UNION BUDGET 2021

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HIGHLIGHTS OF UNION BUDGET 2021

- No change in personal Income Tax rates under existing tax regime;
- Relaxation in filing Return of Income for Senior Citizens of 75 years and above having only pension and interest income;
- Advance Tax to be applicable on dividend Income only after its declaration or payment of dividend;
- Pre-filled forms will be available for ease of compliance in filing of Return of Income;
- Dividend payments to Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs) exempt from TCS;
- Relaxations to Non Resident Indians (NRIs)- Rules to remove hardships of Double Taxation;
- Tax Audit Limit to be increased to Rs 10 crores from Rs 5 crores for those having less than 5% cash transactions;
- Presumptive scheme for professionals now onwards applies only to the resident individual, HUF or a partnership firm, other than LLP;
- Late deposit of employee's contribution by the employer not to be allowed as deduction to the employer;
- Rationalization of provisions of Charitable Trust and Institutions;
- Exemption limit of annual receipt revised from Rs 1 crore to Rs 5 crore for small Charitable trusts running schools and hospitals;
- Modification in definition of "Block of Asset";
- Goodwill of a business or profession will not be considered as depreciable asset and no depreciation to be allowed even in respect of Purchase goodwill;

- Tax holiday for Affordable Housing projects extended till March 2022;

- Additional deduction of interest, up to Rs. 1.5 lakh, for loan taken to buy an affordable house extended for loans taken till March 2022;

- Provide relief in Taxation of Income accrued from Retirement Benefit Account maintained overseas to residents in India who were Non resident in past;

- Interest accrued on employee/ individual's contribution (in excess of Rs 250,000) to a provident fund account now taxable;

- Maturity proceeds from Unit linked insurance policy is now taxable if aggregate annual premium exceeds Rs 250,000 in any financial year during the term of the policy and such taxable ULIPs is now covered under definition of Capital asset;

- The scope of definition of slump sale expanded to include all types of 'transfer' (including exchange);

- Extension of date of incorporation for eligible start up for Exemption and for investment in eligible start-up;

- To provide for TDS by person responsible for paying any sum to any resident for Purchase of goods @ 0.1% if value of goods exceeds Rs 50 lakh in pervious year;

- For the purpose of capital gains, sale consideration received to be treated as full value of consideration if the variation in the stamp duty value is not more than 20% of the sale consideration (earlier the variance limit was 10%) subject to satisfaction of certain conditions;

- Dividend if credited to profit and loss account, shall be deducted from Book Profits;

- Income Tax Appellate Tribunal to become Faceless, communication to be done electronically;
- Reduction in time for IT proceedings, Assessment proceedings shall be reopened only up to three years against the earlier time limit of six years subject to certain conditions and in cases of serious tax evasion time limit of 3 years stands enhanced to 10 years;
- Legal Restrictions in reopening of Assessment are removed to a large extent;
- Vivad Se Viswas Scheme Last Date of filing extended to 28th February, 2021;
- Reducing Litigation for small tax payers by forming Constitution of Faceless Dispute Resolution Panel for people with total Income upto 50 lakh and disputed Income of Rs 10 lakh;
- Tax holiday for startups has been extended to 31st March 2022;
- Capital Gains Exemption for investment in startups extended to 31st March, 2022;
- Tax exemptions for Capital Gains from incomes of aircraft leasing companies;
- Tax exemptions for aircraft lease rentals paid to Foreign lessors;
- "Turant Customs" initiative for speedy clearance of goods at air and sea ports;
- Review of more than 400 old customs exemptions Proposed through extensive consultations from 1st October 2021. A revised customs duty structure is Proposed to be introduced;
- Customs duty reduced uniformly to 7.5% on semis, flat, and long products of non-alloy, alloy, and stainless steels;

- Duty on steel scrap exempted up to 31st March, 2022;
- Duty on copper scrap reduced from 5% to 2.5%;
- All nylon products charged with 5% custom duty;
- Duty on Naptha reduced to 2.5%;
- Duty on solar invertors raised from 5% to 20%, and on solar lanterns from 5% to 15% to encourage domestic production;
- Customs duty on cotton increased from nil to 10% and on raw silk and silk yarn from 10% to 15%;
- Proposal to withdraw Exemption on import of leather as they are domestically produced;
- Anti-Dumping Duty (ADD) and Counter-Veiling Duty (CVD) revoked on certain steel products;
- Agriculture Infrastructure and Development Cess (AIDC) Proposed on certain items like apples, sunflower oil, crude soybean etc;
- OPC can be now incorporate without a limit for turnover or paid up capital;
- Reducing the residency limit for an Indian citizen to set up an OPC from 182 days to 120 days and also allowing Non Resident Indians (NRIs) to incorporate OPCs in India;
- Margin capital required for loans via Stand-up India scheme reduced from 25% to 15% for SCs, STs and women;
- Proposal to decriminalize Limited Liability Partnership Act of 2008;
- Introducing MCA Version 3.0: E-Scrutiny, E-Adjudication and Compliance management simplification;

- New Asset Reconstruction Company is to be set up to provide resolution to stressed assets in PSUs;

- Modified definition of small Companies: Companies with paid-up capital not exceeding 2 crores & turnover not exceeding 20 crores are to be considered as small companies;

- To amend the Insurance Act to introduce additional FDI to insurance companies from the existing 49% to 74%;

- Any person (other than individual) entered into any transaction/ activity related to supply of goods or service to its members or constituents involving consideration will have to pay tax as per Proposed Amendment and the above transaction will be treated as "SUPPLY" under CGST Act;

- Credit of invoice or debit note can only be taken when details of such invoice is furnished by the supplier (in GSTR-1);

- In finance budget it Proposed that it will not be mandatory to get his accounts audited from specified professional, and the reconciliation statement is to be furnished and self-certified by the tax payer;

- Separate proceedings from recovery of tax for seizure and confiscation of goods and conveyances in transit;

- The commissioner after the commencement of proceedings can attach provisionally, any property, including bank account, belonging to the taxable person or any beneficial person specified in Section 122(1A);

- Mandatory pre-deposit (25% of penalty) required for filing appeal against detention or seizure order;

- "Self-Assessed Tax" shall include the tax payable in respect of outward supplies, the details of which have been furnished in GSTR1 form, but not included in the Return furnished in GSTR3B / GSTR4 / GSTR5 / GSTR6 / GSTR7 form;

- It is Proposed to empower the jurisdictional commissioner to call for information from any person relating to any matter dealt with in connection with the Act;

- Zero rate the supply of goods or services to a Special Economic Zone developer or a Special Economic Zone unit only when the said supply is for authorised operations;

- Restrict the zero-rated supply on payment of integrated tax only to a notified class of taxpayers or notified supplies of goods or services;

- Link the Foreign exchange remittance in case of export of goods with refund.

Rates of Income Tax: -

The table below shows the Income slabs and the corresponding Income Tax rates for Resident Individual/Hindu Undivided Family, applicable for Assessment Year 2022-23: -

Option A – NORMAL TAX RATES: -

All Resident Assessee and All Non – Resident Assessee (Less than 60 years): -

Income	Existing Slab of Income Tax Rate (AY 2021-22)	Proposed Slab of Income Tax Rate (AY 2022-23)
Up to ₹ 2,50,000	NIL	NIL
₹ 2,50,001 - ₹ 5,00,000	5%	5%
₹ 5,00,001 - ₹ 10,00,000	20%	20%
Above ₹ 10,00,000	30%	30%

Resident Senior Citizen (60 years or more but less than 80 years): -

Income	Existing Slab of Income Tax Rate (AY 2021-22)	Proposed Slab of Income Tax Rate (AY 2022-23)
Up to ₹ 3,00,000	NIL	NIL
₹ 3,00,001 - ₹ 5,00,000	5%	5%
₹ 5,00,001 - ₹ 10,00,000	20%	20%
Above ₹ 10,00,000	30%	30%

Resident Very Senior Citizen (80 years or more): -

Income	Existing Slab of Income Tax Rate (AY 2021-22)	Proposed Slab of Income Tax Rate (AY 2022-23)
Up to ₹ 5,00,000	NIL	NIL
₹ 5,00,001 - ₹ 10,00,000	20%	20%
Above ₹ 10,00,000	30%	30%

Note: The filing of Income Tax Return is not mandatory for individual who is of the age of 75 years or more (Details of the same are described in Section 194P).

Option B – CONCESSIONAL TAX RATES FOR INDIVIDUAL AND HUF [If option u/s 115BAC is exercised] : -

Income	Proposed Slab of Income Tax Rate * (AY 2021-22)	Proposed Slab of Income Tax Rate * (AY 2022-23)
Up to ₹ 2,50,000	NIL	NIL
₹ 2,50,001 - ₹ 5,00,000	5%	5%
₹ 5,00,001 - ₹ 7,50,000	10%	10%
₹ 7,50,001 - ₹ 10,00,000	15%	15%
₹ 10,00,001 - ₹ 12,50,000	20%	20%
₹ 12,50,001 - ₹ 15,00,000	25%	25%
Above ₹ 15,00,000	30%	30%

*** Concessional tax rates are subject to certain terms and conditions, which are briefly described in Section 115 BAC of the Act.**

*** AMT shall not apply to Individual/HUF, having business Income Opting for new Regime.**

The table below shows the **Surcharge rate** for Individual/ Hindu Undivided Family applicable for Assessment Year 2022-23: -

Income Limit	Existing Surcharge of Income (AY 2021-22)		Proposed Surcharge of Income (AY 2022-23)	
	other than Capital Gain covered u/s 111A & 112A	With Capital Gain covered u/s 111A & 112A	other than Capital Gain covered u/s 111A & 112A	With Capital Gain covered u/s 111A & 112A
Up to ₹ 50,00,000	NIL	NIL	NIL	NIL
₹ 50,00,001 – ₹ 1,00,00,000	10%	10%	10%	10%
₹ 1,00,00,001 – ₹ 2,00,00,000	15%	15%	15%	15%
₹ 2,00,00,001 – ₹ 5,00,00,000	25%	15%*	25%	15%*
₹ 5,00,00,001 and above	37%	15%*	37%	15%*

*In case the total Income exceeds ₹ 2,00,00,000/- on account of Income from Capital Gain covered u/s 111A and 112A of the Act, then surcharge @ 15% would be applicable on the total Income irrespective of quantum of Income other than Capital Gain

Health & Education Cess for all types of assesses: -

Types of Cess	For AY 2021-22	For AY 2022-23
Health & Education Cess	4%	4%

Note: A resident individual is entitled to rebate u/s 87A if his total Income does not exceed ₹ 5 lakhs. The amount of rebate shall be 100% of Income Tax or ` 12,500/- whichever is less.

For Domestic Company: -

I. The table below shows the Income Tax rates for Assessment Year 2022-23 for Domestic Company **(OPTION I)**: -

Turnover Limit	Existing Slab of Income Tax Rate (%) (AY 2021-22)				Proposed Slab of Income Tax Rate (%) (AY 2022-23)			
	Tax	Sur.	H & E Cess	Eff. Rate	Tax	Sur.	H & E Cess	Eff. Rate
A.	**INCOME UP TO ₹ 1 CR.**							
Up to ₹ 50 cr.	25.00	NIL	4.00	26.00	25.00	NIL	4.00	26.00
₹ 50 cr. to ₹ 250 cr.	25.00	NIL	4.00	26.00	25.00	NIL	4.00	26.00
₹ 250 cr. to ₹ 400 cr.*	25.00	NIL	4.00	26.00	25.00	NIL	4.00	26.00
Above ₹ 400 cr.*	30.00	NIL	4.00	31.20	30.00	NIL	4.00	31.20
B.	**INCOME ABOVE ₹ 1 CR. BUT LESS THAN ₹ 10 CR.**							
Up to ₹ 50 cr.	25.00	7.00	4.00	27.82	25.00	7.00	4.00	27.82
₹ 50 cr. to ₹250 cr.	25.00	7.00	4.00	27.82	25.00	7.00	4.00	27.82
₹250 cr. to ₹ 400 cr.*	25.00	7.00	4.00	27.82	25.00	7.00	4.00	27.82
Above ₹ 400 cr.*	30.00	7.00	4.00	33.38	30.00	7.00	4.00	33.38
C.	**INCOME ABOVE ₹ 10 CR.**							
Up to ₹ 50 cr.	25.00	12.00	4.00	29.12	25.00	12.00	4.00	29.12
₹ 50 cr. to ₹250 cr.	25.00	12.00	4.00	29.12	25.00	12.00	4.00	29.12
₹ 250 cr. to ₹ 400 cr.*	25.00	12.00	4.00	29.12	25.00	12.00	4.00	29.12
Above ₹ 400 cr.*	30.00	12.00	4.00	34.94	30.00	12.00	4.00	34.94

*Turnover to be checked that of Financial Year 2019-20.

How to Calculate Turnover?

Calculation of Turnover is not defined in the Statute and hence in our opinion, for the purpose of calculation of turnover of ` 400 crores in Financial Year 2019-20, it will be calculated in the same manner as specified in Guidance note on Tax Audit under Section 44AB of the Income Tax Act, 1961.

The table below shows the MAT Income Tax rates for Assessment Year 2022-23 (Other than those covered in option I): -

Type of Assessee	Existing Slab of Income Tax Rate (%) (AY 2021-22)				Proposed Slab of Income Tax Rate (%) (AY 2022-23)			
	Tax	Sur.	H & E Cess	Eff. Rate	Tax	Sur.	H & E Cess	Eff. Rate
A.	**INCOME UP TO ₹ 1 CR.**							
MAT for Company#	15.00	NIL	4.00	15.60	15.00	NIL	4.00	15.60
MAT for Company$	9.00	NIL	4.00	9.36	9.00	NIL	4.00	9.36
B.	**INCOME ABOVE ₹ 1 CR. BUT LESS THAN ₹ 10 CR.**							
MAT for Company#	15.00	7.00	4.00	16.69	15.00	7.00	4.00	16.69
MAT for Company$	9.00	7.00	4.00	10.02	9.00	7.00	4.00	10.02
C.	**INCOME ABOVE ₹ 10 CR.**							
MAT for Company#	15.00	12.00	4.00	17.47	15.00	12.00	4.00	17.47
MAT for Company$	9.00	12.00	4.00	10.48	9.00	12.00	4.00	10.48

Domestic Company other than Company being a Unit located in IFSC deriving its Income wholly in convertible forex;

$ Domestic Company being a Unit located in IFSC deriving its Income wholly in convertible forex.

