An Analysis of
Union Budget
2020-21

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HIGHLIGHTS OF IMPORTANT AMENDMENTS RELATING TO INCOME TAX

RATES OF TAXES

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

Rate of Tax	A.Y. 2020-21	A.Y. 2021-22
Nil	Up to Rs. 2,50,000	Up to Rs. 2,50,000
5%	From Rs. 2,50,001 to Rs. 5,00,000	From Rs. 2,50,001 to Rs. 5,00,000
20%	From Rs. 5,00,001 to Rs. 10,00,000	From Rs. 5,00,001 to Rs. 10,00,000
30%	Exceeding Rs. 10,00,000	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	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 Rs. 2 crore	When total income exceeds Rs. 1 crore but not exceeds Rs. 2 crore.
Surcharge @ 25% (subject to marginal relief)	When total income exceeds Rs. 2 crore but not exceeds 5 crore.	When total income exceeds Rs. 2 crore but not exceeds 5 crore.
Surcharge @ 37% (subject to marginal relief)	When total income exceeds Rs. 5 crore.	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	A.Y. 2020-21	A.Y. 2021-22
Nil	Up to Rs. 3,00,000	Up to Rs. 3,00,000
5%	From Rs. 3,00,001 to Rs. 5,00,000	From Rs. 3,00,001 to Rs. 5,00,000
20%	From Rs. 5,00,001 to Rs. 10,00,000	From Rs. 5,00,001 to Rs. 10,00,000
30%	Exceeding Rs. 10,00,000	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	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 Rs. 2 crore	When total income exceeds Rs. 1 crore but not exceeds 2 crore.
Surcharge @ 25% (subject to marginal relief)	When total income exceeds Rs. 2 crore but not exceeds 5 crore.	When total income exceeds Rs. 2 crore but not exceeds 5 crore.
Surcharge @ 37% (subject to marginal relief)	When total income exceeds Rs. 5 crore	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)#

Rate of Tax	A.Y. 2020-21	A.Y. 2021-22
Nil	Up to Rs. 5,00,000	Up to Rs. 5,00,000
20%	From Rs. 5,00,001 to Rs. 10,00,000	From Rs. 5,00,001 to Rs. 10,00,000
30%	Exceeding Rs. 10,00,000	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	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 Rs. 2 crore	When total income exceeds Rs. 1 crore but not exceeds 2 crore.
Surcharge @ 25% (subject to marginal relief)	When total income exceeds Rs. 2 crore but not exceeds 5 crore.	When total income exceeds Rs. 2 crore but not exceeds 5 crore.
Surcharge @ 37% (subject to marginal relief)	When total income exceeds Rs. 5 crore	When total income exceeds Rs. 5 crore

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	A.Y. 2020-21	A.Y. 2021-22
10%	Up to Rs. 10,000	Up to Rs. 10,000
20%	From Rs. 10,001 to Rs. 20,000	From Rs. 10,001 to Rs. 20,000
30%	Exceeding Rs. 20,000	Exceeding Rs. 20,000
Surcharge @ 12% (subject to marginal relief)	When total income exceeds Rs. 1 crore	When total income exceeds Rs. 1 crore

For Firm and Local Authority

Rate of Tax	A.Y. 2020-21	A.Y. 2021-22
30%	Whole of the total income	Whole of the total income
Surcharge @ 12% (subject to marginal relief)	When total income exceeds Rs. 1 crore	When total income exceeds Rs. 1 crore

For Domestic Company

Rate of Tax	A.Y. 2020-21	A.Y. 2021-22
25 % of total income	Total Turnover/Gross Receipt in P.Y. 2017-18 was upto Rs. 400 Crore	Total Turnover/ Gross Receipt in P.Y. 2018-19 was upto Rs. 400 Crore
30 % of total income	Total Turnover/Gross Receipt in P.Y. 2017-18 exceeds Rs. 400 Crore	Total Turnover/Gross Receipt in P.Y. 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	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	When total income exceeds Rs. 10 crore

For certain Domestic Company (Rates Under Special Regime)

Rate of Tax	A.Y. 2020-21	A.Y. 2021-22
22 % of total income	Option U/s 115 BAA exercised	Option U/s 115 BAA exercised
15 % of total income	Option U/s 115 BAB exercised	Option U/s 115 BAB exercised
Surcharge @ 10 % (subject to marginal relief)	On the total tax liability u/s 115BAA or 115BAB	On the total tax liability u/s 115BAA or 115BAB

For Company other than Domestic Company

Rate of Tax	A.Y. 2020-21	A.Y. 2021-22
50 %	Specific Royalty/FTS	Specific Royalty/FTS
40 %	Balance Total Income	Balance Total Income
Surcharge @ 2 % (subject to marginal relief)	When total income exceeds Rs. 1 crore but does not exceeds Rs. 10 Crore	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	When total income exceeds Rs. 10 crore

Cess on Income Tax

Particulars	Existing	Proposed
Health and Education Cess	4% of income tax including surcharge	No Change

NEW OPTIONAL TAX REGIME

For Individuals and HUF

- It has been proposed to insert new section 115BAC in IT Act, so as to provide an option of reduced tax rates to those Individuals and HUF as per new proposed computation mechanism.
- Slab rates under proposed new tax regime are as follows:

Rate of Tax	A.Y. 2021-22
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 as per individual rates would be applicable

- For opting the rate of tax under proposed regime the total income shall be computed :
  - Without claiming the exemption, deduction and incentives available under specified section of the IT Act, namely Section 10AA, 32AD, 33ABA, 35(1)(ii), 35(1)(iia), 35(1)(iii) , Section 35(2AA),35AD,35CCC and Chapter VI A other than Section 80CCD, 80JJAA and 80LA.
  - Without claiming any allowances or perquisite, like leave travel concession u/s 10(5), House rent allowance U/s 10(13A), Allowances to MPs/MLAs u/s 10(17), allowances for income of minor U/s 10(32) etc.
  - Without claiming any standard deductions u/s 16 and deductions from house property income u/s 24.
  - Without setting off Carry forward loss and depreciation from earlier assessment years.
  - Without setting off Loss under the head Income from House Property.
  - Without the benefit of accelerated depreciation u/s 32(1)(iia). However, normal depreciation can be claimed u/s 32.
- Nevertheless, Individual or HUF has unit in International Financial Service Centre (IFSC), deduction u/s 80LA shall be available.
- To claim benefit of proposed tax rates, option is required to be exercised:
  - On or before the due date of return of income u/s 139(1) in case of Individual or HUF having business income.
  - In other case, along with return of income.
- Option once exercised can be withdrawn only once, where individual or HUF is having business income.
- In case of assessee ceases to have business income, option can be exercised again where individual or HUF is not having any business income
- **w.e.f. 01.04.2020 (AY 2021-22 onwards)**

For Co-operative Society

- New section 115BAD is proposed to be inserted to provide special rate of 22% in case of resident Co-operative societies
- For opting the rate of tax under proposed regime, the total income shall be computed:
  - Without claiming the exemption, deduction and incentives available under specified section of the IT Act, namely Section 10AA, 32AD, 33ABA, 35(1)(ii), 35(1)(iia), 35(1)(iii) , Section 35(2AA),35AD,35CCC and Chapter VIA other than Section 80LA
  - Without setting off Carry forward loss and depreciation from earlier assessment years.
  - Without the benefit of accelerated depreciation u/s 32(1)(iia), however, normal depreciation can be claimed u/s 32.

- To claim benefit of proposed tax rates, option is required to be exercised on or before the due date of filing of return of income
- Nevertheless, if resident co-operative society has unit in International Financial Service Centre (IFSC), deduction u/s 80LA shall be available
- Once assessee opts to exercise the benefit of reduced tax rate under this section, it can't be withdrawn in the subsequent years
- No AMT liability will be imposed on the resident co-operative societies which have opted under proposed section.
- Surcharge at the rate of 10% shall be applicable
- **w.e.f. 01.04.2020 (AY 2021-22 onwards)**

Exempt Allowances to member and Chairman of UPSC

- As per the existing provisions of section 10(45) of IT Act, certain notified paid to the serving or retired Chairman or any other member or retired member of the Union Public Service Commission ("UPSC") are exempt from tax.
- Vide Notification No. 49/2011 following allowances and perquisite in case of serving chairman and members of UPSC are exempt
  - Value of rent free-official residence,
  - Value of conveyance facilities including transport allowance
  - Sumptuary allowance
  - Value of leave travel concession
- Further, presently in case of retired Chairman and members, notified allowance and perquisite such as allowance for meeting expenditure on secretarial assistance and telephonic facility per month are exempt.
- It is now proposed to omit section 10(45) of the IT Act thereby no such exemption would be available.
- **w.e.f. 01.04.2021 (AY 2021-22 onwards)**

New Regime for Taxation of Dividends

- **Abolition of Dividend Distribution Tax ("DDT") on dividends from 01.04.2020**
  - o The existing provisions of Section 115-O provide that, in addition to the income-tax chargeable in respect of the total income of a domestic company, any amount declared, distributed or paid by way of dividends shall be charged to additional income-tax (DDT) at the rate of 15%. The said DDT so paid by the company is treated as the final payment of tax in respect of the dividend declared, distributed or paid. Such dividend referred to in Section 115-O is exempt in the hands of shareholders u/s 10(34). However, certain entities are provided exemption from Section 115-O, subject to certain conditions. Similarly, u/s 115R, specified companies and Mutual Funds are liable to pay additional income-tax at the specified rate on any amount of income distributed by them to its unit holders. Such income is then exempt in the hands of unit holders u/s 10(35).
  - o The existing provisions are considered iniquitous and regressive as though dividend is an income in the hands of the shareholders but the incidence of tax is on the on the payer company/Mutual Fund and not on the recipient, where it should normally be. Moreover, the present provisions levy tax at a flat rate on the distributed profits, across the board irrespective of the marginal rate at which the recipient is otherwise taxed.
  - o In view of the above, amendments are proposed vide the Finance Bill, 2020 in various provisions of the IT Act so that dividend or income from units are taxable in the hands of shareholders or unit holders at the applicable rate and the domestic company or specified company or mutual funds are not required to pay any DDT. The said proposed amendments are discussed in the subsequent paragraphs.
  - o As per Section 115-O, any dividend declared, distributed or paid by any company on or after 01.04.2003 is chargeable to DDT @15% in the hands of the company. In relation to this, it is proposed to amend the said section to provide that only the dividends declared, distributed or paid on or after 01.04.2003 but on or before 31.03.2020 shall be chargeable to DDT.
  - **o w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**
  - o Section 115BBDA provides for tax on certain dividends received from domestic companies exceeding Rs. 10,00,000/-. In relation to this, it is proposed to restrict the taxability under the said section to the dividend distributed, declared or paid by the companies on or before 31.03.2020.
  - **o w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**
  - o Clause (b)(iii) of Explanation to Section 115BBDA provides "specified assessee" for the purposes of said section, to mean a person other than a trust or institution registered u/s 12A or section 12AA. It is proposed to make a reference to section 12AB in the said clause to provide that "specified assessee" for the purposes of said section, shall mean a person other than a trust or institution registered u/s 12AB as well.
  - **o w.e.f. 01.06.2020**
  - o As per Section 115R(2), any income distributed by a specified company or a mutual fund to any unit holder is chargeable to additional tax at the specified rates. It is proposed to amend the said section to provide that the said additional income-tax will be chargeable only in case where income is distributed on or before 31.03.2020.
  - **o w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

- **Proposed amendments for removing reference of dividend income referred u/s 115-O**
  - o Consequential amendments have been proposed in the below-mentioned sections for removing reference of Section 115-O:
    - — Section 57(i) provides for deduction of commission or remuneration paid to banker for realizing dividend.
    - — Section 115A(1)(a) provides that income of a non-resident from dividends will be taxable @ 20%.
    - — Section 115AC deals with the taxability of certain incomes of a non- resident.
    - — Section 115ACA deals with the taxability of certain incomes of a resident.
    - — Section 115AD, interalia, provides for taxation of dividend excluding dividends referred to in section 115-O.
    - — Section 115C(c) defines the meaning of expression "investment income" to exclude any income from dividends other than referred u/s 115-O.
  - **o w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

- **Consequential Amendments in Section 10**
  - o Provisions of Section 10(23D) provides for exemption of income derived by mutual funds subject to the provisions of Chapter XII-E. It is proposed to omit the reference of the said chapter as Mutual Funds shall be no longer required to pay additional tax.
  - **o w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

  - o Provisions of Section 10(34) provide for exemption of dividend income as referred u/s 115-O. It is proposed to amend the said section by nullifying the effect of the said section for dividends received on or after 01.04.2020.
  - **o w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

  - o Provisions of Section 10(35) provide for exemption of income received in respect of units of mutual fund, administrator of specified undertaking and specified company. It is proposed to amend the said section by nullifying the effect of the said section for income, in respect of units, received on or after 01.04.2020.
  - **o w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

  - o Provisions of Section 10(23FC) provide for exemption of income derived by business trusts wherein clause (b) of the said section provides for exemption of dividend referred u/s 115-O(7). It is proposed to substitute the said clause to provide that all dividend received or receivable from a special purpose vehicle will be exempt under the said clause instead of dividend referred u/s 115-O(7).
  - **o w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

  - o Provisions of Section 10(23FD) provide for exemption of income distributed by business trust to a unit holder except the interest and rental income as provided u/s 10(23FC)(a) or 10(23FCA). It is proposed to exclude all the income as referred under section 10(23FC) and 10(23FCA) for the purpose

of this section so that dividend income is taxable in the hands of unit holder of business trust.

