Salient Features of the Finance Bill, 2021
[ Relating to direct taxes]

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The Finance Bill, 2021 or Union Budget 2021-22, was presented in the Parliament on 1.2.2021. As regards the direct taxes, there are in all 77 amendments / insertions proposed in the Finance Bill, 2021, vide clauses (3) to (79).

Save as otherwise provided in the aforesaid Bill, the amendments / insertions, vide the aforesaid clauses, shall be deemed to have come into force on the 1st day of April, 2021, viz. from financial year (FY) 2021-22, relevant to assessment year (AY) 2022-23. Further, it may also be stated here that there are some amendments / insertions, which will come into operation from certain specified dates, whereas some others will come into operation with retrospective effect. Therefore, an attempt has been made to provide the date with effect from which the amendment(s) / insertion(s), in question, shall come into effect. The term “Section” in this Note shall mean section of the Income-Tax Act, 1961 (the Act).

Further, the abbreviations FY, PY, AY and AO, stand for financial year, previous year, assessment year and Assessing Officer, respectively, in this Note.

In this Note, only the important amendments / insertions have been discussed and the same are as follows:

1. Rates and slabs of income-tax
   In the Union Budget 2021-22, there are no changes in the tax rates for any tax-payer under the normal tax regime or alternative tax regime.

2. Amendment of section 2 of the Act, relating to definitions
   Section 2 of the Act relates to definitions of various terms used in the Act.

   The amendments / insertions in section 2 are discussed as follows:

   I. Amendment of clause (11), relating to definition of “block of assets”
      Clause (11) of section 2, inter alia, defines “block of assets” to mean a group of assets falling within a class of assets comprising tangible assets being buildings, machinery, plant or
furniture and intangible assets being know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature.

Clause (11) is to be amended, so as to exclude goodwill of a business or profession from the purview of “block of assets”.

The aforesaid amendment will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.

II. Amendment of clause (14), relating to definition of “capital asset”

Clause (14) of section 2 defines the expression “capital asset”.

Sub-clause (c) is to be inserted in the aforesaid clause (14), so as to include any unit linked insurance policy (ULIP), to which exemption under clause (10D) of section 10 does not apply on account of the applicability of the fourth and fifth proviso thereof.

The aforesaid amendment will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.

III. Amendment of clause (19AA), relating to the definition of “demerger”.

This amendment relates to “facilitating strategic disinvestment of public sector company”.

An Explanation is to be inserted in clause (19AA), so as to clarify that reconstruction or splitting-up of a public sector company into separate companies shall be deemed to be a demerger, if such reconstruction or splitting-up has been made to transfer any asset of the demerged company, to the resulting company and such resulting company –

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

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

The aforesaid amendment will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.
IV. Insertion of new clause (29A), relating to definition of expression “liable to tax”.

A new clause (29A) is to be inserted in section 2, so as to define the expression “liable to tax”, in relation to a person to mean that there is a liability of tax on such person under any law for the time being in force in any country and shall include a case where subsequent to imposition of tax liability, an exemption has been provided.

The aforesaid amendment will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.

V. Amendment of clause (42C), relating to rationalization of the provision of slump sale

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

Thus, a transfer, which “in effect and substance” is by way of sale, is also currently covered in the definition of slump sale in section 50B of the Act, as interpreted by various Courts. However, it is still seen that tax-avoidance schemes are drawn to defeat the intention of this provision and Courts can always intervene to find the true substance of the transaction and purpose of section 50B of the Act.

In order to make the intention clear, the scope of the definition of the term “slump sale” is to be amended by amending the provision of clause (42C) of section 2 of the Act, so that all types of “transfer”, as defined in clause (47) of section 2 of the Act, are included within its scope.

In order to achieve the aforesaid purpose, Explanation 3 has been added after Explanation 2 in clause (42C) of section 2.

The aforesaid amendment will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.

VI. Amendment of clause (48), relating to the definition of “zero coupon bond”.

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

In order to enable infrastructure debt fund to issue zero coupon bond, necessary amendments are to be made in clause (48) of section 2 of the Act. To be more specific, infrastructure debt fund is to be inserted in sub-clauses (a) and (b) thereof, so as to enable notified infrastructure debt fund also to issue zero coupon bonds.

It may also be stated that the present *Explanation* shall be numbered as *Explanation* 1 and after *Explanation* 1, *Explanation* 2 shall be inserted, according to which the expression “*infrastructure debt fund*” shall mean the infrastructure debt fund notified by the Central Government in the Official Gazette under clause (47) of section 10.

The aforesaid amendment will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.

3. **Amendment of section 9A, relating to certain activities not to constitute business connection in India**

   The aforesaid amendment is made for providing tax incentives for units located in International Financial Service Centre (IFSC).

   The Government has established a world class financial services centre. Units located in IFSC enjoy some concessions. In order to make location of IFSC more attractive, more tax incentives are to be provided which include tax-holiday for capital gains, incomes of aircraft leasing company, tax exemptions for aircraft lease rental paid to foreign lessor, tax incentive for re-location of foreign funds in IFSC and tax exemptions to investment division of the foreign banks located in IFSC.

   The aforesaid amendment will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.

4. **Amendments of section 10, relating to incomes not included in total income**

   Section 10 provides that in computing total income of a previous year of any person, certain categories of income shall not be included in the total income.

   A number of amendments are to be made in section 10. However, only the important ones are dealt with in the present Note.
The aforesaid important amendments in section 10 are discussed as follows:

I. Amendment of clause (5), relating to exemption in respect of exemption of LTC cash scheme.

Clause (5) of section 10 of the Act, provides for exemption in respect of the value of travel concession or assistance received by or due to an employee from his employer or former employer for himself and his family, in connection with his proceeding on leave to any place in India. In view of the situation arising out of outbreak of COVID pandemic, tax exemption is to be provided to cash allowance, in lieu of leave travel concession (LTC) or assistance.

For the aforesaid purpose, second proviso is to be inserted in clause (5), so as to provide that for the AY beginning on 1.4.2021, i.e. AY 2021-22, in case of an individual, the value in lieu of any travel concession or assistance received by, or due to, such individual, shall also be exempted, subject to fulfilment of such condition, as may be provided by rules.

Besides, Explanation 2 is to be inserted in clause (5), so as to clarify that where an individual claims such exemption and the same is allowed under the second proviso, in connection with the expenditure provided by rules, no exemption shall be allowed under the said clause, in respect of the same expenditure to any other individual.

