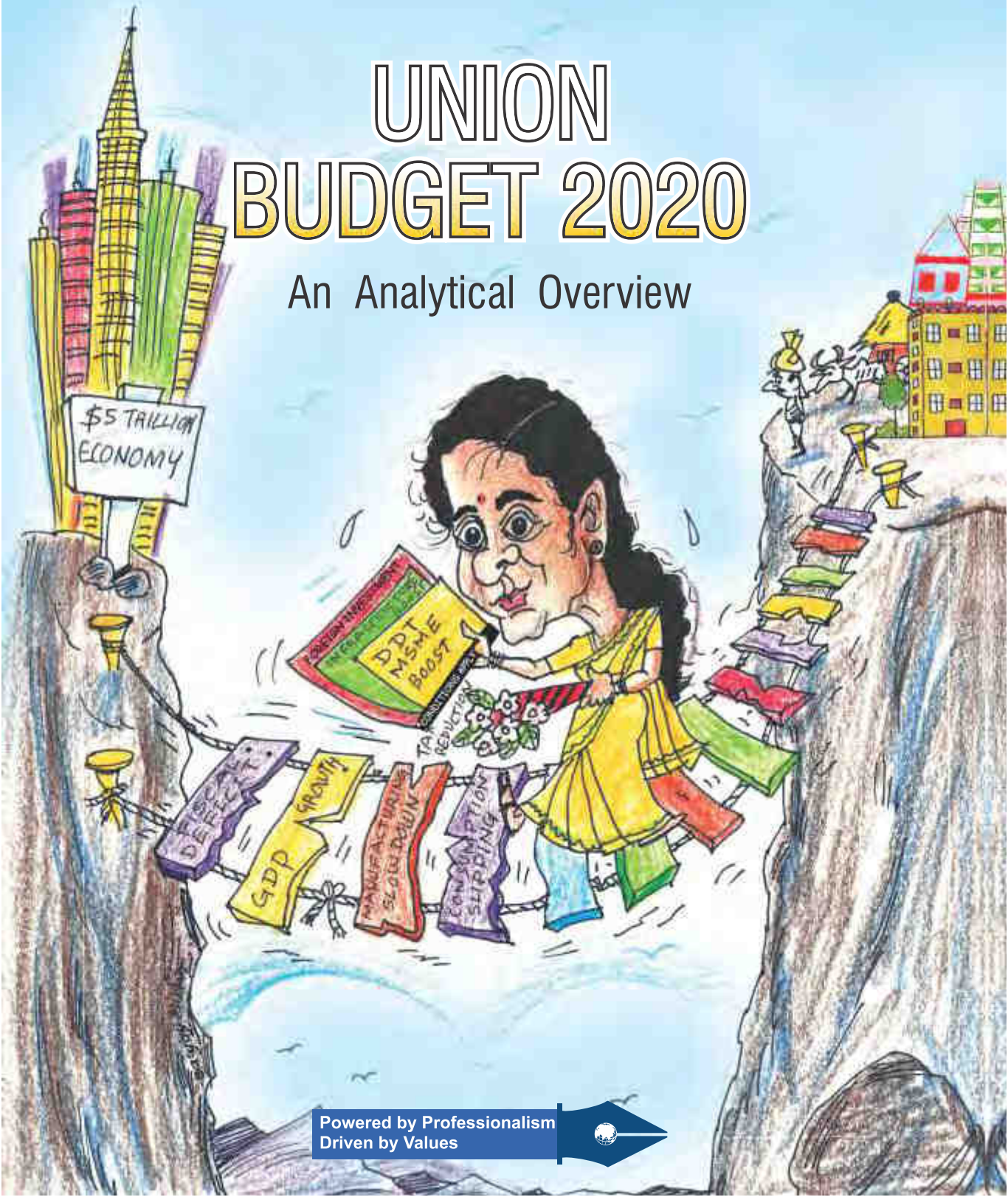




Western India Regional Council of
The Institute of Chartered Accountants of India

UNION BUDGET 2020

An Analytical Overview



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FOREWORD

The Indian Union Budget is always an eagerly awaited policy reform announcement for all contributing to the Indian economy. The Union Budget 2020 is no exception but special in more ways than one. The Hon'ble Finance Minister Smt. Nirmala Sitharaman delivered her second Union Budget on 1 February 2020 in the backdrop of stagnating Indian economy characterized primarily by declining demand, retarding automobile and real estate sectors and continuing unemployment crises. With several economic indicators hitting record lows in the last 1 year, there has been an imperative need and much bigger expectations to put the economy back on track towards \$5 trillion mark by year 2025 as envisaged by the Narendra Modi Government 2.0.



Varied expectations ranging from the public at large ardently awaiting relief through restructuring of income tax slabs to investors demanding steady and stable policy regime and India Inc. staring at further stimulus and certainty of tax and regulatory policies while balancing anti global sentiments, global policy reforms and managing trade wars, political headwinds across the globe, etc. emphasised the need for pragmatic policy reforms if not a dream budget – understandably the Hon'ble Finance Minister faced a hard ask from various stakeholders. Besides the much needed tax policy reforms coupled with further liberalization of the regulatory regime to facilitate both ease of starting as well as doing business, India needed major boosters to drive consumption coupled with an unflinching vision of stability.

The Finance Minister delivered one of longest Budget speeches to present before the Indian Parliament proposals aimed to provide the desired economic boosters to the country. Her proposals, are knitted around following three prominent themes, with the fundamental thread of corruption free good governance policies and robust financial sector :

- Aspirational India in which all sections of the society seek better standards of living, with access to health, education and jobs;
- Economic development for all, in the spirit of Narendra Modi 2.0 Government's key manifesto of "Sabka Saath, Sabka Vikas, Sabka Vishwas" and
- Caring Society that is both humane and compassionate, where Antyodaya is an article of faith.

The Finance Minister added that in continuation of the reform measures already adopted so far including the recent Taxation Laws Amendment Act reducing the corporate tax rates, the tax proposals in this budget are aimed to further the reforms to stimulate growth, simplify tax structure, bring ease of compliance, and reduce litigations. Since the ensuing pages aim to provide the readers with a summary of the tax amendments introduced by the Finance Bill 2020 towards the Governments proposed measures, it shall be the prerogative of the readers to appreciate the impact of these amendments towards the finally achieving the desired objective of India's socio-economic growth coupled with permeation of business friendliness of India for foreign investors.

I take this opportunity to appreciate the efforts of CA. Arun Anandagiri, Chairman, Direct Tax Committee, CA. Umesh Sharma, Chairman Indirect Tax & GST Committee, CA. Rakesh Alshi, Chairman International Tax Committee and all contributing Members for taking time out and presenting the Union Budget 2020-21 in a concise and precise manner. I am sure that Budgetary analysis presented here will create a great foundational knowledge base for our members, students as well as the common man.

CA. Priti Paras Savla

Chairperson, Western Indian Regional Council, ICAI

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PREFACE

The Union Budget 2020-21 has been structured to prop growth, drive the economy as well as increase the overall momentum to put India on the fast track to growth. To that end, the budget aims to try and have something for everyone other than those in high income brackets.

In terms of Direct Tax, Hon'ble Finance Minister Nirmala Sitharaman has given thought in this direction such as increasing interest deduction on housing loan under Section 80EE by 1.5 lakhs for home loans taken on self-occupied house property by 31/3/2020, with houses costing Rs. 45 lakhs qualifying for this deduction.

Taking into consideration the difficulties faced by the common man in paying taxes, the Ministry has introduced interchangeability of PAN and Aadhaar thus making it possible to file Income Tax returns using Aadhaar Number making it easier to pay taxes.

Corporate tax worth 25% which is applicable to companies with an annual turnover of Rs. 250 crore will be applicable to the ones with an annual turnover of Rs. 400 crores.

In a first, the Government has created a new section in the Income Tax Act, allowing a deduction of interest of up to Rs. 1.5 lakh on a loan taken to buy an electric vehicle.

To further boost the start-up culture, the FM has proposed steps for removal of angel tax and relaxation from income tax scrutiny. E-verification would be implemented to establish identity of investors and the source of funds for ease of compliance.

India's direct tax revenue increased to Rs. 11.37 lakh crore in FY19 from Rs. 6.38 lakh crore.

This is a budget with a long term vision to try and balance as well as grow the economy over the next decade. I thank the contributors for their efforts in putting forward their analyses in such a short timeframe.

CA. Arun Anandagiri

Chairman, Direct Tax Committee of WIRC of ICAI



PREFACE

The theme of WIRC short publication on 'Union Budget 2020: An Analytical Overview' is taken from Crossing the bridge, which is self-explanatory, very apt and interesting. Modi Government 2.0's second Union Budget was presented by Honourable FM Smt. Nirmala Sitaraman. The Budget 2020 has proposed many amendments in the Direct and Indirect taxes.

We Chartered Accountants will have to play an important role to educate clients and peoples at large.

The Budget has brought many amendments in Direct taxes, which are having far reaching effect. The penalty of 100% of value of fake invoice, etc. is in line with GST has now been brought in Income tax.

This short publication of WIRC on Union Budget 2020, provides relevant insight on the key highlights of the budget that has been presented by the government for boosting the growth of the nation.

The book has been made in a short time, I really appreciate the efforts put in by the all contributors for preparing the book and I wish the readers a fruitful and enriching experience.

With regards

CA. Umesh Sharma

Chairman, Indirect Tax Committee of WIRC of ICAI



PREFACE

Presenting her second Union Budget, Finance Minister Smt. Nirmala Sitharaman, on 1st February 2020 unveiled a series of far-reaching reforms, aimed at boosting the Indian economy through a blend of short-term, medium-term and long term measures. While the Economic Survey 2019-20 tabled on 31 January 2020, projected a GDP growth in the range of 6% to 6.5% for the fiscal year 2020-21 and harped on the importance of wealth creation, the Finance Minister mentioned that this Union Budget has been structured on the overall theme of “Ease of Living”, though according high respect for wealth creators.



The three fundamental tenets of her proposals aimed at **Aspirational India** in which all sections of the society seek better standards of living, with access to health, education and jobs, **Economic development** for all, in line with the Prime Minister’s mantra of “Sabka Saath, Sabka Vikas, Sabka Vishwas” and **Caring Society** that is both humane and compassionate, are noble intentions indeed. These proposals can be attained using two hands one, corruption free, policy-driven good governance and second, clean and sound financial sector. However, it is equally important to see that the intentions are implemented or followed in spirit and practice through the enactment of provisions.

While lot of policy measures are announced as part of the Budget proposals to promote agricultural and industrial growth besides curbing tax disputes, rationalizing certain provisions and widening tax base, the readers of this publication shall be able to judge the impact of these proposals not only from the perspective of reality and even feasibility, but also from the perspective of various stakeholders in the Indian economy.

This publication encompasses the different observations of tax experts, and in my view, serves as a useful short referencer to the Union Budget 2020 proposals. An attempt has been made to include a special section on tax policies impacting certain industries, besides capturing certain key tax proposal highlights and amendment applicability matrix for the benefit of the readers. I am sure readers of this publication will find it useful.

CA. Rakesh Alshi,
Chairman, International Taxation Committee

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GOVERNMENT’S VISION FOR ECONOMIC DEVELOPMENT AND ASPIRATIONAL INDIA AND CARING SOCIETY

Agriculture, Irrigation and Rural development

Wellness, Water and Sanitisation

Education and skilling

Economic Development through industry, commerce and Investment

Investment clearance cell and Unified Procurement System

Infrastructure boost through strengthening of National Infrastructure Pipeline

Accelerated development of highways and monetising through FASTag mechanism

Optimisation of cost by Indian Railways

Developing Inland waterways

New economy based on innovations

Policy to build Data Centre Parks and strengthening Fibre to Home infrastructure

Affordable Housing

Nutrition upliftment programmes, promotion of culture and tourism,

Environment and climate change

Clean, corruption free governance

Effective financial including tax and regulatory reforms with global alignment

SNAPSHOT OF ECONOMIC SURVEY – FY 2019-20

The Economic Survey 2019 projecting the GDP growth at 7% was focused on achieving Prime Minister Narendra Modi's vision of USD 5 trillion Indian Economy by 2025 and laid emphasis on the adoption of behavioural economics to prod people towards expected behaviour. The Economic Survey 2019-20 (Survey 2020) tabled on 31 January 2020 revised the projected GDP growth at 6.5% for 2020-21. It may be noted that the Finance Minister while presenting the Union Budget proposals on 1 February 2020, project the GDP growth rate for FY2020-21 at 10%.

The modest endeavour of Economic Survey 2018-19 to use principles of behavioural economics as instruments of economic policy led the Survey 2020, to present a concept of "Thalinomics"- an attempt to relate economics to the common person using something that he or she encounters every day – a plate of food i.e. a Thali. The Survey 2020 focuses on the theme of integrating old with new through the invisible hand of "Trust" in the economy besides promotion of pro-business policies and acceleration of wealth creation and generation of job opportunities through new ideas. As expressed in the preface to the Economic Survey 2020, as per Mr. Subramanian, for India which is aspiring to be the third largest economy by 2025, it is only befitting to go back to one of the foundational questions posed by Smith, "What causes wealth and prosperity of nations?"

The popular tradition of presenting the Survey in two volumes continued in this year too. Volume I of the Survey 2020, attempts to capture ideas that encapsulate "economic freedom and wealth creation", provides evidence based economic analyses of recent economic developments to enable informed policymaking. Volume II reviews recent developments in the major sectors of the economy and is supported by relevant statistical tables and data.

Some of the key observations in the Survey 2020, are as follows:

- ❖ Ideas of wealth creation are rooted in India's old and rich tradition ranging from Kautilya's Arthashastra to Thiruvalluvar's Thirukural. Which emphasizes ethical wealth creation as a noble pursuit.
- ❖ Entrepreneurship at the grassroots as reflected in new firm creation in India's districts.
- ❖ It is important to promote "pro-business" policies that unleash the power of competitive markets to generate wealth as against "pro-crony" policies that may favour incumbent private interests.
- ❖ Integrate "Assemble in India" into "Make In India" to focus on labour-intensive exports and thereby create jobs at large scale.
- ❖ Efficiently scale up the banking sector proportionate to the size of the Indian economy.
- ❖ GDP growth pegged at 6.5% in fiscal year 2020-21 starting 1 April, 2020.
- ❖ Government should deliver expeditiously on reforms to revive growth,
- ❖ Share of formal employment increased from 17.9% in 2011-12 to 22.8% in 2017-18 reflecting formalization in the economy.
- ❖ 2.62 crore new jobs created in rural, urban areas between 2011-12 and 2017-18 among regular wage/salaried employees.
- ❖ Literacy and education in a district foster local entrepreneurship significantly. Impact of a reform is most pronounced when literacy is above 70 per cent.
- ❖ Physical infrastructure quality in the district influences new firm creation significantly.
- ❖ Ease of Doing Business and flexible labour regulation enable new firm creation, especially in the manufacturing sector.
- ❖ Enhancing ease of doing business and implementing flexible labour laws can create maximum jobs in districts and thereby in the states.

- ❖ Full waiver beneficiaries consume less, save less, invest less and are less productive after the waiver, compared to the partial beneficiaries.
- ❖ Debt waivers disrupt the credit culture. They reduce formal credit flow to the very same farmers, thereby defeating the purpose.
- ❖ Exports of network products can provide one-quarter of the increase in value added required for making India a \$5 trillion economy by 2025. Export primarily to markets in rich countries.
- ❖ Trade policy must be an enabler.
- ❖ India still trails in parameters such as Ease of Starting Business, Registering Property, Paying Taxes and Enforcing Contracts.
- ❖ A large economy needs an efficient banking sector to support its growth. The onus of supporting the economy falls on the PSBs accounting for 70 % of the market share in Indian banking. However, PSBs are inefficient compared to their peer groups on every performance parameter.
- ❖ Creation of a GSTN type entity that will aggregate data from all PSBs and use technologies like big data, artificial intelligence and machine learning in credit decisions for ensuring better screening and monitoring of borrowers, especially the large ones.
- ❖ Structural reforms undertaken in relation to the taxation system during FY 2019-20, viz. changes in corporate tax rates and measures to ease GST implementation were important moves and it is important to further mature on this curve.
- ❖ The industrial sector as per Index of Industrial Production (IIP) registered a growth of 0.6% in 2019-20 (April-November) as compared to 5.0 % during 2018-19 (April-November). Fertilizer sector achieved a growth of 4.0 % during 2019-20 (April-November) as compared to (-) 1.3 % during 2018-19 (April-November).
- ❖ Gross Value Added growth of the services sector moderated in 2019-20 as per various high-frequency indicators and sectoral data such as air passenger traffic, port and shipping freight traffic, bank credit, etc. FDI into services sector has witnessed a recovery in early 2019-20.
- ❖ India's ranking in Human Development Index improved to 129 in 2018 from 130 in 2017. While, with 1.34 % average annual HDI growth, India is among the fastest improving countries, Gross Enrolment Ratio at secondary, higher secondary and higher education level needs to be improved.
- ❖ Access to health services *inter-alia* through Ayushman Bharat and Mission Indradhanush across the country has improved. Mission Indradhanush has vaccinated 3.39 crore children and 87.18 lakh pregnant women in 680 districts across the country.

KEY TAX HIGHLIGHTS – FINANCE BILL OF 2020

Smt. Nirmala Sitharaman, presented her second Budget of the Narendra Modi 2.0 government amidst considerable expectations from the economic contributors with exception. The Government's proposals towards a defiant and resilient Indian economy frilled with it's vision for the \$5 trillion mark by 2025 with the "minimum government and maximum governance" continued amidst the decelerating economic trend. The Union Budget proposals in the words of the Finance Minister revolved around three major focus points viz. Aspirational India, Economic Development and Caring Society. The key highlights of direct and indirect tax proposals under the aforesaid Finance Bill is presented below.

Union Budget 2020 – An Analytical Overview

Direct Taxes

- ❖ New optional income tax slabs for those individuals who forgo exemptions and deductions under a simplified tax regime

Taxable income slabs	Tax rates
Up to ₹ 5 lakh	Nil
₹ 5 Lakh to ₹ 7.5 Lakh	10%
₹ 7.5 lakh to ₹ 10 lakh	15%
₹ 10 lakh to ₹ 12.5 lakh	20%
₹ 12.5 lakh to ₹ 15 lakh	25%
₹ 15 lakh and above	30%
<i>Rates to be increased by applicable surcharge and cesses</i>	

- ❖ Tax on cooperative societies reduced to 22% without exemptions.
- ❖ To simplify the tax system and lower tax rates, around 70 of more than 100 income tax deductions and exemptions have been removed.
- ❖ Combined upper limit of Rs.7.5 lakhs in respect of employer's contribution in a year to NPS, superannuation fund and recognized provident fund and any excess contribution shall be taxable.
- ❖ Tax Residency norms amended in case of High Networth Individuals (HNIs) not being Indian citizens to attract taxation in India
- ❖ Companies will not be required to pay Dividend Distribution Tax - dividend to be taxed only in the hands of recipients.
- ❖ 15% concessional tax rate for new power generation companies.
- ❖ Benefit of carry forward of business loss and unabsorbed depreciation extended to amalgamated public sector banks and public sector General Insurance Companies.
- ❖ Exemption from filing income tax returns granted to non-residents whose total income comprises Royalty and FTS on which tax is deducted at source.
- ❖ Interest paid or payable by a Permanent Establishment of a non-resident bank to be excluded for the purposes of computing disallowance of interest limitation under section 94B of the Act.
- ❖ Providing an option to the tax payer for not availing deduction in respect of certain capital expenditure on specified business under section 35AD.
- ❖ Period for concessional withholding tax under section 194LC and 194LD extended.
- ❖ Concessional withholding tax rate of 2% proposed in case of fees of technical services (other than professional services) to residents.
- ❖ Interest paid by large co-operative society to be liable to tax deduction at source under 194A of the Act.
- ❖ Definition of the term "work" for the purpose of withholding tax on contracts amended to cover cases of contract manufacturing using related parties.
- ❖ New provision proposed for withholding tax at the rate of 1% on the gross amount of sales of goods or services facilitated by an ecommerce operator through its digital electronic facility or platform.
- ❖ Existing provisions relating to tax collection at source widened to levy and collect tax on foreign remittances under Liberalised Remittance Scheme (LRS) beyond ₹ 7 lacs or for sale of overseas tour package or remittance on sale of goods in excess of ₹ 50 lakh.

- ❖ Tax holiday for affordable housing extended by 1 year. Additional deduction up to ₹ 1.5 lakhs for interest paid on loans taken for an affordable house extended till 31st March, 2021.
- ❖ Relaxation of conditions for offshore funds for exemption from ‘business connection’
- ❖ Registration of charity institutions to be made completely electronic, donations made to be pre-filled in IT return form to claim exemptions for donations easily.
- ❖ New process of registration of charitable trust shall be operative w.e.f. 1 June 2020 for both existing and new exempt entities. Registration once granted shall be valid for 5 years at a time and shall be renewed to ensure that the conditions of approval are adhered to for the want of continuance of exemption.
- ❖ Tax burden on employees due to tax on ESOPs to be deferred by five years or till they leave the company or when they sell, whichever is earliest.
- ❖ Start-ups with turnover up to ₹ 100 crores to be entitled to 100% deduction for 3 consecutive assessment years out of 10 years.
- ❖ Turnover threshold for audit of MSMEs to be increased from ₹ 1 crore to ₹ 5 crore, to those businesses which carry out less than 5% of their business in cash.
- ❖ 100% tax concession to sovereign wealth funds including the wholly owned subsidiary of Abu Dhabi Investment Authority (ADIA), on investment in infrastructure projects.
- ❖ Section 90 proposed to be amended to allow alignment of the Double Tax Avoidance Agreement with the Multi-Lateral Instrument (MLI).
- ❖ Deferment of applicability of the provisions relating to Significant Economic Presence (SEP) to AY 2022-23.
- ❖ Income source rule proposed to be amended to account for income from advertisement that targets the Indian customers or income from sale of data collected from India or from sale of goods and services using such data collected from India.
- ❖ Taxpayer’s charter to be enshrined in the law.
- ❖ Faceless appeals to be initiated on similar lines as faceless assessments.
- ❖ E-Penalty to be introduced in alignment to the E-assessment provisions pursuant to a scheme to be notified.
- ❖ Provision proposed to be inserted for condition of minimum tax payment or guarantee for grant stay by Income Tax Appellate Tribunal.
- ❖ Penalty on forged invoice equivalent to the amount of (i) false entry or (ii) omitted entry to evade tax liability.
- ❖ Scope of Commodity Transaction Tax is proposed to be widened to align the existing provisions with the changes in commodity derivative market and to encourage physical delivery of goods.
- ❖ Besides the above, as per the Finance Minister’s speech, a new direct tax dispute settlement scheme Vivaad se Vishwaas scheme to be launched whereby interest and penalty will be waived for those who wish to pay the disputed amount till March 31, 2020. However no specific provision for this in the Finance Bill.
- ❖ The Finance Bill also proposes new National Policy on Official Statistics to improve data collection and dissemination with the help of technology. Aadhaar-based verification of taxpayers is being introduced to weed out dummy or non-existent units; instant online allotment of PAN on the basis of Aadhaar.

