

INDIA BUDGET 2022



With Best Compliments From:

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This booklet summarises the important proposals included in the budget speech made by the Honourable Finance Minister on 1st February, 2022. Whilst every care has been taken in the preparation of this document it may contain inadvertent errors for which we shall not be held responsible. It must be stressed that the Finance Bill may contain proposals which have not been referred to in the budget speech and additionally, the detailed proposals are liable to amendment during the passage of the Finance Bill through Parliament. The information given in this document provides a bird's-eye view on the changes proposed and should not be relied for the purpose of economic or financial decision. Each such decision would call for specific reference of the relevant statutes and consultation of an expert.

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FOREWORD.....

A Growth Oriented Budget!

Smt. Nirmala Sitharaman, India's Finance Minister, presented her fourth Budget on 1st February 2022 for the fiscal year 2022-23.

The FM started by recognizing and highlighting India's economic resilience evidenced by the 9.2% economic growth, which is the highest amongst all large economies. The FM repeatedly referenced 'Amrit Kaal', stating that the Budget seeks to lay the foundation and give a blueprint to steer the economy over the Amrit Kaal of the next 25 years – from India at 75 to India at 100. The Budget 2022 continues to build on the vision drawn in the Budget of 2021 and its fundamental tenets, which included transparency of financial statement and fiscal position, reflect the government's intent, strengths, and challenges.

The FM highlighted several actions & schemes, across 4 priority areas, being:

PM GatiShakti	Inclusive Development
<ul style="list-style-type: none">o Driven by seven engines: Roads, Railways, Airports, Ports, Mass Transport, Waterways, and Logistics Infrastructure.o National Master Plan aimed at world class modern infrastructure and logistics synergyo Formulation of Master Plan for expressways – Completing 25000 km national highways in FY23o Unified Logistics Interface Platform allowing data exchange among all mode operatorso Open-Source Mobility Stack for seamless travel of passengerso 4 Multimodal Logistics parks through PPP to be awarded in 2022-23o Integration of Postal and Railways Network facilitating parcel movement.o One Station One Producto Extending coverage under Kavacho 400 new generation Vande Bharat Trains	<ul style="list-style-type: none">o Agriculture & Food Processing: promoting chemical free farming, post-harvest value addition, delivery of digital & hi-tech services to farmers through PPP, launching a blended-capital fund for agri start-upso Education & Skill Development: virtual labs and skilling e-labs, world class digital university, high quality e-content, Digital Ecosystem for Skilling and Livelihood (DESH-Stack e-portal) launched to promote online training,o Health – national digital health ecosystem, national tele mental health programme, integrated architectureo Har Ghar Nal Se Jal for 3.8 crore houses & PM Awas Yojna for 80 lakh houses in FY23o Focus on North East, aspirational blocks of specific districts, focus on villages on northern bordero Digital Banking by post offices (100% coverage & core banking system) and digital banking units by scheduled commercial banks in 75 districts



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<ul style="list-style-type: none"> o Multimodal connectivity between mass urban transport and railway stations o National Ropeways Development Plan as sustainable alternative to conventional roads o Capacity building for infrastructure Projects 	<ul style="list-style-type: none"> o Extending ECLGS with focus on hospitality and related enterprises (Emergency Credit Line Guarantee Scheme) o Raising and Accelerating MSME Performance (RAMP) programme will be rolled out o Revamping CGTMSE (Credit Guarantee Fund Trust)
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Productivity Enhancement & Investment, Sunrise Opportunities, Energy Transition, and Climate Action	Financing of Investments
<ul style="list-style-type: none"> o Ease of Doing Business 2.0: Integration of central and state level systems through IT bridges, Expanding scope of PARIVESH Portal (single window portal for Green clearances), Unique Land Parcel Identification Number for IT based management of land records, Establishing C-PACE to facilitate voluntary winding up of companies, End to end online e-Bill System and utilising surety bonds in government procurement, Support to 5G under PLI scheme, Opening up defence R&D for industry, start-ups and academia, task force to promote animation, visual effects, gaming, and comic (AVGC) sector, up to 68% capital procurement budget on domestic industry to promote AtmaNirbharta in Defence, promotion of sunrise opportunities in areas such as AI, Semi-conductors, aerospace, genomics, clean mobility, green energy, geospatial systems & drones, etc. 	<ul style="list-style-type: none"> o Prioritising Capital Expenditure – increase in capital expenditure by 35.4% (INR 1,96,010 crore) over BE 2021-22 o Public investment to continue to pump prime private investment and demand in 2022-23 o Introduction of Digital Rupee by RBI starting 2022-23 o Infrastructure status for Data Centres and Energy Storage Systems o Measures to aid investment by Venture Capital and Private Equity Investment o Green Bonds to mobilise resources for green infrastructure public sector projects to help reduce the carbon intensity of the economy o Blended Finance from government backed thematic funds to provide scale capital to sunrise sectors like Climate



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- o Ease of Living: Issuance of chip embedded e-Passports, Modernisation of building byelaws, implementing Town Planning Schemes and Transit Oriented Development, Establishing Centres of Excellence in urban planning, providing a battery swapping policy as an alternative to setting up charging stations in urban areas
- o Action, Deep-Tech, Digital Economy, Pharma and Agri-Tech – govt stake limited to 20% and the funds managed by private fund managers
- o Providing greater fiscal space to States: Enhanced outlay to Scheme for Financial Assistance to States for Capital Investment, with states allowed a fiscal deficit of 4% of GSDP of which 0.5% will be tied to power sector reforms

The total expenditure, Revised Estimate, (“RE”) stood at INR 37.70 lakh crore as against the Budget Estimate (“BE”) of INR 34.83 lakh during 2021-22. As against this, the BE for total expenditure in 2022-23 is estimated at INR 39.45 lakh crore, and for total receipts (other than borrowings) are INR 22.84 lakh crore. The outlay for capital expenditure was stepped up sharply by 35.4% from INR 5.54 lakh crore to INR 7.50 lakh crore in 2022-23 (2.9% of GDP), an increase to more than 2.2 times the expenditure of 2019-20. Taken together with the provision made for creation of capital assets through Grants-in-Aid to States, the ‘Effective Capital Expenditure’ is estimated at INR 10.68 lakh crore, or 4.1% of GDP.

