arisen, or received to a Non-resident on the transfer of non-deliverable forward contracts entered with an offshore banking unit of an IFSC which satisfies the conditions as may be prescribed.
  - *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*
- **Exemption to the Royalty Income on account of Lease of an Aircraft paid by an unit located in IFSC**
  - It has been proposed to insert a new clause (4F) in Section 10 to provide exemption to the Royalty income of a non-resident on account of lease of an aircraft which has been paid by a unit located in an IFSC provided such unit is eligible to claim exemption u/s 80LA and it has commenced operations on or before 31.03.2024.

- Consequential amendment is also proposed to be brought in Section 80LA
- *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*
- **Exemption to the Capital Gain income arising on Relocation of the Original Fund**
  - In order to facilitate transfer or relocation of capital asset by the original fund located outside India, to a resultant fund in IFSC, it has been proposed by way of inserting a new clause (viiac) to Section 47 that such transfer shall not be treated as a transfer provided certain conditions have been fulfilled.
  - Similarly, it is also proposed by inserting a new clause (viiad) to Section 47 that a transaction of transfer of share or unit or interest in the original fund in consideration of shares, units or interest of resultant fund shall not be treated as a transfer in the hands of such shareholder, unit holder or interest holder as the case may be.
  - The definition of the term 'original fund', 'resultant fund', 'relocation' has been proposed under Explanation to the Section 47(viiac) & 47(viiad)
  - *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*
- **Exemption to the Capital Gain Income arising to a Non-resident on Transfer of Shares of an Indian Company by the Resultant Fund**
  - It is also proposed that any income arising to or received by a non-resident on account of transfer of shares of a resident company by a resultant fund shall be exempt provided such shares were relocated to resultant fund from original fund and provided further that no capital gain would have been attracted if such relocation would not have taken place.
  - *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*
- **Consequential amendments**
  - It has been proposed to amend Section 49(1)(e) to provide that where any capital asset has been acquired by the assessee by way of transfer as referred u/s 47(viiac) and 47(viiad), cost of the previous owner of such capital assets shall be treated as the cost of the assessee.
  - *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*
  - Provisions of Section 56(2)(x) are not applicable to the certain category of transfers referred u/s 47. It is proposed to extend the said benefit to the transfers covered under newly inserted Section 47(viiac) and 47(viiad)
  - *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*
  - Existing provision of Section 79 restrict the carry forward of lossess in a case where there is a change in shareholding of a company, not being a company in which public are substantially interested, by more than 49%. However, there are certain exceptions provided under the said section.
  - It is proposed to include the transfer covered u/s 47(viiac) and 47(viiad) in the exception list so that losses can be carried forward despite change in shareholding beyond the prescribed limit.

- **Amendment in Section 80LA pertaining to the deduction of certain income of an IFSC**
  - As per the existing provision of Section 80LA, deduction to a unit in IFSC is provided if such unit has obtained registration under the Banking Regulation Act, 1949, or SEBI Act, 1992 or under any other law.
  - Now, it has been proposed that if any unit has been registered under the International Financial Services Centre Authority Act, 2019, such unit shall not be required to obtain permission under any other law.
  - *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*
  
- **Extending the benefit of Section 115AD to the Investment Division of Offshore Banking Unit located in IFSC**
  - Section 115AD provides the concessional rate of tax on the income of specified fund or Foreign Institution Investor from securities or capital gain arising on their transfer.
  - The said benefit has been proposed to be extended to the income of an investment division of an offshore banking unit located in an IFSC to the extent of income attributable to the investment division of such banking unit and calculated as per the prescribed manner.
  - The definition of the term 'investment division of an offshore banking unit' shall be the same as proposed to be provided in Explanation to the Section 10(4D).
  - *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*

## Infrastructure Debt Fund Can Now Issue Zero Coupon Bond under Income Tax Act

- Zero coupon bond has been defined u/s 2(48) of the IT Act as a bond on which no payment and benefit is received or receivable before maturity or redemption. Existing definition covers those Zero coupon bonds which are issued by specified entities such as Infrastructure capital company or infrastructure capital fund or public sector company or any scheduled commercial bank.
- Now, it has been proposed to enhance the scope of the said section and include 'Infrastructure Debt Fund' notified u/s 10(47), in the category of eligible issuer of such Zero Coupon Bonds
- *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*
- Corresponding amendment is also proposed in Section 194A which deals with the TDS on interest other than Interest on securities, so as to exclude the applicability of said TDS provision on zero coupon bonds issued by an Infrastructure Debt Fund.
- *w.e.f. 01.04.2021*

## Conversion of Primary Co-operative Bank into Banking Company Now covered within the Scope of Business Reorganization

- The existing provisions of Section 44DB provide that where any business reorganisation takes place in co-operative banks as defined under Banking Regulation Act, 1949 in the form of amalgamation or demerger, certain expenses such as depreciation, amortisation of preliminary expenses, expenses during such amalgamation or demerger shall be apportioned in the proportion of number of days between the predecessor and successor co-operative banks.
- Also, as per Section 47(via) of the IT Act, any transfer of capital asset by predecessor to successor co-operative banks in the case of amalgamation or demerger shall not be regarded as transfer for the purpose of computing capital gain.
- Now, it has been proposed to include even conversion of primary co-operative bank to a banking company under the scheme of the Reserve Bank of India, within the ambit of 'Business reorganization' as defined u/s 44DB as well as Section 47(via) so that aforesaid benefit shall be available for such conversion. Consequently, allotment of shares of the converted banking company to the shareholders of the predecessor primary co-operative bank shall not be treated as transfer u/s 47.
- *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*



## Relaxations to Facilitate Strategic Disinvestment of Public Sector Companies

- **Proposed amendment in definition of “demerger”**
  - Presently, “demerger” has been defined to include any transfer, pursuant to a scheme of arrangement u/s 391 to 394 of the Companies Act, 1956 on the satisfaction of conditions prescribed in the clause under Section 2(19AA).
  - It has been proposed to insert Explanation 6 to Section 2(19AA) to widen the definition of “demerger” to include reconstruction or splitting up of a public sector company, 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 -
    - is a public sector company on the appointed date indicated in the **scheme approved by the Government** or any other body authorised under the Companies Act, 2013 or any other Act; and
    - fulfils such **other conditions** as may be notified by the Central Government in the Official Gazette.
- **Proposed amendment in Section 72A**
  - Section 72A(1) of the Act deals with provisions relating to carry forward and set-off of accumulated loss and unabsorbed depreciation in case of amalgamation.
  - Clause (c) of Section 72A(1) provides that where one or more public sector company or companies engaged in the **business of operation of aircraft** amalgamates with one or more public sector company or companies engaged in similar business then accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or unabsorbed depreciation of the amalgamated company for the previous year in which the amalgamation was effected.
  - It has been proposed to amend Clause (c) to widen its scope to include any amalgamation of one or more public sector company or companies with one or more public sector companies, **irrespective of their nature of business**.
  - Further, a new clause (d) has been proposed to be inserted in Section 72A(1), to include amalgamation of an **erstwhile public sector company** with one or more company or companies, if
    - the share purchase agreement entered into under strategic disinvestment **restricted immediate amalgamation** of the said public sector company; and
    - the amalgamation is carried out **within five years** from the end of the previous year in which the restriction on amalgamation in the share purchase agreement ends
  - An Explanation for the purpose of clause (d) is proposed to be inserted to define the following –

- “Control” shall have the same meaning as assigned to in clause (27) of Section 2 of the Companies Act, 2013.
- “Erstwhile public sector company” means a company which was a public sector company in earlier previous years and ceases to be a public sector company by way of strategic disinvestment by the Government.
- “Strategic disinvestment” shall mean 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 51% along with transfer of **control** to the buyer.
- *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*

### **Extension of Date of Incorporation for Eligible Start-up**

- Existing provision of Section 80IAC provides for 100% deduction of an amount equal to the profits or gains derived by an eligible start-up while carrying out an eligible business for three consecutive AY out of ten years at the option of the assessee, subject to the fulfilment of the following conditions –
  - Total turnover of its business does not exceed Rs. 100 crore.
  - Eligible start-up is incorporated on or after 01.04.2016 but before 01.04.2021.
- It has been proposed to extend the date of incorporation for eligible start-up from 01.04.2021 to **01.04.2022**.
- *w.e.f. 01.04.2021*

### **Extension of Capital Gain Exemption in Case of Investment in Start-up**

- Existing provision of Section 54GB provides exemption from capital gain which arises from transfer of a long term capital asset being a residential property. To avail the benefit under this section, residential property shall be transferred on or before 31.03.2021 and assessee is required to invest the net consideration derived out of transfer of such capital asset in the equity shares of an eligible start-up before due date of furnishing of return u/s 139(1). Eligible start-up shall further utilise this amount for purchasing a new asset within 1 year from the date of subscription by the assessee.
- It has been proposed to amend the above section to extend the date of transfer of residential property to **31.03.2022**.
- *w.e.f. 01.04.2021*

## Date of Sanction of Loan for Deduction u/s 80EEA for Residential House Property Extended

- Existing provisions of Section 80EEA of the IT Act provides for deduction up to Rs. 1,00,000/- in respect of interest on loan taken for a residential house property from any Financial Institution. This deduction is subject to the following conditions-
  - Loan should be sanctioned between 01.04.2019 and 31.03.2021.
  - Stamp Duty Value of property should not exceed Rs. 45,00,000/-.
  - Assessee does not own any residential House property on the date of sanction of loan.
- It is proposed to amend Section 80EEA(3) to allow deduction to home buyers in respect of interest paid on loan by extending the date of sanction of loan from 31.03.2021 to 31.03.2022.
- *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*

## Differential Threshold between Transaction Value and Stamp Duty Value relaxed u/s 43CA and 56(2)(x)

- The existing provisions of Section 43CA provides that the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty does not exceed 110% of the consideration received or accruing then such consideration received or accruing shall be deemed to be full value of consideration for the purpose of computing profits and gains from the transfer of such asset.
- It is proposed to insert a second proviso to Section 43CA(1) which provides that in the case of transfer of an asset being a residential unit, the **limit of 110% shall be substituted with 120%** subject to the following conditions-
  - the transfer of such residential unit takes place between 12.11.2020 and 30.06.2021; and
  - such transfer is by way of first time allotment of the residential unit to any person; and
  - the consideration received or accruing as a result of such transfer does not exceed Rs. 2,00,00,000/-.
- It is further proposed to insert an Explanation after 43CA(4) to define the expression “**Residential Unit**” to mean 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.

