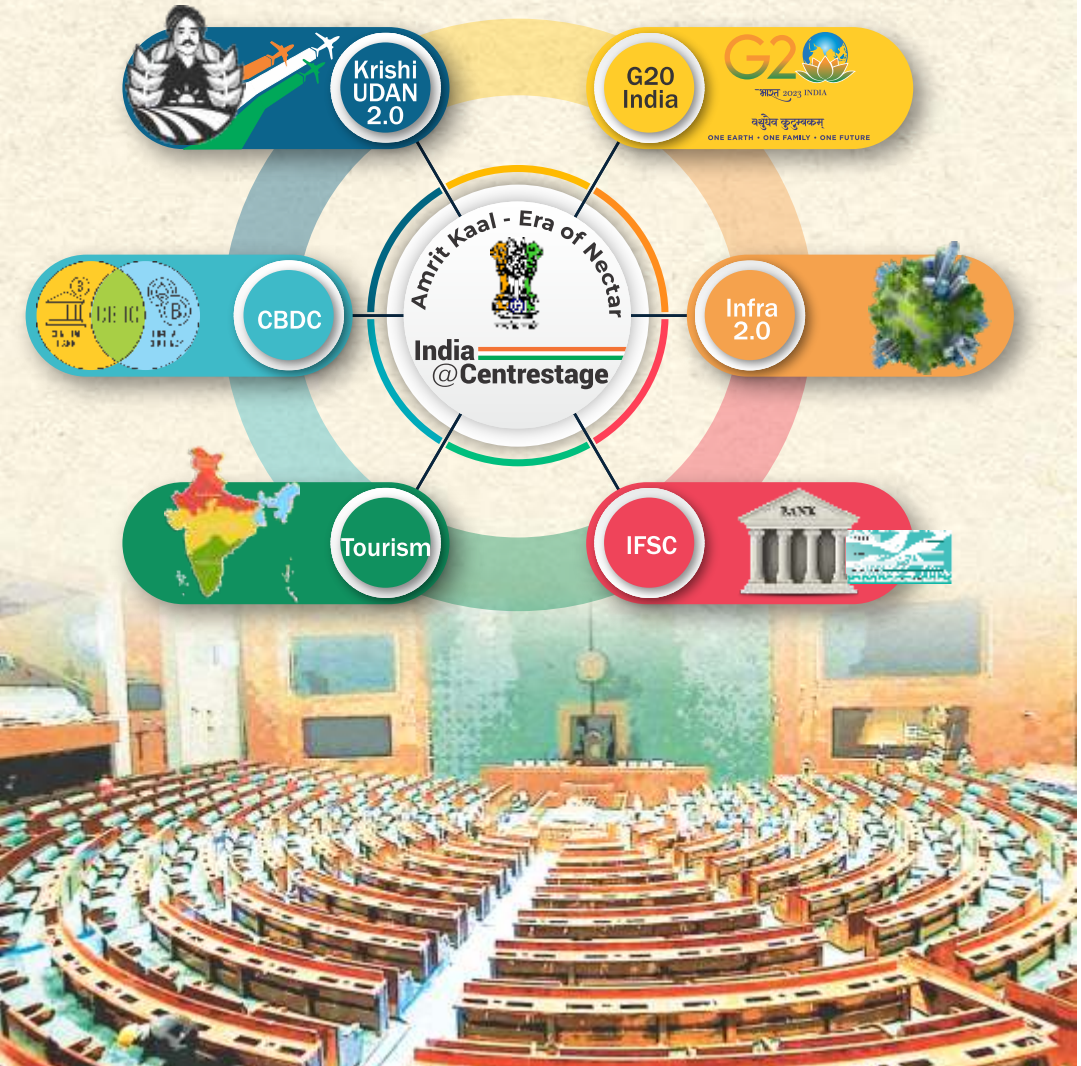
Bombay Chartered Accountants' Society

30th year of Publication

THE UNION BUDGET 2023-24

- An Analysis



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About the Cover

This year's budget recognises that India is taking the global centre stage. It has entered its Amrit Kaal.

The route to the centre stage is through different transformational measures by the Government which have created new areas and opportunities.

The cover depicts the march to the centre stage through:

- **G-20 Presidency**
- **Infra 2.0 Initiative**
- **Fillip to International Financial Service Center (IFSC)**
- **Promotion of Tourism**
- **Digital Currency (CBDC)**
- **Krishi UDAN 2.0**

These initiatives will enable India to continue its sterling performance on the centre stage, become a true global leader and reach its target of a USD 5 trillion economy.

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The Union Budget
2023-24

Analysis of Important Amendments

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DIRECT TAXES

In this booklet, the proposals of the Finance Bill, 2023 are referred to as if the amendments have been actually made, except in a few cases, where the effective dates are mentioned.

Unless otherwise specified, the reference to the words "the Act" used is to the Income-tax Act, 1961.

1. TAX RATES

Default (new) Tax Regime – Section 115BAC

Government had introduced a new scheme with effect from Assessment Year 2021-22 for Individuals and HUFs in the Finance Act 2020 with lower rates for those foregoing certain exemptions/ deductions.

It is now provided that the New Tax Regime under section 115BAC would also be applicable to Association of Persons (other than co- operative society), Body of Individuals and artificial jurisdiction person in addition to Individuals and HUFs. Earlier, the assessee had to exercise an option for availing the Tax Regime under section 115BAC. However, now tax regime under section 115BAC would apply by default unless the assessee exercises an option to opt for the old regime.

The rates applicable under the Tax Regime under section 115BAC to Individuals, HUF and others are as under:

Total Income	**Tax Rate [New Regime under section 115BAC(1)] A.Y. 2023-24**	**Tax Rate [New Regime under section 115BAC(1A)] A.Y. 2024-25**	**Tax Rate [Old Regime] A.Y. 2024-25**
Up to ₹ 2,50,000	Nil	Nil	Nil
₹ 2,50,001 to ₹ 3,00,000	5%	Nil	5%
₹ 3,00,001 to ₹ 5,00,000	5%	5%	5%
₹ 5,00,001 to ₹ 6,00,000	10%	5%	20%

Total Income	Tax Rate [New Regime under section 115BAC(1)] A.Y. 2023-24	Tax Rate [New Regime under section 115BAC(1A)] A.Y. 2024-25	Tax Rate [Old Regime] A.Y. 2024-25
₹ 6,00,001 to ₹ 7,50,000	10%	10%	20%
₹ 7,50,001 to ₹ 9,00,000	15%	10%	20%
₹ 9,00,001 to ₹ 10,00,000	15%	15%	20%
₹ 10,00,001 to ₹ 12,00,000	20%	15%	30%
₹ 12,00,001 to ₹ 12,50,000	20%	20%	30%
₹ 12,50,001 to ₹ 15,00,000	25%	20%	30%
Above ₹ 15,00,000	30%	30%	30%

The conditions (including foregoing of certain deductions / exemptions) specified under section 115BAC would have to be fulfilled, unless the assessee opts for the old regime by specifically exercising such option in the prescribed manner. There is no change in specified conditions prescribed except for the following additional deductions which are now allowed under the new Tax Regime under section 115BAC:

- Standard deduction from salary under section 16(ia) -upto ₹ 50,000
- Standard Deduction from family pension income under section 57(iia)- upto ₹ 15,000

This amendment is applicable with effect from Assessment Year 2024-25.

Rates of Surcharge applicable to Individuals/ HUF / AOP / BOI shall continue to apply on tax under section 115BAC(1A). However, the same shall be restricted to maximum of 25%. Surcharge on income from dividend and capital gain taxable under sections 111A, 112 and

112A shall be restricted to 15%. In case of AOP having only corporate members, the rate of surcharge would be restricted to 15%. Cess in all cases shall continue to be 4%.

Provisions of section 115JC and 115JD shall not apply where income is taxable under the new regime under section 115BAC.

Under the old regime, there is no change in rebate available under section 87A. In case of an Individual assessee resident in India whose total income does not exceed ₹ 5,00,000, a deduction of an amount equal to 100% of income tax or ₹ 12,500, whichever is lesser, shall continue to be available from income tax on his total income.

Now, in case of an individual assessee resident in India whose total income taxable under section 115BAC does not exceed ₹ 7,00,000 (after standard deduction if applicable), a rebate of an amount equal to 100% of income tax or ₹ 25,000, whichever is lower, shall be available from such income tax on his total income. Effectively in such cases tax liability will be NIL.

This amendment is applicable with effect from Assessment Year 2024-25.

Tax Rates for Individuals/HUF under Regular (Old) Regime

Resident individuals aged above 60 years but not more than 80 years

Total Income	**Tax Rate A.Y. 2023-24**	**Tax Rate A.Y. 2024-25**
Up to ₹ 3,00,000	Nil	There are no changes in the slabs and the rates.
₹ 3,00,001 to ₹ 5,00,000	5%	
₹ 5,00,001 to ₹ 10,00,000	20%	
Above ₹ 10,00,000	30%	

Resident individuals aged above 80 years

Total Income	**Tax Rate A.Y. 2023-24**	**Tax Rate A.Y. 2024-25**
Up to ₹ 5,00,000	Nil	There are no changes in the slabs and the rates.
₹ 5,00,001 to ₹ 10,00,000	20%	
Above ₹ 10,00,000	30%	

Other individuals and HUF

Total Income	Tax Rate A.Y. 2023-24	Tax Rate A.Y. 2024-25
Up to ₹ 2,50,000	Nil	There are no changes in the slabs and the rates.
₹ 2,50,001 to ₹ 5,00,000	5%	
₹ 5,00,001 to ₹ 10,00,000	20%	
Above ₹ 10,00,000	30%	

Since now new regime is the default regime an assessee intending to opt for the regular (old) regime of tax has to exercise an option in a prescribed form in the following manner:

In case of an assessee having income from business or profession, option has to be exercised on or before the due date of filing return under section 139(1) for an assessment year and once such option is exercised for any previous year, it can be withdrawn only once and thereafter the assessee shall not be eligible to again opt for the Regular (old) Regime. In case of any other assessee, option can be exercised annually at the time of filing return of income under section 139(1). It may be noted that upto assessment year 2023-24 the old regime will be the default regime.

Tax Rates for AOP / BOI continue to be as under:

Total Income	Tax Rate A.Y. 2023-24	Tax Rate A.Y. 2024-25
Up to ₹ 2,50,000	Nil	There are no changes in the slabs and the rates.
₹ 2,50,001 to ₹ 5,00,000	5%	
₹ 5,00,001 to ₹ 10,00,000	20%	
Above ₹ 10,00,000	30%	

Surcharge applicable to Individuals / HUF/ AOP/ BOI

Total Income	Surcharge A.Y. 2023-24	Surcharge A.Y. 2024-25
Exceeding ₹ 50 Lakh but not exceeding ₹ 1 crore	10%	There are no changes in the rates.
Exceeding ₹ 1 crore but not exceeding ₹ 2 crore	15%	

Total Income	Surcharge A.Y. 2023-24	Surcharge A.Y. 2024-25
Exceeding ₹ 2 crore but not exceeding ₹ 5 crore*	25%	
Exceeding ₹ 5 crore*	37%	
Effective tax rate (above 5 crore)	42.744%	

*Surcharge on income from dividend and capital gains taxable under sections 111A, 112 and 112A shall be restricted to 15%.

