Post-Budget Recommendations 2013-2014

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3rd April 2013

Mr. P. Chidambaram
Honorable Finance Minister
Government of India,
North Block, Vijay Chowk,
New Delhi – 110001

Respected Sir,

Subject: Union Budget 2013-2014: Post Budget Recommendations on Income Tax

We have seen with interest the budget presented by your Honour on behalf of United Progressive Alliance (UPA) Government in the Parliament on 28th March, 2013 and appreciate your concern for challenges faced by the country and your efforts to accelerate economic growth.

There are certain provisions in the Finance Bill relating to Direct Taxes, which need your kind attention. Some of the present proposals may be prone to be inequitable and/or may only increase litigation, without real addition to the net revenue to the Government.

Our suggestions on various topics for rationalization of law, rectification of certain anomalies and correction of drafting errors, are given in the enclosed representation relating to direct taxes.

We hope that our representation will receive due consideration.

Thanking you,
For Bombay Chartered Accountants' Society

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Clause wise Representation in respect of provisions of Finance Bill, 2013

1. Deduction of amount to spent towards Corporate Social Responsibility [CSR] – Section 37

1.1 Clause 135 of the Companies Bill, 2012, as passed by the Lok Sabha reads as under:

"The Board of every company referred to in sub-section (*1*), shall ensure that the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy;"

1.2 Given the fact that CSR would now become a legal obligation, it is strongly suggested that the amount to be spent by any company towards CSR should be allowed as a deduction from the taxable income under section 37 of the Income-tax Act, 1961 [the Act].

2. Para 149 of the Budget Speech – No corresponding amendment in section 43(5)

2.1 Para 149 of the Budget Speech reads as under:

"**149.** There is no distinction between derivative trading in the securities market and derivative trading in the commodities market, only the underlying asset is different. It is time to introduce Commodities Transaction Tax (CTT) in a limited way. Hence, I propose to levy CTT on non-agricultural commodities futures contracts at the same rate as on equity futures that is at 0.01 percent of the price of the trade. Trading in commodity derivatives will not be considered as a 'speculative transaction' and CTT shall be allowed as deduction if the income from such transaction forms part of business income. As I said, agricultural commodities will be exempt."

2.2 However, while provisions have been introduced for CTT, no corresponding amendments have been carried out in sec 43(5) to exclude trading in commodity derivatives from the definition of "speculative transaction". This appears to be an oversight. **It is suggested that necessary suitable provisions should be made in the Act.**

3. Increase in the limit of premium payable exceeding from 10% to 15% of the actual capital sum assured in certain cases - Section 10 (10D)

Clause 4(I)

3.1 Clause (d) of Section 10(10D) inserted by Finance Act, 2012 provided that no exemption would be available in respect of any sum received under a life insurance policy, including bonus, issued on or after the 1st April, 2012 in respect of which premium payable for any of the years during the term of the policy exceeds 10% of the capital sum assured, as against the earlier limit of 20% under clause (c) of that sub-section.

3.2 It has now been provided that where the policy issued on or after 1-4-2013, is for insurance on the life of any person, who is (i) a person with disability or a person with severe disability as referred to in section 80U; or (ii) suffering from disease or ailment as specified in the rules made under section 80DDB, then the aforesaid limit would be 15% of the capital sum assured.

3.3 **It suggested that, in such cases, the limit of 15% should be completely removed. In any case, the amended provision should be made applicable to all the policies issued after 1st April 2012 to give the real benefit to the persons, to whom any such policy is issued during the FY 12-13.**

4. Income of Securitisation Trusts - Sections 10(23DA), 10(35A) and 115TA to 115TC

Clauses 4(II), 4(VI) and 30

4.1 It is proposed to grant exemption to income of securitisation trusts, as well as to income distributed by such trusts to their investors, while levying income distribution tax to such income distributed by such trusts, with effect from 1st June 2013. The amendment is welcome, as it will reduce the uncertainty and litigation currently being faced by such trusts. However, the amendment is not wide enough to resolve all difficulties, since the amendment applies only to securitisation of standard assets or to cases where the Pass Through Certificates (PTCs) issued to investors are listed under SEBI guidelines.

4.2 There are many other cases of securitisation, such as securitisation of stressed assets or non-performing assets, by banks and NBFCs through the medium of asset reconstruction companies, as well as of receivables by various companies. In all such cases, the PTCs (securities) issued to investors are rated by rating agencies. Such cases are not covered by the amendment.