The aforesaid conditions for this purpose shall be prescribed in the income-tax rules in due course and shall, inter alia, be as follows:

(a) The employee exercises an option for the deemed LTC fare in lieu of the applicable LTC in the Block year 2018-21;

(b) “specified expenditure” means expenditure incurred by an individual or a member of his family during the specified period on goods or services which are liable to tax at an aggregate rate of twelve per cent or above under various GST laws and goods are purchased or services procured from GST registered vendors / service providers;

(c) “specified period” means the period commencing from 12th day of October, 2020 and ending on 31st day of March, 2021;

(d) the amount of exemption shall not exceed thirty-six thousand rupees per person or one-third of specified expenditure, whichever is less;

(e) the payment to GST registered vendor / service provider is made by an account payee cheque drawn on a bank or account payee bank draft, or use of electronic clearing system through a bank account or through such other electronic mode as prescribed under Rule 6ABBA and tax invoice is obtained from such vendor / service provider.
(f) if the amount received by, or due to an individual as per the terms of his employment from his employer in relation to himself and his family, for the LTC is more than what is allowable to such person under the above discussed provisions, the exemption under the proposed amendment would be available only to the extent of exemption admissible under above listed provisions.

The aforesaid amendment will take effect from 1.4.2021.

II. Amendment of clause (10D), relating to exemption for the sum received under life insurance policy.

Clause (10D) of section 10 of the Act, provides for exemption for the sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, in respect of which the premium payable for any of the years during the terms of the policy does not exceed 10% of the actual capital sum assured. Under the existing provisions of clause (10D), there is no cap on the amount of annual premium being paid by any person during the term of the policy. Instances have come to notice where high net worth individuals (HNIs) are claiming exemption under this clause by investing in unit linked insurance policy (ULIP) with huge premium. Allowing such exemption in policy / policies with huge premium, defeats the legislative intent of this clause. The intention was to provide benefit to small / genuine cases of life insurance.

Therefore, amendments are to be made in clause (10D), so as to provide for the following:

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

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

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

(iv) insert sixth proviso to this clause providing that the provisions of fourth and fifth provisos shall not apply to any sum received on the death of a person.

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

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

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

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

The aforesaid amendment will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.

III. Amendment of clauses (11) and (12), relating to taxability of interest on various funds where income is exempt

Clause (11) of section 10 provides for exemption with respect to any payment from a provident fund to which the Provident Funds Act, 1925, applies or from any other provident fund set up by the Central Government and notified in this behalf in the Official Gazette. Similarly, clause (12) provides for exemption with respect to accumulated balance due and becoming payable to an employee participating in a recognized provident fund to the extent provided in rule 8 of Part A of the Fourth Schedule.
Instances have come to notice where some employees are contributing huge amounts to these funds and entire interest accrued or received on such contributions is exempt from tax under clauses (11) and (12) of section 10 of the Act. These exemptions without any threshold, benefit only those who can contribute a large amount to these funds as their share.

Accordingly, a proviso is to be inserted in clauses (11) and (12) of section 10 of the Act, providing that the provisions of these clauses shall not apply to interest income accrued during the previous year in the account of the person to the extent it relates to the amount or aggregate of amounts of contribution made by the person exceeding two lakh and fifty thousand rupees (Rs.2,50,000) in a previous year in that fund, on or after 1st April, 2021, computed in such manner, as may be prescribed.

The aforesaid amendment will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.

IV. Amendment of clause (23C) raising prescribed limit for exemption under sub-clauses (iiiad) and (iiiae) from Rs.1 crore to Rs.5 crores

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

Sub-clauses (iiiad) of clause (23C) provides for exemption for income received by any person on behalf of university or educational institution as referred to in that sub-clause. The exemptions under the clause are available subject to the condition that the annual receipts of such university or educational institution do not exceed Rs.1 crore, as prescribed in rule 2BC of the Income-Tax Rules, 1962 (the Rules).

Similarly, sub-clauses (iiiae) provides for exemption for income received by any person on behalf of hospital or institution as referred to in that sub-clause. The exemptions under the clause are available subject to condition that the annual receipts of such hospital or institution do not exceed Rs.1 crore, as prescribed in rule 2BC of the Rules.

Representations have been received to increase the aforesaid limit of Rs 1 crore, as prescribed under Rule 2BC of the Rules. In order to provide benefit to small trusts and institutions, the exemption under sub-clauses (iiiad) and (iiiae) shall be increased to Rs 5 crore.
The aforesaid amendment will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.

Another amendment of clause (23C), relating to rationalization of provisions of charitable trust and institutions, to eliminate the possibility of double taxation while calculating application or accumulation of income, has been discussed along with the amendments of sections 11 and 12, hereinafter.

V. Amendment of clause (23FE) for relaxation in conditions for exemption of Sovereign Wealth Fund (SWF) and Pension fund (PF)

Clause (23FE) of section 10 provides for the exemption to specified persons from the income in the nature of dividend, interest or long-term capital gains arising from an investment made by it in India. Specified persons are SWF or PF which fulfils conditions prescribed therein and are specified for this purpose by the Central Government through notification in the Official Gazette. This provision was introduced through the Finance Act, 2020 to encourage investments of SWF and PF into infrastructure sector of India. Subsequent to enactment, a notification was also issued to enlarge the scope of infrastructure activities eligible for investments. One SWF has already been notified under this provision. In order to rationalise the provision of this clause and to remove the difficulties in meeting some of the conditions, requisite amendments are to be made in clause (23FE).

By way of a summary, it may be stated that in order to incentivize more number of SWF / PF to investment in Indian infrastructure, the requisite amendments are to be made to relax some of the conditions for availing 100% tax exemption introduced in the last budget. The conditions which are to be relaxed include prohibition on loans or borrowings, restriction on commercial activities, direct investment in entity owning infrastructure, etc.

The aforesaid amendment will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.

VI. Amendment of clause (50), relating to exemption of income arising from specified service or e-commerce supply or services

Clause (50) of section 10 provides for exemption of the income arising from any specified service provided on or after the date on which provisions of Chapter VIII of the Finance Act, 2016 comes into force or arising from any e-commerce supply or services made or provided or
facilitated on or after 1.4.2021 and chargeable to equalisation levy under the provisions of that Chapter.

In the first place, the aforesaid year 2021, is to be changed to 2020.

Besides, Explanation to this clause is to be substituted by Explanations 1 and 2. As per Explanation 1, it is clarified that income referred to in this clause shall not include and shall never be deemed to have included any income which is chargeable to tax as royalty or fees for technical service in India under the said Act, read with the agreement notified by the Central Government and section 90 or 90A [Double Taxation Avoidance Agreements].