*In case of AOP having only corporate members, the rate of surcharge would be restricted to 15%.

For AOP / BOI covered by section 167B, rate of tax will continue to be at maximum marginal rate as provided therein.

Rate of Health and Education Cess on tax and surcharge continues to be 4% for Assessment Year 2024-25.

Tax Rates for Partnership Firms and LLPs

The effective tax rates (including surcharge and cess) for Assessment Year 2024-25 continue to be the same which are as under:

Person	Total Income (₹)	
	Upto ₹ 1 crore	Above ₹ 1 Crore
Partnership Firms, LLPs	31.2%	34.944%

Tax Rates for Co-operative Societies

Effective tax rates (including surcharge and cess) for Assessment Year 2024-25 will be as under:

For Co-operative societies opting for taxation under section 115BAD, the effective rate will be 25.168%

Option under section 115BAE:

- Section 115BAE has been introduced allowing co-operative societies having income from manufacturing or production of an article or thing, to opt for a concessional rate of tax of 15% subject to fulfilment of certain conditions which are similar to section 115BAB which is applicable for manufacturing companies.

- Section 115BAE is applicable subject to certain conditions such as –
    - o co-operative society has been set-up and registered on or after 1st April, 2023,
    - o manufacturing or production by co-operative society has commenced on or before 31st March, 2024.
- Option under section 115BAE can be exercised for any year from Assessment Year 2024-25 in the prescribed manner, and the same cannot be withdrawn subsequently.
- Income which has neither been derived from nor is incidental to manufacturing or production of an article or thing and for which no specific rate has been provided under chapter XII, would be taxed at 22%, and no deduction in respect of any expenditure or allowance would be available from such income.
- Income from short term capital gains derived from transfer of a capital asset on which no depreciation is allowable, would be taxed at 22%.
- Profits and gains in excess of the amount at arms-length as determined by the assessing officer in regard to specified domestic transactions with related parties will be taxed at 30%

For Co-operative societies opting for taxation under section 115BAE, the effective rate applicable to its income (other than income taxable at 22% / 30% as mentioned above) is 17.16%.

Tax rates for Cooperative Societies other than those exercising option under sections 115BAD or 115BAE shall be as under:-

Income above ₹ 30,000 upto ₹ 1 crore	**Income Above ₹ 1 crore but less than ₹ 10 crores**	**Income Above ₹ 10 crore**
31.20%	33.384%	34.944%

Rates remain unchanged (10% up to ₹ 10,000; 20% between ₹ 10,000 to ₹ 20,000; and 30% in excess of ₹ 30,000).

Provisions of sections 115JC and 115JD shall not apply to co-operative societies opting for taxation under section 115BAD or section 115BAE. For other co-operative societies, rate of AMT under section 115JC continues to be 15%.

Tax Rates for Companies

Effective tax rates (including surcharge and cess) for Assessment Year 2024-25 continue to be the same which are as under:

Types of Companies	Income not exceeding ₹ 1 crore		Income exceeding ₹ 1 crore and upto ₹ 10 crore		Income above ₹ 10 crore	
	Effective tax rate (normal)	Effective tax rate (MAT)	Effective tax rate (normal)	Effective tax rate (MAT)	Effective tax rate (normal)	Effective tax rate (MAT)
Domestic Company with turnover up to ₹ 400 crore in FY 2021-22 and avails any tax incentives or exemptions or tax holiday	26%	15.60%	27.82%*	16.69%*#	29.12%*	17.47%#
Other domestic company	31.2%	15.60%	33.384%*	16.69%*#	34.944%*	17.47%#
Domestic Company exercising option to pay tax as per section 115BAA	25.168%**	Nil	25.168%**	Nil	25.168%**	Nil
New domestic manufacturing companies exercising option to pay tax as per section 115BAB	17.16%**	Nil	17.16%**	Nil	17.16%**	Nil
Foreign Company	41.6%	15.60%#	42.432%^	15.912%^#	43.68%^	

* Includes surcharge at the rate of 7% in case of income from ₹ 1 crore upto ₹ 10 crore and 12% in case of income above ₹ 10 crore

** Includes surcharge at the rate of 10%. It is assumed that other provisions of Chapter XII are not attracted in these cases.

^ Includes surcharge at the rate of 2% in case of income from ₹ 1 crore upto ₹ 10 crore and 5% in case of income above ₹ 10 crore

\# If MAT is applicable to the foreign company (MAT applies if the foreign company has a PE or business connection in India)

2. CHARITABLE TRUSTS

Restoring back of corpus or repayment of loans or borrowings – Sections 10(23C) and 11

Under the existing provisions, while claiming exemption under sections 11(1)(a) or (b), the assessee was not allowed to claim the application out of the corpus fund or application out of loan or borrowing as application of income for charitable purposes. When the said amount which had been applied out of the corpus fund earlier, is invested or deposited back into the investments earmarked specifically for corpus from the income of any subsequent previous year, the amount so invested or deposited back is allowed to be treated as application for charitable purposes of such subsequent previous year. Similarly, when the said loan or borrowing is repaid from the income of any subsequent previous year, the amount of repayment is also allowed to be treated as application for charitable purposes of such subsequent previous year.

The following amendments are made in Explanation 4 to section 11(1) which contains the aforesaid provisions –

1. In order to claim the benefit of application in the subsequent year as mentioned above, the investment with respect to the corpus fund is required to be restored back or amount of loan or borrowing is required to be repaid within a period of five years from the end of the previous year in which the application was originally made from the said corpus or loan or borrowing as the case may be.

2. The amount shall be allowed to be so treated as application of income in the subsequent previous year only if, at the time when the application was originally made (from the corpus or from loan or borrowing), there was no violation of the any of the conditions which were otherwise required to be satisfied like compliance with the provisions of section 40(a)(ia) or 40A(3) etc.

3. If the application was made from the corpus or from loan or borrowing prior to 1st April, 2021, then the benefit of treating the amount which has been invested back into the investments earmarked specifically for corpus or the amount of repayment of loan or borrowing as application in the subsequent year will not be available.

Similar amendments have also been made in the concerned provisions of section 10(23C) in respect of the exemptions provided in its sub-clauses (iv), or (v) or (vi) or (via).

These amendments are applicable with effect from Assessment Year 2023-24.

Donations to other trusts can be claimed as an application only to the extent of 85% – Sections 10(23C) and 11

Under the existing provisions, while claiming exemption under sections 11(1)(a) or (b), the donation given to the other registered or approved trust out of the income (other than income accumulated under section 11(2)) is eligible for claiming it as the application of income for charitable purposes except when such donation is given with a specific direction that it shall form part of corpus of the recipient trust.

The Explanation 4 to section 11(1) is amended to further provide that such donation to other registered or approved trust shall be treated as application for charitable purposes only to the extent of 85% of the amount of such donation.

The charitable trust is required to apply minimum 85% of its income of the current year in order to claim exemption fully and, it is allowed to accumulate or set apart its income only to the extent of maximum of 15% of its income. If the trust gives donations to the other trust, then only 85% of such donation will be treated as application of its income. Therefore, assuming that the trust has given 85% of its income as donations to the other trust, it will be eligible to claim the exemption only to the extent of 85% of that amount of donations i.e. 72.25% of its income and it will end up paying tax on 12.75% of its income in such case. This amendment seems to have resulted into unintended consequences.

After the amendment, the amount of donation to other registered or approved trust can be claimed as an application for charitable purposes while claiming exemption under sections 11(1)(a) or (b) in the following manner –

Scenario	**Amount which can be considered as application**
Where donation is given with a specific direction that it shall form part of corpus of the recipient trust	Nil
Where donation is not given with such a specific direction that it shall form part of corpus of the recipient trust	85% of donated amount

Similar amendments have also been made in the concerned provisions of section 10(23C) in respect of the exemptions provided in its sub-clauses (iv), or (v) or (vi) or (via).

These amendments are applicable with effect from Assessment Year 2024-25.

Omission of provisions relating to exemption to the registered trust for the earlier years during which it was unregistered – Section 12A

Section 12A(2) provides for the assessment year from which the provisions of sections 11 and 12 providing for the exemption shall apply to the trust or institution which has been granted the registration under sections 12AA or 12AB. In the case of trust or institution which has obtained the registration for the first time, the exemption is available from the assessment year immediately following the financial year in which the application for registration was made.

The second and third provisos to section 12A(2) provided the following benefits to the trust or institution in relation to their exemption for the prior assessment years –

- Where any assessment proceeding for any prior assessment year is pending before the Assessing Officer as on the date of the registration, the provisions of section 11 and 12 applied to such assessment year for which the assessment proceeding is pending provided the objects and activities of such trust or institution remain the same for such assessment year.
- The Assessing Officer was not allowed to take any action under section 147 for any prior assessment year only because of non-registration of such trust or institution.

Vide the fourth proviso, it was further provided that the aforesaid benefits shall not apply where registration was refused or registration granted was cancelled at any time under section 12AA or 12AB.

These second, third and fourth provisos to section 12A(2) are omitted.

These provisions were originally inserted by the Finance (No. 2) Act, 2014 with the noble objective for removing hardship that would have caused due to non-application of registration for the period prior to the year of registration. The trust would have ended up paying tax due to absence of registration even though it might have been eligible for exemption otherwise. However, these provisions have now been omitted on the ground that they have become redundant after the

amendment of section 12A by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020.

This amendment is applicable with effect from 1st April, 2023.

Procedure of registration or approval – Sections 10(23C), 12A, 12AB and 80G

The clause (ac) of section 12A(1) provides for the timeline within which the trust or institution needs to make application for its registration. The trust or institution which is not already registered and is seeking registration for the first time is required to make application of registration at least one month prior to the commencement of the previous year relevant to the assessment year from which the registration is sought. Therefore, newly incorporated trust or institution is not able to claim the exemption for the first year of its incorporation.

Further, in such case, the trust or institution shall first be granted only the provisional registration and, then, it needs to make an application for registration once again 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. As a result, trust or institution which has already commenced its activities while applying for the registration for the first time is required to apply for both the registrations within a very short period of time i.e. provisional registration followed by regular registration.