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Transfer Pricing

- ❖ APA / safe harbour regime now made available for profit attribution to Permanent Establishments
- ❖ Due date of filing Accountant's Report in Form No. 3CEB has been changed from 30 November to 31 October.

Indirect Tax

- ❖ New simplified return for GST from April 2020
- ❖ Time-limit for availment of input tax credit on debit notes delinked from corresponding invoice issued
- ❖ Penalty towards prescribed offences extended to person who causes to commit or retains the benefit arising out of certain transaction.
- ❖ Fraudulent availment of input tax credit without an invoice shall be treated as cognizable and non-bailable.
- ❖ Punishment towards prescribed offences extended to person who causes to commit or retains the benefit arising out of certain transaction.
- ❖ Customs duty increased on footwear, households items and appliances, kitchenware, refrigerators, food grinders, fans, stationery, various semi-precious stones, furniture, etc.
- ❖ Exemptions from basic customs duties on various foods products, vegetable oils, certain cinematographic film, papers withdrawn to boost Make in India.
- ❖ Custom duty on toys increased from 20% to 60%
- ❖ Customs duty on Walnut shelled increased from 30% to 100%
- ❖ Customs duty on electric motors and generators increased from 7.5% to 10%
- ❖ Specified goods, whose exemption from basic customs duty is withdrawn, are still eligible to Social Welfare Surcharge exemption
- ❖ Exemption from Social Welfare Surcharge withdrawn on specified goods
- ❖ Customs duty exemptions granted to products like Platinum and palladium, certain bunker fuel, Poly Ester, etc, for specific purpose.
- ❖ Custom duty increased for specified electric motor vehicles and commercial vehicles, effective 1 April 2020
- ❖ Health Cess levied at 5% as duty of customs on notified medical devices falling under Chapter 9018 to 9022 of the Customs Tariff Act, 1975
- ❖ National Calamity Contingent Duty increased on tobacco and cigarettes.

AMENDMENT APPLICABILITY INDEX

Clause No.	Amendment in section	Section details	Applicable from		
			Assessment Year 2020-21	Assessment Year 2021-22	Any other date
3	2	Amendment to clause (13A) of section 2 Amendment to clause (42A) of section 2	✓	✓	
4	6	Amendment to clause (1) & (6) and insertion of clause (1A) to section 6		✓	

Clause No.	Amendment in section	Section details	Applicable from		
			Assessment Year 2020-21	Assessment Year 2021-22	Any other date
5	9(1)(i)	Amendment to Explanation 1 to clause (a) Omission of Explanation 2A Insertion of Explanation 3A Insertion of proviso after Explanation 3A Amendment to Explanation 5	✓	✓	AY 2022-23 AY 2022-23 AY 2022-23
5	9(1)(vi)	Amendment to Explanation 2 in clause (v) of section 9(1)(vi)		✓	
6	9A	Insertion of proviso to clause (c) and amendment to clause (j)	✓		
7(I)	10(23C)	Amendment to first, second, eighth, ninth and eighteenth proviso Omission of sixteenth proviso			1 June 2020
7(II)	10(23D), (23FC), (23FD), (23FE), (34), (35), (45), (48C)	Amendment to clause 23D, 23FC, 23FD Insertion of clause 23FE & 48C Insertion of proviso in clause 34 & 35 Omission of Clause 45		✓	
8	10A	Amendment to sub-section (5) of section 10A	✓		
9	11	Amendment to sub-section (7) and insertion of proviso to section 11			1 June 2020
10	12A	Insertion of clause (ac), amendment to clause (b) to sub-section (1) of section 12A Amendment to sub-section (2) of section 12A			1 June 2020
11	12AA	Insertion of sub-section (5) to section 12AA			1 June 2020
12	12AB	Insertion of section 12AB			1 June 2020
13	17(2)	Amendment to clause (vii) and insertion of clause (viiia)		✓	
14	32AB	Amendment to sub-section (5) of section 32AB	✓		
15	33AB	Amendment to sub-section (2) of section 32AB	✓		
16	33ABA	Amendment to sub-section (2) of section 32ABA	✓		
17	35	Amendment to sub-section (1) and insertion of sub-section (1A) to section 35			1 June 2020

Union Budget 2020 – An Analytical Overview

Clause No.	Amendment in section	Section details	Applicable from		
			Assessment Year 2020-21	Assessment Year 2021-22	Any other date
18	35AD	Amendment to sub-section (1) and (4) of section 35AD	✓		
19	35D	Amendment to sub-section (4) of section 35D	✓		
20	35E	Amendment to sub-section (6) of section 35E	✓		
21	43	Amendment to clause (5) to section 43	✓		
22	43CA	Amendment to section 43CA		✓	
23	44AB	Amendment to clause (a) and Explanation to section 44AB	✓		
24	44DA	Amendment to sub-section (2) to section 44DA	✓		
25	49	Insertion of sub-section (2AG) and (2AH) to section 49	✓		
26	50B	Amendment to sub-section (3) to section 50B	✓		
27	50C	Amendment to section 50C		✓	
28	55	Insertion of proviso & Explanation after sub-section (2)(b)(ii) of section 55		✓	
29A	56(2)(v), (vi), (vii)	Insertion of reference to section 12AB in clauses (v), (vi) & (vii)			1 June 2020
29B	56(2)(x)	Amendment to sub-clause (b) Insertion of reference to section 12AB in clause (VII) of the proviso to section 56(2)(x)		✓	1 June 2020
30	57	Amendment to clause (i) and insertion of proviso		✓	
31	72AA	Amendment to section 72AA	✓		
32	80EEA	Amendment to section 80EEA		✓	
33	80G	Amendment to sub-section (5), Insertion of Explanation 2A to sub-section (5D) and insertion of sub-section 5E to section 80G			1 June 2020
34	80GGA	Amendment to sub-section (2A) and insertion of Explanation 4 to sub-section (4) of section 80GGA			1 June 2020
35	80IA	Amendment to sub-section (7) of section 80IAC	✓		
36	80IAC	Amendment to section 80IAC		✓	
37	80IB	Amendment to sub-section (7A), (7B), (11B) and (11C) to section 80IB	✓		
38	80IBA	Amendment to section 80IBA		✓	

Clause No.	Amendment in section	Section details	Applicable from		
			Assessment Year 2020-21	Assessment Year 2021-22	Any other date
39	80JJAA	Amendment to sub-section (2) of section 80JJAA	✓		
40	80M	Insertion of section 80M		✓	
41	90	Amendment to sub-section (1) clause (b) of section 90		✓	
42	90A	Amendment to sub-section (1) clause (b) of section 90		✓	
43	92CB	Amendment to sub-section (1) of section 92CB	✓		
44	92CC	Amendment to sub-section (1), (2) & (3) of section 92CB			APA entered into on or after 1 April 2020
45	92F	Amendment to clause (iv) of section 92F	✓		
46	94B	Insertion of sub-section (1A) to section 94B		✓	
47	115A	Amendment to sub-section (1) and (5) of section 115A	✓		
48	115AC	Amendment to section 115AC		✓	
49	115ACA	Amendment to section 115ACA		✓	
50	115AD	Amendment to section 115AD		✓	
52	115BAB	Amendment to section 115BAB	✓		
53	115BAC, 115BAD	Insertion of new sections 115BAC and 115BAD.		✓	
54	115BBDA	Amendment to section 115BBDA.		✓	
55	115C	Amendment to section 115C.		✓	
56	115JB	Amendment to section 115JB.	✓		
57	115JC	Amendment to section 115JC.		✓	
58	115JD	Amendment to section 115JD.		✓	
59	115-O	Amendment to section 115-O.		✓	
60	115R	Amendment to section 115R.		✓	
61	115TD	Amendment to section 115TD.			From 01 June 2020
62	115UA	Amendment to section 115UA.		✓	
63	115VW	Amendment to section 115VW.	✓		
64	119A	Insertion of new section 119A.	✓		
65	133A	Amendment to section 133A.	✓		
66	139	Amendment to section 139.	✓		
67	140	Amendment to section 140.	✓		
68	140A	Amendment to section 140A.	✓		

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Clause No.	Amendment in section	Section details	Applicable from		
			Assessment Year 2020-21	Assessment Year 2021-22	Any other date
69	143	Amendment to section 143.	✓		
70	144C	Amendment to section 144C.	✓		
71	156	Amendment to section 156.	✓		
72	191	Amendment to section 191.	✓		
73	192	Amendment to section 192.	✓		
74	194	Amendment to section 194.	✓		
75	194A	Amendment to section 194A.	✓		
76	194C	Amendment to section 194C.	✓		
77	194H	Amendment to section 194H.	✓		
78	194-I	Amendment to section 194-I.	✓		
79	194J	Amendment to section 194J.	✓		
80	194K	Insertion of new section 194K.	✓		
81	194LBA	Amendment to section 194LBA.	✓		
82	194LC	Amendment to section 194LC.	✓		
83	194LD	Amendment to section 194LD.	✓		
84	194-O	Insertion of new section 194-O.	✓		
85	195	Amendment to section 195	✓		
86	196A	Amendment to section 196A.	✓		
87	196C	Amendment to section 196C.	✓		
88	196D	Amendment to section 196D.	✓		
89	197	Amendment to section 197.	✓		
90	203AA	Omission of section 203AA.			From 01 June 2020
91	204	Amendment to section 204.	✓		
92	206AA	Amendment to section 206AA.	✓		
93	206C	Amendment to section 206C.	✓		
94	234G	Insertion of new section 234G.			From 01 June 2020
95	250	Amendment to section 250.	✓		
96	253	Amendment to section 253.			From 01 June 2020
97	254	Amendment to section 254.	✓		
98	271AAAd	Insertion of new section 271AAAd.	✓		
99	271K	Insertion of new section 271K.			From 01 June 2020
100	274	Amendment to section 274.	✓		
101	285BB	Insertion of new section 285BB.			From 01 June 2020
102	288	Amendment to section 288.	✓		

Clause No.	Amendment in section	Section details	Applicable from			
			Assessment Year 2020-21	Assessment Year 2021-22	Any other date	
103	295(2)(b)	Insertions of sub-clause (iia) to clause (b) to sub-section (2) to section 295.		✓		
103	295(2)(b)	Insertions of sub-clause (iib) to clause (b) to sub-section (2) to section 295.			Assessment Year 2022-23 onwards	
104	First Schedule	Amendment of First Schedule.	✓			
105	Finance Act 2013	Amendment to the Commodity Transaction Tax in Finance Act 2013	✓			
105	11	Power to prohibit importation or exportation of goods			Date when the Finance Bill receives assent from the president	
106	28	Recovery of duties not levied or short-levied or erroneously refunded				
107	28AAA	Recovery of duties in certain cases				
108	Chapter VAA	Insertion of Chapter VAA – Administration of Rules of Origin under Trade Agreement				
109	Chapter VIIA	Amendment of heading of Chapter VIIA				
110	51B	Insertion of Section 51B - Ledger for duty credit				
111	111	Confiscation of improperly imported goods, etc				
112	156	General Power to make rules				
113	157	General power to make regulations				
114	8B	Power of Central Government to impose safeguard duty				
115	First Schedule	Amendment in Import tariff				
116	Section 2 of CGST Act, 2017	Amendment to clause (114) of Section 2				Date when the Finance Bill receives assent from the president
117	Section 10 of CGST Act, 2017	Amendment to clause (b), (c) and (d) of subsection (2) of Section 10				

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Clause No.	Amendment in section	Section details	Applicable from		
			Assessment Year 2020-21	Assessment Year 2021-22	Any other date
118	Section 16 of CGST Act, 2017	Amendment to clause (4) of Section 16			
119	Section 29 of CGST Act, 2017	Amendment in clause (c) of sub section (1) of Section 29			
120	Section 30 of CGST Act, 2017	Amendment in proviso to subsection (1) of Section 30			
121	Section 31 of CGST Act, 2017	Amendment in proviso to subsection (2) of Section 31			
122	Section 51 of CGST Act, 2017	Amendment in subsection (3) of Section 51			
123	Section 109 of CGST Act, 2017	Amendment in sub section (6) of Section 109			
124	Section 122 of CGST Act, 2017	Insertion of subsection (1A) of Section 122			
125	Section 132 of CGST Act, 2017	Amendment in subsection (1) of Section 132			
126	Section 140 of CGST Act, 2017	Amendment in Section 140			
127	Section 168 of CGST Act, 2017	Amendment in subsection (2) of Section 168			
128	Section 172 of CGST Act, 2017	Amendment in subsection (1) of Section 172			
129	Schedule II of the CGST Act, 2017	Amendment in paragraph 4 of Schedule II			
130	Notification G.S.R.673 (E) dated 28 June 2017				Retrospective from 01 July 2017
131	Notification G.S.R.708 (E) dated 28 June 2017				

Clause No.	Amendment in section	Section details	Applicable from		
			Assessment Year 2020-21	Assessment Year 2021-22	Any other date
132	Section 25 of the IGST Act, 2017				Date when the Finance Bill receives assent from the president
133	Notification G.S.R.666 (E) dated 28 June 2017				Retrospective from 01 July 2017
134	Section 1 of the UTGST Act, 2017				Date when the Finance Bill receives assent from the president
135	Section 2 of the UTGST Act, 2017				
136	Section 26 of the UTGST Act, 2017				
137	G.S.R 710 (E) dated 28 June 2017				Retrospective from 01 July 2017
138	Section 26 of the GST Compensation Cess Act, 2017				Date when the Finance Bill receives assent from the president
139	Health Cess				

RATES OF TAX

❖ Companies

There are no changes in the normal corporate tax rates, Minimum Alternate tax and surcharge and cess

The rate of tax applicable to companies is provided under First Schedule to the Finance Bill or the rate applicable to the domestic companies is provided under 115BAA or section 115BAB of the

Act which is same as laid down in Part III of the First Schedule to the Finance (No 2) Act, 2019, as amended by Taxation Law Amendment Act, 2019 (TLAA)

Total Income	Rates of Tax (%)		
	Tax Rate (%)	Cess @ 4%(%)	Effective Rates (%)
Up to ₹ 2,50,000	0.00%	0.00%	0.00%
₹ 2,50,001 to ₹ 5,00,000	5.00%	0.20%	5.20%
₹ 5,00,001 to ₹ 7,50,000	10.00%	0.40%	10.40%
₹ 7,50,001 to ₹ 10,00,000	15.00%	0.60%	15.60%
₹ 10,00,001 to ₹ 12,50,000	20.00%	0.80%	20.80%
₹ 12,50,001 to ₹ 15,00,000	25.00%	1.00%	26.00%
Above ₹ 15,00,000	30.00%	1.20%	31.20%

❖ **Limited Liability Partnership**

There are no changes in the normal tax rates, Alternate Minimum tax and surcharge and cess

❖ **Insertion of new sections 115BAC and 115BAD of the Act**

Individual or HUF [Clause 53]

Finance Bill 2020 has inserted section 115BAC(1) whereby an option has been provided to an individual or a Hindu Undivided Family (HUF) to opt for below mentioned tax rates, upon fulfilment of conditions prescribed in sub-section (2) of section 115BAC of the Act.

The tax rates and income tax slabs effective Assessment year 2021-22 are as follows:

Income (in ₹)	Tax rates (%)
Up to ₹ 2,50,000	Nil
₹ 2,50,001 to ₹ 5,00,000	5
₹ 5,00,001 to ₹ 7,50,000	10
₹ 7,50,001 to ₹ 10,00,000	15
₹ 10,00,001 to ₹ 12,50,000	20
₹ 12,50,001 to ₹ 15,00,000	25
Above ₹ 15,00,000	30

Surcharge proposed by Finance Bill 2019 for income slabs exceeding INR 5,000,000 and health and education cess shall continue to apply.

It is proposed that the above option shall be exercised every year by an individual or HUF, having no business income and in other case once it is exercised shall be valid from AY 2021-22 onwards. The option shall become invalid, if the individual or HUF fails to satisfy the conditions and the existing provisions of the Act shall apply.

As per sub-section(2) of section 115BAC, it is proposed that the above option may be availed provided below deductions or exemptions are not considered by the individual or HUF while computing his total income:

- Leave travel concession as per section 10(5)
- House rent allowance as per section 10(13A)

- Some of the allowance under section 10(14) like transportation allowance to divyang employee for commuting to office, conveyance allowance for official purpose, allowance to meet cost of travel or tour and per diem allowance on account of absence from normal place of duty
- Allowance to MPs/MLAs as per section 10(17)
- Allowance for income of minor as per section 10(32)
- Exemption for SEZ as per section 10AA
- Standard deduction and professional tax as per section 16
- Housing loan interest paid under section 24 for self- occupied or vacant property
- Additional depreciation as per section 32(1)(iia)
- Deductions under section 32AD,33AB and 33ABA
- Deduction for donation with respect to scientific research as per section 35 (1) or 35 (2AA)
- Deduction under section 35AD or section 35CCC
- Deduction from family pension as per section 57(iia)
- Chapter VIA deductions including section 80C, 80CCD, 80D, 80E, 80G,etc. excluding deduction under section 80 CCD(2) – Employer contribution on account of NPS) and section 80JJAA –for new employment
- Set off of any loss or unabsorbed depreciation brought forward from any earlier assessment years if such loss or depreciation is attributable to deductions mentioned above
- Set off of any loss under the head “Income from house property” with any other head of income
- Any exemption or deduction for allowance or perquisite, provided under any other law

The Individual or HUF will be eligible for the concessional rates only if the option has been exercised by filling the form in the manner as may be prescribed as under:

- No business income – along with the return of income to be furnished under section 139(1) of the Act
- Any other case, on or before the due date of filing the return of income under section 139(1) of the Act and such option shall be valid for AY 2021-22 and onwards.

It is further proposed that the option can be withdrawn only once where it was exercised by the individual or HUF having business income for a previous year other than a year in which it was exercised, thereafter the individual or HUF shall not be eligible to exercise the above option under section 115BAC of the ACT, except such individual or HUF ceases to have any business income.

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

Co-operative societies

Finance Bill 2020 has proposed to insert a new section 115BAD for concessional rate of tax in case of co-operative societies on similar lines with sec 115BAA for domestic company. Sub-section (1) of sec 115BAD provides for reduction of the tax rate from existing 30% to 22%, upon fulfilment of conditions prescribed in sub-section (2) of section 115BAD of the Act.

As per sub-section (2) of section 115BAD, the total income of the co-operative society shall be computed excluding the below mentioned deductions:

- Exemption for SEZ as per section 10AA
- Additional depreciation as per section 32(1)(iia)
- Deductions under section 32AD, 33AB and 33ABA
- Deduction with respect to scientific research as per section sub-clause (ii), (iia) & (iii) of 35(1) and 35 (2AA)
- Deduction under section 35AD or section 35CCC
- Chapter VIA deductions excluding deduction under section 80JJAA –for new employment
- Set off of any loss or depreciation brought forward from earlier assessment year if the same is attributable to any of the deductions specified above

The brought forward loss and depreciation referred to in above shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year. However,, where there is a depreciation allowance in respect of a block of asset which has not been given full effect to prior to the assessment year beginning on 1st April, 2021, corresponding adjustment shall be made to the written down value of such block of assets as on 1st April, 2020 in the prescribed manner, if the option is exercised for a previous year relevant to the assessment year beginning on 1st April, 2021;

Finance Bill 2020 proposed that deduction under section 80LA of the Act could be availed subject to conditions mentioned therein, in respect to a Unit in the International Financial Services Centre.

It is proposed to levy a surcharge at 10 per cent and health and education cess of 4% shall continue to apply. The above option once exercised cannot be withdrawn.

Provisions relating to Alternate Minimum tax under sec 115JC shall also not be applicable to such co-operative society.

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

PERSONAL TAX

❖ **Amendment to section 80EEA of the Act**

Incentive to First time buyers for investing in residential house property [Clause 32]

In order to promote a growth in the housing sector, Finance Act 2019 has introduced section 80EEA for first time individual buyer who can avail deduction of INR 150,000 on interest paid on housing loan taken from the financial institution, provided the stamp duty value of such residential house property does not exceed 45 lakh and loan has been sanctioned by the financial institution during the period 1 April 2019 to 31 March 2020.

It is proposed to enhance the period of sanctioning the housing loan to 31 March 2021.

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

❖ **Amendment to section 17 of the Act**

Employer contribution to recognised provident fund (PF), National Pension Scheme (NPS) and approved superannuation fund (SF) [Clause 13]

As per the existing provisions of section 17(2) (vii) of the Act, employer contribution to approved SF on behalf of its employees exceeding INR 150,000 has been considered as taxable perquisite.

Restricting limit for employer contribution to PF, NPS and SF to INR 750,000

The Finance Bill 2020 has proposed to insert an additional clause namely (a), (b) and (c) to clause (vii) of sub-section 2 of section 17 of the Act, whereby the employer contribution to PF, NPS and SF exceeding INR 750,000 per FY shall be considered as taxable perquisite under the Act.

In addition to the above, clause (viia) has been inserted, whereby any annual accretion by way of interest, dividend, etc. to the balance standing at the credit of the fund referred in clause (vii) above shall also be considered in the prescribed limit of INR 750,000 per FY.

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

❖ **Amendment to section 140A, 156, 191 and 192 of the Act [Clauses 68, 71, 72 and 73]**

Deferment of tax payment on account of allotment of security or sweat equity shares under Employee Stock Option Scheme (ESOP) issued by eligible start-up company/ limited liability partnership (the start-up) as prescribed in section 80 IAC of the Act

Amendment in Section 192 of the Act (clause 73)

As per the existing provision of section 192 (1) of the Act, every employer is required to withhold taxes at an average rate of tax at the time of making salary payment (including taxable benefits) to its employees.

In order to boost the start-up ecosystem and to address the cash flow issue faced by the employee due to withholding of tax at the time of allotment or transfer of shares issued under ESOP by the employer, it is proposed to provide relief to the employee whereby the employee can defer the tax payment up to 48 months, subject to conditions.

The Finance Bill 2020 has proposed to insert sub-section (1C), after section 192 (1B) whereby the start-up may deduct or pay tax on the perquisite income earned by its employees on account of allotment or transfer of shares either directly or indirectly under its ESOP scheme within 14 days -

- after the expiry of 48 months for the end of the relevant assessment year; or
- from the date of the sale of such shares issued under ESOP by the employee; or
- from the date taxpayer ceases to be the employee of such start-up, whichever is earliest on the basis of rates in force for the FY in which such shares are allotted or transferred.

Consequential amendment is made in below sections in providing relief in case of tax or interest payment on taxable perquisite income of the employee arisen on account of shares issued under ESOP by the start-up:

Payment of self-assessment tax along with interest and fees (Clause 68)

It has now been proposed to insert clause (vi) under section 140A (1) to grant relief of tax or interest paid by the employee on shares issued under ESOP either directly or indirectly by the start-up while calculating the self-assessment tax amount.