Notwithstanding the increased capital outlay, the RE Fiscal Deficit for FY 21-22 was estimated at 6.9% of GDP as against BE of 6.8% for FY 21-22 and the BE for FY 22-23 at 6.4% of GDP. This estimate is consistent with the broad path of fiscal consolidation in the previous Budget which aimed to reach a fiscal deficit level below 4.5% by 2025-26.

The Centre also lowered its divestment target for FY 21-22 by over 55% to INR 78,000 crore as many of its big-ticket privatisation proposals were delayed, with hopes now pinned on a successful public listing of LIC. The disinvestment target for FY 22-23 has been set at a conservative INR 65,000 crore.

Any fears of a populist budget in light of upcoming elections were soundly assuaged, and although spending has been increased, it is not at the cost of a runaway fiscal deficit. The measures, action areas, schemes and reforms announced in the Budget indeed have a wide range and scope in their coverage and provide a good indication of the Government’s very specific and targeted plans for the Amrit Kaal. Forward looking, long-term, and growth oriented, this Budget builds upon the work and measures previously announced by the Government in the previous Budgets and sets the stage for further reforms and development of the country through the coming decade.





RATES OF TAXES

Personal Tax (Old Regime)

The tax rates have remained the same as in the earlier year.

The only change is :

- 1) Rate of surcharge for :
 - a) Long term capital gains arising on transfer of all assets covered by S. 112 & S. 112A are now capped at 15%.
 - b) AOPs consisting of only companies as its members, which was previously upto 37% is now capped at 15%
- 2) Tax on Income from transfer of Virtual Digital Assets, which is taxed at a flat rate of 30% (plus surcharge and cess).

(A) For Individuals, HUFs, AOPs, BOIs [not covered in (B) & (C) below]

Total Income	Rates of Tax (%)		
	Tax Rate (%)	Cess @ 4%(%)	Effective Rates (%)
Upto ₹ 2,50,000	0.00%	0.00%	0.00%
₹ 2,50,001 to ₹ 5,00,000	5.00%	0.20%	5.20%
₹ 5,00,001 to ₹ 10,00,000	20.00%	0.80%	20.80%
Above ₹ 10,00,000	30.00%	1.20%	31.20%

(B) Resident Senior individuals (Age 60 years or more)

Total Income	Rates of Tax (%)		
	Tax Rate (%)	Cess @ 4%(%)	Effective Rates (%)
Upto ₹ 3,00,000	0.00%	0.00%	0.00%
₹ 3,00,001 to ₹ 5,00,000	5.00%	0.20%	5.20%
₹ 5,00,001 to ₹ 10,00,000	20.00%	0.80%	20.80%
Above ₹ 10,00,000	30.00%	1.20%	31.20%





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(C) Resident Very Senior individuals (Age 80 years or more)

Total Income	Rates of Tax (%)		
	Tax Rate (%)	Cess @ 4%(%)	Effective Rates (%)
Upto ₹ 5,00,000	0.00%	0.00%	0.00%
₹ 5,00,001 to ₹ 10,00,000	20.00%	0.80%	20.80%
Above ₹ 10,00,000	30.00%	1.20%	31.20%

Surcharge for Individuals, HUFs, AOPs, BOIs

Existing Surcharge*		Proposed Surcharge*	
Total Income	Rate of surcharge	Total Income	Rate of surcharge
Upto 50,00,000	0%	Upto 50,00,000	0%
₹ 50,00,001 - ₹ 1,00,00,000	10%*	₹ 50,00,001 - ₹ 1,00,00,000	10%
₹ 1,00,00,001 - ₹ 2,00,00,000	15%*	₹ 1,00,00,001 - ₹ 2,00,00,000	15%
₹ 2,00,00,000 - 5,00,00,000	25%*	₹ 2,00,00,000 - 5,00,00,000	25% ^
5,00,00,000+	37%*	5,00,00,000+	37% ^

[*Note: However, assessee would be entitled to Marginal Relief]

[^ Note: The surcharge shall not exceed 15% in case for:

- i) Dividend Income,
- ii) Capital Gains taxed u/s 111A, u/s 112 & u/s 112A,
- iii) Foreign Institutional Investor - for income in the form of Dividends & Capital Gains (as referred to in S. 115AD (1)(b)); and
- iv) An Association of Persons consisting of only companies as its members.

It is pertinent to note that the benefit of capping the surcharge at 15 % for Dividend or Capitals Gains is not available to non-residents where the said income is taxable under the provisions of section 115A, 115AB, 115AC, 115ACA & 115E, while it continues to apply for income earned by Foreign Institutional Investor where the same is taxed u.s, 115AD.

Rebate for Resident Individuals

The rebate u/s 87A will remained unchanged at INR 12,500/- for resident individuals whose total income is not exceeding INR 5,00,000/- . The amount of rebate will be the actual tax payable or ₹ 12,500/-, whichever is lower





Personal Tax (New Regime - Section 115BAC)

The tax rates have remained the same as in the earlier year. The only change is :

- 1) In the rate of surcharge for :
 - a) Long term capital gains arising on transfer of all assets covered by S. 112 & 112A are now capped at 15%.
 - b) AOPs consisting of only companies as its members, which was previously 37% is now capped at 15%
- 2) Tax on Income from transfer of Virtual Digital Assets, which is taxed at a flat rate of 30% (plus surcharge and cess).

(A) For Individuals and HUFs

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

Existing Surcharge*		Proposed Surcharge*	
Total Income	Rate of surcharge	Total Income	Rate of surcharge
Upto 50,00,000	0%	Upto 50,00,000	0%
₹ 50,00,001 - ₹ 1,00,00,000	10%*	₹ 50,00,001 - ₹ 1,00,00,000	10%*
₹ 1,00,00,001 - ₹ 2,00,00,000	15%*	₹ 1,00,00,001 - ₹ 2,00,00,000	15%*
₹ 2,00,00,000 - 5,00,00,000	25%*	₹ 2,00,00,000 - 5,00,00,000	25% ^
5,00,00,000+	37%*	5,00,00,000+	37% ^

[*Note: However, assessee would be entitled to Marginal Relief]

[^ Note: The surcharge shall not exceed 15% in case for:

- i) Dividend Income,
- ii) Capital Gains taxed u/s 111A, u/s 112 & u/s 112A,





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- iii) Foreign Institutional Investor - for income in the form of Dividends & Capital Gains (as referred to in S. 115AD (1)(b)); and
- iv) An Association of Persons consisting of only companies as its members

It is pertinent to note that the benefit of capping the surcharge at 15 % for Dividend or Capitals Gains is not available to non-residents where the said income is taxable under the provisions of section 115A, 115AB, 115AC, 115ACA & 115E, while it continues to apply for income earned by Foreign Institutional Investor where the same is taxed u/s. 115AD.