As per Explanation 2, the expressions “e-commerce supply or services” and “specified service” are to be defined for the purposes of this clause.

The aforesaid amendment will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.

5. Amendments of sections 10(23C), 11 and 12 for the purpose of rationalization of the provisions, relating to charitable trusts and institutions, so as to eliminate the possibility of double deduction, while calculating application or accumulation of income

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

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

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

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

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

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

To ensure that there is no double counting while calculating application or accumulation, requisite amendments are to be made in section 10(23C) and sections 11 and 12 of the Act, as follows:

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

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

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

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

The aforesaid amendments will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.

6. Amendment of section 32, relating to depreciation, providing for no depreciation on goodwill

Sub-section (1) of section 32 provides for deduction on account of depreciation on tangible assets (including building, machinery, plant and furniture) and intangible assets (know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature) acquired on or after the 1st day of April, 1998, and are owned, wholly or partly by the assessee and are used wholly and exclusively for the purpose of business or profession while computing the income under the head ‘Profits and gains of business or profession’.

Clause (ii) of the said sub-section (1) of section 32 is to be amended, so as to provide that goodwill of a business or profession shall not be considered as an asset for the purpose of the said clause and, hence, not eligible for depreciation.

Further, Explanation 3 to sub-section (1) of section 32 is to be amended, so as to provide that goodwill of a business or profession shall not be considered as an asset for the purposes of the said sub-section.

However, the deduction for the amount paid for acquiring goodwill shall be allowed on sale of goodwill.

The aforesaid amendment will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.

7. Amendment of section 36, relating to other deductions – Timely deposit of employees’ contribution to labour welfare funds by due date.

Sub-section (1) of section 36 provides for allowing deductions provided for, in the clauses thereof for computing the total income of an assessee. Clause (va) of sub-section (1) provides for allowance of deduction for any sum received by the assessee from any of his employees, as contribution to any provident fund or superannuation fund or any fund set up under the provisions of the Employees’ State Insurance Act, 1948 or any other fund for the welfare of such employees.
The aforesaid deduction is allowed if the aforesaid contributions made by the employees are credited by the assessee to the employee’s account in the relevant fund or funds, on or before the due date.

In order to ensure timely payment of the aforesaid contributions, *Explanation 2* is to be inserted in the aforesaid clause (va) of section 36(1), so as to clarify that the provisions of section 43B shall not apply and shall be deemed to never have applied for the purposes of determining the “due date” under the said clause. In other words, the aforesaid amendment is made in order to reiterate that the late deposit of employees’ contribution by the employer shall never be allowed as a deduction in the computation of total income of the employer.

The aforesaid amendment will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.

8. **Amendment of section 43B, relating to certain deductions to be allowed on actual payments**

This amendment is to be read with the amendment in the preceding paragraph (7), relating to amendment of section 36(1)(va), as a consequential amendment.

The aforesaid amendment will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.

9. **Amendment of section 43CA, relating to special provision for full value of consideration for transfer of assets, other than capital assets**

   [Increase in safe harbour limit from 10% to 20% for primary sale of residential units]

Section 43CA of the Act, *inter alia*, provides that where the consideration declared to be received or accruing, as a result of the transfer of land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government (stamp valuation authority) for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable, shall for the purpose of computing profits and gains from transfer of such assets, be deemed to be the full value of consideration. The said section also provides that where the stamp duty value does exceed 110% of the consideration received or accruing, as a result of the transfer, consideration so received or accruing, as a result of transfer shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be full value of consideration.
In order to incentivize home buyers and real estate developers, the safe harbour limit is to be increased from 10% to 20% for the specified primary sale of residential units, subject to the following conditions:

(i) the transfer of such residential unit takes place during the period beginning from 12.11.2020 and ending on 30.6.2021;
(ii) such transfer is by way of first time allotment of the residential unit to any person; and
(iii) the consideration received or accruing as a result of such transfer, does not exceed Rs.2 crores.

The aforesaid amendment will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.

10. Amendment of section 44AB, relating to audit of accounts of certain persons carrying on business or profession, in order to incentivize non-cash transactions

Clause (a) of section 44AB provides for audit of accounts for every person carrying on business, if his total sales turnover or gross receipts, as the case may be, in business exceed or exceeds Rs.1 crore in any previous year.

The proviso to the said clause provides that in case of a person whose aggregate of all amounts received, including amount received for sales, turnover or gross receipts during the previous year in cash, does not exceed 5% of the said amount; and aggregate of all payments made, including amount incurred for expenditure in cash, during the previous year does not exceed 5% of the said payment, the said clause shall have effect as if the words “one crore rupees” the words “five crore rupees” had been substituted.

In order to incentivize digital transactions and to reduce the compliance burden of the persons who are carrying almost all of their transactions digitally, the limit for tax audit of such persons, is to be increased from Rs.5 crores to Rs.10 crores.

The aforesaid amendment will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.

11. Amendment of sections 45, relating to capital gains [Taxability of surplus amount received by partners of a firm on dissolution or reconstitution]

Sub-section (4) of section 45 provides that profits and gains arising from the transfer of a capital asset, by way of distribution of capital assets on the dissolution of a firm or other association of persons or body of individuals (not being a company or a co-operative society) or otherwise, shall
be chargeable to tax as the income of such firm or other association of persons or body of individuals of the previous year, in which the said transfer takes place. Further, the fair market value of the asset on the date of such transfer, shall be deemed to be the full value of consideration for the purposes of section 48.

In this regard, it has been noticed that there is uncertainty regarding the applicability of the provisions of the aforesaid sub-section (4) to a situation where assets are revalued or self-generated assets are recorded in the books of account and payment is made to partner or member, which is in excess of his capital contribution. Hence, existing sub-section (4) is to be substituted by new sub-sections (4) and (4A). The newly substituted sub-section (4) applies in a case where a specified person who receives during the previous year any capital asset at the time of dissolution or reconstitution of a specified entity. The capital asset represents the balance in the capital account of such specified entity, at the time of its dissolution or reconstitution. In this situation, the profits and gains arising from the receipt of such capital asset by such specified person, shall be chargeable to income-tax as income of the specified entity under the head “capital gains” and shall be deemed to be the income of such specified entity of the previous year in which the capital asset was received by the specified person.