Notice of demand issued under section 156 of the Act (Clause 71)

It is proposed to renumber section 156 of the Act as sub-section (1) and insert clause (2) whereby any tax or interest on account of perquisite income earned due to transfer or allotment of shares as per ESOP either directly or indirectly by the start-up included in the notice of demand shall be payable within 14 days –

- after the expiry of 48 months for the end of the relevant assessment year; or
- from the date of the sale of such shares issued under ESOP by the employee; or
- from the date taxpayer ceases to be the employee of such start-up, whichever is earliest

Income tax payment under section 191 of the Act (Clause 72)

It is proposed to renumber section 191 of the Act as sub-section (1) and insert clause (2) whereby any tax payable on account of perquisite income earned due to transfer or allotment of shares as per ESOP either directly or indirectly by start-up shall be payable by the taxpayer within 14 days –

- after the expiry of 48 months for the end of the relevant assessment year; or
- from the date of the sale of such shares issued under ESOP by the employee; or
- from the date taxpayer ceases to be the employee of such start-up, whichever is earliest

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

❖ **Amendment to section 10 of the Act [Clause 7]**

Amendment to sub-section (34) and (35) of the Act

As a result of abolishment of Dividend Distribution Tax, it is proposed to withdraw exemption benefit provided under section 10(34) and section 10(35) with respect to income earned from dividend and units of a mutual fund respectively.

The above amendment shall take effect from 1 April 2021 and will, accordingly apply in relation to the assessment year 2021-22 and subsequent assessment years.

Amendment to sub-section (45) of the Act

Finance Bill 2020 proposed to withdraw certain benefits like value of rent free official residence, conveyance allowance, sumptuary allowance, etc. provided to Union Public Service Commission (UPSC), judge of the Supreme Court, members and Chief Election Commissioner and Election Commissioners by deleting sub-section (45) of section 10 of the Act.

The above amendment shall take effect from 1 April 2021 and will, accordingly apply in relation to the assessment year 2021-22 and subsequent assessment years.

CORPORATE TAX

❖ **Amendment to section 115JC of the Act [Clause 57]**

Rationalization of provisions relating to tax audit in certain cases.

Section 115JC(1) provides that where the regular income-tax payable for a previous year by a person, other than a company, is less than the alternate minimum tax payable for such previous year, the adjusted total income shall be deemed to be the total income of that person for such previous year and he shall be liable to pay income-tax on such total income at the rate of 18.5%.

Section 115JB(3) provides that every person to whom the said section applies shall obtain a report in such form as may be prescribed, from an accountant, certifying that the adjusted total income and the alternate minimum tax have been computed in accordance with the provisions of this Chapter and furnish such report on or before the due date for furnishing of return of income under section 139(1).

It is proposed to amend the said sub-section (3) so as to provide that every person to whom the said section applies shall obtain a report before the specified date referred to in section 44AB i.e. one month prior to the due date for filing of return under section 139(1) of the Act.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-2021 and subsequent assessment years.

Incentives to individuals and HUF

It is also proposed to insert a new sub-section (5) in section 115JC to provide that the provisions contained therein shall not apply to a person who has exercised the option referred to in section 115BAC or section 115BAD.

This amendment will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

❖ **Amendment to section 115JD of the Act [Clause 58]**

Incentives to resident co-operative societies, Individuals and HUF

Section 115JD of the Income-tax Act contains provisions relating to tax credit for alternate minimum tax.

It is proposed to insert a new sub-section (7) in the said section 115JD to provide that the provisions contained therein shall not apply to a person who has exercised the option referred to in section 115BAC or section 115BAD.

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

❖ **Amendment to Section 115BAA of the Act [Clause 51]**

Currently, section 115BAA of the Act, inter-alia, provides benefit of reduced rate of 22% to domestic companies, subject to fulfillment of certain prescribed conditions. One of the conditions prescribed is deductions under Heading C of Chapter VI-A are not claimed. However, the company can claim deduction under Heading A, B, CA and D of Chapter VI-A and also under Section 80JJAA of the Act. These provisions are applicable on or after 1 April 2020.

The Finance Bill proposes to amend Section 115BAA of the Act to provide that deductions would be available under section 80JJAA (Deduction in respect of employment of new employees) and section 80M (Deduction in respect of certain inter corporate dividends) of the Act to the company. However, no other deductions under chapter VIA of the Act would be available to the company.

This amendment will take effect from 1st April, 2020 and accordingly apply in relation to the assessment year 2020-2021 and the subsequent assessment years.

❖ **Amendment to Section 115BAB of the Act (Clause 52)**

TCAA inserted section 115BAA and section 115BAB in the Act to provide domestic companies an option to be taxed at concessional tax rates provided they do not avail specified deductions and incentives. One of the deductions prohibited is deductions under any provisions of Chapter VI-A under the heading "C. Deduction in respect of certain incomes" other than the provisions of section 80JJAA.

It is proposed to amend the provisions of section 115BAA and section 115BAB to not allow deduction under any provisions of Chapter VI-A other than section 80JJAA or section 80M, in case of domestic companies opting for taxation under these sections.

Currently, section 115BAB of the Act, inter-alia, provides benefit of reduced rate of 15% to manufacturing domestic companies set up and registered on or after 1st October 2019 and subject to fulfillment of certain other prescribed conditions. One of the conditions prescribed is deductions under Heading C of Chapter VI-A are not claimed. However, the company can claim deduction under Heading A, B, CA and D of Chapter VI-A and also under Section 80JJAA of the Act. These provisions are applicable on or after 1 April 2020.

The Finance Bill proposes to amend Section 115BAB of the Act to provide that deductions would be available under section 80JJAA (Deduction in respect of employment of new employees) and section 80M (Deduction in respect of certain inter corporate dividends) of the Act to the company. However, no other deductions under chapter VIA of the Act would be available to the company.

Further, a new explanation is proposed to be inserted in sub-section (2), so as to include the business of generation of electricity in “manufacturing or production of an article or thing” for the purposes of clause (b) of the said sub-section.

These amendment will take effect from 1st April, 2020 and accordingly apply in relation to the assessment year 2020-2021 and the subsequent assessment years.

- ❖ **Amendments to section 10 relating to incomes not included in total income [Clause 7]**
 - Rationalizing the process of registration of trusts, institutions, funds, university, hospital,**
 - Exemption in respect of certain income of wholly owned subsidiary of Abu Dhabi Investment Authority and Sovereign Wealth Fund.**
- o It is proposed to insert a new clause (23FE) under section 10 to provide an exemption in respect of any income of a specified person in the nature of dividend, interest or long-term capital gains arising from an investment made by it in India, whether in the form of debt or equity, if the investment:
 - i. is made on or before the 31st day of March, 2024;
 - ii. is held for at least three years; and
 - iii. is in a company or enterprise carrying on the business of developing, or operating and maintaining, or developing, operating or maintaining any infrastructure facility as defined in the Explanation to clause (i) of subsection (4) of section 80-IA or such other business as may be notified by the Central Government in this behalf.
- o It is further proposed to insert an Explanation to section 10(23FE) to define “specified person” for the purposes of this clause to mean:
 - (a) a wholly owned subsidiary of the Abu Dhabi Investment Authority which
 - is a resident of the United Arab Emirates; and
 - makes investment, directly or indirectly, out of the fund owned by the Government of the United Arab Emirates;
 - (b) sovereign wealth fund which satisfies the following conditions
 - It is wholly owned and controlled, directly or indirectly, by Government of a foreign country;
 - It is set up and regulated under the law of the foreign country;
 - Its earnings are credited either to the account of the Government of the foreign country or to any other account designated by that Government such that no portion of the earnings inures any benefit to any private person;

- Its asset vest in the Government of the foreign country upon dissolution;
- It does not undertake any commercial activity whether within or outside India; and
- It is notified by the Central Government in the Official Gazette for this purpose.

This amendment will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

Exemption in respect of certain income of Indian Strategic Petroleum Reserves Limited.

- o It is proposed to insert a new clause (48C) under section 10 to provide exemption in respect of any income accruing or arising to Indian Strategic Petroleum Reserves Limited, being a wholly owned subsidiary of Oil Industry Development Board under the Ministry of Petroleum and Natural Gas, as a result of arrangement for replenishment of crude oil stored in its storage facility in pursuance of directions of the Central Government in this behalf.
- o It is further proposed to insert a proviso to the said section 10(48C) to provide that nothing contained in this clause shall apply to an arrangement if the crude oil is not replenished in the storage facility within three years from the end of the financial year in which the crude oil was removed from the storage facility for the first time.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-2021 and subsequent assessment years.

❖ **Amendment to Section 80-IAC of the Act**

Rationalization of provisions of start-ups (clause 36)

Currently, section 80 IAC of the Act, inter-alia, provides for a deduction of 100% of profits for any three consecutive assessment years out of seven years beginning from year in which the eligible start-up is incorporated. This deduction is available to start-ups which are incorporated on or after 1 April 2016 but before 1 April 2021 and its total turnover does not exceed ₹ 25 crore in the year in which deduction is claimed.

It is proposed to amend the aforesaid section to:

- Increase the time frame to claim deduction for 3 consecutive assessment years out of 10 years from the date of incorporation (as against 7 years provided in the earlier provisions);
- Increase in turnover threshold of eligible start-up from ₹ 25 crore to ₹ 100 crore in the year in which deduction is claimed.

This amendment will take effect from 1 April 2021.

❖ **Amendment to Section 80-IBA of the Act**

Extending time limit for availing deduction under under Section 80-IBA (clause 38)

Currently, section 80-IBA of the Act, inter-alia, provides a deduction of 100% of profits derived from business of developing and building housing projects, provided such housing projects are approved by the competent authority after 1 June 2016 but before 31 March 2020.

It is proposed to amend the said section 80-IBA of the Act to provide that the deduction would be available for profit arising from housing projects which are approved by the competent authority before 31 March 2021 (thereby granting an extension of one year for approval of the housing project).

This amendment will take effect from 1 April 2021.

❖ Amendments to section 9A of the Act

Modification in conditions for offshore funds' exemption from 'business connection' [Clause 6]

Section 9A of the Act provides for a special regime in respect of offshore funds by providing them exemption from creating a "business connection" in India on fulfilment of certain conditions. Section 9A(3) provides for the conditions to be fulfilled for being an eligible investment fund. Section 9A(3)(c) provides that the aggregate participation or investment in the fund, directly or indirectly, by persons resident in India should not exceed 5% of the corpus of the fund.

It is proposed to insert a proviso to section 9A(3)(c) for the purpose of calculation of the aggregate participation or investment in the fund, directly or indirectly, by Indian resident, contribution of the eligible fund manager during first three years up to twenty-five crore rupees shall not be accounted for.

Currently, the first proviso to section 9A(3)(j) provides that where the fund has been established or incorporated in the previous year, the corpus of fund shall not be less than 100 crore rupees at the end of six months from the last day of the month of its establishment or incorporation, or at the end of such previous year, whichever is later.

It is proposed to amend the first proviso to section 9A(3)(j) to provide that if the fund has been established or incorporated in the previous year, the condition of monthly average of the corpus of the fund to be at one hundred crore rupees shall be fulfilled within twelve months from the last day of the month of its establishment or incorporation. This amendment will take effect from 1st April, 2020. and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

This amendment will take effect from 1 April 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

❖ Amendment of section 194LC of the Act to extend the period of concessional rate of withholding tax and also to provide for the concessional rate to bonds listed in stock exchanges in IFSC (Clause 82)

Section 194LC provided for a concessional withholding tax rate of five percent for a specified company or a business trust, on interest paid to non-residents on the following forms of borrowings (approved by the Central Government) made in foreign currency from sources outside India:

- i. Monies borrowed under a loan agreement at any time on or after 1st July, 2012 and before 1st July, 2020;
- ii. Borrowings by way of issue of any long-term infrastructure bond at any time on or after 1st July, 2012 and before 1st July, 2014;
- iii. Borrowings by way of issue of long-term bond including long-term infrastructure bonds at any time on or after 1st of October 2014 and before 1st July, 2020;

It is now proposed to:

- i. extend the period of said concessional withholding tax rate of five percent to 1st July, 2023 from 1st July, 2020 in (i) and (ii) above;
- ii. provide for a lower withholding tax rate of four percent on the interest payable to a non-resident, in respect of monies borrowed in foreign currency from a source outside India, by

way of issue of any long term bond or RDB on or after 1st April, 2020 but before 1st July, 2023 and which is listed only on a recognised stock exchange located in any IFSC.

These amendments will take effect from the 1st April, 2020.

❖ **Amendment to Section 194LD of the Act**

Income by way of interest on certain bonds and government securities (Clause 83)

The said section provides that the interest payable on or after the 1st July, 2013 but before the 1st July, 2020, with respect to investments made by Foreign Institutional Investors (FII) and Qualified Foreign Investors (QFIs) in a rupee denominated bonds of an Indian company or a Government security shall be eligible for lower withholding tax rate of 5 per cent.

It is proposed to amend the said sub-section to extend the concessional withholding tax rate of 5 percent on the interest payable on or after the 1st day of July, 2013 but before the 1st day of July, 2023, in respect of investments made in rupee denominated bonds of an Indian company or a Government security.

It is further proposed to insert clause (b) to sub-section 2 of section 194LD to provide for a concessional withholding tax rate of 5 percent on interest payable to FII and QFI on or after the 1st day of April, 2020 but before the 1st day of July, 2023 in respect of investments made in municipal debt securities. The term municipal debt securities is proposed to be defined in the new clause (ba) in the Explanation to the said section to have the same meaning as assigned to it in clause (m) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Issue and Listing of Municipal Debt Securities) Regulations, 2015.

These amendments will take effect from 1 April 2020.

REMOVING DIFFICULTIES FACED BY TAX PAYERS

❖ **Amendment to Section 94B of the Act**

Disallowance of interest under section 94B of the Act shall not be applicable to interest paid to PE of a non-resident bank [Clause 46]

Section 94B of the Act provides that where an Indian company or a PE of a foreign company being a borrower incurs any expenditure by way of interest or similar nature exceeding ₹ 1 crore payable to its non-resident Associated Enterprises (AE) in respect of any debt issued by such AE or payable to a lender to whom the AE either provides an implicit or explicit guarantee, then excess interest [i.e. lower of total interest incurred in excess of 30% of earnings before interest, taxes, depreciation and amortisation (EBITDA) or Interest paid or payable to the AE] shall be disallowed.

Under the existing provisions of section 94B, interest paid or payable in respect of loan from a branch of a foreign bank in India is also covered. This is due to the fact that a branch of a foreign bank in India qualifies as a non-resident in India. Furthermore, the definition of AE in section 92A, inter alia, deems two enterprises to be AE, if during the previous year a loan advanced by one enterprise to the other enterprise is at 50 percent or more of the book value of the total assets of the other enterprise.

It is therefore proposed to amend section 94B of the Act so as to provide that provisions of interest limitation would not apply to interest paid in respect of a debt issued by a lender which is a PE of a non-resident, being a person engaged in the business of banking, in India.

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent years

❖ **Amendment to 43CA of the Act**

Increase in safe harbour limit to 10 per cent (clause 22)

Section 43CA of the Act provide that where the consideration received or accruing as a result of the transfer of an asset (other than a capital asset), being land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty, the value so adopted or assessed or assessable shall, shall be deemed to be the full value of the consideration received or accruing as a result of such transfer. It further states that if the value assessed or assessable for the purpose of stamp duty is not more than 105% of the consideration received or accruing, then such consideration so received or accrued shall be considered as full value of consideration.

Thus, the aforementioned section provides for a safe harbour of 5%. It is now proposed to increase the safe harbour limit from 5% to 10%.

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent years.

Current amendment is proposed to prevent hardship to tax payers. In past, the courts have held that where such an intention exists, a provision that is curative and declaratory in nature and not a substantive amendment will apply retroactively i.e. from the date when section 43CA was introduced.

❖ **Amendment to Section 50C of the Act**

Provisions relating determination of full value of consideration for transfer of land and building – Amendment to third proviso to increase safe harbour limits [Clause 27]

As per the third proviso to 55(1) of the Act, provide that where the value adopted or assessed or assessable by the stamp valuation authority does not exceed 105% of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of section 48, be deemed to be the full value of the consideration.

It is proposed to increase the above limit from five percent to ten percent.

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-2022 and subsequent assessment years.

Before the earlier amendment it was held by various judicial pronouncements that where difference between the agreement value and value adopted by the stamp duty authorities is less than ten percent no addition to be made. Current amendment is proposed to prevent hardship to tax payers. In past, the courts have held that where such an intention exists, a provision that is curative and declaratory in nature and not a substantive amendment will apply retroactively i.e. from the date when section 50C was introduced.

❖ **Amendments to section 56(2) of the Act [Clause 29]**

Consequential amendment to section 56(2)(v)/(vi)/(vii) of the Act to exclude ‘trust or institution registered under newly inserted section 12AB of the Act’:

Pursuant to insertion of section 12AB of the Act in relation to the procedure for fresh registration of trust or institution, consequential amendment has been made to section 56(2)(v)/(vi)/(vii) of the Act.

Amendment to proviso (g) to clause (v)/(vi)/(vii) of section 56(2) of the Act

It is proposed to provide that the provisions of section 56(2)(v)/(vi)/(vii) shall inter-alia not apply to any trust or institution registered under section 12AB of the Act.

This amendment will take effect from 1 June 2020.

Provisions relating to deemed income under section 56(2)(x)

Currently, section 56(2)(x) of the Act *inter-alia* provides that where any person receives, in any previous year, from any person or persons on or after 1st April, 2017, any immovable property, for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees or by an amount equal to five per cent of the consideration, whichever is higher, the stamp duty value of such property as exceeds such consideration shall be charged to tax under the head “income from other sources”.

It is proposed to amend the above provision by increasing the aforesaid limit of five percent to ten percent.

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

❖ **Amendment to section 35AD**

Option for not availing deduction under section 35AD [Clause 18]

Section 35AD of the Act, relating to deduction in respect of expenditure on specified business, provides for 100 percent deduction on capital expenditure (other than expenditure on land, goodwill and financial assets) incurred by the assessee on certain specified businesses. There was no option for not availing the incentive under said section.

After introduction of section 115BAA and 115BAB, a possible interpretation was that domestic companies opting for concessional rates under this section would be denied normal depreciation under section 32 by operation of section 35AD(4) of the Act.

Therefore, Finance Bill, 2020, proposes to amend section 35AD(1) of the Act to make the deduction optional thereunder. It is further proposed that no deduction will be allowed in respect of expenditure incurred and claimed under sub-section (1) in any other section in any previous year or under this section in any other previous year, if the deduction has been claimed by the assessee and allowed to him under this section.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

❖ **Amendment to section 115A of the Act**

Provision relating to tax on dividends, royalty and technical service fees in the case of foreign companies [Clause 47]

In light of the proposed abolition of dividend distribution tax under section 115-O of the Act, consequential amendment under section 115A has been proposed. In sub-section (1) clause (a), the reference of dividends referred to in section 115-O has been proposed to be omitted.

Currently, non-residents receiving only interest or dividend income from India are exempt from filing return of income under section 139(1) provided that tax has been deducted at source from such income. The said exemption has now been extended to income in the nature of royalty and fees for technical services as per section 115A(1)(b) on which tax has been withheld at source.

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

❖ **Substitution of new section for section 72AA of the Act**

Allowing carry forward of losses or depreciation in certain amalgamations [Clause 31]

Currently, section 72AA of the Act provides for carry forward and set-off of accumulated losses and unabsorbed depreciation allowance only in the case of amalgamation of banking company with any other banking institution under a scheme sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of the Banking Regulation Act, 1949.

It is proposed to substitute section 72AA of the Act to allow carry forward and set-off of accumulated losses and unabsorbed depreciation allowance in case of amalgamation of the following:

1. One or more banking company with any other banking institution under a scheme sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of the Banking Regulation Act, 1949; or
2. One or more corresponding new bank or banks with any other corresponding new bank under a scheme brought into force by the Central Government under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 or both, as the case may be; or
3. One or more Government company or companies with any other Government company under a scheme sanctioned and brought into force by the Central Government under section 16 of the General Insurance Business (Nationalisation) Act, 1972.

For the purpose of this section inter-alia terms 'corresponding new bank', 'general insurance business' and 'Government Company' have also been defined.

These amendments will take effect from 1 April 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent years.

MEASURES TO PROVIDE TAX CERTAINTY

❖ **Amendment to the First Schedule**

Allowing deduction for amount disallowed under section 43B, to insurance companies on payment basis [Clause 104]

Rule 5 of the First Schedule to the Act provides for computation of profits and gains of insurance business other than life insurance. It states that profits and gains shall be taken to be the profit before tax and appropriations as disclosed in the profit and loss account prepared in accordance with the provisions of the Insurance Act, 1938 or the rules made thereunder or the provisions of the Insurance Regulatory and Development Authority Act, 1999 or the regulations made thereunder, subject to:

- o any expenditure debited to the profit and loss account which is not admissible under the provisions of sections 30 to 43B shall be added back;
- o any gain or loss on realization of investment shall be added or deducted, as the case may be, if the same is not credited or debited to the profit and loss account;
- o any provision for diminution in the value of investment debited to the profit and loss account shall be added back.

As apparent, Rule 5 does not provide for deduction of payment of certain expenses specified in section 43B if they are paid in subsequent years. However, there is a possibility that such sum may not be allowed as deduction in the previous year in which the payment is made. Thus, with a view to rationalize this, it is proposed to insert a proviso after clause (c) of the said Rule 5 to provide for a deduction of any sum payable by the assessee which is added back under section 43B of the Act in accordance with clause (a) of the said rule in computing the income in the previous year in which such sum is actually paid.

This amendment will take effect from 1 April 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

❖ **Amendment to Section 194J of the Act**

Withholding tax provisions for fees for professional or technical services [Clause 79]

Section 194J provides for tax withholding in case of payments by a person to a resident by way of fees for professional services or technical services, any remuneration or fees or commission to any director of the company, royalty or any sum referred to section 28(va) of the Act.

It is proposed to amend the withholding tax rate to 2 percent from the present rate of 10 percent in case of payments in case of fees for technical services and not for fees for professional services. The rate for other cases shall remain the same.

Further, it is proposed to amend the proviso in the said section with reference to the monetary limit specified in clause (a) or clause (b) of section 44AB of the Act i.e. ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession.

This amendment will take effect from 1 April 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

WIDENING AND DEEPENING OF TAX BASE

❖ **Amendments to Section 194A of the Act**

Provisions relating to tax deduction at source on interest other than “Interest on Securities” – Amendment to proviso to sub-section (1), sub-section (3) to section 194A of the Act [Clause 75]

Currently, proviso to sub-section (1) provides that an individual or HUF, whose total sales, gross receipts, turnover from business or profession carried on exceeds the monetary threshold specified under section 44AB then such individual or HUF shall be liable to withhold tax under the aforesaid section.