In order to remove these difficulties faced by the trusts or institutions, the concerned provisions of sections 12A and 12AB have been amended as follows –

- The time period within which the trust or institution needs to make an application for its registration (other than a case where it already holds the provisional registration or regular registration) is provided as under –
    - Where the activities of the trust or institution have not commenced, it needs to make an application at least one month prior to the commencement of the previous year relevant to the assessment year from which the registration is sought.
    - Where the activities of the trust or institution have commenced, it may make an application at any time after the commencement of its activities. However, this is subject to the condition that the trust or institution should not have claimed exemption under sections 10(23C) (iv) / (v) / (vi) / (via) or section 11 or 12 for any of

the previous years which has ended before the date of application.

- Where the application for registration has been made after the commencement of activities, the registration authority shall grant the regular registration instead of the provisional registration or reject the application. For this purpose, the registration authority has similar power to verify the genuineness of activities and the compliance of requirements of any other law as it has while considering the application of registration in other cases.

Similar amendments have also been made in the relevant provisions dealing with the registration of the funds or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sections 10(23C)(iv) / (v) / (vi) / (via) and the registration under section 80G(5).

These amendments are applicable with effect from 1st October, 2023.

Specified violations to include incomplete applications and false or incorrect information – Sections 10(23C) and 12AB

Presently, the approval / registration and the provisional approval / registration of trusts can be cancelled by PCIT / CIT for certain violations specified in Explanation 2 to 15th proviso of section 10 (23C) and Explanation to section 12AB(4).

In order to deal with system driven automated registration despite defective application, it is now provided that specified violation shall also include the cases of incomplete applications or applications containing false or incorrect information.

These amendments are applicable with effect from 1st April, 2023.

Alignment of the time limits for furnishing Forms / Reports – Sections 10(23C) and 11(1) /(2)

Currently, trusts and institutions under sections 10(23C) and 12A are required to furnish audit report at least 1 month prior to the due date of furnishing the return of income.

Form 10 for accumulation and setting apart their income, is required to be furnished on or before the due date for furnishing the return of income under section 139(1). Form 9A under section 11(1) for deeming certain income to be applied is also required to be furnished on or before the due date for furnishing the return of income under section 139(1).

The auditors are required to report the details of Form 9A / 10 in the audit report in Form 10B / 10BB which is required to be furnished 1 month before the due date for furnishing the return of income.

Now it is provided that, Form 9A / 10 is required to be furnished 2 months prior to the due date for filing return of income under section 139(1).

These amendments are applicable with effect from Assessment Year 2023-24.

Non-availability of Exemption – Sections 10(23C) and 12A

Presently, exemption under the specified clauses of sections 10(23C) and 12A(1) is not available if the return of income is not furnished by a trust or institution within the time under section 139.

To avoid claim of exemption being made on the basis of updated return under section 139(8A), it is now provided that exemption under specified clauses of sections 10(23C) and 12A(1) will be available if the return of income is furnished by a trust or institution within the time under section 139(1) or 139(4).

These amendments are applicable with effect from Assessment Year 2023-24.

Tax on accreted income on non-filing of applications in certain cases – Section 115TD

Presently, first and second proviso to sections 10(23C) and 12A(1)(ac) provide for application by the existing / new / provisionally registered / approved trusts and institutions for registration / re-registration / approval within the prescribed time therein.

Chapter XII-EB consisting of sections 115TD, 115TE and 115TF imposes accreted tax (exit tax) on conversion of a charity trust organisation into a non-charitable organisation, or merger with a non-charitable organisation or a charitable organisation with dissimilar objects or does not transfer the assets to another charitable organisation. The accreted income of such trust or institution is taxable at the maximum marginal rate.

By not applying for regular registration after provisional registration or re-registration / approval, a view was possible that a trust was not liable to tax on accreted income.

It is now provided that if any trust or institution fails to make an application within the period specified in prescribed clauses of sections 10(23C) and 12A(1), it shall be deemed to have been converted into

a form not eligible for registration or approval, in the previous year in which prescribed period expires and the last date for making an application for registration would be considered as date of conversion. Accordingly, the trust or institution will be liable to pay accreted tax.

This would create hardship in the cases of applications for provisional / regular registration which are belated even by a few days.

These amendments are applicable with effect from Assessment Year 2023-24.

3. SALARY

Valuation of rent-free accommodation and concessional accommodation – Section 17

Section 17(2) defines 'perquisite' to inter alia include (i) the value of rent-free accommodation provided to the assessee by his employer and (ii) the value of any concession in the matter of rent in respect of any accommodation provided to the assessee by his employer. Rule 3 of the Income- tax Rules, 1962 contains the methodology to determine the value of rent-free accommodation whereas the Explanations to section 17(2)(ii) lay down sitatuations in which concession in the matter of rent is deemed to have been provided.

It is now provided that the value of rent-free accommodation will be computed in such manner as may be prescribed. In respect of determination of the value of accommodation provided at a concessional rate, the erstwhile Explanations are now deleted and it is clarified that accommodation shall be deemed to have been provided at a concessional rate if the value of accommodation computed in such manner as may be prescribed exceeds the rent recoverable from or payable by the assessee.

This amendment is applicable with effect from Assessment Year 2024-25.

Leave Encashment – Section 10(10AA)

Presently, section 10(10AA) provides an exemption to the amount received by an employee as the cash equivalent of the leave salary at the time of his retirement whether on superannuation or otherwise. In case of non-government salaried employees, the exemption limit was restricted to ₹ 3 lakhs.

During the budget speech, the FM announced increasing the limit of tax exemption on leave encashment on retirement of non-government salaried employees from ₹ 3 lakhs to ₹ 25 lakhs.

There has been no amendment in this regard in the Finance Bill, and a notification may be issued giving effect to the above.

4. PROFITS AND GAINS FROM BUSINESS OR PROFESSION

Taxability of benefits and perquisites – Sections 28(iv) and 194R

Section 28 lists items chargeable to income-tax under the head profits and gains of business or profession. Section 28(iv) provides that the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession shall be chargeable to income-tax.

Now, the said clause has been substituted to expand the scope of this provision to also include benefit derived in kind or partly in cash and partly in kind which shall be chargeable to income-tax under the head profits and gain of business or profession.

Similarly, the expanded scope has been included in section 194R for the purpose of TDS.

The amendment to section 28 is applicable with effect from Assessment Year 2024-25 and provision of section 194R is applicable with effect from 1st April, 2023.

Amortization of certain preliminary expenses – Section 35D

Presently, preliminary expenses incurred in connection with various activities like preparation of feasibility report, preparation of project report etc. are allowed to be amortised only if the work in connection with such activities is carried out by the assessee himself or by an approved concern.

Instead, it is now provided that in respect of such expenditure the assessee shall furnish information in a prescribed statement containing particulars of such expenditure within prescribed time in the prescribed manner. Condition of such activities being carried out by the assessee himself or by an approved concern has been done away with.

This amendment is applicable with effect from Assessment Year 2024-25.

Deduction of certain amounts only on actual payment – Section 43B

Presently provisions of section 43B(da) are applicable to interest on any loan or borrowing from specified non-banking financial companies (NBFC).

The said provision is amended and is made applicable only to notified class of NBFCs.

Scope of section 43B has been widened and it has been provided that any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development (MSMED) Act 2006 shall be allowed as deduction only in the year in which actual payment is made. The time limit prescribed by the MSMED Act, if the supplier/ service provider has an agreement with the assessee than upto 45 days, and in the absence of an agreement, 15 days.

The relaxation of payment being made upto the due date of filing return under section 139(1) is not available to sums paid to micro or small enterprises.

These amendments are applicable with effect from Assessment Year 2024-25.

Increase in threshold limit for businesses and specified professions under presumptive taxation – Sections 44AD, 44ADA

Under the existing provisions of presumptive taxation for eligible business and specified professions, an assessee being an Individual, HUF or a partnership firm having turnover or gross receipts below the threshold limit as specified, and offer profits at the rate of 6% / 8% in case of businesses and 50% in case of specified professions or any higher rate so earned, is not required to maintain books of account under section 44AA, and is also not required to get its books of accounts audited under section 44AB. This threshold limit is now enhanced as under:

Applicability	Existing threshold limit	New threshold limit
Eligible Businesses as per section 44AD	₹ 2 crore	₹ 3 crore
Specified Professions as per section 44ADA	₹ 50 lakh	₹ 75 lakh

These enhanced limits apply only in those cases where aggregate cash receipts do not exceed 5% of the total turnover or gross receipts during the year. Any amount received through a cheque

drawn on a bank or a bank draft which is not account payee shall be considered as cash receipt for this purpose.

Consequently, the first proviso of section 44AB is substituted to provide that the tax audit section shall not apply to persons who declare profits and gains in accordance with the provisions of sections 44AD(1) and 44ADA(1).

These amendments are applicable with effect from Assessment Year 2024-25.

Presumptive taxation schemes – Sections 44BB and 44BBB

Under presumptive taxation scheme available under section 44BB for non-residents engaged in the business of providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils, a sum equal to 10% of the aggregate of the amounts paid or payable on account of the provision of such services and facilities is deemed to be the profits and gains of such business.

A similar presumptive taxation scheme is available to foreign companies engaged in the business of civil construction or the business of erection of plant or machinery or testing or commissioning thereof, in connection with a turnkey power project approved by the Central Government under section 44BBB wherein a sum of 10% of the aggregate of amounts paid or payable to them on account of such activities is deemed to be the profits and gains of such business.

Sections 44BB(3) and 44BBB(2) allow specified assessee to claim lower profits and gains than the profits and gains specified if he keeps and maintains such books of account and other documents as required under section 44AA(2) and gets his accounts audited and furnishes a report of such audit as required under section 44AB. Thus, assessees eligible for the presumptive taxation schemes under these sections could claim actual loss in a year when they have incurred a loss and carry it forward, while in a year when they have higher profits, use the presumptive schemes to restrict the profit to 10% and set off the brought forward losses from earlier years.

In order to prevent an assessee falling under these presumptive taxation schemes to opt in and opt out of these schemes, and thereby avail benefit of both presumptive scheme income and non-presumptive income, a new sub-section is inserted in section 44BB and also in section 44BBB to deny set off of unabsorbed depreciation and brought forward loss where he declares profits and gains of business for any previous year in accordance with these presumptive taxation provisions.

These amendments are applicable with effect from Assessment Year 2024-25.

5. CAPITAL GAINS

Mode of receipt of consideration for the purposes of section 45(5A)

Presently, section 45(5A) provides that the full value of consideration received or accruing as a result of transfer of a capital asset being land or building or both, under a specified agreement as defined in the Explanation thereto shall be the stamp duty value of his share, being land or building or both in the project, on the date of issue of the certificate of completion as increased by the consideration received in cash, if any.

It is now provided that the stamp duty value of his share shall be increased by any consideration received in cash or by cheque or draft or by any other mode.

This amendment is applicable with effect from Assessment Year 2024-25.

