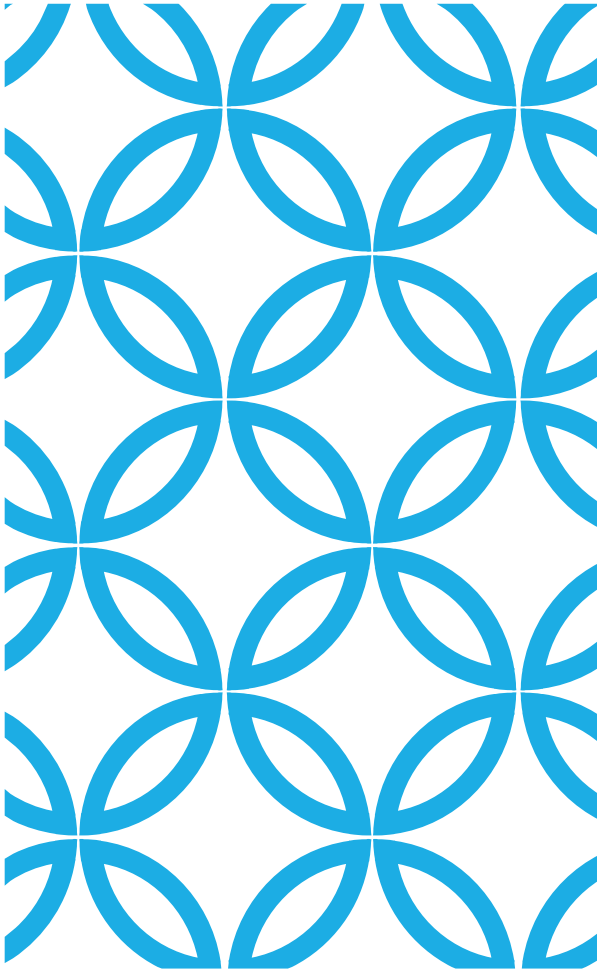


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# CLAUSE-WISE ANALYSIS OF BUDGET 2023

14-Feb-2023

 **RVKS AND ASSOCIATES**  
CHARTERED ACCOUNTANTS



# ASSESSMENTS, APPEALS AND CHARITABLE INSTITUTIONS

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Extension of time for disposing pending rectification applications by Interim Board for Settlement .

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Removal of certain funds from section 80G

## EXTENSION OF TIME FOR DISPOSING PENDING RECTIFICATION APPLICATIONS BY INTERIM BOARD FOR SETTLEMENT-BUDGET 2023

- ❖ **Section 245D** of the Act lays down the procedure for Settlement Commission upon receiving an application for settlement by an assessee. The section also provides the timelines to be followed with respect to settlement or disposal of pending applications and also the procedures to be followed in this regard.
- ❖ The Act was amended vide Finance Act, 2021 with retrospective effect from 01.02.2021, abolishing the Settlement Commission. Consequently, the Central Government was enabled to constitute one or more **Interim Boards for Settlement (IBS)**, as an interim measure, for settlement of applications pending with Settlement Commission as on 31.01.2021. Sub-sections (9) to (13) were introduced in section 245D vide Finance Act, 2021 to make provisions for dealing with application pending before the settlement.
- ❖ In this regard, grievances have been received from the stakeholders regarding extension of time available to the IBS under the Act, to pass rectification/ amendment orders. As the pending applications only relate to rectification or amendment of mistake apparent from the record, it is proposed that the time-limit available to IBS for passing such orders may be extended in order to dispose the pendency and to avoid any further litigation.

## EXTENSION OF TIME FOR DISPOSING PENDING RECTIFICATION APPLICATIONS BY INTERIM BOARD FOR SETTLEMENT-BUDGET 2023

- ❖ Accordingly, clause (iv) of sub-section (9) of section 245D is proposed to be substituted with a new clause to provide that where the time-limit for amending an order or for making an application under sub-section (6B) expires on or after 01.02.2021 but before 01.02.2022, **such time-limit shall stand extended to 30.09.2023.**
- ❖ This amendment will take effect retrospectively from the 1<sup>st</sup> day of February, 2021.

# INTRODUCTION OF THE AUTHORITY OF JOINT COMMISSIONER (APPEALS)-BUDGET 2023

- ❖ As per the current scheme for appeals under the Act, the first appellate authority for an assessee aggrieved by any order issued under the Act is the Commissioner (Appeals). Such Commissioner (Appeals) has the powers to **confirm, reduce, enhance or annul/ cancel** an order of assessment or an order of penalty, after providing an opportunity of being heard to the assessee and the AO. The order passed by the Commissioner (Appeals) are appealable before the Appellate Tribunal.
- ❖ CIT (Appeals) are currently **overburdened** due to the huge number of appeals and the pendency being carried forward every year in order to reduce the burden a **new authority for appeals** is being **proposed** to be created at **Joint Commissioner/ Additional Commissioner level**

# INTRODUCTION OF THE AUTHORITY OF JOINT COMMISSIONER (APPEALS)-BUDGET 2023

Any assessee aggrieved by any of the following orders of an Assessing Officer (below the rank of Joint Commissioner) may appeal to the Joint Commissioner (Appeals) against-

- An order being an intimation under Section 143(1), where the assessee objects to the making of adjustments, or any order of assessment under Section 143(3) or section 144, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed .
- An order of assessment, reassessment or recomputation under Section 147 .
- An order being an intimation Section 200A(1); - Processing of TDS
- An order under section 201; - TDS failures to deduct, remit
- An order being an intimation under Section 206C(6A); TCS –not collecting or not depositing after collecting
- An order under Section 206CB(1); TCS – processing
- An order imposing a penalty under Chapter XXI; and
- An order under section 154 or section 155 amending any of the orders above .

## Introduction of the authority of Joint Commissioner (Appeals)-Budget 2023

- ❖ That an appeal cannot be filed before the Joint Commissioner (Appeals) where an order referred to under this sub-section is passed by or with the approval of an income-tax authority above the rank of Deputy Commissioner.
- ❖ This will enable transfer of certain existing appeals filed before the Commissioner (Appeals) to the Joint Commissioner (Appeals).
- ❖ where an appeal is transferred under the provisions of sub-section (2) or sub-section (3), the appellant shall be provided an opportunity of being reheard.
- ❖ The appeal may be disposed of without any interface between the Joint Commissioner (Appeals) and the appellant in the course of appellate proceedings to the extent technologically feasible so as to dispose appeals in an expedient manner .
- ❖ These amendments will take effect from the 1st day of April, 2023.



# RATIONALIZATION OF INCOME TAX APPEALS TO APPELLATE TRIBUNAL

**Section 253** of the Act contains provisions relating to filing of appeals to the Appellate Tribunal. Sub-section (1) of the said section details the **types of orders passed** under various sections of the Act, against which an aggrieved assessee **may appeal to the appellate Tribunal**. The said sub-section provides that any assessee aggrieved by any order passed by a Commissioner (Appeals) **under section 154, section 250, section 270A, section 271, section 271A, section 271J or section 272A** may appeal to the Appellate Tribunal. Therefore, the appellate tribunal is the first level of appeal for such order of the commissioner ( Appeals ).

2- sections 271AAB, 271AAC and 271AAD are penalty provisions under chapter XXI of the act for imposition of penalty. **Section 271AAB** of the act provides for **imposition of penalty** by the assessing officer in a case **where search has been initiated under section 132** of the act. **Section 271AAC** of the act provides for imposition of penalty by the assessing officer in a case where **income determined includes** any income referred to in **section 68,69,69A,69B,69C or 69D** of the act for any previous year. **Section 271AAD** of the act contains provisions for imposition of penalty by the Assessing officer if during any proceedings under the act it is found that in the **books of account maintained** by any person **there is a false entry or an omission of any entry** which is relevant for computation of total income of such person to evade the tax liability.

# RATIONALIZATION OF INCOME TAX APPEALS TO APPELLATE TRIBUNAL

3- vide finance Act, 2022 , sections 271AAB, 271AAC and 271AAD were amended to enable commissioner ( Appeals ) also to pass an order imposing penalty under the said sections. However , as the **reference to the same has not been inserted in sub-section ( 1 ) of section 253** of the act, an aggrieved assessee cannot appeal against such penalty orders passed by commissioner ( Appeals ) which may lead to taxpayer grievance. Therefore, it has been proposed to amend the provisions of section 253 of the act to provide that appeal against penalty orders passed by commissioner ( Appeal ) under the sections 271AAB, 271AAC and 271AAD shall be made to the Appellate tribunal.

4- further, vide finance act 2021, **section 263** of the act was amended to enable principal chief commissioner and chief commissioner to also pass an order to revision under the said section. However, in the absence of any reference to such orders passed under section 263 of the act **cannot appeal against such orders** to the **appellate tribunal**. **Therefore, it has been proposed that section 253 of the act may be amended so that appeal against an order passed under section 263** of the act by principal chief commissioner or chief commissioner or an order passed under section 154 of the act in respect of any such order shall be made to the appellate tribunal.

# RATIONALIZATION OF INCOME TAX APPEALS TO APPELLATE TRIBUNAL

5- sub-section (4) of the section 253 of the act allows the respondent in an appeal, against an order of commissioner (appeal) , to file a memorandum of cross-objection before the appellate tribunal. However , it is pertinent to note here that appeal can be made to the appellate tribunal against orders of authorities other than commissioner (appeals) also like principal commissioner or commissioner or principal director or director etc. as a result , the respondent , whether it is revenue or the assessee, cannot file memorandum of cross-objections against an appeal before the appellate tribunal by virtue of the provisions of sub-section (4) of section 253 of the act, this creates grievances as well as reduces the fair and equitable dispensation of judgement in such cases, therefore, it is proposed that an amendment may be made in sub-section (4) of section 253 to enable filing of memorandum of cross-objections in all classes of cases against which appeal can be made to the appellate tribunal. For example, where the assessee files an appeal to the appellate dispute resolution panel the assessing officer would be able to file a cross objections to such appeal which cannot be filed presently .

6- these amendments will take effect from the 1st day of april,2023.

# ASSISTANCE TO AUTHORISED OFFICER DURING SEARCH AND SEIZURE

**Section 132** of the Act makes provisions related to search and seizure. The section makes detailed provisions for powers of income-tax authority during the search and seizure proceedings, procedure to be followed, **requisition of services of other officers for assistance, examination of books of account or other documents, procedure for custody of evidence**, provisional attachment etc. The section also provides the timelines to be followed by the income-tax authority during and post search proceedings

The section provides that during the course of search, the authorised officer may requisition the services of any police officer or any officer of the Central Government, to assist him for any of the actions required to be performed during the course of such search, and it shall be the duty of such officer to comply .

In the recent past, **due to the increased use of technology and digitisation in every aspect including management and maintenance of accounts, digitisation of data, cloud storage etc.**, the procedure for search & seizure has become complex, requiring the use of data forensics, advanced technologies for decoding data etc., for complete and proper analysis of accounts. Similarly, there is an increasing trend of **undisclosed income** being held in a **vast variety of forms** of assets or investments in addition to immovable property. Valuation of such assets and decryption of information often require specific domain experts like **digital forensic professionals, valuers, archive experts** etc. In addition to this, services of other professionals like locksmiths, carpenters etc. are also required in most of the cases, due to typical nature of the operations

# ASSISTANCE TO AUTHORISED OFFICER DURING SEARCH AND SEIZURE

Therefore, it is proposed to amend relevant provisions of the section to provide that during the course of search the **authorised officer, may** requisition the services of **any other person or entity**, as approved by the Principal Chief Commissioner or the Chief Commissioner, the Principal Director General or the Director General, in accordance with the procedure prescribed by the Board in this regard, **to assist him** for the purposes of the search. Similarly, in during and post search enquiries, the authorised officer **may make reference** to any person or entity or any valuer registered by or under any law for the time being in force, **who shall estimate the fair market value** of the property in the manner prescribed and **submit a report** of the estimate to the authorised officer or the Assessing Officer **within sixty days** from the receipt of such reference.