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

The newly inserted sub-section (4A) of section 45 applies in a case where a specified person receives during the previous year any money or other asset at the time of dissolution or reconstitution of the specified entity. The money or other asset is required to be in excess of the balance in the capital account of such specified person in the books of account of the specified entity, at the time of its dissolution or reconstitution. In this situation, the profits or gains arising in respect of such money or asset by the specified person, shall be chargeable to income-tax, as income of the specified entity under the head “capital gains” and shall be deemed to be the income of such specified entity of the previous year, in which the money or other asset was received by the specified person.

For the purposes of section 48 of the Act,

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

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

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

Consequential amendment is also to be made in section 48 of the Act to provide that in case of specified entity, the amount included in the total income of such specified entity under sub-section (4A) of section 45 which is attributable to the capital asset being transferred, shall be reduced from the full value of the consideration to compute income charged under the head “Capital gains”. This is to be calculated in the manner to be prescribed later. This is to mitigate the double taxation which may have happened but for this provision in a situation where an asset which was revalued and for which income under the proposed sub-section (4A) of section 45 of the Act was brought to tax is transferred subsequently by the specified entity.

The aforesaid amendments will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.

12. Amendment of section 47, relating to transactions not regarded as transfer

After clause (viiab), clauses (viiac) and (viiad) are to be inserted.

The newly inserted clause (viiac) relates to any transfer, in relocation, of a capital asset by the original fund to the resultant fund, whereas clause (viiad) relates to any transfer by a shareholder or a unitholder or an interest holder, in relocation, of a capital asset, being a share or unit or interest held by him in the original fund, in consideration for the share or unit in the interest on a resultant fund.

In this connection, the expression “original fund” means a fund established or incorporated or registered outside India, which collects fund from its members for investing it for their benefit and fulfils the conditions listed therein. The other expression, viz. “relocation” and “resultant fund” have also been defined in Explanation.

Here it may be stated that “resultant fund” means a fund established or incorporated in India in the
form of a trust or company or a limited liability partnership, which fulfils certain conditions listed therein.
The aforesaid amendment will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.

13. Amendment of section 48, relating to mode of computation of income chargeable under the head “capital gains”.

Clause (iii), after clauses (i) and (ii), is to be inserted in section 48, so as to provide that in case of specified entity referred to in newly inserted sub-section (4A) of section 45, the amount included in the total income of such specified entity in sub-section (4A) of section 45, which is attributable to capital asset being transferred, calculated in the prescribed manner, shall be reduced from the full value of consideration received or accruing as a result of transfer of capital asset.

The aforesaid amendment will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.

14. Amendment of section 50, relating to special provision for computation of capital gains in case of depreciable assets.

A proviso is to be inserted in section 50, so as to provide that in case where goodwill of a business or profession forms part of a block of asset for the AY beginning on 1.4.2020 and depreciation thereon has been obtained by the assessee under the Act, the written down value of the block of asset and short-term capital gain, if any, shall be determined in such a manner, as may be prescribed.

The aforesaid amendment will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.

15. Amendment of section 54GB, relating to capital gain on transfer of residential property not to be charged in certain cases

The provisions of section 54GB, inter alia, provide for roll over benefit in respect of capital gain arising from the transfer of a long-term capital asset, being a residential property owned by the eligible assessee. In order to get benefit of this provision, the assessee is required to utilize the net consideration for subscription in the equity shares of an eligible company, before the due date of filing of return of income.
Currently, the benefit of this section is only available for investment in equity shares of eligible start-ups, upto 31.3.2021. In order to incentivize investment in start-up, the aforesaid benefit is to be extended by one more year, upto 31.3.2022.
The aforesaid amendment will take effect from 1.4.2021.

16. Amendment of section 55, relating to meaning of “adjusted”, “cost of improvement” and “cost of acquisition”

Clause (a) of sub-section (2) of the said section provides that for the purposes of sections 48 and 49, "cost of acquisition" in relation to a capital asset, being goodwill of a business or a trade mark or brand name associated with a business or a right to manufacture, produce or process any article or thing or right to carry on any business or profession, tenancy rights, stage carriage permits or loom hours,—

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

(ii) in any other case [not being a case falling under sub-clauses (i) to (iv) of sub-section (1) of section 49], shall be taken to be nil;

The aforesaid clause (a) is to be substituted, so as to provide that in relation to a capital asset, being goodwill of a business or profession, or a trade mark or brand name associated with a business or profession, or a right to manufacture, produce or process any article or thing, or right to carry on any business or profession, or tenancy rights, or stage carriage permits, or loom hours,—

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

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

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

Further, as per the proviso inserted therein, in case of goodwill of business or profession acquired by the assessee by way of purchase from a previous owner [either directly or
through modes specified under sub-clauses (i) to (iv) of sub-section (1) of section 49] and any deduction on account of depreciation under section 32 of the said Act has been obtained by the assessee in any previous year preceding the previous year relevant to the assessment year commencing on or after the 1st day of April, 2021, then the cost of acquisition will be the purchase price as reduced by the depreciation so obtained by the assessee before the previous year relevant to the assessment year commencing on the 1st day of April, 2021.

The aforesaid amendments will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.

17. Amendment of section 56, relating to income from other sources

Sub-clause (b) of clause (x) of sub-section (2) of the said section, inter alia, provides that where any person receives any immovable property in any previous year from any person or persons on or after the 1st day of April, 2017 for a consideration, and where the stamp duty value of such property exceeds ten per cent. of the consideration and the excess amount thereof is more than fifty thousand rupees, it shall be charged to tax under the head income from other sources.

A fourth proviso is to be inserted in the said clause, so as to provide that in case of property being referred to in the second proviso to sub-section (1) of section 43CA, the provisions of sub-item (ii) of item (B) of the said clause shall have the effect as if for the words “ten per cent.”, the words “twenty per cent.” had been substituted.

The aforesaid amendment will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.

Further, clause (x) of sub-section (2) of section 56, *inter alia*, provides that the assets received without adequate consideration shall be charged to tax under the head “*Income from other sources*”.

The aforesaid clause (x) is to be amended, so as to exclude the transfer of capital asset between the original Fund and the resultant Fund, which are not regarded as transfer under clauses (viiac) and (viiad) of section 47, from the scope of clause (x) of section 56.

The aforesaid amendment will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.
18. Amendment of section 80EEA, relating to deduction in respect of interest on loan taken for certain housing property

[Extension of date of sanction of loan for affordable residential house property]

In order to incentivize purchase of affordable house, the eligibility period for claim of additional deduction for interest of Rs.1.5 lakhs paid on loan taken for purchase of an affordable house, is to be extended upto 31.3.2022.