Rebate for Resident Individuals

The rebate u/s 87A will remained unchanged at INR 12,500/- for resident individuals whose total income is not exceeding INR 5,00,000/-. The amount of rebate will be the actual tax payable or ₹ 12,500/-, whichever is lower

❖ Capping of surcharge for Capital Gains covered by S. 112 & 112A at 15%.

The surcharge applicable on tax on income from long-term capital gains on listed equity shares, units etc. has been previously capped at 15%. Income from other long term capital gains is subjected to a graded surcharge which goes up to 37%.

To boost start-ups, the surcharge on long term capital gains arising on transfer of any type of assets covered u/s 112 & 112A is capped at 15%.

This will apply from AY 2023-24 and onward.

❖ Amendment of section 115JC/115JF

Section 115JC provides for alternate minimum tax (AMT) payable by co-operative societies, which currently is 18.5%. However, the minimum alternate tax (MAT) on companies was reduced to 15% by Taxation Laws (Amendment) Act, 2019.

Therefore, to provide for parity between companies and co-operative societies, the AMT rate applicable to co-operative societies is reduced to 15% so as to bring it in line with companies MAT rate.

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

Consequential changes have been proposed to the definition of Alternate Minimum Tax provided in section 115JF.





PROMOTING VOLUNTARY TAX COMPLIANCE & REDUCING LITIGATION

❖ Insertion of new section 139(8A)- Filing of updated return

Due Dates of filing Return of Income for Various Assessee's:

Sr No.	Assessee	Due date for Original Return	Due date for Belated/Revised Return	Due date for Updated Return
1	Assessee whose accounts are required to be audited	31st October of the AY	31st December of the AY or before completion of assessment whichever is earlier	24 months from the end of the AY
2	Assessee required to furnish report u/s 92E	30th November of the AY	31st December of the AY or before completion of assessment whichever is earlier	24 months from the end of the AY
3	Any Other Assessee	31st July of the AY	31st December of the AY or before completion of assessment whichever is earlier	24 months from the end of the AY

In order to motivate the taxpayer towards the desired objective of voluntary tax compliance and to facilitate ease of compliance for the taxpayer in a litigation free environment, and also to provide adequate time for filing of correct tax return, it provides for filing for an updated ITR under newly inserted 139(8A).

The updated Return is in addition to revised or belated return and shall enable any person to file an updated ITR within 24 months from the end of the relevant AY, whether or not such person has furnished an original/belated/revised ITR.

However, an updated return cannot be filed in the following situations:

1. If the updated return is a return of loss.
2. If the updated return decreases the total tax liability compared to the original/belated/revised return filed.
3. If the updated return results in a refund or increases the refund compared to the original/belated/revised return filed.
4. In cases where search has been initiated u/s 132 or books of accounts, documents or any assets are requisitioned under section 132A*.
5. In cases where survey has been conducted under section 133A (other than section 133A(2A)*.
6. In cases where a notice is issued to the effect that any money, bullion, jewellery or valuable article or thing, seized or requisitioned u/s 132 or section 132A in the case of any other person belongs to person willing to file an updated return*.





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7. In cases where a notice is issued to the effect that any books of account or documents, seized or requisitioned u/s 132 or section 132A in the case of any other person, pertain or pertains to, or any other information contained therein, relate to person willing to file an updated return*.
8. In cases where an updated return is already filed u/s 139(8A).
9. In cases where assessment/ reassessment/ re-computation/ revision is pending or completed for the AY.
10. In cases where the AO has information in his possession for the relevant AY and the same has been communicated to the assessee prior to the date of filing of the updated return, under the following laws:
 - a. Prevention of Money Laundering Act, 2002
 - b. Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015
 - c. Prohibition of Benami Property Transactions Act, 1988
 - d. Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976
11. In cases where information has been received through mechanism under DTAA/ Exchange of Information agreement and the same has been communicated to him, prior to the date of filing of the updated return.
12. In cases where prosecution proceedings under Chapter XXII prior to the date of filing of the updated return.
13. Assessee is a person or belongs to a class of persons, as maybe notified by the Board in this regard.

* In cases of search/survey/requisition the updated return cannot be filed for the AY in which such search/survey/requisition is initiated and also for preceding two AYs.

❖ **Amendment to Section 139(9)**

A return of income shall be treated as a defective return if the same is not accompanied by a proof of payment of tax. It is now provided that where the updated return u/s 139(8A) is filed, it shall be treated as a defective return unless it is accompanied by a proof of payment of tax.





❖ **Insertion of new section 140B – Method for determination of tax required to be paid for filing updated return u/s 139(8A).**

Rate of additional tax:

- A. 25% of aggregate of tax and interest payable, as determined in above scenario's if the updated return is furnished after the expiry of time available u/s 139(4) or 139(5) but before the completion of period of 12 months from the end of the relevant AY.
- B. 50% of aggregate of tax and interest payable, as determined in above scenario's if the updated return is furnished after the expiry of 12 months from the end of the relevant AY but before the completion of 24 months from the end of the relevant AY.
- C. For the purposes of computation of additional income-tax, tax shall include surcharge and cess, by whatever name called, on such tax.

Computation of amount on which additional tax and interest shall be levied for the purpose of filing updated tax return.

Scenario 1: Where no return of income has been filed

Particulars	Amount	Amount
Total tax/interest/fee payable as per income tax provisions (A)		XXXX
Less		
1. Advance tax	(XXX)	
2. TDS/TCS	(XXX)	
3. Relief of tax u/s 89	(XXX)	
4. Relief/deduction of tax u/s 90 or 91	(XXX)	
5. Relief of tax u/s 90A	(XXX)	
6. Tax credit u/s 115JAA (MAT) or 115JD (AMT)	(XXX)	
Total taxes paid (B)		(XXXX)
Balance tax payable* (A-B) (i.e amount on which additional tax shall be payable)		XXXX

* This amount is payable along with the additional tax and interest.