This amendment will take effect from the 1st day of April, 2023

## RATIONALIZATION OF THE PROVISIONS OF THE PROHIBITION OF BENAMI PROPERTY TRANSACTIONS ACT, 1988 (THE PBPTACT) – BUDGET 2023

- ❖ Under the existing provisions of section 46 of the PBPT Act, any person, including the Initiating Officer (IO), aggrieved by the order of the Adjudicating Authority, may prefer an appeal to the Appellate Tribunal within a period of **45 days from the date of the order**. The order often takes time to reach the office of the Initiating Officer or the approving authority and, it is difficult to file an appeal within the prescribed time limit and leads to delay in such filing .
- ❖ Hence, it is proposed that the provisions of section 46 of the PBPT Act may be amended to allow the filing of appeal against the order of the Adjudicating authority within a period of **45 days from the date when such order is received in the office of the Initiating Officer** or the aggrieved person as the case may be. Similar change is also proposed with **reference** to the order passed by an authority under section 54A of the PBPT Act.
- ❖ Hence, to enable the **determination of High Court jurisdiction** for the non-resident appellants or respondents, it is proposed to amend **section 2(18)** of the PBPT Act to modify the definition of 'High Court' by inserting a proviso so as to provide that where the aggrieved party does not ordinarily reside or carry on business or personally work for gain in the jurisdiction of any High Court or where the Government is the aggrieved party and any of the respondents do not ordinarily reside or carry on business or personally work for gain in the jurisdiction of any High Court, then the **High Court shall be such within whose jurisdiction the office of the Initiating Officer is located**. amendments will take effect from the 1st day of April, 2023.

# ALIGNMENT OF TIMELINE PROVISIONS UNDER SECTION 153 OF THE ACT – BUDGET 2023

- ❖ Section 153 of the Act, as substituted vide Finance Act, 2016, provides for the time limit for completion of assessment, reassessment or recomputation. The sub-section (1) of the said section provides the time limit for order of assessment under section 143 or section 144 of the Act as 21 months from the end of the assessment year in which the income was first assessable. Thereafter, vide subsequent Finance Acts, this time period of 21 months was reduced to 9 months from the end of the assessment year in which the income was first assessable for assessment year 2021-22 and later assessment years. Further, vide Finance Act, 2022 sub-section (1A) was inserted in the section 153 of the Act providing that in a case where an updated return under sub-section (8A) of the section 139 of the Act has been furnished by an assessee, an order of assessment or reassessment under section 143 or section 144 of the Act may be made at any time before the expiry of 9 months from the end of the financial year in which such return was furnished.
- ❖ Further, a notice under sub-section (2) of section 143 of the Act can be served on the assessee up to 3 months from the end of the relevant assessment year. This gives a time of 6 months to the Assessing Officer for making assessment which, inter alia, includes making investigations, giving assessee opportunities of hearing, bringing on record any material relevant to the case, analysing judicial positions of various legal matters etc. Further, with the Faceless Assessment, different aspects of the assessment are carried out by different units viz. Assessment Unit, Verification Unit, Technical Unit and Review Unit, Therefore, a lot of co-ordination is required between the different units in every single scrutiny assessment and adequate time is essential for a rational and speaking order.

# ALIGNMENT OF TIMELINE PROVISIONS UNDER SECTION 153 OF THE ACT – BUDGET 2023

- ❖ The period of six months is, however, short to complete the entire process of assessment. As a result, taxpayers' grievances of not being given enough time to explain themselves or provide evidences in their favour may arise. This may also compromise the dispensation of reasonableness of orders as well as natural justice to the assessee. Therefore, it has been proposed that the time available for completion of assessment relating to the assessment year commencing on or after the 1st day of April, 2022 shall be twelve months from the end of the assessment year in which the income was first assessable. Consistent with the above, the time available for completion of assessment proceedings in the case of an updated return is also proposed to be increased to 12 months from the end of the financial year in which such return is furnished.
- ❖ Further, vide Finance Act, 2021 the section 263 of the Act was amended to enable Principal Chief Commissioner and Chief Commissioner to also pass an order of revision under the said section. However, the time line provided in section 153 of the Act under sub-sections (3), (5) and (6) to pass an order of assessment or reassessment or order under section 92CA by the Transfer Pricing Officer does not refer to the orders so passed by Principal Chief Commissioner or Chief Commissioner. Therefore, it is proposed that section 153 may be amended to provide that the provision of the said sub-section (3), (5) and (6) shall also be applicable to order under section 263 or section 264, passed by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be.



# ALIGNMENT OF TIMELINE PROVISIONS UNDER SECTION 153 OF THE ACT – BUDGET 2023

It may also be noted that prior to the Finance Act, 2021 in cases where search is initiated under section 132 of the Act or books of account, other documents or any assets are requisitioned under section 132A of the Act, assessment was made in the case of the assessee, or any other person, in accordance with the special provisions of sections 153A, 153B and 153C of the Act that deal specifically with such cases. The section 153A of the Act provided that an assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years, as given in section 153A of the Act, and for the relevant assessment year or years pending on the date of initiation of the search under section 132 of the Act or making of requisition under section 132A of the Act, as the case may be, shall abate. The scrutiny proceedings would later on be re-opened under the provisions of section 153A of the Act, so that correct assessment of income subsequent to a search operation can logically be concluded based on the information available as a result of the search.

Vide Finance Act, 2021 the provisions of sections 147 of the Act and others relating to re-assessment proceedings were amended providing that search assessments were to be carried out under the provisions of section 147 of the Act. However, the current provisions of the Act relating to reassessment do not provide for abatement or revival of any assessment or reassessment proceedings pending on the date of search under section 132 of the Act or requisition under section 132A of the Act. As a result, the information available in a search, which has a bearing on the pending scrutiny proceedings may not be effectively used due to the limitation of such proceedings.

# ALIGNMENT OF TIMELINE PROVISIONS UNDER SECTION 153 OF THE ACT – BUDGET 2023

- ❖ Further, even if the last of the authorizations have been executed in the relevant search case, the seized material etc. are transferred to the Assessing Officer only after some time owing to the pre-assessment processing of such material and data. Further, the Assessing Officer also needs to carry out investigation and gather evidence to compute the income of the assessee as a result of the search or requisition proceedings. Therefore, there is a need to amend the provisions of the Act so as to allow the Assessing Officer to conduct proper scrutiny of the case on the basis of seized material and investigation made and align the dates of limitation for completion reassessment proceedings for all the assessment years under scrutiny consequent to a search under section 132 or requisition under section 132A of the Act.
- ❖ In view of the above, **it is proposed that a new sub-section (3A)** may be inserted in section 153 of the Act to provide that **where an assessment or reassessment is pending** on the date of initiation of search under section 132 or making of requisition under section 132A, **the period available for completion** of assessment or reassessment, as the case may be, under the said sub-sections (1), (1A), (2) and (3) of the said section **shall be extended by twelve months** in a case of an assessee where such search is initiated under section 132 or such requisition is made under section 132A or in the case of an assessee to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to or in the case of an assessee to whom any books of account or documents seized or requisitioned pertains or pertain to, or any information contained therein, relates to.
- ❖ Furthermore, consequent to the introduction of sub-section (1A) of section 153 of the Act vide Finance Act, 2022, it is proposed to insert the reference to sub-section (1A) in sub-sections (3), (4), (6) as well as in the first proviso to Explanation 1 of section 153.
- ❖ These amendments will take effect from the 1st day of April, 2023.

## REVISED TIME

# ALIGNMENT OF TIMELINE PROVISIONS UNDER SECTION 153 OF THE ACT - BUDGET 2023

Assessment	Time Limit
Scrutiny assessment & best judgment assessment	Within 12 months from the end of the assessment year (additional 12 months if case referred to Transfer Pricing officer)
Scrutiny assessment & best judgment assessment in case of updated return	Within 12 months from the end of the financial year in which such return is filed
Fresh assessment post the ITAT order or revision order in case of updated return	Within 12 months from the end of the financial year in which the order is passed
Assessments pending on date of initiation of search or requisition being made	Additional 12 months from regular due date

# BUDGET 2023 REMOVES CERTAIN FUNDS FROM SECTION 80G

Section 80G of the Act, inter alia, provides for the procedure for granting approval to certain institutions and funds receiving donation and the allowable deductions in respect of such donations to the assessee making such donations.

It has been observed that there are only three funds based on names of the persons in the said section. In order to remove such funds, it is proposed to omit sub-clauses (ii), (iiic) and (iiid) of clause (a) of sub-section (2) of section 80G of the Act.

Donations made to the following funds will not be eligible for 80G deductions:-

- ❖ **Jawaharlal Nehru Memorial Fund**
- ❖ **Indira Gandhi Memorial Trust &**
- ❖ **Rajiv Gandhi Foundation .**

This amendment will take effect from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

# AMENDMENTS TO PROVISIONS OF CHARITABLE TRUST & INSTITUTIONS BUDGET 2023

The Charitable Organisations play a major role in enriching our cultural heritage and cater to the various needs of the people at large be it educational, medical, socio-economical or religious. **Because of their tax exemption status, the provisions applicable** to the Charitable Organisations are the **most misused provisions**. Therefore, they are always under the special attention of the Government to necessitate changes in pursuit of clarity and plugging of any loopholes. The government has amended/ inserted quite some clauses in Finance Act, 2022. The Finance Bill, 2023 (the "Bill") is also a step forward in this direction.

The Charitable trusts and institutions can claim exemption in respect of their income under the Income-tax Act, 1961 ("IT Act") under two regimes -

- (i) Institutions approved by the Principal Commissioner or Commissioner of Income tax ("PCIT / CIT") under Section 10(23C) (hereinafter referred to as the "**first regime**"); and
- (ii) Trusts registered under Section 12AA/ 12AB (hereinafter referred to as the "**second regime**").

The Bill has proposed certain amendments to rationalise the provisions and streamline the governance pertaining to charitable institutions, which are summarised hereunder:

# AMENDMENTS TO PROVISIONS OF CHARITABLE TRUST & INSTITUTIONS BUDGET 2023

## Aligning the provisions to plug the loopholes

### Treatment of donation to other trusts:

Under **existing provisions**, the income of trusts/ institutions is exempt if they **apply** at least **85%** of their income towards charitable/ religious purposes **either by themselves or by donating to another trust/ institution with similar objectives, other than by way of corpus**. Further, trusts/ institutions are allowed to accumulate 15 % of its income each year.

It is noticed that **multiple trusts/ institutions are formed to accumulate 15% at each stage**, reducing the effective application of the accumulated income towards charitable/ religious purposes.

To **curb the above practice, it is proposed to restrict the exemption to 85% of the total amount donated to another trust/ institution, under both the regimes**.