- **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

- **Consequential Amendment in Section 115UA**
  - Section 115UA(3) provides that if in any previous year, the distributed income, received by a unit holder from the business trust is of the nature as referred to in Section 10(23FC)(a) or Section 10(23FCA), then such distributed income shall be deemed to be the income of such unit holder and shall be charged to tax as income of the previous year.
  - It is proposed to omit the reference of sub-clause (a) of clause (23FC) of Section 10 from the said sub-section so as to provide that the distributed income of the nature as referred to in Section 10(23FC) or Section 10(23FCA) shall be deemed to be income of unit holder and shall be charged to tax as income of the previous year.
  - **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

- **Deduction from dividends income received by shareholders**
  - It is further proposed to insert Section 80M to provide that where any domestic company earns any income from dividend from any other domestic company, in that case, while calculating the total income of the domestic company, it shall be allowed a deduction of said dividend to the extent the said domestic company has distributed dividend on or before the due date to its shareholders. Further clause (ii) of said section provides that where deduction in respect of any dividend is provided in any previous year it shall not be allowed in any other previous year. It is further proposed to insert Explanation to the said section defining the meaning of expression "due date" so as to mean the date one month prior to the date for furnishing the return of income u/s 139(1).
  - **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

  - Section 57 provides for deduction from income chargeable under head "income from other sources". In relation to this, it is proposed to insert a proviso to the said section to provide that no deduction shall be allowed from dividend income or income in respect of units of a Mutual Fund specified u/s 10(23D) or income in respect of units from a specified company u/s 10(35) other than interest expense not exceeding 20% of said dividend income or income from such units included in the total income for that year, without deduction under this section.
  - **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

- **Provisions in respect of deduction of taxes at source from the dividends paid to the shareholders**

- Section 194 of the Act provides for deduction of tax at source for the dividend paid by the company to its shareholders. It is proposed to amend the said section by providing that the dividend paid by any mode will be liable to deduction of tax at source @10%. Further, the first proviso to the said section provides for no deduction of tax at source where the dividend is paid by an account payee cheque or where the dividend amount does not exceed Rs. 2,500/-. It is proposed to amend the said section by eliminating the need of deduction of tax in any case where the payment is made by any mode other than cash and

also the threshold of Rs. 2,500/- is proposed to be increased to Rs. 5,000/-. Further, the third proviso which makes a reference to dividends u/s 115-O is proposed to be omitted.

- **w.e.f. 01.04.2020**

- Section 194LBA has been proposed to be amended to remove the reference of Section 10(23FC)(a) from the section which deals with the exemption of interest received or receivable from special purpose vehicle. Thus, liability to deduct tax shall be applicable on distribution of income referred to in Section 115UA, being of the nature referred to in clause (23FC) or clause (23FCA) of section 10, to a resident and to a non-resident (not being a company) or a foreign company. It is proposed to amend the said section to provide that for the income referred u/s 10(32FC)(a) tax is to be deducted @ 5% for the income referred u/s 10(32FC)(b) tax is to be deducted @ 10%.

- **w.e.f. 01.04.2020**

- It is proposed to insert a new section 194K to provide that any income received by a resident from units of mutual fund referred u/s 10(23D), units from administrator of specified undertaking or units from specified company shall be liable to deduction of tax at source @ 10%. It is also proposed to interest proviso to the said section to provide that no tax will be required to be deducted where aggregate of such income does not exceed Rs. 5,000/-. Also, Explanation is proposed to be inserted in the said section to define the meaning of the expressions “administrator”, “specified company” and “specified undertaking”. Further, another Explanation is proposed to be inserted to provide that if sum is credited to any account in any name, such crediting shall be deemed to be the credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

- **w.e.f. 01.04.2020**

- Section 195 of the IT Act deals with the deduction of tax at source form the sums paid to non-resident or a foreign company, wherein proviso to the said section provides an exemption for dividends referred u/s 115-O. It is proposed to amend the said section to delete exemption provided to dividend referred in Section 115-O.

- **w.e.f. 01.04.2020**

- Section 196A deals with the deduction of tax at source @ 20% in respect of any income to a non-resident, not being a company, or a foreign company in respect of units of a mutual fund or of the Unit Trust of India. It is proposed to amend the said sub-section (1) of the said section to substitute the expression “Unit Trust of India” referred therein with “specified company referred to in the Explanation to clause (35) of section 10; and to enable credit of income or payment thereof by any mode. It is further proposed to omit the proviso to the said sub-section which provides that no deduction shall be made under this section from any such income credited or paid on or after 01.04.2003.

- **w.e.f. 01.04.2020**

- Section 196C deals with the deduction of tax at source @10% where any interest, dividend or long-term capital gain in respect of bonds or global depository receipts has been paid or payable in cash or other modes specified to a non-resident. In relation to this, it is proposed to amend the said

section to provide that payment made by any mode shall be subject to deduction of tax at source under the said section. Further, proviso to said section which provides for an exception for dividend referred u/s 115-O has been proposed to be omitted.

- **w.e.f. 01.04.2020**

- Section 196D deals with deduction of tax at source @20% in respect of income from securities as referred to in u/s 115AD(1) paid or payable in cash or other modes specified to foreign institutional investor. In relation to this, it is proposed to amend the said section to provide that payment made by any mode shall be subject to deduction of tax at source under the said section. Further, proviso to said section which provides for an exception for dividend referred u/s 115-O has been proposed to be omitted.

- **w.e.f. 01.04.2020**

Enlarging scope of Section 194A

- Section 194A of the Act governs TDS on interest other than interest on securities.
- Section 194A(1) requires any person other than an individual or HUF to deduct tax on interest payable to a resident. Proviso to the section draws an exception that all indviduals and HUF whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under section 44AB shall deduct tax under this section.
- Now, following monetary limits have been proposed for applicability of provision u/s 194A on Individuals and HUFs instead of linking with limits mentioned under section 44AB:
  - Individuals and HUF, whose total sales, gross receipts or turnover from the business or profession carried on by him exceeds
    - Rs. 1,00,00,000/- in case of business or
    - Rs. 50,00,000/- in case of profession

  shall be liable to deduct TDS u/s 194A.
- Section 194A(3) provides for circumstances in which the provision of section 194A(1) shall not apply. Clause (v) and (via) of section 194A(3) provides for non deduction of tax in case of interest credited or paid by co-operative societies.
- Now co-operative societies referred to in clause (v) and (viia) to deduct tax if both the following conditions are fulfilled:
  - If the gross receipts or turnover of such co-operative society exceeds Rs. 50,00,00,000/- during the FY immediately preceding the FY in which the interest referred is credited or to be paid.
  - if amount of interest or aggregate of interest, credited or paid , or is likely to be paid or credited , during the FY is
    - More than Rs. 50,000/- in case payee is a senior citizen
    - More than Rs. 40,000/- in any other case .
- for the purpose of this sub-section, “senior citizen” shall mean an individual resident of age 60 years or more during the relevant previous year.
- **w.e.f. 01.04.2020**

TDS on E-Commerce Transactions (194-O)

- A new section for TDS on E-Commerce transactions has been proposed to be introduced wherein E-commerce operator shall, at the time of credit of amount of sale or services or both to the account of an e-commerce participant or at the time of payment thereof to such e-commerce participant by any mode, whichever is earlier, deduct TDS @ 1% of the gross amount of such sales or services or both.
- An explanation has been mentioned which states that for the purposes of this section, any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for the sale of goods or provision of services or both, facilitated by an e-commerce operator, shall be deemed to be the amount credited or paid by the e-commerce operator.
- No TDS deduction shall be made by e-commerce operator where the e-commerce participant is an individual or Hindu undivided family, where the gross amount of sale or services or both during the previous year, through e-commerce operator, does not exceed Rs. 5,00,000 and such e-commerce participant has furnished his PAN or Aadhaar number to the e-commerce operator.
- Provisions of this sub-section shall not apply to any amount or aggregate of amounts received or receivable by an e-commerce operator for hosting advertisements or providing any other services which are not in connection with the sale or services referred to in proposed section 194-O(1).
- For the purposes of this section, following terms have been defined via an explanation—
  (a) "electronic commerce" means the supply of goods or services or both, including digital products, over digital or electronic network;
  (b) "e-commerce operator" means a person who owns, operates or manages digital or electronic facility or platform for electronic commerce and is responsible for paying to e-commerce participant;
  (c) "e-commerce participant" means a person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce;
  (d) "services" includes 'fees for technical services' and fees for 'professional services', as defined in the Explanation to section 194J.
- **w.e.f. 01.04.2020**

Widening scope of Section 206C (TCS)

- Section 206C of the Act provides for the collection of tax at source (TCS) on business of trading in alcohol, liquor, forest produce, scrap etc. The scope of the section has been widened by insertion of two new clauses (1G and 1H) as under :-

TCS on on foreign remittance through LRS (206C (1G)(a))

- An authorised dealer receiving an amount or an aggregate of amounts Rs. 7,00,000 or more in a FY for remittance out of India under the Liberalised Remittance Scheme (LRS) of RBI, shall be liable to collection of tax at source (TCS), if he receives sum in excess of said amount from a buyer being a person remitting such amount out of India, @5%. (In non PAN/Aadhaar cases the rate shall be @10%).
- "Authorised Dealer" is proposed to be defined to mean a person authorised by the RBI under sub-section (1) of section 10 of FEMA Act to deal in foreign exchange or foreign security.

TCS on on selling of overseas tour package (206C (1G)(b))

- A seller of an overseas tour program package who receives any amount from any buyer, being a person who purchases such package, shall be liable to collect TCS @5%. (In non PAN/Aadhaar cases the rate shall be @10%).
- "Overseas tour program package" is proposed to be defined to mean any tour package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expense of similar nature or in relation thereto.
- The above proposed amendments under 206C (1G) shall not apply, if the buyer is,—
  (i) liable to deduct tax at source under any other provision of this Act and has deducted such amount;
  (ii) the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority as defined in the Explanation to clause (20) of section 10 or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein.

TCS on sale of goods above specified limit by business whose turnover exceeds Rs. 10 Crore (206C (1H))

- A seller of goods is liable to collect TCS @ 0.1 per cent. on consideration received from a buyer in a previous year in excess of Rs. 50,00,000/-. (In non-PAN/ Aadhaar cases the rate shall be 1%).
- Only those seller whose total sales, gross receipts or turnover from the business carried on by it exceed Rs. 10,00,00,000/- during the FY immediately preceding the FY, shall be liable to collect such TCS.
- Central Government may notify person, subject to conditions contained in such notification, who shall not be liable to collect such TCS.
- No TCS is to be collected from the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate, the trade representation of a foreign State, a local authority as defined in Explanation to section 10(20) or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to conditions as prescribed in such notification.
- No such TCS is to be collected, if the buyer is liable to deduct TDS under any provision of the IT Act and has deducted such amount.

Other Amendments

- Section 206C(2) relates to power to recover tax and section 206C(3) relates to responsibility of depositing the amount of tax collected with the central government. Earlier the said sub-sections covered only transactions or persons under 206C(1) and 206C(1C) only. Now, the said sub-sections shall be applicable on the entire section 206C.
- Proviso to Section 206C(6A) contains provisions wherein an assessee who fails to collect the whole or any part of the tax shall not be treated as 'Assessee in Default' subject to fulfilment of certain conditions. The said proviso was earlier applicable to entire Section 206C. Now, the said proviso shall be applicable only on transactions or persons under 206C(1) and 206C(1C) only. The above proposed two new sub

sections 1G and 1H shall not be covered under the proposed amended proviso.

- For applicability of the provisions of Section 206C on Individuals and HUF, following monetary limits have been proposed instead of linking with limits mentioned under section 44AB in clause c) of Explanation to the section :
  - Individuals and HUF, whose total sales, gross receipts or turnover from the business or profession carried on by him exceeds
    - Rs. 1,00,00,000/- in case of business or
    - Rs. 50,00,000/- in case of profession
- **w.e.f. 01.04.2020**

Rationalising tax treatment of Employer's contribution to various funds

- Under the existing provisions of the Act, the employer's contribution to following funds are taxed as under:
  - Contribution to a recognized provident fund exceeding 12% of salary is taxable.
  - Contribution to an approved superannuation fund by the employer exceeding Rs. 1,50,000/- is treated as perquisite in the hands of the employee.
  - Contribution to National Pension Scheme (NPS) exceeding 14% of salary for Central Government employee and exceeding 10% of salary for any other employee is taxable.
- As there is no combined upper limit in absolute terms for these contributions, employees with higher income receive an undue benefit.
- Therefore, it is proposed to provide a combined upper limit of Rs. 7,50,000/- in respect of employer's contribution in a year to NPS, superannuation fund and recognised provident fund.
- Any contribution in excess of this combined limit is proposed to be taxable as perquisite u/s 17(2)(vii).
- It is also proposed that since, Exempt-Exempt-Exempt (EEE) regime is followed for these three funds , hence any annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance at the credit of the fund or scheme out of the above excess funds may also be treated as perquisite u/s 17(2)(viia) to the extent it relates to the employer's contribution which is included in total income u/s 17(2)(vii).
- **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

Widening the scope of Commodity Transaction tax (CTT)

- Presently, as per SCRA regulations, derivative trading in commodities is limited only to commodity 'futures' and 'option on commodity futures'. The underlying asset in the 'option on commodity futures' is a 'commodity future'. This means that upon expiry, if the 'option' is exercised, the option-holder gets a right to buy or sell a 'commodity future' and not the right to buy or sell the goods directly.
- However, vide notification dated 18th October, 2019, 'option in goods' has also been included in the

definition of 'derivatives' in clause (ac) of section 2 of the SCRA. This has paved the way for new derivative product 'options in goods' with goods notified on 27.09.2016 directly as the underlying asset.

- Hence, necessary changes were required under the Finance Act 2013 (FA 2013) to align the provisions of CTT with the changes in commodity derivative market.
- Consequently, it is proposed to charge CTT on the new commodity derivative products at following rates by amendment of Section 117 of FA 2013: –
  - o Sale of a commodity derivative based on prices or indices of prices of commodity derivatives @ 0.01 % payable by the seller, which is the same rate at which CTT is currently charged on a transaction of sale of a commodity derivative;
  - o Sale of an option in goods, where option is exercised resulting in actual delivery of goods @ 0.0001 % payable by purchaser;
  - o Sale of an option in goods, where option is exercised resulting in a settlement otherwise than by the actual delivery of goods @ 0.125 % payable by purchaser, which is also the rate at which securities transaction tax is levied on a transaction of sale of an option in securities, where the option is exercised
- Further, the following changes are also proposed in the FA 2013 to align the relevant definitions–
  - (a) The definition of taxable commodities transaction in clause (7) of section 116 is proposed to be amended to –
    - (i) include the transactions of "sale of option in goods" and "sale of commodity derivatives based on prices or indices of prices of commodity derivatives" and
    - (ii) substitute "recognised stock exchange" in place of "recognised association"
  - (b) The reference to FCRA in clause (8) of section 116 is proposed to be changed to SCRA.
- **w.e.f. 01.04.2020**

E- Best Judgment Assessment Scheme.