II. However, Tax Laws Amendment Act 2019 enacted on 12th December 2019 and inserted new section 115BAA and 115 BAB of the IT Act, providing Domestics Companies an option to pay taxes at following concessional rates on fulfillment of certain conditions described in section 115BAA & 115BAB of the IT Act. This new Tax Rate is applicable for A.Y. 2020-21 onwards (**Other than those covered in option I**)

Particulars	Basic Tax Rate		Surcharge	H & E Cess
	All Companies	New Companies*		
Domestic Company • Normal Tax Rate • MAT	22% Not Applicable	15% Not Applicable	10%	4%

*New Manufacturing Companies and Companies engaged in business of generating electricity.

For Other Assessee (other than Domestic Company)

The table below shows the Income Tax rates for Assessment Year 2022-23 for Other Assessee (other than Domestic Company): -

Type of Assessee	Existing Slab of Income Tax Rate (%) (AY 2021-22)				Proposed Slab of Income Tax Rate (%) (AY 2022-23)			
	Tax	Sur.	H & E Cess	Eff. Rate	Tax	Sur.	H & E Cess	Eff. Rate
A.	**INCOME UP TO ₹ 1 CR.**							
a) Firm/LLP								
-Regular Tax	30.00	NIL	4.00	31.20	30.00	NIL	4.00	31.20
-AMT	18.50	NIL	4.00	19.24	18.50	NIL	4.00	19.24
b) Foreign Co.								
-Regular Tax	40.00	NIL	4.00	41.60	40.00	NIL	4.00	41.60
B.	**INCOME ABOVE ₹ 1 CR. BUT LESS THAN ₹ 10 CR.**							
a) Firm/LLP								
-Regular Tax	30.00	12	4.00	34.94	30.00	12.00	4.00	34.94
-AMT	18.50	12	4.00	21.55	18.50	12.00	4.00	21.55
b) Foreign Co.								
-Regular Tax	40.00	2	4.00	42.43	40.00	2.00	4.00	42.43
C.	**INCOME ABOVE TO ₹ 10 CR.**							
a) Firm/LLP								
-Regular Tax	30.00	12	4.00	34.94	30.00	12.00	4.00	34.94
-AMT	18.50	12	4.00	21.55	18.50	12.00	4.00	21.55
b) Foreign Co.								
-Regular Tax	40.00	5.00	4.00	43.68	40.00	5.00	4.00	43.68

Modification of the definition of "Block of Asset": - [Amendment to Sections 2(11) of the Act]

At Present section 2(11) defines Block of assets for the purpose of Computation of depreciation of assets as per Income tax which includes tangible assets like buildings, machinery, plant and furniture and intangible assets being know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature.

Based on above inclusion of intangible assets in the definition of Block of assets, Supreme Court in the case of **Smifs Securities Limited [(2012) 348 ITR 302(SC)]** held that Goodwill is a depreciable asset and accordingly depreciation should be allowed on the same.

Seeing no justification in treating Goodwill as a depreciable asset, it is now Proposed that the Goodwill of a business will not be considered as a depreciable asset entitled to any depreciation. It clarifies that in a situation where Goodwill is purchased by an assessee, the Purchase price will be continued to be considered as cost of acquisition for the purpose of Computation of Capital Gains u/s 48 subject to the condition that if depreciation was obtained by assessee prior to AY 2021-22, the depreciation so obtained will be reduced from amount of Purchase price of Goodwill for the purpose of computing Capital Gain.

Consequential Amendment in section 32(1)(a)(ii) of the Income Tax Act, it is now Proposed to exclude Goodwill from the list of assets which are eligible for depreciation.

Above Amendments shall come into effect from A.Y.2021-22 onwards.

Taxation of Interest Received from Provident Fund: - [Amendment in Section 10(11) and 10(12) of the Act]

At Present, any amount of interest received from Provident Fund Account is exempt from Tax.

As per the Proposed amendment, **Interest received on PF contribution of more than Rs. 2,50,000 shall be liable to Tax**. The Same is explained by way of illustration as under:

Sr. No.	Particulars	Mr. X	Mr. Y
1	Basic Salary	6,00,000	21,00,000
2	Other Allowance	9,00,000	4,00,000
3	PF Contribution by Employer	72,000	2,52,000
4	Voluntary Contribution	1,00,000	2,00,000
5	Total Contribution (3 + 4)	1,72,000	4,52,000
6	Contribution > 2.5 Lakh	0	2,02,000
7	Interest on Provident Fund is taken at 8.5% (5 * 7)	14,620	38,420
8	Exempt Interest Income	14,620 (1,72,000*8.5%)	21,250 (2,50,000*8.5%)
9	**Taxable Interest Income**	**-**	**17,170 (2,02,000*8.5%)**

Above Amendment shall come into force with effect from A.Y. 2021-22 onwards.

Raising of Prescribed limit for claiming Income Tax Exemption: - [Amendment to Section 10(23C) of the Act]

At Present Clause(23C) of section 10 of the Act provides for Exemption of Income received by Institutions specified in different sub-clauses. The Exemption under the said clause is available subject to the upper limit of the annual receipts of Prescribed Institutions.

It is now Proposed to enhance the limit of Annual Receipts to qualify for claiming Income tax Exemption. The same is tabulated as under: -

Institution Covered	Existing Limit	Proposed Limit
University or Educational Institutions	Annual receipts not more than 1 crore	Annual receipts not more than 5 crore
Hospitals or Institutions referred in Clause (23C)	Annual receipts not more than 1 crore	Annual receipts not more than 5 crore

Above Amendments shall come into effect A.Y.2022-23 onwards.

Rationalization of Provisions of Charitable Trust and Institutions: - [Insertion in Clause (d) of Section 11(1) of the Act]

Before we understand the Amendments in Section 11 it is necessary to understand the difference between General donation and Corpus donation received by Charitable Trust the same is explained below:

- General donations are received by a Charitable trust without any direction that they should form part of Corpus. General donations are revenue in nature and the trust is required to spend 85% of the General donations & other revenue Income for incurring Expenditure for charitable or religious purpose. They are credited to Income and Expenditure account.

- Corpus donation are received by Charitable Trust with specific direction that they should form part of Corpus. Most of the times they are received for meeting the Capital Expenditure such as construction of Building, Purchase of medical equipment, etc. Corpus donations are credited directly in Balance sheet and till the time the corpus donations are utilised for capital expenditure they are temporarily invested in Government securities as specified in Section 11(5) of the Act.

At Present Section 11 of the Act provides that Income of a property held (which includes General donation) by a Charitable trust shall have to be applied for charitable purpose to the extent of atleast 85% of such Income. It is also provided that Income in the form of voluntary contribution made with a specific direction that it shall form part of corpus of the trust, shall not be included in the total Income of the trust, rather it should be credited directly in Balance Sheet.

At Present there is no provision in law as to where such voluntary corpus donation are to be invested in order to claim non-inclusion of the same in the total Income of the trust.

It is now Proposed **to amend Section 11(1)(d) of the Act,** so as to impose a condition that such voluntary corpus donation shall not be included in the total Income only and only if they are invested in one or more Government securities **as specified in Section 11(5) of the Act.**

Above Amendments shall come into effect A.Y.2022-23 onwards.

Provision relating to eliminating possibility of double deduction while calculating application or accumulation of Income: - [Insertion of Explanation 4 and 5 of Section 11]

With Proposed insertion of **Explanation 4 to Section 11** it is also Proposed to ensure that there is no double counting while calculating the application of Income of 85%. The following explanations are Proposed to be inserted for the said purpose: -

1. Amounts utilised towards Charitable or religious purpose out of corpus donation shall not be counted as a part of Income which is applied for charitable purpose atleast to the extent of 85% of the Income received as explained above.

   Year I
   It is possible that in Year I, in order to meet the criteria of applying 85% of the Income towards charitable or religious purpose, corpus donations are temporarily used to apply funds for the said purpose, so that the 85% limit of incurring expenditure for charitable purpose is achieved. This will result in shortfall of Investment in Government securities out of corpus donation in Year I. To the extent the corpus donations are used to incur expenditure there will be a shortfall in making Investment in Government securities out of corpus donation.

   Year II
   In Year II, the shortfall in making Investment Government securities is made out of General donation and other revenue Income received. In such situation in Year I, the corpus donations are utilised to incur expenditure for charitable purpose shall not qualify for application of Income to the extent of 85% for the purpose of Section 11(1)(a) of the Act. It is only when in Year II, General donation and other revenue Income is deposited back into Government securities as specified in Section 11(5) of the Act, then it will be considered as application of Income for charitable or religious purpose in Year II.

   Above is explained by way of Example as under:

Year	Corpus Donation received (A)	Amount of General donations & Other Revenue Income (B)	Amount applied towards charitable or religious purpose out of B (C)	Amount utilised out of Corpus Donation for charitable or religious purpose	Amount invested in Government Securities as per Section 11(5) out of Corpus Donation	Remarks
I	200	100	70	15	185	Only **Rs.70/- will qualify** as amount applied towards charitable or religious purpose
II	100	100	85	-	115*	Entire **Rs.100/- (85+15) will qualify** as amount applied towards charitable or religious purpose

*(1) Rs.100/- is invested out of Current Year's Corpus Donation

*(2) Rs.15/- is invested out of Current Year's Donation (shortfall of last year made good)

2. It is possible that any charitable trust which has already utilised its general donation and other revenue Income for any purpose other than charitable or religious purpose and once it finds that it has not applied atleast 85% of such Income it may borrow money from outside and spend that money for charitable or religious purpose so as to comply with the requirement of applying 85% of its Income for charitable or religious purpose. It is now Proposed that such amount applied out of borrowings shall not be regarded as Income applied for charitable or religious purpose. The same will be considered as applied for charitable or religious purpose only when such loans are repaid out of General Donation or Other Revenue Income.

   This means that if in Year I loan is taken to incur expenses towards charitable or religious purpose and such loans/ borrowings are outstanding as on last day of Balance Sheet the same is not considered as amount incurred for charitable purpose in Year I. If in Year II, the same loans are repaid out of General Donation or Other Revenue Income then the amount spent in Year I shall be considered as amount applied in pursuant to section 11(1) of the Act in year II.

   Above is explained by way of Example as under:

Year	Amount of General donations & Other Revenue Income (A)	Amount applied towards charitable or religious purpose out of (A) (B)	Amount of Borrowings/ Loans taken during the year (C)	Amount applied towards charitable or religious purpose out of (C) (D)	Amount of Borrowings/ Loans repaid during the year out of (A) (E)	Total amount applied during the year towards charitable or religious purpose (B + E)	Remark
I	100	70	50	15	-	85	Only **Rs.70/- will qualify** as amount applied towards charitable or religious purpose
II	100	85	-	-	15	100	Entire **Rs.100/- (85+15) will qualify** as amount applied towards charitable or religious purpose

With insertion of **Explanation 5 to Section 11,** it is hereby Proposed that for calculating Income required to be applied during the previous year the trust cannot take setoff of any excess application made in any of the year preceding the previous year.

Accordingly Proposed Amendment in this regard is explained below: -

Year	General donation and other Revenue Income	Amount applied towards Charitable/ Religious purpose	(Surplus)/ Deficit	Remarks
I	100	120	(20)	-
II	100	60	40	Only Rs.60/- will qualify as amount applied

It is now Proposed that the surplus of the amount spent over Income received in Year I cannot be set-off against deficit in amount spent in Year II.

Above Amendments shall come into effect form A.Y.2022-23 onwards.

Allowing deduction for Employees contribution to Provident Fund, Superannuation Fund or E.S.I.C, etc.: - [Amendment to Section 36(1)(va) and consequential Amendment to Section 43B of the Act]

At Present, section 36(1)(va) of the Act provides deduction from the amount of Income received from employees as contributions to any provident fund or superannuation fund, E.S.I.C etc., if such sum is credited by the assessee to the employee's account in the relevant funds *on or before the due date specified in relevant law*.

"Due date" with respect to Provident Fund and E.S.I.C., Act is as under: -

Particulars	Due Date
The due date of payment of P.F. Contributions under Provident Fund Act.	15th of the following month
The due date of payment of E.S.I.C. Contributions under Employees' State Insurance Act.	

However certain deductions are allowed u/s 43B ***on actual payment basis,*** if same is paid on or before due date for furnishing the Return of Income under section 139(1) of the Act. Some Courts have applied the said provision of section 43B on employee's contribution together with employer's contribution. Reliance is placed on ***CIT vs. Ghatge Patil Transports Ltd (2014) 368 ITR 0749 (2015)228 TAXMAN 0340 (Bombay High Court)***

Accordingly, in order to provide certainty and to nullify effect of Bombay High Court Judgment, it is now Proposed to amend section 36(1)(va) and 43B of the Act to clarify that provision of section 43B shall not apply, if employee's contribution to above named funds are not paid on or before due date specified in relevant law, even if they are paid on or before filing of Income Tax Return.

Due to above Proposed Amendment, deduction of said above contribution shall not be allowed in succeeding accounting year as well, if it is not paid on or before due date specified in the relevant law.

Above Amendment shall ensure payment of PF & ESIC dues by the employer which will eventually benefit the employee class of the nation.

Above Amendment shall come into force from AY 2021-22 onwards.

Full value of consideration for transfer of land or building or both:- [Amendment to Section 43CA, 50C and 56(2)(x) of the Act]

Presently, in case of transfer of land or building or both, where the Stamp duty value (SDV) is higher than Agreement Value (AV) then, the stamp duty value is considered as Full Value of Consideration for Computing Income of the Assessee.

There were cases where market value is actually lower than SDV due to certain locational disadvantage of a particular property compared to some other property falling in same area for e.g. No Lift facility, Nala adjacent to a property etc.

Thus, Amendment was made by the Finance Act, 2018 and variance of 5% was allowed between the Agreement Value and Stamp Duty Value.

Further Amendment was made by the Finance Act, 2020 to enhance the above safe harbor limit of **5% to 10%**.