Scenario 2: Where return of income has been filed:

Particulars	Amount	Amount
Income as per Original/Beleated/Revised ITR (earlier return)		XXXX
Add: Additional income for the purpose of updated return		XXXX
Total income		XXXX





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Total tax/interest/fee payable as per income tax provisions (A)			XXXX
Less:			
1.	Advance tax	(XXX)	
2.	TDS/TCS (Earlier return + on additional income)	(XXX)	
3.	Relief of tax u/s 89 (Earlier return + on additional income)	(XXX)	
4.	Relief/deduction of tax u/s 90 or 91(Earlier return + on additional income)	(XXX)	
5.	Relief of tax u/s 90A (Earlier return + on additional income)	(XXX)	
6.	Tax credit u/s 115JAA (MAT) or 115JD (AMT) (Earlier return + on additional income)	(XXX)	
7.	SA Tax paid	(XXXX)	(XXXX)
	Total taxes paid (B)		(XXXX)
	Add : Refund, if any issued in respect of earlier return (C)		XXXX
	Balance tax payable* (A-B+C) (i.e amount on which additional tax shall be payable)		XXXX

* This amount is payable along with the additional tax and interest.

❖ Calculation of interest u/s 234A, 234B and 234C:

Interest u/s 234A: Where no earlier return has been furnished, the interest payable under section 234A shall be computed on the amount of the tax on the total income as declared in the return u/s 139(8A).

Interest u/s 234B: Notwithstanding anything contained in the Explanation 1 to section 234B, in the cases where an earlier return has been furnished, interest payable under section 234B shall be computed on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax, where, “assessed tax” means the tax on the total income as declared in the return to be furnished u/s 139(8A), after taking into account the details as per scenario 2.

Interest u/s 234C: Where no earlier return has been furnished, the interest payable under section 234C, shall be computed after taking into account the income furnished in the return u/s 139(8A) as the returned income.

Interest payable on additional income tax: The interest payable on additional income tax shall be interest chargeable under any provision of the Act, on the income as per return furnished u/s 139(8A) as reduced by interest paid in the earlier return, if any. However, the interest paid in the earlier return shall be considered to be nil if no earlier return has been furnished.





❖ **Insertion of new section 158AB – In cases of appeal by revenue when an identical question of law is pending before jurisdictional High Court or Supreme Court.**

The existing provisions of Section 158AA state that where the Commissioner or Principal Commissioner is of the opinion that any question of law arising in the case of an assessee is identical with a question of law arising in his case for another AY which is pending in appeal before the Supreme Court against an order of High Court which was in favour of assessee, he may direct the AO to make an application to the Appellate Tribunal stating that an appeal on the question of law in the relevant case may be filed when the decision on the question of law becomes final in the other case, subject to the acceptance of the same by the assessee.

To apply this principle to cases where the question of law is common and the decision of the jurisdictional High Court (on the same question of law) is available, a new section 158AB has been provided.

Section 158AB provides a procedure to defer the filing of appeal by revenue, where an appeal is pending on a question of law which is identical to a question of law already raised in his case or in the case of any other assessee for an AY, which is pending before the jurisdictional High Court or the Supreme Court, against the order of the Appellate Tribunal or the jurisdictional High Court, where the order has been in favour of such other assessee.

It has been provided that, in such cases, a collegium (comprising of two or more Chief Commissioners or Principal Commissioners or Commissioners of Income-tax) may decide and intimate the Commissioner or Principal Commissioner not to file any appeal, at this stage, to the Appellate Tribunal or the High Court, in the case of the assessee. On receipt of such communication from the collegium, the Commissioner or Principal Commissioner may direct the AO to make an application to the Appellate Tribunal or jurisdictional High Court (as the case may be), stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the other case, subject to the acceptance of the same by the assessee.

Furthermore, where the order of the Commissioner (Appeals) or the order of appellate Tribunal (as the case may be) is not in conformity with the final decision on the question of law in the other case as and when such order received, the Commissioner or Principal Commissioner may direct the AO to appeal to the Appellate Tribunal or the jurisdictional High Court (as the case may be), against such order.

With the introduction of section 158AB, a sunset clause was inserted in section 158AA(1) to provide that no direction shall be given under the said sub-section on or after 1st April, 2022.

This amendment will take effect from 1st April, 2022.





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TAXATION OF VIRTUAL DIGITAL ASSETS (CRYPTOCURRENCIES & NFT)

Insertion of new provisions relating to virtual digital assets

Virtual Digital Assets, especially cryptocurrencies & Non-Fungible Tokens (NFTs), have gained tremendous popularity in recent times and the volumes of cryptocurrency trading has increased substantially.

With a view to bring clarity for taxation of such assets, provisions to define such assets, provide for the taxation from income arising from transaction in such assets and TDS provisions are introduced.

Definition

The definition of Virtual Digital Assets was inserted vide new section 2(47A). Virtual Digital Assets are defined to cover assets with the following features

- (i) any information, code, number or token (not being Indian currency or foreign currency)
- (ii) generated through cryptographic means or otherwise, by whatever name called,
- (iii) providing a digital representation of value exchanged with or without consideration,
- (iv) with the promise or representation of having inherent value, or functions as a store of value or a unit of account including its use in any financial transaction or investment, but not limited to investment scheme
- (v) and can be transferred, stored or traded electronically

Further, the definition specifically covers NFTs and tokens of similar nature.

It also provides the power to the government to notify any other type of digital asset that would be considered a Virtual Digital Asset.

Taxation

A new section, section 115BBH was inserted which provides for charge of tax on income from transfer of Virtual Digital Assets at a flat rate of 30% (plus surcharge and cess).

For computing the income arising from the transfer of the Virtual Digital Assets, no deduction for any expenditure, apart from deduction for cost of acquisition, shall be available.

Further, the losses from transaction in Virtual Digital Assets shall only be set off against gains from transactions in Virtual Digital Assets and shall not be available for set off against any other income.





Any loss that cannot be set off shall also not be available for carry forward to subsequent years.

TDS on payment for Transfer of Virtual Digital Assets

Section 194S is inserted to provide that any person making payment in relation to transfer of virtual digital asset to a Resident person shall deduct tax at 1 % on such consideration.

No deduction will be required wherein the consideration paid during the FY does not exceed ₹ 50,000/- (in case of specified person) or ₹ 10,000/- (in any other case).

Specified Person for the purpose of section 194S means

- a) An Individual/ HUF whose total sales/Gross receipt does not exceed ₹ 1 crore (in case of business) or 50 lacs (in case of profession) during the FY immediately preceding the FY in which such virtual digital asset is transferred.
- b) Individual/ HUF not having any income from the head “Profit and gains of business or profession.