- Further, Section 56(2)(x)(b) provides that where any person receives any immovable property for a consideration where stamp duty value of the property exceeds 10% of the consideration and excess amount is more than Rs. 50,000/- then it shall be chargeable under Income from other sources. Consequential amendments is proposed to insert a fourth proviso to the Section 56(2)(x)(b) by substituting 10% with 20%.
- *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*

### Insertion of New Section 194P for Specified Senior Citizen

- It has been proposed to insert a new Section 194P which provides that the specified bank shall compute the total income of such specified senior citizen after giving effect to the deductions allowable under Chapter VI-A and Rebate u/s 87A and the specified bank shall deduct income-tax on such total income on the basis of rates in force.
- Explanation (b) is proposed to be inserted which defines “Specified Senior Citizens” as an individual being a resident in India-
  - who is of the **age of 75 years or more** at any time during the previous year;
  - 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
  - has **furnished a declaration to the specified bank** containing such particulars, in such form and verified in such manner, as may be prescribed.
- It has also been proposed to insert explanation (a) to Section 194P where “Specified Bank” has been defined as a banking company as the Central Government may notify in Official Gazette.
- Further, in order to provide relief to Specified Senior Citizens, it is proposed that the provisions of Section 139 related to filing of return of income shall not apply to Specified Senior Citizens.
- *w.e.f. 01.04.2021*

## Rationalisation of provisions related to Sovereign Wealth Fund and Pension Fund

- Section 10(23FE) of the Act provides for exemption to a specified person from the income in the nature of dividend, interest or long-term capital gains arising from an investment made by it in India and the investment fulfills certain conditions mentioned in the clauses thereunder.
- Specified persons for the purposes of Section 10(23FE) include Sovereign Wealth Fund ("SWF") and Pension Fund ("PF") subject to fulfilment of conditions prescribed in the Explanation therein and specified by the Central Government through notification in Official Gazette.
- At present, one of the conditions for exemption mentioned in item (c) clause (iii) of Section 10(23FE) is that the investment shall be in an Alternate Investment Fund ("AIF") having 100 % investment in eligible infrastructure company as mentioned in item (b) of clause (iii).
- Eligible infrastructure company is one which is carrying on the business of developing, or operating and maintaining, or developing, or operating and maintaining any infrastructure facility as defined explanation to Section 80IA(4) or such other notified business
- Following amendments are proposed in relating to above condition:
  - Relax the condition of 100 % investment in eligible infrastructure company to 50 %.
  - Allow the investment by Category-I or Category-II AIF in an Infrastructure Investment Trust (InvIT).
- Item (d) has been proposed to be inserted under clause (iii) to allow the specified persons to invest through holding company subject to the following conditions :
  - Holding company should be a domestic company.
  - It should be set up and registered on or after 1.04.2021.
  - It should have minimum 75% investments in one or more infrastructure companies mentioned in item (b).
- Item (e) has been proposed to be inserted under clause (iii) to allow the specified persons to invest in a Non-Banking Finance Company registered as an Infrastructure Finance Company ("NBFC-IFC") or as an Infrastructure Debt Fund ("NBFC-IDF") subject to minimum 90% lending in one or more infrastructure entities mentioned in item (b).
- Three provisos has also been proposed to be inserted to calculate proportionate exemption as per the prescribed manner in case investment in eligible infrastructure company or enterprise is less than 100%.
- A proviso has been proposed to be inserted for the purpose making SWF or PF ineligible if they have loans or borrowings, directly or indirectly, for the purposes of making investment in India.



- Explanation to Section 10(23FE) which specifies the conditions for a SWF to be eligible for benefit under this section is proposed to be amended in the following manner –
  - Presently, condition specified for exemption is that no portion of earning of SWF should enure any benefit to a private person. Similarly, in case of dissolution, asset of said fund should vest in Government of such foreign country.
  - It has been proposed to insert a proviso in relation to above conditions that the same shall not apply in case any payment is made to a creditor or depositor for a loan taken other than for the purpose of making investment in India.
  - Presently, SWIs or PFs are not allowed to undertake any commercial activity whether within or outside India. This condition is proposed to be substituted with a condition that SWIs or PFs shall not participate in the day to day operation of investee. However, appointing director and executive director for monitoring the investment would not amount to day to day operation.
  - Explanation 2 has been proposed to be inserted to define “investee” to mean business trust or a company or an enterprise or an entity or a AFI or an InvIT or a domestic company or an IFC or an IDF in which SWF or PF has made investment indirectly or indirectly, under the provisions of this clause.
  - Further it is also proposed to define term “loan & borrowing” mean any loan or borrowing by SWF or any deposit or investment made in a SWF, by any person other than the government of the home country of such SWF.
- Presently, PF being specified person is eligible for exemption subject to condition that it is not liable to tax in such foreign country. This condition is proposed to be amended to provide that if PF is liable to tax but exemption from taxation for all its income has been provided by their home country then such PF shall be eligible for benefit under this section.
- It has been proposed that the Central Government may prescribe the method of calculation of 50 % or 75 % or 90% referred in the section relating to condition of investment or lending as the case may be.
- *w.e.f 01.04.2021 (A.Y. 2021-22 onwards)*

## Relief to Resident on Withdrawal from Overseas Retirement Fund

- Withdrawal from notified overseas retirement fund (opened by non-resident in India when he was resident in foreign country) may be taxed on receipt basis in such foreign country, while on accrual basis in India. This led to mismatch in taxation of income from such fund.
- In order to address the above mismatch, new Section 89A has been inserted which provides that income of a specified person from specified account shall be taxed in such manner and in the year as may be prescribed by the Central Government.
- It is also proposed to insert an Explanation to Section 89A where various terms are defined as follows-
  - “specified person” means a person resident in India who opened a specified account in a notified country while being non-resident in India and resident in that country;
  - “specified account” means 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;
  - “notified country” means a country as may be notified by the Central Government in the Official Gazette for the purposes of this section.
- *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards).*

## Section 44AB - Tax Audit Threshold increased to Rs. 10 Crores in Specified Cases

- In order to reduce compliance burden on MSME's, through Finance Act, 2020, a proviso was inserted in clause (a) of Section 44AB to increase the threshold limit of tax audit for a person carrying on business from Rs. 1 Crore to Rs. 5 Crore in the following cases:
  - aggregate of all cash receipts during the previous year does not exceed 5% of such receipts; and
  - aggregate of all cash payments during the previous year does not exceed 5% of such payments.
- In order to promote digital economy, it has been proposed to increase the threshold of Rs. 5 Crore to Rs. 10 Crore in the cases mentioned above.
- *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*

## Relief from Payment of Interest u/s 234C in case of Dividend Income

- Section 234C of the IT Act provides for payment of interest @1% p.m. for a period of 3 months on the amount of shortfall w.r.t. due dates for advance tax instalments as per Section 208 of the IT Act. However, the said interest does not apply in certain cases which are laid down in proviso to Section 234C(1).
- It has been proposed to include dividend income within the scope of the aforesaid proviso to provide relief to taxpayers from payment of interest as determination of advance tax liability is not possible due to intrinsic nature of dividend income. Hence, interest u/s 234C shall not be applicable to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of under-estimate or failure to estimate dividend.
- However, deemed dividend u/s 2(22)(e) has not been excluded from interest liability on advance tax. Further, it is proposed to insert Explanation 2 for defining the term “dividend”.
- *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*

## Rationalisation of Provisions in Case of Transfer of Capital Asset to a Partner on Dissolution/Reconstitution of a Firm

- As per the existing provisions of Section 45(4) of the IT Act, profits or gains arising from the transfer of a capital asset by way of distribution of capital assets to the partner or member ("**Partner**") on the dissolution of a firm, AOP etc ("**Firm**") or otherwise, shall be chargeable to tax as the income of the firm of the previous year in which the said transfer takes place.
- Uncertainty regarding applicability of the above provision cropped up in a situation:
  - Where the assets are revalued or self generated assets are recorded in the books of accounts; and
  - Payment is made to the partner or member which is in excess of his capital contribution.
- It is proposed to substitute existing Section 45(4) with a new Section 45(4) and also it is proposed to insert sub-section (4A) in Section 45 in order to rationalise the provisions of capital gains in case of transfer of capital asset to a partner on dissolution or reconstitution of a firm.
- **New Section 45(4):** In a case where a partner receives a capital asset from the firm on dissolution or reconstitution of the said firm and the capital asset represents the balance in the capital account of the partner in books of accounts of the firm then, any profits or gains arising from such receipt in the hands of the partner shall be chargeable under the head 'capital gains' in the hands of the firm on the date of such transfer.
- For the purpose of computation of capital gains u/s 48, sale consideration shall be the FMV of the capital asset on the date of receipt of capital asset in the hands of the partner.
- In computing the balance of the capital account of the Partner, amount increased in the capital account of the Partner due to revaluation of any asset or due to self generated goodwill or any other self-generated asset shall be ignored.
- It is also proposed to provide that the cost of acquisition of the capital asset shall be determined in accordance with the provisions of Chapter IV-E.: Capital Gains.
- **New Section 45(4A):** In a case where a firm transfers money or other assets on its dissolution or reconstitution to its Partner, the value of which exceeds the balance in the capital account of the Partner, then such excess shall be charged as capital gains in the hands of the firm in the previous year wherein the money or other assets are received by the partner.
- For the purpose of computation of Capital gains u/s 48, the sale consideration shall be the value of money or FMV of the other asset on the date of receipt.