In order to boost the demand in the real-estate and to enable the builders to liquidate their unsold inventory at a lower rate to home buyers, it is now Proposed to enhance the above safe harbour limit of **10% to 20%** subjects to fulfillment of following conditions: -

- There is transfer of Residential unit from Builder (Seller) to Buyer;
- Transfer of such Residential unit should be during 12th November 2020 to 30th June 2021;
- Consideration for such transfer shall not exceed Rs.2 crores per Residential unit;

It is a common practice that certain investors buy 2 adjacent Residential units

and makes a larger flat, the same flat purchaser may want to apply above limit of Rs.2 crores for 2 flat individually. However, the same is allowed only if the following criteria are satisfied that Residential ***unit***: -; -

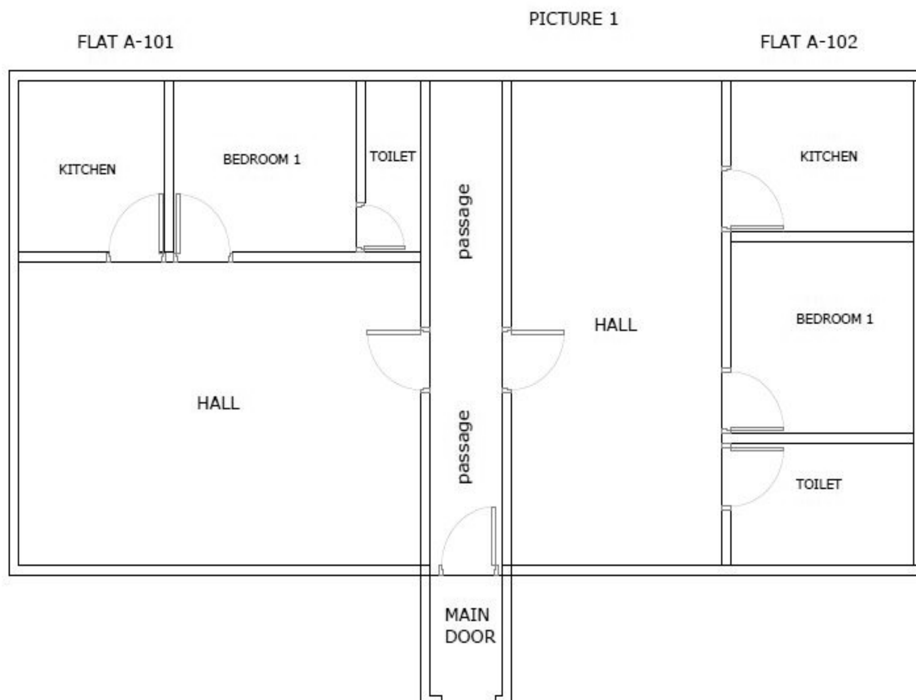
i. shall be *independent housing* unit with *separate facilities* for living, cooking and sanitary requirement;

ii. shall be *distinctly separate* from other Residential unit in the same building;

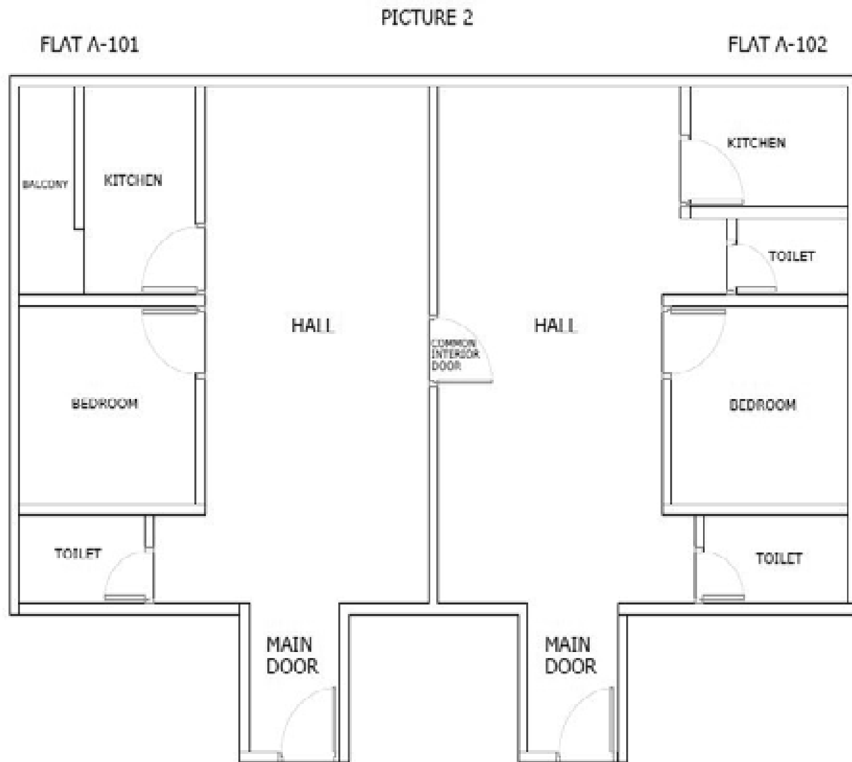
iii. shall be directly accessible ***either from OUTER DOOR or through INTERIOR DOOR in a Common Shared Hall.***

Above conditions of *outer door or Interior door* in common shared hall is explained in below mentioned diagrams: -

- Two Residential Units having one ***OUTER DOOR (consider as* two separate Residential unit**)

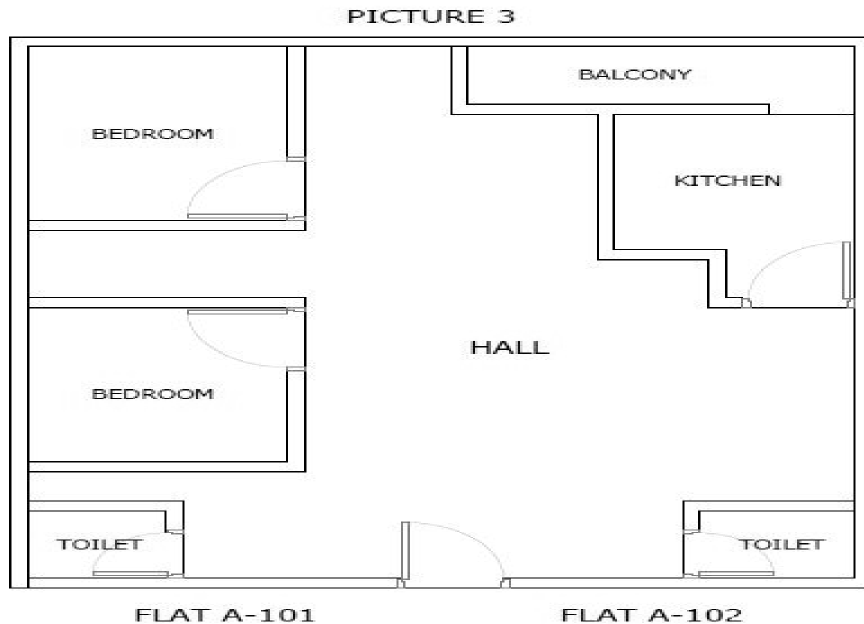


- Two Residential Units having ***INTERIOR DOOR in a Common Shared Hall (consider as*** **two separate Residential unit**)



- Two Residential Units not **having separate facilities** for living and cooking ***(**consider as **single Residential unit**)*

PICTURE 3



Further it is Proposed to provide consequential relief to buyers of these Residential units by way of Amendment in clause (x) of sub-section (2) of section 56 of the Act by increasing the safe harbour from 10% to 20%. Accordingly, for these transactions, stamp duty value *shall be deemed as sale/purchase consideration only if the difference between the agreement value and the stamp duty is more than 20%.*

Proposed Amendments in 43CA, 50C and 56(2) (x) are tabulated as under: -

Section	Type of transaction	Applicable	Full value of consideration to be considered	
			Existing	Proposed
43CA	Where transfer of Land or Building or both held as **stock-in-trade** where AV < SDV < 110% of AV	Dealer or Builder	AV	AV
	Where transfer of Land or Building or both held as **stock-in-trade** where a) AV < 110% of AV<SDV and b) 110% of AV<SDV <120% of AV and c) SDV <120% of AV		SVD	AV
	Where transfer of Land or Building or both held as **stock-in-trade** where, 120% of AV<SDV		SDV	SDV
50C**	Where transfer of Land or Building or both held as **capital asset** where AV < SDV < 110% of AV	Investor or a person other than Dealer or Builder	AV	AV
	Where transfer of Land or Building or both held as **capital asset** where a) AV < 110% of AV<SDV and b)110% of AV <SDV<120% of AV and c) SDV <120% AV		SDV	AV

Section	Type of transaction	Applicable	Full value of consideration to be considered	
			Existing	Proposed
	Where transfer of Land or Building or both held as **capital asset** where 120% AV<SDV		SDV	SDV
56(2)(x)	**Where SDV – AV is > 50,000/-**			
	AV < SDV < 110% of AV	Any person	NIL	NIL
	a) AV < 110% of AV<SDV and b)110% of AV<SDV <120% AV and c)) SDV <120% AV		SDV – AV	NIL
	120% AV<SDV		SDV – AV	SDV – AV
	Where SDV – AV is ≤ 50,000/-			
	AV < SDV < 110% of AV	Any person	NIL	NIL
	a) AV < 110% of AV<SDV and b)110% of AV<SDV <120% of AV and c) SDV <120% AV		NIL	NIL
	120% AV<SDV		NIL	NIL

** *As per our opinion, consequential Amendment should also be made in section 50C of the Act, which the legislature has not made. However, there is a possibility that the legislature will make consequential Amendment in said section in future*.

Above Amendment shall come into force from AY 2021-22 onwards.

Audit of accounts of certain persons carrying on business or profession:- [Amendment in Section 44AB of the Act]

Section 44AB of Income Tax Act, 1961 specifies mandatory obligation to get the books and of accounts audited for assessees having sales, turnover or gross receipts in excess of the amount specified.

However, in order to reduce compliance burden on small and medium enterprises (SMEs) through Finance Act 2020, the threshold limit for a person carrying on business was increased from one crore rupees to five crore rupees in cases where, **Aggregate Cash Receipts/Payments do not exceed 5% of Total Receipts/Payments respectively during the previous year.**

In order to promote digital economy and to further reduce compliance burden of SMEs, it is now Proposed to enhance the said threshold limit from *five crore rupees to ten crore rupees*.

In order to reduce compliance burden on SMEs following Amendment is Proposed: -

Persons	**Turnover Limit for Mandatory Applicability of Tax Audit**		
	Existing Normal Provision	**Amendment Provision as per Finance Act,2020**	**Proposed Amendment**
Carrying on Business	Rs 1 Crores	Rs 5 Crores	Rs 10 Crores*
Carrying on Profession	Rs 50 Lakhs	No Change	No Change

***However, this enhanced limit of turnover is applicable only in cases where, Aggregate Cash Receipts/Payments do not exceed 5% of Total Receipts/Payments respectively during the Previous Year.

Above Amendment shall come into force from A.Y. 2021-22 onwards.

Rationalisation of the Provision of presumptive taxation for professionals :-[Amendment in Section 44ADA of the Act]

At Present, any Assessee carrying on Profession, whose Gross Total Receipts during the year is less than 50 Lacs can opt for presumptive tax scheme and declare Income atleast equivalent to 50% of the Gross Total Receipts.

No Separate deduction for any expenses u/s 30 to 38 of the Act shall be allowed.

In case he opts for presumptive tax scheme he will neither be required to maintain books of accounts nor he will be required to carry out Tax Audit.

In case an Assessee carrying on profession having Gross Receipts less than Rs.50 Lacs, declares Income which is less than 50% of the Gross Receipts he is liable to maintain Books of Accounts u/s 44AA of the Act and is also required to carry out tax audit u/s 44AB of the Act.

It is now Proposed to define assessee to whom said section 44ADA is applicable as under: -

- Individual,
- HUF or
- a Partnership Firm.

And hence Provision of section 44ADA are Proposed to be not applicable to Corporates, LLP, Co-Op. Societies, etc.

Eligible assessee to whom section 44ADA of the Act shall be applicable, is tabulated as under;

Eligible Assessee		
Asssessee	**Existing Provision (upto A.Y. 2020-21)**	**Proposed Amendments (W.e.f.AY2021-22)**
Individuals , HUF & Partnership Firm	Yes	Yes
LLP	Yes	No
Companies	Yes	No
Co-Op. Societies	Yes	No

Above Amendment shall come into force from A.Y. 2021-22 onwards.

Widening the scope of Section 45: - [Amendment in Section 45 and consequential Amendment in Section 48 of the Act]

At Present, Section 45(4) provides that in the case of distribution of Capital Assets to Partners at the time of Dissolution or otherwise, the Fair Market Value of the Capital Asset transferred shall be to deemed to be the Sales consideration in the hands of Firm and the said transaction shall be taxable under the head Capital Gain in the hands of Firm in the year in which the Capital Asset is distributed to Partner.

As per the existing provision, it is debatable whether section 45(4) is applicable only in the case of Dissolution or even at the time of Retirement, Death etc. as well. There is a Judgement in favour of Assessee by **Hon'ble Madras High Court** in the case "**G.H. Reddy & Associates vs. Assistant Commissioner of Tax**" Source (2018) 103 CCH 0224 Chen HC, where it is held that there should be dissolution of the firm along with sale/distribution of Capital Asset in order to invoke Provisions of Section 45(4) of the Act. Hence, if any Capital Asset was distributed to a Retiring Partner in case of Retirement, there is an ambiguity whether Section 45(4) is applicable or not.

The said ambiguity is now Proposed to be removed by replacing the words **"dissolution or otherwise"** with **"dissolution or reconstitution"** in Proposed amendment, thereby, widening the scope of Section 45(4), so as to cover all the types of Reconstitution of Firm.

Also, as per the existing provision, payment made to Partner or Member of such Firm against self-generated Goodwill or against revaluation of Asset does not fall under the purview of Section 45(4), as per the Judgement by Supreme Court in "**CIT v. B.C. Srinivasa Shetty**" Source (1981) 128 ITR 294 (SC). Hence, by inserting section 45(4A), the said Judgement is now Proposed to be nullified and such transactions shall be chargeable to tax under the head of Capital Gain in the hands of the Firm in case of distribution of asset on Dissolution or Reconstitution of Firm.