Where the consideration is wholly or partly in kind, the person paying such consideration shall make sure that the tax has been paid before releasing such consideration.

The provisions of Section 203A (Tax deduction and collection number) and 206AB (Higher TDS rates for non-filers of ITR) will not be applicable to payments made by specified person.

The section also provides that if tax has been deducted under section 194S, then no other TDS/TCS provision shall apply in respect of the said transaction.

Where tax is deductible under both section 194-O and proposed section 194S, then tax shall be deducted under section 194S and not section 194-O.

This amendment will take effect from 1st July, 2022

Gift of Virtual Digital Assets

Effective 1st April, 2022, the expression “property” in Section 56(2)(x) shall include virtual digital assets.

Therefore, income arising from gift, or from transfer of virtual digital assets for inadequate consideration, shall be taxed in the hands of recipient.





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INCENTIVES

❖ **Amendment to Section 80-IAC – Extension of date of incorporation for eligible start up for exemption**

Section 80-IAC of the Act provides a tax holiday of 100% of profits from the eligible business of an eligible start-up for 3 consecutive AYs out of 10, beginning from the year of incorporation, at the option of the assessee, subject to fulfilment of certain conditions. One of the conditions is that the entity is incorporated on or after 1st April, 2016 but before 1st April, 2022.

Owing to COVID pandemic in order to factor delays and promote eligible start-ups, the amendment to section 80-IAC extend the period of incorporation of eligible start-ups by one year to 31st March, 2023.

❖ **Amendment to section 115BAB – Tax on income of new manufacturing domestic companies**

Section 115BAB provides a concessional rate of tax of 15% for new domestic manufacturing companies. There are various conditions mentioned in the section to be satisfied for availing the said concessional rate.

One of the conditions is to setup and register the new domestic manufacturing company after 1st October, 2019 and must commence manufacturing or production on or before 31st March, 2023.

However, Covid-19 pandemic has resulted into delay of set-up and registration of such manufacturing company and commencement of manufacturing activity. Therefore, the due date for commencement of manufacturing or production is extended by 1 year to 31st March, 2024.

❖ **Amendment to Section 80-LA – Deductions in respect of certain incomes of Offshore Banking Units and International Financial Services Centre**

Section 80LA of the Act provides income-based deductions for units located in IFSC from payment of income-tax.

Section 80LA of the Act is amended to provide that any income arising from transfer of a “Ship” which was leased by any unit of the IFSC to any person shall also be eligible for 100% deduction under section 80LA(1A) of the Act, subject to the condition that the unit has commenced operation on or before the 31st day of March, 2024.

This amendment is proposed to come into effect from 1st April, 2023 and onwards.





❖ **Amendment to Section 80CCD – Incentives to National Pension System (NPS) subscribers for state government employees**

Under the existing provisions of the Act, any contribution by the Central Government or any other employer to the NPS account, shall be allowed as a deduction to the assessee, if it does not exceed 14% of his salary where such contribution is made by the Central Government. This limit is presently 10% of salary where such contribution is made by any other employer.

The amendment in Section 80CCD provides for increase in the limit of deduction under section 80CCD of the Act to 14% in respect of contribution made by the State Government to the account of its employee.

This amendment will take effect retrospectively from 1st April, 2020 and will accordingly apply in relation to the AY 2020-21 and onwards.

❖ **Amendments to section 80DD – Deduction in respect of maintenance including medical treatment of a dependent who is a person with disability.**

Under the existing provisions of the Act, deduction is provided under to resident individual or HUF in the following cases:

- Expenditure for medical treatment, training or rehabilitation for a dependent being a person with disability
- Amount paid to LIC or any other insurer or administrator or specified company in respect of scheme for maintenance of disabled dependent

Deduction shall be allowed only if the payment of annuity or lump sum amount is made for the benefit of the dependent i.e., a person with disability in the event of death of such individual or HUF making such payment.

It is now proposed to be amended to provide that deduction u/s 80DD(2) of the act shall be available even in cases where insurance schemes provides for payment of annuity or lumpsum amount for the benefit of the dependent being person with disability, during the lifetime of the insurer on attaining the age of 60 and provided that the payment to such scheme has been discontinued.

The amount received by the dependent, during the lifetime of the insurer shall not be taxable in the hands of such dependent person.

This amendment will take effect from 1st April 2023 and onward.

❖ **Consecutive amendment to Section 56 – Exemption of amount received for medical treatment and on account of death due to COVID-19**

Section 56(2)(x) of the Act taxes any sum of money in excess of INR 50,000 received any previous year without any consideration. There are certain exceptions to such amount





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being treated as income, and following two new exceptions are inserted:

- (a) any sum of money received by an individual from any person in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, in respect of any illness related to COVID-19 subject to such conditions, as may be notified by the Central Government in this behalf
- (b) any sum of money received by a family member of a person who died from COVID-19 or related illnesses, from the employer of the deceased person without any limit within 12 months of the death subject to such other conditions as may be notified
- (c) a sum up to INR 10,00,000 from any other person or persons within 12 months of the death subject to such other conditions as may be notified

The term “family” shall have the same meaning as in Explanation 1 to section 10(5).

These amendments will take effect retrospectively from 1st April, 2020 and will accordingly apply in relation to the AY 2020-21 and onwards.

❖ **Insertion of new clause in first proviso to Section 17(2) – Exclusion of COVID-19 related sums received by an employee from his employer from the definition of perquisites.**

Section 17 is amended to provide that any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family in respect of any illness relating to COVID-19 subject to such conditions, as may be notified by the Central Government, shall not be forming part of “perquisite”.

❖ **Amendment to Section 79 of the Act – Carry forward of losses in certain cases**

On change in shareholding beyond certain threshold, section 79(1) provides that previous losses are no longer available for carry forward and set off. Section 79(2) provides for circumstances where section 79(1) shall not apply.

To facilitate strategic disinvestment of public sector companies, a new exception is inserted in section 79(2) to provide that where an erstwhile public company undergoes a strategic disinvestment, section 79(1) shall not apply if the ultimate holding company of such a company continues to hold (directly or through its subsidiary or subsidiaries), a minimum of 51% of the voting power in aggregate.

It has been further provided that if the above condition is not complied with in any previous year after the completion of the strategic disinvestment, then section 79(1) shall apply to such previous year and subsequent years.

This amendment is proposed to come into effect from April 1, 2022 and would apply in relation to AY 2022-23 and onwards.