In light of the amendment extending threshold for getting books of accounts audited under section 44AB, consequential amendment is required to proviso to sub-section (1) to section 194A. Proposed amendment has deleted the reference to the monetary limits specified under clause (a) and clause (b) of section 44AB and replaced the same by providing the monetary limit of one crore rupees in case of business or fifty lakh rupees in case of profession for being liable to withhold tax under the said section.

Further, the Finance Bill proposes to widen the scope of section 194A by including payments made by large co-operative societies. Sub-section (3) lays down the cases where tax deduction provisions of section 194A(1) shall not be applicable. Clause (v) to sub-section (3) is in relation to income paid by a co-operative society to a member or to any other co-operative society. Further, clause (via) relates to income credited or paid in respect of deposits with co-operative society, among others. As per the said clauses, co-operative society is not liable to withhold tax on such payments under section 194A(1).

In order to extend the scope of section 194A, it is proposed to amend sub-section (3) by inserting a proviso which shall provide that co-operative society referred to in clause (v) and (viia) shall be liable to deduct tax in accordance with section 194A(1), if-

- (a) The total sales, gross receipts or turnover of the co-operative society exceeds fifty crore rupees during the financial year immediately preceding the financial year in which the interest referred to in sub-section (1) is credited or paid; and
- (b) The amount of interest, or the aggregate of the amount of such interest, credited or paid, or is likely to be credited or paid, during the financial year is more than fifty thousand rupees in case of payee being a senior citizen and forty thousand rupees in any other case.

This amendment will take effect from 1 April 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

❖ **Insertion of New Section 194-O of the Act**

Provisions relating to deduction of tax at source on payment of certain sums by e-commerce operator to e-commerce participants [Clause 84]

It is proposed to insert section 194-O of the Act relating to payment of certain sums by e-commerce operator to e-commerce participants.

The proposed sub-section (1) provides that notwithstanding anything contrary contained in Chapter B of the Chapter XVII-B, in case of sale of goods or provision of service facilitated by an e-commerce operator through digital or electronic facility or platform, the e-commerce operator is required to deduct tax on payment to e-commerce participant.

The tax is to be deducted at the time of credit of amount of sale or service or both to the account of the e-commerce participant or at the time of payment thereof to such participant by any mode, whichever is earlier. Further, the tax shall be deducted at the rate of 1 percent on the gross amount of such sales or service or both.

Any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant shall be deemed to be amount credited or paid by the e-commerce operator to the e-commerce participant and shall be included for the purpose of deduction of tax.

It is proposed to insert sub-section (2) which provides a threshold limit of gross amount of five lakhs rupees in a case where the sum credited or paid to an e-commerce participant being an individual or HUF and the e-commerce participant has furnished Permanent Account Number (PAN) or Aadhar number to the e-commerce operator.

It is also clarified by inserting sub-section (3) that if in case where the tax has been deducted as per the provisions of this section or is exempted based on the threshold limit under this section, no tax will be deducted under any other provisions of Chapter XVII-B. However, the said clarification is not applicable to any amount received or receivable by an e-commerce operator for hosting advertisements or providing any other services which are not in connection with sale of goods or services as covered under the sub-section (1) of the proposed section.

The section also provides for definition of the terms of “e-commerce operator”, “e-commerce participant”, “electronic commerce”, “services”.

In order to align the new provision for existing provisions, it is proposed to amend section 197(certificate for lower tax deduction), section 204 (person responsible for paying any sum) and section 206AA (to provide for tax deduction at 5 per cent in non PAN/Aadhar cases).

This amendment will take effect from 1 April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

❖ **Amendment to section 206C of the Act**

Provisions in relation to collection of tax at source (Clause 93)

Currently, under section 206C provides for collection of tax at source on business of trading in alcohol, liquor, forest produce, scrap, etc. wherein a seller, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such amount from the said buyer, whichever is earlier, collect from the buyer of certain goods a sum equal to the specified rate as income-tax.

In order to widen the provisions of section 206C, it is proposed to include the following two items under the ambit of section 206C vide insertion of sub-section (1G) and (1H):

Insertion of new sub-section (1G)

- Authorised dealer shall be liable to collect TCS if it receives any amount/aggregate amount of ₹ 7 lakh or more in a financial year for remittance out of India under the Liberalized Remittance Scheme.
- Seller of an overseas tour program package who receives any amount from the purchaser of such package, shall be liable to collect TCS.

The applicable rate of TCS shall be 5 per cent, in case of non-PAN/non-Aadhaar cases, the rate of TCS shall be per cent.

“Authorized Dealer” has been defined to mean any person authorized by the RBI under sub-section (1) of section 10 of FEMA, 1999 to deal in foreign exchange or foreign security.

“Overseas tour program package” has been explained as any tour package which offers visit to a country/ies or territory/ies outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature.

Insertion of new sub-section (1H)

A seller receiving any amount as consideration for sale of any goods of the value or aggregate value exceeding rupees fifty lakhs in any previous year, other than the goods covered in sub-section (1) or (1F) or (1G) shall collect TCS from the buyer at the time of receipt of such amount at the rate of 0.1% of the sale consideration exceeding rupees fifty lakh. In case of non-PAN/non-Aadhaar cases the rate of TCS shall be 1%.

This sub-section shall not apply in case the buyer is liable to deduct TDS under any other provisions of this Act and has deducted such amount.

This amendment will take effect from 1 April 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

IMPROVING EFFECTIVENESS OF TAX ADMINISTRATION

❖ **Amendment to Section 143 of the Act**

Modification of e-assessment scheme to include best judgement assessment [Clause 69]

Section 143 of the Act, provides the manner for processing and assessment of return of income where a return has been made under section 139, or in response to a notice under sub-section (1) of section 142 of the Act.

o **Widening the scope of sub-section 3A of Section 143 of the Act.**

As per the said section, the Central Government is authorised to make a scheme, by notification in the Official Gazette, to enhance the efficiency of completing the assessment under section 143(3) of the Act *inter alia* through electronic means.

It is proposed to amend the said sub-section 3A of the Act to include the reference of section 144 of the Act in it, to enable the assessment under section 144 under the notified scheme.

o **Widening the scope of sub-section 3B of Section 143 of the Act.**

The said section provides that the Central Government is authorised for the purpose of giving effect to the scheme under sub-section 3A, by notification in the Official Gazette, to direct that any provisions of the Act shall not apply or shall apply with such exceptions, modification and adaptations as may be specified in the notification relating to the assessment of total income or loss of the assessee.

It is proposed to make an amendment to provide that the Central Government may issue any direction under section 143(3B) of the Act up to 31st March, 2022.

These amendments will take effect from 1 April, 2020.

❖ **Amendment to Section 144C of the Act.**

Reference to Dispute Resolution Panel. (Clause 70)

The said section of the Act provides that in case of certain eligible assessee, the Assessing Officer is required to forward a draft assessment order to the eligible assessee, if he proposes to make any variation in the income or loss returned which is prejudicial to the interest of such assessee. Such eligible assessee with respect to such variation may file his objection to the DRP.

It is proposed to omit the words “in the income or loss returned” as appearing in sub-section (1) of section 144C of the Act.

It is also proposed to amend the provisions of section 144C of the Act by including cases, where the Assessing Officer proposes to make any variation which is prejudicial to the interest of the assessee, which are within the ambit of said section.

Further, the scope of the definition of eligible assessee has been expanded by including a non-resident not being a company in the definition.

This amendment will take effect from 1 April, 2020.

❖ **Amendment to Section 250 of the Act**

Introduction of e-appeal [Clause 95]

In furtherance to the advent of e-assessment scheme which imparts greater efficiency, transparency and accountability to the assessment process under the Act and in order to ensure that the reforms initiated by the Department to eliminate human interface from the system reach the next level, it is proposed to launch an e-appeal scheme be launched on the lines of e-assessment scheme.

Accordingly, it is proposed to insert sub-section (6A) in section 250 of the Act to provide for the following:

- o Empowering Central Government to notify an e-appeal scheme for disposal of appeal so as to impart greater efficiency, transparency and accountability.
- o Eliminating the interface between the Commissioner (Appeals) and the appellant in the course of appellate proceedings to the extent technologically feasible.

- o Optimizing utilization of the resources through economies of scale and functional specialisation.
- o Introducing an appellate system with dynamic jurisdiction in which appeal shall be disposed of by one or more Commissioner (Appeals).

It is also proposed to empower the Central Government, for the purpose of giving effect to the scheme made under the proposed sub-section, by notification in the Official Gazette, to direct that any of the provisions of this Act relating to jurisdiction and procedure of disposal of appeal shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. However, such directions are to be issued on or before 31st March 2022. It is also proposed that every notification so issued shall be required to be laid before each House of Parliament.

This amendment will take effect from 1 April 2020.

❖ **Amendment to Section 133A of the Act
Providing check on survey operations [Clause 65]**

As per section 133A, income-tax authority is empowered to conduct survey at the business premises of the assessee under his jurisdiction. To prevent the possible misuse of such powers, a proviso to sub-section (6) was introduced to prohibit income-tax authority below the rank of Joint Director or Joint Commissioner to conduct any survey without prior approval of the Joint Director or the Joint Commissioner, as the case may be.

It is proposed to substitute the proviso to sub-section (6) of section 133A to provide that,-

- o in a case where the information has been received from the prescribed authority, no income-tax authority below the rank of Joint Director or Joint Commissioner, shall conduct any survey under the said section without prior approval of the Joint Director or the Joint Commissioner, as the case may be; and
- o in any other case, no income-tax authority below the rank of Commissioner or Director, shall conduct any survey under the said section without prior approval of the Commissioner or the Director, as the case may be.

This amendment will take effect from 1 April 2020.

❖ **Amendment to Section 254 of the Act - Grant of stay by the Income-tax Appellate Tribunal [Clause 97]**

Currently, the first proviso to section 254(2A) of the Act allows the Income Tax Appellate Tribunal to grant a stay from the recovery of alleged demand after considering the merits of the application made by an assessee. Such a stay can be granted for a maximum period of 180 days.

The second proviso permits the Income Tax Appellate Tribunal to grant an extension to the stay of recovery of demand, where the appeal has not been disposed off within the tenure of the first stay, if the delay is not attributable to the assessee. The total stay including the aforesaid extension cannot exceed 365 days.

Finance Bill, 2020 has proposed to amend the aforesaid provisos of section 254(2A) of the Act to provide that the ITAT may grant a stay from recovery of demand only if the assessee deposits not less than 20 percent of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act, or furnishes a security of equal amount. Similar condition of payment of 20 percent of demand has being prescribed by the CBDT through its Office Memorandum while

preferring appeal before first appellate authority i.e. CIT(A). However Supreme Court in case of L E Electronics India Private Limited has held that the Commissioners can grant stay on payment of an amount lesser than 20% depending upon the facts of individual cases.

Further, the extension of any stays from recovery of demand currently granted is also proposed to be subject to the condition that the assessee deposits not less than 20 percent of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act, or furnishes a security of equal amount. The total stay granted by ITAT cannot exceed 365 days, as is currently the case. Further Courts has consistently taken a view that the Tribunal has power to extend the stay beyond 365 days even after the substituted third proviso to subsection 2A to Section 254 of the Act was introduced.

This amendment will take effect from 1 April, 2020.

❖ **Amendment to section 274 of the Act**

Procedure for imposing penalty under Chapter XXI of the Act [Clause 100]

Currently, in response to a show cause notice issued by an assessing officer, an assessee or his authorised representative is still required to visit the assessing officer. In order to further reduce human interface and to impart greater efficiency, transparency, and accountability, an e-penalty scheme is proposed to be provided for, through insertion of subsections 2A, 2B and 2C under section 274 of the Act relating to the procedure of imposing penalty.

The sub-sections will provide for:

- eliminating the interface between the assessing officer and the assessee in the course of proceedings to the extent technologically feasible;
- optimising utilisation of the resources through economies of scale and functional specialisation;
- introducing a mechanism for imposing of penalty with dynamic jurisdiction in which penalty shall be imposed by one or more income-tax authorities.

Enabling amendments are proposed to empower the Central Government to issue notifications in the Official Gazette directing that any of the provisions of the Act relating to jurisdiction and procedure of imposing penalty shall not apply or shall apply with exceptions / modifications / adaptations. Such directions are to be issued on or before 31 March, 2022 after procuring an approval from the Indian Parliament.

This amendment will take effect from 1 April, 2020.

INSERTION OF TAXPAYER'S CHARTER IN THE ACT

❖ **Insertion of section 119A**

Taxpayer's charter [Clause 64]

The Budget 2020 proposes to insert new section 119A to empower the CBDT to adopt and declare a Taxpayer's Charter and issue such orders, instructions, directions or guidelines to other income tax authorities as it may deem fit for the administration of Charter.

This amendment will take effect from 1 April 2020.

PREVENTING TAX ABUSE

❖ **Amendment to Section 6 of the Act**

Modification of residency provisions [Clause 4]

Existing provisions of Section 6 of the Act provides for conditions to be fulfilled by a person for being treated as a ‘resident’, ‘not-ordinarily resident’ or ‘non-resident’ in India. The conditions are based on the number of days stay in India and the person’s residential status for prior assessment years. Instances have come to notice where Indian citizens or person of Indian origin visiting India during the year have misused the residency provisions.

Amendment to Section 6(1)(b) of the Act

Existing provisions of section 6(1) of the Act provide that an individual shall be resident in India in a previous year if

- (i) his stay in India is for more than 182 days in that year, or
- (ii) his stay in India is more than 60 days in that year and more 365 days in the preceding 4 year period.

Further, Indian citizens / person of Indian origin have been given a relaxation whereby they shall be treated as an Indian resident only if they complete 182 days or more instead of 60 days in that year. In order to avoid misuse of such extended period of 182 days, the Finance Bill proposes to reduce the exception provided to persons visiting India to 120 days from existing 182 days by amending clause (b) in Explanation 1 to Section 6(1) of the Act.

Insertion of clause (2) to Section 6 of the Act

Individuals (including high net worth individuals) arrange their affairs such that they is not liable to tax in any country / jurisdiction during a year. In order to curb the practice of tax avoidance by such individuals and in light of current development in the global tax environment where double non-taxation are being systematically closed, it has been proposed to insert clause (2) to section 6 of the Act to provide that an Indian citizen who is not liable to tax in any other country or territory shall be deemed to be resident in India.

Substitution of clause (6) to Section 6 of the Act

Clause (6) to Section 6 of the Act has been substituted to provide that an individual or an HUF shall be treated as “not ordinarily resident” in India in a previous year, if the individual or the manager of the HUF has been a non-resident in India in seven out of ten previous years preceding that year. It has been proposed to delete the second condition of completing an overall period of 729 days in India in seven years preceding that year.

These amendments will take effect from 1 April 2021 and will apply in relation to Assessment year 2021-22 and subsequent assessment years.

❖ **Amendment to Section 194C of the Act**

Provisions amending definition of “specified person” and “work” in section 194C of the Act (clause 76)

Currently, any person responsible for paying any sum to a resident contractor for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract is liable to deduct tax at source equal to one per cent of the amount of payment in case payment is made to an individual or an HUF and two per cent of the amount in other cases at the time of such credit or at the time of payment whichever is earlier.

Provisions amending definition of “specified person” under Item (B) of sub-clause (I) of clause (i) of the Explanation

Currently, Item (B) of sub-clause (I) of clause (i) of the Explanation to section 194C provides the definition of “specified person” to mean any person being an individual or a Hindu undivided family or an association of persons or a body of individuals if such person is liable to audit of accounts under clause (a) or clause (b) of section 44AB during the preceeding financial year relevant to the financial year in which such sum is credited or paid to the account of the resident contractor.

The Finance Bill proposes to amend the above definition of “specified person” to mean any person being an individual or a Hindu undivided family or an association of persons or a body of individuals in case if such person has total sales, gross receipts or turnover from business or profession carried on by him exceeding INR 1 crore in case of business or 50 lakh rupees in case of profession during the preceeding financial year relevant to the financial year in which such sum is credited or paid to the account of the resident contractor.

Provisions amending definition of “worker” under sub-clause (e) of clause (iv) of the Explanation

Currently, sub-clause (e) of clause (iv) of the Explanation to section 194C defines “work” to include manufacturing or supplying a product according to the requirement or specification of a customer by using raw material purchased from such customer. However, it excludes manufacturing or supplying a product according to the requirement or specification of a customer if the material is purchased from a person other than such customer.

The above definition provides benefit to the assessee to escape from provisions of section 194C wherein the assessee gets the contract manufacturer to procure the raw material supplied through its related parties. Therefore, it is now proposed amend the definition of “work” to provide that even if the raw material is provided by the associate, the same shall fall within the purview of the ‘work’ under section 194C. The said amendment is proposed to plug the leakage of the existing definition.

The word “associate” is proposed to be defined to mean a person who is placed similarly in relation to the customer as is the person placed in relation to the assessee under the provisions contained in clause (b) of sub-section (2) of section 40A of the Act.

These amendments will take effect from 1 April 2020 and will apply in relation to assessment year 2021-22 and subsequent assessment years.

❖ **Insertion of New section 271AAD of the Act**

Penalty for false entries in the books of account (Clause 98)

Finance Bill, 2020 proposes to levy a penalty on any person (i) who is found to have made false entries or (ii) any entries relevant for computation of total income have been omitted to evade tax liability. The penalty shall be equal to the aggregate amount of false entries or omitted entries. Similarly, any person, who causes a person to make a false entry or omits or causes the omission of any entry, shall also be liable to a penalty of a sum which is equal to the aggregate amounts of such false entries or omitted entries.

The false entries will include use or intention to use:

- forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence; or
- invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both; or

- invoice in respect of supply or receipt of goods or services or both to or from a person who do not exist.

This amendment will take effect from 1 April, 2020.

RATIONALISATION OF PROVISIONS OF THE ACT

❖ Amendment to Section 90 and 90A

Double Taxation Avoidance Agreement to be aligned with Multilateral Instruments (Clauses 41 and 42)

Section 90 enables the Central Government to enter into an agreement with the Government of a foreign country. One of the purpose of Section 90 is to grant relief to assesses suffering from double taxation. Section 90 also provides for exchange of information for the prevention of evasion or avoidance of income-tax chargeable and recovery of taxes.

Section 90A refers to adoption of agreement by Central Government between specified associations for double taxation relief similar to that of section 90.

In the fast changing world, many tax payers adopt corporate tax planning strategies to artificially shift profits from higher-tax jurisdictions to lower-tax jurisdictions, thereby leading to tax evasion. In order to prevent the aforesaid tax structuring, OECD has designed Multilateral Convention to implement tax treaty related measures (MLI) as part of the Base Erosion and Profit Shifting (BEPS) project. The preamble of MLI is to eliminate double taxation with respect to the taxes covered by the agreement without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this agreement for the indirect benefit of residents of third jurisdictions).

In June 2019, India has also become a party to MLI by signing the same albeit with reservations. To ensure parity with the MLI and to achieve the objective of BEPS project, the preamble of MLI is proposed to be incorporated in section 90(1)(b) and section 90A(1)(b) of the Act.

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent years.

❖ Amendment to Section 9 of the Act

Deferring Significant Economic Presence (SEP) proposal, Extending source rule, Aligning exemption from taxability of Foreign Portfolio Investors (FPIs), on account of indirect transfer of assets, with amended scheme of SEBI, and rationalising the definition of royalty. [Clause 5]

Amendment to clause (1) to section 9 of the Act

Explanation 2A to Section 9(1) inserted *vide* Finance Act 2018 clarified that Significant economic presence” (SEP) of a non-resident in India would constitute “business connection” in India. For the purposes of determining SEP of a non-resident in India, threshold for the aggregate amount of payments arising from the specified transactions and for the number of users were required to be prescribed in the Rules. Discussion on this issue is still going on in G20-OECD BEPS project and the thresholds have not yet been notified.

The Finance Bill proposes to defer the applicability of SEP to Assessment year 2022-23.

The current SEP provisions shall be omitted from assessment year 2021-22 and the new provisions with certain drafting changes have been made effective from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-23 and subsequent assessment years.

Corresponding amendment has been made in clause (a) to Explanation (1) to Section 9(1) of the Act to substitute the words “in case of a business” to “in the case of a business, other than the business having business connection in India on account of significant economic presence”.

The provisions shall be effective from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-23 and subsequent assessment years.

Insertion of Explanation (3A) to section 9(1) of the Act

In today’s digital world; income from advertisement that targets Indian customers, income from sale of data collected from India or income from sale of goods and services using such data collected from India is not appropriately taxed in India.

The Finance Bill proposes to amend the source rule to clarify the position whereby such income shall be accounted in India by inserting Explanation (3A) to Section 9(1) of the Act. This amendment will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years

The Finance Bill proposes to insert an explanation after Explanation 3A to extend the above clarification to transaction covered under Explanation (2A) of section 9(1) of the Act.

This amendment will take effect from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-23 and subsequent assessment years.

Amendment to second proviso to Explanation 5 to section 9(1) of the Act

Second Proviso to Explanation 5 to section 9(1) of the Act provides that the Explanation shall not apply to an asset or capital asset, which is held by a non-resident by way of investment, directly or indirectly, in Category-I or Category-II foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 [SEBI (FPI) Regulations, 2014].

As per the new SEBI guidelines, the broad basing criteria for the purposes of categorization of portfolios has been done away with and has reduced the categories from three to two.

To align the Income-tax provisions with the above guidelines, it is now proposed to grandfather the exception from said Explanation 5 provided to an asset or a capital asset, held by a non-resident by way of investment in erstwhile Category I and II FPIs under the SEBI (FPI) Regulations, 2014. Further, similar exception have been proposed to be provided in respect of investment in Category-I FPI under the SEBI (FPI) Regulations, 2019.

These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

Amendment to clause (v) in Explanation 2 to section 9(1)(vi) of the Act

Definition of royalty under section 9(1)(vi) of the Act does not including consideration for the sale, distribution or exhibition of cinematographic films.

Due to such exclusion from the definition of royalty, the same does not fall in the tax net in India even if the DTAA gives India the taxation rights to India.

The Finance Bill proposes to amend the definition of royalty to delete the words “but not including consideration for the sale, distribution or exhibition of cinematographic films” such that the same can be taxed in India.

These amendments will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

❖ **Amendment to Section 295 of the Act**

Widening of power of the CBDT to make rules [Clause 103]

Under the extant provisions, CBDT, subject to the control of Central Government, by notification in the Gazette of India, makes rules for carrying out the purposes of the Act.

It is proposed to amend Section 295 of the Act so as to particularly empower the CBDT for making rules to provide for the manner in which and the procedure by which the income shall be arrived at in the case of:

- (i) operations carried out in India by a non-resident; and
- (ii) transaction or activities of a non-resident.

The amendment at clause (i) will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

The amendment at clause (ii) will take effect from 1 April 2022 and will, accordingly, apply in relation to the assessment year 2022-23 and subsequent assessment years.