Conversion of gold into Electronic Gold Receipt and vice versa – Sections 47(viid), 49(10) and Explanation 1(i)(hi) to section 2(42A)

Clause (viid) has been inserted in section 47 to provide that any transfer of a capital asset, being conversion of gold into Electronic Gold Receipt ('EGR') issued by a Vault Manager or vice versa shall not attract the provisions of section 45 and, consequently, will not be chargeable to tax under the head 'Capital Gains'. Explanation to clause (viid) states that the meaning of the expressions 'Electronic Gold Receipt' and 'Vault Manager' shall be the same as assigned to them in Regulation 2(1)(h) and 2(1)(l) respectively of the Securities and Exchange Board of India (Vault Managers) Regulations, 2021 made under the Securities and Exchange Board of India Act, 1992.

Sub-section (10) is now inserted in section 49 to provide for the cost of acquisition of capital assets being EGR or gold which becomes property of a person as consideration of transfer referred to in section 47(viid). Cost of acquisition of EGR shall be deemed to be the cost of gold in the hands of the person in whose name EGR is issued. Similarly, cost of gold released against an EGR shall be deemed to be the cost of EGR in the hands of such person.

Sub-clause (hi) has been inserted in Explanation 1(i) to section 2(42A) to provide that the period of holding of EGR issued in respect of gold deposited by an assessee shall include the period for which

gold was held by him prior to its conversion into EGR. Similarly, the period of holding of gold released in respect of an EGR will also include the period for which EGR was held by the assessee prior to its conversion into gold.

These amendments are applicable with effect from Assessment Year 2024-25.

Denial of deduction of interest which has been claimed as deduction under other provisions – Section 48

A proviso has been inserted in section 48(ii) to provide that the cost of acquisition or the cost of improvement of an asset shall not include the amount of interest which has been claimed as deduction under section 24(b) or under the provisions of Chapter VI A.

This amendment is applicable with effect from Assessment Year 2024-25.

Taxation of capital gains in case of Market Linked Debentures – Section 50AA

Presently, long term capital gains on transfer of Market Linked Debentures which are listed securities, are taxed @ 10% without indexation.

Market Linked Debenture has now been defined as a security by whatever named called, which has an underlying principal component in the form of a debt security and where the returns are linked to the market returns on the underlying securities or indices, and includes any security classified or regulated as a market linked debenture by SEBI.

Section 50AA is inserted to deem the capital gains from transfer or redemption or maturity of these securities, irrespective of their holding period, as capital gains from the transfer of a short- term capital asset.

Securities Transaction tax paid will not be allowed as a deduction while computing income chargeable under the head capital gains.

This amendment is applicable with effect from Assessment Year 2024-25.

Capital gains deduction for reinvestment in residential house – Sections 54 and 54F

As per the provisions of section 54, an assessee deriving capital gains on the transfer of long-term asset, being a residential house, is eligible for a deduction from such capital gains if he has, within a

period of one year before or two years after the date on which the transfer took place purchased a residential house in India, or within a period of three years after that date constructed a residential house in India. A similar deduction is available in respect of capital gains on the transfer of long-term capital asset other than a residential house on reinvestment in a residential house.

The amendment now restricts the exemption on reinvestment in a new residential house to ₹ 10 crore to align with the objective of the provisions to give impetus to house building activity and not to enable high net worth assessees to claim huge deductions under these sections.

Further, a proviso has been inserted, both in section 54 and section 54F to the effect that, for the purposes of deposit in the Capital Gains Account Scheme, capital gains or net consideration, as the case may be, in excess of ₹ 10 crore shall not be taken into account.

This amendment is applicable with effect from Assessment Year 2024-25.

Cost of acquisition in case of certain assets for computing capital gains – Section 55

Section 55 defines the terms 'cost of any improvement' and 'cost of acquisition' for the purposes of computing capital gains. In relation to a capital asset, being goodwill of a business or profession, or other specified assets where these assets are not acquired by the assessee by way of purchase from a previous owner but are self-generated, their cost of acquisition and cost of improvement are taken as nil.

With respect to other intangible assets or rights, in the absence of a specific provision stating that their cost of acquisition to be nil, the chargeability of capital gains from the transfer of such assets has been litigated. To avoid legal disputes, the cost of acquisition and cost of improvement of any other intangible asset or right is to be treated similar to goodwill and other assets specified.

This amendment is applicable with effect from Assessment Year 2024-25.

6. INCOME FROM OTHER SOURCES

Life Insurance Policies

Limiting the exemption for income from life insurance policies – Sections 2(24), 10(10D) and 56(2)(xiii)

While the exemption for proceeds from Unit Linked Insurance Policies (ULIP) with high premiums issued on or after 1st February,

2021 was restricted by the Finance Act, 2021 with effect from Assessment Year 2021-22, proceeds from other life insurance policies continued to be exempt irrespective of the premium paid on those policies.

The exemption for proceeds from life insurance policies (other than ULIPs) issued on or after 1st April, 2023 having premium or aggregate of premium above ₹ 5,00,000 in any of the previous years during the term of the policies has been removed. Where the assessee has more than one life insurance policy (other than ULIPs) issued on or after 1st April, 2023, then the exemption for the proceeds from such policies will be available to only those policies where the aggregate amount of premium does not exceed ₹ 5,00,000/- in any of the previous years during the term of any of those policies. The proceeds from such policies net of premiums paid (which have not been claimed as deduction under Chapter VI-A earlier) which do not qualify for exemption have been included in the definition of income in section 2(24)(xviid). The income that is not exempt consequent to these provisions will be chargeable under the head Income from Other Sources.

However, the proceeds from these polices received on the death of the insured person will continue to be exempt. The proceeds from life insurance policies (other than ULIPs) issued before 1st April, 2023 continue to be exempt subject to the specified conditions.

This amendment is applicable with effect from Assessment Year 2024-25.

Note: Circular No 2 of 2022 dated 19th January 2022 had been issued by CBDT providing guidelines under section 10(10D) in respect of consideration received on maturity of ULIPs. Similar guidelines can be expected for insurance policies issued on or after 1st April 2023.

Share monies received at premium - Section 56(2)(viib)

Section 56(2)(viib) provides that where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the fair market value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be chargeable to income-tax under the head 'Income from other sources'.

The provision is presently not applicable to consideration received from non-residents for issue of shares. In order to widen the scope of this provision, this clause is now made applicable to receipt

of any consideration for issue of shares from any person irrespective of residency status.

This amendment is applicable with effect from Assessment Year 2024-25.

Income arising outside India being sum received without consideration – Sections 9(1)(viii) and 56(2)(x)

As per the existing provisions, any income arising outside India, being a sum of money received without consideration referred to in section 56(2)(x) paid on or after 5th July, 2019 by a person resident in India to a non-resident is deemed to accrue or arise in India.

A resident but not ordinarily resident receiving such sum of money without consideration outside India could contend that such income is outside the scope of total income under section 5 as it is arising outside India and is also not income deemed to accrue or arise in India.

In order to bring such income within the tax net, section 9(1)(viii) now provides that such income being a sum of money received by a resident who is not ordinarily resident on or after 1st April, 2023 is deemed to accrue or arise in India.

This amendment is applicable with effect from Assessment Year 2024-25.

7. SET-OFF/CARRY FORWARD OF LOSSES

Carry forward and set off of losses in case of start-up companies – Section 79

Currently an eligible start-up company as referred to in section 80IAC, is entitled to carry forward and setoff of loss under section 79 irrespective of change in shareholding of such start-up by more than 49%, provided such loss was incurred in first seven years from incorporation and all the shareholders of such eligible start-up in the year when loss was incurred, continue to be shareholders in the previous year in which such loss is set off.

Now, it is provided that such eligible start-up will be allowed to carry forward losses incurred in first ten years of incorporation subject to fulfilment of conditions as stated above.

This amendment is applicable with effect from Assessment Year 2023-24.

8. SPECIAL CASES

Deduction for units in SEZ – Sections 10AA and 155(11A)

Currently, eligible SEZ units are allowed deduction of specified percentage of profit from their total income under section 10AA.

Now, it has been provided that deduction under section 10AA(1) will be available only if the return of income has been filed on or before due date specified under section 139(1) and the proceeds from sale of goods or provision of services are received in, or brought into, India in convertible foreign exchange, within six months from the end of previous year, or within such further period as specified competent authority may allow.

It is also provided that sale proceeds of goods and provision of services shall be deemed to have been received in India where such specified export turnover is credited to a separate account maintained for that purpose by assessee with any approved bank. It is further provided that export proceeds which are brought into India in convertible foreign exchange will be considered as export turnover.

Wherever deduction is denied due to non-receipt of proceeds within prescribed time limit, the assessing officer is empowered by section 155(11A) to amend the assessment order of the respective assessment year within four years from the previous year in which such amount is received in convertible foreign exchange or brought into India.

This amendment is applicable with effect from Assessment Year 2024-25.

Extension of period for eligible start-up – Section 80-IAC

Section 80-IAC provides various benefits to eligible start-up provided it is incorporated by 31st March, 2023. It is now extended for 1 year and the eligible start-up incorporated before 1st April, 2024 will be entitled for the benefits of section 80-IAC.

Transaction with new co-operative society engaged in manufacturing to be covered by Specified Domestic Transactions – Section 92BA

Section 92BA which defines Specified Domestic Transaction is amended to include transactions referred to in section 115BAE(4) within the ambit of specified domestic transaction for the purpose of transfer pricing compliance.

This amendment is applicable with effect from Assessment Year 2024-25.

Reduction in time period for furnishing of information and document by persons entering into an international transaction or specified domestic transaction – Section 92D

Section 92D is amended to reduce the period for furnishing any information or document referred therein from 30 days to 10 days from the date of receipt of notice. It is also provided that even the power of the assessing officer including transfer pricing officer to extend the period beyond first 10 days shall be limited to 10 days (earlier 30 days).

This amendment is applicable with effect from 1st April, 2023.

Exclusion of NBFC from restriction on interest deductibility – Section 94B

Section 94B provides restriction on deduction of interest expense in respect of any debt issued by a non-resident, being an associated enterprise of the borrower. It applies to an Indian company, or a PE of a foreign company in India, who is a borrower. If such person incurs any interest expenditure exceeding one crore rupees, the deduction is restricted to 30% of earnings before interest, taxes, depreciation and amortization (EBITDA).

Certain companies that are engaged in the business of banking or insurance have been specifically excluded from the applicability of these provisions.

Now, it has been provided that certain notified class of NBFC shall also be excluded from the applicability of these provisions.

This amendment is applicable with effect from Assessment Year 2024-25.