- It is also proposed to provide that balance of the capital account of the Partner in the books of the firm at the time of dissolution/reconstitution shall be treated as the cost of acquisition in this regard. Further, in computing the said capital balance of the partner, amount increased in the capital account due to revaluation of any asset or due to self generated goodwill or any other self-generated asset shall be ignored.
- **Consequential amendment u/s 48 of the IT Act:** In a situation where an asset which was revalued and for which income under the proposed Section 45(4A) of the IT Act was brought to tax is subsequently transferred by the Firm, then it would lead to double taxation. To mitigate the same, consequential amendment is proposed u/s 48 to provide that in case of Firm, the amount included in the total income of such firm u/s 45(4A) which is attributable to the capital asset being transferred, shall be reduced from the full value of consideration when such subsequent transfer takes place.
- *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*

## Rationalisation of Provisions of Minimum Alternate Tax

- Section 115JB provides for Minimum Alternate Tax (“MAT”) at the rate of 15 % of its book profit, in case the total income of a company computed under the provisions of the Act is less than the 15 % of its book profit. Book profit for this purpose is computed after making certain adjustments to the profit appearing in the profit & loss account prepared under the provisions of the Companies Act, 2013.
- Presently, dividend received by a foreign company on its investment is not excluded for the purposes of calculation of book profit even in the cases where the tax payable on such dividend income is less than MAT liability on account of concessional tax rate provided in the Double Tax Avoidance Agreement (“DTAA”). Further, the expenses incurred on such dividend income are not added back to the book profit for the purpose of calculation of book profit.
- As per the amendment proposed, dividend income will be provided similar treatment as that for interest, royalty and fee for technical services that is to reduce it for calculating book profit and the expense in respect thereof will be added back while computing book profit in case of foreign companies where such income is taxed at lower than MAT rate due to DTAA.
- Existing provisions do not provide for adjustment on account of additional income of past years included in books of accounts of current year due to secondary adjustment u/s 92CE or due to Advance Pricing Agreement (“APA”) u/s 92CC.
- As per the amendment proposed, Assessing Officer shall on an application made by assessee, recompute the book profit of the past years in case where past year income is included in books of account during the previous year on account of an APA or a secondary adjustment. Further, rectification u/s 154 can be made for the said adjustment and the period of 4 years shall be reckoned from the end of the financial year in which the application is received by the Assessing Officer.
- *w.e.f 01.04.2021 (A.Y. 2021-22 onwards)*

## Exemption of TDS on Dividend paid to a Business Trust

- The existing Section 194 provided for tax deduction at source on dividend income. However, proviso to the above section provides certain exceptions for TDS requirement. The income of a business trust as defined u/s 2(13A) by way of interest or dividend, paid by a special purpose vehicle, is exempt u/s 10(23FC).
- Hence, in order to remove the hardship, it is proposed to amend the proviso to Section 194 by inserting new clauses to provide that the requirement of TDS on dividend income paid to a business trust by a special purpose vehicle or to any other person notified by the government shall not apply to such income.
- *w.r.e.f. 01.04.2020.*

## Rationalisation of TDS Provision on Payment made to Foreign Institutional Investors

- Section 196D provides deduction of tax on income of FII from securities mentioned in Section 115AD at the rate of 20 %.
- Since the said section provides for TDS at specific rate, deduction is to be made at that rate and double taxation relief u/s 90 or 90A cannot be given at the time of tax deduction. This principle of tax deduction was upheld by Hon'ble Supreme Court in the case of *PILCOM vs. CIT West Bengal (Civil Appeal No. 5749 of 2012)*.
- It is therefore proposed to insert a proviso to Section 196D(1) to provide that in case of a payee to whom provisions of Section 90 or 90A applies and if such payee has furnished tax residency certificate then the tax shall be deducted at the rate lower of 20% or rate of tax provided in agreement u/s 90 or 90A.
- *w.e.f 01.04.2021*



## Exemption Limit Increased from 1 crore to 5 crores u/s 10(23C)

- As per the existing provisions of Section 10(23C)(iiia) of the IT Act, exemption is provided on income received by any person on behalf of university or educational institutions subject to the condition that the annual receipts of such university or educational institution do not exceed the prescribed limit.
- Similarly, Section 10(23C)(iiia) provides for exemption on income received by any person on behalf of hospital or other institution engaged in providing treatment of persons suffering from illness, if the annual receipts of such hospital or other institution do not exceed the prescribed limit.
- Currently the limit prescribed for both the above Section is of Rs. 1,00,00,000/-. In order to provide relief to the small trust and institutions, it is proposed to enhance the current limit to Rs. 5,00,00,000/-.
- However, an explanation has been proposed to be inserted to clarify that said exemption shall be applicable only if the aggregate receipts of the person from such university or education institution or hospital or other institutions do not exceed Rs. 5,00,00,000/-
- *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*

## Change in Due Dates of Return of Income u/s 139

- **Extension of due dates for filing original return of income u/s 139(1) in specified cases**
  - Section 139(1) provides for filing of original return of income for different persons or class of persons. Explanation 2 to Section 139(1) specifies the due-dates for filing such original return of income.
  - Sub-clause (iii) of clause (a) of Explanation 2 provides that the due date for filing return of income for the partner of a firm whose accounts are required to be audited under the IT Act or under any other law, shall be 31<sup>st</sup> October of the A.Y.
  - Section 5A of the IT Act provides for apportionment of income between husband and wife if they are governed by the Portuguese Civil Code. Therefore, if any partner earns any income from any firm whose accounts are required to be audited, and spouse of such partner is governed by the Portuguese Civil Code, income of such spouse can be determined only on finalisation of books of account of such firm. However, as per the existing provision u/s 139, there is no such relaxation available to such spouse.
  - In order to remove this hardship, it has now been proposed to extend the due date of filing return of income under Sub-clause (iii) of clause (a) of Explanation 2 to 31<sup>st</sup> October of the A.Y. in case of spouse of a partner of a firm whose accounts are required to be audited if the provisions of Section 5A is applicable on such spouse.

- It is further proposed to amend clause (aa) of Explanation 2 to provide that the due date for filing return of income for partners of a firm, which is required to furnish report from u/s 92E for entering into international transaction or specified domestic transaction, shall be 30<sup>th</sup> November of the A.Y.
- *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*
- **Time-limits reduced for filing belated return and revised original return**
  - Under the existing provisions of filing belated return u/s 139(4) and revised return u/s 139(5) respectively, the belated and revised returns can be filed before the end of A.Y. or before the completion of assessment, whichever is earlier.
  - Looking at the massive technological upgrade and faceless jurisdiction, time taken to complete the processing of returns of income has greatly reduced.
  - Therefore, it has been proposed to amend the above provisions so as to provide that the belated return u/s 139(4) and revised return u/s 139(5) can be filed three months before the end of relevant A.Y. or before the completion of Assessment, whichever is earlier.
  - Hence, it is now proposed to provide that the last date of filing of belated return or revised return shall be 31<sup>st</sup> December of the respective A.Y. or before the completion of assessment, whichever is earlier.
  - *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*
- **Curing Defective returns u/s 139(9)**
  - Section 139(9) provides that a return of income shall be treated as defective return if all the conditions prescribed under Explanation to the said section is not fulfilled.
  - In order to remove the genuine hardship to the taxpayers, it is proposed to insert a new explanation to Section 139(9) which empowers the CBDT to notify that above conditions shall not be applicable on such class of persons as specified in such notification.
  - *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*

## Due Date for Payment of Employees' Contribution Clarified

- Section 36(1)(va) of the IT Act provides that in respect of any sum received by the assessee from his employees as contribution to PF, ESI or any other fund for their welfare, the Assessee (Employers) shall be allowed a deduction if the same has been deposited in the employee's account in the relevant fund on or before the due date as per any Act, rule, order or notification in this regard.
- Parallely, Section 43B of the IT Act allows for deduction for Employer's contribution if the payment is made on or before the due date of filing of return of income. Although, this provision covers only Employer's contribution, certain Courts had applied the same on the Employees' Contribution as well and had taken a view that Employees' Contribution if deposited till the due date of filing ITR is eligible for deduction. This has resulted in delayed deposits of Employees' Contribution and employers were getting unjust enrichment by keeping the money belonging to the Employees.
- Hence, in order to ensure timely payment, it is proposed to insert Explanation 2& 5 to Section 36(1)(va) and Section 43B respectively to clarify that the relaxation of payment on or before the due date of filing ITR as per proviso to Section 43B of the IT Act shall not be applicable in case of Employees' Contribution and the same has to be paid on time as per the due date under the relevant Act so as to claim the deduction in the respective A.Y. Else the deduction shall not be allowable at all.
- *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*

## Dispute Resolution Committee for Small and Medium Taxpayers

- With tangible results of success of Vivad se Vishwas scheme in settling pending disputes, the Central Government in order to provide early tax certainty to small and medium taxpayers, has proposed to introduce a new scheme for preventing new disputes and settling the issue at the initial stage.
- It is proposed to incorporate the scheme by inserting a new Chapter XIX-AA comprising of Section 245MA in the IT Act.
- As per Section 245MA(1), the Central Government shall constitute, one or more Dispute Resolution Committees (“DRC” or “DRCs”), for dispute resolution in case of such persons or class of persons, as may be specified by the Board.
- The assessee shall have the discretion to opt or not for dispute resolution through DRC.
- Eligible Disputes:
  - Assessee can opt in for the scheme in the following cases:
    - Where the return has been filed for the AY in dispute the returned income does not exceed Rs. 50 lakhs; and
    - Aggregate sum of variations proposed or made in the order do not exceed Rs. 10 lakhs.
- Ineligible Disputes:
  - The scheme shall not be applicable for the Orders based on the following sections of the IT Act -
    - search u/s 132 or
    - requisition u/s 132A in the case of the assessee or any other person or
    - survey u/s 133A or
    - information received under an agreement as in Section 90 or 90A
- It is pertinent to note that an Assessee cannot opt in for this scheme if there is detention, prosecution or conviction under various laws as specified in the clause (a) of the Explanation to Section 245MA.
- Powers of DRCs:
  - Reduce or waive any penalty imposable under the IT Act.
  - Grant immunity from prosecution for any offence punishable under the IT Act.

- Powers of Central Government:
  - Make a scheme for dispute resolution by notification in the Official Gazette for imparting greater efficiency, transparency and accountability.
  - Provide for necessary directions for giving effect to the aforesaid scheme. However, no such direction shall be issued after 31.03.2023.
- *w.e.f. 01.04.2021*

## Board of Advance Ruling to supersede Authority for Advance Ruling

- Since the erstwhile Authority for Advance ruling (“AAR”) could not function on account of non-availability of eligible members, in order to provide advance ruling in timely manner, it has been proposed to constitute a Board of Advance Rulings (“Board”) on or after the notified date for giving advance rulings.

- **Amendments in the provision of AAR**

Since the work of Authority shall be carried out by the Board on and after the notified date, amendments are proposed to be made in the various provisions of the Chapter XIX – B comprising of sections 245N to 245V to this effect.

- Sections 245-OB and Section 245W pertaining to “constitution of one or more Board for Advance Ruling” and “Appeal” respectively has been proposed to be inserted.
- The AAR shall cease to operate from the date notified by the Central Government.
- On and after the notified date, powers of AAR shall be exercised by the Board
- Constitution of the Board & its Composition:
  - The Central Government shall constitute one or more Board for Advance Rulings.
  - Every such Board shall comprise of two members, each being an officer not below the rank of Chief Commissioner as may be notified by CBDT
- Scope of the Board of Advance Rulings:
  - Other than the fresh applications made on or after the notified date, the pending applications with the AAR shall get transferred to the Board along with all records, documents or material, by whatever name called and shall be deemed to be records before the Board for all purposes.
  - Advance rulings of the Board shall not be binding on the applicant nor the Department thus, enabling the applicant or the Department to appeal against the ruling or order passed by the Board before the High Court under proposed Section 245W.