### Deemed exit in the event of failure to register:

The trust/ institutions under the existing provisions are required to pay exit tax in the event of conversion into a form which is not eligible for registration or approval.

Instances were noticed, where the trusts/ institutions under both the regime exit by not applying for registration after the expiry of provisional/ regular registration or re-registration from old provisions to new provisions, resulting in easy route of exit in a way to escape the levy of tax.

To avoid such consequences, it is proposed that, if the trust/ institution **fails to make application for registration or approval it shall be deemed to have been converted into a form not eligible for registration or approval**, on the last date for making such application, thereby, invoking the provisions of exit tax in such event.

# AMENDMENTS TO PROVISIONS OF CHARITABLE TRUST & INSTITUTIONS BUDGET 2023

## Streamlining the provisions for registration

To simplify the registration process, the Finance Act, 2021, had introduced a new provision wherein, a trust/ institution newly formed or incorporated must apply for provisional registration at least one month prior to the commencement of the previous year ("PY") for which the exemption is sought.

This has raised concerns from various trusts/ institutions which are formed or incorporated during the PY, since the exemption is available only when an application is made one month prior to the commencement of PY, causing practical difficulties for trusts/ institutions formed or incorporated during the PY.

**To rationalize the provisions and eliminate the undue hardships, it is proposed that the application for provisional registration shall be made before the commencement of activities and not one month before the commencement of PY.**

Further, the roll back provisions related to exemption for earlier Assessment years ("AY") in case of pending assessments are rendered ineffective as the trusts/ institutions are now required to mandatorily apply for registration prior to the commencement of their activities.

# AMENDMENTS TO PROVISIONS OF CHARITABLE TRUST & INSTITUTIONS BUDGET 2023

## Clarifying the time limits for furnishing returns and other forms

Mandatory filing of return of income within the due date:

To avoid unintended consequences, it is clarified that for claiming the exemption, the trust/ institution must mandatorily file the return of income ("RoI") within the due date specified under the Act. **Thus, the option of filing an updated ROI Upto 2 years from the end of AY shall not be available.**

Time limit for furnishing the form for accumulation/ deemed application of income:

It is proposed that to claim the benefit of accumulation/ setting aside of income or deemed application of income, the requisite statement in the prescribed form shall be furnished **at least two months prior to the filing of ROI**. This will ensure streamlining of the provisions, as the **auditor's report** which is to be furnished **one month prior to the filing of ROI** inter alia include reporting the details of aforementioned forms.



# AMENDMENTS TO PROVISIONS OF CHARITABLE TRUST & INSTITUTIONS BUDGET 2023

## Others

### Depositing back of corpus and repayment of loans or borrowings:

The Finance Act, 2021 clarified that under both the regimes, the application of income out of corpus or out of loans/ borrowings shall be treated as application not in the year of actual expenditure but in the year of reinvestment/ redeposit to such corpus or in the year of repayment of such loan/ borrowing respectively.

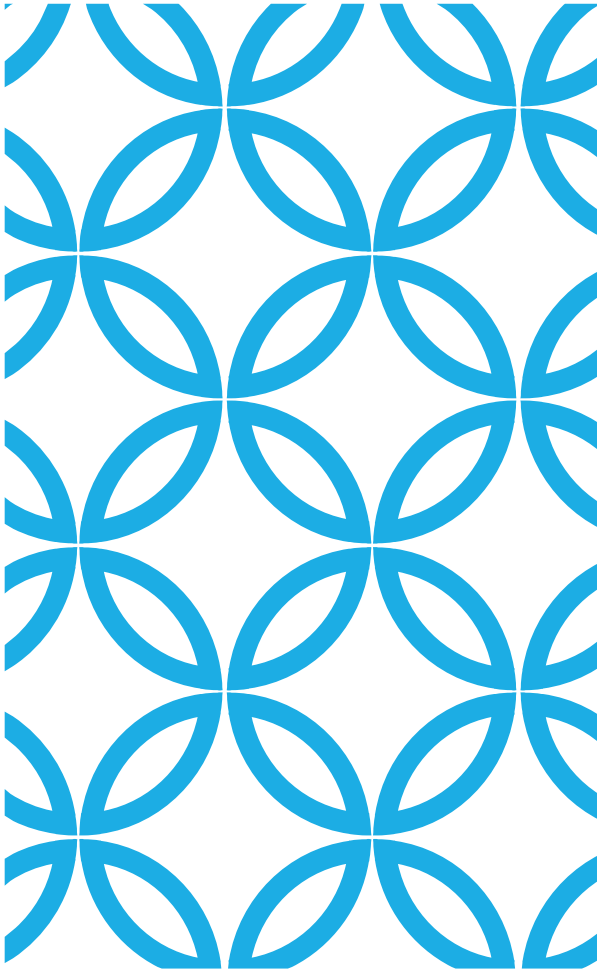
It is now proposed to further clarify that if trusts/ institutions have already claimed the exemption in the year of actual application, the exemption will not be available again in the year of reinvestment/ redeposit to the corpus or repayment of loan/ borrowing.

It is also proposed that the exemption out of corpus or loan is available only if the reinvestment/ redeposit to corpus or repayment of loan/ borrowing is made within 5 years of utilizing the funds from the corpus or borrowings and after satisfaction of certain conditions (viz deduction of TDS, expenditure in cash should not exceed INR 10,000, donation should not be by way of corpus etc.)

### Bringing defective applications within the ambit of specified violation:

Presently, the provisional registrations/ approvals and re-registrations/ approvals are automatically approved by Centralized Processing Centre, without any verification or enquiry. This has resulted in granting of registrations/ approvals despite the applications being defective (viz false or incorrect or incomplete information).

To avoid disruption, it is proposed to include such instances within the scope of specified violation to vigilant the applicants about the possibility of having their registration or approval cancelled. These amendments will take effect from 1st April, 2023



# MSME, AGNIPATH, CO- OPERATIVE SOCIETIES & OTHER SPECIAL PROVISIONS

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# PAYMENTS TO MSME – GOODS AND SERVICES

- Amendment to Section 43B – w.e.f. AY 24-25
- Expenditure allowed only on payment as per the MSMED Act 2006
- Earlier of 45 days or agreed date; in the absence of agreement 15 days
- Deadline from the date of acceptance or deemed acceptance
- Importance of the terms ‘acceptance’ and ‘deemed acceptance’ of goods and services – importance of objection within 15 days
- In case of removal of objection, it is immediately due upon removal of objection
- Exception to pay before the due date u/s 139(1) of IT Act not available
- Only for Micro and Small – Not applicable for Medium
- Importance to get the clarification from supplier of goods and services
- Copy of certificate to be obtained at the end of the year
- Audit procedure for only outstanding amounts as at the end of the year
- Importance of terms and conditions in the Purchase Order
- What to do if the auditee fails to produce the certificate from the supplier?

# AGNIPATH SCHEME, 2022

- Relevant to us only if we have an Individual client who is an Agniveer
- Regulate the income, taxability, exemption and deduction of contributions under the Scheme
- W.e.f. AY 23-24 (As the scheme was introduced on 1<sup>st</sup> November 2022)
- The 30% matching contribution by Government will also be added as a salary
- Both the Agniveer and the Government's matching contribution will be allowed as a deduction u/s 80CCH
- All amounts withdrawn at the end of the Scheme (Agniveer's contribution, Interest accumulated thereon, Government's matching contribution and interest thereon) are exempted u/s 10(12C)
- Nominee also will be eligible for same tax benefits
- Deduction u/s 80CCH will still be allowed even if the assessee is taxed under the new tax regime
- No clarity on interest accrued year on year.
- 80CCH uses the words 'paid' or 'deposited'. 'Paid' refers to the actual contribution and 'Deposited' refers to interest deposited? Then the interest has to be added to salary and deduction claimed under 80CCH? What if the Form 16 does not say anything about the interest?

# REMOVAL OF DISPUTES — SUGAR CO-OPS

- Price above SMP was disallowed by the AO's in the assessments of Sugar Co-op Societies
- Section 36(1) was amended to provide the deduction
- However disputes and demands pending
- Now these can be rectified u/s 154 by the respective JAOs
- Time limit 4 years from 1.4.2023.
- Few conditions specified which have to be followed

# CASH WITHDRAWALS BY CO-OP SOCIETIES

## INCREASE OF LIMITS FOR TDS

- Amendment of Section 194N – w.e.f. 1.4.2023
- TDS @ 2% for withdrawals by Co-op Society, only if they withdraw above Rs.3 Crores
- Will benefit consumer and farmer co-operatives who have to pay the members in cash
- However, with digital money available every where, the reason for this is not known
- If the Co-operative Society does not file the IT return for three past years, then this benefit will not be available
- Because as per the first Proviso, the limit will be
  - 0% TDS upto Rs.20 L
  - 2% TDS above 20L upto 1 Crore.
  - 5% TDS above 1 Crore.

# PENALTIES FOR CASH LOANS/DEPOSITS PACS/PCARD – SECTION 269SS AND SECTION 269T

- PACS – Primary Agricultural Co-operative Society
- PCARD – Primary Co-operative Agricultural and Rural Development Bank
- Present provisions – 269SS – Except banks others cannot accept loans or deposits of Rs.20,000/-or above other than in specified modes (popularly referred to as cash) – 269T – All persons including banks cannot repay loans or deposits of Rs.20,000/- or above other than in specified modes (popularly referred to as cash) – PACS an PCARD are not included in the definition of banks
- Both these sections are now amended w.e.f. 1.4.2023
- Instead of treating these two on par with banks, they are now given a special treatment
- The limit is increased upto Rs.1,99,999/- Meaning Rs.2 Lakhs above will attract penalty
- These relaxations are only for acceptance and repayment of deposits with members; and acceptance and repayment of loans with other Primary Agricultural Credit Society or Primary Co-op Agricultural and Rural Development Bank.

# EXEMPTION TO CERTAIN CIVIC DEVELOPMENT AUTHORITIES

- City Development Authorities like CMDA, HUDA, BDA, MMRDA, VTGM, etc., were claiming exemption from Income tax but the Department was not accepting the same.
- The matter went upto Hon'ble Supreme Court of India and an order was passed in the case of Ahmedabad Urban Development stating that the objects of such public bodies set up by Government are not carrying on business and thus should be exempted.
- A new section 10(46A) is now being inserted to provide exemption to such bodies. However such bodies should not be corporates (i.e. should not be state or central PSUs).
- 10(46A) is now being spinned off from 10(46)
- Section 11(7) and Section 10(23C) amended consequentially
- Such organisations should be gazetted under this new section 10(46A)
- This is w.e.f. AY 24-25.