For this purpose, sub-section (3) of section 80EEA is to be amended, so as to provide that the deduction in respect of interest paid on loan sanctioned by a financial institution for acquisition of a residential house property, shall be available if the loan has been sanctioned during the period beginning from 1.4.2019 and ending on 31.3.2022, subject to other conditions specified in the said section.

The aforesaid amendment will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.

19. Amendment of section 80IAC, relating to special provision in respect of specified business.

[Extension of date of incorporation for eligible start-up, for exemption and for investment in eligible start-up]

The existing provisions of the section 80-IAC of the said Act, inter alia, provide for a deduction of an amount equal to one hundred per cent. of the profits and gains derived from an eligible business by an eligible start-up for three consecutive assessment years out of ten years at the option of the assessee subject to the condition that the total turnover of its business does not exceed one hundred crore rupees for an eligible start-up incorporated on or after the 1st day of April, 2016 but before the 1st day of April, 2021.

In order to incentivize setting-up of more start-ups in the country, the eligibility period to claim tax holiday for the start-ups is to be extended by one more year till 31.3.2022. Besides, in order to incentivize investment in start-up, the eligibility period for claiming capital gains exemption for investment made in the start-ups, is to be extended by one more year till 31.3.2022.

The aforesaid amendment will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.
20. Amendment of section 80-IBA, relating to deduction in respect of profits and gains from housing project

In order to increase the supply of affordable houses, the period of eligibility for claiming tax holiday for affordable housing project is to be extended by one more year till 31.3.2022.

Besides, in order to promote supply of Affordable Rental Housing for the migrant workers, a new tax exemption is to be allowed for the notified Affordable Rental Housing Projects.

The aforesaid amendments will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.

21. Insertion of new section 89A, relating to relief from taxation of income from retirement benefit account maintained in a notified country

In order to remove the genuine hardship faced by NRIs in respect of their income accrued on foreign retirement benefit account due to mis-match in taxation, rules are to be notified for aligning the taxation of income arising on foreign retirement benefit account.

The aforesaid amendment will take effect from 1.4.2022 and will, accordingly, apply in relation to AY 2022-23 and subsequent AYs.

22. Amendment of section 115JB, relating to minimum alternate tax (MAT)

[Alignment of MAT for advance pricing agreement and secondary adjustment]

Section 115JB of the Act provides for MAT at the rate of fifteen per cent of its book profit, in case tax on the total income of a company computed under the provisions of the Act is less than the fifteen per cent of book profit. Book profit for this purpose is computed by making certain adjustments to the profit disclosed in the profit and loss account prepared by the company in accordance with the provisions of the Companies Act, 2013.

Representations were received that the computation of book profit under section 115JB does not provide for any adjustment on account of additional income of past year(s) included in books of account of current year on account of secondary adjustment under section 92CE or on account of an Advance Pricing Agreement (APA) entered with the taxpayer under section 92CC. Representation has also been received that since dividend income is now taxable in the hand of shareholders,
dividend received by a foreign company on its investment in India is required to be excluded for the purposes of calculation of book profit in case the tax payable on such dividend income is less than MAT liability on account of concessional tax rate provided in the Double Taxation Avoidance Agreement (DTAA).

In order to provide relief to the tax-payers in whose case MAT liability has arisen in the year of repatriation, on account of APA or secondary adjustment, relief is to be provided by aligning the MAT provisions with the year of taxability of such income.

The aforesaid amendment will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.

23. Amendment of section 139, relating to return of income

[Extending due date for filing return of income in some cases, reducing time to file belated return and to revise original return and also to remove difficulty in cases of defective returns]

There are a number of amendments made in section 139, which are discussed as follows:

I. Amendment of section 5A, relating to apportionment of income between spouses governed by Portuguese Civil Code.

In view of this provision, any income earned by a partner of a firm whose accounts are required to be audited, shall be apportioned between the spouse and included in their total income, if section 5A applies to them.

In the case of partner of a firm, the due date for filing of original return of income is 31st October of the AY. However, this relaxation is not there if the spouse of such partner for whom section 5A of the Act, applies.

Therefore, the due date for the filing of original return of income is to be extended to 31st October of the AY, in case of spouse of a partner of a firm whose accounts are required to be audited under this Act or under any other law, if the provisions of section 5A applies to them.

II. Due date for filing of return of income of partners of a firm, which is required to furnish a report as per section 92A.

In the case of a firm which is required to furnish report from an accountant for entering into international transaction or specified domestic transaction, as per section 92A of the Act, the due date for filing original return of income is 30th November of the AY. Since the total
income of such partner can be determined after the books of account of such firm have been finalized, the due date for filing of return by such partners is to be extended to 30\textsuperscript{th} November of the AY.

III. Amendment relating to filing of revised return of income

Sub-section (5) of section 139 is to be amended, so as to provide that a return of income filed under sub-sections (1) and (4) can be revised at any time within 3 months prior to the end of the relevant AY or before the completion of the assessment, whichever is earlier.

IV. Removal of defect in cases of defective returns

Sub-section (9) of section 139 of the Act lays down procedure for curing a defective return. It provides that in case a return of income is found to be defective, the AO will intimated the defect to the assessee and give him a period of 15 days or more to rectify the said defect and if the defect is not rectified within the said period, the return shall be treated as invalid return and the assessee will be considered to have never filed a return of income.

\textit{Explanation} to sub-section (9) lists the conditions in which a certain return of income shall be considered to be defective. In view of representations made in this regard, a proviso is to be inserted to the said \textit{Explanation}, empowering the CBDT to specify by Notification that any of the aforesaid conditions shall not apply for a class of assessees or shall apply with such modifications, as may be specified in such Notification.

The aforesaid amendments will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.

24. Amendment of section 142, relating to enquiry before assessment

[Allowing prescribed authority to issue notice under clause (i) of section 142(1)]

Section 142 of the Act provides for conduct of inquiry before assessment. Clause (i) of sub section (1) of the said section gives the Assessing Officer the authority to issue notice to an assessee, who has not submitted a return of income, asking for submission of return. This is necessary to bring into the fold of taxation non-filers or stop filers who have transactions resulting in income. However, this power can be currently invoked only by the Assessing Officer.

The Central Government is following a conscious policy of making all the processes under the Act, where physical interface with the assessee is required, fully faceless by eliminating person to
person interface between the taxpayer and the Department. In line with this policy, and in order to enable centralized issuance of notices etc. in an automated manner, clause (i) of section 142(1) is to be amended, so as to empower the prescribed income-tax authority besides the Assessing Officer to issue notice under the said clause.