CLARIFICATION WITH RESPECT TO ALLOWABILITY OF BUSINESS EXPENDITURE AND CASH CREDITS

❖ Clarification in respect of disallowance u/s 14A in absence of any exempt income during an AY

Section 14A of the Act provides that no deduction shall be allowed in respect of expenditure incurred by the assessee in relation to exempt income.

Further to CBDT issued Circular No. 5/2014, dated 11th February, 2014, it has now been clarified by inserting an explanation to Section 14A and also including a non-obstante clause in sub-section (1) stating that no deduction of expenditure shall be allowed in relation to exempt income (irrespective of the fact that the exempt income has not accrued or arisen or has not been received during the previous year).

This amendment will take effect from 1st April, 2022 and will apply in relation to the AY 2022-23 and onwards.

❖ Correction of drafting error in section 35(1A)

A drafting error was noticed in section 35(1A) wherein it was inadvertently stated “the research association, university, college or other institutions referred to in clause (ii) or clause (iii) or the company referred to in clause (iia) of sub-section (1) **shall not be entitled to deduction under the respective clauses of the said sub-section**”

This drafting error is rectified by amending section 35(1A) “the deduction in respect of any sum paid to the research association, university, college or other institution referred to in clause (ii) or clause (iii), or the company referred to in clause (iia) of sub-section (1), **shall not be allowed**”

This amendment will take effect retrospectively from 1st April 2021.

❖ Insertion of explanation to section 37(1) – Clarification on expenditure incurred by the assessee for any purpose which is an offence prohibited by law

Expenditure incurred by an assessee for any purpose which is an offence prohibited by law is not allowed as a deduction while computing income. To clarify the scope of such expenditure, an explanation was inserted to clarify that such unallowed expenditure shall include the following:

- a. for any purpose which is an offence under any law or which is prohibited by any law for the time being in force, in India or outside India
- b. to provide any benefit or perquisite to a person, whether or not carrying on a business or a profession, and acceptance of such benefit or perquisite by such





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person is in violation of any law or rule or regulation or guidelines governing the conduct of such person

- c. to compound an offence under any law for the time being in force, in India or outside India.

The expenditure as mentioned above shall not be allowed as deduction u/s 37(1)

❖ **Amendment of Section 40 – Statutory overruling of several high court and tax tribunal decisions while computing the business income**

In respect of deduction of “taxes” while computing income, there was controversy and contradictory decisions on the deductibility of surcharge and cess.

New explanation 3 to section 40 was inserted to clarify that the term “tax” shall include any surcharge or cess, by whatever name called, on such tax, and the same would not be deductible.

This amendment will take effect retrospectively from 1st April 2005.

❖ **Amendment to Section 43B – Clarification regarding deduction on payment of interest only on actual payment**

Section 43B of the Act provides for certain deductions to be allowed only on actual payment. Explanation 3C, 3CA and 3D of this section provides that a deduction of any sum, being interest payable on loan or borrowing from specified financial institution/NBFC/scheduled bank or a co-operative bank under clause (d), clause (da), and clause (e) of this section respectively, shall be allowed if such interest has been actually paid and any interest referred to in these clauses which has been converted into a loan or borrowing or advance shall not be deemed to have been actually paid.

Accordingly, amendment to Explanation 3C, Explanation 3CA and Explanation 3D of section 43B provides that conversion of interest payable under clause (d), clause (da), and clause (e) of section 43B, into debenture or any other instrument by which liability to pay is deferred to a future date, shall also not be deemed to have been actually paid.

This amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the AY 2023-24 and onwards.

❖ **Amendment to Section 68 – unexplained cash credits**

Section 68 provides that unexplained or unsatisfactorily explained sums credited in the books of an assessee may be charged to income-tax as the income of the assessee of that year.

Till date, in case of loan or borrowing, the judicial decisions have held that only identity and creditworthiness of creditor and genuineness of transactions for explaining the





credit in the books of account is sufficient, and the onus does not extend to explaining the source of funds in the hands of the creditor.

It is now provided vide amendment in section 68 to put an additional onus on the assessee to explain the nature and source of any sum, whether in form of loan or borrowing, or any other liability credited in the books of an assessee. The same shall be treated as explained, only if the source of funds is also explained in the hands of the creditor or entry provider.

However, this additional onus of proof of satisfactorily explaining the source in the hands of the creditor, would not apply if the creditor is a well-regulated entity, i.e., it is a Venture Capital Fund or Company registered with SEBI.

This amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the AY 2023-24 and onwards.

❖ **Amendment in Section 179 – Liability of directors of private company**

The existing provisions of Section 179 of the Act provide for the recovery of tax due from a private company, from its directors, under certain circumstances, where such tax cannot be recovered from the company itself. However, the title of the existing section inadvertently refers to the liability of directors of private company in liquidation. Finance Bill 2022 omits the words “in liquidation” from the heading of the section, since the applicability of this section is not conditional upon a company being in liquidation.

Further, the expression “tax due” in the section includes penalty, interest of any other sum payable under the Act. Now, the provision was amended to include “fees” within the scope of the expression “tax due”, to avoid unnecessary litigation and provide further clarity.

This amendment will take effect from 1st April, 2022.



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PROVISION FOR SUCCESSION OF BUSINESS

❖ **Amendment in Section 170 and insertion of new section 170A in connection to successor entity after business reorganization**

The existing provisions of Section 170 provide the procedure of taxation in case of succession to business by way of reorganization or restructuring. The provisions state that the predecessor shall be assessed to tax in respect of income earned up to the date of succession and the successor shall be assessed to tax in respect of income earned after the date of succession.

However, several practical issues are encountered once the entity starts the process of reorganization by filing an application with the adjudicating authority. The process of adjudication is long drawn; therefore, income tax proceedings and assessments are often carried on, on the predecessor entities only, which have been held as illegal by courts. However, till the decision of the court is received, the proceedings must be continued in the case of the predecessor only and therefore, these proceedings cannot become illegal.

With a view to clarify that such proceedings are valid, sub-section (2A) to section 170 was inserted, whereby the assessment or other proceedings pending or completed on the predecessor, in the event of a business reorganization, shall be deemed to have been made on the successor.

Further, post such reorganization, the affairs of the successor go through a complete change with effect from the date of such reorganization. However, there is a gap between the effectivity of such order and the date on which such order is issued by the competent authority, which affects the final accounts of the entity, as they are unable to modify their already filed returns. Hence, to remove this anomaly, a new section 170A was inserted into the Act, to enable the entities going through such business reorganization for filing of modified returns for the period between the date of effectivity of the order and the date of issuance of final order by the competent authority.