Above Proposed Amendments in section 45(4) & 45(4A) are tabulated as below:

Particulars	Existing Provision of Section 45(4)	Proposed Amendment of Section 45(4)/45(4A)
Applicability of Section	Distribution of **Capital Assets** by Firm to Partner at the time of dissolution or **otherwise** of Such Entities.	Distribution of **Capital Assets** by Firm to Partner at the time of dissolution or **reconstitution** of Such Entities.
Whether Capital Gain is applicable on distribution of **Capital asset** to Partners at the time of dissolution?	YES	YES
Whether Capital Gain is applicable on distribution of **Capital asset** to Partners at the time of Reconstitution **without** Dissolution?	DEBATABLE	YES
Whether Capital Gain is applicable in case Self-generated Goodwill or revaluation of any Asset recorded in books for the first time **without** any Reconstitution or Dissolution of Firm and the said amount is transferred to Partners?	NO	NO
Whether Capital Gain is applicable in case of distribution of **money or other Asset** against Self-generated Goodwill or Revaluation of any Asset recorded in books at the time of **Dissolution** or **Reconstitution** of Firm?	NO	YES (As per Example given below)

Example to explain manner of calculation of Capital Gain under the new Proposed section 45(4A) is given as below: -

Balance Sheet of M/s. ABC & Co. as on 31.3.2021 (**Before any revaluation** of Assets or recording Self-Generated Goodwill in the books of Accounts)

Liabilities	Amount	Assets	Amount
Partners' Capitals:		Premises (Acquired in	100
Mr. A	100	2015-16)	
Mr. B	100	(At Cost)	
Mr. C	100		
		Current Assets	
Current Liabilities	150	Stock	50
		Other Current Assets	300
Total	**450**	**Total**	**450**

Balance Sheet of M/s. ABC & Co. as on 31.3.2021 (**After revaluation** of Premises by Rs.200/- and recording Self-Generated Goodwill of Rs.100/- in the books of Accounts)

Liabilities	Amount	Assets	Amount
Partners' Capitals:		Premises (Acquired in	300
Mr. A	200	2015-16)	
Mr. B	200	(including Revaluation	
Mr. C	200	Gain of Rs 200/-)	
Current Liabilities	150	Self-Generated Goodwill	
			100
		Current Assets	
		Stock	50
		Other Current Assets	300
Total	**750**	**Total**	**750**

Mr. A retired on 31st march 2021 and received Rs.200/- against his closing Capital balance. As per Proposed new section 45(4A) calculation of Capital Gain in the hands of M/s. ABC & Co. for F.Y. 2020-21 (A.Y. 2021-22) is as follows:

Computation of Capital Gain Under Section 45(4A)	Amount
Sale Consideration (Amount paid to Mr. A)	200
Less : Capital Balance Before revaluation of Premises & Self-Generated Goodwill	-100
Capital Gain on the hands of M/s. ABC & Co. for A.Y. 2021-22	**100**

Consequential Amendment Proposed in Section 48 of the Act

It is now Proposed that when revalued capital assets is sold in future by the Firm then the cost of acquisition is required to be enhanced to the extent of the amount equivalent to Capital Gain already taxed at the time of Reconstitution of Firm. The same is explained with an Example as under.

In continuation to above example, Premises is sold by M/s. ABC & Co. for Rs.400/- in F.Y. 2022-23. So, Capital Gain is calculated for F.Y. 2022-23 as under: -

Computation of Capital Gain Under Section 48	Amount	Amount
Sale Proceeds from Premises		400
Less: (a) Indexed Cost of premises Acquired in 2015-16 $= 100 \times \frac{330^*}{254}$	130	
(b) Capital Gain taxed at time of retirement of Mr. A in F.Y. 2021-22 (Please see Example in previous paragraph)	100	(230)
Long Term Capital Gain for FY 2022-23 (A.Y. 2023-24)		**270**

*Cost Inflation Index for FY 2022-23 is assumed at 330.

Above Amendment shall come into force from A.Y. 2021-22 onwards.

Prescribed Manner of calculation of Capital Gain in case of Sale of Depreciable Goodwill: - [Amendment to Section 50 of the Act]

At Present there is no provision in the statute for Computation of Capital Gain on sale of Depreciable Goodwill. Also there are no provisions to determine the WDV of the Block of Goodwill.

It is now Proposed to specify the manner in which the WDV of the Block of Goodwill and Short Term Capital Gain arising out of sale of Depreciable Goodwill shall be computed the said manner shall be prescribed in due course.

Depreciation on Goodwill purchased shall be allowed only upto A.Y. 2020-21.

Above Amendment shall come into force from A.Y. 2021-22 onwards.

Extension for claiming Exemption under section 54GB upto 31st March 2022; - [Amendment to Section 54GB of the Act]

Section 54GB of the Act provides Exemption from Capital Gain on sale of Residential Property in case Assessee has invested net consideration on sale of Residential Property in Equity share capital of an eligible Start-up Company (minimum 51% of equity to be held by Assessee) and said Startup Company has invested said proceeds of shares for Purchase of new Plant and Machinery. There is a lock in of 3 years for sale of equity shares by the Assessee and sale of Plant and Machinery by eligible Start-up Company.

At Present, the Residential Property transferred on or before 31st March 2021 is eligible for Exemption under section 54GB.

In order to promote such eligible start-ups, it is now Proposed to extend the last date of transfer of the Residential Property from 31st March 2021 to 31st March 2022.

Above Amendment shall come into force from AY 2021-22 onwards.

Cost of Acquisition of Goodwill for the purpose of Capital Gain & Non Allowance of Depreciation on Goodwill: - [Amendment to section 55 of the Act]

At Present section 55(2)(a) of the Act defines cost of acquisition in relation to certain capital assets for the purpose of Computation of Capital Gains. In the Present definition of cost of acquisition following anomalies are noticed: -

1. As Goodwill is held to be depreciable assets by Supreme Court Judgement in the case of Commissioner of Income Tax V/s SMIFS Securities LTD, as per current provision in case such Goodwill transferred, the Purchase price of the same is allowed as cost of acquisition even though Depreciation is allowed on the same, this resulted into Double deduction.

2. In case of any capital assets is acquired by assessee in the circumstances mentioned in the section 49 of the Act which are as follows: -

   (i) Distribution of assets on Partition of HUF;
   (ii) Under a Gift or will;
   (iii) By succession, inheritance or devolution;
   (iv) By transfer from its holding company or subsidiary company and
   (v) By transfer in a scheme of amalgamation

   In the case of Acquisition by any of the above modes there is no specific provision as to Computation of cost of acquisition in case of such acquisitions.

The above two anamolies are Proposed to be rectified by Proposed Amendment in Section 55 (2)(a) of the Act.

Proposed Amendments are explained below: -

1. In case depreciation is claimed by the assessee on Goodwill then the cost of acquisition of the Goodwill shall be the Purchase price Less Depreciation allowed till 31st March 2021. The same is explained by the way of table as under: -

Particulars	As per Existing Provision	As per Proposed Amendment
Purchase Price of Goodwill	100	100
Depreciation claimed till 31/03/2021	(30)	(30)
WDV of Goodwill as on 31/03/2021	70	70
Sold for	200	200
Cost of Acquisition for the purpose of capital gain	100	70

   If the previous owner has purchased the same, the cost of acquisition shall be the Purchase price in the hand of previous owner.

2. If the above assets are not purchased by the previous owner than the Cost of acquisition shall be treated as “NIL”.

However, it seems in respect of intangible assets other than Goodwill as defined in section 2(11) of the Act, if the depreciation is allowed on the same, the cost of acquisition of the same of such assets needs to be reduced to the extent of depreciation claimed and hence, the suitable Amendment in this regard may also be made by the legislature.

Above Amendment has come into force from AY 2022-23 onwards.

Extension of time limit by one more year for loan taken for Affordable Housing for availing deduction under Section 80EEA of the Act: - [Amendment to Section 80EEA of the Act]

Section 80EEA was introduced in Finance Bill 2019 for first home buyers in Affordable Housing Scheme wherein deduction of interest of maximum of Rs. 1.50 lacs were allowed u/s 80EEA of the Act on loan taken for Residential property, value of which is not exceeding Rs. 45 lacs.

As per existing provision, there is a restriction on year of sanction of loan to be between **1st April 2019 to 31st March 2021.**

It is now Proposed to continue this deduction for loans availed upto **31st March 2022**.

Above Amendment shall come into force from AY 2022-23 onwards.

Measures to further promote Start-Ups:- [Amendment of Section 80-IAC of the Act]

Existing Provision of Section 80-IAC of the Income Tax Act provides that deduction of 100% of profits derived from the specific businesses shall be available to an eligible start-up engaged in eligible business which is incorporated on or after the **1st April 2016 but before the 1st April 2021** for any three consecutive assessment years out of seven years at the option of the assessee.

Eligible Business is a one which involves innovation, development or improvement of products or processes or services, or a scalable business model with a high potential of employment generation or wealth Creation.

With a view to gear up the growth of Startups in India, Government has Proposed to enhance time limit of an eligible start-up engaged in eligible business which is incorporated on or after **1st April 2016 but before the 1st April 2022**.

Above Amendment shall come into force from AY 2022-23 onwards.

Deductions in respect of profits and gains from Housing Projects: - [Amendment to Section 80-IBA of the Act]

At Present a deduction equal to 100% of profits derived from the business of developing and building housing projects (Affordable Housing) is allowed subject to certain conditions.

With a view to further promote affordable housing schemes, it is now Proposed to amend Section 80-IBA of the Act so as to extend the period of project approval.

Comparison vis-à-vis certain existing conditions and Proposed Amendments is as follows:

Conditions	Existing Provision	Proposed Amendment
Period of project approval	01-06-2016 to 31-03-2021	01-06-2016 to **31-03-2022**
Completion of Project	5 years from date of approval by competent authority	Not Changed
Carpet Area of Shop and other Commercial Establishment	Upto 3% of Aggregate carpet area	Not Changed
Measure of Plot of Land	Metropolitan Cities- 1000 Sq. Mtr. Any other Place- 2000 Sq. Mtr.	Not Changed
No. of Housing Project on the Plot of Land	One	One
Carpet area of Residential units	Metropolitan Cities- 60 Sq. Mtr. Any other Place- 90 Sq. Mtr.	Not Changed
Stamp Duty Value of Residential Unit	Maximum Rs.45 Lacs	Not Changed

Conditions	Existing Provision	Proposed Amendment
Restriction on no. of units that can be purchased by a buyer in the same project	If allotted a unit to an individual then no allotment to spouse or minor children of individual in the same project	Not Changed
GTI Floor area ratio in respect of plot of land	Metropolitan Cities-Minimum 90% Any other Cities-Minimum 80%	Not Changed
Maintenance of Books of Accounts	Separate in respect of housing projects	Not Changed
Metropolitan Cities	Bengaluru, Chennai, Delhi National Capital Region (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan region)	Not Changed

It is also Proposed by insertion of sub section (1A) to section 80IBA of the Act that assessee's Gross Total Income includes any profit and gains derived from the **business of developing and building Rental Housing Project** shall also be eligible for deduction under this section.

Rental Housing Projects are generally understood as those Residential Projects which are primarily Constructed to provide Residential accommodation on Rental basis at reasonal rent and such accomodations are not meant for sale.

Government may notify on or before 31st March 2022 a particular Rental Housing Project as a project approved for claiming deduction under section 80IBA of the Act on an application made by Developer.

Above Amendment shall come into force from AY 2022-23 onwards.

Relief from Taxation in Income from Retirement Benefit Account maintained in a notified Country: - [Insertion of section 89A of the Act]

- At Present Section 89 of the Act provides Marginal Relief for Arrears of Salary received for more than 12 months which includes Arrears pertaining to past years as well.
- If the Arrears of Salaries are received for 3 years and the same is taxed in the year of receipt, Assessee, due to such receipt, is liable to a higher tax bracket as against lower tax bracket if the same arrears were taxed in respective assessment years to which they relate to.
- The Marginal relief provided u/s 89 in such cases is illustrated as under: -

Particulars	Amount (Rs.)	Tax Rate
Arrears of Salaries for F.Y. 2020-21	1,50,000	30%
Rate of Tax (A)		30%
Year wise breakup of Salary received and Tax Rate Applicable		
F.Y. 2017-18	50,000	20%
F.Y. 2018-19	50,000	20%
F.Y. 2019-20	50,000	20%
Average Rate of Tax (B)		20%
Additional Rate of Tax due to entire arrears of salary taxed in year of receipt i.e. F.Y. 2020-21 (A-B)		10%
Marginal Relief granted u/s 89 (Rs. 1,50,000*10%)	**15,000**	

- It is now Proposed to provide similar relief to **Residents in India who were non-residents in the past having Retirement Benefit Account** outside India wherein Retirement Benefits are still received even after they have become Residents in India.

Salient features of the Proposed Section 89A of the Act is explained as below:

a. Assessee is a Resident in the relevant Assessment Year;

b. Assessee was a non-Resident in the past years and had opened an account outside India for receiving retirement benefits which he is entitled based on his period of employment outside India;

c. Retirement Benefit Account should be opened in a country as may be notified by the Central Government;

d. Assessee continues to receive retirement benefits in said Foreign Bank Account in relevant Assessment Year (which may be pertaining to earlier years) even after he has become Resident in India;

e. Those Retirement benefits are liable to tax in the year of withdrawal or redemption in such Foreign Country and not in the year in which they have accrued.

In above situation, it is now Proposed that Marginal Relief of Tax Rate shall also be allowed to such Resident assessees in the same manner as relief provided u/s 89 as explained in the earlier Paragraph. Exact manner and year in which it will be taxed shall be prescribed by the legislature at a later date.

Above Amendment shall come into force from A.Y. 2022-23 onwards.

Taxation of proceeds of Unit Linked Insurance Policy (ULIP): - [Amendment in Section 10(10D) and Consequential Amendment in Section 2(14), Section 45(1B) and Section 112A of the Income tax Act and in Securities Transaction Tax Act]

At Present, any sum received from Life Insurance Policy including ULIP but excluding Keyman Insurance Policy is exempt under section 10(10D) of the Act.

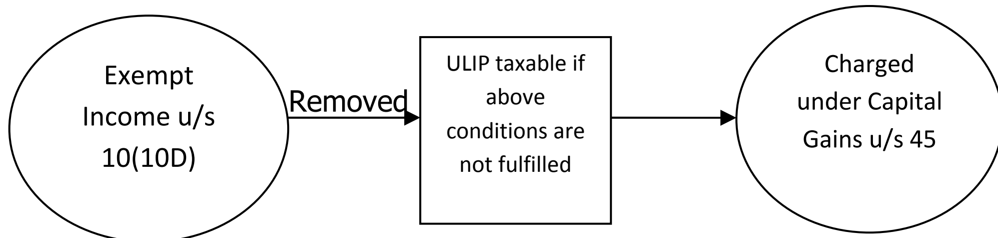
As per Proposed amendment, any sum received from Unit Linked Insurance Policy (ULIP) shall be exempt u/s 10(10D) of the Act only if the following conditions are fulfilled:

Policy	Date of Policy issued on or after	Amount of Premium Paid
Single ULIP	01/02/2021	Upto Rs. 2,50,000
One or more ULIPs	01/02/2021	Aggregate upto Rs. 2,50,000

In other words, it is proposed that any maturity proceeds of policy of the nature of ULIP which is not exempt as mentioned above shall be liable as if it is either an equity oriented fund or a debt fund.

It is also Proposed, any sum received by the beneficiary on death of a person is fully exempt even if premium paid is more than Rs. 2,50,000/- for ULIP policy (policies).

Consequential Amendment is Proposed in Section 2(14) of the Act which is the definition of Capital Asset and accordingly the same will be charged to tax as Capital Gains u/s 45 of the Act.