- Section 143 of the IT Act provides that where an ITR u/s 139 or ITR in response to the notice u/s 142(1) is filed, it shall be processed and assessed as per the manner provided therein.
- The existing Section 143(3A), empowers the Central Government to make a scheme for the purposes of making assessment of total income or loss of the assessee u/s 143(3) of the IT Act, so as to impart greater efficiency, transparency and accountability by adopting certain measures specified therein.
- Pursuant thereto, E-Assessment Scheme, 2019 was notified vide notification no. 61/2019 dated 12.09.2019
- To expand the scope of Section 143(3A) of the IT Act, it is proposed to insert reference of Section 144 assessment i.e. best judgment assessment in Section 143(3A) of the IT Act, along with reference to section 143(3). Thus, best judgment assessment will also be part of e-assessment scheme.
- Earlier, for the purpose of giving effect to e-assessment scheme, the Central Government was empowered to make any direction w.r.t. applicability of any provisions of IT Act relating to assessment of total income or loss till 31/03/2020. Now this time limit has been extended upto 31.03.2022.
- **w.e.f. 01.04.2020**

Efficacious Amendment in Dispute Resolution Panel

- The existing Section 144C of the IT Act provides that if the AO proposes to make any variation in the income or loss returned and the same is prejudicial to the interest of assessee, he shall forward a draft of assessment order to the eligible assessees i.e. foreign companies and any person in whose case transfer pricing adjustments have been made u/s 92CA(3) of the IT Act.
- It is proposed to omit the expression "in the income or loss returned" from Section 144C of the Act which means that it is for any kind of variation which is prejudicial to the interest of assessee, the AO is required to forward a draft of assessment order.
- Also, definition of term 'eligible assessee' is proposed to include any non-resident, along with the existing provision covering only foreign companies.
- **w.e.f. 01.04.2020**

Faceless Appeals Before CIT(Appeals)

- After notifying E-assessment Scheme, 2019 as per Section 143(3A) of the IT Act, the Government for disposal of income tax appeals with greater efficiency, transparency and accountability, has proposed to initiate faceless appeal proceedings before the CIT(Appeals).
- As of now, only filing of appeal before the CIT(Appeals) in Form 35 is electronically. The process, that follows after filing of appeal is neither electronic nor faceless.
- New Section 250(6B) is proposed to be inserted in the IT Act to
  - o empower the Central Government to notify an e-appeal scheme for disposal of appeal
  - o eliminate interface between the CIT(Appeal) and appellant
  - o optimum utilization of resource through economic scale and functional specialisation
  - o introduce new appeal system with dynamic jurisdiction whereby appeal shall be disposed by one or more CIT(Appeals).
- Also, new Section 250(6C) is proposed to be inserted for giving effect to the scheme, the Central Government is empowered to make any direction by notifying that the provisions relating to jurisdiction, and procedure of disposal of appeal shall not apply or shall apply with exception as to be notified in such notification.
- The Central Government can issue such direction upto 31.03.2022.
- Every notification to be issued u/s 250(6B) or 250(6C) is required to laid before each house of parliament.
- **w.e.f. 01.04.2020**

Scheme of E-Penalty

- Along with notifying E-assessment Scheme, 2019 as per Section 143(3A) of the IT Act and proposing faceless adjudication of appeal proceedings before the CIT(Appeals), the Government for imposing penalty with greater efficiency, transparency and accountability, has proposed to impose e-penalty.

- As of now, to answer the show cause notice of penalty issued by AO, assessee or AR, is still required to visit the office of AO personally.
- Therefore, new Section 274(2A) is proposed to be inserted in the IT Act to (i) empower the Central Government to notify an e-scheme for imposing penalty (ii) eliminate interface between the AO and assessee (iii) optimum utilization of resource through economic scale and functional specialisation (iv) including mechanism for imposing penalty with dynamic jurisdiction in which penalty shall be imposed by one or more income tax authorities.
- Also, new Section 274(2B) is proposed to be inserted to provide that for the purpose of giving effect to the scheme, the Central Government is empowered to make any direction by notifying that the provisions relating to jurisdiction, and procedure of imposing of penalty shall not apply or shall apply with exception as to be notified in such notification.
- The Central Government can issue such direction upto 31.03.2022.
- Every notification to be issued is required to laid before each house of parliament.
- **w.e.f. 01.04.2020**

Taxpayer's Charter

- In order to enable the CBDT to adopt and declare a Taxpayer`s Charter and to issue orders, directions, instructions or guidelines to other income tax authorities as it may deem fit for the administration of Charter, new Section 119A is proposed to be inserted in the IT Act.
- **w.e.f. 01.04.2020**

Stay by Income Tax Appellate Tribunal

- Section 254(2A) of the IT Act provides that the ITAT may hear and decide such appeal within a period of 4 years from the end of the financial year in which such appeal is filed.
- Existing first proviso to Section 254(2A), carves out an exception that stay upto 180 days against the order of the CIT(A) shall be granted and appeal shall be disposed off within such days as mentioned in stay order.
- A new condition u/s 254(2A) is proposed to be inserted to provide for deposit of not less than 20% of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act, or furnishing of security of equal amount in respect thereof while granting any stay by ITAT.
- The existing second proviso appended to Section 254(2A) of the IT Act provides that if appeal is not disposed off in 180 days and if application is filed by assessee in this regard to further extend the stay, then, ITAT may further extend the period of stay upto 365 days in aggregate provided the delay in disposal of appeal is not attributable to assessee.
- Now, second proviso appended to Section 254(2A) is proposed to be substituted to provide that no extension of stay shall be granted by ITAT where such appeal is not disposed within the days mentioned in stay order.
- However, if application is filed by assessee, stay can be extended by the ITAT after satisfying that there is

no delay on part of assessee and assessee has deposited not less than 20% of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act, or has furnished security of equal amount in respect thereof.

- Stay granted by ITAT, however, cannot exceed an aggregate period of 365 days.
- **w.e.f. 01.04.2020**

Check on Survey Operations.

- Section 133A of the IT Act provides that an income tax authority is empowered to conduct survey proceedings at any place of business or profession falling under its jurisdiction.
- To prevent the misuse of powers, an amendment vide FA, 2003 was brought under the proviso to Section 133A(6) of the IT Act which provided that any income-tax authority below the rank of Joint Director or Joint Commissioner is not empowered to conduct survey without prior approval of Joint Director or Joint Commissioner.
- Now, proviso to Section 133A(6) is proposed to be substituted by a new proviso to provide that :
  - o In case where information has been received from prescribed authority, no actions u/s 133A(1), shall be taken by the Assistant Director or a Deputy Director or an AO or a TRO or an ITO without obtaining the approval of the Joint Director or Joint Commissioner
  - o In any other case, no action u/s 133A(1), shall be taken by the Assistant Director or a Deputy Director or an AO or a TRO or an ITO without approval of the Director or Commissioner, as the case may be.
- **w.e.f. 01.04.2020**

Modification for test of Residency u/s 6

For visiting Indian citizen or person of Indian origin

- Section 6(1) of the Act provide for situations in which an individual shall be resident in India in a previous year. Clause (c) thereof provides that the individual shall resident in India in any previous year, if he,-
  - (i) has been in India for an overall period of 365 days or more within four years preceding that year, and
  - (ii) is in India for an overall period of 60 days or more in that year.

Clause (b) of Explanation 1 of said sub-section provides that an Indian citizen or a person of Indian origin, who , being outside India, comes on a visit to India in any previous year, shall be resident in India if he is in India for 182 days instead of 60 days in that year.

- This Clause (b) of Explanation 1 provides relaxation to an Indian citizen or a person of Indian origin allowing them to visit India for longer duration (182 days instead of 60 days) without becoming resident of India.

- Instances have been observed by department relating to abuse of provision by individuals, who are actually carrying out substantial economic activities from India, but manage their period of stay in India, so as to remain a non-resident in perpetuity and hence, not required to declare their global income in India.
- In the light of above, it is proposed that to decrease the period of stay in such cases to 120 from existing 182 days.

For Not Ordinarily Resident

- Section 6 (6)(a) provides that if the person is an individual who has been non-resident in 9 out of 10 previous years preceding that year, or has during the 7 previous years preceding that year been in India for an overall period of 729 days or less shall be "not ordinarily resident" (NOR) in a previous year. Section 6 (6)(b)contains similar provision for the HUF.
- This category of persons has been carved out essentially to ensure that a non-resident is not suddenly faced with the compliance requirement of a resident, merely because he spends more than specified number of days in India during a particular year. Due to reduction in number of days, as proposed above, for visiting Indian citizen or person of Indian origin, there would arise a need for relaxation in the conditions.
- In the light of above, it is proposed that the said section be amended to provide that an individual or an HUF shall be said to be NOR in India in a previous year, if the individual or the manager of the HUF has been a non-resident in India in 7 out of 10 previous years preceding that year instead of 9 out of 10 years.

For an Indian citizen not liable to tax in any country

- It is entirely possible for an individual to arrange his affairs in such a fashion that he is not liable to tax in any country or jurisdiction during a year. To address the concern of a stateless person in global tax scenario, it has been proposed to deem such an Individual, being a citizen of India, as resident in India for the purpose of IT Act by insertion of a new clause 1A under Section 6 as under:-

  "(1A) Notwithstanding anything contained in clause (1), an individual, being a citizen of India, shall be deemed to be resident in India in any previous year, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature."
- **w.e.f. 01.04.2020**

Amendment of definition of 'Work' u/s 194C

- Section 194C of the Act provides for the deduction of tax on payments made to contractors.
- The current definition of the term "work" excludes manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer.
- The IT department has observed that certain persons are taking benefit of a loophole in the definition of the term "work"by getting the contract manufacturer to procure the raw material supplied through its related parties and thus avoiding paying taxes.

- Hence, it has now been propoed to substitute sub-clause (e) of the definition of work under clause (iv) of Explanation to 194C as follows:-

  (iv) "work" shall include—

  (a) ……

  (b) …..

  (e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate, being a person placed similarly in relation to such customer as is the person placed in relation to the assessee under the provisions contained in clause (b) of sub-section (2) of section 40A

- Further, the definition of the term “specified person” has been amended to replace the criteria of audit u/s 44AB for an individual, HUF, AOP and BOI with the criteria of total sales, gross receipts or turnover from business exceeding Rs. 1 crore and for profession exceeding Rs. 50 lakh.
- **w.e.f. 01.04.2020**

Penal Provisions for Fake Entries or Invoices

- In order to curb the practise of taking fraudulent Input Tax Credit **(“ITC”)** claims post the launch of Goods & Serive Tax **(“GST”)**, a new penal provision is proposed to be inserted through Section 271AAD in the IT Act to levy penalty on fake entries made in the books of accounts to evade tax liability through fake or forged invoices or documents.
- As per the said section, the Assessing Office may levy penalty upto the equal amount if it is found during any proceeding under the Act, that a false entry has been made in the books of account or any entry has been omitted to be made which is relevant for the computation of total income with an intent to evade tax liability.
- Such penalty may also be imposed on any person who causes in any manner a person to make or cause to make a false entry or omits or causes to omit any entry, upto the sum which is equal to the aggregate amount of such false or omitted entries.
- An explanation has been inserted in the above section to define the “False Entry”, which includes use or intention to use-
  - Forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence, or
  - Invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both, or
  - Invoice in respect of supply or receipt of goods or services or both to or from a person who does not exist.
- **w.e.f. 01.04.2020**

Exemption to Sovereign Wealth Funds and Abu Dhabi Investment Authority

- In order to incenvise and promote the investment from sovereign wealth funds in the country, it is proposed to insert new Section 10(23FE) in the IT Act to provide exemtion to any income in the nature of dividend, interest or long-term capital gain, arising from the investment made in India in the form of debt or equity made by a specified person provided that such investment–
  - o is made on or before 31.03.2024
  - o is held for at least three years, and
  - o is in a company or enterprise carrying on the business of developing, or operating and maintaining, or developing, operating and maintaining any infrastructure facility as defined in the Explanation to clause (i) of Section 80-IA(4) or such other business as notified by Central Government in this behalf.
- In the explanation to the aforesaid section, specified person has been defined as under-
  - o A wholly owned subsidiary of the Abu Dhabhi Investment Authority which is a resident of the United Arab Emirates **("UAE")** and makes investment, directly or indirectly, out of the fund, owned by the Government of the UAE
  - o A sovereign wealth fund which satisfies the following conditions –
    - — it is wholly owned and controlled, directly or indirectly, by the Government of a foreign country
    - — it is set up and regulated unde the law of such foreign country
    - — the earnings of said fund are credited either to the account of Government of that foreign country or to any other account designated by that Government so that no portion of the earnings inures any benefit to any private preson.
    - — the asset of the said fund vests in the Government of such foreign country upon dissoulution
    - — it doesn't undertake any commercial activity whether within or outside India, and
    - — it is specified by the Central Government by notification in the Official Gazette
- **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

Exemption for Income of Indian Strategic Petroleum Reserves Limited (ISPRL)

- A new Section 10(48C) is proposed to be inserted in the IT Act to provide exemption for any income accruing to the Indian Strategic Petroleum Reserves Limited **("ISPRL")** which is a wholly owned subsidiary of the Oil Industry Development Board under the Ministry of Petroleum and Natural Gas, on account of an arrangement for replenishment of crude oil which is stored in its storage facility in pursuance of directions issud by Central Government in this behalf.
- The above exemption is subject to the condition that such crude oil needs to be replenished in the storage facility within three years from the end of the financial year in which it was removed for the first time.
- **w.e.f. 01.04.2020 (A.Y. 2020-21 onwards)**