❖ **Amendment to Section 115-O and 115R of the Act**

Tax on distributed profits of domestic companies - Removing dividend distribution tax (DDT) and moving to classical system of taxing dividend in the hands of shareholders / unit holders [Clause 59, 60]

Currently, section 115-O of the Act provides that in addition to the income-tax chargeable in respect of the total income of a domestic company, any amount declared, distributed or paid by way of dividends (whether interim or otherwise) on or after 1 April 2003 shall be charged to additional income-tax at the rate of 15 (plus applicable surcharge and cess). The tax so paid by the company is treated as the final payment of tax in respect of the amount declared, distributed or paid by way of dividend (Dividend Distribution Tax or DDT). Such dividend referred to in section 115-O is exempt in the hands of shareholders under clause (34) of section 10.

Further, under section 115R, specified companies and Mutual Funds are liable to pay additional income-tax at the specified rate on any amount of income distributed by them to its unit holders. Such income is then exempt in the hands of unit holders under clause (35) of section 10.

As explained in the Memorandum to Finance Bill, 2020, the present system of taxation of dividend in the hands of company/ mutual funds was reintroduced by the Finance Act, 2003 (with effect from the assessment year 2004-05) since it was easier to collect tax at a single point and the new system was leading to increase in compliance burden. However, with the advent of technology and easy tracking system available, the justification for current system of taxation of dividend has outlived itself.

The Hon'ble Finance Minister in her Budget speech while presenting the Finance Bill 2020, mentioned that the system of levying DDT results in increase in tax burden for investors and especially those who are liable to pay tax less than the rate of DDT if the dividend income is included in their income. Further, non-availability of credit of DDT to most of the foreign investors in their home country results in reduction of rate of return on equity capital for them.

In view of the above, it is proposed to amend section 115-O of the Act so as to provide that dividend declared, distributed or paid on or after the 1st day of April, 2003 but on or before the 31st day of March, 2020 only shall be covered under section 115-O of the Act.

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-2022 and subsequent assessment years.

It is further proposed to amend section 115R so as to provide that any amount of income distributed on or before the 31st day of March, 2020 only shall be covered under section 115R of the Act.

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-2022 and subsequent assessment years.

❖ **Amendment to Section 194 of the Act**

Provision relating to tax deduction at source on dividend income [Clause 74]

Section 194 of the Act is in relation to tax deduction on dividend income and it excludes dividend referred to in section 115-O. In light of the abolition of dividend distribution tax under section 115-O, certain amendments have been proposed under section 194 of the Act. Third proviso to section 194 of the Act relating to exclusion from applicability of the said section in relation to dividend in respect of section 115-O is proposed to be deleted.

Further, currently the mode of payment for dividend is in cash or cheque or warrant. It has now been proposed to include the words “by any mode” instead of cash or cheque or warrant. The rate of deduction of tax on dividend is currently at the rates in force. It has been proposed to amend the rate of tax deduction to 10%.

First proviso to section 194 of the Act provides that deduction under this section shall not be made in case of shareholder, being an individual, if the dividend is paid by an account payee cheque and the amount of dividend or the aggregate amount of dividend distributed or paid or likely to be distributed or paid during the financial year to the shareholder does not exceed ₹ 2,500.

The said proviso is proposed to be amended to state that the deduction under this section shall not be made in case of a shareholder, being an individual, if the dividend is paid by any mode other than cash and the limit of dividend or aggregate dividend during the financial year has been increased from ₹ 2,500 to ₹ 5,000.

This amendment will take effect from 1 April 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

❖ **Insertion of Section 80M of the Act**

Provision relating to deduction in respect of certain inter-corporate dividend [Clause 40]

Section 80M has been inserted and is in line with the old section 80M which was removed by the Finance Act 2003. As per the proposed section 80M where the gross total income of a domestic company includes any dividend income received from any other domestic company then while computing the total income of the first mentioned domestic company, a deduction equal to so much of the amount of dividend received by it as does not exceed the amount of dividend distributed by such company on or before the due date.

The only difference between the old section 80M and the new section 80M is in relation to the definition of “due date”. As per the old section 80M, due date was the date for furnishing the return of income under section 139(1). As per the Explanation to the new section 80M, due date means the date one month prior to the date for furnishing the return of income under section 139(1).

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

❖ **Amendment to section 10 of the Act**

Removing dividend distribution tax (DDT) and moving to classical system of taxing dividend in the hands of shareholders/unit holders [Clause 7]

- o Section 10(23D) exempts the income of Mutual Funds registered under the Securities and Exchange Board of India Act, 1992 or such other Mutual Funds. This exemption is subject to the provisions of Chapter XII-E relating to special provision relating to tax on distributed income.

It is now proposed to omit the reference of Chapter XII-E in section 10(23D) so that Mutual Funds are not required to pay additional tax.

- o Section 10(23FC) exempts certain income of business trust including income by way of dividend referred to in section 115-O(7).

It is now proposed to amend the said clause so as to exempt all dividend received or receivable by business trust from a special purpose vehicle under the said clause.

- o Section 10(23FD) exempts income distributed by business trust to a unit holder except the interest and rental income.

It is now proposed to amend the said clause so as to exclude dividend income received by a unit holder from business trust from such exemption.

- o Section 10(34) exempts income by way of dividends referred to in section 115-O except the income by way of dividend chargeable to tax in accordance with the provisions of section 115BBDA.

It is now proposed to amend section 10(34) to provide that the provisions of section 10(34) shall not apply to dividend income, received on or after the 1st April, 2020.

These amendments will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

❖ **Amendments to section 57 of the Act [Clause 30]**

Consequential amendment to section 57 of the Act on removing the dividend distribution tax and taxing dividend in the hands of shareholders/unit holders:

- o Insertion of proviso to section 57(1) of the Act

It is proposed to provide that no deduction shall be allowed from dividend income, or income in respect of units of mutual fund or specified company, other than deduction on account of interest expense and in any previous year such deduction shall not exceed twenty per cent of the dividend income or income from units included in the total income for that year without deduction under section 57 of the Act.

Supreme Court decision in case of Rajendra Prasad Moody [1978] (115 ITR 519) has been over ruled wherein it was held that interest paid on money borrowed for investment in shares, which had not yielded any dividend, was admissible under section 57(iii)

These amendments will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent years

❖ **Amendment to Section 115A, 115AC, 115ACA and 115AD**

Removal of reference to section 115-O [Clauses 48, 49 and 50]

Section 115A provides for taxation of dividends, interest, royalty and fees for technical services in the case of non-residents (including a foreign company). Section 115A provides a tax rate of 20% for dividends received by non-residents (including a foreign company), which tax rate will be reactivated with the abolition of dividend distribution tax proposed in Budget 2020.

Section 115AC provides for taxation of income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer and is applicable to non residents. Section 115AC provides a tax rate of 10% for dividends received by non-residents, which tax rate will be reactivated with the abolition of dividend distribution tax proposed in Budget 2020.

Section 115ACA provides for taxation of income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer and is applicable to individual, who is a resident and an employee of an Indian company engaged in specified knowledge based industry or service, or an employee of its subsidiary engaged in specified knowledge based industry or service. Section 115ACA provides a tax rate of 10% for dividends received, which tax rate will be reactivated with the abolition of dividend distribution tax proposed in Budget 2020.

Section 115AD provides for taxation of (i) income from securities and / or (ii) capital gains arising from their transfer earned by Foreign Institutional Investors. Section 115AD provides for tax rate of 20% for income in respect of securities, which tax rate will be reactivated in the context of dividend income, with the abolition of dividend distribution tax proposed in Budget 2020.

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent years.

❖ **Insertion of new Section 194K to the Act.**

Withholding tax provisions with respect to income in respect of units [Clause 80]

It is proposed to insert new Section 194K wherein any person responsible for paying to a resident any income in respect of units of a mutual fund specified under section 10(23D) or units from Administrator of specified undertaking or units from the specified company shall be required to withhold tax at the rate of 10 percent at the time of payment or credit, whichever is earlier. The terms Administrator, specified company and specified undertaking are proposed to be defined by insertion of Explanation 1 to Section 194K. Explanation 2 is also proposed to be inserted which deems credit of any account including suspense account to be credited to the account of the payee such that provisions of Section 194K apply.

It is further proposed to that the said section shall not apply where the amount of such income or the aggregate of such income paid or credited during the financial year does not exceed ₹ 5,000.

This amendment will take effect from 1 April, 2020.

❖ **Amendment to Section 115UA of the Act**

Tax on income of unit holder and business trust [Clause 62]

The said section enables pass through of the income of certain nature from business trust to its unit holders. Section 115UA(3) provides that if in any previous year, the distributed income or any part thereof, received by a unit holder from the business trust is of the nature as referred to in sub-clause (a) of clause (23FC) or clause (23FCA), of section 10, then, such distributed income or part thereof shall be deemed to be the income of such unit holder and shall be charged to tax as income of the previous year.

As a result of omission of dividend distribution tax, the Finance Bill proposes to omit the reference of sub-clause (a) of clause (23FC) of section 10 from the said sub-section so as to provide that the distributed income of the nature as referred to in clause (23FC) or clause (23FCA) of section 10 shall be deemed to be income of unit holder and shall be charged to tax as income of the previous year.

This amendment will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-2022 and subsequent assessment years.

❖ **Amendment to Section 194LBA of the Act.**

Certain income from units of business trust [Clause 81]

The said section, *inter alia*, requires a business trust to deduct tax on distribution of income as per section 115UA, being in the nature of sub-clause (a) of clause (23FC) or clause (23FCA) of section 10, at the rate of 10 percent for a resident and at the rate of 5 percent for a non-resident (not being a company) or a foreign company, respectively.

It is proposed to amend the said section by omitting reference to sub-clause (a) of clause (23FC) of section 10. Hence, the liability to deduct tax shall be applicable on the distribution of income referred to in section 115UA, being of the nature referred to in clause (23FC) or clause (23FCA) of section 10, to a resident and to a non-resident (not being a company) or a foreign company.

It is further proposed to amend sub-section (2) to provide for withholding tax rate of 5 percent for the income referred to in sub-clause (a) of clause (23FC) of section 10 (i.e. interest income) and 10 percent in case of income referred to in sub-clause (b) of the said clause (i.e. dividend income).

These amendments will take effect from 1 April, 2020.

❖ **Amendment to Section 115BBDA of the Act**

Provisions relating to tax on certain dividends received from domestic companies [Clause 54]

Any income of a “specified assessee”, who is resident in India and whose total income includes any income by way of dividend declared, distributed or paid by a domestic company, in aggregate exceeding ₹ 10,00,000, is taxed at the rate of 10% under section 115BBDA.

A trust or institution registered under section 12A or 12AA is excluded from the definition of “specified assessee”.

o **Restrict the applicability of section 115BBDA of the Act**

The Finance Bill proposes to restrict the applicability of section 115BBDA to income by way of dividend declared, distributed or paid by a domestic company or companies on or before 31 March 2020 only, in aggregate exceeding ₹ 10,00,000, given the abolition of dividend distribution tax with effect from April 1, 2020.

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

o **Excluding trust under section 12AB from the definition of “Specified assessee”**

Finance Bill 2020 proposes to exclude a trust or institution registered under section 12AB also from the definition of “specified assessee”, with effect from 1 June 2020. Accordingly, section 115BBDA of the Act shall not apply to such trusts or institutions.

o **Consequential amendment under section 115C of the Act [Clause 55]**

Section 115C of the Act provides various definitions for the purpose of Chapter XII-A of the Act, which is a special provision relating to certain incomes of non-residents.

Currently, clause (c) of section 115C defines the expression “investment income” to mean any income derived other than dividends referred to in section 115-O from a foreign exchange asset.

The Finance Bill 2020 proposes to amend the said clause to omit the reference of dividend referred to in section 115-O so as to define “investment income” to mean any income derived from a foreign exchange asset including dividend income.

This amendment will take effect from 1 April, 2021 and will, accordingly, apply in relation to the assessment year 2021-2022 and subsequent assessment years.

❖ **Amendment to section 195 of the Act**

Provisions related to tax deducted at source on payments made to non-resident [Amendment to section 195] [Clause 85]

Section 195 of the Act provides for deduction of tax at source on payments (not being income chargeable under the head 'Salaries') made to non-resident.

Currently, the second proviso to section 195 of the Act, provides for an exemption in respect of deduction of tax to be made on any dividends referred to in section 115-O of the Act.

It is proposed to delete the aforesaid proviso, in light of the proposed omission of section 115-O of the Act.

This amendment will take effect from 1 April, 2020.

❖ **Amendments to section 196A of the Act**

Provisions relating to deduction of tax on income in respect of units of non-residents [Amendment to section 196A of the Act] [Clause 86]

As per the existing provisions of section 196A of the Act, tax is deductible on payment of income in respect of mutual funds as specified under clause 10(23D) of the Act, or the Unit Trust of India (UTI), at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier. However, the proviso provides an exemption in respect of deduction of income tax on any income credited or paid on or after 1 April 2003.

The Finance Bill proposes to delete the proviso which provides the exemption in respect of deduction of tax on income earned on units of mutual funds or UTI. Accordingly, it is proposed to restore the applicability of TDS on income in respect of units of mutual funds.

Further, it is proposed to substitute the words "in cash or by the issue of a cheque or draft or by any other mode" as appearing in clause (1) of section 196A with "any mode" to enable credit of income or payment thereof by any mode.

This amendment will take effect from 1 April, 2020.

❖ **Amendments to section 196C of the Act**

Provisions relating to deduction of tax on income from foreign currency bonds or shares of Indian company [Amendment to section 196C of the Act] [Clause 87]

As per the existing provisions of section 196C of the Act, tax is to be deducted on income by way of interest or dividends in respect of Global Depository receipts or by way of long term capital gains arising from transfer of such bonds or Global depository receipts payable to a non-resident, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

Further, the proviso to the section provides for non-deduction of tax in respect of dividends as referred under section 115-O of the Act.

It is proposed to omit the proviso providing the exemption in respect of dividends as referred under section 115-O of the Act in light of the proposed abolition of dividend distribution tax.

Further, it is proposed to substitute the words "in cash or by the issue of a cheque or draft or by any other mode" as appearing in clause (1) of section 196C with "any mode" to enable credit of income or payment thereof by any mode.

This amendment will take effect from 1 April, 2020.

❖ **Amendments to section 196D of the Act**

Provisions relating to income of Foreign Institutional Investors from securities [Amendment to section 196D of the Act] [Clause 88]

As per the existing provisions of the Act, tax is required to be deducted on income of Foreign Institutional investors.

Further, the proviso to the section provides for non-deduction of tax in respect of dividends as referred in section 115-O of the Act.

It is proposed to delete the proviso and revive the applicability of deduction of tax in the aforesaid cases in view of the proposed abolition of dividend distribution tax as referred under section 115-O of the Act.

Further, it is proposed to substitute the words “in cash or by the issue of a cheque or draft or by any other mode” as appearing in clause (1) of section 196D with “any mode” to enable credit of income or payment thereof by any mode.

This amendment will take effect from 1 April, 2020

❖ **Amendment to Section 55 of the Act**

Provisions relating determination of cost of acquisition land and building acquired prior to 1 April 2001– Insertion of new proviso to clause (b)(ii) to Explanation under clause 55(2)(ac) [Clause 28]

Section 55 of the Act provides that while computing income under the head capital gains, deduction for cost of acquisition of the asset and cost of improvement, if any shall be allowed as deduction. Further, while computing gains for asset acquired prior to 1 April 2001, the assessee has been an option of either to take the fair market value of the asset as on 1 April 2001 or the actual cost of the asset as cost of acquisition.

In order to compute the cost of acquisition of land and building or both a new proviso is proposed to be inserted under clause (b)(ii) to Explanation under clause 55(2)(ac) of the Act, to provide that fair market value of such an asset on 1 April 2001 shall not exceed the stamp duty value of such asset as on 1 April 2001 where such stamp duty value is available.

Further, explanation shall be inserted to provide that “stamp duty value” shall mean the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-2022 and subsequent assessment years.

❖ **Amendment to Section 115TD of the Act**

Tax on accreted income [Clause 61]

Section 115TD(1) provides for payment of additional income-tax on the specified date by the name “tax on accreted income”, to be paid at the maximum marginal rate where in any previous year, a trust or institution registered under section 12AA has converted into any form which is not eligible for grant of registration under section 12AA; merged with any entity other than an entity which is a trust or institution having objects similar to it and registered under section 12AA or section 12AB; or failed to transfer upon dissolution all its assets to any other trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or (v) or (vi) or (via) of section 10(23C), within a period of 12 months from the end of the month in which the dissolution takes place.

Other provisions of aforesaid section provides for procedures in relation to payment of said additional income tax. It is proposed to make a reference to section 12AB in the said section, wherever the reference to section 12AA has been made so as to provide that provisions of said section 115TD shall, mutatis mutandis, apply to the trust or institution registered under section 12AB.

This amendment will take effect from 1st June, 2020.

Rationalization of provisions of section 55 of the Act to compute cost of acquisition.

❖ **Amendment to Section 11 of the Act**

Rationalization of provisions relating to trust, institutions and funds [Clause 9]

Exemption is provided under Section 11 of the Act to trusts in respect of their income derived from property held the trust for charitable or religious purposes if the income is applied for objects of the trust or accumulated for such purposes. The exemption is in accordance with the provisions contained in sections 11, 12, 12A, 12AA and 13 of the Act. The provisions contained in sections 11, 12, 12A, 12AA and 13 of the Act constitute a complete code.

Under the existing provisions of section 11(7) of the Act, a trust / institution registered under section 12AA or section 12A of the Act, cannot obtain exemption under section 10 [except under clauses (1) and (23C)] of the Act. If income or part thereof becomes ineligible for exemption in the hands of the trust, no other provision of the Act shall operate to exclude such income from the trust's total income. Exclusion is provided to institutions / fund registered under section 10(23C) of the Act but the same exclusion is not available to entities claiming exemption under section 10(46) of the Act which are established or constituted under a Central or State Act or by a Central or State Government.

Sub-section (7) to section 11 of the Act has been proposed to be amended to provide that entities registered under section 12AA as well as section 12AB of the Act cannot obtain exemption under section 10 of the Act. Further, similar to exclusions of clauses (1) and clauses (23C) of section 10 of the Act, exemption under clause (46) of section 10 shall be allowed to an entity holding registration under section 12A/12AA.

This amendment will take effect from 1 June 2020.

Insertion of proviso to Section 11(7) of the Act

The Finance Bill proposes to insert proviso to Section 11(7) of the Act to provide that the registration under section 12AA or 12A or 12AB of the Act shall become inoperative if the entity obtains approval under section 10(23C) or section 10(46) of the Act or the date on which the proviso comes into force, whichever is earlier. The proviso has been inserted with a view to ensure that even in those cases where registration under section 12AA or 12A remains in force, only one mode of exemption is available to the entity.

This amendment will take effect from 1 June 2020.

Insertion of proviso to Section 11(7) of the Act

It has been proposed to insert second proviso to Section 11(7) of the Act to provide that entities claiming exemption under section 10(23C) or section 10(46) of the Act may apply to get their registration operative in the future under section 12AB of the Act by filing an application. In order to ensure that switching is not allowed more than once, it is further proposed that approval under section 10(23C) or section 10(46) of the Act shall cease to have effect from date of the registration becoming operative

This amendment will take effect from 1 June 2020.

❖ **Amendment to Section 12AA of the Act**

Rationalization of provisions relating to trust, institutions and funds [Clause 11]

Existing process for registration process for trusts, institutions, funds, university, hospital etc. under section 12AA / section 10(23C)(iv)/(v)/(vi)/(via) and approval of association, university, college, institution or company etc. is a manual process without any technological involvement. Further, there was practical difficulty in obtaining registration/ approval/ notification before actually starting the activities.

The Finance Bill proposes to insert new sub-section (5) to Section 12AA of the Act to provide that the provisions of Section 12AA of the Act shall not apply on or after 1 June 2020. New process of registration shall be provided for both existing and new exempt entities and applications pending approval / registration shall be treated as an application in accordance with new provisions whenever they are being provided for.

This amendment will take effect from 1 June 2020.

❖ **Insertion of section 12AB to provide for registration of charitable / religious trust and amendment to section 35**

Changes in the registration procedures of charitable / religious trust and scientific research institutes [Clause 12 and 17]

Existing provisions provide for one time registration of charitable / religious trusts and scientific research institutes. It is proposed that existing trusts and institutes have to apply for fresh registration before the Principal Commissioner or Commissioner.

Principal Commissioner or Commissioner will call for such documents and information to satisfy himself about the genuineness of such trusts and institutes and grant registration for five years.

The amendments are proposed in order to ensure that the conditions of approval and registration are adhered to.

These amendments will take effect from 1st June, 2020.

❖ **Amendments to section 10 relating to incomes not included in total income [Clause 7]**

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

- o First proviso to section 10(23C) requires an application to be made in the prescribed form and manner to the prescribed authority for registration and approval of the specified fund, trust, institution, university or other educational institution or hospital, etc.:

It is now proposed to substitute the first proviso to section 10(23C) to provide that exemption to such fund or trust or institution or any university or other educational institution or any hospital or other medical institution shall not be available unless it is approved under the proposed second proviso on an application to be made in the prescribed form and manner to the Principal Commissioner or Commissioner:

- Clause (i): where such fund or trust or institution or university or other educational institution or hospital or other medical institution is approved under the second proviso (as it stood before its proposed amendment by the Finance Act, 2020), within three months from the date on which this clause has come into force;
- Clause (ii): where such fund or trust or institution or university or other educational institution or hospital or other medical institution is approved and the period of such approval is set to expire, at least six months prior to expiry of said period;

- Clause (iii): where such fund or trust or institution or university or other educational institution or hospital or other medical institution has been provisionally approved, at least six months prior to expiry of period of the provisional approval or within six months of commencement of its activities, whichever is earlier;
 - Clause (iv) in any other case, at least one month prior to commencement of the previous year relevant to the assessment year from which said registration is sought.
- o The second proviso to section 10(23C) provides for the inquiry to be made by the prescribed authority before approving the fund or trust or institution or any university or other educational institution or any hospital or other medical institution.

It is now proposed to substitute the second proviso to section 10(23C) to provide that the Principal Commissioner or Commissioner, on receipt of an application made under the proposed first proviso, shall, where the application is under:

- clause (i) of said proviso, pass an order in writing granting it approval for a period of five years;
- clause (ii) or clause (iii) of said proviso, call for such documents or information from it or make such inquiries as he thinks necessary in order to satisfy himself about:
 - (a) the genuineness of activities; and
 - (b) the compliance of such requirements of any other law for the time being in force by it as are material for the purpose of achieving its object.

And after satisfying himself about the objects and the genuineness of its activities and compliance of the requirements of any other law, pass an order in writing granting its approval for a period of five years. However, if he is not so satisfied, he shall pass an order in writing rejecting such application and cancelling its approval after affording it a reasonable opportunity of being heard;

- clause (iv) of said proviso, pass an order in writing granting it approval provisionally for a period of three years from the assessment year from which the registration is sought and send a copy of such order to the fund or trust or institution or any university or other educational institution or any hospital or other medical institution.
- o Eighth proviso to section 10(23C) provides for the period for which a notification issued by Central Government under sub-clause (iv) or sub-clause (v) of said clause shall have effect.