Taxation of contributions to and receipts from Agniveer Corpus Fund – Sections 80CCH, 10(12C), 17(1)(ix) and 115BAC

The Agnipath Scheme, 2022 introduced by the Ministry of Defence for enrolment of Agniveers in Indian Armed Forces has come into force on 1st November, 2022. Section 80CCH has been inserted to provide that an individual assessee enrolled in the Agnipath Scheme who has subscribed to the Agniveer Corpus Fund on or after 1st November, 2022 shall be allowed a deduction in the computation of his total income of the whole of the amount paid or deposited by him in his account in the Agniveer Corpus Fund. Deduction shall also be allowed in respect of contribution made by the Central Government to the assessee's account in the Agniveer Corpus Fund. The definitions of the 'Agnipath Scheme' and 'Agniveer Corpus Fund' are provided in Explanation to section 80CCH.

Clause (12C) has been inserted in section 10 to provide that any payment from the Agniveer Corpus Fund to a person enrolled under the Agnipath Scheme or to his nominee shall not be included in computing the total income of such person.

Sub-clause (ix) has been inserted in section 17(1) to provide that 'salary' will include the contribution made by the Central Government in the previous year to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme referred to in section 80CCH.

Section 115BAC(2)(i) has been amended to provide that an individual enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund shall get a deduction of the government contribution to his Seva Nidhi.

These amendments are applicable with effect from Assessment Year 2023-24.

Tax on income of new manufacturing co-operative societies – Section 115BAE

1. Newly introduced section 115BAE provides an option to resident co-operative societies to opt for a concessional tax regime of 15% on the income earned by them provided such societies are engaged in the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it. The business of manufacture or production of any article or thing shall include the business of generation of electricity but exclude the business of development of computer software in any form or in any media, mining, conversion of marble blocks or similar items into slabs, bottling of gas into cylinder, printing of books, production of cinematograph film and any other business as notified by the Central Government. The conditions to claim the concessional tax rate are similar to those contained in section 115BAB applicable to newly manufacturing companies.

2. The co-operative society has to satisfy the following conditions to avail the concessional tax regime:

    a. Society has been set-up and registered on or after 1st April, 2023 and has commenced manufacture or production of article or thing on or before 31st March, 2024.

    b. Conditions as prescribed under section 115BAB with respect to splitting up, or the reconstruction of an existing

business, use of new plant and machinery, non-claim of deductions under certain sections, set off of loss or allowance for unabsorbed depreciation shall also apply here.

c. Co-operative society must exercise the option for availing the concessional regime on or before the due date prescribed under section 139(1) for furnishing the first of the returns of income for any previous year relevant to the assessment year commencing on or after 1st April, 2024. Option once exercised cannot be withdrawn.

3. Income other than that which is derived from or is incidental to manufacturing or production activity and in respect of which no specific rate of tax has been separately provided under Chapter XII shall be taxable at the rate of 22% and no expenditure or allowance shall be allowed as deduction from such income.

4. If it appears to the Assessing Officer that the business between the co-operative society and any other person has been arranged in a manner to produce to the assessee more than ordinary profits expected to arise in the business on account of close connection between the co-operative society and such other person, the Assessing Officer shall determine reasonable profits and any profits in excess of the profits so determined shall be deemed to be income of the society taxable at the rate of 30%. If the arrangement involves a specified domestic transaction referred to in section 92BA, the profit from such transaction shall be determined having regard to arm's length price as defined in section 92F(ii).

5. Short term capital gain derived from transfer of a capital asset on which depreciation is not allowable under the Act shall be taxed at 22%.

6. If the co-operative society fails to satisfy any of the above conditions, the option of concessional rate of tax will not apply in that year and subsequent years.

These amendments are applicable with effect from Assessment Year 2024-25.

Relaxation of restrictions on accepting and repayment of loans and deposits in respect of certain assessees – Sections 269SS and 269T

Sections 269SS and 269T contain restrictions relating to accepting or repaying loans and deposits of a sum of ₹ 20,000 or

more otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account or through such other electronic mode as may be prescribed. Exceptions are also made in section 269SS with respect to loans or deposits or specified sums taken from or taken by the Government, any banking company, post office savings bank, co-operative bank, etc. Similar exceptions are made in section 269T. A proviso is now inserted in section 269SS to the effect that the provisions of the said section will not apply in the case of deposit or loan upto a sum of ₹ 2 lakh instead of ₹ 20,000 where such deposit is accepted by a primary agricultural credit society or a primary co-operative agricultural and rural development bank from its member or where such loan is taken from the primary agricultural credit society or a primary co-operative agricultural and rural development bank by its member. Similar proviso has also been inserted in section 269T in respect of deposits paid by or loans repaid to the aforesaid assessees.

These amendments are applicable with effect from 1st April 2023.

Taxation of income and deduction of tax on income by way of winning from online games – Sections 115BB, 115BBJ, 194B and 194BA

Presently income by way of winning from online games is chargeable to tax under section 115BB. This is now chargeable to tax under the provisions of section 115BBJ on net winnings from such online games.

Income tax at flat rate of 30% has been provided on such net winnings.

Terms of "online game", "internet" and "Computer resources" have been defined in the newly inserted section 115BBJ.

These amendments are applicable with effect from Assessment Year 2024-25.

Distribution by business trusts to its unit holders – Sections 2(24)(xviic), 56(2)(xii) and 115UA(3)

Under section 115UA, a pass-through status is provided to business trusts in respect of interest income, dividend income received by the business trust from a special purpose vehicle in case of both REIT and InvIT and rental income in case of REIT. Such income is taxable in the hands of the unit holders unless specifically exempted. However, in case of distributions made by the business trust to its unit holders which are shown as repayment of debt, the said amount presently does not suffer taxation either in the hands of business trust or in the hands of unit holder.

In order to bring such income to tax in the hands of the unit holders, section 56(2)(xii) has been inserted to provide that any amount received by a unit holder from a business trust (that is not exempt under clauses (23FC) or (23FCA) of section 10 and the business trust is not chargeable on the same under section 115UA(2)), shall be chargeable as the income of the unit holder. Any such amount received by a unit holder from a business trust towards redemption of unit or units held by him, the sum so received shall be reduced by the cost of acquisition of the unit or units to the extent such cost does not exceed the sum received. Consequently, where the unit holder suffers a loss in a case her receives an amount less than the cost of acquisition of the unit or units.

This amendment is applicable with effect from Assessment Year 2024-25.

Expanding the scope of tax incentives to IFSCs – Sections 10(4D), 10(4E), 47(viiad) and 115UB

Several tax concessions are available under the Act to units located in International Financial Services Centre (IFSC). With a view to make the IFSCs global hubs of financial services sector, some more concessions have now been provided.

Clause (b) of the Explanation to section 47(viiad) has been amended to extend the date for transfer of assets of the original fund, or of its wholly owned special purpose vehicle, to a resultant fund in case of relocation to 31st March, 2025 from current limitation of 31st March, 2023.

This amendment is applicable with effect from Assessment Year 2023-24.

The exemption is presently available under section 10(4E) to the income of non-residents on transfer of Offshore Derivative Instruments (ODI) entered into with an IFSC Banking unit. This, however, resulted in double taxation of income (first, when the income is received by the banking unit in an IFSC and secondly when the income is distributed to the unit holders).

In order to avoid this double taxation, the exemption available in section 10(4E) is now extended to the distribution of income on offshore derivative instruments entered into with an offshore banking unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, which fulfils such conditions as may be prescribed. It has also been provided that such exempted income shall include only that amount which has been charged to tax in the hands of the IFSC Banking Unit under section 115AD.

This amendment is applicable with effect from Assessment Year 2024-25.

Provisions to give effect to orders of tribunal or court in business reorganisation – Section 170A

Section 170A was inserted by the Finance Act, 2022 in order to make provisions for giving effect to an order of business reorganisation issued by tribunal or court or an Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016. The section provided that in case of business reorganisation, where a return of income has been filed by the successor under section 139, such successor shall furnish a modified return within six months from the end of the month in which such order of business reorganisation was issued, in accordance with and limited to the said order.

The existing section only applied to a return filed by the successor in a business reorganisation and not to the returns filed by other entities to whom the said reorganisation applied. The section 170A, as substituted, now provides that, the successor is enabled to furnish a modified return where a return of income has been furnished by an entity to which the said order of business reorganisation applies. Such modified return shall be furnished by the successor within a period of six months from the end of the month in which the order was issued.

Further, provisions have been introduced to lay down the procedure to be followed by the Assessing Officer after the modified return is furnished by the successor entity. If proceedings of assessment or reassessment for the relevant assessment year have been completed on the date of furnishing of modified return, the Assessing Officer shall pass an order modifying the total income of the relevant assessment year in accordance with the order of the business reorganisation, taking into account the modified return so furnished. For the purposes of such assessment or reassessment, unless provided otherwise, all other provisions shall apply, and the tax shall be chargeable at the rate applicable to such assessment year.

The definition of the terms 'business reorganisation' and 'successor' in the substituted section remains unchanged.

This amendment is applicable with effect from 1st April, 2023.

9. TAX DEDUCTED AT SOURCE AND TAX COLLECTED AT SOURCE

TDS on payment of accumulated balance due to an employee – Section 192A

Section 192A provides for TDS on payment of accumulated balance due to an employee under the Employees' Provident Fund Scheme, 1952 at the rate of 10% of the lump sum payment due

to an employee, wherever taxable. No deduction of tax is required to be made where the amount is less than fifty thousand rupees. Second proviso to section 192A requires the tax to be deducted at the maximum marginal rate i.e. 30% if no PAN is furnished by the employee. Now, the said second proviso is omitted and therefore, in cases where PAN is not furnished, TDS shall be deducted at the rate of 20% as per section 206AA.

This amendment is applicable with effect from 1st April, 2023.

TDS on payment of interest on securities – Section 193

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

Clause (ix) of the proviso to section 193 provides that no tax is to be deducted in the case of any interest payable on any security issued by a company, where such security is in dematerialized form and is listed on a recognized stock exchange in India. The said clause (ix) is omitted and therefore, tax will be deductible on interest on such securities.

This amendment is applicable with effect from 1st April, 2023.

TDS on winnings from lottery or crossword puzzle or online games - Sections 194B and 194BA

Now under provisions of section 194B tax will also be deductible on income from gambling including online games or betting of any nature whatsoever. The threshold of ₹ 10,000 will apply to all categories of winnings during the year.

This amendment is applicable with effect from 1st April, 2023.

It is now provided under section 194BA that any person responsible for paying any income by way of winning from online game during a financial year shall deduct income tax on the net winning in the respective user account, computed in the prescribed manner, at the end of the financial year at the rates in force.

It is further provided that where there is withdrawal from user account during the financial year, the income tax shall be deducted at the time of such withdrawal on the net winnings comprised in such withdrawal well as on the remaining amount of net winning in the user account, computed in the prescribed manner, at the end of the financial year.

It is also provided that where the net winnings are wholly in kind or partly in cash and partly in kind but the cash element is not sufficient to meet liability of tax deduction in respect of whole of net

winnings, the responsible person shall before releasing the winnings, ensure that tax has been paid in respect of net winnings.

This amendment is applicable with effect from 1st July, 2023.