Section 112A of the Act was introduced for the 1st time by Finance Act, 2018 wherein Capital Gain at the rate of 10% was charged on the transfer of following types of assets:

Sr. No.	Type of Assets	Conditions for STT
1	Equity Shares	STT to be paid at the time of Acquisition and transfer
2	Units of Equity-Oriented Fund	STT to be paid at the time of Transfer
3	Units of Business Trust	

It is now Proposed to include ULIP in the above list of assets to which section 112A applies and to which Exemption under section 10(10D) does not apply.

Salient features of Proposed Amendment are as follows: -

a. Amount received from the Maturity Proceeds of ULIP which is not exempt u/s 10(10D) of the Act shall be charged under the head Capital gains;
b. Any bonus on such Policy will be taxed under capital gain;
c. Year of taxation shall be the year in which the said amounts are received;

d. Any amount paid under said ULIP includes 2 Components, namely: -
   i. Mortality Premium;
   ii. Investment into Units of a Mutual Fund managed by the insurance company
e. The Second component constitutes the cost of acquisition of units which will have to be deducted from the amount received under serial no (a) for the purpose of computing Capital Gain and
f. Cost of acquisition for bonus referred in Serial No. (b) shall be NIL.

Consequential Amendment is also Proposed in Securities Transaction Tax Act which provides charging of STT on any transaction of ULIP which is charged under the head Capital Gain u/s 45 as mentioned above.

Above Amendment shall come into force from A.Y. 2021-22 onwards.

Amendments related to provisions of Minimum Alternate Tax (MAT): - [Amendment to Section 115JB of the Act]

Calculation of book profit of Foreign Company as per Amendment u/s 115JB(2) of the Act is explained below:

At Present book profit of Foreign Companies is computed by subtracting following Income from Book Profit

a. the Capital Gains arising on transactions in securities; or

b. the interest, royalty or fees for technical services chargeable to tax at the rate specified in Chapter XII

and adding back expenditure incurred in relation to above Income which is debited to Profit & Loss Account.

In Nutshell, Foreign Companies are not liable to MAT for Income which is liable to tax at a special rate under Chapter XII.

Dividend Income earned by Foreign company has become taxable in the hands of Recipient Shareholder with effect from AY 2021-22. Since the dividend Income is taxed to Foreign Companies at a special rate prescribed in 115A of the Act, hence the MAT should not apply even on Dividend Income earned by Foreign Company.

It is now Proposed to include dividend Income along with the existing Income from interest and royalty on which no MAT is payable by Proposed Amendment in Section 115JB of the Act. Similarly, expenditure incurred to earn dividend Income is also not allowed as expenditure for the purpose of computing book profit u/s 115JB of the Act.

Above Amendment shall come into force from A.Y. 2021-22 onwards.

Proposed Insertion of Sub-Section 2D of Section 115JB of the Act

Before we start the Proposed Amendment u/s 115JB(2D) of the Act, it is necessary to understand the provision relating to Advance Pricing Agreement as contained in Section 92CC of the Act and provision of Secondary adjustment as contained in Section 92CE of the Act. The same are explained below-

Existing Provision with to Advance Pricing Agreement u/s 92CC of the Act

a. We make an application with the Board to determine Arm's length price (ALP) in respect of any International transaction.

b. Based on the application made, Board & Assessee shall determine the ALP of any International transaction and shall enter into an agreement with the Assessee which is called **Advance Pricing Agreement** for the same.

c. The ALP so determined by the Board can be for the relevant Previous year and also for the four preceeding previous years.

d. ALP so determined shall be binding on Assessee and Principal Commissioner of Income tax and Income tax Authority subordinate to him.

Similarly, there is a Provision with regard to Secondary Adjustment u/s 92CE of the Act which is explained below:-

Year	Particulars	Amount
FY 2020-21	Sales of by Enterprise A	₹ 100
	Purchase by Enterprise B (non –resident) Associated Enterprises	₹ 100
	Transfer Price Assessment is made and ALP of sales of Enterprises A to B is assessed at	₹ 120
FY 2022-23	Primary Adjustment made to the total Income of Enterprise A under section 92 of the Act	₹ 20
F.Y. 2022-23	Secondary adjustment to be made in books of Enterprise A as per section 92CE	Journal Entry Receivable from A Dr ₹ 20 To Income U/s 92CE ₹ 20

Journal Entry for Secondary adjustment is made in books of accounts only in FY 2022-23 when the primary adjustment is quantified by the assessing officer in the assessment made.

In both the above situation, there is a possibility that certain adjustments arising out of Advance Pricing Agreements or which are in the nature of secondary adjustments are included in the book profit of subsequent years even though such book profits relate to earlier years. In that situation for the purpose of computing MAT liability, book profit has to be reworked and such adjustments have to be transferred from the year in which the entries are passed in the books, to the year to which they relate to. The same is illustrated as under: -

EXISTING PROVISIONS

Particulars	Book Profit		
	A Y 2018-19	A Y 2019-20	A Y 2020-21
Book Profit (before adjustment u/s 92CC or 92CE as explained above)	(1,000)	(2,000)	3,000
ADD: Secondary adjustment u/s 92CE as explained above relating to F.Y. 2018-19 = Rs. 100 F.Y. 2019-20 = Rs. 200 Total Rs. 300 These adjustments were determined in F.Y. 2020-21	-	-	300
ADD: Adjustment arising out of Advance Pricing Agreement u/s 92CC as explained above relating to F.Y. 2018-19 = Rs. 50 F.Y. 2019-20 = Rs. 100 Total Rs. 150	-	-	150
Total	(1,000)	(2,000)	3,450
MAT @ 18.5%	-	-	638

PROPOSED AMENDMENT

Particulars	Book Profit		
	A Y 2019-20	**A Y 2020-21**	**A Y 2021-22**
Book Profit (before adjustment u/s 92CC or 92CE as explained above)	(1,000)	(2,000)	3,000
ADD: Secondary adjustment u/s 92CE as explained above relating to F.Y. 2020-21 = Rs. 100 F.Y. 2021-22 = Rs. 200 Total Rs. 300 These adjustments were determined in F.Y. 2022-23	-	-	300
ADD: Adjustment arising out of Advance Pricing Agreement u/s 92CC as explained above relating to F.Y. 2020-21 = Rs. 50 F.Y. 2021-22 = Rs. 100 Total Rs. 150	-	-	150
Total	(1,000)	(2,000)	3,450
LESS: Adjustment as per Proposed Amendment in 115JB (2D)	150	300	(450)
TOTAL	(850)	(1,700)	3000
MAT @18.5%	-	-	555

Above Amendment shall come into force from A.Y. 2021-22 onwards.

Extension of Due Date for Filing Return of Income in certain cases: - [Amendment to Section 139 of the Act]

- At Present as per Section 5A of the Act, where Husband and Wife are governed by system of community of property (which is prevalent in State of Goa and in the Union Territories of Dadra and Nagar Haveli and Daman and Diu), their Income (excluding Salaries) should be divided equally and the same shall be included in their Return of Income respectively. The Amendment in clause(a) of Section 139(1) of the Act is explained below: -

Sr. No	Particulars	Existing Due Date	Proposed Due Date
1	Assessment Year	A.Y. 2020-21	A.Y. 2021-22
2	Company	31/10/2020	31/10/2021
3	Person (other than a Company) whose accounts are required to be audited under this Act.		
4	Partner of a firm whose accounts are required to be audited under this Act		
5	**Spouse of Partner of a Firm** whose accounts are required to be audited under this Act and where **Section 5A of the Act applies to such Spouse**	31/07/2020	31/10/2021

- At Present, in clause (aa), Partnership Firm which is subject to Transfer Pricing provisions and from whom audit report u/s 92 has to be obtained, has to file Return of Income latest by 30th November of the following year. There is anamoly in the existing provision that the Partners of the said firm will have to file Return s by 31st July or 31st October as applicable and the firm is required to file its Return of income by 30th November. The same is leading to hardship in the hands of Partner.

- In order to remove such hardship, it is now Proposed that **the Partners of any firm (liable to audit under section 92E), shall also be liable to file their Return by 30th November of the following year.**

- **Due date of filing Belated Return and Revised Return as specified in Section 139(4)** and **Section 139(5) of the Act** respectively is Proposed to be amended, the same is explained below –

Assessment year	Original Return		Belated / Revised Return	
	Existing	Proposed	Existing	Proposed
2020-21	Not changed	Not changed	31/03/2021 (12 months)	N.A
2021-22	Not changed	Not changed	N.A	31/12/2021 (9 months)

- At Present Section 139(9) of the Act provides for treating a Return of Income filed as Defective unless certain conditions are fulfilled. The list of conditions specified in the Explanation to Section 139(9) is exhaustive and hence in certain situations Return of Income may not be treated as defective even though certain information is not reported in the Return of Income.

- It is accordingly Proposed to insert a Proviso to the Explanation prescribing the conditions shall not be applicable in certain cases or it shall apply with certain modifications. By this Proposed Amendment, Legislature intends to make conditions as Illustrative as against Exhaustive for certain class of Assessees.

  Above Amendments shall come into force from A.Y.2021-22 onwards.

Revised Procedures & Time Limits for Issuance of Notices [Amendment in Section 142, 143(1), 143(2), 143(3) & 144 of the Act]: -

There are Amendments with regard to Service of Notice & Time Limits in issue of various Notices in Connection with Assessment of Income. Comparison of Existing Provisions with Proposed Amendments are tabulated as under: -

Sr No	Sections	Particulars	Existing Provisions upto AY 2020-2021	Proposed Amendments AY 2021-2022 onwards
		Authority to issue Notice u/s 142(1) of the Act		
1	142	Authority to Issue Notice U/s 142(1)- Inquiry before Assessment	Authority was with the Ld. Assessing Officer	Notices may also be issued in Automated manner without any Physical Interference
		Revised Time limit in Relation to Assessment Proceedings		
Sr No	**Sections**	**Particulars**	**For AY 2020-21 (If Return of Income is filed on 15.01.2021)**	**For AY 2021-22 (If Return of Income is filed on 31.07.2021)**
2	143(1)	Time Limit for issuance of Intimation	31/03/2022 (i.e **One year** from the end of FY in which Return has been filed.)	31/12/2022 (i.e **Nine months** from the end of FY in which Return has been filed.)
3	143(2)	Time Limit for issuance of Scrutiny Notice	30/09/2021 (i.e within **6 months** from the end of FY in which Return has been filed.)	30/06/2022 (i.e within **3 months** from the end of FY in which Return has been filed.)
4	143(3)/ 144	Time limit for Passing Assessment Order	31/03/2022 (i.e within 12 **months** from the end of relevant AY)	31/12/2022 (i.e within 9 **months** from the end of relevant AY)

Above Amendment shall come into force from AY 2021 - 22 onwards.

Widening of Scope of Adjustments made to Total Income of the assessee [<u>Amendment in Section 143 of the Act</u>]: -

Scope for making adjustments to Total income u/s 143(1) of the Act is Proposed to be widened by Finance Budget 2021: -

Sr No.	Existing Provision upto AY 2020-2021	Proposed Amendment AY 2021-2022 onwards
1	**Disallowances/Additions out of reporting in Tax Audit Report by Auditor & not considered by assessee in the Return of Income filed**	
	Only Disallowance of Expenditure claimed in the Return of Income	i) Disallowance of Expenditure claimed **<u>OR</u>** ii) Increase in Income For E.g. a) Profit of Recovery of earlier year u/s 41(1) ; b) Capital gain u/s 43CA; c) Advance received but forfeited u/s 56(2)(ix); d) Effect of deviation from stock valuation method u/s 145A on net profit
2	**Disallowance of deductions claimed, if Return of Income is not filed in Time**	
	10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or Section 80-IE e.g. Deductions u/s 80IBA **cannot be disallowed** if Return of Income not filed in Time	10AA or any deductions under Chapter VI A under the heading**" C – Deductions in respect of Certain Incomes"** e.g. Deduction u/s 80IBA **can be disallowed** if Return of Income is not filed in Time

Above Amendment shall come into force from AY 2021 - 22 onwards.

Proposed Substitution of new Section 147 & 148 for Income Escaping Assessment in place of existing section 147 & 148 of the Act

Finance Bill 2021, on one hand, proposes to reduce the time limit for Reopening of Assessment whereas on the other hand it enhances the scope for reopening of assessment by removing various legal restrictions to reopen assessment. Existing Provision in this regard together with Proposed

Amendments in Section 147/148 are tabulated as under: -

Sr No	Existing Provisions upto AY 2020-2021	Proposed Amendments AY 2021-2022 onwards
1	Ld AO is required to record **Reasons to believe** that Income has Escaped Assessment. Ld AO should have an **Independent Opinion** that he has reason to believe that Income has Escaped Assessment. Ld AO cannot reopen any assessment on the basis of Borrowed Satisfaction/Opinion. For e.g.- Any Information received from any other Govt Authorities shall not be sufficient for Reopening of Assessment u/s 148 of the Act. Ld AO **to have his Independent Opinion/Own satisfaction** that he has reasons to believe that Income has Escaped Assessment for the purpose of Reopening of Assessment	Assessing officer is required to **have information** which suggest that income has Escaped Assessment This has Enlarged the Authority with Ld AO to reopen any Assessment. As per the Proposed amendment, it is sufficient to have information in his possession to reopen any Assessment. In other words, he does **not require** to have any **Independent Opinion** in the form of Reason to believe. For e.g- Any Information received from any other Govt Authorities shall be sufficient for Reopening of Assessment u/s 148 of the Act. i.e. No need of Ld AO to have his **Independent Opinion/Own satisfaction** or shall have reasons to believe that Income has Escaped Assessment for the purpose of reopening of Assessment

Sr No	Existing Provisions upto AY 2020-2021	Proposed Amendments AY 2021-2022 onwards
2	No Notice shall be issued after the expiry of 4 years if the original Assessment was completed u/s 143(3) of the Act **unless there is failure on part of the assessee to disclose material facts** i.e. failure on part of the assessee has to be established to Reopen the Assessment.	Notice can be issued even after the expiry of 4 years if the Original Assessment was completed u/s 143(3) of the Act **without justifying failure on part of the assessee to disclose material facts** i.e. no need to establish failure on part of assessee to disclose Material facts before an Assessment can be Reopened.

Above Amendment shall come into force from AY 2021 - 22 onwards.