4.3 Securitisation is an activity which boosts liquidity and the ability to do business. In order to encourage securitisation of such non-performing assets by banks and NBFCs as well as other receivables by companies, **it is suggested that the proposed amendment be extended to all cases of securitisation of assets, where the PTCs (securities) are rated by rating agencies, and not be restricted only to cases of standard assets or where securities are listed.**

5. Income of Venture Capital Funds - Section 10(23FB)

Clauses 4(IV)

5.1 The definition of Venture Capital Fund (VCF) is being proposed to be amended, so as to incorporate the reference to the SEBI Alternative Investment Funds Regulations, 2012 (AIF regulations). As per the proposed amendment, only VCFs categorised as category 1 AIF under the AIF regulations would qualify for the pass through benefit. The pass through benefit is available only to income from venture capital undertakings (VCU), and not to any other income of such VCFs.

5.2 **It is submitted that the pass through benefit should be made applicable to all income of a VCF, and not just to its income from VCUs, so as to avoid the litigation which could possibly arise as to the manner of treatment of such other income.**

5.3 Under the AIF regulations, Category 1 AIFs includes social venture funds, SME funds and infrastructure funds, besides VCFs. These AIFs too invest in sectors which need investment and support. Clarity regarding the manner of taxation by providing a pass through status to such AIFs would facilitate raising of funds by such AIFs, increasing the investment in such sectors. **It is, therefore, suggested that the pass through status should be extended to all categories of AIFs, and not just to VCFs registered as Category 1 AIFs.**

6. Deduction in respect of New Plant & Machinery – Section 32AC

Clause 5

6.1 In order to encourage substantial investment in plant & machinery by manufacturing companies, and as a measure to promote socio-economic growth, it is proposed to grant incentive for acquisition and installation of new plant or machinery.

It is proposed to insert a new section 32AC wherein one of the conditions to grant investment allowance is that the assessee should “acquire and install” new plant or machinery after 31.03.2013 and before 01.04.2015, of aggregate amount of actual cost exceeding Rs. 100 crore.

6.2 This is a good step taken by the Government to promote substantial investment in plant or machinery. However the condition to “acquire and install” within the limited time limits the scope and may become a hindrance to achieve the objective. In the past, investment allowance was being granted on installation of new plant or machinery or acquisition of new ship or new aircraft. Words “acquire” and “install” were used separately for different kind of assets. It is now proposed that assessee should “acquire and install” new plant or machinery. The term ‘acquires’ is not defined and is open to number of interpretations which may result in litigation and uncertainty. It should be appreciated that installation of an asset is not possible without acquisition. Therefore, installation should be sufficient condition for grant of investment allowance, as was in the past.

6.3 In addition, it should be clarified that self-constructed or manufactured plant and machinery would also be eligible for investment allowance. The underlying theme of the tax proposals, as stated in the speech by the Finance Minister, is “clarity in tax laws, a stable tax regime, a non-adversarial tax administration, a fair mechanism for dispute resolution, and an independent judiciary will provide great assurance”. **It is, therefore, suggested that the words “acquires and installs” in proposed section 32AC(1) be replaced with “installs”.**

6.4 **Practically, it is observed that it is very difficult to execute large projects in short time. It is, therefore, suggested that the time limit of acquisition and installation within a two year window should be done away with. Alternatively, the same should be raised to a minimum of five years.**

6.5 **Further, the limit of Rs. 100 crore is too high, and only a few large projects would be able to avail of the benefit. In order to truly incentivise businesses, particularly small and medium businesses, the limit should be reduced to Rs. 1 crore, if not altogether done away with.**

7. Special provision for full value of consideration for transfer of assets other than capital assets in certain cases - Section 43CA

Clause 8

7.1 As per Sec 43CA profit on sale of stock in trade, being land or building or both, stamp duty valuation is to be adopted in respect of such transfer on the date of agreement.

7.2 Sub-section 3 of Sec 43CA provides that where the date of agreement fixing the value of consideration for transfer of the asset and the date of registration of such transfer of asset are not the same, the stamp duty value may be taken as on the date of agreement.