HYDERABAD METROPOLITAN DEVELOPMENT AUTHORITY  
హైదరాబాద్ మహానగర అభివృద్ధి సంస్థ



CA RVKS AND ASSOCIATES  
CHARTERED ACCOUNTANTS



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MMRDA



# CARRY FORWARD OF LOSS AND DEPRECIATION STRATEGIC DISINVESTMENT

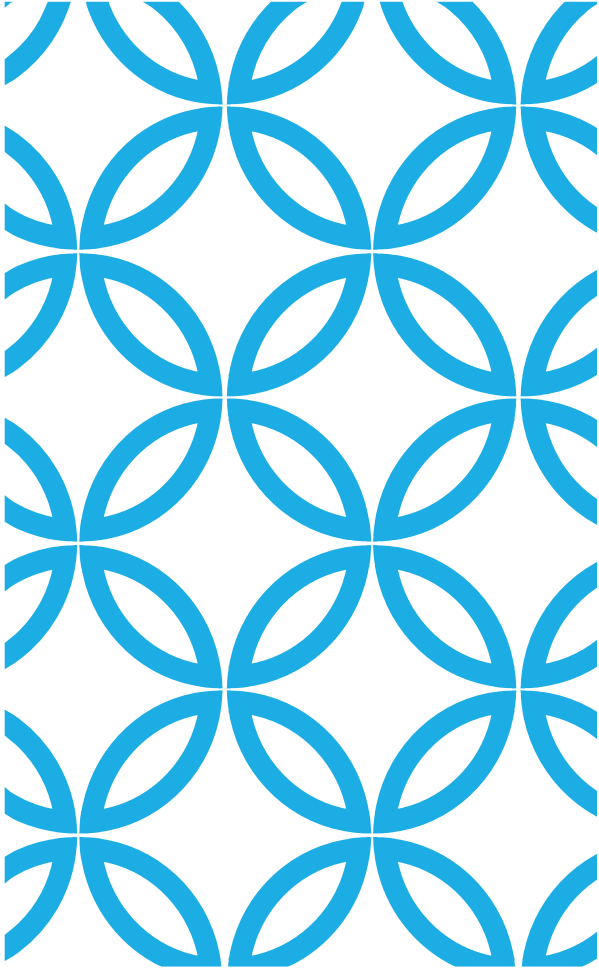
- Govt has been strategically selling loss making PSUs like BSNL
- It has also been merging loss making PSUs with profit making PSUs for better leveraging
- In order to provide an impetus or incentive to the buyer of the PSU or the amalgamating PSU bank to carry forward and avail the unadjusted business losses and unabsorbed depreciation allowance, the terms 'strategic disinvestment' and the conditions for availing such losses have been revamped.
- Amendments have been carried out to Section 72A and 72AA
- These will be with effect from AY 23-24 itself, i.e. with effect from the current financial year
- This will largely benefit the concerned stakeholders

# 15% CONCESSIONAL INCOME TAX FOR MANUFACTURING CO-OP SOCIETIES

- New manufacturing companies were offered a reduced rate of income tax @ 15% u/s 115BAB w.e.f. AY 2020-21, subject to various conditions.
- In order to extend the same benefits to co-op societies which are into manufacturing activity, a new section 115BAE, under almost similar conditions.
- There is already Section 80P which provides 100% deduction of income earned by co-op societies. But the activities prescribed therein does not cover manufacturing activity. Thus, this new section has become necessary.
- In the absence of the same, these societies were subjected to income tax @ 22% u/s 115BAD.
- It has to be a new co-op society, as the manufacturing activity is expected to commence on or after 1.4.23 but before 31.3.24
- This section is w.e.f. AY 24-25.
- Once this option is exercised, then its eternal for the co-op society.

# RATIONALISATION OF INCOME EXEMPT UNDER LIFE INSURANCE POLICIES

- Any return from a life insurance policy is exempt u/s 10(10D), if the premium is not more than 10% of sum assured.
- Life insurance policies have been also acting as an attractive investment options considering the low rate of interest on other liquid investments and after the introduction of capital gain tax on mutual funds.
- In order to curb such measures, ULIP policies (Unit Linked Insurance Policies) where the premiums were more than 2.50 L per year were barred from exemption w.e.f. AY 21-22.
- Now the same curb is introduced to other policies also, if the premium is more than 5L per year.
- These limits are not just per policy, but all premiums for a given individual.
- Thus, all the returns from such policies, except in the case of death, will be subjected to tax under 'income from other sources'. The premium paid will be allowed as a deduction, provided it was not claimed as a deduction under 80C earlier (Similar to NSS investment earlier)
- In other words, this is not subject to capital gain nor indexation is available.
- This is applicable for all new policies issued after 1.4.23
- We can see lots of policies being sold before that date.
- Going forward before a person decides to invest in insurance policies, he has to compare the post tax return from the policy with other investment options and then decide.



## GST, TAX RATES & SEZ

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# CGST ACT, 2017 – COMPOSITION SCHEME

- ❖ Composition supplier can now supply goods through E-Commerce Operator:
  - ❖ Section 10 of the CGST Act presently mandates only regular tax payer to supply goods through e-commerce operator
  - ❖ Beneficial for Small Suppliers
  - ❖ Applicable only for Intra State Supply of Goods and not Inter-State Supply of Services
  - ❖ Applicable only for Goods and not for Services

# SECOND PROVISO TO SECTION 16(2) - REPORTING

- ❖ Recipient will be eligible to avail the credit only if the payment to supplier is made within 180 days from the date of Invoice
- ❖ Payment of the Value of Supply
- ❖ As per the Section 16(2), the said ITC will be added to the output tax liability of the recipient if payment is not made within 180 days.
- ❖ Subsequently when GSTR 2 and GSTR 3 were scrapped, Rule 37 of the CGST Rules, 2017 was amended for reporting this separating under Reversal of ITC
- ❖ Section 16(2) is now being amended for deleting the term 'output tax liability'

# THIRD PROVISO TO SECTION 16(2) - PAYMENTS

- ❖ Recipient will be eligible for re-availing credit if payment is made within 180 days.
- ❖ Act is amended to include the term “Payment to Supplier” which means credit is available only when the amount is paid to supplier.
- ❖ This amendment will create challenge esp. when payments are made on account of settlement transaction.

# ITC RESTRICTED IN CASE OF SUPPLY OF WAREHOUSED GOODS – SECTION 17

- ❖ Section 17(2) of the CGST Act, 2017 restricts ITC on account of supply of exempt goods
- ❖ Section 17(3) of the CGST Act, 2017 gives extended meaning to exempt supply and includes transaction in securities and sale of land.
- ❖ One more category is now being added to include supply of warehoused goods to any person before clearance of goods for home consumption.
- ❖ For such supplies, ITC will have to be reversed.
- ❖ No – impact on High Sea Sale transaction and Supply from Non-Taxable Territory to another Non-Taxable Territory



# ITC NOT ALLOWED ON GOODS AND SERVICES USED FOR CSR

- ❖ Section 17(5) provides for list of restricted/blocked Credits.
- ❖ There is no specific reference to CSR due to which eligibility of such credit is disputed
- ❖ Goods given free of cost or as a gift is specifically disallowed. At present, CSR credits are restricted under this clause.
- ❖ Section 17(5) is now being amended prospectively to add a specific clause for restricting ITC on CSR
- ❖ If introduced, credit upto the date of amendment stands eligible due to which department may consider clarifying this circular only.

# REGISTRATION NOT COMPULSORY FOR EXEMPT SUPPLIES

- ❖ Section 22, 23 and 24 deals with registration under GST
- ❖ Section 23 provides for persons who are not liable for registration and Section 24 provides for compulsory registration
- ❖ There is high possibility, supplier may fall under both the categories due to which assessee's were forced to take registration
- ❖ Section 23 is now being amended to override Section 22 and 23. Accordingly, any person exclusively dealing with exempted goods or services will not be required to GST just because he is paying legal fees.
- ❖ Amendment is Retrospective amendment from 1<sup>st</sup> July 2017

# TIME LIMIT FOR GST RETURN FILING

- ❖ GST law prescribes time limit for filing GST returns.
- ❖ At present there is NO upper/maximum time limit for filing GST returns.
- ❖ For specific returns, now time limit of 3 years is being prescribed from the due date of furnishing the returns
- ❖ GSTR 1, GSTR 3B, GSTR 5 (Non Taxable Person), GSTR 6 (ISD), GSTR 7 (TDS), GSTR 8 (E-com Operator), GSTR 9 (Annual Returns) and GSTR 9C (Reconciliation Statement)

# OTHER AMENDMENTS IN GST

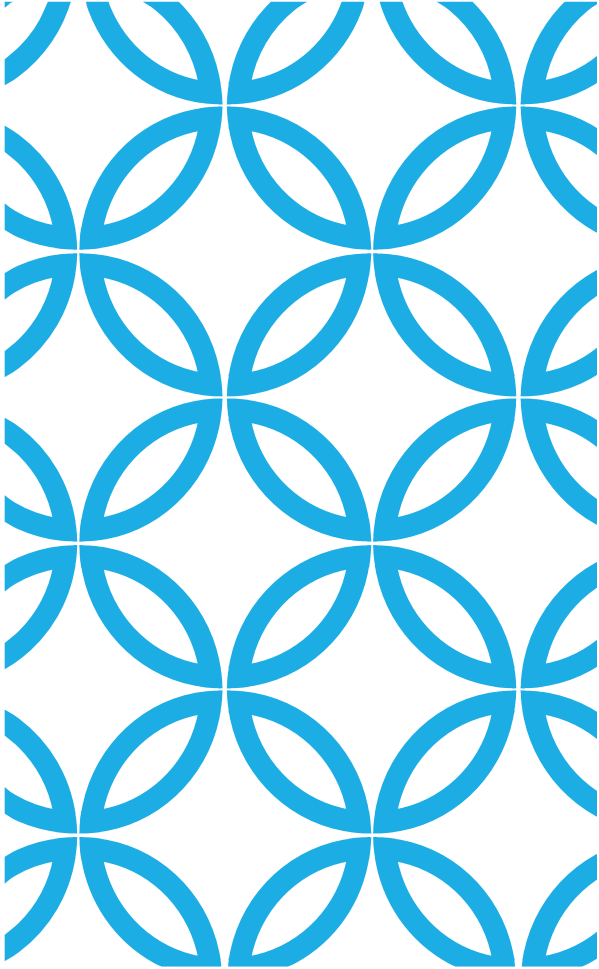
- ❖ Removal of the term provision ITC from refund provisions
- ❖ Penal Provisions for E-Commerce operators if they allow unregistered supplier to supply goods or allow inter state supply of goods or fail to furnish correct details in returns – Rs. 10,000 or tax amount whichever is higher
- ❖ Increased monetary limit for Prosecution from 2 crores to 4 crores – Except for Bill Trading Cases
- ❖ For delayed refund after 60 days, assessee is eligible for 6% refund. Requisite procedures and conditions will now be framed for this.
- ❖ High Sea Sales and Merchant Sales were included in Schedule III (Non-GST Supplies) from 1.1.2019. Tax paid in the intervening period i.e., 1<sup>st</sup> July 2017 to 1.1.2019 will not be eligible for refund

# IGST – CHANGES IN OIDAR PROVISIONS

- ❖ Meaning of OIDAR Services
- ❖ Definition of OIDAR is being amended to remove the term – “essentially automated and involving minimum human intervention”
- ❖ In case of OIDAR service rendered to unregistered persons for other than business or commerce, service provider is required to register in India.
- ❖ The Act is now being amended for removing the term business or commerce. Thus, the moment the recipient is unregistered, OIDAR service provider will be required to register in India.