TDS on income from winning from horse race – Section 194BB

Section 194BB is amended to provide that the deduction of tax shall be on the amount or aggregates of amounts (payment of winnings from horse race) exceeding rupees ten thousand during the financial year.

This amendment is applicable with effect from 1st April, 2023.

Increase in TDS limits on cash withdrawal by a co-operative society – Section 194N

Presently, section 194N requires every person being a banking company, a co-operative society or a post office responsible for paying any sum in cash exceeding one crore rupees to any person to deduct an amount equal to two percent of such sum as income tax. It is now provided that the requirement of deduction of tax at source will not apply to withdrawal in cash upto a sum of ₹ 3 crore made by a co-operative society from one or more accounts maintained by it.

This amendment is applicable with effect from 1st April, 2023.

TDS on income in respect of units of mutual funds held by non-residents – Section 196A

Any person making payment to a non-resident (not being a company) or a foreign company, being income from units of a mutual fund is required to deduct tax at the rate of 20%.

It is provided that where India has Double Tax Avoidance Agreements (DTAA) with the foreign country and where such agreement provides a benefit in the form of lower tax rate, non-residents shall be subject to TDS at lower of the rate provided in the said DTAA or 20%.

This amendment is applicable with effect from 1st April, 2023.

Certificate for Deduction at lower rate – Section 197

Section 197 provides that in respect of any income where tax is deductible under specified sections which does not include section 194LBA, the assessing officer can issue a certificate for lower or no deduction of tax on application made by the assessee.

As per section 194LBA, a business trust paying interest income to non-resident unit holders is required to deduct tax at 5 %. Section

197 now enables the unit holder to make an application to the assessing officer for obtaining certificate for lower or nil deduction of tax.

This amendment is applicable with effect from 1st April, 2023.

Relaxation from higher rate of TDS/TCS for persons not required to furnish return of income – Sections 206AB and 206CCA

Section 206AB deal with special provisions of TDS for non-filers of income-tax return, for deduction of tax at source at a higher rate, where payment is made to from Specified Person.

These provisions did not apply to payment made to a non-resident who does not have a Permanent Establishment in India. Similarly, it has now been provided that these provisions shall not apply to payments made to person who is not required to furnish the return of income for the assessment year and is notified by the Central Government in the Official Gazette in this behalf.

Similar amendments are made in section 206CCA in respect of TCS provisions.

These amendments are applicable with effect from 1st April, 2023.

Increase in rate of TCS on remittances under LRS – Section 206C(1G)

Section 206C deals with TCS on various transactions and sub-section (1G) includes foreign remittance through the Liberalised Remittance Scheme ('LRS') and sale of overseas tour package. The said sub-section is amended to increase the rates as tabulated below:

Sr. No	Type of Remittance	Present scenario	Amended scenario
1.	For education purposes, if the amount being remitted out is a loan obtained from any financial institution as defined in Section 80E	0.5% of amount or the aggregate of the amounts in excess of ₹ 7,00,000	No change
2.	For education purposes (other than 1. above) or for medical treatment	5% of amount or the aggregate of the amounts in excess of ₹ 7,00,000	No change

Sr. No	Type of Remittance	Present scenario	Amended scenario
3.	Overseas tour package	5% without any threshold limit	20% without any threshold limit
4.	Any other case	5% of amount or the aggregate of the amounts in excess of ₹ 7,00,000	20% without any threshold limit

This amendment is applicable with effect from 1st July, 2023.

10. SET-OFF AND WITHHOLDING OF REFUNDS IN CERTAIN CASES

Non-applicability of Section 241A

Section 241A provides from Assessment Year 2017-18 onwards, where a refund becomes due to the assessee under section 143(1) and having regard to a notice for regular assessment issued under section 143(3), if the Assessing Officer is of the view that grant of refund would adversely affect the Revenue, he may withhold the refund up-to the date on which assessment is made. This provision is now made inapplicable with effect from 01.04.2023.

Now, the power to withhold refund has now been shifted to section 245.

This amendment is applicable with effect from 1st April, 2023.

Set off and withholding of refund – Section 245

Existing section 245 allows the Assessing Officer to set off the refund due to any person against any sum remaining payable under the Act by such person after giving an intimation to such person.

It is now provided that where a refund becomes due to a person and any part of such refund is not set off, if having regard to the assessment or re-assessment proceedings pending in case of such person, the Assessing Officer is of the opinion that grant of such refund would adversely affect the Revenue, he may withhold the refund after recording the reasons thereof after obtaining previous approval from PCIT / CIT. However, there is no provision of giving intimation to the assessee.

Earlier, the scope of withholding under section 241A was restricted to refund which becomes due under section 143(1) where

notice under section 143(2) was issued in respect of the same assessment year for which refund was due.

Where any additional interest is payable under section 244A(1A), period beginning from withholding of refund by the assessing officer under section 245 as above and ending on the date of such assessment or re-assessment shall be excluded (proviso to section 244A(1A)).

These provisions are applicable with effect from 1st April, 2023.

Grant of TDS credit in certain cases and interest on refund – Section 244A

Where any income has been included in any assessment year and TDS on such income is deducted and paid in a subsequent financial year, the Assessing Officer, on an application made by the assessee in prescribed form under section 155(20), shall grant credit of such TDS in the relevant assessment year by amending the order of assessment or intimation, within two years from the end of the financial year in which such tax was deducted.

Where a refund arises as a result of an order passed by the Assessing Officer in consequence of an application made by the assessee as referred above, interest under section 244A shall be computed at 0.5% for every month or part of a month from the date of such application, till the date on which refund is granted.

These provisions are applicable with effect from 1st October, 2023.

11. ASSESSMENTS, APPEALS AND OTHERS

Interest for short-payment of advance tax in case of updated return – Section 140B(4)

Sub-section (4) of section 140B presently provides that interest payable under section 234B shall be computed on an amount equal to the assessed tax or the amount by which the advance tax paid falls short of the assessed tax. The term "assessed tax" is defined in that sub-section as tax payable on the total income as declared in the updated return filed under section 139(8A) after taking into account, inter alia, taxes paid including advance tax which has been claimed in the earlier return. The existing provision implied that interest was payable only on the difference between the assessed tax and advance tax.

It is now clarified that the interest payable under section 234B is with respect to the 'assessed tax' which is the tax on total income as declared in the update return less, inter alia, any relief or tax

referred to in section 140A(1) (which includes advance-tax) claimed in any earlier return.

This amendment is applicable retrospectively with effect from 1st April, 2022.

Special Audit – Section 142(2A)

Presently, the assessing officer is empowered to direct special audit of the accounts of the assessee under specified circumstances with the prior approval of the PCIT or CCIT and obtain a report from a Chartered Accountant.

Now, section 142(2A) also empowers the assessing officer to obtain a separate report on valuation of inventory from a practicing cost accountant nominated by the Pr. CCIT, CCIT, etc. in the prescribed form along with such other particulars as the assessing office may require.

This amendment is applicable with effect from 1st April, 2023.

Extension of time limits for pending rectification applications before Interim Board of Settlement (IBS) – Section 245D

Settlement Commission was abolished by the Finance Act, 2021 from 1st February, 2021. IBS was constituted to deal with all the pending applications and rectification applications thereon. Under the existing provisions, for any rectification application pending or to be filed against the settlement commission order where the time limit was expiring after 1st February, 2021, the period from 1st February, 21 until the constitution of IBS would be excluded to compute the time limits for rectification and after such exclusion, the order/application shall be passed within 60 days. As a relief measure, in cases where the time limit of amending such orders or making a rectification application falls between the period 1st February, 2021 upto 1st February, 2022, the time limit is extended upto 30th September, 2023.

This amendment is applicable retrospectively with effect from 1st February, 2021.

Introduction of Joint Commissioner (Appeals) – Section 246

In order to reduce the pendency of appeals before the Commissioner of Income Tax (Appeals), a new income tax authority is introduced named Joint Commissioner (Appeals) for disposal. Joint Commissioner (Appeals) is defined under the new section 2(28CA) to mean a person appointed as Joint Commissioner of Income Tax (Appeals) or as an Additional Commissioner of Income Tax (Appeals) as per section 117(1).

Joint Commissioner (Appeals) shall have similar powers and responsibilities as that of Commissioner of Income Tax (Appeals) in conduct of the appeal procedure.

Section 246 is revived and substituted and the provisions of the section are listed as under:

1. The appeal can be filed against the following orders to the Joint Commissioner (Appeals):

    i. Intimation under section 143(1) where assessee objects to the making the adjustments.

    ii. Assessment order under section 143(3) or section 144 where assessee objects to the amount of income assessed, or tax determined, loss computed or the status under which it is assessed. Status would mean the category of person being assessed as like Individual, HUF etc.

    iii. Intimation under section 200A(1)

    iv. Order under section 201

    v. Intimation under section 206C(6A)

    vi. Order under section 206CB

    vii. Penalty orders under Chapter XXI

    viii. Rectification orders under section 154 or section 155 amending any of the above-mentioned order Rs.

2. No appeal can be filed before the Joint Commissioner (Appeals) if the orders referred above are passed by or with prior approval of an income tax authority above the rank of Deputy Commissioner.

3. The appeal pending before Commissioner of Income Tax (Appeals) with respect to the above appealable orders/ intimations may be transferred to Joint Commissioner (Appeals) by CBDT or by an authority authorised by the Board, who shall proceed with such appeal from the stage where it was before such transfer. Similarly, certain appeals may be transferred from Joint Commissioner (Appeals) to Commissioner Income Tax (Appeals) by CBDT or authorised authority. Upon such transfers, the appellant shall be given an opportunity of being re-heard.

4. The Central Government shall come up with a scheme for disposal of appeals with transparency and accountability by removing interface between Joint Commissioner (Appeals) and

appellant and provide for jurisdiction, procedure for disposals and exceptions or modifications.

Consequential amendments are made to various sections in the Act.

These amendments are applicable with effect from 1st April, 2023.

Expanding scope of appeals that can be filed before the Income Tax Appellate Tribunal (ITAT) – Section 253

There have been several amendments in the past few years where certain authorities have been empowered to pass the order under relevant provisions, but corresponding reference of the same was not given in section 253. In order to rationalise the provisions, an appeal can now be filed against the following orders before the ITAT:

1. Orders imposing penalty passed by Commissioner of Income Tax (Appeals) under sections 271AAB, 271AAC and 271AAD.

2. Revision order passed under section 263 by Principal Chief Commissioner (PCCIT) and Chief Commissioner (CCIT).

Under the existing provisions, a memorandum of cross – objections can be filed by the respondent of appeal against an order of Commissioner of Income tax (Appeals). The scope of filing cross objections is extended to any order passed by income tax authorities and which are appealable before the ITAT like orders passed by PCIT, CCIT, Principal Director etc.

These amendments are applicable with effect from 1st April, 2023.