<u>"Information with Ld AO" which suggests that the Income chargeable to tax has Escaped Assessment is illustrated as under: -</u>

Before discussing the new amendment, it is necessary to understand existing procedure regarding Implication on Assessment and Re Assessment Proceedings of Audit conducted by Comptroller and Auditor General of India ("hereinafter referred as Office of CAG")

1. Office of CAG is responsible to protect the Interest of Revenue with regards to tax Revenues;

2. Any Assessment completed by Ld Assessing Officer is subject to Audit by Office of the CAG.;

3. At the time of conducting Audit by the office of the CAG, if office of CAG finds any factual discrepancies or wrong legal interpretation in the Assessment Order passed by Assessing officer for relevant year then, Office of CAG raises Preliminary Objections on Assessing officer.;

4. Assessing officer is hereby required to give reply or provide his views on objections raised by Office of CAG.;

5. As per Present Legal Position, in case Assessing Officer disagrees with the objections raised by the Office of the CAG then, Assessment cannot be reopened in some cases merely on the basis of difference of Opinion between Office of CAG and Assessing Officer.;

6. Above facts are supported by judicial pronouncements some of them are as under: -
   a. High Court of Gujarat in case of Atul Products Ltd vs Income Tax officer- (1980) 48 CCH 0155

   b. High Court of Bombay in case of CIT Vs Narcissus Investments Pvt Ltd (2019) 105 CCH 0103 and

7. In other words, due to current position of law, difference of opinion between Department and Office of CAG is acting as a legal restriction for reopening assessment.

With this background we will now discuss Proposed Amendments with regard to the term "Information with Ld AO" which suggest that the Income chargeable to tax has Escaped Assessment as introduced by Finance Bill, 2021 which will nullify legal restrictions to reopen assessment as explained above.

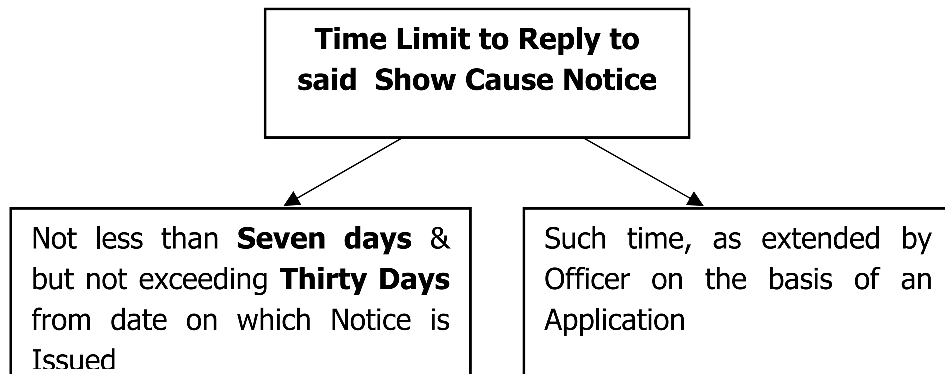
Sr No	Existing Provisions upto AY 2020-21	Proposed Amendments AY 2021-22 onwards
1	Any Information flagged in the case of assessee for the relevant assessment year in accordance with the Risk Management strategy formulated by the Board from time to time cannot be the basis of reopening of Assessment proceedings **Independent Satisfaction or Opinion of Ld AO necessary before Reopening of Assessment**	Any Information flagged in the case of assessee for the relevant assessment year in accordance with the Risk Management strategy formulated by the Board from time to time is considered as Information with Ld AO on the basis of which he can reopen Assessment proceedings **Independent Satisfaction or Opinion of Ld AO is not necessary before Reopening of Assessment.**
2	Objection received from office of CAG cannot be the sole basis for reopening of Assessment. Ld Assessing officer must have its own Independent opinion and satisfaction for reopening of Assessment.	Objection received from office of CAG can be thesole basis for reopening of Assessment. Ld Assessing officer need not have its own Independent opinion and satisfaction for reopening of Assessment.

Pre-requisite for Issuance of notice u/s 148: - [Insertion of New Section 148A of the Act and Consequential Amendment in Section 148 of the Act]

It is now Proposed that Assessing officer before issuing Notice u/s 148 of the Act has to compulsorily comply with the procedure as contained in Section 148A of the Act

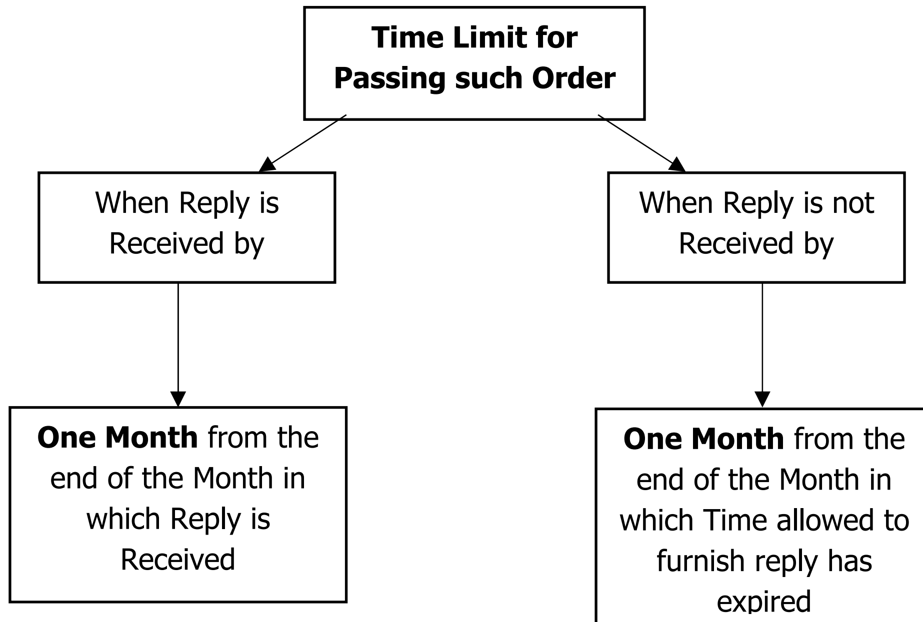
SALIENT FEATURES OF THE PROPOSED PROCEDURE ARE AS UNDER

- Conduct any **Enquiry**, with prior approval of Specified Authority*.
- Provide an **Opportunity of being Heard** to the Assessee, by issuing a Show Cause Notice



- After considering the **Reply of Assessee** furnished & on the basis of Material available on Record pass an Order stating whether, it is a fit case to issue Notice u/s 148 of the Act or not, only with prior approval of specified authority.

- Time limit to pass such order is as under: -



- Thus, before Issuance of Notice u/s 148 of the Act, Assessing Officer shall serve a copy of Order passed in Section 148A stating whether it is a fit case to issue Notice u/s 148 of the Act to the assessee or not;

- Assessment in case of search/survey initiated **on or after 1st April, 2021** shall not be governed by erstwhile search assessment but will be governed by the amended reopening of assessment provisions and

- Order passed u/s 148A of the Act is not appealable Order as there is no consequential amendment in section 246A of the Act. Thus, any assessee being aggrieved by the order passed u/s 148A of the Act has to file Writ Petition before High Court in order to get relief from order passed u/s 148A of the Act.

Proposed Amendment providing Exception to compliance of Notice u/s 148A of the Act and also nature of addition that can be made in Reassessment

Once assessment or reassessment or re-computation has started the Assessing officer is Proposed to be empowered to assess or reassess the income in respect of any issue which has escaped assessment and which comes to his notice subsequently in the course of the proceeding under this procedure notwithstanding that the procedure prescribed in section 148A was not followed before issuing such notice for such income.

Effect of above Proposed amendment on nature of additions that can be explained below: -

Example: -

Notice u/s 148 of the Act is issued based on reasons recorded on Issue A, B & C and during the course of reassessment proceeding it is found that: -

1) Additions is sustainable on issue A but not sustainable on issue B & C. whether new additions on issue D & E are sustainable which are unconnected with escapment of income.

2) Additions on account of A, B and C are not sustainable. whether, additions on issues totally unconnected with Escapment of Income D & E are sustainable?

Situation	Existing Provision	Proposed Amendment
1	Additions can be made on issue A, D and E	Additions can be made on issue A, D and E
2	Additions cannot be made on issue D & E as addition on A, B & C are not sustainable Judicial pronouncement: - Jet Airways (I) Ltd (2011) 239 CTR 0183 Bombay High Court	Additions can be made on issue D & E even if no additions are made on issue A, B & C. (Nullifying Bombay High Court Judgement)

This procedure of enquiry, providing opportunity and passing order, before issuing notice under section 148 of the Act, shall not be applicable in search or requisition cases.

Proposed Amendments in Assessment Procedure with regard to Search, Seizure and Survey cases. [Insertion of Explanation to Section 148 of the Act and Deletion of Section 153A and Section 153C of the Act]

Legislature has treated following types of cases as Search, Seizure & Survey cases in the Proposed amendment: -

1) where Search is initiated in case of assessee u/s 132 or section 132A of the Act;

2) where Survey is conducted u/s 133A of the Act;

3) where Search & Seizure is conducted in case of any other person and where money, bullion, jewellery or other valuable article or thing, seized or requisitioned is found to be belonging to assessee or

4) Where Search, Seizure or Survey is conducted on any other person and any books of Accounts or documents found, pertains to assessee.

At Present, the Procedure of assessment in case of Search and Seizure cases is separately governed in Section 153A to Section 153C of the Act which is different from Reassessment Procedure as contained in section 148 of the Act.

It is now Proposed that Provisions of Section 153A and Section 153C of the Act shall not apply in respect of any Search and Seizure Action conducted on or after 01/04/2021.

In other words, the existing provisions in section 153A & 153C shall apply only to cases where search and seizure action is conducted on or before 31/03/2021.

It is now Proposed that Search, Seizure and Survey cases shall now be governed by the Provision of reopening covered in Section 148 of the Act

instead of 153A and 153C of the Act in respect of all Search and Seizure Actions conducted on or after 01/04/2021.

Salient features of the Proposed changes in the provision with regards to Search & Seizure cases are summarized below: -

1. In Search and Seizure cases in the circumstances as mentioned above the Assessing officer shall be deemed to have Information which suggests that Income Chargeable to Tax has escaped assessment in the case of assessee;

2. In case of Search & Seizure cases there is no need to comply with the procedure as contained in Section 148A of the Act by the assessing officer and

3. Maximum period upto which the reopening in Search & Seizure cases is permissible upto 3 Assessment year preceding the assessment year relevant to previous year in which search is initiated.

   For Example, if search Action is on 18/04/2021 then, reassessment Notice u/s 148 can be issued only for Assessment year AY 2019-20, AY 2020-21 and AY 2021-22

Revised Time Limits for Issuance of Notices u/s 149 of the Act [Amendment in Section 149 of the Act]: -

There are Amendments with regard to time limits for issuance of Notice u/s 149 for the purpose of Assessment and Re assessment of Income.

Comparison of Existing Provisions in this regard with Proposed Amendment are tabulated as under: -

Particulars	Existing Provisions upto AY 2020-2021	Proposed Amendments AY 2021-2022 onwards
Cases where Income Escaped Assessment **< Rs 1,00,000**		
Time Limit for issuance of Notice u/s 149	Upto **4 years** from the end of the relevant Assessment year	Upto **3 years** from the end of the relevant Assessment year
Cases where Income Escaped Assessment **>= Rs 1,00,000 but < 50lakhs**		
Time Limit for issuance of Notice u/s 149	Upto **6 years** from the end of the relevant Assessment year	Upto **3 years** from the end of the relevant Assessment year
Cases where Income Escaped Assessment in form of asset **>= 50lakhs**		
Time Limit for issuance of Notice u/s 149	Upto **6 years** from the end of the relevant Assessment year	Upto **10 years** from the end of the relevant Assessment year
Cases where Income Escaped Assessment Relates to **Foreign Assets**		
(i) If Income Escaped Assessment relates to Foreign Assets **< 50 lakhs**		
Time Limit for issuance of Notice u/s 149	Upto **16 years** from the end of the relevant Assessment year	Upto **3 years** from the end of the relevant Assessment year
(ii) If Income Escaped Assessment relates to Foreign Asset **>= 50 lakhs**		
Time Limit for issuance of Notice u/s 149	Upto **16 years** from the end of the relevant Assessment year	Upto **10 years** from the end of the relevant Assessment year

Above Amendment shall come into force from AY 2021 - 22 onwards.

Revised time limit for issuance of Notice u/s 148 of the Act as contained Proposed amendment in Section 149 of the Act shall also apply to any Notice issued (after 01.04.2021) in relation to prior assessment year upto AY 2020-21 as well.

For the purposes of computing the period of limitation for issue of section 148 notice, the time or extended time allowed to the assessee in providing opportunity of being heard or period during which such proceedings before issuance of notice under section 148 are stayed by an order or injunction of any Court, shall be excluded.

If after excluding such period, time available to the Assessing Officer for passing order, about fitness of a case for issue of 148 notice, is less than seven days, the remaining time shall be extended to seven days.

If the 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)** are to be carried out as per the provision of section 153A, 153B, 153C and 153D of the Act, the aforesaid time limitation shall not apply to such cases.

Specified Authority for the purpose of Section 148 and 148A of the Act [Amendment in Section 151 of the Act]

Specified Authority mentioned in Section 148 and 148A of the Act refers to following authority: -

Sr No	Particulars	Prescribed Authority
1	<= 3years elapsed from end of relevant Assessment Year	Commissioner or Director or Principal Commissioner or Principal Director
2	3 years elapsed from end of relevant Assessment Year	Principal Chief Commissioner or Principal Director General or If above authorities are not there then, Chief commissioner or Director General

Above amendment shall come into force from AY 2021-22 onwards.

Faceless Assessment of Income Escaping Assessment (section 147 of the Act) [Amendment in Section 151 A of the Act]

In order to eliminate interface between Income Tax Authority and the assessee it is now Proposed that conducting of enquiries or issuance of Notice or issuance of show Cause Notice as required by Section 148A of the Act may be conducted through Faceless Assessment.

Above amendment shall come into force from AY 2021-22 onwards.

206AB – TDS on non-filer (Deductees) of Income Tax Returns at higher rates: - [Insertion of Section 206AB]

At present there is no Provision under the Act for deduction of Tax at a higher rate than the prescribed rate in respect of the TDS liability arising out of amount paid to Specified Person who have not filed Income Tax Returns for last 2 years.

Which means that the TDS rate applicable to those deductees who are filing Return of Income regularly and for those deductees who are not filing the Return of Income as per law, is the same.