# IGST – AMENDMENT TO SECTION 12(8)

- ❖ Section 12 of GST Act is Applicable in case where both Supplier and Recipient are In India
- ❖ Section 12(8) provides for place of supply for transportation of goods.
  - ❖ Billed to Registered Person – Location of Such Registered Person
  - ❖ Billed to Unregistered Person – Location where goods are handed over
- ❖ In February 2019 budget, a proviso was inserted wherein place of supply in case of transportation of goods outside India shall be destination of such goods. Due to which, for goods exported outside India, transporter used to charge IGST with place of Supply – Other Territory – 97
- ❖ Eligibility of such credit was disputed and this created lot of confusion due to which this proviso is now being deleted



## RATES OF TAX & SEZ RELATED AMENDMENT

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# RATES OF INCOME TAX

Basic  
Exemption  
Limit under  
New  
Scheme –  
3L

Rebate  
under New  
Scheme –  
7L

New  
Scheme is  
deemed to  
be opted –  
File form  
for Old  
Scheme

Surcharge  
37% to  
25%  
(income  
exceeds  
5cr)

Standard  
Deduction  
allowed  
for New  
Scheme

New Tax  
Regime  
made  
applicable  
for HUF's,  
AOP's BOI



# TIME LIMIT EXPORT PROCEEDS - SEZ

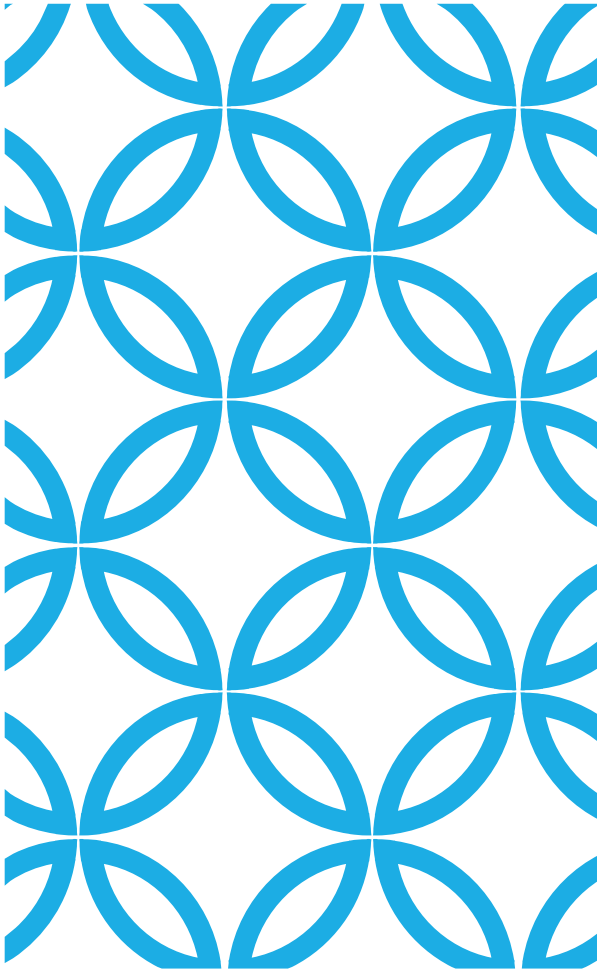
Section 10AA – 15 year tax benefit for units established in SEZ

Period covered – 1.4.2005 to 30.09.2020

Deduction allowed only if return is filed within 139(1)

No time limit prescribed for realisation of SEZ proceeds

Remittance within 6 months from end of FY



## PGBP, HP, CG, TDS AND MISCELLANEOUS

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## INCREASED THRESHOLD LIMITS FOR PRESUMPTIVE TAXATION SCHEMES

Revised Presumptive taxation limits under sec 44AD & 44ADA for FY 2023-24 (AY 2024-25) as follows :

Category	Previous Limits	Revised Limits
Sec 44AD : For Eligible businesses	Rs. 2 Crore	Rs. 3 Crore *
Sec 44ADA : For professions referred to in sub-section (1) of section 44AA of the Act. (E. g : <b>Doctors, CA, Lawyers, Engineers Etc.,</b> )	Rs. 50 Lakh	Rs. 75 Lakh *

\* The increased in limits is subject to condition that the 95% of the receipts must be through online modes.

## PREVENTING MISUSE OF PRESUMPTIVE SCHEMES U/S 44BB & U/S 44BBB

Particulars	44BB		44BBB	
	Existing	Amended	Existing	Amended
Presumptive Tax rate	10% on aggregate amount		10% of amount paid or payable	
Brought forward loss set off u/s. 72(1)	Available	Not Available	Available	Not Available
Unabsorbed Depreciation 32(2)	Available	Not Available	Available	Not Available

**\* Amendment will take effect from AY 2024-25 and subsequent assessment years.**

## PREVENTION OF DOUBLE DEDUCTION CLAIMED ON INTEREST ON BORROWED CAPITAL FOR ACQUIRING, RENEWING OR RECONSTRUCTION A PROPERTY



Particulars	Pre-Amendment	Post-Amendment
Income from Capital Gains	Interest on Borrowed capital can be claimed as deduction u/s 24 and <b>also forms a part of the cost of acquisition or cost of improvement u/s 48</b> of Income Tax Act.	Interest on Borrowed capital can be claimed as deduction u/s 24 and it is proposed to insert a proviso after clause (ii) of section 48 so as to provide that the <b>cost of acquisition or the cost of improvement shall not include the amount of interest claimed u/s 24 or Chapter VIA</b> .

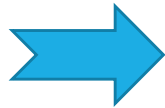
## PENALTY FOR FURNISHING INACCURATE STATEMENT OF FINANCIAL TRANSACTION OR REPORTABLE ACCOUNT

❑ Sec 271FAA :- Penalty for furnishing inaccurate statement of financial transaction or reportable account

Account holders



Self-Certification



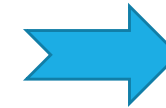
Specified under  
Rule 114H

Reporting Entity



Like Banks,  
Financial Institutions, etc.

Furnishing



Statement of SFT

Income tax Authority



1. If there is any inaccuracy in the statement of financial transactions submitted by a prescribed reporting financial institution and such inaccuracy is due to false or inaccurate information submitted by the account holder, a penalty of **five thousand rupees** shall be imposed on such institution.
2. The reporting financial institution may recover the amount so paid on behalf of the account holder or retain out of any moneys that may be in its possession or may come to it from every such reportable account holder.
3. These amendments will take effect from the 1st day of April 2023.

## LIMITING THE ROLL OVER BENEFIT CLAIMED UNDER SECTION 54 AND SECTION 54F

**Enhanced Long-term capital gain exemption limits under sec 54 and 54F for FY 2023-24 as follows :**

Category	Previous Limits	Revised Limits
<b>Sec 54</b> : Sale of Residential property and sale consideration being invested in New residential property	Rs. 2 Crore	Rs. 10 Crore
<b>Sec 54F</b> : Sale of Any long-term asset other than residential property and sale consideration being invested in New residential property	Rs. 2 Crore	Rs. 10 Crore

**\* Corresponding amendments have been proposed in provisions of sub-section (2) of section 54 and sub-section (4) of section 54F which deal with the deposit in the Capital Gains Account Scheme 1988 by restricting the claim to Rs.10 crores.**

## COST OF ACQUISITION FOR COMPUTING CAPITAL GAINS UNDER SEC 55

\* **Section 55** : Defines the 'cost of any improvement' and 'cost of acquisition' for the purposes of computing capital gains.

Section	Pre-Amendment	Post-Amendment
Sec 55(1)(b)(1)	“ <b>Cost of any improvement</b> ”,- in relation to a capital asset being goodwill of a business or profession shall be taken to be nil;	" <b>cost of any improvement</b> ",- in relation to a capital asset being goodwill “ <b>or any other intangible asset</b> ” of a business or profession “ <b>or any other right</b> ” shall be taken to be nil;
Sec 55(2)(a)	“ <b>Cost of acquisition</b> ”,- in relation to a capital asset, being goodwill of a business or profession, or a trademark or brand name associated with business or profession, or tenancy rights, stage carriage permits or loom hours, other than the case of acquisition from a previous owner , shall be taken to be nil;	“ <b>Cost of acquisition</b> ”,- in relation to a capital asset, being goodwill of a business or “ <b>profession, or any other intangible asset or a right</b> ”, or a trademark or brand name associated with business or profession, or tenancy rights, stage carriage permits or loom “ <b>hours or any other right</b> ”, other than the case of acquisition from a previous owner , shall be taken to be nil;

**This amendment is will take effect from the 1st day of April 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.**



## CLARIFICATION REGARDING ADVANCE TAX WHILE FILING UPDATED RETURN

Section	Pre-Amendment	Post-Amendment
Sec 140B (4)	<p>Interest payable under section 234B shall be computed on an amount equal to the assessed tax or, <b>as the case may be, on the amount by which the advance tax paid falls short of the assessed tax</b>, where "assessed tax means the tax on the total income as declared in the return to be furnished under sub-section (8A) of section 139,-</p> <p>(a) after taking into account,-</p> <p>i) the amount of relief or tax referred to in sub-section (1) of section 140A, the credit for which has been claimed in the earlier return;</p>	<p>Interest payable under section 234B shall be computed on an amount equal to the assessed tax, where "assessed tax means the tax on the total income as declared in the return to be furnished under sub-section (8A) of section 139,-</p> <p>(a) after taking into account,-</p> <p>i) the amount of relief or tax referred to in sub-section (1) of section 140A, the credit for which has been claimed in the earlier return <b>if any</b>;</p>

**\*This amendment will take effect retrospectively from the 1st day of April 2022**

## TDS ON PAYMENT OF ACCUMULATED BALANCE DUE TO AN EMPLOYEE UNDER THE EMPLOYEES' PROVIDENT FUND SCHEME, 1952.

- Deductor is required to deduct TDS @ 10% on withdrawal of EPF.
- *No deduction* of tax if the amount withdrawn < INR 50,000.

Particulars	Pre - Amendment	Post - Amendment
Second Proviso of sec 192A	Employee shall furnish PAN to deductor. In case of Non- furnishing of PAN, TDS will be deducted @ *Maximum Marginal Rate (42.744%) by the deductor.	Employee shall furnish PAN to deductor. In case of failure, TDS will be deducted @ 20% on withdrawal of EPF.

- ✓ This amendment will take effect from 1st April 2023

## FACILITATING TDS CREDIT FOR INCOME ALREADY DISCLOSED IN THE ROI OF PAST YEAR

Section proposed to insert in this regard – 155(20) of IT act

Particulars	New Provision
Applicable to	Assessee who filed ROI u/s 139(1) on accrual basis for any P.Y & deducted TDS and credited to CG in a subsequent F.Y.
Time-limit allowed to assessee to claim TDS credit	<b>Two years from the end of the F.Y in which Tax has been deducted by making application to A.O in prescribed form.</b>
Amendment in sec 154(7) of IT act in regards to inserted section	The period of 4 years applies from the end of F.Y in which such tax has been deducted to grant the TDS credit by A.O.

- Amendment in sec 244A : Interest on refund(from the date of application to the date on which the refund is granted.
- These amendments will take effect from 1st October, 2023.

## RELIEF FROM SPECIAL PROVISION FOR HIGHER RATE OF TDS/TCS FOR NON-FILERS OF INCOME-TAX

- Sec 206AB - Special provision for higher TDS for non-filers of income tax returns.
- Section 206CCA - Special provision for higher TCS for non-filers of income-tax returns.
- \*Non-filers refers to “specified Persons”

Particulars	Pre - Amendment	Post - Amendment
“Specified person” definition for the purpose of sec 206AB and 206CCA of IT Act.	A person who has not furnished ROI for the A.Y relevant to P.Y immediately preceding the F.Y excludes a non-resident does not have a permanent establishment in India.	A person who has not furnished ROI for the A.Y relevant to P.Y immediately preceding the F.Y further <b>excludes a person who is not required to furnish the ROI for the A.Y relevant to the said P.Y and who is notified by the Central Government in the Official Gazette in this behalf.</b>

- This amendment will take effect from 1st April, 2023

## PROVIDING CLARITY ON BENEFITS AND PERQUISITES IN CASH

Particulars	Pre-Amendment	Post-Amendment
Clause (iv) of sec 28	(iv) the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession;	(iv) the value of any benefit or perquisite arising from business or the exercise of a profession, whether- (a) convertible into money or not; or <b>(b) in cash or in kind or partly in cash and partly in kind;</b>

➤ This amendment will take effect from A.Y 2024-2025.