It is now proposed to substitute the eighth proviso as the approval granted under the proposed second proviso shall apply in relation to the income of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution:

- where the application is made under clause (i) of the first proviso, from the assessment year from which approval was earlier granted to it;
 - where the application is made under clause (iii) of the first proviso, from the first of the assessment years for which it was provisionally approved;
 - in any other case, from the assessment year immediately following the financial year in which such application is made.
- o Ninth proviso to section 10(23C) provides for the period within which a notification under sub-clause (iv) or sub-clause (v) shall be issued or approval under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall be granted or an order rejecting the application made in this behalf shall be passed.

It is now proposed to substitute the ninth proviso so as to provide that the prescribed authority shall pass order, in such form and manner as may be prescribed, before such period as is specified in the proposed ninth proviso.

These amendments will take effect from 1st June, 2020.

- o The tenth proviso to section 10(23C) provides that where the total income, of the fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via), without giving effect to the provisions of the said sub-clauses, exceeds the maximum amount not chargeable to tax in any previous year, such trust or institution or university or other educational institution or hospital or other medical institution shall get its accounts audited in respect of that year by an accountant as defined in the Explanation to section 288(2) and furnish the report of such audit along with the return of income for the relevant assessment year.

It is now proposed to amend the tenth proviso to provide that such trust or institution or university or other educational institution or hospital or other medical institution should get the accounts audited before the specified date referred to in section 44AB (i.e. one month prior to the due date for filing of return under section 139(1)) and furnish the audit report by that date.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

- o Sixteenth proviso to section 10(23C) provides for the period within which application for exemption has to be made by the fund or trust or institution or any university or other educational institution or any hospital or other medical institution under the first proviso.

It is now proposed to omit the said proviso.

- o It is proposed to substitute the existing eighteenth proviso to section 10(23C) to provide that all applications made under the existing first proviso, pending before the Principal Commissioner or Commissioner, on which no order has been passed, shall be deemed to be an application made under clause (iv) of the proposed first proviso on that date ie any other case.

These amendments will take effect from 1 June 2020.

❖ **Amendment to section 80G of the Act**

Rationalization of the provisions to section 80G (Clause 33)

Currently, section 80G of the Act inter-alia provides that an exempt entity may accept donations or certain sum for utilization towards their objects or activities in respect of which the donor gets deduction in computation of his income. There is no reporting obligation by the exempt entity receiving donation/ any sum in respect of such donation/sum.

It is proposed to amend section 80G of the Act to provide:

1. An entity already approved under section 80G shall also be required to apply for approval and on doing so, the approval, registration or notification in respect of the entity shall be valid for a period not exceeding five years at one time.
2. The application for approval under section 80G shall be made to the Principal Commissioner or Commissioner.
3. An entity making fresh application for approval under section 80G shall be provisionally approved or registered for three years on the basis of application without detailed enquiry

even in the cases where activities of the entity are yet to begin and then it has to apply again for approval or registration which, if granted, shall be valid from the date of such provisional registration. The application of registration subsequent to provisional registration should be at least six months prior to expiry of provisional registration or within six months of start of activities, whichever is earlier.

4. The donee shall prepare statement for such period as may be prescribed and deliver or cause to be delivered to the prescribed income-tax authority or the person authorised by such authority within such time as may be prescribed.
5. The donee furnishes to the donor, a certificate specifying the amount of donation in such manner, containing such particulars and within such time from the date of receipt of donation, as may be prescribed.
6. Deduction under section 80G to a donor shall be allowed only if a statement is furnished by the donee who is required to furnish a statement in respect of donations received.

The proposed amendment re-introduces the proviso which provided that any approval shall have effect for not exceeding five assessment years, omitted by the Finance (No. 2) Act, 2009, w.e.f. 1-10-2009.

This amendment will take effect from 1 June 2020.

❖ Amendment to section 80GGA of the Act

Rationalization of the provisions to section 80GGA (Clause 34)

Section 80GGA of the Act provides deduction on donations for scientific research and rural development.

It is proposed to amend section 80GGA of the Act to provide:

1. No deduction under section 80GGA shall be allowed in respect of donation exceeding rupees two thousand unless such sum is paid by any mode other than cash.
2. Deduction under section 80GGA to a donor shall be allowed only if a statement is furnished by the donee who is required to furnish a statement in respect of donations received.

This amendment will take effect from 1 June 2020.

❖ Insertion of section 234G

Introduction of fee for default relating to statement or certificate [Clause 94]

Certain provisions of the Act provide that an exempt entity may accept donations or certain sum for utilization towards their objects or activities in respect of which the payer, being the donor, gets deduction in computation of his income. At present, there is no reporting obligation by the exempt entity receiving donation / any sum in respect of such donation / sum. Therefore, the entities receiving donation / sum may be made to furnish a statement in respect thereof, and to issue a certificate to the donor / payer on the basis of which the donor / payer may avail deduction.

To ensure proper filing of such statement and furnishing of certificate to the donor / payer, it has been proposed to insert a new section 234G to levy of fee of ₹ 200 for every day during which the failure to deliver prescribed statement or furnish prescribed certificate continues. However, the fee shall not exceed the amount in respect of which failure has occurred and shall be paid before delivering the statement or furnishing the certificate.

This amendment will take effect from June 1, 2020.

❖ **Amendment to section 253 of the Act**

Appeals to the Appellant Tribunal (Clause 96)

As per the existing provisions of section 253(1)(c) of the Act, any assessee aggrieved by an order passed by a Principal Commissioner or Commissioner of Income-tax under section 12AA may file an appeal to the Income-tax Appellant Tribunal against such order.

It is proposed that section 253(1)(c) shall henceforth include reference to section 12AB also, which provides the procedure for registration of a trust or institution

This amendment will take effect from 1 June, 2020.

❖ **Insertion of new section 271K of the Act**

Provision relating to penalty for failure to furnish statements etc. (Clause 99)

It is proposed that the assessing officer may direct that a sum not less than ten thousand sum but which may extend to one lakh rupees shall be paid by way of penalty by:

- the research association, university, college or other institution referred to in clause (ii) or clause (iii) or the company referred to in clause (ia), of sub-section (1) of section 35, if it fails to deliver or cause to be delivered a statement within the time prescribed under clause (i), or furnish a certificate prescribed under clause (ii) of sub-section (1A) of that section; or
- the institution or fund, if it fails to deliver or cause to be delivered a statement within the time prescribed under clause (viii) of sub-section (5) of section 80G, or furnish a certificate prescribed under clause (ix) of the said sub-section.

This amendment will take effect from 1 June 2020.

❖ **Amendment to Section 10A of the Act**

Rationalization of provisions relating to tax audit [Clause 8]

Section 44AB of the Act mandates persons carrying out business and persons carrying on profession is required to get his accounts audited if his sales / turnover / gross receipts exceeds the prescribed threshold in any previous year. Under the existing provisions, the Tax Audit Report is required to be filed along with the Return of income.

Amendment to section 10A(5) of the Act

To enable pre-filing of returns, the Finance Bill proposes that the tax audit report should be furnished one month prior to the due date of filing of return of income. The due date for filing the return of income in case of persons whose accounts are required to be audited is proposed to be extended to 31 October 2019.

The Finance Bill proposes to amend Section 10A of the Act to provide that the Audit Report should not be filed along with the return of income but is should be filed in accordance with the amended date as per section 44AB of the Act i.e. on or before 30 September 2020.

This amendment will take effect from 1 April 2020 and accordingly, shall apply to Assessment year 2020-21 and subsequent assessment years.

❖ **Amendment to Section 12A of the Act**

Rationalization of provisions relating to applicability of sections 11 and section 12 [Clause 10]

Provisions of section 11 and section 12 do not apply in relation to income of trust or institution unless conditions prescribed under section 12A of the Act are fulfilled.

Insertion of new clause (ac) in section 12A(1) of the Act

The Finance Bill proposes to insert new clause (ac) under section 12A(1) of the Act to provide that trust / institution should make an application for registration as per the following due dates for availing applicability of section 11 and section 12 of the Act:

Particulars	Timeline
Trust / institution to be registered under section 12A / 12AA	Within three months from the date on which this clause has come into force
Trust / institution to be registered under section 12AB	At least six months prior to expiry registration
Trust or institution which has been provisionally registered under section 12AB of the Act	At least six months prior to expiry of period of the provisional registration or within six months of commencement of its activities, whichever is earlier
Trust or institution whose registration has become inoperative due to the first proviso to sub-section (7) of section 11	At least six months prior to the commencement of the assessment year from which the said registration is sought to be made operative
Trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration	Within a period of thirty days from the date of the said adoption or modification
Any other case	At least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought.

Amendment requires re-registration of all existing trust of institutions which are already registered. Re-registration would be required even if such trust or institution was registered recently or would be registered just prior to the date on which proposed amendments are made effective.

Amendment to clause (b) in section 12A(1) of the Act

It has been proposed to amend clause (b) under section 12A(1) of the Act to provide that provisions of section 11 and section 12 of the Act shall apply where the trusts / institutions which are required to get their accounts audited by an accountant furnish the audit report within the due date prescribed under section 44AB of the Act.

Amendment to proviso to section 12A(2) of the Act

The Finance Bill proposes to amend the proviso to section 12A(2) of the Act to provide that the provisions of sections 11 and 12 shall apply to a trust / institution as under:

Particulars	Timeline
Trust / institution where application for registration is made within three months from the date on which this clause has come into force	from the assessment year from which such trust or institution was earlier granted registration
Trust or institution to make application fore registration At least six months prior to expiry of period of the provisional registration or within six months of commencement of its activities, whichever is earlier	from the first of the assessment years for which it was provisionally registered

This amendment will take effect from 1 June 2020.

Amendment to first and third proviso to section 12A(2) of the Act

The Finance Bill proposes to amend the first and third proviso to section 12A(2) of the Act to include “Section 12AB” along with Section 12AA of the Act.

This amendment will take effect from 1 June 2020.

❖ **Amendment to sections 32AB, 33AB, 33ABA and 35D**

Due date for filing auditors report claiming deduction under section 32AB, 33AB, 33ABA and 35D rationalised [Clause 14, 15, 16 and 19]

Existing provisions provide that in order to claim deduction under sections 32AB, 33AB and 33ABA and 35D audit report in prescribed form needs to be furnished along with the return.

Finance Bill, 2020 proposes to provide that the due date for furnishing the audit report in prescribed form under these sections shall be at least one month prior to the due date of filing the return of income.

These amendments will take effect from 1 April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

❖ **Amendment to Section 35E of the Act**

Provisions relating to deduction of expenditure on prospecting, etc. for certain minerals – Amendment to sub-section 6 of section 35E [Clause 20]

Sub-section 6 of section 35E provides that for persons other than a company or co-operative society, deduction under this section shall be admissible only if the accounts of such assessee, for the years in which the expenditure has been incurred, have been audited by an accountant and the assessee furnishes, along with his return of income for the first year in which the deduction is claimed, the audit report in the prescribed form.

As the due date of filing the return of income has been amended to 31 October of the assessment year (as against 30 September), the date of getting the accounts audited under section 44AB and the date of filing the return of income shall be different. Accordingly, sub-section 6 of section 35E has been amended to state that accounts of the assessee are audited before the specified date referred to in section 44AB and the assessee furnishes for the first year in which the deduction under this section is claimed the audit report by such date.

This amendment will take effect from 1 April 2020 and will, accordingly, apply in relation to the assessment year 2020-2021 and subsequent assessment years.

❖ **Amendment to 44AB of the Act**

Relaxation of compliance for MSME (clause 23)

Section 44AB of the Act provide for audit of accounts of certain persons carrying on business or profession. It states that in case if the total receipts or gross turnover exceeds ₹ 1 Crore in case of business and ₹ 50 Lakhs in case of services, then the assessee shall be liable for a tax audit.

The current provisions adds to the existing compliance burden of Small and Medium Enterprises (MSME). This acts as a hurdle for ease of doing business. Therefore, it is now proposed to increase the threshold limit for a person carrying on business from one crore rupees to five crore rupees in cases where the all the receipts and payments in cash should not exceed 5% of the respective receipts and payment transactions.

Further, it has been proposed to amend the date of filing of the tax audit report under section 44AB as follows-

Particulars	Current due date: due date of filing of the tax audit report	Proposed due date for filing the tax audit report: one month prior to date of filing of income tax return
Due date of filing income tax return where transfer pricing is not applicable - 30 September	30 September	31 August
Due date of filing income tax return where transfer pricing is applicable -30 November	30 November	31 October

This amendment will take effect from 1 April 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent years.

❖ **Amendment to Section 44DA of the Act**
Rationalisation of certain provisions – [Clause 24]

Section 44DA of the Act provide for a taxation of income of a non-resident namely royalty or fees for technical services received from Government or an Indian concern, earned from India through business connection or permanent establishment in India.

As per section 44DA(2) of the Act, the non-resident shall keep and maintain books of account and other documents in accordance with the provisions contained in section 44AA and get his accounts audited by an accountant as defined in the Explanation below sub-section (2) of section 288 and furnish along with the return of income, the report of such audit in the prescribed form duly signed and verified by such accountant.

It is proposed to substitute that words “and furnish along with the return of income” with “before the specified date referred to in section 44AB and furnish by that date”

This amendment will take effect from 1 April 2020 and will, accordingly, apply in relation to the assessment year 2020-2021 and subsequent assessment years.

❖ **Amendment to Section 50B of the Act**
Rationalisation of certain provisions [Clause 26]

As per the provisions of Section 50B(3) of the Act, under slump sale the assessee is required to furnish in the prescribed form along with the return of income, a report of an accountant as defined in the Explanation below sub-section (2) of section 288 of the Act, indicating the computation of the net worth of the undertaking or division, as the case may be, and certifying that the net worth of the undertaking or division, as the case may be, has been correctly arrived at in accordance with the provisions of this section.

It is proposed to amend the said sub-section (3) so as to provide that every assessee, in the case of slump sale, shall furnish in the prescribed form a report of an accountant as defined in the Explanation below sub-section (2) of section 288 before the specified date as referred to in section 44AB.

This amendment will take effect from 1 April 2020 and will, accordingly, apply in relation to the assessment year 2020-2021 and subsequent assessment years.

❖ **Amendment to sections 80-IA and 80-IB of the Act**

Rationalization of the provisions relating to tax audit in certain cases (Clauses 35 and 37)

Currently, under sections 80-IA and 80-IB of the Act, the accounts of the undertaking claiming deduction under the afore-said sections have to be audited and the report of such audit in prescribed form is required to be furnished along with the return of income.

It is proposed that the tax audit report under section 44AB be furnished by the assessee at least one month prior to the due date of filing of return of income. Consequentially, it is proposed that the due date of filing the report under section 80-IA and 80-IB be also furnished one month prior to the due date of filing of the return of income.

These amendments will take effect from 1 April 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent years.

❖ **Amendment to Section 80JJAA of the Act**

Provisions relating to deduction in respect of employment of new employees – Amendment to sub-section 2 of section 80JJAA [Clause 39]

Currently, deduction under this section shall be available only if the assessee submits a report from the accountant in the prescribed form along with the return of income.

As the due date of filing the return of income is proposed to be amended to 31 October of the assessment year (as against 30 September), the date of getting the accounts audited under section 44AB and the date of filing the return of income shall be different. Accordingly, clause (c) of sub-section 2 of section 80JJAA has been amended to state that report of the accountant in the prescribed form shall be furnished before the specified date referred to in section 44AB.

This amendment will take effect from 1 April 2020 and will accordingly, apply in relation to the assessment year 2020-2021 and subsequent assessment years.

❖ **Amendment to Section 115JB of the Act**

Change in the due date of filing Accountant's Report in Form No. 29B under Section 115JB [Clause 56]

Currently, a company to which section 115JB is applicable is required to furnish a report in Form 29B from an accountant, along with the return of income filed under section 139 of the Act.

Finance Bill 2020 proposes to amend the due date for filing an Accountant's Report in Form No. 29B to one month prior to the due date for furnishing the return of income of the relevant assessment year.

This amendment will take effect from 1 April, 2020 and will, accordingly, apply in relation to the assessment year 2020-2021 and subsequent assessment years.

❖ **Amendment to Section 115VW of the Act**

Change in the due date of filing Accountant's Report in Form No. 66 under Section 115VW [Clause 63]

Currently, a tonnage tax company to which section 115VW is applicable is required to furnish a report in Form 66 from an accountant, along with the return of income filed under section 139 of the Act.

The Finance Bill proposes to amend the due date for filing an Accountant's Report in Form No. 66 to one month prior to the due date for furnishing the return of income of the relevant assessment year.

This amendment will take effect from 1 April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years

❖ **Amendment to Section 139 of the Act**

Amendment in the due date of filing of return of income [Clause 66]

As per section 139(1), the due date of filing return of income is 30th day of September of the assessment year for the following categories of assessees

- o a company, or
- o a person (other than a company) whose accounts are required to be audited under the Act or any other law for the time being in force; or
- o working partner of a firm whose accounts are required to be audited under the Act or any other law for the time being in force.

It is proposed to amend such due date for filing return of income under sub-section (1) of section 139 to 31st day of October of the assessment year for an assessee referred to in clause (a) of Explanation 2 of sub-section (1) of section 139 of the Act.

Further, to remove distinction between a working and a non-working partner of a firm, it is also proposed to remove the word “working” as mentioned in sub-clause (iii) of clause (a) of Explanation 2 of sub-section (1) of Section 139 of the Act.

These amendments will take effect from 1 April 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent years.

❖ **Amendment to Section 194H of the Act**

Provisions amending the second proviso to section 194H of the Act (clause 77)

Currently, any person (other than an individual or a Hindu undivided family) responsible for payment of brokerage or commission (other than insurance commission referred to in section 194D) to resident is liable to deduct tax at source at the rate of 5 % of such amount of payment at the time of such credit or at the time of payment whichever is earlier. Further, an individual or a Hindu undivided family whose total sales, gross receipts or turnover from the business or profession carried on by him exceeds the monetary limits specified under clause (a) or clause (b) of section 44AB during the preceeding financial year relevant to the financial year in which such sum is credited or paid is also liable to deduct tax at source as per second proviso to this section.

The Finance Bill proposes to amend the said proviso so as to substitute the words “the monetary limits specified under clause (a) or clause (b) of section 44AB” with the words “one crore rupees in case of business or fifty lakh rupees in case of profession”.

This amendment will take effect from 1st April, 2020.

❖ **Insertion of new section 194I in the Act**

Provisions amending the second proviso to section 194I of the Act (clause 78)

Currently, any person (other than an individual or a Hindu undivided family) responsible for payment of rent to resident is liable to deduct tax at source at the rate of 2% for the use of any machinery or plant or equipment and at the rate of 10% for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings on amount of payment at the time of such credit or at the time of payment whichever is earlier. Further, an individual or a Hindu undivided family whose total sales, gross receipts or turnover from the business or profession carried on by him exceeds the monetary limits specified under clause (a) or clause (b) of section 44AB during the preceeding financial year relevant to the

financial year in which such sum is credited or paid is also liable to deduct tax at source as per second proviso to this section.

The Finance Bill proposes to amend the said proviso so as to substitute the words “the monetary limits specified under clause (a) or clause (b) of section 44AB” with the words “one crore rupees in case of business or fifty lakh rupees in case of profession”.

This amendment will take effect from 1st April, 2020.

❖ **Omission of section 203AA of the Act**

Provision relating to furnishing of statement of tax deducted [Clause 90]

The existing provisions of section 203AA of the Act casts a responsibility on the prescribed income tax authority or the person authorised by such authority to prepare and deliver a statement [Form 26AS] to every person from whose income the tax has been deducted or in respect of whose income the tax has been paid specifying the amount of tax deducted or paid.

It is proposed to omit the aforesaid section in view of future initiative of the Government wherein the information relating to details of tax deducted, paid shall be uploaded in the registered account on the designated portal of the Income tax department.

Further, it is proposed to insert a new section 285BB which shall mandate the prescribed income tax authority or the person authorised to upload in the registered account of the assessee a statement in the specified manner which shall communicate the information as available with the Income tax authority to the assessee

This amendment will take effect from 1 June 2020 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

❖ **Amendment to Section 2 of the Act**

Rationalisation of definitions under the Act in respect of segregated portfolios [Clause 3]

Amendment to clause (13A) to section 2 of the Act

Business trust means an Infrastructure Investment Trust registered under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 or a Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014. Under the existing provisions, the units of such business trusts are required to be listed on recognised stock exchange in accordance with the aforesaid regulations;

The Finance Bill proposes to amend the definition of “business trust” under section 2(13A) of the Act to delete the condition that the units of the business trust should be listed on recognised stock exchange.

This amendment will take effect from 1 April 2021 and shall accordingly apply to Assessment year 2021-22.

Amendment to clause (42A) to section 2 of the Act

SEBI has, *vide* circular SEBI/HO/IMD/DF2/CIR/P/2018/160 dated December 28, 2018, permitted creation of segregated portfolio of debt and money market instruments by Mutual Fund schemes. As per the SEBI circular, all the existing unit holders in the affected scheme as on the day of the credit event shall be allotted equal number of units in the segregated portfolio as held in the main portfolio.

The Finance Bill proposes to amend the definition of “short-term capital asset” under sub-section (42A) of section 2 of the Act to provide that the period of holding of original unit or units in the

main portfolio shall be included in the case of unit or units in a segregated portfolio referred to in section 49(2AG) of the Act.

This amendment will take effect from 1 April 2021 and shall accordingly apply to Assessment year 2021-22.

❖ **Amendment to Section 49 and 2(42A) of the Act**

Provision relating determination of cost of acquisition and period of holding of a unit or units in the segregated portfolio – Insertion new sub-section 2AG, 2AF and 2AH to section 49 of the Act [Clause 25]

Section 49 of the Act provides for cost of acquisition for the capital asset which became the property of the assessee under certain situations. The SEBI *vide* circular SEBI/HO/IMD/DF2/CIR/P/2018/160 dated December 28, 2018 has permitted creation of segregated portfolio of debt and money market instruments by Mutual Fund schemes.

As per the said circular, all the existing unit holders in the affected scheme as on the day of the credit event shall be allotted equal number of units in the segregated portfolio as held in the main portfolio. On segregation, the unit holders come to hold same number of units in two schemes –the main scheme and segregated scheme.

In light of the above, it is proposed to amend provisions of section 2(42A) to provide in the case of a unit or units in a segregated portfolio, the period for which the original unit or units in the main portfolio were held by the assessee should be considered.

Additionally, a new sub-section (2AG) is proposed to be inserted to provide for the cost of acquisition of units in the segregated portfolio. It is proposed that the cost of acquisition of a unit in the segregated portfolio shall be the amount which bears to the cost of acquisition of a unit or units held by the assessee in the total portfolio, the same proportion as the net asset value of the asset transferred to the segregated portfolio bears to the net asset value of the total portfolio immediately before the segregation of portfolios,

Further, *vide* new sub-section (2AH), it is also proposed that the cost of acquisition in the hands of the unit holder of the main portfolio shall be deemed to have been reduced by the amount as so arrived at under the proposed sub-section (2AG)

An explanation is also inserted to provide that the expressions “main portfolio”, “segregated portfolio” and “total portfolio” shall have the meanings respectively assigned to them in the circular No. SEBI/HO/IMD/DF2/CIR/P/2018/160, dated the 28th December, 2018.