This amendment will take effect from 1.4.2021.

25. Amendment of section 143, relating to assessment

[Rationalization of the provision relating to processing of return income and issuance of notice under section 143(2) of the Act]

The existing provisions of clause (a) of sub-section (1) of section 143 of the Act provides that at the time of processing of return of income made under section 139, or in response to a notice under sub-section (1) of section 142, the total income or loss shall be computed after making the adjustments specified in clauses (i) to (vi) therein.

The following amendments are to be made in section 143(1) of the Act:

(i) Amendment sub-clause (iv) of clause (a) of sub-section (1) of the section 143 of the Act, to allow for the adjustment on account of increase in income indicated in the audit report but not taken into account in computing the total income.

(ii) Amendment of sub-clause (v) of clause (a) of sub-section (1) of the section 143 of the Act so as to give consequential effect to amendment carried out in section 80 AC vide Finance Act, 2018.

(iii) Amendment of the provisions of section 143 to reduce the time limit for sending intimation under sub-section (1) of section 143 of the Act from one year to nine months from the end of the financial year in which the return was furnished.

Consequently, the time limit for the issuance of notice under section 143(2) of the Act, is to be reduced from six months to three months from the end of the financial year in which the return is furnished.

The aforesaid amendments will take effect from 1.4.2021.
26. Amendment of section 148, relating to issuance of notice where income has escaped assessment and also insertion of new section 148A, regarding conducting enquiry, providing opportunity before issuance of notice under section 148.

A number of amendments have been provided regarding reassessment of income which has escaped assessment, by way of substitution of section 148 and insertion of new section 148A.

The various amendments in this regard are discussed as follows:

(i) Notice

Notice is to be served with copy of order passed under clause (d) of section 148A, calling for return. Notice is to be issued only where there is information [flagged in case of assessee in accordance with the risk management strategy formulated by the Board or any final objection raised by the Comptroller and Auditor General of India] suggesting income has escaped assessment and prior approval of specified authority is to be obtained [S. 148]

(ii) Search cases

New procedure for assessments or reassessments or re-computation in cases where search is initiated under section 132 or requisition is made under 132A, after March 31, 2021 [S. 148 : wef 1.4.2021]

(iii) Inquiry and providing opportunity before issuance of notice

Assessing Officer with approval of specified authority is to conduct enquiries [in cases other than search or requisition cases], if required, and provide assessee opportunity of being heard.

After considering reply, the Assessing Officer is to decide, by order, whether it is a fit case for issuance of notice under section 148 and serve a copy of such order with notice on the assessee [S.148A : wef 1.4.2021]

(iv) Time limit for the issuance of notice for reassessment

Three years from the end of the relevant assessment year; ten years where Assessing Officer has in his possession evidence which reveal that income escaping assessment, is likely to amount to Rs.50 lakhs or more. Time limits are not to apply to cases of assessment or reassessment or re-computation in search or requisition cases [where such search or requisition is initiated or made on or before 31st March, 2021]. Time or extended time is to be allowed to the assessee in providing opportunity of being heard. Further the period during
which such proceedings before issuance of notice under section 148 are stayed by an order or injunction of any court, is to be excluded [S.149 : wef 1.4.2021]

(v) **Sanction for issuance of notice**

Prescribed authority [S.151 : wef 1.4.2021]

(vi) **Faceless assessment of income escaping assessment**

Conducting of enquiries or issuing show-cause notice or passing order under section 148A [before issuance of notice under section 148] in the scheme to be notified [S.151A : wef 1.4.2021]

(vii) **Time limits for completion of assessment, reassessment and re-computation**

For assessment years commencing on or after 1.4.2021, time limit for assessment order under sections 143 or 144 is reduced from existing 21 months to 9 months from the end of the assessment year in which the income was first assessable [S.153 : wef 1.4.2021]

(viii) **Search and requisition cases**

Sections 153A and 153C to be applicable to searches initiated under section 132 of the Act or requisition of books, other documents or any assets under section 132A of the Act, on or before March 31, 2021 [Ss. 153A, 153C : wef 1.4.2021]

The aforesaid amendments will take effect from 1.4.2021

27. **Substitution of section 151, relating to sanction for the issue of notice under section 148**

Present section 151 of the Act is to be substituted so as to provide that for the purpose of section 148, specified authorities shall be –

(i) Pr. CIT or Pr. DIT, or CIT or DIT if, three years or less than three years have elapsed from the end of the relevant AY.

(ii) Pr. CCIT or Pr. DGIT, or where there is no Pr. CCIT or Pr. DGIT, the CCIT or DGIT, if more than three years have elapsed from the end of the relevant AY.

The aforesaid amendment will take effect from 1.4.2021.
28. Amendment of section 151A, relating to faceless assessment of income escaping assessment

Section 151A is to be amended so as to provide that conducting of enquiries or issuing show-cause notice or passing order under section 148A (before issuance of notice under section 148) in the scheme is to be notified as specified under the said section.

The aforesaid amendment will take effect from 1.4.2021.

29. Amendment of section 153, relating to time limit for completion of assessment, reassessment and re-computation

[Reduction of time limit for completing the aforesaid assessment, reassessment and re-computation]

The assessment procedure has now been overhauled by the introduction of Faceless Assessment Scheme, 2019. This team-based approach for assessment with a dynamic jurisdiction is technologically driven and very efficient. Therefore, the time required for completion of assessment procedure needs to be reduced.

Therefore, sub-section (1) of section 153 is to be amended by the insertion of a third proviso therein, so as to provide that for the assessment year commencing on or after 1.4.2021, the time limit for making an assessment under sections 143 or 144 shall be reduced from the existing 21 months to 9 months from the end of the AY in which the income was first assessable for the AY 2021-22 and subsequent AYs.

The aforesaid amendment will take effect from 1.4.2021.

30. Amendment of section 153A, relating to assessment in case of search or requisition

[Section 153A not to apply in respect of search or requisition after 31.3.2021]

Section 153A is to be amended so as to provide that the search or requisition shall only apply where search or requisition is made on or before 31.3.2021. Consequently, assessments under sections 153A and 153C shall not be made in respect of a search or requisition made on or after 1.4.2021.

The aforesaid amendment will take effect from 1.4.2021.
31. Amendment of section 153C, relating to assessment of income of any other person in case of search or requisition

[Section 153C not to apply in case of search or requisition on or after 1.4.2021]

In section 153C, sub-section (3) is to be inserted so as to provide that nothing contained in the said section shall apply in relation to a search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or after 1.4.2021.