It has also been noted that in the cases of business reorganization, instances have been found where the adjudicating authority recast the entire liability (to ensure future viability of such sick entities) and modify the demand created vide various proceedings in the past by the Income Tax department. However, it is observed that there is no procedure or mechanism provided in the Act to reduce such demands from the outstanding demand register. Hence, to remove this anomaly, a new section 156A was inserted into the Act to give effect to the orders of the competent authority and to modify such demands in accordance with such directions.

This amendment will take effect from 1st April, 2022





PROVISION IN RELATION TO ADMINISTRATION AND ASSESSMENT

❖ **Amendment to section 119 – Instructions to subordinate authorities**

Section 119 of the Act empowers the Board to issue orders, instructions and directions to other income-tax authorities for proper administration of the Act. The section gives powers to the Board to **provide relaxation** of provisions of certain sections of the Act by way of general or special orders.

The purpose of such relaxation is to recognize the genuine hardship of assessee and accordingly provide relaxation for same. However, section 234F (fees for late filing of ROI) was not expressly mentioned in section 119.

Therefore, Finance Bill 2022 includes section 234F in section 119 so that the Board can consider & provide relief to the genuine hardships faced by certain classes of persons in filing ITR and relax imposition a fee for a default which is beyond their control.

This amendment will take effect from 1st April, 2022

❖ **Amendments to section 144: Best Judgement Assessment**

Section 144 deals with the situation wherein the AO can complete the assessment to the best of his judgement.

Section 144(1)(a) is amended to add one more situation where AO can undertake best judgement assessment, i.e. if the assessee has not made the return required u/s 139(1) and fails to file the return u/s 139(4) or 139(5) or **updated return required u/s 139(8A)**.

❖ **Amendments to section 144B of the Act – Procedure for faceless assessment for the purpose of section 143(3), section 144 and section 147.**

Vide Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020, section 144B was inserted in the Act to provide the procedure for faceless assessment with effect from 1st April, 2021. However, various difficulties were being faced by the administration and the taxpayers in the operation of the faceless assessment procedure.

In view of the above the Finance Bill 2022 amended and revamped the existing provisions of the section 144B i.e. faceless assessment scheme and streamlined the procedure of faceless assessment in order to address the problems faced in the implementation of the scheme.





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Further the provision stating that the assessment procedure conducted without following the procedure laid down in section 144B is void is now omitted with retrospective effect from 1st April, 2021.

❖ **Amendments to section 144C: Reference to DRP**

As a part of the faceless schemes provisions for notifying faceless schemes under section 144C was introduced in the Act through Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. However, following the modifications to the faceless assessment scheme by Finance Bill 2022, the date of issuing the directions has been extended from 31st March, 2022 to 31st March, 2024

❖ **Amendment to Section 148**

A new proviso is inserted in Section 148 to the effect that requirement for approval to issue notice u/s 148 shall not be required to be taken by the AO if he has passed an order under 148A(d) with prior approval in that case stating that the income is escaping assessment.

The requirement of obtaining approval of the specified authority in 148A(b) has been omitted.

The provisions are amended so that “information with the AO” for the purpose of Section 148A shall include the following:

- (i) any information flagged in the case of the assessee for the relevant AY in accordance with the CBDT’s risk management strategy
- (ii) any audit objection to the effect that assessment was not in accordance with the provisions of the Act
- (iii) any information received under an agreement referred to in section 90 or 90A, or
- (iv) any information made available to the AO under 135A; or
- (v) any information which requires action in consequence of the order of a Tribunal or a Court

To correct the inadvertent drafting errors and align the provisions with the intent of the section, in section 148 the word “flagged” is omitted from clause (i) of Explanation 1, and in clause (ii) of Explanation 2 to section 148 the reference of section 133A(5) made therein is omitted.

Further, in Explanation 2 of section 148, the reference to three AYs preceding the AY relevant to the year of search has been omitted.





❖ **Amendment to Section 148A**

For the purpose of Section 148A i.e. conducting inquiry, providing opportunity before issue of notice under section 148, no prior approval of specified authority shall be required to be obtained before providing the assessee an opportunity of being heard to explain its case as to why a notice under section 148 in case of the assessee should not be issued.

Clause (c) in the proviso has been amended to provide the following:

The provisions of the section 148A shall not apply in cases where the AO has received any information regarding the scheme notified under section 135A, pertaining to income chargeable to tax escaping assessment for any AY in the case of the assessee.

❖ **Insertion of New Section 148B**

It has been provided that no order of assessment or reassessment or re-computation under the Act shall be passed by an AO below the rank of Joint Commissioner, except with the prior approval of the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, in respect of assessments consequent to search, survey and requisition to reduce avoidable inaccuracies.

❖ **Amendments to section 149: Time limit for issuing notice**

Section 149 prescribes the time limits within which a notice for reopening can be issued. The scope of the section is expanded by amending section 149(1)(b) include situations where on the basis of books of account or other documents or evidence which reveals that the income chargeable to tax amounts to or likely to amounts to ₹ 50 Lakhs which has escaped assessment and is represented in the form of:

- a. an Asset
- b. expenditure in respect of a transaction or in relation to an event or occasion
- c. an entry or entries in the books of account

Further the first proviso of section 149(1) is amended to provide that no notice under section 148 shall be issued at any time in a case for the relevant AY beginning on or before 1st April, 2021, if a notice u/s 148 or 153A or 153C could not have been issued at that time on account of being beyond the time limit specified under the provisions of 149(1)(b) or 153A or 153C, as the case may be. This amendment with take effect from the 1st April, 2021.

A new subsection (1A) to section 149 was inserted to provide that notwithstanding anything contained in 149(1), where the income chargeable to tax represented in the form of an asset or expenditure in relation to an event or occasion of the value referred to in clause 149(1)(b) has escaped assessment and the investment in such asset or expenditure in relation to such event or occasion has been made or incurred, in more





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than one previous years relevant to the AYs within the period referred to in clause 149(1)(b), notice under section 148 shall be issued for every such AY for assessment, reassessment or re-computation, as the case may be.

❖ **Amendment to Section 153 – Time limit for completion of assessment, reassessment and re-computation.**

Section 153 was amended by inserting new sub-section (1A), providing that where an updated return is furnished u/s 139(8A), assessment u/s 143 or 144 may be made at any time before the expiry of 9 months from the end of the FY in which the said return was furnished.