- Appeal against the Order of the Board:
  - The appeal shall be filed within 60 days from the date of the communication of that ruling or order in such form and manner as may be prescribed.
  - Extension to file an appeal by another 30 days may be granted if the High Court is satisfied that such delay was due to bonafied reasons.
- Powers of Central Government:
 

The Central Government shall exercise the following powers by way of Notification in the Official Gazette:

  - To notify the date with effect from which the changes proposed shall apply.
  - To make a scheme for eliminating the interface between the Board and the Applicant for giving Advance Ruling and
  - Further to impart greater efficiency, transparency and accountability for Advance Ruling as well as Appeal u/s 245W, introduce a scheme of dynamic jurisdiction with optimum utilization of resources.
  - Provide for necessary directions for giving effect to the aforesaid scheme. However, no such direction shall be issued after 31.03.2023.
- 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.

- *w.e.f. 01.04.2021*



## Complete Reform in the System of Reassessment and Assessment in Search Cases

- Under the existing provisions of reassessment proceedings u/s 147/148 of the IT Act if any income chargeable to tax has escaped assessment then such income is liable to be assessed or re-assessed within 4 years or 6 years as the case may be.
- In case where search action u/s 132 or books of account, other documents or any assets are requisitioned u/s 132A of the IT Act, assessment in the case of the assessee is made in accordance with the special provisions of sections 153A, 153B, 153C and 153D, of the Act that deal specifically with such cases.
- Over the period of time, it is observed by the department that due to advancement of technology, now it is easy for the department to collect relevant information from third parties and law enforcement agencies. Also, department verify this information with the information declared by the assessee in return of income, to detect the persons who have not filed the return of income or those who have not disclosed the correct amount.
- Since the assessment, reassessment and re-computation of escaping income is now information driven, it is proposed to completely reform the provisions pertaining to reassessment and search assessments through following amendments:

### Section 147

- Section 147 of the IT Act is proposed to be substituted and the expression “reasons to believe” does not find place in the proposed section.
- As per proposed Section 147, if any income chargeable to tax has escaped assessment, the Assessing Officer (“AO”), subject to provisions of Section 148 to 153, may assess or reassess income of the Assessee without recording any 'reasons to believe'.
- Income in respect of any issue coming to notice subsequently in the course of reassessment proceeding u/s 147 may also be reassessed or recomputed irrespective of fact that provisions of proposed Section 148A have been followed.

### Section 148

- Reassessment notice u/s 148 may be issued on basis of information, which suggests that income chargeable to tax has escaped assessment, and after obtaining prior approval of specified authority.
- Information which suggests that income chargeable to tax has '*escaped assessment*' shall include:
  - Information which has been flagged in case of assessee in accordance with risk management strategy formulated by the CBDT or;
  - any final objection raised by the CAG to the effect that the assessment for the relevant AY has not been made in accordance with the provisions of this Act.

- As per proposed Section 148, in case where search, survey, requisition cases conducted or made or any material is seized on or after 01.04.2021, such search, survey or requisition which suggest that income chargeable to tax has escaped assessment in case of assessee for 3 AYs immediately preceding the AY relevant to the previous year in which the search, survey or requisition is initiated, conducted or any material is seized or requisitioned, shall be deemed to be considered as information for the AO.

#### **Section 148A**

- New Section 148A has been proposed to be inserted whereby before issuing notice u/s 148, AO shall conduct enquiries (if required) with respect to the information and shall provide an opportunity of being heard after prior approval of specified authority by serving show cause notice upon assessee.
- Time limit to file reply in response to notice u/s 148A by assessee has been proposed to be not less than 7 days and not exceeding 30 days from the date on which such notice is issued, which may be extended on application by Assessee.
- Thereafter, the AO shall decide by passing order u/s 148A(d) with the prior approval of specified authority that whether it is fit case or not for issue of notice u/s 148(1) to assessee:
  - within 1 month from the end of the month in which the reply is received or
  - where no such reply is furnished, within 1 month from the end of the month in which time or extended time allowed to furnish a reply expires.
- In the following cases, AO is not required to conduct inquiries u/s 148A where:
  - a search is initiated u/s 132 or books of account, other documents or any assets are requisitioned u/s 132A in the case of the assessee on or after 01.04.2021.
  - AO is satisfied with prior approval of Principal Commissioner or Commissioner that:
    - any money, bullion, jewellery or other valuable article or thing, seized in a search section/s 132 or requisitioned u/s 132A, in the case of any other person on or after 01.04.2021 belongs to the assessee; or
    - any books of account or documents, seized in a search u/s 132 or requisitioned u/s 132A, in case of any other person on or after 01.04.2021, pertains or pertain to, or any information contained therein, relate to, the assessee.

#### **Section 149**

- Notice u/s 148 may be issued with following time limits as given in proposed section 149 as below:
  - in normal cases, within 3 years from the end of relevant A.Y.
  - in cases where AO has in possession of books of accounts/other document/evidence which reveal that income of Rs. 50,00,000/- or more represented in the form of asset has escaped assessment, notice may be issued beyond a period of 3 years but not beyond 10 years from the end of the relevant A.Y.

- Notice u/s 148 may be issued after receiving necessary sanction from the specified authority in either case.
- It is also proposed that for determining limitation u/s 149, time allowed to the assessee for filing of reply in response to show cause notice u/s 148A(b) or period for which proceedings u/s 148A is stayed by any court shall be excluded.
- After excluding aforesaid period, if less than 7 days remain with the AO for passing of order u/s 148A(d), further extension of 7 days is proposed for passing the said order.
- It is proposed that for AYs beginning on or before 01.04.2021, no notice under proposed section 148 would be issued, if such notice could not have been issued at the time on account of time limits as stood immediately before the commencement of the Finance Act, 2021.
- It is also proposed that provision of section 153A and 153C shall not apply in relation to search u/s 132 or requisition u/s 132A initiated on or after 01.04.2021. Therefore, assessment or reassessment or recomputation in the said cases shall now be conducted under the new procedure.

#### **Section 151**

- Specified authority for approving enquiries, providing opportunity of being heard, passing order u/s 148A of the Act and for issuance of notice u/s 148 are:
  - 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
  - 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 153A**

- Existing provision of Section 153A is applicable in case where search is initiated u/s 132 or books of accounts, other documents or any assets are requisition u/s 132A after 31.05.2003.
- The, consequential amendment is proposed to add word “but on or before the 31.03.2021” after 31.05.2003. Now, Section 153A shall apply to the aforesaid cases after 31.05.2003 upto 31.03.2021.

#### **Section 153C**

- Section 153C is applicable in case where any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to, a person other than searched person.
- Now, consequential amendment is proposed that the provisions of Section 153C shall not be applicable relation to a search initiated u/s 132 or books of account, other documents or any assets requisitioned u/s 132A on or after the 01.04.2021.
- *w.e.f. 01.04.2021*

## Faceless Proceedings before the Income Tax Appellate Tribunal (ITAT)

- To widening the scope of faceless appeals, to reduce cost of compliance and to bring greater efficiency, transparency and accountability, in disposal of appeals, new faceless scheme is proposed to be launched for ITAT proceedings.
- New Sub-section in 255 of the IT Act is proposed to be inserted to:
  - to empowering Central Government to notify scheme for purpose of conducting faceless proceedings before ITAT.
  - optimum utilization of resource through economic scale and functional specialisation
  - introduce new appeal system with dynamic jurisdiction.
- It is also proposed that Central Government may 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 till 31.03.2023.
- *w.e.f 01.04.2021*

## Reduction of time limit for completing assessment

- Section 153 of IT Act deals with the provisions of time limit for completion of assessment, reassessment and recomputation.
- As per existing Section 153(1) time limit for completion of assessment order u/s 143 or 144 is provided as 12 month from the end of the assessment year in which the income was first assessable.
- It is proposed to reduce the time limit for passing the assessment order u/s 143 or 144 of the IT Act from existing 12 months to 9 months.
- No change in time limit for completion of assessment u/s 148 of the Act has been given.
- *w.e.f 01.04.2021*

## Allowing prescribed authority to issue notice u/s 142(1)

- Section 142 of the IT Act provides issuance of notice for inquiry before assessment.
- In line with the faceless assessment schemes, it is proposed to amend the Section 142(1) to empower prescribed income tax authority besides AO to issuance of notice under the said clause.
- *w.e.f 01.04.2021*

## ITSC to Shut the doors from 01.02.2021

- Amendment in Section 245B is proposed to discontinue ITSC w.e.f 01.02.2021 and new Section 245AA is proposed to constitute an Interim Board of Settlement for pending applications.
- No settlement application u/s 245C can be filed for settlement of cases on or after 01.02.2021.
- Pending applications along with relevant record shall be allotted to the Interim Board for Settlement. Following shall be treated as pending applications :
  - All applications that were filled u/s 245C and were not declared invalid u/s 245D(2C) and in respect of which no order u/s 245D(4) was issued on or before 31.01.2021.
  - An application, in respect of which an order was required to be passed by ITSC u/s 245(2C) on or before 31.01.2021 to declare the application invalid, but such order has not been passed on or before 31.01.2021.
- As per proposed Section 245AA, the Central Government shall constitute one or more Interim Board for Settlement for settlement of pending applications, which shall consist of three members each being an officer of the rank of Chief Commissioner, as may be nominated by the Board. In case of difference of opinion, the point shall be decided according to the opinion of majority of members.
- For disposal of pending application, interim board shall exercise all powers as were available to ITSC.
- New section 245M has been proposed to provide the Assessee an option to withdraw pending application within 3 months from the date of commencement of Finance Act, 2021. If the assessee does not withdraw the application within the time limit, the pending application shall be deemed to have been received by the Interim Board on date of its constitution.
- If Assessee withdraws the application, the proceeding with respect to the case shall abate on the date of withdrawal and the AO shall dispose off the case as if no application u/s 245C has been made.

- Income tax authority shall not be entitled to use the material and other information produced by the assessee before the ITSC in course of proceedings. But this restriction shall not apply on the material and other information collected or results of the inquiry held or evidence recorded by the AO under any other proceedings under the Act.
- As proposed u/s 245D(11) the Central Government may make a scheme, by notification in the official gazette for the faceless disposal of pending applications by any interim board constituted by the Central Government.
- For rectification of order u/s 245(6B), in computation of the time limit, period from 01.02.2021, to end of the month, in which interim board is constituted shall be excluded and remaining period shall be extended to 60 days, if available period is less than 60 days.
- Board may by order allot or transfer pending applications from one Interim Board to another Interim Board . Once allotted, all relevant records shall be transferred by Board
- Consequential amendment has also been made in section 245BC, 245BD, 245C (Application of settlement of cases), 245 D(Process on receipt of application ), 245DD(Power of SC to order provisional attachment),245F (Power and procedure of Settlement Commission), 245G (Inspection of reports)
- In case of abated assessment the period commencing from the date of Application u/s 245C and ending with the date of withdrawal shall be excluded for the purpose of time limit u/s 149,153,154,155 and for the purpose of payment of interest u/s 243,244 or 244A, as the case may be.