The aforesaid amendment will take effect from 1.4.2021.

32. Amendment of section 194, relating to TDS on dividends

[Exemption from TDS on payment of dividend to a business trust in whose hand dividend is exempt]

Section 194 of the Act provides for TDS on payment of dividend to a resident. The second proviso to section 194 provides that the provisions of this section shall not apply to such income credited or paid to certain insurance companies or insurers.

The aforesaid second proviso is to be amended so as to further provide that the provisions of this section shall also not apply to such income credited or paid to a business trust by a special purpose vehicle or payment of dividend to any other person as may be notified.

The aforesaid amendment will take effect retrospectively from 1.4.2020.

33. Amendment of section 194A, relating to interest other than “interest on securities”

[No TDS on income in relation to zero coupon bond issued by infrastructure debt fund]

Sub-section (3) of section 194A provides that the provisions of sub-section (1) thereof, relating to TDS on income, by way of interest other than interest on securities, shall not apply.

The aforesaid sub-section (3) is to be amended so as to include infrastructure debt fund also within the purview of clause (x) of the said sub-section so as to provide that tax shall not be deducted on income in relation to zero coupon bond issued by the infrastructure debt fund.

The aforesaid amendment will take effect from 1.4.2021.
34. **Insertion of new section 194P, relating to TDS in case of specified senior citizen**  

[Relief to senior citizens who are of the age of 75 years or above]

Sub-section (1) of the newly inserted section 194P seeks to provide that notwithstanding anything contained in the said provisions of Chapter XVII-B, in case of specified senior citizen, the specified bank shall, after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A compute the total income of such specified senior citizen for the relevant AY and deduct income-tax on such total income on the basis of the rates in force.

Sub-section (2) of section 194P seeks to provide that provisions of section 139 shall not apply to a specified senior citizen for the AY relevant to the previous year in which the tax has been deducted under sub-section (1).

*Explanation* to section 194P seeks to define the following expressions –

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

(b) “*specified senior citizen*” means an individual, being a resident in India-

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

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

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

The aforesaid amendment will take effect from 1.4.2021.

35. **Insertion of section 194Q, relating to TDS on payment of certain sum for purchase of goods**

The newly inserted section 194Q seeks to provide for TDS by a person responsible for paying any sum to any resident for purchase of goods. The rate of TDS is kept very low at 0.1%. To ensure that compliance burden is only on those who can comply with it, section 194Q seeks to
provide that the tax is only required to be deducted by those persons (i.e. “buyer”) whose total sales, gross receipts or turnover from the business carried on by him exceed Rs.10 crores, during the FY immediately preceding the FY in which the purchase of goods is carried out.

Further, Central Government is to be empowered by Notification in the Official Gazette to exempt a person from obligation under this section on fulfilment of conditions, as may be specified in that Notification.

Tax is required to be deducted by such person, if the purchase of goods by him from the seller is of the value or aggregate of such value exceeding Rs.50 lakhs in the previous year.

Besides, the provisions of this section shall not apply to –

(i) A transaction on which tax is deductible under any provision of the Act; and
(ii) A transaction on which tax is collectible under the provisions of section 206C other than transaction to which sub-section (1H) of section 206C applies.

Further, CBDT, with the approval of the Central Government, has been empowered to issue guidelines for removing difficulty in giving effect to the provisions of this section. Every guideline issued by the CBDT is required to be laid before each House of Parliament and shall be binding on the IT authorities and the person liable to deduct tax.

Consequently, sub-section (1) of section 206AA is also to be amended so as to provide that where tax is required to be deducted under section 194Q and PAN is not provided, the TDS shall be at the rate of 5%.

The aforesaid amendment will take effect from 1.7.2021.

36. Amendment of section 196D, relating to income of Foreign Institutional Investors (FIIs) from securities

[Rationalization of the provisions concerning withholding on payment made to FIIs – TDS at the rate of 20% or rate provided in the DTAA for such income, whichever is lower]

Section 196D of the Act provides for deduction of tax on income of FII from securities as referred to in clause (a) of sub-section (1) of section 115AD of the Act (other than interest referred in section 194LD of the Act) at the rate of 20%.

Since the said section provides for TDS at a specific rate indicated therein, the deduction is to be
made at that rate and the benefit of agreement under section 90 or section 90A of the Act cannot be given at the time of tax deduction. The situation is different in cases where the provision mandates TDS at rate in force. This is for the reason that the definition of the expression — rate in force, in clause (37A) of section 2 of the Act, allows benefit of agreement under section 90 or section 90A in determining the rate of tax at which the tax is to be deducted at source. This principle of tax deduction has also been upheld by Hon’ble Supreme Court in the case of PILCOM Vs. CIT [2020] 425 ITR 312 (SC) : 188 DTR 1 (SC)

Representations have been received requesting that the benefit of agreements under section 90 or section 90A of the Act may be considered at the time of tax deduction on payments to FIIs.

Accordingly, a proviso is to be inserted in section 196D(1) of the Act, so as to provide that in case of a payee to whom an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A applies and such payee has furnished the tax residency certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A of the Act, then the tax shall be deducted at the rate of twenty per cent. or rate or rates of income-tax provided in such agreement for such income, whichever is lower.

The aforesaid amendment will take effect from 1.4.2021.

37. Insertion of new sections 206AB and 206CCA, relating to TDS / TCS on non-filers, at higher rates

Section 206AA of the Act provides for higher rate of TDS for non-furnishing of PAN. Similarly, section 206CC of the Act provides for higher rate of TCS for non-furnishing of PAN. It is seen that while these provisions have served their purpose in ensuring obtaining and furnishing of PAN by various person, there is need to have similar provisions to ensure filing of return of income by those persons who have suffered a reasonable amount of TDS/TCS.

Hence, a new section 206AB is to be inserted in the Act as a special provision providing for higher rate for TDS for the non-filers of income-tax return. Similarly, section 206CCA is to be inserted in the Act as a special provision for providing for higher rate of TCS for non-filers of income-tax return.