Further Incentivising the Start-ups

- As per the existing Sec 80-IAC of the IT Act, total income of eligible start-ups which are incorporated between 01.04.2016 to 31.03.2021 and derived from eligible business, is exempted upto 100% for three consecutive assessment years out of seven assesment years, at the option of assessee with certain conditions, provided that turnover of its business shall not exceed Rs. 25 crores in the previous year for which deduction is claimed.
- In order to further incetivise the start-ups and their growth, it is proposed to amend the provision with following relaxation-
  - o Exemption can be claimed for three consecutive assessment years out of ten assessment years, at the option of assessee
  - o Turnover limit has been enhanced to Rs. 100 crores
- **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

Extension of Time Limit for Approval of Affordable Housing Project to Avail Deduction u/s 80-IBA

- Section 80-IBA of the IT Act deals with the profits and gains from the business of developing and building affordable housing projects and provides for exemption upto 100% of the profits from such project subject to the fulfilment of certain conditions.
- The above section has a sunset clause and provides the exemption for the projects which are approved from the competent authority during the period from 01.06.2016 to 31.03.2020.
- In order to boost the affordable housing section, above sunset clause has been proposed to be extended upto 31.03.2021
- **w.e.f. 01.04.2021 (AY 2021-22 onwards)**

Extension of Time Limit for Sanctioning of Housing Loan to Avail Deduction of Interest on Affordable Housing

- Section 80EEA of the IT Act provides for the deduction of interest on loan taken for the purchase of a residential housing property from any financial institution upto Rs. 1,50,000/-
- The deduction of interest payable from the gross total income is allowable subject to certain conditions, which includes that loan has been sanctioned by the financial institution between 01.04.2019 to 31.03.2020.
- The above timelimit has been proposed to be extended upto 31.03.2021
- **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

Relaxation for Offshore Funds

- Section 9A of the IT Act provides that eligible investment fund which is registered or incpororated outside India, shall not be treated as a person resident in India on account of residential status of its fund manager who is based out in India, with certain conditions which includes that aggregate participation in the fund by person resident in India shall not exceed 5% of the corpus of the fund.
- Since investment in the initial year by the Indian fund manager is required to build the confidence of the foreign investors, said condition has been proposed to be relaxed, to the extent that any contribution made by eligible fund manager upto Rs. 25 crores shall not be considered in the threshold of 5% during the initial three years of the operation of fund.
- Further, Sec 9A(3)(j) provides that monthly average of the corpus of the fund shall not be less than Rs. 100 crores. Any fund which is established or incorporated during the previous year needs to fulfil this condition by the end of period of 6 months from the last day of the month of its establishment or at the end of such previous year, whichever is later.
- The above period has been now been proposed to be modified so as to provide that if the fund has been establishd during the previous year, condidtion of monthly average fund of Rs. 100 crores shall be fulfilled by the end of 12 months from the last day of the month of its establishment.
- **w.e.f. 01.04.2020 (A.Y. 2021-22 onwards)**

Generation of Electricity to be Included in the Definition of Manufacturing for Concession Tax Rate

- The Taxation Laws (Amendment) Act, 2019 **("TLAA")** has inserted a new Section 115BAB in the IT Act to provide for concessional rate of tax @ 15% on the new domestic manufacturing companies which are incorporated on or after 01.10.2019 and commence the manufacturing or production by 31.03.2023 subject to the fulfilment of specified conditions and foregoing specified incentives or deductions.
- Explanation to the above section provides for certain activities which will not be treated as manufacturing or production of any article for the above purpose.
- A new explanation has been proposed to be inserted, providing that the business of generation of electricity shall be treated as manufacturing or producing any article or thing for the purpose of Section 115BAB and will be eligible for concessional rate of tax @ 15%.
- Further, a new section 80M is proposed to be inserted by this Finance Bill. Accordingly, in section 115BAB(2)(c) exception has already been drawn for section 80JJAA. Now, section 80M is also proposed to be treated as an exception in the said section.
- **w.e.f. 01.04.2020 (A.Y. 2021-21 onwards)**

Extension of time limit for Concession Rate of TDS on Interest Payment to Non-resident & Foreign Company

- The existing provision of Section 194LC provide that interest payable to a non-resident, including a foreign company, by an Indian company or a business trust on borrowings made by it in foreign currency from sources outside India under a loan agreement or by way of long-term infrastrure bonds or by way of a long-term bonds or Rupee Denominated Bonds shall be eligible for TDS at a concessional rate of 5% with certain conditions.
- The above concessional rate of 5% is applicable for the money borrowed on or before 01.07.2020.
- In order to continue attracting fresh investment and stimulate the economy, the above date has been proposed to be extended to 01.07.2023.
- Further, it is also proposed for concessional rate of TDS @ 4% on the interest payable to a non-resident on money borrowed in foreign currency from a source outside India by way of Long-term bond or Rupee-denominated bond which are listed on a recognised stock exchange located in any International Financial Services Centre **("IFSC").**
- **w.e.f. 01.04.2020**

Extension of Time limit & Benefit for Concession Rate of TDS on Interest Payment to FIIs & Qualified Foreign Investors

- Section 194LD of the IT Act provides that interest payable to Foreign Institutinal Investors **("FIIs")** or a Qualified Foreign Investors **("QFIs")** on Rupee denominated bond of an Indian Company or on a Government security shall be eligible for TDS at a concessional rate of 5% with certain conditions.
- The above concessional rate of 5% is applicable for the interest payable between 01.06.2013 to 30.06.2020.
- To continue the stimulus to FIIs & QFIs for making investment, said period has been proposed to be extended to 30.06.2023.
- Further, it has also been proposed to extend the benefit of concessional rate of TDS @ 5% to the interest payable to FII or QFI on Municipal Debt securities.
- **w.e.f. 01.04.2020**

Safe Harbour Limit of 5% u/s 43CA, 50C and 56 of the IT Act Enhanced to 10%

- In case of transfer of land or building or both, Section 43CA and 50C provides that where the consideration declared to be received or accruing in the hands of the transferor, is less than the stamp duty value then the said stamp duty value shall be deemd to be the full value of consideration for computing the profits

and gains or capital gain, as the case may be. However, if the said stamp duty value does not exceeds the 105% of the actual consideration received or accrued then the profits and gains or the capital gain, as the case may be, the same shall be computed using the consideration actually received.

- Simultaneoulsy, section 56(2)(x) of the IT Act provides that where the transferee of the immovable property receives the same for a consideration and its stamp duty value exceeds the said consideration by the amount of Rs. 50,000/- or 5% of the consideration, then the excess amount shall be taxed in his hands under the head "Income from other sources".
- Now, the existing safe harbour of 5% u/s 43CA, 50C and 56(2)(x) of the IT Act has been proposed to be enhanced to 10%. This would mean that there would be no tax implication even if the difference is upto 10%.
- **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards).**

Option Provided for Not Availing Deduction u/s 35AD

- Section 35AD of the IT Act provides for 100% deduction in respect of the capital expenditure incurred on specified business in the previous year in which the said expenditure has been incurred. At present availing the benefit of the said section is not optional on the part of the assessee.
- As per the language of the said section, no deduction shall be allowed under any other section in respect to the capital expenditure on specified business. Therefore, if the domestic company opts for the concessional rate of tax u/s 115BAA and 115BAB of the IT Act and does not claim the benefit of section 35AD, then even the benefit of dedepriciation u/s 32 would also be denied, which is against the intention of the legislature.
- Therefore, it is proposed to amend section 35AD to specify that the deduction mentioned therein is optional and no deduction shall be allowed in respect of capital expenditure incurred on specified business in any other section in any previous year or under this section in any other previous year, if the deduction under this section has been claimed by the assessee and actually allowed to him under this section.
- **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards).**

Exemption to Non-resident from Filing of ITR

- Section 115A of the IT Act provides for the determination of tax for a non-resident whose total income consists of certain dividend or interest income or the income by way of royalty or fees for technical services of specified nature.
- Presently, section 115A(5) provides that a non-resident is not required to furnish its return of income under section 139(1) of the IT Act, if its total income, consists only of certain dividend or interest income and the TDS on such income has been deducted according to the provisions of Chapter XVII-B of the IT Act. However, the same relief is not available to those non-residents whose total income consists only of the income by way of royalty or fees for technical services of the specified nature.
- Now, the said section has been proposed to be amended in order to provide that a non-resident shall not be required to file ITR even in case where:

- his or its total income consists of only royalty or fees for technical services of the nature specified as referred to in the said section and
- TDS on such income has been deducted under the provisions of Chapter XVII-B of the Act at the rates which are not lower than the prescribed rates u/s 115A(1).

- **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards).**

Deferring TDS or Tax Payment in Respect of Income Pertaining to ESOP of Start- Ups

- Section 192 of the IT Act mandates the employer to deduct TDS on the amount payable under the head "Salaries" which inter alia includes ESOP, at the time of payment at the average rate of income-tax computed on the basis of the rates in force for the F.Y. in which the payment is made.
- ESOPs get taxed alongwith the salary at the time of exercising the option leading to the cash flow problem as the said benefit of ESOP is in kind.
- To ease the burden of taxes in the hand of the employees who are being employed by the employer being a start-up as referred u/s 80IAC of the IT Act, Section 192 has been proposed to be amended to provide that in case of the said start-up the tax shall be deducted within 14 days of the earlier of the following-
  - after the expiry of 48 months from the end of the relevant A.Y.; or
  - from the date of the sale of such specified security or sweat equity share by the employee; or
  - from the date of which the assessee ceases to be an employee.
- TDS shall be deducted at the rates in force of the F.Y. in which the said specified security or sweat equity share is allotted or transferred.
- Similar amendments have been carried out in Section 191 (for assessee to pay the tax direct in case of no TDS), Section 156 (for notice of demand) and Section 140A (for calculating self-assessment).
- **w.e.f. 01.04.2020**

Allowing Carry Forward of Losses or Depreciation in Certain Amalgamations

- Presently, Section 72AA of the IT Act provides for carry forward of the accumulated losses and unabsorbed depreciation allowance in case of amalgamation of banking company with any other banking institution under a scheme sanctioned and brought into force by the Central Government u/s 45(7) of the Banking Regulation Act, 1949.
- The existing section has been proposed to be substituted by the new section so as to address the issue faced by amalgamated public sector banks and public sector General Insurance Companies.
- As per the proposed section the accumulated loss and the unabsorbed depreciation of amalgamating banking company or companies or amalgamating corresponding new bank or banks or amalgamating Government company or companies shall be deemed to be the loss or, as the case may be, allowance for

depreciation of the amalgamated institution or amalgamated corresponding new bank or amalgamated Government company for the previous year in which the scheme of amalgamation was brought into force and other provisions relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

- **w.e.f. 01.04.2020 (A.Y. 2020-21 onwards)**

Modification of Definition of "Business Trust"

- Section 115UA of the IT Act provides for a taxation regime applicable to business trusts wherein the income by way of interest and rent, received by the business trust from a Special Purpose Vehicle (SPV) is accorded pass through treatment i.e. there is no taxation of such interest or rental income in the hands of the trust and no withholding tax at the level of SPV. The business trusts are also required to furnish return of income and adhere to other reporting requirements.
- Presently, 'business trust' as defined u/s 2(13A) of the IT Act means a trust registered as an Infrastructure Investment Trust (InvIT) or a Real Estate Investment Trust (REIT) under the relevant regulations made under the SEBI Act and the units of which are required to be listed on a recognised stock exchange in accordance with the relevant regulations.
- Now, the said definition has been proposed to be amended to do away the requirement of the units of business trust to be listed on a recognised stock exchange.
- **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

Relaxing Norms of Interest Payment to PE in India of a Foreign Bank u/s 94B

- Existing provision of Sec 94B of the IT Act imposes limitation on the interest expenses deductible from the EBITDA upto its 30% or interest paid or payable whichever is less, payable to the Non-Resident Associated Enterprise of the borrower if such interest or similar nature of expenses exceeds Rs. 1 crore.
- As per the provisions of Sec 92A, two enterprises shall be deemed to be Associated Enterprises if loan advanced by one enterprise exceeds 51% of the book value of the total assets of other enterprise. Also, a branch of a foreign company in India is treated as Non-resident in India.
- Above provision brings practical issues on the loan advanced by a branch of a foreign bank to Indian Company or a PE of a foreign company in India and restricts the deduction of Interest upto 30% of EBITDA.
- Hence, in order to address the above hardship, it has been proposed to insert new Section 94B(1A) to provide that above restriction shall not be applicable to interest paid on debt issued by a PE in India of a foreign bank.
- **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

Income Attributable to PE added in the Scope of Safe Harbour Rules and Advance Pricing Agreement

- Presently, Section 92CB of the IT Act provides power to CBDT to make Safe Harbour Rules ("SHR") which provides for circumstances in which the income tax authorities shall accept the transfer price declared by the assessee.
- Further, presently Section 92CC of the IT Act provides that the CBDT may enter into an advance pricing agreement ("APA") with any person for determining the arm's length price ("ALP") or specifying the manner in which ALP is to be determined, in relation to an international transaction to be entered into by that person.
- Now, it is proposed to amend Section 92CB and 92CC of the IT Act so as to provide that the case of determination of income attributable to PE u/s 9(1)(i) of the IT Act as well determination of ALP, falls within the scope of SHR and APA.
- Section 92CB: w.e.f. 01.04.2020 (A.Y. 2020-21 onwards)
- Section 92CC: w.e.f. 01.04.2020 i.e. APA entered on or after 01.04.2020

Deduction for Amount Disallowed u/s 43B to Insurance Business on Payment Basis

- Section 44 of the IT Act provides that the profits and gains of any business of insurance shall be computed in accordance with the rules contained in the First Schedule of the IT Act.
- Presently, Rule 5 of the said Schedule states that while computing profits and gains of any business of insurance other than life insurance any expenditure debited to the P&L A/c which is not admissible under the provisions of Sections 30 to 43B of the IT Act shall be added back. Further, there is no specific provision under said rule to allow deduction for amount disallowed u/s 43B of the IT Act on payment basis in subsequent previous year.
- Now, by way of a curative amendment, it is proposed to insert a proviso under said rule 5 to provide that any sum payable by the assessee which is added back u/s 43B in accordance with said rule shall be allowed as deduction in computing the income under said rule in the previous year in which such sum is actually paid.
- **w.e.f. 01.04.2020 (A.Y. 2020-21 onwards)**

TDS @2% on Fees for Technical Services

- Presently, Section 194J of the IT Act provides for deduction of TDS on any sum by way of fees for professional services, or fees for technical services, or any other amount mentioned therein @ 10%. Further, Section 194C of the IT Act provides for deduction of TDS on any work in pursuance of a contract @ 1% where payment is made to an individual or a HUF and @2% in other cases.