This amendment will take effect from 1 April 2020 and will, accordingly, apply in relation to the assessment year 2020-2021 and subsequent assessment years.

Amendment in the provisions of Act relating to verification of the return of income and appearance of authorized representative.

❖ **Amendment to Section 140 and Section 288 of the Act**

Provisions of Act relating to verification of the return of income and appearance of authorized representative rationalized [Clause 67 and 102]

Currently, section 140(c) requires a company to get its return of income verified by the managing director (MD). Where the MD is not able to verify for any unavoidable reason or where there is no MD, any director of the company can verify the return.

It is also provided that in case of a company, in whose case application for insolvency resolution process has been admitted by the Adjudicating Authority (AA) under the Insolvency and Bankruptcy

Code, 2016, the return of income has to be verified by the insolvency professional appointed by such AA.

Furthermore, section 140(cd) provides that, in case of a limited liability partnership (LLP), the return of income has to be verified by the designated partner of the LLP or by any partner, in case there is no such designated partner.

It is proposed to amend clauses (c) and (cd) of section 140 of the Act so as to enable any other person, as may be prescribed by the CBDT to verify the return of income in the cases of a company and a LLP.

Further, Section 288 of the Act provides for the persons entitled to appear before any Income-tax Authority or the Income-tax Appellate Tribunal, on behalf of an assessee, as its “authorised representative”, in connection with any proceedings under that Act. While the IBC empowers the Insolvency Professional or the Administrator to exercise the powers of the Board of Directors or corporate debtor, it has been reported that lack of explicit reference in section 288 of the Act for an Insolvency Professional to act as an authorised representative of the corporate debtor has been raising certain practical difficulties.

It is proposed to amend sub-section (2) of section 288 to enable any other person, as may be prescribed by the CBDT, to appear as an authorised representative.

This amendment will take effect from 1 April 2020.

❖ **Amendment to Section 43 of the Act**
Rationalization of definitions of certain terms relevant to income from profits and gains of business or profession (Clause 21)

Section 43 of the Act provides for definitions of certain terms relevant to income from profits and gains of business or profession.

It has been proposed to amend clause 5 of section 43 of the Act to substitute the words recognized association with recognized stock exchange wherever it occurs in the said clause.

Further, it has been proposed to substitute the definition of recognized association at clause 5 of Explanation 2 to Section 43(5) with the definition of recognized stock exchange as ‘a recognised stock exchange as referred to in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956 and which fulfils such conditions as may be prescribed and notified by the Central Government for this purpose.’

This amendment will take effect from 1 April 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent years.

❖ **Amendment to section 197 of the Act**
Provision relating to certificate for deduction at lower rate [Amendment to section 197 of the Act] [Clause 89]

It is proposed to insert reference to section 194M and 194-O in clause (1) to section 197 of the Act along with the reference to other sections for which an application for deduction of tax at lower rate can be made.

This amendment will take effect from 1 April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

❖ **Amendment to section 204 of the Act**

Provision relating to meaning of “person responsible for paying” for the purpose of section 285 of the Act [Clause 91]

Currently, the provisions of section 204 of the Act provides the list of “specified persons responsible for paying”.

It is proposed to insert a new clause whereby the following persons shall be included in the list of “person responsible for paying” as per the provisions of section 204 of the Act:

- Non-resident;
- The person himself or any person authorised by such person or
- Agent of such person in India including a person treated as an agent as per the provisions of section 163 of the Act.

This amendment will take effect from 1 April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

❖ **Amendment to section 206AA of the Act**

Requirement to furnish Permanent Account number [Clause 92]

The provisions of section 206AA provides for deduction of tax at source at the higher of the following rates in absence of a Permanent Account Number namely,

- (i) at the rate specified in the relevant provision of the Act;
- (ii) at the rate or rates in force; or
- (iii) at the rate of twenty per cent

It is proposed to insert a proviso to sub-section (1) specifying that in case where the tax is required to be deducted as per the provisions of the proposed section 194-O of the Act, the rate of tax as per clause (iii) shall be read as five percent instead of twenty percent.

This amendment will take effect from 1 April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

❖ **Insertion of new section 285BB of the Act**

Provision for the income-tax authorities to populate the annual information statement [Clause 101]

It is proposed that the prescribed income-tax authority or the person authorized by such authority shall upload in the registered account of the assessee an annual information statement in such form and manner, within such time and along with such information, which is in the possession of an income-tax authority, as may be prescribed.

This amendment will take effect from 1 June, 2020

OTHER AMENDMENTS

Limited amendment to the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act 1991

Section 8 provides for income-tax exemption to the Chief Election Commissioner and other Election Commissioners on the value of rent-free residence, conveyance facilities, sumptuary allowance, medical

facilities and other such conditions of service as are applicable to Judge of the Supreme Court under Chapter IV of the Supreme Court Judges (Conditions of Service) Act, 1958 and the rules made there under. Clause 144 of the Finance Bill proposes to amend the said section so as to do away with the income-tax exemption applicable to the Chief Election Commissioner and other Election Commissioners on the value of rent-free residence, conveyance facilities, sumptuary allowance, medical facilities and other such conditions of service as are applicable to a Judge of the Supreme Court.

This amendment will take effect from the 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-2022 and subsequent assessment years.

Limited amendments to the Seventh Schedule to the Finance Act 2001

Clause 145 of the Finance Bill seeks to substitute the Seventh Schedule to the Finance Act, 2001 in the manner specified in Fifth Schedule to the Finance Bill 2020.

Limited amendments to the certain definitions under Finance Act 2013

Clause (7) of section 116 of the Finance Act 2013 defines “taxable commodities transaction”. Clause 146 of the Finance Bill proposes to amend the said clause in order to insert the expressions ‘sale of option in goods, and sale of commodity derivatives based on prices or indices of prices of commodity derivatives’ within the ambit of said definition.

The said clause further proposes to amend clause (8) of the said section 116 in order to substitute the expressions “Forward Contracts (Regulation) Act, 1952 with the expressions “Securities Contracts (Regulation) Act, 1956 and to insert the words “notifications issued” therein.

These amendments will take effect from 1st April, 2020.

Clause 147 of the Finance Bill proposes to amend section 117 of Finance Act 2013 relating to charge of commodities transaction tax. It is proposed to substitute the Table of the said section with a new Table.

Clause 148 of the Finance Bill proposes to consequentially amend section 118 of the Finance Act 2013 in relation to the value of taxable commodities transaction.

Clause 149 of the Finance Bill proposes to amend sections 119, 120 and 132A of the said Act so as to substitute the words “recognised stock exchange” for the words “recognized association”.

These amendments will take effect from 1st April, 2020.

PROHIBITION OF BENAMI PROPERTY TRANSACTIONS ACT, 1988

❖ Amendment to Section 9 of the Prohibition of Benami Property Transactions Act, 1988 (PBPT Act)

Qualifications for appointment of Chairperson and Members

Under extant section 9 of the PBPT Act, the following are qualified to be appointed as the Chairperson or Members of the Adjudicating Authority:

- a. who has been a member of the Indian Revenue Service and has held the post of Commissioner of Income-tax or equivalent post in that Service; or
- b. who has been a member of the Indian Legal Service and has held the post of Joint Secretary or equivalent post in that Service.

It is now proposed to amend section 9(b), wherein a person qualified to be appointed as District Judge can also be appointed as Chairperson or Member of the Adjudicating Authority.

This amendment will take effect from 1 April 2020.

REGULATORY UPDATES

❖ **Amendment to Section 9A of the Indian Stamp Act 1899 (ISA)** **Stamp duty exemption on instruments of transaction in IFSC**

It is proposed to exempt stamp duty in respect of the instruments of transaction in stock exchanges and depositories established in any International Financial Services Centre.

This amendment will take effect from 1 April 2020.

❖ **Insertion of Section 73B in ISA**

Powers granted to the Central Government to issue directions and authorise certain authorities to issue instructions

Finance Bill, 2020 proposes that the Central Government is empowered to issue directions and authorise SEBI and RBI to issue instructions / circulars / guidelines etc. for chargeability of instrument of transaction in stock exchanges and depositories.

This amendment will take effect from 1 April 2020.

POLICY UPDATES

❖ **Banking and Finance**

Non-Banking Finance Companies (NBFC) that are not registered as NBFC-Factors will be allowed to extend invoice financing to the Medium, Small and Micro Enterprises (MSMEs) through Trade Receivables and Discounting System (TReDS) platform. Accordingly, necessary amendments will be made to Factor Regulation Act, 2011.

It is proposed to enhance working capital credit to MSME entrepreneurs. A scheme would be introduced to provide subordinate debt by banks.

The Government had formulated a Partial Credit Guarantee scheme to provide liquidity to NBFCs. To further this support of providing liquidity, a mechanism would be devised.

Encourage PSU Banks to approach capital market to raise additional capital and to introduce governance reforms in PSU banks to make them more competitive.

Deposit Insurance Coverage to be increased to ₹ 5,00,000 per depositor (currently ₹ 1,00,000 per depositor).

Amendments will be made to Banking Regulation Act, 1949 to strengthen the regulatory framework and governance norms for Co-operative Banks.

NBFCs with asset size of ₹ 100 crore (as against current threshold of ₹ 500 crore) or loan size of ₹ 50 lakhs (as against current threshold of ₹ 1 crore) can approach debt recovery under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 for recovery for debt.

❖ **Foreign investment**

To ensure higher quality in education, steps would be taken to enable sourcing of External Commercial Borrowings and Foreign Direct Investment in education sector.

It is proposed to set-up an Investment Clearance Cell that will provide “end-to-end” facilitation and support, including pre-investment advisory, information related to land banks and facilitate clearances at Centre and State level.

Specified categories of Government securities would be opened fully for non-resident investors.

❖ **Securities laws**

Foreign Portfolio Investor (FPI) investment limits in corporate bonds will be increased to 15% of the outstanding stock of corporate bonds (as against existing threshold of 9%).

New legislation will be introduced for providing a mechanism for netting of financial contracts, in order to improve investors’ confidence and to expand the scope of credit default swaps.

New Debt based Exchange Traded Fund (ETF) to be floated, which will primarily consist of government securities.

❖ **International Financial Services Centre (IFSC)**

International Bullion exchange(s) will be set-up in GIFT-IFSC as an additional option for trade by global market participants.

❖ **Miscellaneous provisions**

Companies Act, 2013 and other laws will be amended to do away with criminal liability for acts that are civil in nature.

Amendments will be carried out in Pension Fund Regulatory and Development Authority Act, 2013 to facilitate separation of National Pension Scheme (NPS) trust for government employees from Pension Fund Regulatory and Development Authority.

The policy updates mentioned above are announced by the Finance Minister in the budget speech and it does not form part of the Finance Bill, 2020. Necessary amendment to the relevant law / rules / regulations etc. would be made to give effect to the said changes.

TRANSFER PRICING

❖ **Amendment to the provisions of Safe Harbour Rules under section 92CB and Advance Pricing Agreement under section 92CC to include attribution of profit to Permanent Establishment**

The Finance Bill of 2020 has proposed to amend the provisions of Safe Harbour Rules and Advance Pricing Agreement (APA) to include attribution of profits to Permanent Establishment of a non-resident.

The amendment to section 92CB provides that the determination of the income referred to in section 9(1)(i) shall also be subject to Safe Harbour Rules.

The amendments to section 92CC provide that the Central Board of Direct Taxes, with the approval of the Central Government, may enter into an APA in relation to income referred to in section 9(1)(i).

The amendments aim to reduce litigation by providing certainty to taxpayers.

The amendment to Section 92CB is applicable from assessment year 2020-21.

The amendment to Section 92CC is applicable for APAs entered into on or after 1 April 2020.

❖ **Amendment to the due date of filing Accountant’s Report in Form No. 3CEB under Section 92F (iv)**

The Finance Bill of 2020 has proposed to amend the due date for filing of Accountant’s Report in Form No. 3CEB to one month prior to the due date for furnishing the return of income of the relevant assessment year i.e., 31st day of October of the assessment year.

The due date for filing the return of income for taxpayers to whom transfer pricing provisions are applicable remains the same i.e., 30th day of November of the assessment year.

The amendment is applicable from assessment year 2020-21.

GOODS & SERVICE TAX

AMENDMENTS EFFECTIVE FROM DATE TO BE NOTIFIED

1. **SECTION 2 (114): DEFINITION OF UNION TERRITORY**

Section 2(114) of CGST Act is proposed to be amended to include the newly formed Union Territory of “LADAKH” in the definition of Union Territory.

Further, Consequential amendment pursuant to merger of Union territory of Dadra & Nagar Haveli & Daman and Diu has been proposed. Similar amendments are proposed to be made in Section 1(2) & Section 2(8) of UTGST Act.

2. **COMPOSITION LEVY**

- Presently, a registered person who opts for composition scheme can provide service (Within or Outside state) not exceeding 10% of Turnover in state or Rs. 5 Lakhs whichever is higher
- It is proposed to insert word “Services” in condition 10(b), 10(c) & 10(d), thereby, registered person will not be eligible to opt for the composition scheme if he is;

Engaged in making supply of services which are not leviable to Tax under this Act

Engaged in making Inter-state outward supply of service.

Engaged in supply of services through E-commerce operator who is require to collect tax at source u/s 52.

3. **INPUT TAX CREDIT**

- Section 16(4) restricts the registered person to avail ITC for invoice/Debit note for goods or service beyond due date of furnishing return u/s 39 for month of September following the end of financial year to which such invoice or **Invoice relating to debit note** relates or date of furnishing annual return whichever is earlier
- The Word “Invoice relating to such debit note” is omitted, thereby registered person can avail ITC for said debit note till due of filing return for September following financial year to which debit note pertains or date of filing annual return for financial year whichever is earlier.

4. **CANCELLATION OF REGISTRATION**

- Section 29(1)(c) currently provides that a person who has obtain GST registration voluntary u/s 25(3) was not eligible for making application for cancellation of his GST registration.
- The said section is proposed to be amended whereby the proper officer can cancel the GST registration obtained voluntarily u/s 25(3) on application filed by such registered person.

5. REVOCATION OF CANCELLATION OF REGISTRATION

- Section 30(1) provides for application to be made by registered person for revocation of cancellation of registration within 30 days of service of cancellation order.
- Presently, there is no provision for condonation of delay for applying for such revocation
- It is proposed to empower Additional or Joint commissioner to condone the delay for making application for such revocation upto 30 days provided a sufficient cause is being shown & reason to be recorded in writing.
- The said time limit may further be extended upto 30 days by commissioner.

6. TAX INVOICE

- Section 31(2) is proposed to be amended whereby powers are given to government to notify specified category of service or supplies in respect of which tax invoice shall be issued within prescribed time & manner.

7. PENALTY FOR CERTAIN OFFENCES

- Currently penalty of higher of Rs. 10,000/- or amount equivalent to Tax sought to be evaded, is prescribed u/s 122(1) in case taxable person

Sub clause I - Supplies any goods or services or both without issue of any invoice or issues an incorrect or false invoice with regards to any such supply

Sub clause II - Issues any invoice or bill without supply of goods or services or both in violation of provision of this Act or Rules made thereunder

Sub clause VII - Takes or utilizes ITC without actual receipt of goods or service or both either fully or partially in contravention of provision of this Act or rules made thereunder

Sub clause VIII - Fraudulently obtains refund of tax under this Act

- Sub section 1A is sought to be inserted in section 122 whereby penalty is proposed to be imposed equivalent to amount of Tax evaded or ITC availed/passed on in above 4 instances on **person who retains the benefit (Beneficiary) or at whose instance transaction is conducted.**
- Section 132 of CGST Act is being amended to make the offence of Fraudulent availment of ITC without an Invoice or bill, a **cognizable & Non- bailable** offence.
- It is also proposed to extend above referred Punishment to person who causes to commit offence or retain benefit arising out of said offences.

8. REMOVAL OF DIFFICULTIES

- The time limit of 3 years for issue of removal of difficult order is extended to 5 years from the date of commence of this Act

RETROSPECTIVE AMENDMENTS

9. TRANSITIONAL CREDIT

- Section 140 provides various provisions & conditions for availing transitional credit. It is proposed to amend various sub clauses of section 140 to include the words **“within such time”**, meaning thereby the registered person to adhere to time limit for filing TRAN 1 FORM.
- Hon’ble Gujarat High court in case of **JAKAP MEDIND PVT LTD VS. UOI (2019 TMI (11) 710)** held that appellants should be allowed to revise their TRAN 1 FORM which was filed before prescribed

date & revision thereof is sought after the due date of filing TRAN 1, since the request for rectification of error by appellant was bonafide. Article 265 of Constitution provides that no Tax shall be levied or collected except under authority of Law. The appellant was entitled for ITC by way of Transitional credit which cannot be denied constitutionally.

- The revenue's contention that of Rule 117 & 120(a) providing for time limit of 90 days for filing TRAN 1 FORM is beyond the mandate of section 140 of CGST Act. Section 140 does not provide any time limit but prescribes only manner of filing form.
- In order to reverse the impact of this decision, the amendment is proposed retrospectively w.e.f.1st July,2017.

10. RETROSPECTIVE EXEMPTION

- Supply of Fishmeal (Falling under heading 2301) is exempted retrospectively for the period 1st July, 2017 to 30th September, 2019.
- Assessee will not be allowed to claim refund of Tax already paid, which would otherwise not been paid if above referred rate change were effective during the relevant period.

11. RETROSPECTIVE RATE CHANGE

- Supply of Pulley, Wheels & other parts (falling under heading 8483) & used as part of agricultural machinery (falling under heading 8432, 8433 & 8436) will be taxed at 12% for the period July, 2017 to December, 2018
- Assessee will not be allowed to claim refund of Tax already paid, which would otherwise paid at lower rate if above referred rate change were effective during the relevant period.

12. RETROSPECTIVE DENIAL OF REFUND OF UNUTILIZED ITC

- The refund of accumulated credit of compensation cess on tobacco products arising out of Inverted duty structure in compensation cess is disallowed w.e.f. 1st October, 2019 through notification 3/2019-Compensation Cess (Rate) dated 30th September, 2019
- This notification is being given retrospective effect from 1st July, 2017 onwards. Accordingly, no refund of inverted duty structure shall be admissible on tobacco products even for period July, 2017 to 30 September, 2019

CUSTOMS

Amendments proposed in the Customs Act, 1962, ('the Act') will come into force from the date of enactment of Finance Bill, 2020

Customs legislative related changes

1. Power to prohibit import / export of any goods

The Central Government has expanded its power to prohibit importation or exportation of any goods (in addition to gold and silver covered currently), in order to prevent injury to country's economy from uncontrolled import or export of such goods.

2. Customs duty recovery notices issued prior to 29 March 2018

Show cause notice issued prior to enactment of Finance Act, 2018, (i.e. before 29 March 2018), shall be governed by the provisions of Section 28 as it existed, prior to such amendment. Thus, the

amendments proposed to Section 28 vide Finance Act, 2018, would not impact any show cause notice issued prior to the said date, irrespective of even any order of the Appellate Tribunal, Court or any other law to the contrary.

3. Instruments obtained by fraudulent means

Currently, recovery proceedings / action could only be initiated against a person who fraudulently (i.e. by means of collusion, suppression, etc) obtained instruments under the Customs Act or the Foreign Trade (Development and Regulation) Act, 1992. Amendment introduced to also cover instruments obtained under any other law or any scheme of Central Government.

The definition of 'instrument' widened to also cover the newly introduced electronic duty credit ledger vide Section 51B in the Finance Bill, 2020.

4. Provisions introduced to administer claim of preferential rate of duty under Trade Agreement

A new Chapter has been incorporated to provide for, enabling provisions for administering the preferential tariff treatment under Trade Agreements. Salient features of the provisions are summarized below:

- The provisions impose obligations upon the importer to submit certificate of origin, possess information as required under the trade agreement such as regional value content, product specific criteria and also furnish such information as may be prescribed in the rules.
- Failure to provide requisite information may result in temporary suspension of preferential treatment on those goods. Further, the officer may, upon request, release the imported goods, but subject to importer submitting security amount equal to difference between provisionally assessed duty and preferential duty claimed.
- In case the importer is later able to provide the relevant information to the officer's satisfaction, preferential tariff treatment could be restored.
- Preferential tariff treatment could also be refused without verification under some identified circumstances and be marked as inapplicable.
- Once non-compliance is established *qua* imported goods under preferential tariff treatment, Customs authorities may reject preferential treatment also to identical goods imported from same producer of exporter, unless importer submits further adequate information in this regard.

Corresponding amendments also made to Government's general power to make rules in relation to notifying the form, time limit, manner, conditions for carrying out provisions pertaining to preferential tariff treatment.

5. Confiscation of improperly imported goods

In case of contravention of the relevant provisions pertaining to goods imported with preferential duty claim, the said goods could also be liable for contravention.

6. Electronic duty credit ledger under customs system

An electronic duty credit ledger shall be maintained in the customs automated system to capture details of duty credit granted to a person. The said duty credit could be granted for notified purposes such as in lieu of any remission of any duty or tax or levy chargeable on any material used in the manufacture of goods which are ultimately exported or in lieu of any financial benefit. The duty credit ledger is transferrable and can be used to make customs duty payment subject to prescribed conditions.

Corresponding amendments made to Government's general power to make regulations in relation to the manner of maintaining electronic credit ledger, make payment therefrom, transfer of credit from one person's ledger to another subject to prescribed conditions.

Customs Tariff related changes

7. Provisions pertaining to imposition of safeguard duty substituted

The salient features of newly substituted provisions are as under:

- Tariff rate quota or such other measure as notified can also be applied and used as a safeguard measure in addition to safeguard duty;
- Tariff rate quota cannot be fixed lower than the average level of imports in the last three representative years for which such statistics are available, unless deemed necessary to prevent or remedy serious injury to domestic industry.
- Central Government to allocate tariff rate quota to supplying countries having a substantial interest in supplying the article concerned as may be prescribed.
- Central Government to notify rules to provide for the manner of implementing tariff rate quota as a safeguard measure and also the manner in which it may be allocated amongst the supplying countries.

8. Health cess on import of specified medical devices

- Health cess will be levied as duty of customs at 5% on all medical devices falling under Heading 9018 to 9022 (with effect from 2 February 2020).
- Health Cess will be levied advalorem based on the import value of goods as determined under Section 14 of the Act, being assessable value.
- Export promotion scrips cannot be used for payment of health cess.
- Medical devices exempted from Basic Customs Duty (including those covered under Trade Agreement) will also be eligible for health cess exemption. Further, inputs parts used in manufacture of medical device would also be exempted from health cess.



WHAT'S IN IT FOR THE INDUSTRIES?