## EXTENDING THE SCOPE FOR DEDUCTION OF TAX AT SOURCE TO LOWER OR NIL RATE FOR SEC 194LBA

### Section 194LBA : TDS in case of Income from units of Business Trust (Interest/Dividend)

Particulars	Pre Amendment Provision	Post Amendment Provision *
<b>Sec 197 - Grant of a certificate of tax deduction at lower or nil rate.</b>	For the provisions of sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194I, 194J, 194K, 194LA, 194LBB, 194LBC, 194M, [194-O] and 195, the Assessing Officer is satisfied he shall issue a certificate, on an application made by the assessee in this behalf.	For the provisions of sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA, <b>194LBA</b> , 194LBB, 194LBC, 194M, [194-O] and 195, the Assessing Officer is satisfied he shall issue a certificate, on an application made by the assessee in this behalf.

\* This amendment will take effect from 1st April, 2023.

## REMOVAL OF EXEMPTION FROM TDS ON PAYMENT OF INTEREST ON LISTED DEBENTURES TO A RESIDENT

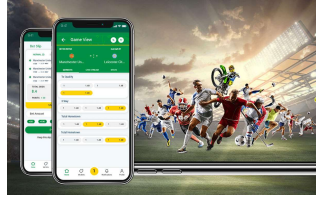
**Section 193:** of the Act provides for TDS on payment of any income to a resident by way of interest on securities.

Pre Amendment	Post Amendment
Clause (ix) : No tax is to be deducted in the case of any interest payable on any security issued by a company, where such security is in dematerialized form and is listed on a recognized stock exchange in India	Omitted#

**\*This amendment will take effect from 1<sup>st</sup> April, 2023**

# It is seen that there is under reporting of interest income by the recipient due to above TDS exemption. Hence, it is proposed to omit clause (ix) of the proviso to section 193 of the Act.

# INSERTION OF NEW SEC 194BA



TDS Implication on withdrawal of winnings from online games

Examples :  
Rummy, Bet360, MPL, Dream11, Parimatch, Ludo etc.,

Withdrawal during the year

No Withdrawal

At the time of withdrawal TDS will be charged on Net Withdrawal Amount

At the end of the financial year, balance in the account need to be reconciled and TDS will be deducted accordingly

At the end of the financial year, Accumulated net winnings in the account need to be reconciled and TDS will be deducted accordingly.

**\*This amendment will take effect from the 1st day of July, 2023.**





## ALIGNMENT OF PROVISIONS OF SECTION 45(5A) WITH THE TDS PROVISIONS OF SECTION 194-IC

**section 45(5A)** : of the Act, provides that on the capital gain arising to an assessee (individual and HUF), from the transfer of a capital asset, being land or building or both, under a Joint Development agreement (JDA), the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority. Further, for computing the capital gains amount on this transaction, the full value of consideration shall be taken as the stamp duty value of his share, as increased by the consideration received in 'cash'.

Pre- Amendment	Post- Amendment
Full Value of consideration = Stamp duty value of property + consideration received in cash	Full Value of consideration = Stamp duty value of property + consideration received in cash <b>or by way of issue of a cheque or draft or any other mode</b>

**\*This amendment will take effect from AY 2024-25**

## SEC 142 : INQUIRY BEFORE ASSESSMENT

IT DEPARTMENT  
Assessing officer  
(AO)



Direct the Assessee



Furnish  
Report of  
inventory  
valuation

To get the Inventory  
Valuation by



Cost Accountant

Particulars	Existing Provision	Additional Provision *
Section	142(2A)(i)	<b>142(2A)(ii)</b>
Assessing officer	Direct the Assessee	<b>Direct the Assessee</b>
Scope	Get the accounts audited	<b>Get the valuation of inventory</b>
Audited by	Chartered Accountant	<b>Cost Accountant</b>

- **Nominated By** : PCCIT or CCIT or PCIT or CIT
- **Furnish Report to** : Assessing officer in prescribed form
- **Expenses borne by** : Central Government
- **Assesse will be given** : Opportunity of being heard

\* The Amendment will take effective from 1<sup>st</sup> April 2023

## RE-ASSESSMENT PROCEEDINGS (1/3)

### \* Section 148 of Income Tax Act (Defined due date for filing ROI)

Pre-Amendment	Post- Amendment
<p>Before making the assessment, reassessment or recomputation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, <b>requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under <u>section 139.</u></b></p>	<p>Before making the assessment, reassessment or recomputation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, <b>requiring him to furnish within a period of <u>three months from the end of the month in which such notice is issued</u>, or such further period as may be allowed by the assessing officer on the basis of application made in this regard by the assessee, a return of his income or the income of any other person; provided also that any return of income, required to be furnished by assessee under this section and furnished beyond the period allowed shall not be deemed to be a return under section 139.</b></p>

## RE-ASSESSMENT PROCEEDINGS (2/3)

### \* Section 149 of Income Tax Act, in sub-section (1)

For cases referred to in clauses (i) ,(iii) and (iv) of explanation 2 to Sec 148 & Information as referred to in explanation 1 to sec 148 emanates from a statement recorded or documents impounded on or before 31<sup>st</sup> day of march of Financial year under :

- (a) a search under section 132 which is initiated; or
- (b) a search under section 132 for which the last of authorizations is executed; or
- (c) a requisition made under section 132A (Survey)

After the 15th day of March of such financial year, a period of fifteen days shall be excluded for the purpose of computing the period of limitation as per this section and the notice issued under clause (b) of section 148A & Section 148 in such case shall be deemed to have been issued on the 31st day of March of such financial year;

## RE-ASSESSMENT PROCEEDINGS (3/3)

- **The period of limitation available to the Assessing Officer for passing an order under clause (d) of section 148A :**

Pre-Amendment	Post- Amendment
The period of limitation available to the Assessing Officer for passing an order under clause (d) of section 148A <b>is less than seven days</b> , such remaining period shall be extended to seven days.	The period of limitation available to the Assessing Officer for passing an order under clause (d) of section 148A <b>is does not exceed seven days</b> .

➤ **Section 151 of the Income Tax Act,**

- In case of absence of PCCIT , **the CCIT** shall give approvals beyond a period of three years for the purpose of Section 148 and 148A.
- To clarify that , the specified authority for re-opening of cases after three years shall be PCCIT or Principal Director General **or CCIT or Director general**.
- While computing the period of 3 years under sec 151, for determining the specified authority the **period which has been excluded or extended as per provisions in section 149 of the Act, shall be taken into account**.

**\* Amendment will take effect from the 1<sup>st</sup> Day of April, 2023.**

## MODIFICATION OF DIRECTIONS RELATED TO FACELESS SCHEMES AND E-PROCEEDINGS

Section	Scheme	Time Limits of scheme	Amendments will take effect from
135A	e-Verification Scheme, 2021	31.03.2022	01.04.2022
245MA	e-Dispute Resolution Scheme, 2022	31.03.2023	01.04.2023
245R	e-advance rulings Scheme, 2022	31.03.2023	01.04.2023
250	Faceless Appeal Scheme, 2021	31.03.2022	01.04.2022
274	Faceless Penalty Scheme, 2022	31.03.2022	01.04.2022

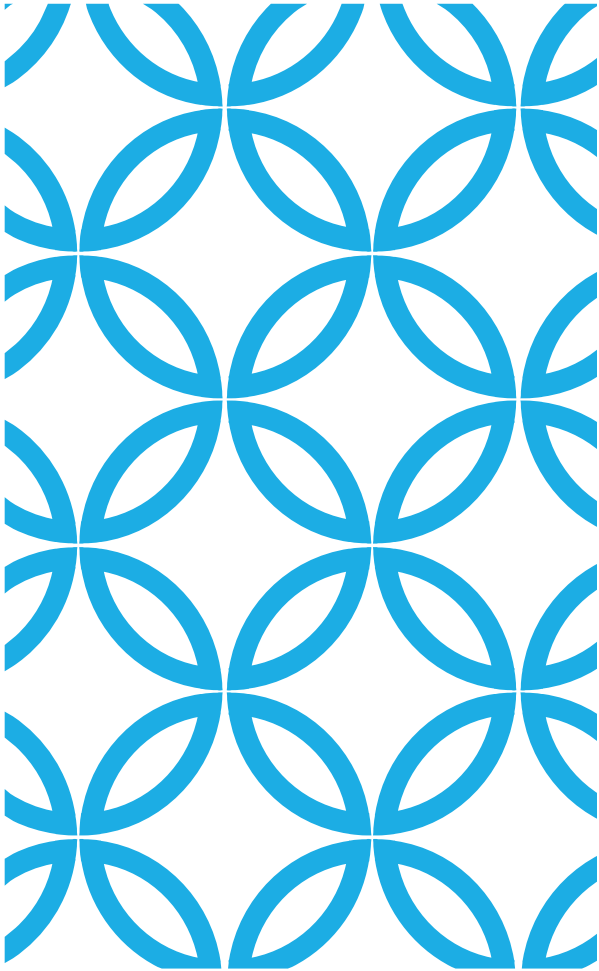
**\* Direction has been issued for the purposes of giving effect to the scheme under that section before the expiry of limitation, i.e., 31st March, 2022 or 31st March, 2023, as the case may be, the Central Government may, amend such direction at any time by notification in the Official Gazette.**

## SEC 35D : AMORTIZATION OF PRELIMINARY EXPENDITURE

- **Incurred on** : Prior to commencement of business or After commencement in connection with extension.
- **Incurred By** : Resident Assessee
- **Expenditure in connection with** : Preparation of feasibility report , Project report, conducting market survey & engineering services related to business

Particulars	Old Provision	New Provision *
Preparation of Reports	To be carried by Assessee himself (or) by a concern approved by the board	Assessee furnish a statement of expenditure with the Income Tax Authority

\* Amendment will take effect from AY 2024-25 and subsequent assessment years.