- It is noticed by the Government that there are large number of litigations on the issue of short deduction of tax where the assessee had deducted TDS u/s 194C, while the tax officers claim that TDS should have been deducted u/s 194J of the IT Act.
- In order to reduce litigation on the abovementioned issue, it is proposed to reduce rate for TDS in section 194J only in case of 'fees for technical services', as defined u/s 194J, to 2%.
- Further, taking into account the increase in threshold for tax audit u/s 44AB of the IT Act, the threshold for deduction of TDS u/s 194J by an Individual or a HUF is proposed to be specifically provided as Rs. 1 Crore in case of business or Rs. 50 Lakh in case of profession u/s 194J.
- **w.e.f. 01.04.2020**

Easing of Verification of ITR in case of Company and LLP

- Section 140 of the IT Act provides that in case of a company, return of income is required to be verified by the managing director or in specified cases by any director of the company. Similarly, in case of a Limited Liability Partnership ("LLP"), the return is to be verified by the designated partner of the LLP or by any partner, in case there is no such designated partner.
- It is proposed to amend clauses (c) and (cd) of Section 140 so as to empower the Board to specify by rules any other person for the purpose of verification of return of income in case of a company and LLP.
- **w.e.f. 01.04.2020**

Enlarging the Scope of Authorised Representative

- Presently, Section 288 of the IT Act provides for the persons entitled to appear before any Income-tax Authority or the Appellate Tribunal, on behalf of an assessee, as its "authorised representative", in connection with any proceedings under the said Act.
- Now, in order to address certain practical diffulties arising on account of lack of explicit reference for an Insolvency Professional u/s 288, it is proposed to amend the said section of the IT Act to enable any other person, as may be prescribed by the Board, to appear as an authorised representative.
- **w.e.f. 01.04.2020**

Annual Financial Statement in lieu of Form 26AS

- Existing Section 203AA of the IT Act requires the prescribed income-tax authority or any person authorized by such authority to issue Form 26AS to every person specifying the amount of tax deducted or paid.
- Now, in order to extend the scope of Form 26AS beyond the information about tax deducted or paid, it is proposed to introduce a new Section 285BB in the IT Act regarding annual financial statement. The said Section 285BB proposes to introduce a statement in such form and manner and setting forth such information, which is in the possession of an income-tax authority, and within such time, as may be prescribed.

- On account of the introduction of new Section 285BB, Section 203AA which deals with Form 26AS is proposed to be deleted.
- **w.e.f. 01.06.2020**

Cost of Acquistion and Period of Holding for 'Segregated Portfolios'

- Presently, Section 49 of the IT Act provides for Cost of Acquisition ("COA") for the capital asset which became the property of the assessee under certain situations. Further, Section 2(42A) of the IT Act provides the definition of 'short-term capital asset' and also provides for determination of period of holding of the capital asset held by the assessee.
- **SEBI videCircular SEBI/HO/IMD/DF2/CIR/P/2018/160 dated 28.12.2018("Circular")** permitted creation of segregated portfolio of debt and money market instruments by Mutual Fund schemes. As per the said circular, all the existing unit holders in the affected scheme as on the day of the credit event shall be allotted equal number of units in the segregated portfolio as held in the main portfolio. Accordingly, on segregation, the unit holders come to hold same number of units in two schemes –the main scheme and segregated scheme.
- Now, Section 2(42A) is proposed to be amended so as to provide that period of holding for units in the segregated portfolio shall include the period for which the original unit or units in the main portfolio were held by the assessee.
- Also, a new sub-section (2AG) is proposed to be inserted in Section 49 to provide that COA of the units in segregated portfolio shall be the amount which bears, to the COA of units held by the assessee in the total portfolio, the same proportion as the Net Asset Value **("NAV")** of the assettransferred to the segregated portfolio bears to the NAV of the total portfolioimmediately before the segregation of portfolios.
- It is also proposed to insert sub-section (2AH) inSection 49 to provide that the COA of the original units in the main portfolio shall be deemed to have been reduced by the amount so as arrived under the proposed sub-section (2AG).
- The expressions 'main portfolio', 'segregated portfolio' and 'total portfolio' shall have the meanings respectively assigned to them in the Circular.
- **w.e.f. 01.04.2020 (A.Y. 2020-21 onwards)**

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- The expressions 'main portfolio', 'segregated portfolio' and 'total portfolio' shall have the meanings respectively assigned to them in the Circular.
- **w.e.f. 01.04.2020 (A.Y. 2020-21 onwards)**

Aligning purpose of entering into Double Taxation Avoidance Agreements (DTAA) with Multilateral Instrument (MLI)

- Section 90 of the Act empowers the Central Government to enter into agreement with foreign countries or specified territories (commonly known as DTAAs) for various purposes such as for granting relief, avoidance of double taxation, exchange of information and recovery of income-tax as enumerated in sub section 1 of Section 90. Section 90A of the IT Act contains provision similar to section 90 of the Act so as to empower the Central Government to adopt and implement an agreement between a specified association in India and any specified association in specified territory outside India.
- India has signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (commonly referred to as MLI) along with representatives of many countries
- The MLI has entered into force for India on 1st October, 2019 and its provisions will be applicable on India's DTAAs from FY 2020-21 onwards.
- Article 6 of MLI provides for modification of the Covered Tax Agreement to include the following preamble text:

  "Intending to eliminate double taxation with respect to the taxes covered by this agreement without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance

(including through treaty-shopping arrangements aimed at obtaining reliefs provided in this agreement for the indirect benefit of residents of third jurisdictions),"

- In order to achieve the objective of Article 6, Section 90(1) (b) has been proposed to be modified to include the following wordings:

  (b) for the avoidance of double taxation of income under this Act and under the corresponding law in force in that country or specified territory, as the case may be, without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in the said agreement for the indirect benefit to residents of any other country or territory), or

- Similar amendment has also been made in Section 90A (1)(b) of the IT act.
- **w.e.f. 01.04.2021 (A.Y.2021-22 onwards)**

Section 9: Exception Carved Out for FPI Investments

- Presently, an asset or capital asset, which is held by a non-resident by way of investment, directly or indirectly, in Category-I or Category-II foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 **("FPI Regulations, 2014")** shall not be deemed to be situated in India.
- As the FPI Regulations, 2014 have been repealed and new FPI Regulations, 2019 are in force, necessary amendments are proposed to be made to provide similar exception as mentioned above in respect of investment in Category-I foreign portfolio investor under the FPI Regulations, 2019. Investments under FPI Regulations, 2014 prior to its repeal shall not be deemed to be situated in India.
- **w.e.f. 01.04.2020 (A.Y. 2020-21 onwards)**

Consideration for the Sale, Distribution or Exhibition of Cinematographic Film is 'Royalty'

- Presently, definition of the term 'royalty' under Explanation 2 to Section 9(1)(vi) excludes consideration for the sale, distribution or exhibition of cinematographic films. Due to such exclusion, the respective royalty is not taxable in India even if the DTAA gives India the right to tax such royalty. Thus, such situation is discriminatory against Indian residents, since India is foregoing its right to tax royalty in case of a non-resident from another country without that other country offering similar concession to Indian resident.
- Now, it is proposed to amend the definition of 'royalty' so as not to exclude consideration for the sale, distribution or exhibition of cinematographic films from its meaning. Thus, the same shall be taxable.
- **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

Power to Make Rules for Computing Income of Non-Resident in Specified Cases

- Presently, Section 295(2)(b) of the IT Act empowers the CBDT to make rules to provide for the manner in which and the procedure by which the income shall be arrived at in the specified cases.
- It is proposed to amend Section 295(2)(b) so as to empower the CBDT to make rules to provide for the manner in which and the procedure by which the income shall be arrived at also in the following cases of:
  - operations carried out in India by a non-resident **(w.e.f. 01.04.2021 [A.Y. 2020-21 onwards]);**
  - transaction or activities of a non-resident **(w.e.f. 01.04.2022 [A.Y. 2022-23 onwards]);**

District Judge Eligible for Appointment as a Member of the Adjudicating Authority under PBPT Act

- The existing provisions of Section 9 of the PBPT Act, inter-alia, provide that, a member of the Indian Revenue Service who has held the post of Commissioner of Income-tax or equivalent post in that Service; or a member of the Indian Legal Service who has held the post of Joint Secretary or equivalent post in that Service is qualified for appointment as a Member of the Adjudicating Authority.
- It is proposed to amend the said section to provide that a person who is qualified for appointment as District Judge shall also be eligible for the appointment as a Member of the Adjudicating Authority.
- **w.e.f. 01.04.2020**

Rationalization of Provisions Pertaining to Tax Audit u/s 44AB

- Under Section 44AB of the Act, every person carrying on business is required to get his accounts audited, if his total sales, turnover or gross receipts, in business exceed(s) Rs. 1 crore in any previous year. Further, a person carrying on profession is required to get his accounts audited, if his gross receipt in profession exceeds Rs. 50 Lakh in any previous year.
- In order to reduce compliance burden on MSME's, it is proposed to insert a proviso in clause (a) of the aforesaid Section to increase the threshold limit 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.
- Further, for the purpose of enabling pre-filling of returns in case of persons having income from business or profession, it is proposed to amend the Explanation to the said section to provide that the specified

date will mean one month prior to the due date for furnishing the return of income under Section 139(1). Thus, an assessee may be required to file the audit report one month prior to the due date of filing return.

- **w.e.f. 01.04.2020 (A.Y. 2020-21 onwards)**

Amendments in Other Sections consequential to Amendment in Section 44AB

- Various sections of the IT Act provide for furnishing of Forms and/or reports of accountant u/s 288 to be furnished on or before the due date of filing return of income for the purpose of claiming deduction under the said sections. These sections include Section 10(23C), 10A, 12A, 32AB, 33AB, 33ABA, 35D, 35E, 44AB, 44DA, 50B, 80-IA, 80-IB, 80JJAA, 92F, 115JB, 115JC and 115VW. The said sections have been proposed to be amended so as to provide that the compliances which were required to be made under the said section on or before the due date of filing return of income will now be required to be made on or before the specified date i.e. one month prior to the due date of filing of return u/s 139(1).
- **w.e.f. 01.04.2020 (A.Y. 2020-21 onwards)**

- The amendment relating to extending threshold for getting books of accounts audited will have consequential effect on TDS/TCS provisions contained in sections 194A, 194C, 194H, 194I, 194J and 206C as these provisions fasten liability of TDS/TCS on certain categories of person, if the gross receipt or turnover from the business or profession carried on by them exceed the monetary limit specified in clause (a) or clause (b) of section 44AB.
- In view of the above, it is proposed that wherever the expression “the monetary limits specified under clause (a) or clause (b) of section 44AB” is mentioned in proviso to Section 194-A(1), Explanation (i)(l)(B) of Section 194-C, second proviso to Section 194-H, 194-I, 194-J and Explanation (c) to section 206C, the said expression has to be substituted with “one crore rupees in case of business or fifty lakh rupees in case of profession”.
- **w.e.f. 01.04.2020**

Due Date of Furnishing Return of Income u/s 139(1)

- Due date for filing return of income u/s 139(1) is proposed to be amended by:-
  - Providing 31st October of the A.Y. (as against 30th September) as the due date for an assessee referred to Explanation 2(a) of Section 139(1) of the IT Act which includes a company or a person whose accounts are to be audited or a partner of a firm whose accounts are to be audited;
  - Earlier, such relief of later filing date was available only to a working partner of a firm. However, the said distinction between a working and a non-working partner of a firm has been removed. Now the due date for filing of return of any partner of a firm which requires its accounts to be audited, shall be 31st October of the A.Y.
- **w.e.f. 01.04.2020 (A.Y. 2020-21 onwards)**

Deferring Provisions of Significant Economic Presence (SEP)

- Section 9 deals of the IT Act deals with the income of an assessee which shall be deemed to accrue or arise in India. FA, 2018 inserted an Explanation to clarify that Significant Economic Presence **("SEP")** of a non-resident in India shall be deemed to constitute "Business Connection" in India. SEP has been defined to include-
  - o Transaction in respect of goods, services or property carried out by a non-resident in India including provision for download of data or software in India if the aggregate of such transactions during the previous year exceed such amount as prescribed, or
  - o Systematic and continuous soliciting of business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means.
- However, the above threshold for the transactions or number of users are yet to be prescribed.
- Therefore, it is proposed to defer the applicability of SEP provisions to apply from A.Y. 2022-23 onwards.
- Also, new SEP provisions have been proposed through the substitution of new Explanation 2A to Section 9(1)(i) which provides that Significant Economic Presenceshall mean-
  - o Transaction in respect of any goods, services or property carried out by a non-resident with **any person** in India including provision of download of data or software in India, if the aggregate or payments arising from such transaction or transactions during the previous year exceeds such amount as may be prescribed, or
  - o Systematic and continuous soliciting of business activities or engaging inInteraction with such number of users in India as may be prescribed.
- Further, a Proviso is proposed to be inserted in Explanation 2A to provide that the transaction or activities shall constitute significant economic presence in India, whether or not-
  - i. the agreement for such transaction or activities is entered in India, or
  - ii. the non-resident has a residence or place of business in India, or
  - iii. the non-resident renders services in India.
- Thus, new Explanation 2A has proposed to insert the word 'any person' in clause (a) to bring in more clarity. Also, it has been proposed to remove the word 'through digital means' from clause (b) to expand its scope further.
- As provided earlier also, only so much of income which is attributable to the transactions referred in clause (a) or (b) above shall be deemed to accrue or arise in India.
- w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)

Amendments in Source Rule u/s 9

- In order to increase the scope of business operations which shall be deemed to be carried out in India, a new Explanation 3A is proposed to be inserted in Sec 9(1)(i) to clarify that income attributable to the operations carried out in India shall include the income from-
  - o Such advertisement which targets a customer who resides in India or a customer who accesses the

advertisement through Internet Protocol address located in India;