7.3 In many states the practice is followed where prior to the agreement a letter of allotment containing the consideration fixed is issued to the transferee. Such a letter of allotment is generally not subject to payment of stamp duty. **It is suggested that an explanation may be inserted to the effect that a date of any document where the consideration is fixed, even if not assessable to stamp duty, can be considered for the purposes of stamp duty valuation.**

7.4 Sub-section 4 of Sec 43 CA provides that sub-section 3 shall apply only in the case where the amount of consideration or a part thereof has been received by any mode other than cash on or before the date of agreement for transfer of asset. **It is not clear whether bearer cheque will be considered as a mode other than cash. Necessary clarification in this regard should be issued.**

8. Immovable property received for inadequate consideration – Section 56(2)(vii)(b)

Clause 9

8.1 Clause (b) of Sec 56(2)(vii) has been substituted to provide that any immovable property received for consideration, which is less than the stamp duty value by an amount exceeding Rs. 50,000/-, will also be chargeable to tax as income from other sources in the hands of individual or HUF, to the extent the stamp duty value exceeds the consideration.

8.2 A similar provision was introduced by Finance Act, 2009. The same was subsequently withdrawn retrospectively by the Finance Act, 2010. At the time of withdrawal, the memorandum explaining provisions of Finance Bill, 2010 stated as under:

"In several cases of immovable property transactions, there is a time gap between the booking of a property and the receipt of such property on registration, which results in a taxable differential. It is, therefore, proposed to amend clause (vii) of section 56(2) so as to provide that it would apply only if the immovable property is received without any consideration and to remove the stipulation regarding transactions involving cases of inadequate consideration in respect of immovable property. These amendments are proposed to take effect retrospectively from 1st October, 2009 and will, accordingly, apply in relation to the assessment year 2010-11 and subsequent years."

8.3 In the background of the earlier withdrawal of the provisions by Finance Act, 2010, there is no justification for bringing that same provision again, as the same reasoning for withdrawal would still prevail.

8.4 Here too, an explanation may be inserted to the effect that a date of any document where the consideration is fixed, even if not assessable to stamp duty, can be considered for the purposes of stamp duty valuation.

8.5 Further valuation is not a science. It is very subjective and fair value is not absolute. The stamp duty valuations fixed by the State Governments are not always fixed on a completely scientific basis, and do not always necessarily represent the fair market value of the property. The object is to tax the difference between the consideration and the fair market value and therefore, **it is suggested that a margin of 15% should be permitted. Only in those cases where the difference between the agreement value and the stamp duty value is more than 15%, the difference should be chargeable to tax as income from other sources in the hands of the individual or HUF.**

9. Deduction for investment under Rajiv Gandhi Equity Savings Scheme – Section 80GGC

Clause 11

9.1 Sec 80CCG was inserted by the Finance Act, 2012 with effect from 1-4-2013.

9.2 The scope of eligible investments has now been extended to include listed units of equity oriented funds in synchronization with the provisions of Rajiv Gandhi Equity Savings Scheme, which permits investment in eligible shares, ETF's and mutual funds units which has such eligible shares as underlined asset. The amendment is effective from 1st April 2014.

9.3 **It is suggested that the amended provisions should be made applicable for assessment year 2013-14 as well, so that investors who have invested in such units on the basis of the notified scheme do not suffer loss of deduction.**

10. Additional deduction of interest on housing loans – Section 80EE

Clause 13

10.1 Sec 80EE has been introduced to cater to the need for affordable housing which allows deduction to individual assessees for interest payable up to Rs. 1,00,000 for AY 2014-15 on housing loan taken from any bank or housing finance company for acquiring a residential house on fulfilment of following conditions :

i. The loan is sanctioned between 01-04-2013 and 31-03-2014
ii. The loan sanctioned does not exceed Rs. 25 lakh
iii. The value of residential house does not exceed Rs. 40 lakh
iv. The individual does not own any residential house on the date of sanction of the loan.

10.2 In view of aforesaid conditions, the objective of catering to the need for affordable housing may not be fulfilled. **It is, therefore, suggested that:**

i. The limits of loans sanctioned as well as value of residential house should be removed as there is already a limit of Rs. 1 lakh for interest payable;
ii. The period during which the loan should be sanctioned as well as the deduction for interest payable should be a longer period of at least ten years.

10.3 In our view, the insertion of a new separate section 80EE does not serve any purpose and **it is suggested that the modified provisions should be added by the way of proviso to the existing Section 24 of the Act**.