## START-UP, NBFC, NR AND MISCELLANEOUS

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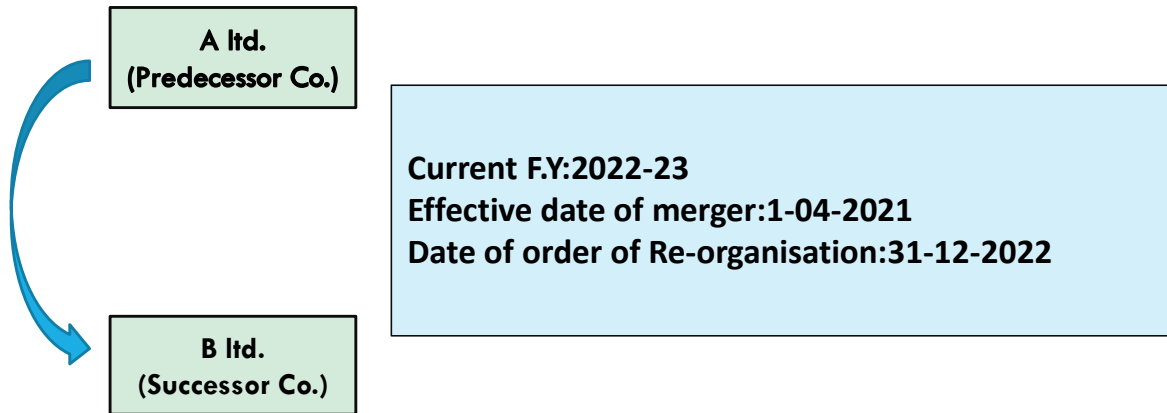


## Section-170A Provisions related to Business Reorganisation

PRE AMENDMENT	POST AMENDMENT
<p><b>Section:170A</b> In case of Buss. Re-org., modified returned to be filed within 6 months in ITC-A.</p>	<p><b>Effect of order of tribunal or court in respect of business reorganisation.</b> (1)In case of Buss. Re-org., modified returned to be filed within 6 months in ITC-A.</p>
	<p>(2) Where the assessment/reassessment proceedings <b>Case (a):</b><u>Completed as of DOMR</u>, then AO shall <u>pass an order modifying the T.I</u> taking into account the modified return <b>Case (b):</b><u>Pending as of DOMR</u> , then AO shall pass an <u>order for reassessment of T.I</u> in acc. with order of Buss. Re-org. taking into account modified return.</p>
	<p>The amendment shall take effect from the first day of April,2023.</p>

# EXAMPLE

A Ltd merged into B Ltd.



# BENEFITS FOR ELIGIBLE START-UPS

- ❖ Incorporated on 1-4-2016
- ❖ Incurring losses since Inception

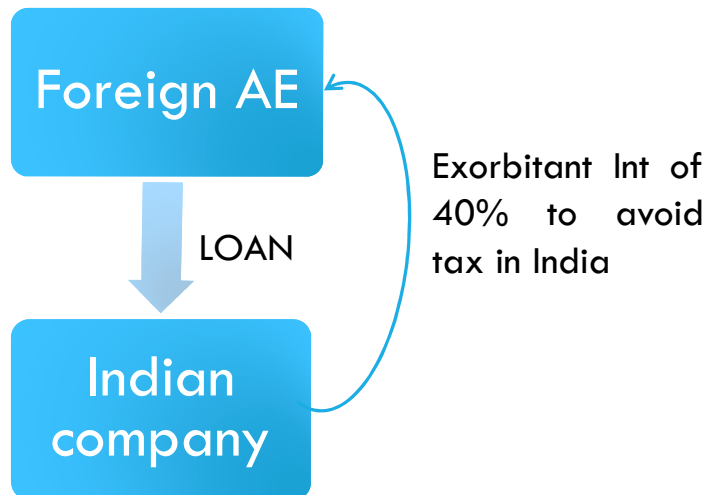
SHARE HOLDERS	SH PATTERN AS ON 31-3-22	SH PATTERN AS ON 31-3-23
X	33.33%	1%
Y	33.33%	1%
Z	33.33%	1%
Angel Investor	-	97%



Hurray!!! You can incorporate start-up companies upto 1-4-24 (as against 1-4-23) and avail start up benefits

Proviso to S. 79 allowed for carry forward and set off of loss incurred during period of 7 years (amended to 10 yrs) from Date of Incorporation to align with time limit under S. 80-IAC

## EXCLUDING NON-BANKING FINANCIAL COMPANIES (NBFC) FROM RESTRICTION ON INTEREST DEDUCTIBILITY



- ❖ Section 94B – restricts interest deduction to 30% of EBITDA (pursuant to BEPS project of OECD&G-20)
- ❖ Proviso to S. 94B - Restriction not applicable to companies engaged **banking or insurance** business
- ❖ **Amendment – Proviso extended to include NBFC**
  - ❖ NBFC meaning as per S. 36(1)(vii)/(vii a)
- ❖ Amendment effective from **AY 2024-25**

## NON-BANKING FINANCIAL COMPANY (NBFC) CATEGORIZATION

NBFC's covered in S. 43B & S. 43D prior amendment	NBFC's covered in S. 43B & S. 43D after amendment
<ol style="list-style-type: none"><li>1. Deposit taking Non-Banking Financial Company</li><li>2. Systemically Important Non-Deposit taking Non-Banking Financial Company</li></ol> <p>These categories have been removed by RBI wef Oct 2022</p>	<p>“such class of non-banking financial companies as may be notified by the Central Government in the Official Gazette in this behalf”</p> <p>To align with the categorization by RBI</p> <p>Amendment effective from AY 2024-25</p>

# TCS ON FOREIGN REMITTANCE THROUGH THE LRS & OVERSEAS TOUR PACKAGE

Effective 1-7-2023, Section 206C(1G) is amended to increase TCS rates

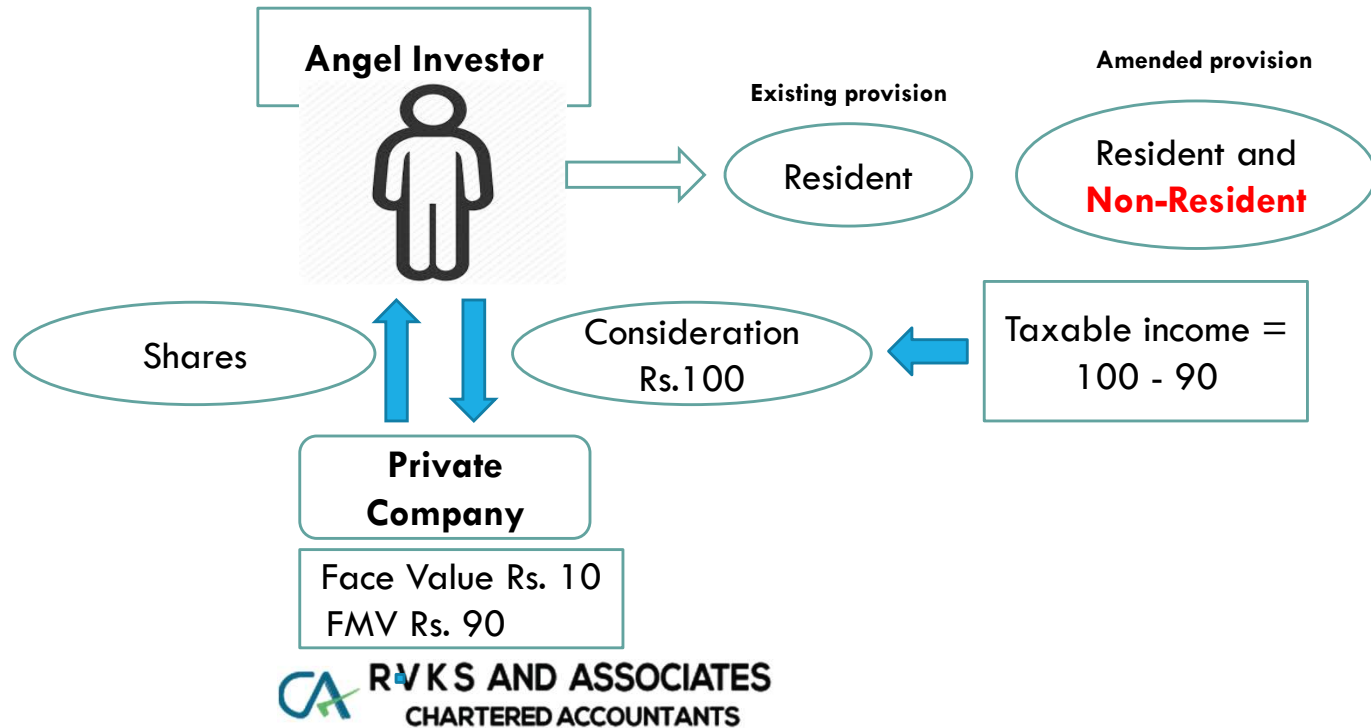
S.No	Type of foreign remittance	Present rate	Proposed rate
1	Overseas tour package	5% without any threshold limit	20% without any threshold limit.
2	Any other case	5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakh.	20% without any threshold limit.

No change in TCS rate for foreign remittance towards education / repayment of educational loan/ medical under Section 206C(1G)

# TAXABILITY AND TDS ON ONLINE GAMES

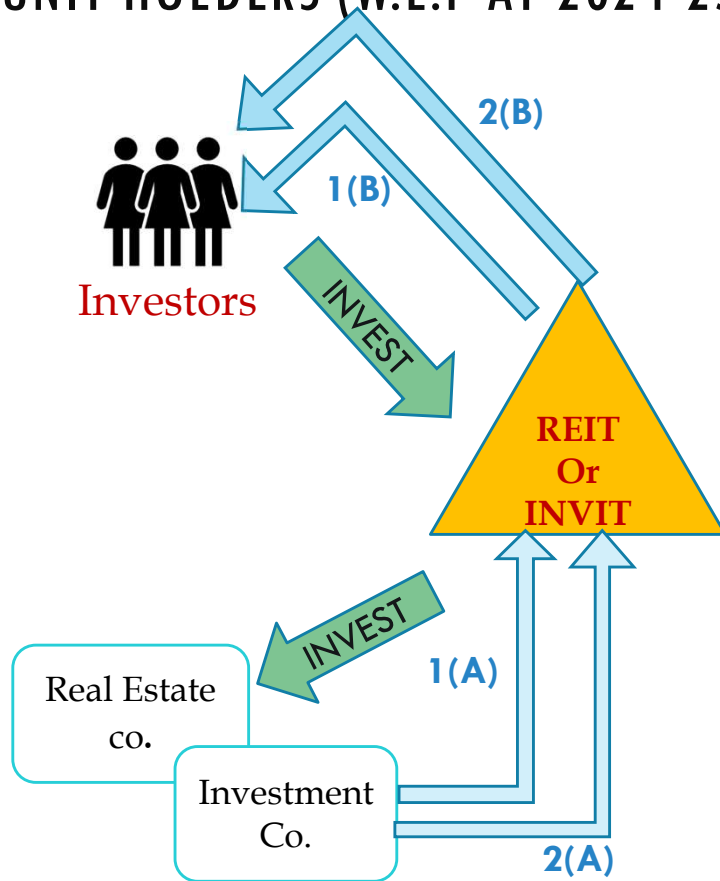
1. To reiterate, effective 1-7-23, Section 194BA is introduced for TDS on net winnings at the end of FY in each user account, except if there is a withdrawal
  - a) In case of withdrawal – TDS applicable on net winnings comprised in that withdrawal, in addition to above
  - b) Net winnings from Online Gaming is excluded from 194B and 194BB
  - c) Govt to make rules to remove any difficulty
  
2. In line with the above amendment, effective 1-4-2024 (i.e. AY 2024-25), Section 115BBJ is introduced to tax on winnings from online games
  - a) Net winnings from such online games during the previous year computed at rate 30%
  - b) These Act to exclude income from winnings from online games from the purview of the section 115BB

# BRINGING THE NON-RESIDENT INVESTORS WITHIN THE AMBIT OF SECTION 56(2)(VIIB) TO ELIMINATE THE POSSIBILITY OF TAX AVOIDANCE