Rationalisation of certain provisions relating to search and seizure – Section 132

1. Under the existing provisions of section 132, it has been provided that authorised search officers may requisition services of police officer or any officer of Central Government to assist him during the search. Due to digitisation of transactions with advent of technology in the current times, the search process has become complex and requires specific domain experts. Therefore, the amendment substitutes sub-section (2) of section 132 to provide that the authorised officers can also requisition services of any other such person as may be approved by PCCIT or CCIT or PDGIT or DGIT in accordance with procedures to be prescribed.

2. Under the existing provisions of sub-section (9D), the authorised officer can make a reference to valuation officer under section 142A. The sub-section is substituted to provide that reference can be also made to any other person or entity or valuer registered under any law in force as may be approved by PCCIT, CCIT, PDGIT or DGIT for estimating the fair market value of the property in the prescribed manner and to submit a report of such reference within 60 days.

These amendments are applicable with effect from 1st April, 2023.

3. With the amendment made in Finance Act, 2021, the assessment for the search cases are now covered under the new section 147 and section 153A and 153B are no more applicable. Section 153B provides for execution of the 'last of authorisation for search' based on which the time limit of conclusion of re-assessments are determined. An explanation has been added to section 132 to bring the provisions of last authorisation in its ambit as it was provided in section 153B.

This amendment is applicable retrospectively with effect from 1st April, 2022.

Powers to Central Government to amend directions issued under various Faceless schemes/e-proceedings – Sections 135A, 245M, 245R, 250 and 275

Various e-proceedings and faceless schemes were introduced in the last few years under the powers given by the provisions introducing such schemes. These sections had incorporated time limits to issue directions under such schemes for timely implementation.

Section	**Limitation period to bring directions under existing law**
135A – Faceless collection of information	31st March, 2022
245MA – Dispute Resolution Committee	31st March, 2023
245R – E-advance rulings	31st March, 2023
250 – Faceless Appeals	31st March, 2022
275 – Faceless Penalty	31st March, 2022

Any amendment or adjustments which may be required in the schemes announced could not be made due to the limitation period specified in the section. To overcome any such implementation issue, a proviso is added in all the above sections enabling Central Government

to amend any directions issued under these sections if it was issued before the limitation period.

These amendments are applicable retrospectively with effect from 1st April, 2022 for sections 135A, 250 and 274 and from 1st April, 2023 for sections 245MA and 245R.

Rationalisation of re-assessment proceedings – Sections 148, 148A, 149 and 151

1. Under the existing provisions, the period to file return of income in pursuance to notice under section 148 is as specified in the notice issued for re-opening, which is generally a month from the date of the receipt of the notice. This period to file return of income is increased to three months from the end of the month in which the notice is issued or such period as may be allowed by Assessing Officer on basis of application made by the assessee. It is also provided that if the return of income is filed under this section beyond the time period allowed, then it shall not be deemed to be return under section 139. As a consequence, that would mean that no notice under section 143(2) shall be required to be issued for such returns filed beyond the time limit. Further, section 234A regarding interest for default in furnishing of return of income, would also not apply in such cases.

2. Under the existing provisions, the Assessing Officer is required to conduct a procedure of enquiry as prescribed in section 148A prior to issuance of notice under section 148. The provisions of section 148A is not applicable in case of search initiated under section 132 or where assets, documents or books are requisitioned under section 132A. However, for survey under section 133A, the proceedings under section 148A are required to be conducted prior to issuance of notice. Extended time limits by 15 days are now provided in the following two scenarios:

    i. In case where the search, requisition or survey proceedings are conducted after 15th March of a financial year expiring as on 31st March of the said financial year, a period of fifteen days shall be excluded for the purpose of computing the period of limitation for issuance of notice under section 148 and it will be deemed that the notice is issued on 31st March of such financial year.

    ii. In cases where the information emanates from statement recorded or documents impounded under section 131 or section 133A on or before 31st March of the financial year, in consequence of search or search for which last authorisations is executed or under search requisition

which is done so after 15th March of such year, a period of fifteen days shall be excluded from computing the time limit for issuance of notice under section 148 and also for show cause notice under section 148A(b) shall be deemed to be issued as on 31st March of the financial year.

3. Section 151 provides the sanctioning authority for the issue of notice under section 148. Under the existing provisions, sanction is required from PCCIT or PDGIT in case re-opening is beyond three years from the end of the relevant assessment year. Only in a case where PCCIT or PGDIT is not available, sanction from CCIT or DGIT could be obtained. Now it is provided that, re-opening can be done by CCIT or DGIT also when re-opening is beyond period of three years along with PCCIT and PGDIT.

4. In arriving at the time limits of period of three years for sanction under section 151(i), the provisions to section 149(1) regarding extended period of 15 days or extensions owing to stay or injunction of any court shall be excluded.

These amendments are applicable with effect from 1st April, 2023.

Alignment of time limits for completion of assessments, re-assessments and re-computations – Section 153

1. Under the existing provisions, the time limit for completion of assessments and re-assessments are 9 months from the end of the assessment year in which the income is first assessable. Similarly, in case of assessments of updated returns, the time limit to pass the assessment order was 9 months from the end of financial year in which return was furnished.

   This time limit of 9 months is extended to 12 months for assessments to be made for Assessment Year 2022-23 and onwards.

2. The time limit to complete the assessments, re-assessments and order passed under section 92CA by the Transfer Pricing Officer is amended to give reference to orders passed by PCCIT or CCIT or PCIT under sections 263 or 264.

3. Search assessments have been brought under ambit of section 147 as compared to erstwhile sections of 153A to 153C. The existing provisions of section 147 does not provide for abetment or revival of pending assessment or re-assessment proceedings as on the date of search or requisition proceedings. Due to absence of these provisions, the information available in a search having bearing on the pending scrutiny proceedings was not effectively used due to the limitation of such proceedings.

In order to enable the Assessing Officer more time for to conduct proper scrutiny in such cases, a new sub-section (3A) is inserted to provide that when any assessment or re-assessment proceedings are pending as on the date of search under section 132 or requisition under section 132A, the period available for completion of such assessments and re-assessments shall be extended by 12 months.

These amendments are applicable with effect from 1st April, 2023.

12. PENALTIES & PROSECUTIONS

Penalty and prosecution for failure to deduct tax at source – Sections 271C and 276B

Under section 271C, a person who has failed, inter alia, to pay the whole or any part of the tax required by or under the proviso to section 194B (where the winnings from any lottery, etc. are wholly or partly in kind) is liable to pay penalty of sum equal to the amount of tax he failed to deduct or pay.

Section 276B provides for prosecution for failure, inter alia, to pay the whole or any part of the tax required by or under the proviso to section 194B (where the winnings from any lottery, etc. are wholly or partly in kind).

Similar provisions are contained in the following sections for deduction of tax at source where the income in question is paid wholly in kind or partly in cash and partly in kind:

- deduction of tax on benefit or perquisite in respect of business or profession [First Proviso to section 194R];
- Deduction of tax on net winnings from online games [First Proviso to section 194BA]
- Deduction of tax on consideration for transfer of a virtual digital asset (VDA) [First Proviso to section 194S]

The provisions for penalty and prosecution is now widened to include any failure by a person who does not pay or fails to ensure that tax has been paid as is referred to in the above mentioned provisions where the income, benefit or perquisite is paid in kind.

The above amendments are applicable with effect from 1st April, 2023 except for amendment for section 194BA which is applicable with effect from 1st July, 2023.

Penalty under section 271FFA applicable to prescribed reporting financial institution

Where a prescribed financial institution which is required to furnish a statement under section 285BA relating to reportable accounts, provides inaccurate information under such statement and the inaccuracy is due to false or inaccurate information furnished by the holder of reportable account, such institution shall be liable to additionally pay ₹ 5,000 for every inaccurate reportable account. The institution shall be entitled to recover such amount from the holder of such account.

This amendment is applicable with effect from 1st April, 2023.

No fresh launch of prosecution under section 276A

Section 276A contains provisions for prosecution of a person being a liquidator of a company with rigorous imprisonment if he fails to give notice in accordance with section 178(1) or fails to set aside amounts as required by section 178(3) or parts with any of the assets of the company in contravention of section 178. It is now provided that no proceedings shall be initiated under section 276A on or after 1st April, 2023. The Explanatory Memorandum, however, clarifies that the prosecutions already initiated will continue.

This amendment is applicable with effect from 1st April, 2023.

INDIRECT TAXES & ALLIED LAWS

CUSTOMS ACT, 1962

1. Validity of 2 years for exemptions not applicable to specified cases

Background

- Section 25 of Customs Act, 1962 grants power to Government for issuing conditional as well as absolute exemption notifications

Current Scenario

- Through Finance Act 2021, with effect from 28.03.2021, conditional exemptions were generally valid upto 31st March falling immediately after 2 years from the date of granting or varying any exemption unless it is effective till a specified date or exemption is withdrawn before 2 years
- Conditional exemptions already in force on the date of enactment of Finance Bill, 2021 would come to an end on 31.03.2023 if not extended specifically

Change in Law

- Now, it is proposed that following conditional exemptions shall remain valid until withdrawn by Government and the general validity of 2 years for conditional exemptions would not be applicable to such cases:
- Mutli-Lateral or bilateral trade agreements
- Obligations under international agreements, treaties etc.
- Obligations with respect to united nations agencies, diplomats and international organizations
- Privileges of constitutional authorities
- FTP Schemes
- Central government schemes having validity of more than 2 years
- Re-imports
- Temporary imports

- Goods imported as gifts or personal baggage

WEF

- The date of enactment of Finance Bill, 2023

Impact

- It is proposed to remove general validity period of 2 years for conditional exemptions in specified cases, either where it is imperative to continue exemption for longer duration such as international treaties, FTP schemes etc. or in specific situations such as temporary imports, gifts, personal baggage etc.

2. Time limit fixed for disposal through settlement commission route

Background

- During the pendency of any proceedings, importer or exporter has option to settle the adjudication with Customs authorities through the route of Settlement Commission by coming clean to pay duties along with interest and penalties

Current Scenario

- Presently, there is no time limit for settlement commission to pass the order after amendments made through Finance Act, 2015

Change in Law

- Now, time limit for disposal of settlement commission cases is proposed to be reintroduced. Accordingly, the settlement commission order shall be passed within 9 months (plus extension of 3 months) from the late day of the month in which application is made
- If order is not passed within such time frame, it is proposed that adjudication shall continue as if no such application is made
- For pending applications, proposal is made to reckon 9 months from the date of enactment of Finance Bill, 2023

WEF

- The date of enactment of Finance Bill, 2023

Impact

- This would fast track the disposal of applications made before settlement commission

GOODS AND SERVICES TAX

Note: Unless otherwise specifically mentioned,

(i) The Act means Central Goods and Services Tax Act, 2017

(ii) Unless otherwise stated, the amendments shall come into force from the date of enactment of Finance Bill, 2023.