It is now Proposed to penalize Defaulters with a view to broaden the Income Tax network so as to make more Assessees File Return of Income and thereby increasing the number of persons who file the Return of Income. Accordingly, it is now Proposed that in case any TDS is required to be deducted under any of the following section:

- 194-A
- 194-C
- 194-H
- 194-I
- 194-J
- 194-M
- 194-O
- 194-IA

And when the payment is to be made to a Specified Person then instead of deducting TDS at the Rates in Force, Tax is to be deducted at the highest of the following: -

- Twice the rates specified in the relevant provision of the Act; or
- Twice the rate or rates in force; or
- The rate of 5%.

Specified Person is a person who satisfies all of the following: -

- He is a Resident or a Non – Resident having a Permanent Establishment in India;

AND

- He has not filed Return of Income for Two Previous Years preceding the Previous Year in which the Tax is required to be deducted

AND

- The Aggregate of TDS & TCS in his case is ` 50,000 per year or more in each of the 2 preceding Previous Year. s

In order to comply with the above Proposed Amendment, the following procedure will have to be followed by the Deductor: -

- He has to find out Specified Persons out of all the Persons whose TDS is deducted by him;
- In order to find out the same Deductor is required to call for following documents from all Deductees: -
    - Copy of Acknowledgement of Return of Income filed for the preceeding 2 previous years, and
    - Copy of Form 26AS for the Preceding 2 Previous Years to find out the aggregate TDS & TCS deducted in the name of each specified person.

In large Corporates, this may lead to additional compliance and where Deductees are not willing to share the Income Tax related details with the Deductor as it will reveal the amount of Taxable Income earned by the Deductees.

Consequential effect on Section 194-IB Payment of Rent by Certain Individuals or HUF

Section 194-IB deals with TDS which is required to be deducted by Individual or HUF on payment towards Rent exceeding ₹ 50,000/-. The rate of TDS which is applicable is 5% of the Rent Paid. In the existing provision of the section 194-IB, it is also specified that in case Landlord does not provide PAN, then the Tenant is required to deduct TDS at a higher rate as specified in section 206AA of the Act. However, it is further clarified that the amount of TDS under no circumstances shall exceed: -

- Rent for the last month of tenancy; or
- Rent for the month of March of the PY (if the Tenancy is not discontinued till the year end)

It is now Proposed that the similar restriction on the upper ceiling of the TDS as applicable to cases covered 206AA shall also apply to the Proposed Amendment in section 206AB as explained above.

Accordingly, it is now Proposed that in case a higher rate of TDS is applicable for Specified Person as defined in section 206AB then the maximum TDS that can be deducted is higher of the following: -

- Rent for the last month of tenancy; or
- Rent for the month of March of the PY (if the Tenancy is not discontinued till the year-end)

Above Amendment shall come into force from 1st July, 2021.

Relief to Specified Senior Citizens from filing Return of Income u/s 139: - [Insertion of Section 194-P]

At Present all the Senior Citizens who are earning taxable Income have to file Income Tax Return irrespective of the fact that TDS on Income earned by them is already deducted under different provisions of the Act.

Existing provisions are causing Genuine Hardship to Senior Citizens who have to compulsorily file Income Tax Return even though there is no Tax liability.

It is now Proposed to provide relief to the Specified Senior Citizens from filing Return of Income by shifting the burden of computing Tax liability & TDS in the hands of Specified Banks rather than in the hands of the said Specified Senior Citizen.

Accordingly, the new scheme of TDS is Proposed to be introduced for the first time.

Salient features of the above-mentioned Section are as follows:

Specified Senior Citizen: Specified senior citizen is defined as an Individual, who satisfies all of the following conditions: -

- He is a Resident in India
- Who is of the age of seventy-five years or more at any time during the previous year:
- Who is having no other source of Income except pension Income and interest Income in the same bank account in which pension is received.
- Has furnished a declaration to the bank as prescribed

➢ Specified Bank: Specified Bank means a Banking Company as defined by the Central Government in the Official Gazette.

In other words, it means the bank in which the Specified Senior Citizen maintains his bank account.

In the above case the Specified Bank will compute the taxable Income of the Specified Senior Citizen according to the provisions of the Act and will deduct TDS equal to the amount of Tax liability and will furnish a TDS certificate in the Form as prescribed.

It is obvious that Specified Senior Citizen can only maintain Bank Account with one Specified Bank only. In other words, he will have to close all the Bank Accounts with other Banks. Same shall form a part of declaration to be furnished as mentioned above

If TDS is deducted under this Section by the Specified Bank, then Specified Senior Citizen is not required to file Return us 139(1) of the Income Tax Act.

Proposed Amendment will provide relief to the Senior Citizens but will increase the compliance burden of Banks.

Above Amendment shall come into force from 1st July, 2021.

TDS on Purchase of Goods [Insertion of Section 194Q of the Act]: -

In Finance Bill 2020, Government introduced TCS provisions for seller of Goods. Accordingly, TCS is required to be collected by Seller of the Goods from Buyer of the Goods in case certain conditions are fulfilled.

These conditions are as under: -

a. Turnover of Seller in preceding Financial Year is more than 10 Crores.

b. Seller has received more than Rs. 50,00,000/- as sales consideration in any Financial Year from a particular Buyer.

The said TCS is required to be collected on all qualifying receipts after 01/10/2020.

The Rate of TCS applicable is 0.1% of the total qualifying receipts.

For FY 2020-21, there is a 25% reduction in overall TCS rate and accordingly TCS rate applicable for A.Y. 2021-22 is 0.075%.

In the Present provision, there is no liability of TDS on buyer of the Goods.

It is possible that the turnover of the seller in the preceding Financial Year may be less than 10 Crore, and in that situation he may not be liable to collect TCS based on the above provisions.

However, it is also possible that, in the same situation, even though turnover of seller is less than 10 Crore in preceding financial year, turnover of buyer can be more than 10 Crore.

In that situation, it is now Proposed to caste responsibility of **TDS** under the Proposed Section 194Q on the buyer of Goods.

The existing provision of Section 206C (1H) with the Proposed Amendment u/s 194Q is tabulated below.

Sec	Transaction	Conditions applicable	TCS/TDS to be collected on	Point of Trigger of TCS/TDS Applicability	Rate of TCS/ TDS		Eff. from
					if PAN / Aadhaar Available	if PAN / Aadhaar not Available	
206C (1H)	**TCS** to be Collected by Seller of Goods from Buyer of the Goods	a) Turnover of Seller in immediately preceding previous Year is more than Rs. 10 Crores **AND** b) Aggregate qualifying receipts from buyer are in excess of Rs. 50 Lakhs p.a.	On Amount Received towards sale of Goods from Buyer	At the time of Receipt of Sale Consideration from Buyer	0.1% of Amount received (0.075% until 31-03-2021)	5% (Section 206CCA)	1-10-2020
194 Q	**TDS** to be Deducted by Buyer of the Goods from Seller of Goods	a) Turnover of Buyer in immediately preceding previous Year is more than Rs. 10 Crores **AND** b) Cost of Purchase of Goods in excess of Rs. 50 Lakhs p.a.	On Cost of Purchase of Goods	At the time of credit of such sum to the account of the seller or at the time of payment, whichever is earlier	0.1% of Cost of Purchase if PAN is available*	5% if PAN is not available* (Section 206 AA)	1-07-2021

* In TDS, PAN is Mandatory. It means No option for Aadhaar is available.

Notes: -

a. If the buyer is Exporter then the provisions of TCS as contained in Section 206C (1H) will not apply.

b. When the goods are sold to following parties then the Provision of TCS u/s 206C (1H) and TDS u/s 194Q will not apply.

c. The Central Govt., a State Govt., an Embassy, a high commission, legation, commission, consulate, the trade representation of a Foreign State.

   - A local authority as defined in the Explanation of Section 10(20).

   - Any other person which may be, subject to certain conditions, notified by the Central Govt. by issuing notification in the Official Gazette.

d. Provisions of TCS u/s 206C(1H) will not apply in case the buyer is liable to deduct Tax at Source under any provisions of this Act and has already deducted such amount. **This would mean that Section 194Q shall have priority over Section 206C(1H) of the Act.**

e. It is also Proposed that the Central Govt. may, subject to certain conditions, exempt the Categories of Seller and Buyer by issuing notification in the Official Gazette.

f. At Present there is no Exemption for Import of Goods provided in Section 194Q. It is expected that such Exemption will be provided by ways of issue of Notification or by way of Amendment in Law shortly.

g. Examples explaining how Section 206(1H) and Section 194Q are given below: -

Seller Turnover (In Crore)	Buyer Turnover (In Crore)	Receipt for sale / cost of Purchase in prev. year (In Lakhs)	Amt. on which Tax will be calculated (In Lakhs)	Seller PAN	Buyer PAN	TDS	TCS	Liable Person	Section under IT Act	Exclusion Section	Reason
9	12	54 (Cost)	4	Available	N/A	Yes @0.1%	N/A	Buyer	194Q	Out of scope of Sec 206C (1H)	Seller Turnover less than 10 Cr.
14	8	57 (Receipt)	7	N/A	Available	N/A	Yes @0.1%	Seller	206C (1H)	Out of scope of Sec 194Q	Buyer Turnover less than 10 Cr.
13	14	62 (Cost)	12	Available	Available	Yes @0.1%	N/A	Buyer	194Q	Out of scope of Sec 206C (1H)	Exclusion Provided u/s 206C(1H) as 194Q has priority
9	12	54 (Cost)	4	Not Available	N/A	Yes @5%	N/A	Buyer	194Q/ 206AA	Out of scope of Sec 206C (1H)	Seller Turnover less than 10 Cr.
14	8	57 (Receipt)	7	N/A	Not Available	N/A	Yes @5%	Seller	206C (1H) / 206AA	Out of scope of Sec 194Q	Buyer Turnover less than 10 Cr.

Relief to Foreign Institutional Investors on Income Earned by Way of Dividends: - [Insertion of Proviso to Section 196-D of Act]

At Present FPIs are classified as non-residents, Withholding Tax rates for these are provided under a separate Section 196D, of the Income Tax Act. This Section specifies a rate of 20 per cent (plus surcharge and cess) on dividends paid to them. However, it does not provide for a lower withholding rate even if the FPIs Tax liability is a reduced one on account of an existing DTAA with the respective Country.

At Present, Companies withhold Tax @ of 20 per cent plus surcharge and cess on the dividend paid to FPIs even if they invest from a jurisdiction that provides for a lower rate based on India's DTAA with that country. The lower rate could be 5 per cent, 10 per cent or 15 per cent as per DTAA.

It is now Proposed by way of insertion of Proviso to Section 196D to rationalize TDS on dividends for FPIs to restrict it to treaty rates ranging from 5 to 15 per cent, depending on the country of residence of FPIs as against existing rate of TDS of 20 per cent.

With this Proposed Amendment the genuine hardships for FPIs to claim credit for excess taxes withheld by the Indian companies, adjusting it against their aggregate annual Tax on all sources of Income or claiming it as refund is resolved.

The above Amendment shall come in force from A.Y.2021-22 onwards.

Interest on Deferment of Advance Tax: - [Amendment to Section 234C of the Act]

At present interest on Advance tax u/s 234C of the Act is payable even for shortfall in payment of any installment of advance tax on account of under estimate of dividend income

It is practically not possible to estimate the quantum of dividend Income unless the dividends are actually received or declared by the Company, so it is causing genuine hardship to the Assessee on failure to estimate dividend Income for the purpose of payment of the Advance Tax.

In order to resolve the Genuine Hardship, it is now Proposed to include the dividend Income at pari passu with: -

- Income from Capital Gains and
- Profit form business and Profession for the 1st time.

In other words, it is now Proposed that any dividend Income which is not declared on or before any due date of payment of relevant advance tax, shall not be liable to interest u/s 234C, for short payment of advance Tax to that extent if the said shortfall is paid latest on or before 31st March of the relevant Previous Year.

The above Amendment will come in force from A.Y.2022-23 onwards.

GOODS AND SERVICE TAX

Amendments: -

To Enhance Scope of Supply: - [Section 7(1) (aa) of CGST Act is Proposed to be inserted RETROSPECTIVELY w.e.f 1st July 2017]: -

New clause (aa)	"the activities or transactions, by a Person, other than an individual, to its members or constituents or vice versa, for cash, deferred payment or other valuable consideration.
Explanation	Hon'ble Supreme Court in the case of Calcutta Club [2019 (29) G.S.T.L 545 (SC)] in the context of the pre-GST era (service Tax Regime) held that there cannot be the supply of goods or provision of services between the unincorporated private clubs/associations/ Societies and its members owing to the Principle of Mutuality which treats such clubs/associations/ Societies and its members as the same Person. Said rationale also applied to GST Regime as Principle of Chargeability is same as per service tax and GST Law. To bring above transactions Within the **Scope of Supply**, a new provision u/s 7(1)(aa) is Proposed to be inserted "RETROSPECTIVELY" from 1st July 2017 to neutralize the impact of above Supreme Court Judgement. Any *Person entering into any transaction/ activity related to supply of goods or service with its **Members or Constituents involving consideration or vice versa** will have to pay tax as per Proposed Amendment and the above transaction will be treated as **"SUPPLY"** under CGST Act.

Also, Consequent to the Proposed Amendment in section 7 of the CGST Act, Paragraph 7 of **Schedule II (Aforesaid Activities or Transactions to be treated as Supply of Goods or Supply of Services to the CGST Act)** is Proposed to be omitted retrospectively, with effect from the 1st July, 2017 as the same is included in scope of supply.

Notes:

1. In above provision *Person doesn't include an individual;
2. The word "Members" include Partners in case of Partnership firm, Members in case of co-operative society etc.
3. The Person and its Members or constituents shall be deemed to be two separate Persons.