## Amendments in relation to Corpus Donation u/s 10(23C) and 11

- Currently, corpus donations received by charitable trusts and institutions are exempt u/s 10(23C) and 11 of the IT Act.
- There have been some instances wherein the income from corpus donation which is already claimed as exempt is also claimed as application of income against the mandatory 85% application of non-corpus income.
- Now, necessary amendments are proposed in Section 10(23C) and 11 of the IT Act to provide that:
  - Corpus donations can be claimed as exempt only when such donations are invested or deposited in one or more of the modes specified u/s 11(5) of the Act.
  - In case corpus donations are utilised/applied by the trusts/institutions, then it shall not be considered as application of income for charitable or religious purposes.
  - If amount of income of the year other than corpus donation is invested or deposited back in the modes specified u/s 11(5) maintained specifically for such corpus, then the same shall be allowed as application in such year of deposit.
- *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*

## Borrowings is Application of Income u/s 11 and 10(23C) Only at the Time of Repayment

- As per the existing provisions, there have been certain instances wherein utilization of proceeds of loan or borrowings is treated as application for charitable purpose. Thereafter, on repayment of such loans or borrowings, such repayment is again claimed as application of income.
- To ensure there is no double benefit in such cases, it is proposed to amend Section 10(23C) and Section 11 to provide that loans or borrowings shall be treated as application of income only at the time of their final repayment and not when the proceeds are utilized for carrying out charitable purposes of the trust or institution.
- *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*

## Treatment of Excess Application of Income

- An Explanation is proposed to be inserted u/s 10(23C) and Section 11 of the IT Act to provide that only for the purpose of calculation of amount income to be applied or accumulated during the previous year, no set off or deduction or allowance of any excess application of any of the year preceding the previous year shall be allowed.
- *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*



## Maximum Cap on Premium Paid on ULIPs for Claiming Exemption u/s 10(10D)

- As per the existing provisions of Section 10(10D) of the IT Act, sum received under life insurance policy including the sum allocated by way of bonus on such policy shall be exempted in a case where the premium payable for any of the years during the term of the policy does not exceed 10% of the actual capital sum assured.
- The intention of such exemption was to provide benefit to small and genuine cases of life insurance. However, the high net worth individuals claim exemption under this provision by investing in ULIP with huge premium.
- It is proposed that, for eligibility of exemption under the said Section, a maximum cap be established on the amount of annual premium paid by the investors. Accordingly, following new provisions are proposed to be inserted:
  - 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> Proviso to Section 10(10D) of the IT Act: For ULIP(s) issued on or after 01.02.2021, no exemption shall be allowed to the investor in a case where the aggregate premium of all policies, payable for any of the previous year during the term of the policy, exceeds Rs. 2,50,000/-, except in a case where the sum is received on the death of a person.
  - Section 2(14) and 45(1B): ULIPs on which exemption is not allowed due to the application of Section 10(10D) shall be regarded as capital asset and deemed capital gains shall arise on the redemption of such ULIPs.
  - The definition of equity oriented fund would include ULIPs on which exemption is not allowed u/s 10(10D). Accordingly, provisions of Sections 111A and 112A would apply on sale/ redemption of such ULIPs.
- *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*
- Consequential amendments are proposed so as to make STT applicable on maturity or partial withdrawal of ULIPs on which exemption u/s 10(10D) is not applicable.
- *w.e.f. 01.02.2021*

## Widening the Scope of the Term Slump Sale

- Currently, on analysing the definition of the term 'slump sale' u/s 2(42C) of the IT Act, it can be inferred that it means a transfer of one or more undertakings as a result of "sale" for lump sum consideration without value being assigned to individual assets and liabilities.
- There have been instances wherein due to the language in the provision, transactions have been undertaken giving more importance to the term "sale" and ignoring the substance of the transaction and accordingly, engaging in tax avoidance schemes. One such example is disguising a transaction of sale with a transaction of exchange and claiming it to be excluded from the definition of slump sale.
- In order to make the intention of the legislature clear, it is proposed to amend the scope of the definition of the term slump sale by including all types of 'transfer' as defined under Section 2(47) of the IT Act within its scope.
- *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*

## Provisional Attachment in Case of Penalty u/s 271AAD

- Currently, Section 281B of the IT Act gives power to the assessing officer wherein he may provisionally attach property of the assessee in order to protect the interest of the revenue.
- Section 271AAD was inserted in the IT Act as an anti-abuse provision 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.
- Now, it is proposed to amend Section 281B(1) to protect revenue in cases where penalty proceedings are to be initiated u/s 271AAD so as to provide that provisional attachment of a property of an assessee can also be made during the pendency of proceedings for imposition of penalty u/s 271AAD, where such penalty amount exceeds Rs. 2 crores.
- *w.e.f. 01.04.2021*

## Clarifications regarding applicability of Equalisation Levy

- Equalisation Levy was introduced in India through FA 2016 with the intention of taxing digital transactions. Under the existing provisions of Section 165A of the FA 2016, Equalisation levy is levied @ 2% of the amount of consideration received or receivable by an e-commerce operator being a Non-resident service provider who owns, operates or manages digital platform for the purpose of supplying goods online or for providing online services or both, to the below categories of persons-
  - person resident in India or
  - to a non-resident in the specified circumstances or
  - to a person who buys such good or services or both using IP address located in India.
- FA 2020 made consequential amendment in the Section 10(50) of the IT Act to provide that income arising from the e-commerce supply of goods or services made, provided or facilitated by the e-commerce operator shall not be chargeable to Income-tax on which Equalisation levy is chargeable u/s 165A of the FA 2016.
- In order to clarify the intentions of the applicability of this Section, it has been proposed to insert a proviso to Section 163(3) of the FA 2016 to propose that the consideration received or receivable shall not include any income which is chargeable as Royalty or Fees for Technical services in India under IT Act read with Double taxation avoidance agreement (“DTAA”) notified by Central Government under Section 90 or 90A of the IT Act.
- Further, it is also proposed to insert clause (cb) in Section 164 to provide that the expression “online sale of goods” and “online provision of services” shall include one or more of the following online activities given as follows-
  - acceptance of offer for sale;
  - placing of purchase order;
  - acceptance of the purchase order;
  - payment of consideration; or
  - (e) supply of goods or provision of services, partly or wholly.
- It has also been proposed to further clarify, by inserting a new clause (b) to Section 165A(3) of FA 2016, that consideration received or receivable from ecommerce supply or services shall include-
  - consideration for sale of goods irrespective of whether the e-commerce operator owns such goods;
  - consideration for provision of services irrespective of whether service is provided or facilitated by the e-commerce operator.
- *w.r.e.f. 01.04.2020*
- Currently, exemption under Section 10(50) on the income arising from such e-commerce supply or services on which Equalisation levy is chargeable, has been made available w.e.f. 01.04.2021 while Equalisation levy was introduced w.e.f. 01.04.2020. To remove this anomaly, amendment have also been proposed in Section 10(50) to align the said exemption w.e.f. 01.04.2020 itself.

- It has also been proposed to clarify that said exemption from tax shall not be available to the income in the nature of Royalty or fees for technical services as defined under the IT Act read with notified DTAA.
- The term 'e-commerce supply or services' shall have the meaning as assigned u/s 164(cb) of the FA 2016.
- *w.e.f. 01.04.2021 (A.Y. 2021-21 onwards)*

## Goodwill: No More an Asset for Claiming Depreciation

- In the case *Smiff Securities Limited [(2012)348 ITR 302 (SC)]* following issues came before the Hon'ble Supreme Court for examination:
  - Whether goodwill of a business is an asset within the meaning of section 32 of the Act?
  - Whether depreciation on goodwill is allowable under the said section? The hon'ble apex court answered the questions in affirmative.
- Relying upon this judgment, assessees started claiming depreciation on acquired goodwill i.e. goodwill arising in cases of amalgamation, demerger, business reorganization, etc.
- However, the department noted that that Goodwill, in general, is not a depreciable asset and in fact depending upon how the business runs; goodwill may see appreciation or in the alternative no depreciation to its value. Hence there appears to be little justification for depreciation on goodwill even in cases of acquired goodwill such as amalgamation, demerger, business reorganization, etc..
- To discourage the practice of claiming depreciation on any form of goodwill, the Finance Act has proposed to exclude goodwill from assets in various provisions of the IT Act. Consequently, amendments have been proposed in Section 2(11) relating to 'Block of Asset' and Section 32(1)(ii) relating to 'Depreciation'.
- Consequently, provisions have been proposed to be amended for the manner of computation of capital gain or capital loss on account of transfer of goodwill as follows:-
  - Where goodwill is purchased by an assessee, the purchase price of the goodwill will continue to be considered as cost of acquisition for the purpose of computation of capital gains under section 48 of the Act.
  - Where depreciation was claimed by the assessee in relation to such goodwill prior to the assessment year 2021-22, then the depreciation so claimed shall be reduced from the amount of the purchase price of the goodwill for the purpose of computation of cost of acquisition.
- Consequently, amendments in relation to taxation under head Capital Gain have been made in Section 45, Section 50 and Section 55
- *w.e.f. 01.04.2021 (for AY 2021-22)*

## Amendments to Provisions Related to Processing of Returns u/s Section 143

- Section 143(1)(a) of the IT Act provides for processing of return after making necessary adjustments.
- The existing provision u/s 143(1)(a)(iv) provides for adjustment on account of disallowance of expenditure indicated in the audit report and not been taken into account in computing the total income. Along with these provisions. It is now proposed to also include the adjustment on account of increase in income indicated in the audit report but not taken into account in computing the total income.
- Section 80AC of the IT Act provides that any deduction which is admissible under the provisions of this Chapter under the heading "*C.-Deductions in respect of certain incomes*" shall be allowed as deduction only when the assessee furnishes his return of income on or before the due date specified u/s 139(1) of the IT Act. The existing provision u/s 143(1)(a)(v) provides for adjustment on account of disallowance of deduction claimed under sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or section 80-IE, if the return is furnished beyond the due date specified under Section 139(1). It is proposed to amend the Section 143(1)(a)(v) to give consequential effect to the amendment carried out in Section 80AC vide FA,2018 and thereby include all provisions under chapter VI, heading C within this ambit.
- Further, it is proposed to reduce the time limit of sending intimation u/s 143(1) from **1 year to 9 months** from the end of the FY in which the return is furnished.
- It is also proposed to reduce the time limit for issue of notice u/s 143(2) from **6 months to 3 months** from the end of the FY in which the return is furnished.
- *w.e.f. 01.04.2021*