11. Contributions to a Political Party or an Electoral Trust – Section 80GGB & 80GGC

Clause 15 & 16

11.1 It is provided that with a view to discourage cash payment by the contributors, no deduction shall be allowed under section 80GGB & 80GGC in respect of any sum contributed by way of cash. Loss of deduction for such a donation is not a sufficient deterrent to making such payments in cash.

11.2 It is suggested that in order to curb the menace of cash payments to political parties and electoral trusts, instead of withdrawing the deduction of cash payments, all cash donations should be taxed in the hands of political parties by inserting provisions on the lines of section 115BBC in respect of anonymous donations.

12. Extension of time limit for Power Sector Undertakings eligible for deduction – Section 80-IA

Clause 17

12.1 Sec 80-IA (iv) provides a deduction of profits and gains of a undertaking which is set up for the generation or generational distribution of power or which starts transmission or distribution by laying a network of new transmission or distribution lines or undertakes substantial renovation and modernization of the existing network of transmission or distributional lines, at any time during the period ending on or before 31st March 2013.

12.2 With a view to provide further time to the undertakings to commence the eligible activity to avail the tax incentive, the terminal date has been extended by a further period of one year up to 31st March 2014. It is observed that in the past similar extension of one year period has been given by Finance Act, 2009 to Finance Act, 2012.

12.3 It is suggested that in order to provide certainty to the sector, extension of the terminal date may be given for five years rather than providing one year at a time on yearly basis.

13. Tax Residency Certificate (TRC) is not sufficient to claim the benefits of DTAA – Section 90 & 90A

Clauses 21 & 22

13.1 Last year, the Finance Act, 2012 inserted sub-section (4) to Sections 90 and 90A, whereby obtaining of a TRC containing prescribed particulars was made a pre-condition for availing any relief by a non-resident under a DTAA.

13.2 The provisions of Sec 90 & Sec 90A are further amended to provide that such TRC shall be necessary but not a sufficient condition for claiming any relief under DTAA.

13.3 The Ministry of Finance has issued a Press Release dated 1st March, 2013, clarifying the issue as under:

"Tax Residency Certificate produced by resident of contracting state will be accepted as evidence that he is a resident of that contracting state and the income tax authorities in India will not go behind the TRC and question his residential status."

13.4 There is no purpose in requiring a non-resident to go through the administrative hassle of obtaining a TRC for small amounts receivable by the non-resident. **It is suggested that there should be a threshold limit of Rs. 1 crore per payment for mandatory requirement of obtaining a TRC.** Below the threshold limit of Rs. 1 crore, a self-declaration of a non-resident should suffice.

13.5 Just as India has prescribed its own format of TRC, each country has prescribed its own format, which may not necessarily match the requirements for TRC stipulated under rule 21AB. In view of numerous difficulties faced by the persons making payments to non-residents, in obtaining the TRCs containing prescribed particulars, due to lack of jurisdiction and non-binding nature of the same on the revenue authorities of the foreign countries, **the TRCs issued by the revenue authorities of various foreign countries in their respective formats, should be accepted.**

14. General Anti Avoidance Rule (GAAR) – Chapter X-A – Section 95 to 102

Clause 24

14.1 In respect of the newly inserted Chapter X-A relating to GAAR, it is suggested that the various suggestions made by the Expert Committee on GAAR under the chairmanship of Dr. Parthasarathi Shome [Shome Committee] in its report on GAAR in Income-tax Act 1961, 2012 should be accepted in all respects.

14.2 As recommended by Shome Committee, it is suggested that:

a. where SAAR is applicable to a particular aspect/element, then GAAR shall not be invoked to look into that aspect/element. Similarly where Anti Avoidance rules are provided in a tax treaty in the form of limitation of benefit (as in Singapore treaty) etc., the GAAR provisions shall not apply overriding the treaty. If there is evidence of violations of anti-avoidance provisions in the treaty, the treaty should be revisited, but GAAR should not override the treaty;

b. all investments (though not arrangements) made by a resident or non-resident and existing as on the date of commencement of the GAAR provisions should be grandfathered so that on exit (sale of such investments) on or after this date, GAAR provisions are not invoked for examination or denial of tax benefit;

c. while determining tax consequences of an impermissible avoidance arrangement, corresponding adjustment should be allowed in the case of same tax payer in the same year as well as in different years, if any. However, no relief by way of corresponding adjustment should be allowed in case of any other taxpayer.