# ADDRESSING TAX AVOIDANCE THROUGH DISTRIBUTION BY BUSINESS TRUSTS TO ITS UNIT HOLDERS (W.E.F AY 2024-25)



Reference	Description	Existing S. 115UA/UB	Amendment
1(A)	Distribution of business income from investees to ReIT/InvIT	Taxable for ReIT/ InvIT	No change
2(A)	Distribution of <b>passive income</b> from investees to ReIT/InvIT	Exempt for ReIT/ InvIT	ReIT/ InvIT is passthrough - No change
1(B)	Distribution of business income from ReIT/InvIT to investors	Exempt for investors	No change
2(B)	Distribution of <b>passive income</b> from ReIT/InvIT to investors	Taxable for investors	ReIT/ InvIT is passthrough - No change

- **Passive income :- Dividend, Interest, Rental income + Repayment of loan**
- **Capital gain on redemption of units = Redemption value – COA**

# CONVERSION OF GOLD TO ELECTRONIC GOLD RECEIPT

## HOW IT WORKS

- Investors can buy **electronic receipts** for gold kept in vaults
- These e-receipts could be **traded on exchanges**
- These could also be **exchanged for physical gold** at authorised vaults
- Govt has also allowed fund houses to launch **silver ETFs**



Removing Conversion of Gold into EGR is removed from transfer definition

COA=Cost of gold in hand

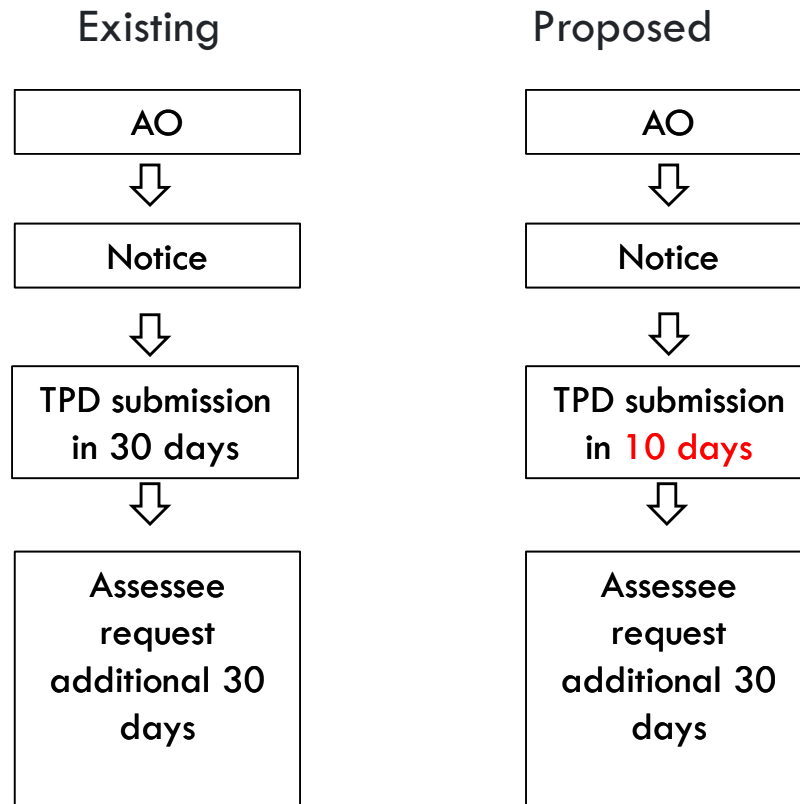
Holding period includes Period of gold held by assessee and vice versa

From:- 1/4/2024(AY 24-25)

## GIFT TO NOT-ORDINARILY RESIDENT

Particulars	Existing	Proposed (AY 24-25)
Assessee	Resident	Resident
Amount	Exceeding Rs 50,000	Exceeding Rs 50,000
Assessee	Non-Resident	Non-resident & <b>not ordinarily resident (NOR)</b>
Taxability	Taxable	Taxable
Objective	Prevent abuse of gift provisions under the Income tax Act, where NRs claimed such gift as non-taxable in India	Existing provision did not apply to NORs, hence the abuse continued by NoR. Proposed provision curbs this

# REDUCING THE TIME PROVIDED FOR FURNISHING TP DOCUMENTATION (TPD)92D



## REMOVAL OF EXEMPTION OF NEWS AGENCY (10(22B))

Existing: Exemption for any income of a notified news agency which is set up in India solely for collection and distribution of news

- Condition - The news agency applies its income or accumulates it for application solely for collection and distribution of news and does not distribute its income in any manner to its members

Proposed: Removal of exemption

- Reason - policy of the Government of phasing out of exemptions and deductions under the Act

# TAX TREATY RELIEF AT THE TIME OF TDS UNDER SECTION 196A OF THE ACT

## Scope of Pre-amended provision

Section 196A → TDS on payment of the certain income to a non-resident or to a foreign company, at 20%.

## Issues/ difficulties

1. TDS rates under tax treaty could be lower than 20%
2. Hence, representations were received requesting to reduce TDS rate u/s 196A to lower of 20% or tax treaty rate

## Amended S. 196A (This amendment will take effect from 1st April 2023)

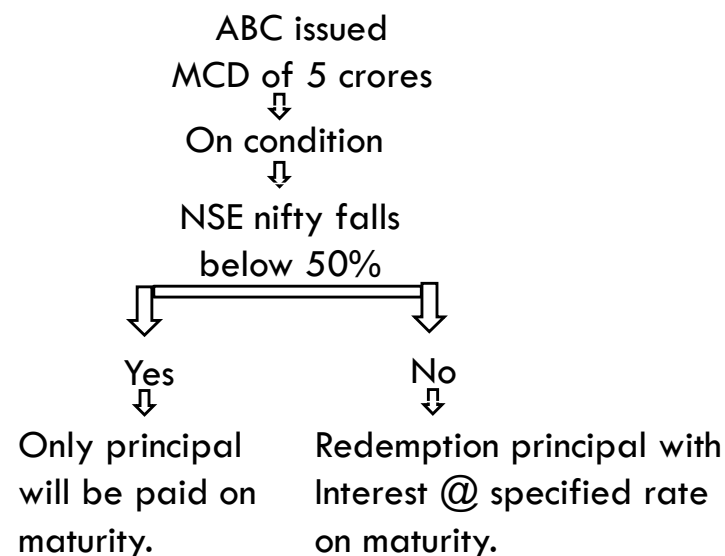
TDS on income to NR/F.Co in the nature of S. 10(23D) or S .10(35) is lower of the following if TRC is furnished by NR/F. Co

1. Rate specified in tax treaty or
2. 20%

## SPECIAL PROVISION FOR TAXATION OF CAPITAL GAINS IN CASE OF MARKET LINKED DEBENTURES MLD(50AA)

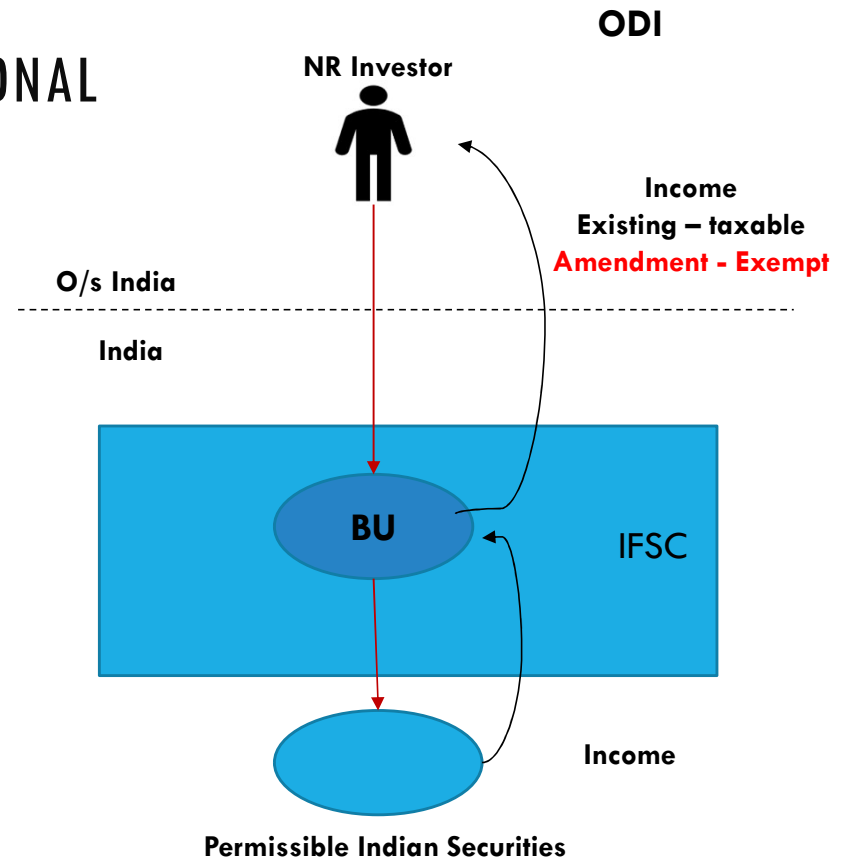
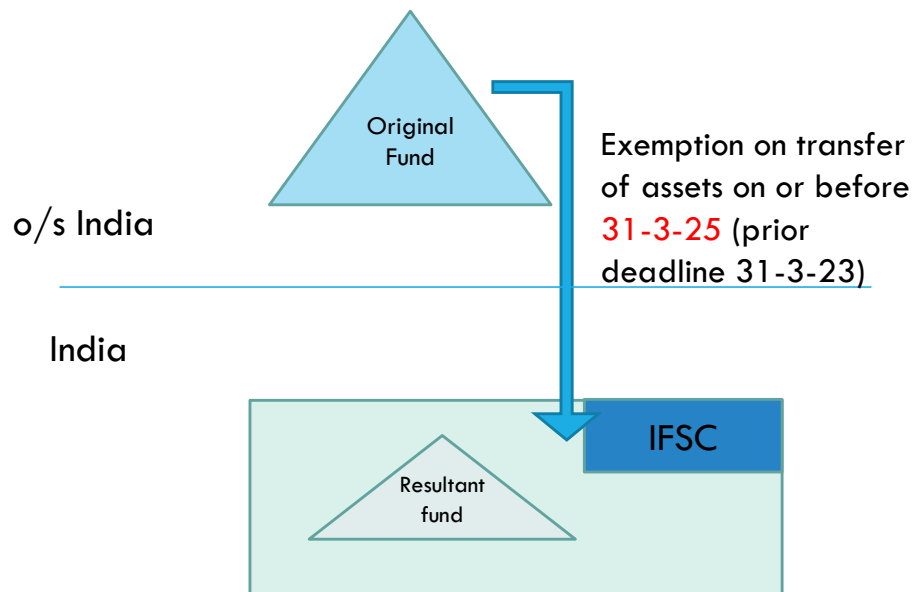
MLD is a type of non-convertible debenture wherein the returns are not fixed but linked to the performance of a certain market index. These are structured fixed-income products with typically no periodic payouts except at maturity.

### Example



Pre-Amended Provision	Amended Provision
Market Linked Debenture were traded at the listed market at 10%(without indexation) if held for more than a year and at slab rates if held for up to 1 year.	New section 50AA has been introduced where value of consideration received as a result of the transfer is considered as STCG irrespective of the holding and taxed at respective tax slabs.

# TAX INCENTIVES TO UNITS IN INTERNATIONAL FINANCIAL SERVICES CENTRE







Watch this webinar at: <https://youtube.com/live/HYWVq5N-IGo?feature=share>



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