## LLP Not Eligible for Presumptive Taxation u/s 44ADA

- Section 44ADA of the IT Act provides for presumptive taxation in case of professionals. Currently, the said section is applicable in case of an assessee, being resident in India and whose total gross receipts during the previous year do not exceed Rs. 50 lakhs. The intention was to apply this section to an individual, HUF and partnership firm but not to an LLP, as an LLP is anyways required to maintain books of account under the LLP Act. However, the said intention was not clear in the legal provisions of Section 44ADA.
- Now, in order to clarify the above in law, it is proposed to provide that Section 44ADA of the IT Act will apply to an Individual, HUF and Partnership firm only and not in case of an LLP defined u/s 2(1)(n) of the LLP Act.
- *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*



## Insertion of the Definition of “Liable to Tax”

- Currently, IT Act does not define the term “liable to tax” though it has been used at many places under the IT Act as well as under DTAAs.
- Now, it is proposed to define the said term by insertion of sub-section (29A) in Section 2 of the IT Act. As per the same, “liable to tax” in relation to a person means that there is a liability of tax on the said 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.
- *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*

## THE INCOME DECLARATION SCHEME, 2016 (“IDS”)

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### Refund of Excess Payment Under IDS Without Interest

- As per Section 191 of the FA 2016, any amount of tax, surcharge and penalty paid in pursuance of a declaration made under the IDS shall not be refundable. A proviso was inserted in Section 191 *vide* FA 2019 empowering the CBDT to specify a class of persons to whom such excess tax paid shall be refundable.
- Now, it is proposed to amend the proviso of Section 191 of the FA 2016, so as to provide that the excess amount of tax, surcharge or penalty paid in pursuance of a declaration made under the IDS shall be refundable to the specified class of persons without payment of any interest.
- *w.r.e.f. 01.06.2016*

## TDS on Purchase of Goods

- New Section 194Q is proposed to be introduced wherein any person (“**Buyer**”) responsible for paying any sum to any resident for purchase of goods shall deduct tax @0.1% of such sum exceeding Rs. 50 Lakh 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.
- It is proposed that the Section covers only those Buyers whose total sales, gross receipts or turnover from the business carried on by him exceed Rs. 10 Crore during the F.Y. immediately preceding the F.Y. in which the purchase of goods is carried out, excluding the persons notified by the Central Government.
- It is proposed that Section 194Q shall not apply to transactions on which:
  - tax is deductible under any other provision of the IT Act
  - tax is collectible under the provision of Section 206C other than Section 206C(1H)
- In case tax is deductible u/s 194Q and on the same transaction tax is collectible u/s 206C(1H), then Section 194Q will prevail and TDS shall be attracted.
- Consequential amendment is proposed u/s 206AA to provide that in case PAN is not provided, TDS u/s 194Q shall be applicable @5%.
- *w.e.f. 01.07.2021*

## TDS/TCS at Higher Rates on Non-Filer of ITR

- New Section 206AB under the IT Act is proposed to be introduced wherein higher rate for TDS will be applicable for non-filers of ITR on any sum or income or amount paid, or payable or credited, by a person to a specified person. However, this Section shall not apply where the tax is required to be deducted u/s 192, 192A, 194B, 194BB, 194LBC or 194N of the IT Act.
- The proposed TDS rate in this section is **higher** of the followings rates:
  - twice the rate specified in the relevant provision of the IT Act; or
  - twice the rate or rates in force; or
  - the rate of 5%.
- Similarly, Section 206CCA under the IT Act is proposed to be introduced wherein higher rate of TCS will be applicable for non-filers of ITR on any sum or amount received by a person 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 IT Act; or
  - the rate of 5%.
- Further, it is proposed that if the provision of section 206AA or 206CC of the Act is applicable to a specified person, in addition to the provision of Section 206AB or 206CCA respectively, the tax shall be deducted or collected, as the case may be, at higher of the two rates provided in Section 206AB and 206AA, or in section 206CCA and 206CC of the Act, respectively.
- It is proposed that the specified person shall be:
  - who has not filed the ITR for both of the two AYs relevant to the two previous years which are immediately before the previous year in which tax is required to be deducted or collected, as the case may be;
  - the time limit for filing ITR u/s 139(1) of the IT Act has expired for both these AYs;
  - aggregate of TDS and TCS in his case is Rs. 50,000/- or more in each of these two previous years; and
  - shall not include a non-resident who does not have a permanent establishment in India.
- Consequential amendment is proposed u/s 194-IB of the IT Act.
- *w.e.f. 01.07.2021*

## Taxability of Interest on Various Funds Where Income is Exempt

- Section 10(11) of the IT Act provides for exemption with respect to any payment from a provident fund to which the Provident Funds Act, 1925 applies or from any other provident fund set up by the Central Government and notified by it in this behalf in the Official Gazette.
- Similarly, Section 10(12) provides for exemption with respect to the accumulated balance due and becoming payable to an employee participating in a recognised provident fund, to the extent provided in rule 8 of Part A of the Fourth Schedule
- As per the memorandum to the Finance Bill, instances have been noticed that in some cases some employees are contributing huge amounts to these funds and entire interest accrued/received on such contributions is getting exempt from tax under Section 10(11) and 10(12) of the IT Act. This exemption without any threshold, benefits only those who are contributing large amount to these funds as their share.
- It is proposed that the provisions of Section 10(11) and 10(12) shall not apply to the interest income accrued during the previous year in the account of the person, to the extent it relates to the amount or the aggregate of amounts of contribution made by the person exceeding Rs. 2,50,000/- in a previous year in that fund, on or after 01.04.2021, computed in such manner as may be prescribed.
- *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*

The background of the slide is a repeating pattern of various business and financial icons in a light gray color. These icons include: a briefcase, a document with a dollar sign, a group of three people, a piggy bank, a safe, a lightbulb, a clock, a bar chart, a pie chart, a magnifying glass over a dollar sign, a gear, a speech bubble with gears, a stack of coins, a person in a suit, a smartphone with a dollar sign, a percentage sign, and a handshake. The icons are arranged in a grid-like fashion, creating a textured background.

# ***THE DIRECT TAX VIVAD SE VISHWAS ACT, 2020***

## THE DIRECT TAX VIVAD SE VISHWAS ACT, 2020 (“DTVV Act”)

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### Scope of DTVV Act Clarified

- The DTVV Act was introduced with the objective of reducing pending income tax litigation, generating timely revenue for the Government and providing relief to the taxpayers. Also, as per the memorandum explaining the provisions of the Finance Bill, 2021 the original legislative intent was to resolve cases of disputed tax and not the cases of tax(es) covered by an order pursuant to the settlement of a case.
- In view of the above legislative intent, it has been proposed to insert Explanation(s) in the definition of the terms “appellant”, “disputed tax” and “tax arrear” as provided u/s 2 of the DTVV Act so as to specifically exclude the settlement commission cases from the scope of DTVV Act, whether they have attained finality or not.
- *w.r.e.f. 17.03.2020*

The background of the slide is a repeating pattern of various financial and business icons in a light gray color. These icons include: a briefcase, a document with a dollar sign, a group of three people, a piggy bank, a safe, a lightbulb, a clock, a bar chart, a magnifying glass over a dollar sign, a stack of coins, a gear, a speech bubble with gears, a person in a suit, a smartphone with a dollar sign, a pie chart, a percentage sign, and a handshake. The icons are arranged in a grid-like fashion, creating a textured background.

# ***THE PROHIBITION OF BENAMI PROPERTY TRANSACTION ACT, 1988 (“PBPT Act”)***



## THE PROHIBITION OF BENAMI PROPERTY TRANSACTION ACT, 1988 (“PBPT Act”)

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### Proposal for Adjudicating Authority under the PBPT Act

- Currently, no adjudicating authority is appointed u/s 7 of the PBPT Act and in accordance with Section 71 of the PBPT Act, adjudicating authority appointed u/s 6(1) of the Money-Laundering Act, 2002 is discharging the functions of the adjudicating authority under the PBPT Act.
- Now, by substituting Section 7 of the PBPT Act, it is proposed to provide that the competent authority authorised u/s 5(1) 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 the PBPT Act.
- Consequentially, Section 8 to 17 of the PBPT Act specifying the composition and other provisions regarding constitution of adjudicating authority are proposed to be omitted.
- Further, it is proposed that the time limit for passing the adjudication order u/s 26 of the PBPT Act expiring during 01.07.2021 to 29.09.2021 shall be extended to 30.09.2021.
- *w.e.f. 01.07.2021*

The background of the slide is a repeating pattern of various business and financial icons in a light gray color. These icons include: a briefcase, a document with a dollar sign, a group of three people, a piggy bank, a safe, a lightbulb, a clock, a bar chart, a pie chart, a magnifying glass over a dollar sign, a gear, a speech bubble with gears, a stack of coins, a person in a suit, a smartphone with a dollar sign, a percentage sign, and a handshake. The icons are arranged in a grid-like fashion, creating a textured background.

# ***HIGHLIGHTS OF IMPORTANT AMENDMENTS RELATING TO INDIRECT TAXES***

## GOODS AND SERVICES TAX

### Transactions Between Clubs and Its Members Will be Considered as 'Supply'

- Section 7 of the CGST Act has been proposed to be amended with retrospective effect to include activities or transactions by a person (excluding individual) to its members or vice-versa for cash, deferred payment or other valuable consideration within the scope of 'Supply'. Further, it has also been clarified that person and its members shall be deemed to be separate person and supply of transactions *inter se* shall be deemed to take place from one person to another.
- Further, paragraph 7 of Schedule II of CGST Act which states that “*supply of goods by unincorporated association or body of person to a member thereof for cash, deferred payment or other valuable consideration*” has proposed to be omitted in light of amendment in Section 7 of CGST Act.
- By way of above proposed amendment, the government has ensured that tax is levied on the transaction between the clubs and its member. The proposed amendment has effect of overturning doctrine of mutuality upheld in the case of State of West Bengal & Ors. vs. Calcutta Club Limited [ AIR 2019 SC 5310] and decision of Maharashtra Appellate Authority for Advance Ruling in case of Rotary Club of Mumbai Queens Necklace [Order No. MAH/GST-AAAR-15/2019-20 dated 08.08.2019].
- *w.r.e.f. 01.07.2017*

### Input Tax Credit Cannot be Claimed if Details of Invoice not Furnished by Supplier

- Section 16(a) of the CGST Act has proposed to be amended by way of adding one more criteria for entitlement of input tax credit to the existing list. As per the proposed amendment, the registered person shall be entitled to claim the input tax credit only when the details of invoice or debit note has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note.
- Rule 36 (4) of CGST Rules which restricted the credit of input tax credit of invoices not uploaded by the suppliers in its return of outward supplies to certain percentage has been challenged before various High Court on the ground that there is no such provision of restriction of input tax credit under the CGST Act. The proposed amendment appears as an attempt to address the said situation.