15. Tax on royalty and fees for technical services of non-residents and foreign companies – Section 115A

Clause 25

15.1 Section 115A has been amended to provide for a uniform increased rate of tax of 25% (plus applicable surcharge and education cess) on income by way of royalty and fees for technical services of non-residents and foreign companies (not effectively connected with a permanent business in India, if any) .

15.2 The proposed increase in tax rate on royalty and FTS to 25% from the existing 10% fails to recognize the fact that when tax is charged on gross basis, it should be at a reasonable, concessional rate in order to effectively provide for high expenditure incurred over many years in the research or creation of invention, patent, trademark, etc.

15.3 The proposed rate of 25% seems to illogically impute that the providers of technology enjoy abnormal returns, which is really not the case.

15.4 The rationale given is that most tax treaties provide for a rate of 10% to 25% for such incomes. We wish to draw your attention to the fact that out of 84 tax treaties that India has with other countries, 48 treaties provide for a rate of 10%, and only 2 treaties provide for a rate of 25% or higher.

15.5 The non-resident technology providers would try to pass on this increased burden to the Indian recipient of technology, making it very expensive for the Indian entities. The increased rate of tax of 25% together with a service tax on reverse charge basis would increase the cost to more than 50% of the royalty/FTS and will make Indian business uncompetitive.

15.6 **The proposed amendment falls short of achieving its stated objective and appears to be ill-conceived, without proper consideration of all issues involved. It is, therefore, suggested that no change in the rates should be effected.**

16. Tax on dividends received from foreign companies – Section 115BBD

Clause 26

16.1 The benefit of lower tax rate of 15% (plus applicable surcharge and education cess) for dividends received by an Indian company from a foreign company (in which it has equity shareholding of 26% or more) is extended for one more year i.e. AY 2014-15.

16.2 The provisions of Sec 115BBD were introduced as an incentive for attracting repatriation of income earned by residents from investments made abroad subject to certain conditions. The extension of one year has been granted to continue the tax incentive for one more year. **It is suggested that instead of providing extension of tax incentive for one more year, the same should be provided for five years.**

17. Special provisions relating to tax on distributed income of domestic company for buy-back of shares – Section 115QA to 115QC

Clause 28

17.1 Chapter XII-DA containing Sections 115QA to QC has been inserted with the objective to curb the practice of buy-back of shares by unlisted companies, instead of payment of dividends, in order to avoid payment of DDT, particularly where the capital gains arising to the shareholders are either not chargeable to tax or are taxable at lower rate. Accordingly it is provided that the consideration paid by the company for purchase of its own unlisted shares which is in excess of the sum received by the company at the time of issue of the shares (distributed income) will be charged to tax and the company would be liable to pay additional income tax at the rate of 20% of the distributed income paid to the shareholder.

17.2 For the purposes of this section, 'buy-back' has been defined to mean purchase by a company of its own shares in accordance with the provision of Section 77A of The Companies Act, 1956. Section 77A of the Companies Act, 1956, provides that a company may buy-back its own shares:

a) Out of its Free reserves;

b) Out of securities Premium account;

c) Out of proceeds of any share or other specified securities.

17.3 Thus, there is a possibility that a company does not have free reserves and yet indulges in buy-back of its shares financed out of share premium or an issue of shares of different category. In such a case, there would not have been any avoidance of DDT and yet the company would be liable to pay additional tax, on the deemed distributed income under Section 115QA.

17.4 Instead of introducing an entire new Chapter XII-DA, amendments should be made in section 2(22)(e) of the Act by excluding clause (iv) from the exclusions and by inserting clause (f) in section 2(22), by which the same objective can be achieved and aforesaid anomalous situation avoided.

17.5 **It is also alternatively suggested that provisions of Chapter XII-DA should be made applicable only to non-resident shareholders, as resident shareholders would in any case be subjected to tax u/s.46A.**

18. Tax on distributed income - Section 115R

Clause 29

18.1 Section 115R is amended to increase the rate of additional income tax on the income distributed to an individual or HUF by a mutual fund (other than equity oriented mutual fund). The rate is being increased from 12.5% to 25% to bring uniformity in the rate of tax paid by money market mutual fund/liquid fund and that paid by other mutual fund (not being equity oriented mutual fund). In case of income distributed to persons other than individuals or HUF, the rate of 30% continues. Tax at the rate of 5% shall be payable in case of income distributed by an infrastructure debt fund scheme to a non-resident or a foreign company. Surcharge at the rate of 10% and education cess will be applicable on above rates. These amendments will be effective from 1st June 2013.