Some of the Budget proposals typically overlap across various industries, however specific reform measures are certainly there. This section essentially attempts to capture few specific policy initiatives both from non-tax and tax policy perspectives

1. Energy, Resources and Infrastructure

Certain policy proposals

- ❖ Allocation of INR 22,000 crore to power and renewable energy sector and INR 1.70 lakh crore for transport Infrastructure in 2020-21;
- ❖ Expansion of Prime Minister KUSUM scheme for setting-up standalone solar pumps and solarise grid-connected pump sets;
- ❖ Scheme to be operationalized to enable farmers to set-up solar power generation capacity on their barren lands and to sell it to the grids;
- ❖ Proposal to set-up large solar power capacity alongside rail tracks;
- ❖ States and Union Territories to replace conventional energy meters with prepaid smart meters in the next 3 years. Freedom to be provided to consumers to choose DISCOMS and rate as per their requirements;
- ❖ Expansion of national gas grid from 16,200 km to 27,000 km;
- ❖ Reforms in gas markets to be undertaken to facilitate transparent price discovery and ease of transactions;
- ❖ Re-emphasis on the need of National Infrastructure Pipeline launched in December 2019 to improve physical quality of life. INR 103 lakh crore to be invested in more than 6,500 projects across sectors over the next 5 years;
- ❖ Proposal to set-up project preparation facility for infrastructure projects. The program to actively involve young engineers, management graduate and economists from universities;
- ❖ 100 additional airports to be developed by 2024 to support Udaan scheme;
- ❖ Accelerated development of highways to be undertaken; to include development of control highways, economic corridors, coastal and land port roads and strategic highways;
- ❖ National logistics policy to be released to inter-alia clarify the role of the Union and State Governments and key regulators, to create a single window e-logistics market and employment generation;
- ❖ To attract investments in power sector, concessional corporate tax rate of 15% has been proposed to be extended to new domestic companies engaged in generation of electricity;

Tax Proposals

- ❖ Private unlisted Infrastructure Investment Trusts (InvITs) to be given the same income-tax stature as public listed InvITs;
- ❖ To boost investments in infrastructure and other notified sectors by sovereign wealth fund of foreign governments (including the wholly owned subsidiary of Abu Dhabi Investment Authority), an income-tax exemption has been proposed for income (dividend, interest and capital gains) earned from investments made on or before March 31, 2024 and having a minimum lock-in period of 3 years;
- ❖ Income-tax exemption proposed on income earned by Indian Strategic Petroleum Reserves Limited (ISPRL) as a result of replenishment of crude oil stored in its storage facility subject to satisfaction of certain conditions;

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- ❖ Customs rate changes on key products are provided below:

Product	Rate Change (From)	Rate Change (To)	Impact
Other Chemical Products	10	17.5	↑
Compressor of refrigerator and Air conditioner	10	12.5	↑
Heat pumps, ice making machines, refrigerating requirements	7.5	15	↑
Solar Cells, not assembled	20	0%	↓
Solar Cells, assembled in modules or made up in panels	20	0%	↓
Open Cell for television Set	15	0%	↓
Very low Sulphur fuel oil	10	NIL	↓
Napatha, when imported for generation of electrical energy	Nil	10%	↑
Electrical Energy	Nil	2000 per 1000 Kwh	↑
Zinc tubes, pipes and wire	7.5	10	↑
Gold used in the certain manufacturing activities	Nil	12.5	↑
Rough semi-precious stones, coloured gemstones, emeralds, synthetic gemstones, cubic zirconia	Nil	0.5	↑
PCBA of Cellular mobile phone	10	20	↑

2. Financial Services Sector

Certain policy proposals

- ❖ PSU banks to be encouraged to raise funds from capital markets.
- ❖ Robust mechanism to monitor the health of all scheduled commercial banks and to safeguard depositor's money.
- ❖ Increase in deposit insurance coverage, from ₹ one lakh to ₹ five lakh per depositor.
- ❖ Limit for debt recovery under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act 2002 for NBFC's is proposed to be reduced from ₹ 500 crore to asset size of ₹ 100 crore or loan size from existing ₹ 1 crore to ₹ 50 lakh.
- ❖ Proposal to sell Government's balance holding in IDBI bank through the Indian capital markets.
- ❖ Measures to be taken to professionalize PSU banks.
- ❖ Proposed amendments to the Factor Regulation Act 2011 to enable NBFCs to extend invoice financing to the MSMEs through Trade Receivable e-Discounting System ('TReDS').
- ❖ It is proposed to introduce a scheme to provide subordinate debt for entrepreneurs of MSMEs to solve their working capital requirements.
- ❖ Restructuring window to MSME's proposed to be extended till March 31, 2021.
- ❖ Government plans to sell a part of its holding in Life Insurance Corporation by way of Initial Public Offer (IPO).
- ❖ In order to boost investment activity in the economy, following measures are proposed:

- o Certain specified Government securities will be open fully for non-resident investors, apart from being available to domestic investors as well.
- o FPI limit in corporate bonds to be increased from 9% to 15% of the outstanding stock of corporate bonds.
- o Government proposes to float a new debt-based Exchange Traded Fund (ETF) consisting primarily of government securities.

Direct Tax Proposals

❖ **Modification in conditions for offshore funds from exemption from “business connection”**

Relaxation of certain conditions for claiming exemption in case of offshore funds from creating a “business connection”. It is proposed to amend section 9A provision so that:

- o Aggregate participation or investment in the fund, directly or indirectly, by Indian resident, contribution of the eligible fund manager during first three years up to ₹ 25 crores shall not be accounted for; and
- o If the fund has been established or incorporated in the previous year, the condition of monthly average of the corpus of the fund to be at ₹ 100 crores shall be fulfilled within twelve months from the last day of the month of its establishment or incorporation.

This amendment shall be applicable from 1 April 2020 and apply for assessment years 2020-21 onwards.

❖ **Amendment to section 194LC and 194LD - Concessional withholding tax rate of 5% extended to bonds listed in stock exchanges in IFSC and municipal bonds.**

- o Under section 194LC and 194LD, the period for applicability of the concessional rate of TDS of five per cent has been extended to 1st July, 2023;
- o Introduction of concessional TDS rate of four per cent on the interest payable to a non-resident, on any long term bond or rupee denominated bonds which is listed only on a recognised stock exchange located in any IFSC.
- o Introduction of concessional TDS rate of five per cent on the interest payable to a FII or QFI in respect of the investment made in municipal debt security.

These amendments shall be applicable from 1 April 2020.

❖ **Amendment to Section 94B – Exclusion for interest paid by Permanent Establishment of a non-resident Bank for the purpose of 94B.**

Section 94B is proposed to be amended to provide that interest limitation would not apply to interest paid in respect of a debt issued by a lender which is a PE of a non-resident, being a person engaged in the business of banking, in India.

This amendment will take effect 1 April 2021 and will accordingly, apply in relation to the assessment years 2021-22 and subsequent assessment years.

❖ **Amendment to Section 9 – Aligning exemption from taxability of Foreign Portfolio Investors (FPIs) on account of indirect transfer of assets**

It is proposed that the exception from said *Explanation 5* provided erstwhile to Category I and II FPIs under the SEBI (FPI) Regulations, 2014 may be grandfathered. Further, it is proposed to insert third proviso to provide for similar exception in respect of investment in Category-I FPI under the SEBI (FPI) Regulations, 2019.

This amendment will take effect from 1 April 2020 and will, accordingly, apply for assessment years 2020-21 and subsequent assessment years.

❖ **Amendment to Section 115-O – Removal of DDT**

In order to reduce the tax burden on corporates, it is proposed to abolish the dividend distribution tax. Subsequently, corresponding amendments are proposed in various sections.

o **Widening the scope of Commodity Transaction Tax ('CTT')**

Following amendments are proposed in Chapter VII of the Finance Act, 2013, to align the provisions of CTT with the changes in commodity derivatives market.

- Sale of a commodity derivative based on prices or indices of prices of commodity derivatives at the rate of 0.01 per cent payable by the seller;
- Sale of an option in goods, where option is exercised resulting in actual delivery of goods at the rate of 0.0001 per cent payable by purchaser;
- Sale of an option in goods, where option is exercised resulting in a settlement otherwise than by the actual delivery of goods at the rate of 0.125 per cent payable by purchaser;

This amendment shall be applicable from 1 April 2020.

❖ **Set-off of losses by amalgamating banks**

To alleviate issues faced by amalgamated public sector banks, Budget 2020 proposes to allow the resulting government company to carry forward and set-off losses of the amalgamating government company, if the merger is in accordance with a scheme sanctioned and brought into force by the Central Government under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.

This amendment shall be applicable from 1 April 2020 and apply for assessment years 2020-21 onwards.

❖ **Extension of reduced taxation rates to co-operative society**

It is proposed to insert new section to 115BAD to provide that the co-operative societies can avail reduced rate of 22% taxation subject to conditions specified. Further, co-operative society shall not be liable for AMT also.

This amendment shall be applicable from 1 April 2021 and apply for assessment years 2021-22 onwards.

3. **Technology:**

Certain policy proposals:

- ❖ Technology identified as one of the key enablers of “Economic Development”
- ❖ Proposal to develop five new smart cities in collaboration with the State Governments in the ‘Public Private Partnership’ mode.
- ❖ In order to make India an electronic manufacturing hub and leveraging upon the cost advantage, the government to introduce a scheme focusing on manufacturing technological products like mobile phones, electronic equipment and semi-conductor packaging.
- ❖ Government e-Marketplace (GeM) is moving ahead for creating a Unified Procurement System for providing a single platform for procurement of goods, services and works for Medium, small and micro enterprises.
- ❖ Policy to be introduced enabling private sector to build Data Centre parks throughout the country in order to help firms skillfully incorporate data in every step of their value chains.
- ❖ Proposed New ‘National Policy on Official Statistics’ to use latest technology like artificial intelligence to lay down a road-map for modernised data collection, integrated information portal and timely dissemination of information

- ❖ Government to promote a digital platform in order to facilitate seamless application and capture of Intellectual Property Rights (‘IPRs’). Also, within an Institute of Excellence, a centre would be established to work on the complexity and innovation in the field of Intellectual Property
- ❖ Knowledge Translation Clusters to be set up across different technology sectors including new and emerging areas
- ❖ To map India’s genetic landscape, two new national level Science Schemes will be initiated to create a comprehensive genetic database
- ❖ Capital outlay of INR 8000 crore over a period five years proposed for the National Mission on Quantum Technologies and Applications
- ❖ Vision to extend the outreach of digital economy to public institutions at gram panchayat level by providing them digital connectivity, encompassing anganwadis, health and wellness centers, government schools, PDS outlets, post offices and police stations.
- ❖ A capital outlay of INR 6,000 crore to be allocated to the ‘BharatNet Scheme’ to provide Fibre to the Home (FTTH) connection, linking 100,000 gram panchayats
- ❖ Digital refund of duties and taxes of Centre, states and local bodies to exporters from this year

Tax proposals:

- ❖ Deferment of Significant Economic Presence based business connection based taxing rule till 2023
- ❖ New withholding tax provision proposed to be applicable to tax e-commerce facility providers.
- ❖ Section 90 of the Act on enabling access to Double Tax Avoidance Agreements proposed to be amended to pave the way for implementation of the Multilateral Instrument and thereby various approaches to tax digital economy in future.
- ❖ Customs rate changes on key products are provided below:

Product	Rate Change (From)	Rate Change (To)	Impact
Colour positive unexposed cinematographic film as per specifications	5	10	↑
Instant Print film	5	10	↑
Cinematographic films, exposed but not developed	Nil	10	↑

4. Consumer Business:

Certain policy proposals

- ❖ Government soon to extend its scheme namely – ‘Pradhan Mantri Kisan Urja Suraksha and Utthan Mahabhiyan’ (PM KUSUM) to 20 lakh farmers for setting up standalone solar pumps.
- ❖ Government to encourage balanced use of all kinds of fertilizers including the traditional organic and other innovative fertilizers.
- ❖ In order to help improve value realisation especially in North-East and tribal districts, the Civil Ministry will introduce “Krishi Udaan” to transport agri-products to national as well international destinations
- ❖ Proposal to provide comprehensive measures for 100 water-stressed districts
- ❖ Agricultural credit target set at INR 15 lakh crore
- ❖ Government to expand the NABARD Refinancing Scheme, wherein the agricultural credit target has been set at INR 15 lakh crores for FY 2020-21

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- ❖ Proposal to setup “KISAN RAIL” by Indian Railways through Public-private partnership (“PPP”) model for transportation of perishable goods.
- ❖ Proposed to initiate degree level online education programme to promote education amongst the students of deprived sections.
- ❖ To promote marketing and export in horticulture sector, Government to support states focusing on “one product one district”.
- ❖ To promote culture & tourism, Government plans to develop five archaeological sites as “iconic sites” with on-site museum and introduce more trains like ‘Tejas’ to connect iconic tourist destinations.
- ❖ Government will establish a new ‘Indian Institution of Heritage & Conservation’ and empower it with a deemed university status to further promote tourism.
- ❖ Measures to bring in prepaid “smart” metering in place of conventional electricity metres, which would also provide consumers the freedom to select the supplier and rates basis their requirements.
- ❖ New Scheme – “NIRVIK” will be launched to provide enhanced insurance cover & reduce premium for small exporters, in order to achieve higher export credit disbursement.

Tax proposals:

- ❖ Deferment of Significant Economic Presence based business connection based taxing rule till 2023
- ❖ New withholding tax provision proposed to be applicable to tax e-commerce facility providers.
- ❖ TCS provisions introduced in case of foreign remittances, sale of overseas tour packages and sale of goods and services beyond specific thresholds
- ❖ Section 90 of the Act on enabling access to Double Tax Avoidance Agreements proposed to be amended to pave the way for implementation of the Multilateral Instrument and thereby various approaches to tax digital economy in future.
- ❖ Customs rate changes on key products are provided below:

Product	Rate Change (From)	Rate Change (To)	Impact
Walnuts, Shelled*	30	100	↑
Footwear	25	35	↑
Household Items and appliances (tableware, kitchen wear, table fan, food grinders, hair dryers, etc.)	10	20	↑
Water cooler and Vending Machines	10	15	↑
Automobile - Catalytic Convertor	10	15	↑
Furniture	20	25	↑
Toys	20	60	↑
Stationery Items	10	20	↑
Fingerprint readers/scanners, for use in cellular mobile phone	Nil	15	↑
Butter Ghee, Butter Oil, other Cheese	30	40	↑
Crude sunflower seed or safflower oil	50	100	↑
Chewing gum whether or not sugar coated*	30	45	↑
Sprinklers and drip irrigation systems for specified purpose	5	7.5	↑

* Exempt from levy of Social Welfare Surcharge

- ❖ Excise rate changes (NCCD levy) on key products are provided below:

Product	Rate Change (From)	Rate Change (To)	Impact
Cigarettes of tobacco substitutes	₹ 150 per thousand	₹ 600 per thousand	↑
Hookah or gudaku tobacco	10%	25%	↑
Smoking mixtures for pipes and cigarettes	45%	60%	↑
Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 65 Millimetres	₹ 90 per thousand	₹ 440 per thousand	↑
Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 65 millimetres but not exceeding 70 millimetres	₹ 90 per thousand	₹ 440 per thousand	↑
Chewing tobacco	10%	25%	↑
Tobacco extracts and essence	10%	25%	↑

Automobile

- ❖ Customs rate changes on key products are provided below:

Product	Rate Change (From)	Rate Change (To)	Impact
Completely Built Units of commercial vehicles (other than electric vehicles)*	30	40	↑
Completely Built Units of commercial electrical vehicles*	25	40	↑
Semi Knockdown form of electric passenger vehicles	15	30	↑
Semi Knockdown form of electric vehicles - Bus trucks and two wheelers	15	25	↑
Complete Knocked Down forms of electric vehicles- Passenger vehicles, Three wheelers, Two wheelers, Bus and Trucks	10	15	↑

* Exempt from levy of Social Welfare Surcharge

5. Life Sciences and Healthcare

Certain policy proposals

- ❖ The Government's vision is to provide holistic healthcare that translates into wellness of citizens. The policy measures and initiatives announced by the Finance Minister in her Budget Speech towards this vision are listed below
- ❖ Proposal to set up a 'Viability Gap' funding window for setting up hospitals (especially in Teir 2 and Tier 3 cities) in Public Private Partnership (PPP) mode under the Ayushman Bharath Yojana [also called as the Pradhan Mantri Jan Arogya Yojana (PMJAY)]. This initiative would be initially (under first phase) targeted towards districts where there are no Ayushman empaneled hospitals.

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- ❖ Focus on use of machine learning and Artificial Intelligence (AI) in PMJAY to target diseases with an appropriately designed preventive regime.
- ❖ Strengthening of efforts on the ‘TB Harega Desh Jeetega’ to realize the commitment of eradicating Tuberculosis by 2025.
- ❖ ‘Jan Aushadhi Kendra Scheme’ to be expanded to all districts by 2024.
- ❖ In addition to the Open Defecation Free (ODF) Plus programme, the need to put more efforts towards liquid and grey water management was identified. Solid waste collection, source segregation and processing were also identified as focus areas.
- ❖ A task force is proposed for lowering Maternal Mortality Rate (MMR) and improving nutritional levels amongst expecting mothers, a task force is proposed to be appointed to present its recommendations.
- ❖ Legislative and institutional changes to be introduced for adoption of identified technologies suitable for cleaning of sewer systems or septic tanks with a view to abolish manual scavenging. Financial support for wider acceptance of such technologies will be provided.
- ❖ In order to promote mid-size companies in export markets, handholding support for technology upgradations, R&D, business strategy to be extended for sectors like pharmaceuticals with the help of EXIM Bank and SIDBI.
- ❖ In order to finance health infrastructure and services and with a view that medical equipment are now being manufactured significantly in India, it is proposed to levy health cess at the rate of 5 percent, by way of duty on customs, on import of specified medical equipment.

Tax Proposals

- ❖ New section proposed to be inserted to provide income-tax exemptions on income earned by way of dividends, interest or long term capital gains arising from investments made by specified foreign investors [i.e. sovereign wealth funds, wholly owned subsidiary of Abu Dhabi Investment Authority (ADIA), resident of UAE, etc), inter alia in companies engaged in developing/operating/maintaining ‘infrastructure facility’ being water treatment system, sanitation and sewerage system or solid waste management system.
- ❖ Health Cess levied at 5% as duties of customs on notified medical devices falling under Chapter 9018 to 9022 of the Customs Tariff Act, 1975





National Awards to WIRC & It's Branches for the Year 2019-20

Best Region of ICAI:
Western Region of ICAI

Best Students Association:
WICASA of WIRC

Best Branches of WIRC of ICAI:

Mega Category:
Best - Pune Branch
Second - Ahmedabad Branch

Large Category:
Second - Vadodara Branch

Medium Category:
Second - Aurangabad Branch

Small Category:
Best - Ahmednagar Branch
Second - Jalgaon Branch

Best WICASA of Branches of WIRC of ICAI:

Mega Category:
Best - WICASA of Pune Branch
Second - WICASA of Ahmedabad Branch

Large Category:
Best - WICASA of Nagpur Branch
Second - WICASA of Thane Branch

Medium Category:
Best - WICASA of Aurangabad Branch
Second - WICASA of Vadodara Branch

Small Category:
Best - WICASA of Ahmednagar Branch
Second - WICASA of Jalgaon Branch

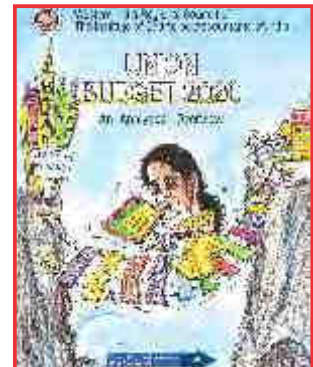
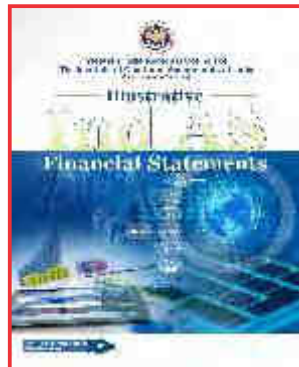
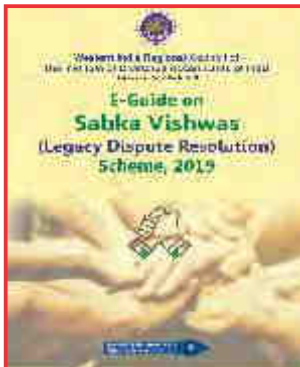
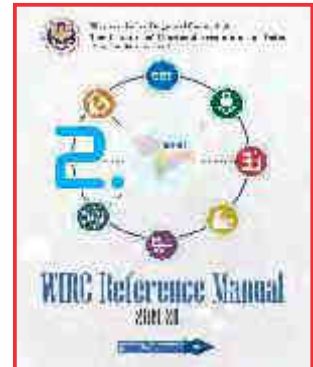
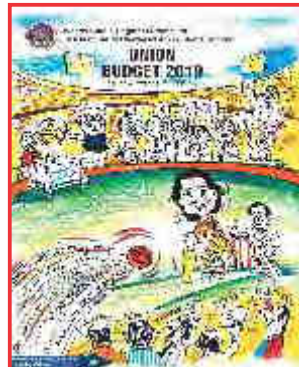
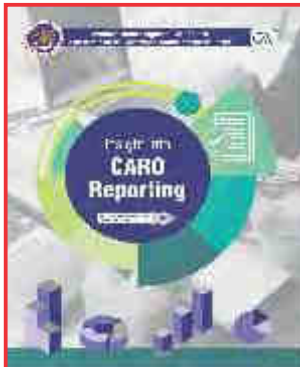
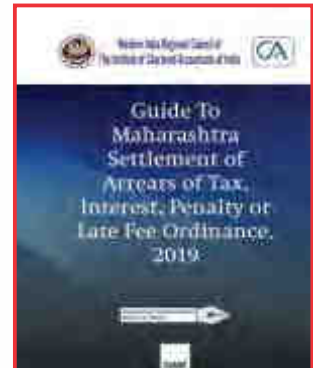
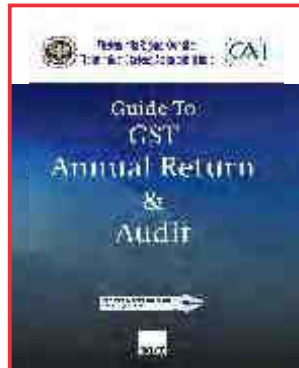
Micro Category:
Second - WICASA of Pimpri-Chinchwad Branch

*Team WIRC expresses gratitude to all the Members and Students of
Western Region of ICAI for the support*



CA. Priti Savla, Chairperson
CA. Umesh Sharma, Vice Chairman, CA. Rakesh Alshi, Secretary,
CA. Yashwant Kasar, Treasurer, CA. Jayesh Kala, Chairman, WICASA

WIRC Publications of the Year 2019-20



Releasing Shortly