## **Annual Return with Self-Certified Reconciliation Statement**

- Section 44 of the CGST Act has proposed to be substituted and now, the registered person shall electronically furnish the annual return which may include self-certified reconciliation statement reconciling the value of supplies declared in the return furnished for financial year with audited annual financial statement for every financial year. Further, power has been provided to the Commissioner to exempt class of taxpayers from the requirement of filing annual return. Moreover, department of Central Government or State Government or local authority whose books are audited by CAG or auditor appointed for auditing accounts of local authorities under law is not required to file annual return.
- Moreover, requirement of getting annual return audited u/s 35(5) of the CGST Act for the persons having aggregate turnover above 2 crores has proposed to be omitted.
- In the memorandum explaining the provision of Finance Bill, 2021; it has been specified that the amendment to Section 44 of the CGST Act has been done to provide for filing of annual return on self-certification basis. However, as per the language of the section, the self-certified reconciliation statement shall be based on the reconciliation of audited annual financial statement with values of supplies declared in the return furnished for financial year.

## **Recovery Proceedings Against The Details of Supplies Furnished in GSTR-1**

- Explanation to Section 75(12) of the CGST Act has proposed to be added which clarifies that self-assessed tax shall include tax payable in respect of details of outward supplies furnished u/s 37 of the CGST i.e. GSTR-1, but not included in return furnished u/s 39 i.e. GSTR-3B.
- By way of said proposed amendment, the Government has been empowered to initiate recovery u/s 79 of the CGST Act of tax payable in respect of details of supplies furnished in GSTR-1 but not furnished in GSTR-3B.

## **Provisional Attachment Proceedings Against the Person Who Retains the Benefit of The Transaction**

- Section 83 of the CGST Act has proposed to be amended, empowering the Commissioner to provisionally attach property (including bank account) after initiation of proceeding under:
  - Chapter XII: Assessment (Section 59-64)
  - Chapter XIV: Inspection, Seizure and Arrest (Section 67-72)
  - Chapter XV: Demands and Recovery (Section 73-84)
- The said proceedings are proposed to be initiated against taxable person or any person who has retained the benefit of transactions (supply of goods/services without issue of invoice, issue of invoice without supply of goods/services, utilization of input tax credit without actual receipt of goods and taking/distributing credit in contravention to provision of CGST Act) and at whose instance transaction has been conducted.

## **Proceedings for Detention, Seizure and Release of Goods and Conveyances in Transit Delinked with Proceedings Relating to Confiscation of Goods or Conveyance**

- Section 129 and 130 of the CGST Act has proposed to be amended to delink the provisions of the respective sections. Under the proposed amended Section 129, goods detained or seized u/s 129 shall be released on:
  - If the owner comes forward for payment of penalty:
    - Taxable goods: penalty of 200% of tax payable on such goods
    - Exempted goods: penalty of 2% of value of goods or Rs. 25,000/- whichever is less.
  - If the owner does not comes forward for payment of penalty:
    - Taxable goods: penalty of 50% of value of goods or 200% of tax payable whichever is higher
    - Exempted goods: penalty of 5% of value of goods or Rs. 25,000/- whichever is less.
- Provision for release of detained/seized goods on provisional basis on furnishing of security/execution of bond has been removed. Further, proper officer shall issue notice within 7 days from the detention/seizure of goods and pass order within 7 days from the service of such notice specifying the amount of penalty which is payable.

## CENTRAL SALES TAX

### No More Form-C Benefit on Procurement of Diesel/Petrol for Manufacturing of Any Goods or Use in Mining, Telecommunication and Electricity Generation

- Section 8(3) of the CST Act has proposed to be amended to exclude benefit of Form-C for procurement of petroleum crude/petrol/diesel/natural gas/alcohol for human consumption ("*CST Goods*") to manufacturer of any goods or use of said goods in mining, telecommunication or electricity generation.
- By way of the proposed amendment, the benefit of concessional rate of tax of 2% on inter-state supply of CST Goods shall only be available dealers purchasing the CST Goods for re-sale or using the same in manufacturing or processing for sale of CST Goods.
- The proposed amendment is contrary to the relief granted in case of Capro Power Ltd. vs. State of Haryana [(2018) 53 GSTR 24 (P & H)] (upheld by Hon'ble Supreme Court of India).

### Miscellaneous Amendments

- Section 50 of the CGST Act has been proposed to be amended w.r.e.f. 01.7.2017 for payment of interest on the net cash liability.
- Section 129 and 130 of CGST Act has been proposed to be removed from Explanation to Section 74 which provides for conclusion of penalty proceedings against co-noticee in situations wherein the case against main noticee has been concluded.
- For filing appeal against order of seizure of goods u/s 129(3) before Appellate Authority, it has been proposed that Appellant has to pay 25% of penalty amount.
- Commissioner has been proposed to be empowered to call for information from any person relating to any matter dealt with in connection to the CGST Act under Section 151 of CGST Act.
- Section 152 of the CGST Act has proposed to be amended so that information obtained u/s 150 or 151 of CGST Act shall not be used for purpose of proceedings under the CGST Act without giving an opportunity of hearing to the concerned person.
- It has been proposed to levy Agriculture Infrastructure and Development Cess on the imported goods and excisable goods in addition to the duties of customs and duties of excise leviable under Customs Act and Excise Act respectively.



## CUSTOMS ACT

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### **Commissioner(Appeals) empowered to certify inventory of seized gold**

- Section 110(1D) of the Customs Act is proposed to be inserted so as to empower the Commissioner (Appeals) to certify the correctness of inventory of gold seized in any form before the disposal of the said gold in a manner as may be determined by the Central Government.

### **Conditional Exemptions to be valid for a period of two years only**

- Section 25 (4A) of the Customs Act is proposed to be inserted which states that where any conditional exemption is granted u/s 25(1) of the Customs Act, such exemption shall, unless otherwise specified or varied or rescinded, be valid upto 31st day of March falling immediately after 2 years from the date of such grant or variation.
- For the conditional exemptions in force as on the date on which Finance Bill, 2021 receives the assent of the President, the said period of two years shall be counted w.e.f 01.02.2021

### **Time limit for completion of Inquiry or Investigation**

- A new section 28BB of the Customs Act is proposed to be introduced prescribing a 2 year time limit (extendable upto further 1 year by Commissioner in writing) from the date of initiation of audit, search, seizure or summons, as the case may be for completion of any proceedings under this act which would culminate in issuance of a notice u/s 28(1) and 28(4) of the Customs Act.
- The 2 year time limit period should not include any stay which was granted by an order of a court or tribunal, or the period for seeking information from an overseas authority through a legal process.
- Not applicable to pending enquiry/investigations.



## Time Limit for filing bill of entry

- Bill of entry u/s 46 (1) to be presented before the end of the day (including holidays) **preceding** the day of arrival of goods
- The Board empowered to extend this time period but the same cannot be filed later than the end of the day of such arrival.

## Confiscation of goods attempted to be exported under a wrong claim of refund of tax

- In Section 113 of the Customs Act, a new clause (ja) is proposed to be inserted to provide for the confiscation of any goods entered for exportation under claim of remission or refund of any duty or tax or levy, so as to make a wrongful claim in contravention of the provisions of the Customs Act or any other law for the time being in force.

## Penalty for fraudulent utilisation of input tax credit for claiming refund for exports

- A new section 114AC of the Customs Act is proposed to be introduced to prescribe penalty not exceeding **5 times** the amount of refund claim in specific case where any person has obtained any invoice by fraud, collusion, willful misstatement or suppression of facts to utilize Input Tax Credit as defined in Section 2(63) of CGST Act, on the basis of such invoice for discharging any duty or tax on goods that are entered for exportation under claim of refund of any duty or tax.

## New Common Customs Electronic Portal

- New Common Customs Electronic Portal to be notified by the Board
- Amendment of bill of entry and shipping bill possible online at the said portal subject to conditions prescribed.
- Section 153(ca) is proposed to be inserted so as to notify making available on online portal as a valid means of service of order, summons, notice, etc.

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# ***HIGHLIGHTS OF IMPORTANT AMENDMENTS RELATING TO MISCELLANEOUS LAW***

## BANKING & FINANCE

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### Streamlined Access of Deposit Insurance Cover to Depositors

- Deposit Insurance and Credit Guarantee Corporation Act, 1961 (“**DICGC Act**”) provides for a deposit insurance cover of Rs. 5,00,000/-. This limit was raised from Rs. 1,00,000/- to Rs. 5,00,000/- by the government pursuant to the announcement in Union Budget 2020.
- This year, the Hon'ble Finance Minister has proposed to streamline the provisions of the DICGC Act to ensure that if a bank is temporarily unable to fulfil its obligations, the depositors of such a bank get easy and time-bound access to their deposits to the extent of the deposit insurance cover. Currently, the deposit insurance is payable only in case of winding up or liquidation of an insured bank.
- The move to cover temporary inability to fulfil deposit obligations will help depositors of banks that are currently under stress.

### SARFAESI for Smaller Loans of NBFCs

- The Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (“**SARFAESI Act**”) enables banks and financial institutions to recover secured debts without the intervention of courts.
- Only the non-banking financial company (“**NBFCs**”) notified by the Central Government as financial institution are covered under the SARFAESI Act.
- Last year, *vide* notification dated February 24, 2020, the government reduced the limit for NBFCs to be eligible for the debt recovery under SARFAESI Act from (i) asset size of 500 Crore to asset size of 100 Crore and (ii) debt size of Rs. 1 Crore to Rs. 50 Lakhs.
- This year, the government has further proposed to reduce the minimum debt amount from Rs. 50 Lakhs to Rs. 20 Lakhs.
- Once a relevant notification in this regard is issued by the Government, NBFCs would be able to initiate proceedings under the SARFAESI Act for smaller loans also.

## National Bank for Financing Infrastructure and Development

- To address the long term debt financing needs of infrastructure, the Government in the budget speech has announced the setting – up of a professionally managed Development Financial Institution (DFI).
- The National Bank for Financing Infrastructure and Development (NaBFID) Bill, 2021 is scheduled to be introduced in the budget session. The key objective of NaBFID is stated to act as a provider, enabler and catalyst for infrastructure financing. A sum of Rs. 20,000 Crores has been announced to capitalise NaBFID.