18.2 **It is suggested that instead of different rates, a uniform rate of 20% for all types of non-equity mutual fund units should be prescribed.**

19. Defective Return – Section 139(9)

Clause 32

19.1 A return of income is treated as defective unless all the conditions mentioned in the explanation to section 139(9) are fulfilled. As per section 140A of the Act, tax payable on the basis of return of income after taking into account prepaid taxes and other credits to which assessee is entitled (i.e. self-assessment tax), along with interest payable, if any, is required to be paid by the assessee before furnishing the return of income. With effect from 1st June 2013, non-payment of self-assessment tax together with interest, if any, payable in accordance with the provisions of sec 140A, by the date of furnishing the return of income shall make the return of income a defective return.

19.2 The proposed amendment to section 139(9) may cause undue hardship in case of loss returns, where the assessee, due to cash crunch or other genuine reasons, may not be able to pay the self-assessment tax (which may be payable on account of Minimum Alternative Tax) and consequently loose the carry forward of losses. Necessary provisions should be made in this regard.

19.3 **In addition it is suggested that refunds due to an assessee for other years should be allowed to be adjusted against the self-assessment tax payable.**

20. Special Audit – Section 142(2A)

Clause 33

20.1 Section 142(2A) provides that the Assessing Officer may direct the assessee to get his accounts audited, having regard to the nature and complexity of the accounts of the assessee. The scope for invoking this section is widened. With effect from 1st June, 2013, the grounds on which the Assessing Officer can form an opinion are being widened to include volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialised nature of business activity of the assessee.

20.2 The widening of the scope for invoking this section, on the grounds of volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialised nature of business activity of the assessee, which are subjective an discretionary, would lead to lot of undue harassment of the assessees**. It is therefore suggested that the proposed amendment in section 142(2A) should be withdrawn.**

21. TDS on transfer of certain immovable properties other than agricultural land – Section 194-IA

Clause 42

21.1. The purchaser of an immovable property is required to deduct tax at source at the rate of 1% of the consideration paid or payable to a resident transferor with effect from 1st June 2013. The immovable property is defined to mean land or building or part of a building. However, rural agricultural land is kept out of the ambit of TDS. The tax is required to be deducted at the time of payment or at the time of credit, whichever is earlier. The tax is not required to be deducted if the consideration paid/payable is less than Rs. 50 lakh. The TDS on compensation for compulsory acquisition of immovable property will continue to be under the existing section 194L. The purchase of an immovable property from the non-resident transferor will continue to be subjected to TDS under sec 195.

21.2. This provision will apply to all types of purchasers, including individuals and HUFs, whether they are required to get their books of accounts audited u/s 44AB or not. The buyer of an immovable property will also have to undergo the procedure of obtaining TAN, filing of TDS statement, issuing TDS certificate, etc. The option of obtaining certificate from the Assessing Officer under Section 197 prescribing nil rate or lower rate of TDS is not available in such a case.

21.3. **It is, therefore, suggested that:**

a. **The said provision should apply only where the seller does not quote his PAN;**

b. **Provisions of section 197 for prescribing nil rate or lower rate of TDS should be made available in such a case.**

22. Domestic Transfer Pricing [DTP] – Sections 92, 92BA, 92C, 92CA, 92D & 92E

(a) Correlative Adjustments

Presently, in the DTP provisions there is no provision relating to correlative adjustment. It is very important that in case of any covered under the domestic transfer pricing provisions, if any adjustment [upward or downward] is made, then correlative adjustment in the hands of the other party should be invariably be made. Necessary amendment should be made in the DTP provisions to provide for the correlative adjustments.

(b) Increase in the threshold limit of Rs. 5 crore

The threshold limit of 5 crore is too low for applicability of the Domestic Transfer Pricing Provisions. In order to ensure that only substantial transactions are covered under the DTP provisions, the threshold limit should be raised to Rs. 25 crore.

(c) Documentation Requirements

Where the volume of specified domestic transactions is below the threshold limit, the maintenance of documentation as required for transfer pricing should not be applicable.

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