- o Sale of data collected from a person who resides in India or from a person who uses Internet Protocol address located in India; and
- o Sale of goods or services using data collected from a person who resides in India or from a person who uses Internet Protocol address located in India

- **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

- Further, a proviso is also proposed to be inserted to above Explanation 3Ato provide that above provisions shall also applicable to the transactions or activities covered under Explanation 2A regarding SEP.
- **w.e.f. 01.04.2022 (AY.2022-23 onwards)**

Rationalizing Meaning of Cost of Acquisition for Immovable Property Acquired Before 01.04.2001

- Section 55(2) of the IT Act deals with the meaning of the expression "cost of acquisition" for the purpose of taxability under head "Capital Gains". Clauses (b)(i) and (b)(ii) of the said section provide that where any capital asset was acquired by the assessee/previous owner, as the case may be, before 01.04.2001, the cost of acquisition of such capital asset will be either actual cost of acquisition of such capital asset or its Fair Market Value ("FMV") as on 01.04.2001, at the option of the assessee.
- In order to rationalize the aforesaid provisions, it is proposed to insert a proviso to Section 55(2)(b)(ii) stating that where the aforesaid capital asset is a land or building or both, then FMV of such asset as on 01.04.2001 shall not exceed the stamp duty value, wherever available, of such asset for determining its cost of acquisition.
- It is also proposed to define the meaning of the expression "stamp duty value" by way of an Explanation to mean the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty w.r.t. an immovable property.
- **w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)**

Rationalization of Provisions relating to Trust, Institution and Funds

- **Amendment of Section 11(7) to allow entities holding registration u/s 12A or 12AA to apply for notification u/s 10(46)**
  - o Section 11(7) of the IT Act provides that exemption u/s 10 except for Section 10(23C) and Section 10(1) shall not be available to entities holding registration u/s 12A or 12AA.
  - o Due to Section 11(7), the entities established or constituted under a Central or State Act or by a Central or State Government registered u/s 12A or 12AA were not able to get notified for claiming exemption u/s 10(46).Now, it has been proposed that just like Section 10(23C), Section 10(46) be also included under the exception of Section 11(7) so as to enable the aforementioned entities to

apply for exemption u/s 10(46) even if they are registered u/s 12A or 12AA.

- However, it has also been said that the provisions of Section 11, 12, 12A,12AA and 13 of the IT Act are a complete code and once any entity opts for it, the conditions as stipulated in the said sections must be complied with and it should not be allowed to switch over at its convenience to any other exemption under the IT Act. Therefore, provisos have been inserted in Section 11(7) to provide that if approval is sought u/s 10(46) or 10(23C) by an entity, then registration under Section 12A or 12AA or 12AB shall become inoperative. In case such entity wishes to claim exemption u/s 11 to 13 of the Act again in future, it may apply for registration u/s 12AB subject to the condition that approval u/s 10(23C) or 10(46) shall cease to have effect from date of such registration and thereafter, the said entity shall not be entitled for exemption u/s 10(23C) or 10(46).
- The proposed amendment w.r.t. non-availability of exemption u/s 10(23C) or 10(46) after switching over to registration u/s 12AB has been brought only in Section 11(7). No consequential amendmentsregarding the same have been proposed in Section 10(23C) or 10(46).

o w.e.f. 01.06.2020

Rationalising the process of registration of trusts, institutions, funds, university, hospital etc. and approval in the case of association, university, college, institution or company etc.

- As per the existing first and second proviso to Section 10(23C), an approval is to be taken for the purpose of claiming exemption under the said section. The process of obtaining and granting such approval is proposed to be amended.
- It is proposed to provide that the exemption u/s 10(23C) will be available to an assessee only if the assessee makes an application to the Principal Commissioner or Commissioner for grant of approval as follows:
  - Where the entities had been granted approval pursuant to inquiry and verification of documents before the amendment made vide this Finance Bill of 2020, then the application is required to be made within 3 months from such new provision coming into force. (Approval shall be granted for a period of 5 years in this case and it shall be valid from the A.Y. from which approval was earlier granted to it. Order for approval shall be passed before expiry of the period of 3 months calculated from the end of the month in which the application was received).
  - Where such entities had been granted approval without verification of documents and inquiry, and it is due to expire, then, application is required to be made at least 6 months prior to the expiry of such approval. (Approval shall be granted after calling for documents, making inquiries to be satisfied w.r.t. genuineness of activities and compliances of other laws. Thereafter, where the PCIT or CIT is satisfied it shall grant approval for a period of 5 years; if it is not satisfied it may reject the application and cancel its approval after affording a reasonable opportunity of being heard. Approval shall be valid from the A.Y. immediately following the F.Y. in which such application is made. Order for approval shall be passed before expiry of the period of 6 months calculated from the end of the month in which the application was received).

- Where such entities had been granted provisional approval then the application is required to be made at earlier of the following time:
  - At least 6 months prior to expiry of provisional approval
  - Within 6 months of commencement of its activities

    (Approval shall be granted after calling for documents, making inquiries to be satisfied w.r.t. genuineness of activities and compliances of other laws. Thereafter, where the PCIT or CIT is satisfied it shall grant approval for a period of 5 years; if it is not satisfied it may reject the application and cancel its approval after affording a reasonable opportunity of being heard. Such approval shall be valid from first of the assessment years for which it was provisionally approved. Order for approval shall be passed before expiry of the period of 6 months calculated from the end of the month in which the application was received)
- In cases other than specified above, application is required to be made at least 1 month prior to the commencement of the previous year relevant to the A.Y. from which the approval is sought (Provisional Approval shall be granted for a period of 3 years from the A.Y. from which registration is sought. Such provisional approval shall be valid from the A.Y. immediately following the F.Y. in which such application is made. Order for approval shall be passed before expiry of the period of 1 month calculated from the end of the month in which the application was received).

- It is also provided that where applications made under existing first proviso to Section 10(23C) are pending for approval before coming into force of such new provisions for application, such application shall be deemed to be made under new provisions.
- Similar amendments w.r.t procedure of approval have been proposed in Section 80G as well.
- **w.e.f. 01.06.2020**

Section 12A(1)(ac) and Section 12AB have been newly inserted to prescribe procedure for fresh registration in case of trust or institution claiming exemption u/s 11

- As per existing provisions, exemption u/s 11 and 12 is provided to a trust registered u/s 12A or 12AA of the IT Act.
- Now, the exemption u/s 11 and 12 shall be allowed as per the amended provisions as explained in subsequent paragraphs.
- New registration is required to be obtained to claim exemption by existing as well as new applicants.
- Provisions for provisional registration have been proposed to provide that new trusts or institutions shall be granted provisional registration within 1 month from the end of the month in which application is filed.
- Time limits to apply for registration under proposed Section 12A(1)(ac):
  - In case of existing trust or institution registered u/s 12A or 12AA, within 3 months from the date on which Section 12A(1)(ac) has come into force;
  - where the trust or institution is registered u/s 12AB and the period of the said registration is due to expire, at least 6 months prior to expiry of the said period;

- where the trust or institution has been provisionally registered u/s 12AB, at least 6 months prior to expiry of period of the provisional registration or within 6 months of commencement of its activities, whichever is earlier;
- where registration of the trust or institution has become inoperative due to the first proviso to Section 11(7), at least 6 months prior to the commencement of the A.Y. from which the said registration is sought to be made operative;
- where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, within a period of 30 days from the date of the said adoption or modification.

Procedure for granting of registration u/s 12AB pursuant to application u/s 12A(1)(ac)

- In case of existing trust or institution registered u/s 12A or 12AA:
  - Order for registering the trust u/s 12AB shall be granted within the expiry of the period of 3 months calculated from the end of the month of receipt of application;
  - Registration shall be granted for 5 years
- In case of new trust or institution applying for registration u/s 12AB:
  - Provisional registration shall be granted within 1 month from the end of the month of receipt of application for a period of 3 years from the A.Y. from which registration is sought.
- In case of trust registered u/s 12AB, whose registration is due to expire or which was granted registration provisionally or which has become inoperative due to first proviso to 11(7) or has undertaken modification of objects:
  - Order for registering the trust u/s 12AB shall be made within 6 months of receipt of application u/s 12A(1)(ac) after calling for documents or information or making inquiries to be satisfied about the genuineness of activities of the trust or institution, checking compliance with other laws;
  - The registration shall be valid for 5 years;
  - If satisfaction is not made, an order rejecting such application and cancelling its registration after giving a reasonable opportunity of being heard shall be made
- Section 12AB(2) provides that all earlier applications made u/s 12AA(1)(b) before the coming into force of Section 12AB shall be deemed to be an application u/s 12A(1)(ac)(vi).
- Section 12AB(4) and 12AB(5) provide that where activities of the trust are not genuine, Section 13(1) comes into operation or the trust or institution has not complied with any other law, its registration may be cancelled after affording a reasonable opportunity of being heard.
- It is proposed that nothing contained in Section 12AA shall apply on or after 01.06.2020.
- The registration for the purpose of claiming exemption u/s 11 and 12 shall be considered to be granted:
  - In case of existing trust or institution registered u/s 12A or 12AA, from the A.Y. for which it was earlier granted registration
  - From the first of the assessment years for which it was provisionally registered

- An appeal against the order passed by a Principal Commissioner or Commissioner u/s 12AA can be made to the Appellate tribunal by an assessee u/s 253(1)(c). Corresponding amendment in Section 253(1)(c) is also proposed.
- Consequential amendments have also been made in Section 115TD and Section 11 pursuant to insertion of new Section 12AB.
- Report of an accountant to claim exemption u/s 11 and 12 of the Act is proposed to be furnished on or before the specified date as mentioned in 44AB.
- **w.e.f. 01.06.2020**

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

- Amendments are proposed to provide that Institutions and funds approved u/s 80G(5) to whom donations are given have to prepare a statement for such period as may be prescribed and deliver it to a prescribed authority in a prescribed form, time and manner.
- A correction statement may also be delivered to rectify any mistake in the statement furnished earlier.
- The institution or fund has to furnish a certificate to the donor specifying the amount of donation in such manner and time from the date of receipt of donation, as may be prescribed.
- Such statement, correction statement and certificate is also to be furnished or delivered by the research association, university, college or other institution or the company referred to in Section 35(1)(ii) or 35(1)(iia) or 35(1)(iii) otherwise they will not be entitled to deduction u/s 35(1)(ii) or 35(1)(iia) or 35(1)(iii).
- A new Explanation 2A is proposed to be inserted in Section 80G(5D) providing that the deduction to assessee in respect of donations made to an institution to which provisions of section 80(5) apply shall be allowed on the basis of information relating to said donation furnished by the institution or fund to the prescribed authority subject to verification in accordance with the risk management strategy formulated by the Board from time to time.
- Further, it is proposed that deduction of cash donation u/s 80GGA shall be restricted to Rs. 2,000/- only.
- An Explanation is proposed to be inserted in Section 80GGA to provide that deduction to assessee claiming deduction of donation u/s 80GGA shall be allowed only on the basis of furnishing of information by payee in prescribed manner subject to verification in accordance with the risk management strategy formulated by the Board from time to time.
- A new section 234G is proposed to be inserted to provide that if the statement and certificate as mentioned aforesaid u/s 80G is not furnished, a sum of Rs. 200/- by way of fees shall be paid for every day during which the failure continues. Such fee shall not exceed the amount in respect of which the failure referred to therein has occurred and should be paid before delivering the aforesaid statement or furnishing the certificate.
- A new Section 271K is proposed to be inserted to provide that the Assessing Officer may direct that a sum not less than Rs. 10,000/- but which may extend to Rs. 1,00,000/- shall be paid by way of penalty by institution or fund u/s 80G(5) or the research association, university, college or other institution or company referred to in Section 35(1)(ii) or 35(1)(iia) or 35(1)(iii) if it fails to deliver statement or furnish certificate as aforesaid.

- In Section 35(1)(iv), fifth proviso is proposed to be inserted to provide that the notifications that were issued in respect of research association, university, college or other institution or company referred in Section 35(1)(ii) or 35(1)(iia) or 35(1)(iii) shall be deemed to be withdrawn if they do not make an intimation in prescribed manner within 3 months from the date on which this proviso has come into force, and subject to such intimation the notification shall be valid for a period of 5 consecutive assessment years beginning with the A.Y. commencing on or after 01.04.2021.
- Further, in Section 35(1)(iv), sixth proviso is proposed to be inserted to provide that any notification issued by the Central Government under Section 35(1)(ii) or 35(1)(iia) or 35(1)(iii) after the date on which the Finance Bill, 2020 receives the assent of the President, shall, at any one time, have effect for such A.Y. or years, not exceeding 5 assessment years as may be specified in the notification.
- Explanation after Section 35(1)(iii) provides that deduction to assessee who has paid any sum to a research association, university, college or other institution to which Section 35(1)(ii) or 35(1)(iii) applies shall not be denied merely on the ground that subsequent to payment of such sum by the assessee, the approval granted to such institutions aforesaid has been withdrawn. It is proposed to amend the said Explanation to provide that it shall also be applicable in respect of a company specified u/s 35(1)(iia).
- In Section 80G(5)(vi), approval by the Principal Commissioner is also proposed to be allowed.
- **w.e.f. 01.06.2020**

HIGHLIGHTS OF IMPORTANT AMENDMENTS RELATING TO INDIRECT TAXES

GOODS AND SERVICES TAX

Ineligibility criteria under Composition Levy expanded

- Section 10 of the CGST Act proposed to be amended to make person who are engaged in making supply of exempted/nil-rated services or inter-state supply of services or making supply of services through electronic commerce operator, ineligible to opt for composition levy. The said amendment has been carried out in light of Section 10(2A) of the CGST Act, wherein the service providers can also opt for composition Scheme.

Delinking of debit note with invoice for availment of ITC

- Section 16(4) of the CGST Act proposed to be amended to de-link debit note from invoice for determing the time limit for availing Input Tax Credit ("ITC"). Thus, the ITC in respect of debit notes can be claimed till the due date of furnishing return in GSTR-3B for the month of September following the end of financial year to which such debit note pertains or furnishing of relevant annual return whichever is earlier.