1. Retrospective amendments w.e.f. 01-07-2017.

a. Section 22 of the Act deals with persons liable for registration. Section 23 of the Act deals with persons not liable to registration and section 24 of the Act deals with compulsory registration in certain cases. Section 23 is amended to provide that it will override section 22 as well as section 24. As a result of this overriding clause, if a person is not required to take registration under section 23 of the Act, then he will be completely exempted from obtaining GST registration even if he is otherwise liable to obtain compulsory registration under section 24. The amendment appears to have a bearing on persons engaged in supplying exclusively exempted goods or services and who were registered only to pay tax under the reverse charge mechanism under section 9(3) of the Act. Further, since the amendment is retrospective, the refund entitlement of tax already paid under the reverse charge mechanism of such entities which had obtained registration only for discharging liability under the reverse charge mechanism, may also need examination.

b. It has now been clarified that paragraph 7 (i.e. supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.) and paragraph 8 (i.e. supply of warehoused goods to any person before clearance for home consumption; and supply of goods by the consignee to any other person, by the endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption) and Explanation 2 thereof inserted by the Central Goods and Services Tax (Amendment) Act, 2018, w.e.f. 1-2-2019 shall be deemed to have been inserted w.e.f. 1-07-2017. It is however also provided that no refund shall be made of all the tax which has been collected and deposited to the Government at all material times.

2. Other Amendments

a. Extending the benefit of composition scheme to registered persons supplying goods through electronic commerce operator and introduction of penal provisions on electronic commerce operator.

Section 10(2) and 10(2A) of the Act seek to relax eligibility criteria to extend the benefit of the composition scheme to persons making the intra-state supply of goods through electronic commerce operator who is required to collect tax at source under section 52 subject to the other conditions laid down in section 10.

On the other hand, section 122(1B) imposes a penalty of the higher of Rs.10,000 or an amount equivalent to the amount of tax involved in cases where electronic commerce operator allows:

(i) a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;

(ii) an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or

The said penalty is also provided in cases where the electronic commerce operator fails to furnish the correct details of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act in the statement to be furnished under section 52(4).

b. Amendments related to the reversal of Input Tax Credit (ITC) in respect of exempt supplies and blocked credits.

Explanation to section 17(3) is amended to provide that value of exempt supply for the purposes of computing denial of ITC availment in respect of exempt supply shall also include the value of supply of warehoused goods to any person before clearance for home consumption which is covered under Schedule III of the Act.

Further, section 17(5)(fa) is introduced to disallow the ITC in respect of goods or services or both received by a taxable person which are used or intended to be used for activities relating to his obligations under corporate social responsibility

referred to in section 135 of the Companies Act, 2013 as blocked credit.

c. The due date for the belated filing of certain returns is introduced.

The following sections of the Act are amended to incorporate the due date for filing belated returns/ statements as required under the Act.

Section	Type of Return/ statement	Existing Due Date	Due date for belated return/ statement
37	The details of outward supplies of goods or services or both effected during a tax period (i.e. GSTR-1)	on or before the 11th day of the month succeeding the said tax period	Before the expiry of a period of 3 years from the due date of furnishing the said details
39	A monthly / quarterly return, of inward and outward supplies of goods or services or both, input tax credit availed, tax payable, tax paid and such other particulars (i.e. GSTR-3B)	Monthly return - on or before the 20th day of the month succeeding such month Quarterly Return – 22nd day of the month succeeding such quarter or as the case may be 24th day of the month succeeding such quarter	after the expiry of a period of 3 years from the due date of furnishing the said return
44	Annual return (GSTR-9, 9A, 9B and 9C)	On or before the 31st day of December following the end of the such financial year.	On or before the expiry of a period of 3 years from the due date of furnishing the said annual return

Section	Type of Return/ statement	Existing Due Date	Due date for belated return/ statement
52	A statement required to be furnished by electronic commerce operator under section 52(4) containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected as TCS (GSTR-8)	Within 10 days after the end of such month	On or before the expiry of a period of 3 years from the due date of furnishing the said statement

The Government is also empowered to permit the furnishing of the above-belated returns/statements, even after the expiry of the said period of 3 years, by Notification and on the recommendations of the Council subject to conditions and restrictions.

d. Section 56 of the Act is amended to provide the manner of computation of the period of delay in granting refund for the purposes of computation of interest.

e. Decriminalisation of Offences under section 132 of the Act and compounding of offences.

The following contraventions which were attracting criminal imprisonment are omitted from the list of offences under section 132 of the Act:

Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences, namely

(i) obstructs or prevents any officer in the discharge of his duties under this Act;

(ii) tampers with or destroys any material evidence or documents

(iii) fails to supply any information which he is required to supply under this Act or the rules made thereunder or

(unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information

Further, where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds one crore rupees but does not exceed two crore rupees, the criminal punishment of imprisonment up to one year is now applicable only for cases involving issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilisation of input tax credit or refund of tax and in no other offences listed in section 132 of the Act.

Corresponding amendments are also made in section 138 of the Act dealing with the compounding of the offences. The first proviso to section 138 is amended so as to exclude the persons involved in offences relating to the issuance of invoices without a supply of goods or services or both from the option of compounding the offences under the said Act.

The minimum amount and maximum amount for compounding of offences revised to 25% of the tax involved, and 100% of the tax involved respectively.

f. Insertion of the new provision for consent-based sharing of information furnished by a taxable person.

Section 158A is enacted so as to provide for the sharing of certain details of the taxpayer with other systems as may be notified by the Government, subject to the prescribed conditions only after obtaining the consent of the supplier and recipient as stated below:

Sr. No.	Information	Consent by whom
1	Particulars furnished in the application for registration under section 25 of the Act.	Supplier
2	Particulars furnished in the return filed under section 39 of the Act or under section 44 of the Act	Supplier

Sr. No.	Information	Consent by whom
3	Particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished under section 37 of the Act (GSTR-1)	Supplier and Receiver (where such details include the identity of the receiver)
4	Particulars uploaded on the common portal for generation of documents under section 68 (E-way Bill and accompanying documents)	Supplier and Receiver (where such details include the identity of the receiver)
5	Such other details as may be prescribed	Supplier and Receiver (where such details include the identity of the receiver)

The consent should be obtained in the prescribed form and in the prescribed manner.

g. The definition of 'non-taxable online recipient' under section 2(16) of the Integrated Goods and Services Tax Act, 2017 (IGST Act) is simplified to mean any unregistered person receiving online information and database access or retrieval services (OIDAR) located in taxable territory. It is clarified that a person registered solely in terms of clause (vi) of section 24 of the Act would be regarded as unregistered person. Also, the scope of OIDAR services expanded by deleting the requirement of such services being essentially automated and involving minimal human intervention.

h. Consequent upon the deletion of the proviso to section 12(8) of the IGST Act, the place of supply of services by way of transportation of goods will no longer be governed by the destination of the goods where the location of supplier and recipient is in India.

ALLIED LAWS

Government Savings Promotion Act, 1837

The Government Savings Promotion Act, 1837 was enacted for promotion of saving schemes. Section 4A deals with payment of the deposit on the death of the depositor in such schemes. Clause 146 of the Finance Bill, 2023 proposes an important change in Section 4A(4). The pre-amended Section 4A(4) allowed the Authorised Officer to pay the eligible balance in a deposit which was within the prescribed limit to whosoever appeared to be entitled to receive it or to administer the estate of the deceased, if probate of the will or the letters of administration or succession certificate is not submitted to the Authorised Officer within 3 months of the death of the depositor. This time limit is now increased to 6 months and even legal heirship certificate from Land Revenue authorities can be submitted.

The following schemes are also now brought within the purview of the Act:

1. Public Provident Fund Scheme
2. National Savings Certificate (VIII Issue) Scheme, 2019
3. Kisan Vikas Patra Scheme, 2019
4. PM CARES for Children Scheme, 2021.

Indian Stamp Act 1899

Schedule I Article 47 Division D prescribes rates of stamp duty for Life Insurance/Group Insurance and other insurance schemes. It is now proposed to exempt policies of life insurance:

(a) Granted by the Director General Post Officers in accordance with the rules for Postal Life-Insurance issued under the authority of the Central Government, and

(b) Under the Pradhan Mantri Jeevan Jyoti Bima Yojana.

Securities Contracts (Regulation) Act, 1956

Section 18A gives legal validity to contracts in derivative if the contracts are covered by the said Section. It is now proposed that the contracts regulated by International Financial Services Centre Authority in an International Financial Services Centre and issued by a Foreign Portfolio Investor should be covered by Section 18A.

MANAGING COMMITTEE

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Mihir Sheth

Vice President
Chirag Doshi

Hon. Jt. Secretaries
Anand Bathiya
Kinjal Shah

Treasurer
Zubin Billimoria

Ex-Officio
Abhay Mehta
Mayur Nayak

Members

Anand Kothari
Hardik Mehta
Mahesh Nayak
Namrata Shah
Samit Saraf

Bhadresh Doshi
Jagadish Punjabi
Mandar Telang
Preeti Cherian
Siddharth Banwat

Divya Jokhakar
Kinjal Bhuta
Mrinal Mehta
Rutvik Sanghvi

TAXATION COMMITTEE

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Deepak Shah

Co-Chairman
Anil Sathe

Ex-Officio
Mihir Sheth
Chirag Doshi

Convenors
Divya Jokhakar
Hardik Mehta
Vishesh Sangoi

Members
Akshata Kapadia
Ameet Patel
Anand Bathiya
Anil Doshi
Anuj Gupta
Ayesha Aziz
Bhadresh Doshi
Bhavik Dholakia
Chaitee Londhe
Ganesh Rajgopalan
Gautam Nayak
Harsh Kothari
Hemant Kadel
Jagat Mehta
Jagdish Punjabi
Jhankhana Thakkar
Kinjal Bhuta
Kirit Kamdar
Kishor Karia
Krishna Upadhya
Mayur Nayak
Nihar Jambusaria
Nilesh Kapadia
Nilesh Parekh
Pradip Kapasi
Rahul Bajaj
Rajni Shah
Rutvik Sanghvi
Sanjeev Lalan
Saroj Maniar
Sharad Sheth
Sonalee Godbole

INTERNATIONAL TAXATION COMMITTEE

Chairman
Nitin Shingala

Co-Chairman
Chetan Shah

Ex-Officio
Mihir Sheth
Chirag Doshi

Convenors
Jagat Mehta
Mahesh Nayak
Rutvik Sanghvi
Siddharth Banwat

Members
Abbas Jaorawala
Akshay Kenkre
Alpana Rao
Ameya Kunte
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Reach: Fine tuning of Website & SEO; Active SM campaigns for events and focusing on programs for students and young CAs

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Bombay Chartered Accountants' Society
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