## Contingency Fund of India

- The Contingency Fund of India Act, 1950 (“**Contingency Act**”) provides for the establishment and maintenance of the Contingency Fund, which is created as an imprest account to meet some urgent or unforeseen expenditure of the Government.
- As per the existing Section 2(2) of the Contingency Act, the sum which shall be paid from and out of the Consolidated Fund of India into the Contingency Fund of India is Rs. 500 Crores.
- Section 2(3) is proposed to be inserted for the enhancement of the Contingency Fund of India so as to increase the corpus of the fund to Rs. 30,000 Crores by transfer of an additional amount of Rs. 29,500 Crores from the Consolidated Fund of India to the Contingency Fund of India.
- The above provision will come into effect from the date on which the Finance Bill, 2021 receives the assent of the President.

## STAMP DUTY

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### No Stamp Duty on Strategic Sale, Disinvestment of Immovable Property by Government Company

- Section 8G is proposed to be inserted in the Indian Stamp Act, 1899 ("**Stamp Act**") to exempt strategic sale, disinvestment, demerger etc. of government companies from levy of stamp duty.
- The said Section provides that no stamp duty shall be charged on any instrument for conveyance or transfer of a business or asset or right in any immovable property from a Government company, its subsidiary, unit or joint venture, by way of strategic sale, disinvestment or demerger or any other scheme of arrangement, to another Government company or to the Central Government or any State Government, after the approval of the Central Government.
- The above provision will come into effect from the date on which the Finance Bill, 2021 receives the assent of the President.

## CAPITAL MARKET

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### Pooled Investment Vehicles

- A definition of 'Pooled Investment Vehicle' is proposed to be inserted in the Securities Contracts (Regulation) Act, 1956 ("**SCRA**") which would include various existing vehicles such as Alternative Investment Fund (AIFs), Mutual Funds, Collective investment scheme or REITs or InvITs.
- In order to eliminate the ambiguity regarding the status of units issued by AIFs etc. as 'securities', the definition of 'securities' under the SCRA is proposed to be amended to include units or other instruments issued by pooled investment vehicles.
- Section 12(1C) is proposed to be inserted in Securities and Exchange Board of India Act, 1992 to provide that no person shall sponsor or cause to be sponsored or carry on or cause to be carried on the activity of an AIF or REITs or InvITs without obtaining a registration from SEBI.
- *w.e.f. 01.04.2021*

## Borrowing by Pooled Investment Vehicles

- The proposed insertion of new Section 30B of the Securities Contracts (Regulation) Act, 1956 (“**SCRA**”) permits a pooled investment vehicle to borrow and issue debt securities on such terms as may be specified by SEBI. Pooled investment vehicle shall also be permitted to provide security interest to lenders.
- The definition of 'securities' under the SCRA is proposed to be amended to include debt securities issued by pooled investment vehicles.
- The definition of term 'borrower' u/s 2(1)(f) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“**SARFAESI Act**”) and term 'debt' Section u/s 2(g) of the Recovery of Debts Due to Banks and Financial Institutions, 1993 is proposed to be amended to include 'a pooled investment vehicle' and debt due therefrom.
- It is proposed that in case of default, the lenders may recover the defaulted amount by initiating proceedings against the trustee acting on behalf of the pooled investment vehicle. However, trustee shall not be personally liable and his assets shall not be utilised towards recovery of such debt.
- *w.e.f. 01.04.2021*

## Unified Securities Markets Code

- The Hon'ble Finance Minister in her speech has proposed to introduce a unified Securities Markets Code. The proposed move would help in cutting down the compliance costs and reducing the friction between rules enacted by capital markets' regulators.
- It is proposed to consolidate the provisions of the following legislations into a rationalized single Securities Markets Code:
  - Securities and Exchange Board of India Act, 1992;
  - Depositories Act, 1996;
  - Securities Contracts (Regulation) Act, 1956; and
  - Government Securities Act, 2007.

## Gold Exchanges

- In Union Budget of F.Y. 2018-19, the Government had announced its intent to establish a system of regulated gold exchanges in the country.
- In the budget speech, it has been proposed that the Securities of Exchange Board of India (“**SEBI**”) will be notified as the regulator for such gold exchanges and the Warehousing Development and Regulatory Authority (WDRA) will be strengthened to set up a commodity market eco system arrangement including vaulting, assaying, logistics etc. in addition to warehousing.
- The proposals are not a part of the Finance Bill and necessary legislative amendments will have to be made for these proposals.



## INSURANCE

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### Increased FDI Limit in Insurance Sector

- The Hon'ble Finance Minister in her budget speech has proposed to amend the Insurance Act, 1938 to increase the FDI limit from the existing 49% to 74% and allow foreign ownership and control with safeguards such as:
  - The majority of directors on the Board of Directors and the Key Management Persons would be Indian residents;
  - At least 50% directors shall be Independent Directors; and
  - A specified percentage of the profits of such insurance companies will be required to be retained as general reserve.
- The proposal is not a part of the Finance Bill, 2021 and appropriate legislative amendments will have to be made for implementation of this proposal.

### Life Insurance Corporation Act, 1956

- For facilitating initial public offering (IPO) of Life Insurance Corporation ("LIC") in the year 2021-22, necessary amendments in the existing LIC Act have been proposed.
- The proposed amendments align LIC Act with the Companies Act, 2013 and the listing requirements as set out under relevant regulations issued by the Securities and Exchange Board of India.
- The proposed amendments will be effective from the date notified by the central government.

## EDUCATION

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### Initiatives on Education as part of NEP

- National Education Policy, 2020 ("NEP") was rolled out by the central government in July, 2020. In furtherance of NEP, following initiatives, *inter-alia*, have been proposed by the Hon'ble Finance Minister in the budget speech:
  - CBSE Board Exam reforms will be introduced in a phased manner w.e.f. Academic Session 2022-23. The reforms will aim at moving exams away from rote-learning and students shall be tested on their conceptual clarity, analytical skills and application of knowledge to real life situations;



- Standards will be developed for all school teachers in the form of National Professional Standards for Teachers (NPST);
- Senior and retired teachers will be used for individual mentoring of school teachers and educators through constant online/ offline support on subjects, themes and pedagogy;
- In order to promote enhanced academic collaboration with foreign higher educational institutions, a regulatory mechanism to permit dual degrees, joint degrees, twinning arrangements and other such mechanisms will be put in place.

## Higher Education Commission

- As per the NEP, 2020, the term 'higher education' is used to refer to the education above school level i.e. above class 12.
- The Hon'ble Finance Minister in her budget speech 2020 had proposed to set up a Higher Education Commission of India (“HECI”), an umbrella body for higher education in India, excluding medical and legal education.
- This year, the Hon'ble Finance Minister in her budget speech proposed to introduce the relevant legislation for setting up of the HECI. It was further proposed that the HECI shall have 4 separate vehicles for standard setting, accreditation, regulation and funding.
- Once the relevant notification in this regard has been issued, the existing bodies like UGC, AICTE, NCTE etc. will get subsumed under the HECI.

## LABOUR LAWS

### Social Security for Gig & Platform Workers

- Under the Code on Social Security, 2020, which is one of the 4 Labour Codes recently enacted by the government, provisions for enabling the government to cover gig workers and platform workers under social security benefits have been provided.
- In the Budget Speech too, the government has reiterated its stand to provide social security benefits to gig workers and platform workers.
- It is also proposed to launch a portal that will collect relevant information on gig, building, and construction-workers among others. This will help formulate health, housing, skill, insurance, credit and food schemes for such workers.

## CORPORATE LAWS

### Decriminalizing of Offences

- The Hon'ble Finance Minister in her speech has proposed to decriminalise the procedural and technical compoundable offences under Limited Liability Partnership Act, 2008. The above proposal is already under public consultation.
- The decriminalization of procedural and technical compoundable offences under the Companies Act, 2013 has already been made effective *vide* the Companies (Amendment) Act, 2020.
- The proposed legislative amendments to be made pursuant to this proposal are not part of the Finance Bill, 2021.

### Widening ambit of Small Companies

- In order to facilitate ease of doing business, the Hon'ble Finance Minister in her speech has proposed to increase the thresholds w.r.t. paid up capital and turnover of Small Companies.
- The above proposed amendment would ease the compliance requirements for more than 2 lakh companies.
- The threshold of:
  - paid up capital is proposed to be increased from the existing Rs. 50 Lakh to Rs. 2 Crore; and
  - the turnover is proposed to be increased from the existing Rs. 2 Crore to Rs. 20 Crore.
- The proposed legislative amendments to be made pursuant to this proposal are not part of the Finance Bill, 2021.

### Incentivizing One Person Companies (OPCs)

- The government has proposed to incentivize the incorporation of One Person Company (OPC) by following measures:
  - No restriction on paid up capital and turnover on OPCs;
  - Allowing the conversion of OPCs into any other type of company any time;
  - Reduction in the residency limit for an Indian citizen to set up an OPC from 182 days to 120 days.
  - NRIs to be allowed to incorporate an OPC in India.
- The proposed legislative amendments to be made pursuant to this proposal are not part of the Finance Bill, 2021.

# MAJOR RELIEFS IN RESPONSE TO COVID-19



## **Taxation Reliefs:**

- ⊕ TDS for various non-salaried payments reduced by 25%.
- ⊕ TCS for various specified receipts also reduced by 25%.
- ⊕ Due date of all income-tax returns for FY 2019-20 extended.
- ⊕ Due date for furnishing of various audit reports including tax audit reports and report in respect of international/specified domestic transaction extended.

## **Relief for NBFCs:**

- ⊕ ₹30,000 crores liquidity infusion for NBFCs/HFCs/MFIs.
- ⊕ ₹45,000 crores partial credit guarantee scheme for NBFCs.



## **Relief for MSME Sector:**

- ⊕ ₹3,00,000 crores collateral-free automatic loans for businesses, including MSMEs.
- ⊕ Subordinate debt ₹20,000 crore for stressed MSMEs.
- ⊕ Global tenders of government procurement of less than ₹200 crore limited to local MSMEs.

## **Relief for Real Estate Sector:**

- ⊕ Partial release of guarantees to contractors.
- ⊕ Registration and completion timelines extended for all registered real estate projects.
- ⊕ Concurrent extension of various statutory compliances under RERA.



## **Relief under Insolvency & Bankruptcy Law**

- ⊕ Threshold of default under section 4 of the IBC increased from Rs 100,000 to Rs 10 million.
- ⊕ Fresh admission of Insolvency cases for default arising after 25 March, suspended.
- ⊕ Loans for COVID-19 excluded from definition of default.