Eligibility And Condition for taking Input Tax Credit [Insertion to Section 16(2)(aa) of the CGST Act]: -

Existing	At Present there is no provision in the Act which restricts ITC credit only to the extent of ITC Credit reflected in GSTR 2A/2B. In Rule 36(4) there is a restriction of claiming additional ITC credit Up to 10% Of ITC credit reflected in GSTR 2A/2B. Hence, based on current provision one can challenge Rule 36(4) Restricting credit of ITC without corresponding Provision in the Act.
Proposed Amendment By insertion of section 16(2)(aa) of CGST Act.	"Details of invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37" **Explanation:** Input tax credit on invoice or debit note may be availed only when the details of such invoice or debit note have been furnished by the supplier (in GSTR-1) and such details have been communicated to the recipient of such invoice or debit note. i.e. **the credit can be taken only when it is auto populated in GSTR-2B of Recipient.** With this Proposed Amendment Even the additional 10% of reflected invoices in 2A/2B as provided in Rule 36(4) shall not be available and also one can't challenge the provision regarding restriction of claim of ITC to the extent of invoices reflected in GSTR 2A/2B Above Proposed Amendment shall be **effective from a date to be notified.**

Reconciliation statement (GSTR-9C) and Annual Return (GSTR-9) [Section 35(5) of CGST Act Read with Section 44 of CGST Act]

Particulars	Existing Provision	Proposed Amendment
Section35 (5)	Every Registered Person whose turnover during a financial year exceeds the Rs.5 crore shall get his **accounts audited by a chartered accountant or a cost accountant** and shall submit a copy of the audited annual accounts, the reconciliation statement.	Section 35(5) of the CGST Act is Proposed to be **omitted.** Thus, It is Proposed that there will not be mandatory requirement of GST Audit in form GSTR-9C from F.Y. 2020-2021 Onwards.
Section 44	Every Registered Person, other than: - a) an Input Service Distributor, b) a Person paying tax under section 51 or section 52, c) a casual taxable Person and d) a non-resident taxable Person, shall furnish an annual return for every financial year electronically before the thirty-first day of December following the end of such financial year.	Every Registered Person, other than: - a) an Input Service Distributor, b) a Person paying tax under section 51 or section 52, c) a casual taxable Person and d) a non-resident taxable Person, shall furnish an Annual Return **which may include a self-certified Reconciliation Statement, reconciling the value of supplies declared in the GST Returns furnished for the financial year, with the audited annual financial statement** for every financial year electronically.

Format of Annual Return in GSTR-9 will have to be changed so as to include Reconciliation statement in it.

Above Proposed Amendment shall be **effective from a date to be notified.**

Interest on delayed payment of tax [Proviso to section 50(1) of CGST Act is Proposed to be inserted RETROSPECTIVELY w.e.f 1St July 2017]:

Every Person who is liable to pay tax in accordance with the provisions of this Act but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest @18% P.A.

It is now Proposed that interest on tax shall be payable only **on that portion of the tax which is paid by debiting the Electronic Cash Ledger."**

Explanation:

Interest will be charged on NET cash liability with effect from 01st July 2017

For Example:

GSTR-3B for the month of December 2020 is to be furnished before 20th January 2021, however the company is filling GST Return on 01/02/2021. In this case the company will have to pay the interest on that portion of the tax which is paid by debiting the electronic cash ledger.

Particulars	Situation-1	Situation-2	Situation-3
Tax on Outward taxable Supply	25,78,000	25,78,000	25,78,000
Less: input Tax Credit - Current period - Pervious Period (opening balance of Electronic Credit ledger)	 20,65,000	 28,65,000	 20,65,000 5,20,000
NET TAX LIABILITY paid through Electronic Cash Ledger.	513000	0	0
INTEREST @18% P.A.	**3036**	**NIL**	**NIL**

Above relief is already provided by F.No.CBEC-20/01/08/2019-GST DATED 18TH September, 2020.

Separate proceeding from recovery of tax [Amendment in Section 74 of the Act]: -

Existing	At Present, where the notice under the proceedings is issued to the main Person liable to pay tax and some other Persons, and such proceedings against the main Person have been concluded under Section 74, the proceedings against all the Persons liable to pay penalty under sections 122, 125, 129 and 130 are deemed to be concluded.
Proposed	It is Proposed to make seizure and confiscation of goods and conveyances while goods are in transit, as **separate proceeding** different from the proceeding of recovery of tax and the same to be adjudicated independently as per respective Section 129 and 130. Above Proposed Amendment shall be **effective from a date to be notified.**

Determination of Tax [Amendment in Section 75 of the Act]: -

An Explanation is Proposed to be inserted to clarify that "**Self Assessed Tax**" shall include the tax payable in respect of outward supplies, the details of which have been furnished in GSTR1 form, but not included in the return furnished in GSTR3B form.

Above Proposed Amendment shall be **effective from a date to be notified.**

Provisional attachment [Amendment in Section 83(1) of the Act]: -

Existing	Where during the **pendency** of any proceedings, the Commissioner is of the opinion that for the purpose of protecting the interest of the revenue, it is necessary so to do, he may, by order in writing attach provisionally any property, including bank account, belonging to the **taxable Person**.
Proposed	It is Proposed that after the **commencement** of proceedings, the Commissioner can attach provisionally, any property, including bank account of **even those Persons who have retained the benefit of a specified transaction relating to supply of goods relating to false invoice, availment of credit without receipt of goods, etc. or of Persons at whose instance such transactions are conducted.** Above Proposed Amendment shall be **effective from a date to be notified.**

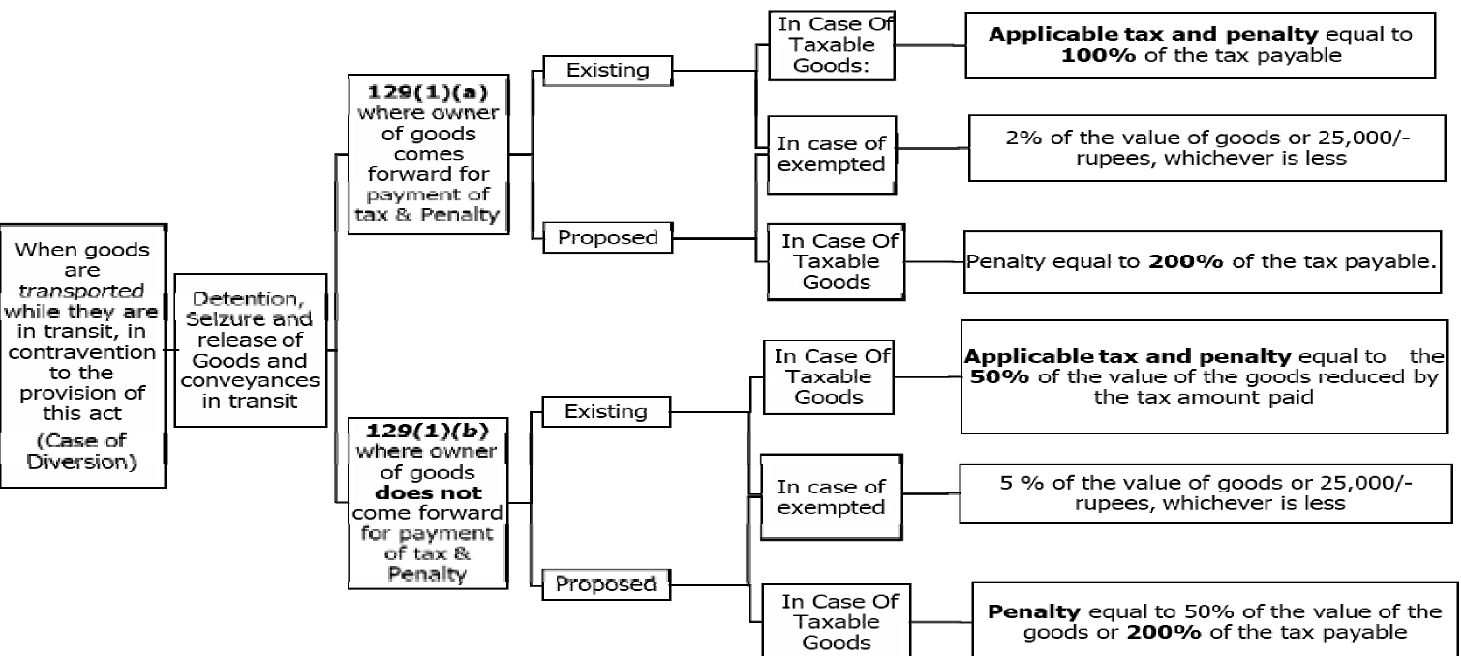
Appeals to Appellate Authority [Proviso to Section 107 of the Act]: -

A new Proviso is Proposed to be inserted so as to provide that no appeal shall be filed against an order made under section 129(3) of CGST Act (Penalty for detention of goods), unless a sum equal to **25% of penalty** has been paid by the Appellant.

Above Proposed Amendment shall be **effective from a date to be notified.**

Detention, seizure & release of goods and conveyances in transit [Proposed Amendment in Section 129 of the Act]: -

Law is Proposed to be amended to delink the proceedings relating to detention, seizure and release of goods and conveyances while goods are in transit under section 129, from the proceedings relating to confiscation of goods or conveyances and levy of penalty, in case of various contravention listed in Section 130.



Particulars	Existing	Proposed
129(2)	Goods & conveyance detained can be released on a provisional basis on execution of bond.	This provision is Proposed to be omitted. Thus, now for release of detained goods and conveyances taxpayer needs to either on pay amounts mentioned in above chart or furnish a security equal to said amounts.
129(3)	There is no time limit prescribed for issuance of notice by Proper officer detaining or seizing goods or conveyance.	The following timelines are prescribed: ➢ Issuance of notice specifying penalty payable – Within 7 days of detention or seizure of goods and conveyances in transit ➢ Passing an order for payment of penalty – Within 7 days of service of notice.
129(4)	**No tax, interest or penalty** shall be determined under sub-section (3) without giving the Person concerned an opportunity of being heard.	**No penalty** shall be determined under sub-section (3) without giving the Person concerned an opportunity of being heard.

Particulars	Existing	Proposed
129(6)	Where the Person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty within **14 days** of such detention or seizure, the goods shall be confiscated.	Now it is Proposed that if the penalty is not paid within **15 days** from the date of receipt of the order passed, the goods or conveyance so detained or seized shall be liable to be **sold or disposed** to recover the penalty. If goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of 15 days may be reduced by the proper officer. Also, the **transporter** has been given an option to get his **conveyance** released on the payment of penalty so computed or Rs 1,00,000, whichever is less.

Above Proposed Amendment shall be **effective from a date to be notified.**

Confiscation of goods or conveyances and levy of Penalty [Proposed Amendment in to Section 130(2) of the Act]: -

Law is Proposed to be amended to delink the proceedings relating to detention, seizure and release of goods and conveyances while goods are in transit under section 129, from the proceedings relating to confiscation of goods or conveyances and levy of penalty, in case of various contravention listed in Section 130.

Existing provision of Penalty & Fine	A. **Fine** – In lieu of confiscation, owner of the goods is given an option to pay fine as the adjudging officer deems fit, provided such fine shall not exceed the market value of such goods confiscated less the tax payable thereon. B. **Penalty** – Rs 10,000/- or equal to the amount of tax involved, whichever is higher. C. **Aggregate amount of fine & penalty = (A+B) or penalty leviable under section 129(1), (as explained in earlier para) whichever is higher, shall apply**.
Proposed	It is now Proposed that the **Aggregate amount of fine & penalty = (A+B) or penalty equal to 100% of the tax payable on such goods, whichever is higher, shall apply.** Sec 130(3) is now Proposed to be omitted**.**

Above Proposed Amendment shall be **effective from a date to be notified.**

Zero Rated Supply [Amendment in Section 16(1)(b) of IGST Act]

Existing	At Present, supply of goods or services to a Special Economic Zone developer or a Special Economic Zone unit is considered Zero Rated Supply.
Proposed	It is now Proposed to amend section 16(1) (b) of IGST Act to include only the supplies to SEZ developer or a SEZ unit which are for **Authorized Operations, as ZERO rated supplies.** **Authorized Operations** are operations as per the SEZ Act, relevant rules and notifications read with the Letter of Approval). Only supplies made in relation to Authorized Operations shall be eligible to be Zero Rated Supply. Government has already issued a Circular describing default services in relation to authorized operations which shall be considered to have been supply for Authorized operations of SEZ unit. This list is not exhaustive but illustrative. It is expected that Procedure to determine as to which supply of Goods or Services made to SEZ unit are for the purpose of carrying out authorized operations of SEZ unit shall be notified.

Zero Rated Supply [Amendment in Section 16(3) of IGST Act]

Existing	At Present, Sec. 16(3) of IGST Act provides for two routes for claiming refund of the accumulated ITC: - (a) making supplies under LUT without payment of tax and claiming refund of the accumulated ITC based on the formula AND (b) making supplies with payment of IGST and claiming refund thereof At Present, except situations mentioned in Rule 96 (10), Exporters are permitted to claim refunds under payment of IGST option.
Proposed	It is now Proposed to amend Section 16 (3)(b) of IGST Act as under: Option of making the supply on payment of Integrated tax shall only be granted to a notified class of taxpayers or notified supplies of goods or services. As on date the notified class of taxpayers or notified supplies of goods or services are not yet notified. One will have to wait for Amendments to Rules thereof to understand Notified categories.

Refund of IGST paid on Goods [Amendment to Section 16(3) of IGST Act]

Existing	At Present there is no provision to deposit back Refund received in case of Non- Receipt of Export Proceeds within time allowed in case of Export of Goods.
Proposed	It is now Proposed to amend Section 16(3) of IGST Act to link Foreign Exchange Remittance in case of export of goods with return of Refund received. In case of Export of Goods if the Refund of unutilized Input Tax Credit on supply of goods or services or both is already received by exporter, but Export Proceeds are not realized within 9 months from date of Export then Registered person making Zero Rated Supply shall be liable deposit the refund so received along with Interest u/s 50 of CGST Act within 30 Days after expiry of 9 months in such manner as prescribed.

COMPANIES ACT, 2013

SCOPE OF SMALL COMPANIES WIDENED

It is Proposed to amend the definition of a small company by increasing the threshold limits as under:

Threshold limit [to be satisfied cumulatively]	Existing	Proposed
Paid-up share capital not exceeding	Rs. 50 Lakh	Rs. 2 Crores
Turnover not exceeding	Rs. 2 crore	Rs. 20 crore

The Proposed Amendment will enable more companies to qualify as a small company and avail certain benefits / exemptions which will ease their compliance requirements. This includes reduction in minimum board meeting from 4 to 2, non-applicability of cash flow statement, lower penalties, etc.

RELAXATION IN FORMATION & OPERATIONS OF ONE PERSON COMPANY

Following measures have been Proposed to incentivize incorporation of OPCs:

1. OPCs will be allowed to operate and grow without any restrictions on paid up capital and turnover.

   Currently OPCs are compulsorily required to be converted into a private or public limited company if the (a) paid up share capital exceeds INR 50 lakhs and (b) average annual turnover during the period of immediately preceding three consecutive financial years exceed INR 2 crores.

2. OPCs are allowed to convert into any other type of company anytime as against the current requirement that at least 2 years must have elapsed since its incorporation.

3. Residency limit for an Indian citizen to set up an OPC is reduced from **182 days to 120 days**.

4. NRIs would also be allowed to incorporate OPCs in India

LLP ACT, 2008

DECRIMINALISATION OF PROCEDURAL OFFENCES

Similar to decriminalization of the procedural and technically compoundable offences under the Companies Act, 2013, it is now Proposed to decriminalize similar offences under the LLP Act, 2008.

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NOTES