Section 206AB of the Act would apply on any sum or income or amount paid, or payable or credited, by a person (herein referred to as deductee) to a specified person. This section shall not apply where the tax is required to be deducted under sections 192, 192A, 194B, 194BB, 194LBC
or 194N of the Act.
The TDS rate in this section is higher of the following rates:-

(i) twice the rate specified in the relevant provision of the Act; or
(ii) twice the rate or rates in force; or
(iii) the rate of five per cent

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

Besides, section 206CCA of the Act would apply on any sum or amount received by a person (herein referred to as collectee) from a specified person. The TCS rate in this section is higher of the following rates:-

(i) twice the rate specified in the relevant provision of the Act; or
(ii) the rate of five percent

If the provision of section 206CC of the Act is applicable to a specified person, in addition to the provision of this section, the tax shall be collected at higher of the two rates provided in this section and in section 206CC of the Act.

The specified person is a person who has not filed the returns of income for both of the two assessment years relevant to the two previous years which are immediately before the previous year in which tax is required to be deducted or collected, as the case may be. Further the time limit for filing tax return under sub-section (1) of section 139 of the Act has expired for both these assessment years. There is another condition that aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in each of these two previous years. Specified person shall not include a non-resident who does not have a permanent establishment in India.

Consequential amendment is to be made in sub-section (4) of section 194-IB of the Act

The aforesaid amendment will take effect from 1.7.2021.
38. Amendment of section 234C, relating to interest for deferment of advance tax

[Advance tax instalment for dividend income]

The first proviso to sub-section (1) of the said section provides for categories of incomes for which there will be no charge of interest under the said section, in the event of failure to estimate such incomes resulting in a shortfall in the advance tax payments and tax due has been paid in the subsequent advance tax instalments.

Clause (d) of the first proviso to the said sub-section is to be amended so as to include dividend income along with capital gains therein, in order to provide that the interest under the said section shall not be applicable to any shortfall in the payment of tax due on the returned income where such shortfall is on account of under-estimate or failure to estimate dividend.

Further, Explanation 2 is to be inserted in the said sub-section to define the term “dividend”.

The aforesaid amendments will take effect from 1.4.2021 and will, accordingly, apply in relation to AY 2021-22 and subsequent AYs.

39. Discontinuance of settlement commission – The various sections under Chapter XIX-A to be discontinued

Settlement commission shall cease to operate and existing provisions will not apply on or after 1.2.2021.

[Sections 245B, 245BC, 245BD, 245C, will be inapplicable w.e.f. 1.2.2021]

All applications that were filed under section 245C of the Act and not declared invalid under sub-section (2C) of section 245D of the Act or in respect of which no order under section 245D(4) was issued on or before 31.1.2021, shall be treated as pending applications.

The aforesaid pending applications will be disposed of by Interim Board to be constituted as per newly inserted section 245AA of the Act. The procedure for the same is to be laid down in the newly inserted section 245M.

Powers and functions of Settlement Commission shall be exercised or performed by Interim Board, vide sections 245BD, 245F, 245G and 245H, w.e.f. 1.2.2021.
40. **New Chapter XIX-AA, containing section 245MA, relating to Dispute Resolution Committee to be inserted**

*Constitution of Dispute Resolution Committee (DRC) for small and medium taxpayers*

The Central Government shall constitute Dispute Resolution Committee for small and medium taxpayers.

Assessee may opt for the dispute resolution through the DRC where returned income is Rs.50 lakhs or less and the aggregate disputed income is Rs.10 lakhs or less.

For ensuring efficiency, transparency and accountability, the procedure of the Committee will be conducted in a faceless manner.

The other conditions regarding the jurisdiction of DRC will be as follows:

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

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

The aforesaid amendment of section 245MA, will take effect from 1.4.2021.

41. **Constitution of Board for Advance Ruling**

In view of various reasons, a need has been felt to look for alternative method for providing advance ruling which can give ruling to taxpayers in a timely manner. Therefore, the Authority for Advance Ruling (AAR) shall cease to operate on and from such date as appointed by the Central Government [section 245-O(1)].

It may be stated here that advance rulings of the Board shall not be binding on the applicant or Department and if aggrieved, the applicant or Department may appeal against the ruling or order passed by the Board before the High Court.

The aforesaid amendments, relating to the Constitution of Board for Advance Rulings, will take effect from 1.4.2021.
42. **Amendment of section 255, relating to procedure of Appellate Tribunal**

*Provision for Faceless Proceedings before the Income-Tax Appellate Tribunal (ITAT) in jurisdiction-less manner*

In order to ensure that the reforms initiated by the Department to reduce human interface from the system reaches the next level, it is imperative that a faceless scheme be launched for ITAT proceedings on the same line as faceless appeal scheme. This will not only reduce cost of compliance for taxpayers, increase transparency in disposal of appeals but will also help in achieving even work distribution in different benches resulting in best utilization of resources.

Therefore, new sub-sections are to be inserted in section 255 of the Act, so as to provide that the Central Government may notify a scheme for the purposes of disposal of appeal by the ITAT so as to impart greater efficiency, transparency and accountability by,—

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

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

(c) introducing an appellate system with dynamic jurisdiction. It is also proposed to empower the Central Government, for the purpose of giving effect to the scheme made under the sub-section, for issuing notification in the Official Gazette, to direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. Such directions are to be issued on or before 31.3.2023. Every notification issued shall, as soon as may be after the notification is issued, be laid before each House of Parliament.

The aforesaid amendment will take effect from 1.4.2021.

43. **Amendment of section 281B, relating to provisional attachment to protect revenue in respect of Fake Invoice / Sham Transactions**

Section 281B of the Act contains provisions which provide that in cases of assessment or reassessment the AO may provisionally attach any property of the assessee, if necessary, in order to protect the interest of revenue. This can be done only with prior approval of Pr. Chief Commissioner or Pr Director General or Chief Commissioner or Director General or Principal Commissioner or Principal Director or Commissioner or Director, of Income-tax. Such provisional attachment is valid for a period of 6 months. Further, the said section allows the
assessee to furnish a bank guarantee of the value of the property so attached for revocation of the provisional attachment. The above bank guarantee shall be invoked if the assessee fails to pay his tax demand on time. The powers under this section can only be exercised by the AO.

Section 271AAD of the Act was inserted, vide the Finance Act, 2020 to impose penalty on a person or a person who causes such person to make a false entry or omit an entry from his books of accounts. It is an anti-abuse provision. Upon initiation of such penalty proceedings, it is highly likely that the taxpayer may also evade the payment of such penalty, if imposed.

Hence, in order to protect the interest of revenue, the provision of section 281B of the Act is to be amended, so as to enable the AO to exercise the powers under this section during the pendency of proceedings for imposition of penalty under section 271AAD of the Act, if the amount or aggregate of amounts of penalty imposable is likely to exceed two crore rupees.

The aforesaid amendment will take effect from 1.4.2021.

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