Late fees on belated issuance of Tax Deduction Certificate removed

- Section 51 of the CGST Act prescribes provisions regarding TDS. In terms of Section 51(4) of the CGST Act, late fees of Rs. 100 per day was payable in case the the deductor failed to furnish deduction certificate to the deductee within 5 days of crediting the deducted amount to Government. The Finance bill proposes to remove the liability of late fees.
- Section 51(3) of the CGST Act proposed to be amended to empower the government to prescribe the form and manner of tax deduction certificate.

Amendments in penalty and punishment provisions

- Under GST only the taxable person or the person who commits the offence was liable to penalty and punishment. However, after looking into various transactions related to GST frauds, amendment has been proposed in the said section to enlarge the scope of the sections prescribing penaltly and punishment.
- Under Section 122(1) of the CGST Act only taxable person were liable for penalty for offences of clandestine clearance, fake billing, availment of ITC without actual receipt of goods or services and taking or distributing ITC in contravention to Section 20 of CGST Act. However, vide Finance Bill, 2020 penalty has been proposed on even those person who are not taxable person under the CGST Act if such persons have retained the benefits of such transactions and such transactions have taken place at their instance.

- Section 132 of the CGST Act prescribed punishment for the person who commits the offence. It has been proposed that the person who causes to commit and retains the benefit arising out of the offences shall also be punishable.
- It has also been proposed that the offence related to fraudulent availment of ITC without invoice or bill wherein the amount of ITC fraudulently availed exeeeds 5 Crore be made cognizable and non-bailable.

Enabling provision inserted to prescribe time limit for availment of transitional credit with retrospective effect

- Section 140 of the CGST Act did not prescribe any time limit for availment of transitional credit. However, the said time limit was given under Rule 117 of the CGST Rules.
- This contradiction between the Act and the Rules lead to various litigation wherein Hon'ble High Court of Punjab and Haryana in case of **Adfert Technologies Pvt. Ltd. vs. Union of India and Ors. [CWP NO.30949/2018]** and Hon'ble High Court of Gujarat in **M/s Siddharth Enterprises vs. The Nodal Officer [2019 (29) G.S.T.L. 664]** held that the time limit prescribed in the Rules is directive and not mandatory as there is no provision under the Act for prescribing time limit.
- The proposed amendment in Section 140 of the CGST Act appears to be a curative amendment to insert enabling provision to prescribe time limit for availment of transitional credit.
- w.e.f. 01.07.2017

Other Miscellaneous Proposed Amendment

- Time limit to issue removal of difficulties order to be increased from 3 years to 5 years.
- Entries 4(a) and 4(b) of Schedule II of CGST Act proposed to be amended retrospectively (w.e.f. 01.07.2017) to omit transfer of business assets without any consideration.
- Department officials empowered to extend the time limit to apply for revocation upto a maximum of 60 days in cases where sufficient cause is shown.
- Person who have voluntarily taken registration under GST to be allowed to apply for cancellation of the said registration.
- In terms of Section 31 of the CGST Act government was empowered to specify the categories of goods or supplies in respect of which tax invoice shall be issued within such time and in such manner as may be prescribed. However, no enabling provision of such kind was present in respect of services. The Finance Bill proposes to insert enabling provision of similar kind for services.

CUSTOMS ACT

Stringent Checks on FTA benefits

- An importer making a claim for preferential rate of duty under a trade agreement on the basis of country of origin shall have to furnish information regarding such origin.
- Proper Officer empowered to further verify or temporarily suspend the preferential tariff treatment to imported goods if he has reason to believe that the country of origin has not been established as required.
- Commissioner empowered to disallow the claim for preferential rates of duty.

Introduction of Health Cess

- A duty called 'Health Cess' has been introduced on imported medical devices.
- The proceeds from this cess shall be used for the purpose of financing health and infrastructure services.

Miscellaneous Proposed Amendments

- Section 51B inserted in the CA to include an Electronic Duty Credit Ledger in the customs system.
- Section 11(2)(f) of the CA amended to empower the government to prohibit the import or export of any goods to prevent damage to the economy of the country. Earlier the said power was restricted only to the import of gold and silver.
- Section 8B of the CTA substituted to enable the government to impose safeguard measures including imposition of Safeguard Duty or Tariff Rate Quota in response to imports that cause or threaten serious injury to the domestic market.
- The levy of Basic Customs Duty and Social Welfare Cess on various imported goods have been reviewed and updated as required presently **(w.e.f. 02.02.2020).**
- Rules regarding anti-dumping duty and countervailing duty amended to strengthen the measures relating to cases of circumvention.
- Non-obstante explanation added retrospectively **(w.e.f. 29.03.2018)** to Section 28 of CA to provide that notices issued prior to 29.03.2018 (i.e. date of commencement of FA, 2018) to be governed by Section 28 as it stood immediately before such date.

HIGHLIGHTS OF IMPORTANT AMENDMENTS RELATING TO MISCELLANEOUS LAWS

PROHIBITION OF BENAMI PROPERTY TRANSACTIONS ACT, 1988

Expanding the Eligibility Criteria for Appointment of Member of Adjudicating Authority

- As per the existing provisions, only a member of Indian Revenue Service who has held position of Commissioner of Income Tax or equivalent post in that service or a member of Indian Legal Service who has held the position of Joint Secretary or equivalent post in that service are eligible to be appointed as Chairperson or Member of Adjudicating Authority.
- The proposed amendment in Section 9 of the PBPT Act provides that an individual who is eligible to be appointed as a district judge shall also be eligible to become a member or chairperson of the adjudicating authority under PBPT Act.
- **w.e.f. 01.04.2020**

COMPANIES ACT, 2013

Decriminalising of Compoundable Offences under Companies Act, 2013

- Hon'ble Finance Minister in her speech has mentioned certain amendments in the Companies Act, 2013 will be made to decriminalise the civil wrongs.
- The Companies Act, 2013 has recently been amended vide Companies Amendment Act, 2019 in this regard and 16 offences, e.g. issue of shares at discount and failure to file annual return etc., have been shifted from criminal to civil in nature and are now been adjudicated by Inhouse Adjudication Mechanism ("IAM") framework u/s 454 of the Companies Act, 2013 .
- The IAM framework is a mechanism through which Adjudicating Officers (AO) levy penalty for civil wrongs. Orders of the AO are appealable before Regional Director (RD) and non-compliance of orders of AO and RD will attract criminal penalties. Further, higher penalty will be levied for repeated defaults within 3 years.
- Another step in this direction is the Report of the Company Law Committee dated 14.11.2019 ("Committee Report") that has made certain recommendations relating to decriminalising of offences.
- The committee has recommended to shift 23 offences to IAM framework, 7 offences to be completely

omitted, 11 offences to be limited to fine only, 5 offences to be dealt with in an alternate framework and to maintain status quo for 20 provisions relating to compoundable offences.

- However, the proposed legislative amendments to be made in the Companies Act, 2013 are not part of the Finance Bill.

STAMP DUTY

No Stamp Duty on Transaction in Stock Exchanges and Depositories Established in IFSC

- Section 8A of the Indian Stamp Act, 1899 ("Stamp Act") was amended vide Finance Act, 2019 (No. 7 of 2019) to the effect that transfer of securities in dematerialized form shall be charged with stamp duty.
- Further, Section 9A and 9B of the Stamp Act was inserted vide Finance Act, 2019 (No. 7 of 2019) to provide framework w.r.t. liabilities and collection of the stamp duty on instruments related to securities by the depositories and stock exchanges as per the rates provided under the Schedule I to the Stamp Act. It was also provided that once the duty is collected by depositories and stock exchanges, no further stamp duty shall be chargeable on such instruments.
- A proviso is proposed to be added to Section 9A(2) to the effect that no stamp duty shall be charged for the instruments of transaction in stock exchanges and depositories established in any International Financial Services Centre set up u/s 18 of the Special Economic Zones Act, 2005 **("IFSC").** First such IFSC was set up at Gujarat Internation Finance Tec-City (GIFT City), Gandhinagar, Gujarat.
- **w.e.f. 01.04.2020**

SEBI and RBI Empowered to Issue Stamp Duty Instructions for Securities Market Transactions

- Part AA of Chapter II of the Stamp Act, which deals with liability of instruments of transaction in stock exchanges and depositories to stamp duty, was inserted vide Finance Act, 2019 (No. 7 of 2019).
- Section 73B is proposed to be inserted after Section 73A of the Stamp Act.
- The proposed Section 73B empowers the Central Government, for carrying out the provisions of Part AA of Chapter II of the Stamp Act, to:
  - o issue directions as it deems necessary; and
  - o authorise Securities and Exchange Board of India (SEBI) or Reserve Bank of India (RBI) to issue instructions, circulars or guidelines.
- **w.e.f. 01.04.2020**

BANKING & FINANCE

Deposit Insurance Coverage Limit to be Increased to Rs. 5 Lakhs

- Section 16(1) of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 provides that in case an order for winding up or liquidation of an insured bank is made, the Deposit Insurance and Credit Guarantee Corporation ("DICGC") shall pay Rs. 1,500/- per depositor, limit of which can be raised by the DICGC from time time with the prior approval of the Central Government. The current limit of such amount is Rs. 1,00,000/- per depositor, which was extended w.e.f. 01.05.1993.
- The Hon'ble Finance Minister in her speech has proposed to increase the said limit to Rs. 5,00,000/- per depositor.

Smoother Debt Recovery for NBFCs

- 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 intervention of the court.
- Only the non-banking financial company **("NBFCs")** notified by the Central Government as financial institution are covered under the SARFAESI Act.
- Till date, around 303 NBFCs, having assets worth of 500 Crore rupees have been notified by the Ministry of Finance as financial institution under the SARFAESI Act. Out of such 303 NBFCs, around 242 NBFCs can use provisions of SARFAESI Act for recovering loan of Rs. 1 Crore or more.
- As per the budget speech, the government intends to reduce the limit for NBFCs to be eligible for the debt recovery under SARFAESI Act from 500 Crore to asset size of 100 Crore or loan size from existing Rs. 1 Crore to Rs. 50 Lakh.
- Once a relevant notification in this regard is issued by the Government, a greater number of NBFCs would be able to recover their secured debts under the SARFAESI Act.

Strengthening Co-operative Banks

- Section 56 of the Banking Regulation Act, 1949 **("BR Act")** makes the provisions of the said Act applicable to the co-operative banks subject to certain modifications.
- In view of recent crisis at various co-operative banks and for the purpose of protecting the interest of the depositors, the Hon'ble Finance Minister in her speech has proposed amendments to the BR Act for increasing professionalism, enabling access to capital and improving governance and oversight for sound banking through Reserve Bank of India (RBI). Accordingly, appropriate amendments are expected to be made to the BR Act to give effect to the said proposal.

Amendments to Factoring Regulation Act, 2011

- Hon'ble Finance Minister made an announcement in the Budget Speech to make necessary amendments in the Factoring Regulation Act, 2011 to allow Non Banking Financial Companies **("NBFCs")** to be part of Trade Receivables Discounting System **("TReDS").**
- Presently, only banks and non banks **(NBFCs with principal business of factoring)** are allowed to directly participate in the TReDS.
- The proposal intends to enable NBFCs to extend invoice financing to the Micro Medium Small Enterprises through TReDS, thereby enhancing their economic and financial sustainability.
- However, the proposed legislative amendments to be made in the Factoring Regulation Act, 2011 are not part of the Finance Bill.

INSURANCE

PFRDA Act to be Amended to Facilitate Separation of NPS Trust

- Pension Fund Regulatory and Development Authority ("PFRDA") was established and incorporated u/s 3 of the Pension Fund Regulatory and Development Authority, 2013 ("PFRDA Act"). The function of PFRDA is to implement and regulate the National Pension System (NPS) and Atal Pension Yojana through various intermediaries including, inter-alia, the NPS Trust.
- Keeping in view the wider interest of the subscribers and to maintain arm's length relationship of the NPS Trust with PFRDA, the Hon'ble Finance Minister in her budget speech has proposed to make amendments in PFRDA Act to facilitate the separation of NPS Trust from PFRDA with appropriate organizational structure.
- However, the proposed legislative amendments to be made in the PFRDA Act are not part of the Finance Bill.

MISCELLANEOUS

Withdrawal of Income Tax Exemptions Provided to Election Commissioners and UPSC Members

- Section 8 of the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991 which determines the conditions of service of the Chief Election Commissioner and other Election Commissioners, provides for income-tax exemption to the Chief Election Commissioner and other Election Commissioners on the value of rent-free residence, conveyance facilities, sumptuary allowance, medical facilities and other such conditions of service as are applicable to a Judge of the Supreme Court under Chapter IV of the Supreme Court Judges (Conditions of Service) Act, 1958 and the rules made thereunder.
- It is proposed to amend Section 8 of the said Act to remove exemption from income-tax on value of rent-free residence, conveyance facilities, sumptuary allowance, medical facilities and other such conditions of service as are applicable to a Judge of the Supreme Court, paid to Chief Election Commissioner and other Election Commissioners.

- Existing Section 10(15) of the IT Act providing exemption to retired or present chairman or members of Union Public Service Commission **("UPSC")** in respect of notified allowance or perquisite is proposed to be omitted.
- **w.e.f. 01.04.2021**

Marriageable Age of Women to be Reviewed

- With an intend to lower maternal mortality rate as well as to increase nutrition level in women, Hon'ble Finance Minister has acknowledged the necessity to review the age of a girl entering into marriage and motherhood.
- Presently, under most of the personal laws, the marriageable age of women is 18 years.
- As per the budget speech, the government has proposed to appoint a task force that will present its recommendation in this regard.

GLOSSARY

1. **Budget Documents:** The list of budget documents presented to the Parliament, besides the Finance Minister's Budget Speech, are the following:
   a. Annual Financial Statement (AFS)
   b. Demands for Grants (DG)
   c. Appropriation Bill
   d. Finance Bill
   e. Memorandum Explaining the Provisions in the Finance Bill
   f. Macro-Economic Framework Statement
   g. Fiscal Policy Strategy Statement
   h. Medium Term Fiscal Policy Statement
   i. Medium Term Expenditure Framework Statement- (to be presented in parliament in the Session after the Budget session).
   j. Expenditure Profile1
   k. Expenditure Budget2
   l. Receipts Budget
   m. Budget at a Glance
   n. Highlights of Budget- Key Features.
   o. Outcome Budget
2. **Annual Financial Statement (AFS)**: It shows estimated receipts and expenditure for the coming F.Y. in relation to estimates for the previous year as also the actual amounts for the year prior to it. (Provided u/a 112 of the Constitution).
3. **Annual Reports**: It contains a descriptive account of the activities of each Ministry/Department during the previous year.
4. **Appropriation Bill:** Appropriation Bill gives power to the Government to withdraw funds from the Consolidated Fund for meeting the expenditure during the F.Y. (Presented u/a 114(3) of the Constitution).
5. **Budget at a Glance**: This document shows the brief of receipts and disbursements, details of resources transferred by the Central Government to State and Union Territory Governments. It also shows the revenue deficit, the gross primary deficit and the gross fiscal deficit of the Central Government.
6. **Capital Budget:** The Capital Budget consists of capital receipts and payments. It includes investments in shares, loans and advances granted by the Central Government to State Governments, Government companies, corporations and other parties.
7. **Consolidated Fund:** All revenues received by the government, the loans raised by it, and receipts from recoveries of loans granted by it, form the Consolidated Fund. All expenditure of the government is incurred from the Consolidated Fund and no amount can be withdrawn from the fund without authorisation from the parliament. This fund was constituted under Article 266 (1) of the Constitution. All revenues received by the government by way of direct taxes and indirect taxes, money borrowed and receipts from loans given by the government flow into the Consolidated Fund.

8. **Contingency Fund:** This is the fund which the government resorts to in times of calamities, emergencies etc, to meet urgent, unforeseen expenditures without having to wait for the parliament's authorisation. It is placed at the disposal of the President for such financial exigencies.

9. **Demands for Grants (DG)**: It is the form in which the estimates of expenditure from the Consolidated Fund to be included in the AFS and presented in Lok Sabha to be voted upon. (Presented u/a 113 of the Constitution).

10. **Detailed Demands for Grants**: It further elaborates the provisions included in the Demands for Grants as also the actual expenditure during the previous year.

11. **Economic Survey**: It brings out the economic trends in the country which facilitates a better appreciation of the mobilisation of resources and their allocation in the Budget.

12. **Expenditure Budget**: The estimates made for a scheme/programme are brought together and shown on a net basis on Revenue and Capital basis along with explanatory notes to understand the objectives of the underlying expenditures.

13. **Expenditure Profile**: It gives an aggregation of various types of expenditure and certain other items across demands. (Titled Expenditure Budget- Vol- I till the previous year).

14. **Finance Bill:** It details the imposition, abolition, remission, alteration or regulation of taxes proposed in the Budget. (Presented u/a 110(1)(a)).

15. **Fiscal Deficit:** Fiscal Deficit is the difference between the Revenue Receipts plus Non-debt Capital Receipts (NDCR) and the total expenditure. This indicates the total borrowing requirements of Government from all sources. It is the gap between the government's total spending and the sum of its revenue receipts and non-debt capital receipts. It represents the total amount of borrowed funds required by the government to completely meet its expenditure.

16. **Fiscal Policy Strategy Statement**: It outlines the strategic priorities of the Government for the existing F.Y. and also explains how the current fiscal policies are in conformity with sound fiscal management principles and gives the rationale for any major deviation in key fiscal measures. (Presented u/s 3(4) of the FRBM Act).

17. **FRBM Act:** Fiscal Responsibility and Budget Management Act, 2003 is an Act of the Parliament of India to institutionalize financial discipline, reduce India's fiscal deficit, improve macroeconomic management and the overall management of the public funds by moving towards a balanced budget. Some of the budget documents as listed above are introduced under the provisions of this Act.

18. **Gross Domestic Product (GDP)**: As per OECD Glossary of Technical Terms, GDP is an aggregate measure of production equal to the sum of the gross values added of all resident institutional units engaged in production (plus any taxes, and minus any subsidies, on products not included in the value of their outputs). The sum of the final uses of goods and services (all uses except intermediate consumption) measured in purchasers' prices, less the value of imports of goods and services, or the sum of primary incomes distributed by resident producer units. "Gross" signifies that no deduction has been made for the depreciation of machinery, buildings and other capital products used in production. "Domestic" means that it is production by the resident institutional units of the country. The products refer to final goods and services, that is, those that are purchased, imputed or otherwise, as: final consumption of households, non-profit institutions serving households and government; fixed assets; and exports (minus imports). Data are internationally comparable by following the System of National Accounts. This indicator is measured in USD per capita (GDP per capita) and in million USD at current prices and PPPs. Data are under 2008 System of National Accounts (SNA 2008) for all countries except for Chile, Japan and Turkey

(SNA 1993). Following are the ways to calculate GDP:

- Expenditure Method
- Income Method
- Production (Output) Method

19. **Highlights of Budget- Key features**: This document explains the key features of the Budget. It is broadly a summary of the announcements made in the Budget Speech.
20. **Macro-Economic Framework Statement**: It contains an assessment of the growth prospects of the economy along with statement of specific underlying assumptions, GDP growth rate, domestic economy and stability of the external sector of the economy, fiscal balance of the Central Government and the external sector balance of the economy. (Presented u/s 3(5) of the FRBM Act).
21. **Medium-Term Fiscal Policy Statement**: It sets out the 3-year rolling targets for 5 specific fiscal indicators in relation to GDP at market prices, namely (i) Revenue Deficit, (ii) Fiscal Deficit, (iii) Effective Revenue Deficit (iv) Tax to GDP ratio and (v) Total outstanding Central Government Liabilities at the end of the year. (presented u/s 3(2) of the FRBM Act).
22. **Medium-Term Expenditure Framework Statement**: It sets forth the 3-year rolling target for certain expenditure indicators along with description of the underlying assumptions and risks. (Presented u/s 3 of the FRBM Act).
23. **Memorandum Explaining the Provisions in the Finance Bill**: It is a document that explains the taxation provisions and their implications contained in the Finance Bill.
24. **Money Bill:** A Bill is said to be a Money Bill if it only contains provisions related to taxation, borrowing of money by the government, expenditure from or receipt to the Consolidated Fund of India as specified under Article 110 (1). Bills that only contain provisions that are incidental to these matters would also be regarded as Money Bills.
25. **Outcome Budget**: It broadly indicates the outcomes of the financial budget of a Ministry/Department, indicating actual deliverables linked with outlays targeted during the year and in the medium term.
26. **Plan and Non-Plan Expenditure:** Plan expenditures are estimated after discussions between each of the ministries concerned and the Planning Commission. Non-plan revenue expenditure is accounted for by interest payments, subsidies (mainly on food and fertilisers), wage and salary payments to government employees, grants to States and Union Territories governments, pensions, police, economic services in various sectors, other general services such as tax collection, social services, and grants to foreign governments. Non-plan capital expenditure mainly includes defence, loans to public enterprises, loans to States, Union Territories and foreign governments.
27. **Receipts Budget**: It provide details of tax and non-tax revenue receipts and capital receipts, statement on the arrears of tax revenues and nontax revenues, statement of Revenue Impact of Tax Incentives under the Central Tax System which seeks to list the revenue impact of tax incentives that are proposed by the Central Government.
28. **Revenue Budget:** The revenue budget consists of revenue receipts of the Government and its expenditure. Revenue receipts are divided into tax and non-tax revenue.
29. **Revenue Deficit:** Revenue Deficit refers to the excess of revenue expenditure over revenue receipts.
30. **Union Budget**: Also referred to as the AFS, is a statement of the estimated receipts and expenditure of the government for that particular year and is introduced annually under Article 112 of the Constitution.

List of Abbreviations

AO	Assessing Officer
AR	Authorized Representative
Black Money Act	(Undisclosed Money Act Foreign Income and Assets) and imposition of Tax Act, 2015
CA	Customs Act, 1962
CEA	Central Excise Act, 1944
CGST	Central Goods and Services Tax Act, 2017
CGST Rules	Central Goods and Services Tax Rules, 2017
Co. Act	Companies Act, 2013
CTA	Custom Tariff Act, 1975
FCRA	Forward Contract (Regulation) Act, 1952
FEMA	Foreign Exchange Management Act, 1999
FRBM Act	Fiscal Responsibility and Budget Management Act, 2003
HUF	Hindu Undivided Family
IBC	Insolvency and Bankruptcy Code, 2016
IGST Act	Integrated Goods and Services Tax Act, 2017
IGST Rules	Integrated Goods and Service Tax Rules, 2017
IRDA	Insurance Regulatory and Development Authority Act, 1999
IT Act	Income Tax Act, 1961
IT Rules	Income Tax Rules, 1961
ITAT	Income Tax Appellate Tribunal
ITO	Income Tax Officer
ITR	Income Tax Return
NBFC	Non-Banking Finance Company
PBPT Act	Prohibition of Benami Property Transaction Act, 1988
PE	Permanent Establishment
PMLA	Prevention of Money Laundering Act, 2002
RBI	Reserve Bank of India
RBI Act	Reserve Bank of India Act, 1934
RERA	Real Estate (Regulation and Development) Act, 2016
SCRA	Securities Contracts (Regulations) Act, 1956
SCR Rules	Securities Contracts (Regulations) Rules, 1956
SEBI	Securities and Exchange Board of India
SEBI Act	Securities and Exchange Board of India Act, 1992
SEZ Act	Special Economic Zones Act, 2005
Stamp Act	Indian Stamp Act, 1899
TRO	Tax Recovery Officer

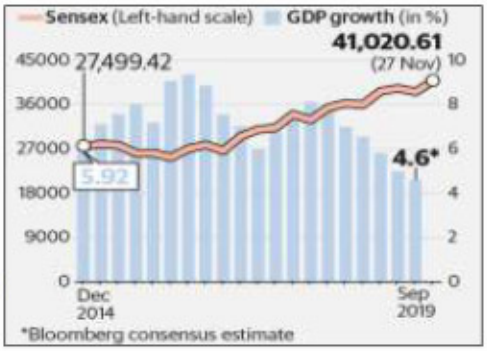
NOTES

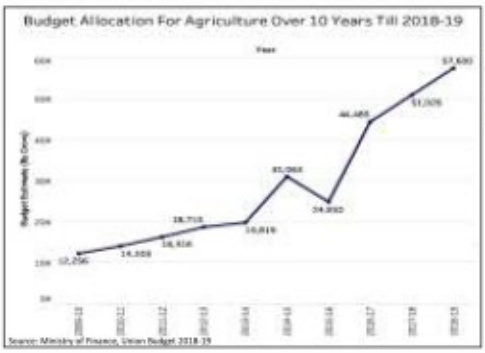
Dichotomy of Economy

GDP at a 42 year low

but

Markets at all time high

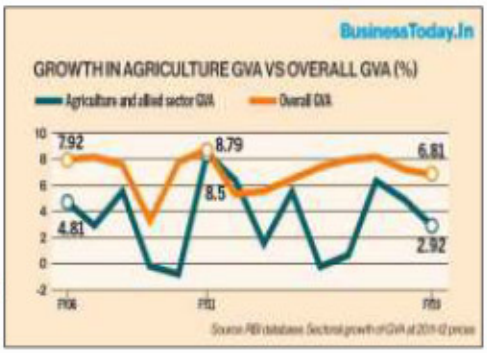


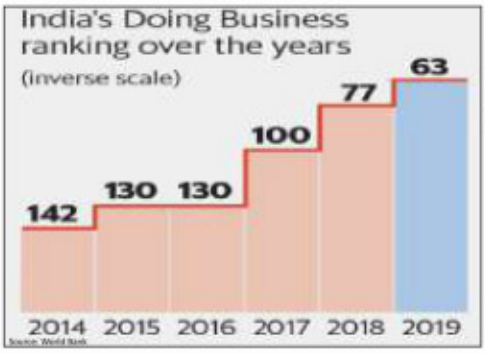


Government cultivates farmers

but

Farm income doesn't grow

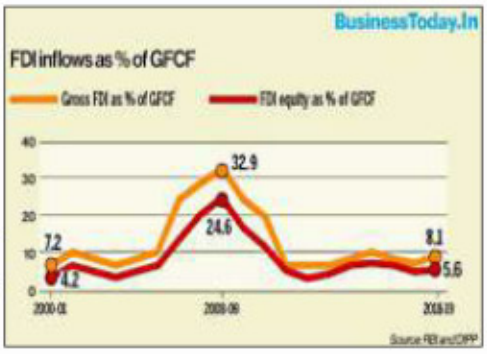


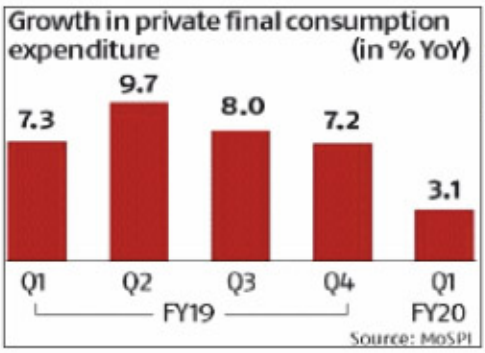


Doing business gets easier

but

Fewer are investing

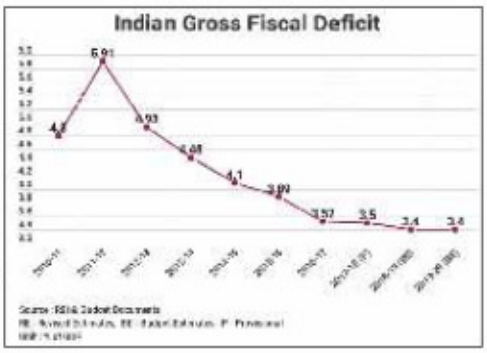




Consumption Falters

but

Government cannot spend



When learning is purposeful, creativity blossoms. When creativity blossoms, thinking emanates. When thinking emanates, knowledge is fully lit. When knowledge is lit, economy flourishes.

— A.P.J. Abdul Kalam

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