Section 153(3) and 153(5) were also amended to apply to an order passed by TPO under Section 92CA of the Act.

Further, a new sub-section (5A) was inserted in section 153 to provide that where the TPO gives effect to an order or direction passed u/s 263 and forwards such order to the AO, the AO shall proceed to modify the (re)assessment order or re-computation of income in conformity with the TPO's order within 2 months from the end of the month in which the TPO's order is received by him.

❖ **Insertion of new subsection (4) under section 153B – Time limit for completion of assessment u/s 153A**

A new sub-section (4) was inserted to section 153B – the same overrides (i.e. is a non-obstante clause) other sub-section of section 153B and provides that the same shall not apply in case of search initiated u/s 132 or requisition made u/s 132A on or after the 1st April, 2021.

A new clause (xi) was also inserted to the explanation excluding the following period while computing the period of limitation u/s 153B: a period (not exceeding 180 days) commencing from the date on which a search is initiated u/s 132 or a requisition u/s 132A and ending on the date on which the books of account, or other documents or money or bullion or jewellery or other valuable article or thing seized u/s 132 or requisitioned u/s 132A, as the case may be, are handed over to the AO having jurisdiction over the assessee.

❖ **Insertion of new section 156A – Modification and revision of notice of demand in certain cases**

In cases where notice of demand has been issued for any tax, interest, penalty, fine or any other sum, u/s 156, and the demand is reduced as a result of the order of the adjudicating authority as defined in section 5(1) of the Insolvency and Bankruptcy Code, 2016, the notice of demand u/s 156 shall be modified by the AO in conformity of such order and serve a notice of demand u/s 156 specifying the demand payable if any after giving effect to the said order.





If the order as modified by the adjudicating authority is again modified by the National Company Law Appellate Tribunal or the Supreme Court, the notice of demand u/s 156 shall be re-modified to give effect to the modification made by the National Company Law Appellate Tribunal or the Supreme Court and the modified notice of demand under section 156 shall be issued to the assessee.

❖ **Amendment to section 133A – Power of survey**

Section 133A provides power to income tax authority to survey any place of business or profession or charitable activity within his jurisdiction.

The definition of income tax authority, provided by way of an explanation to section 133A, was amended in 2020. Finance Bill 2022 further amends the said explanation and to provide that income tax authority shall be sub-ordinate to Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner, as the case maybe, specified by board.

This amendment will take effect from 1st April, 2022

❖ **Section 79A- No set off of Losses consequent to search, requisition and survey**

In order to deter and punish tax avoidance, a new section 79A was inserted to provide that where undisclosed income is discovered pursuant to search u/s 132 or a requisition u/s 132A or a survey u/s 133A (except u/s 133A(2A)), no set off against such undisclosed income of any loss, whether brought forward or otherwise, or unabsorbed depreciation shall be allowed.

This will prevent instances where assessee claim set off of losses or unabsorbed depreciation, against undisclosed income corresponding to difference in stock, undervaluation of stock, unaccounted cash payment etc. which is detected during the course of search or survey proceedings. This will bring such undisclosed income at par with undisclosed income falling in u/s 68, 69 etc. where such losses are not allowed for set off.

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





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APPEALS, REVISIONS & REFUNDS

❖ **Amendment to Section 253 & Section 255**

Finance Bill, 2022 extended the date for issuing directions, in relation to Faceless Scheme, for the purposes of section 253 (i.e. Faceless appeal to Appellate Tribunal) and section 255 (i.e. Faceless procedure of Appellate Tribunal) till 31st March, 2024.

These amendments will take effect from 1st April, 2022.

❖ **Amendment to section 263 – Revision of orders prejudicial to revenue**

Section 92CA provides for the AO to refer the computation of Arm's Length Price to the TPO if the AO considers it necessary or expedient. TPO must then determine the ALP and forward it to AO. However, there was no clarity regarding who have power u/s 263 to revise the order passed by TPO.

Therefore, the Finance Bill 2022 aims to clear such confusion and has provided that the jurisdictional Principal Chief Commissioner or the Chief Commissioner or the Principal Commissioner or Commissioner has the right u/s 263 to revise order passed by TPO.

This amendment will take effect from 1st April, 2022

❖ **Insertion of section 239A, Amendment of section 246A & Amendment of section 248**

Mechanism for Refund for denying liability to deduct tax in certain case

In certain cases of payments to non-residents (called tax protected contracts), the TDS u/s 195 is to be borne by the resident payer. In cases where the payee pays such TDS to the credit of the Central Government and claims that TDS was actually not required, section 248 provides for an appeal to the Commissioner (Appeals) for a declaration that no tax was deductible on such income.

Further, Section 249 states that such appeal is to be filed within 30 days from the date of payment of tax. Now, in the above case, the taxpayer had no recourse to approach the AO requesting a refund of the tax paid and had to necessarily undertake the appellate process by filing an appeal before the CIT-(A).

In view of the above circumstance, the Finance Bill 2022 propose to insert a new section 239A, whereby such person may instead file an application for refund of TDS before the AO instead of u/s 239A. The AO shall pass a written order allowing or rejecting the said application (AO may make such enquiries as he considers necessary) within 6 months from the end of the month in which the application was received.



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If the deductor is not satisfied with the order of the AO, he may prefer an appeal against such order before the CIT-(A) u/s 246A of the Act – consequential amendment has been made to section 246A.

The provisions of section 248 will not apply in cases where the date of tax payment, to the credit of Central Government is on or after 1st April 2022 – consequential amendment to section 248 has been made.

These amendments will take effect from 1st April, 2022.





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ALIGNING AND RATIONALIZING THE PROVISIONS OF CHARITABLE TRUST AND INSTITUTIONS

For the sake of brevity and ease of reference any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub clause (iv) or (v) or (vi) or (via) under section 10(23C) of the Income-tax Act, 1961 (“the Act”) and all trusts or institutions registered under section 12AA or 12AB of the Act will be referred as “Trust/Institution” hereinafter.

Under the Act, income of a registered and eligible trust/institution is exempt under either of the two schemes i.e.

- a) u/s 10(23C) or
- b) u/s 11 and 12 for trust/institution registered u/s 12AA/12AB.

Both the above schemes regulate and provide for exemption to respective trust/institutions but have certain provisions which are not similar or are not aligned with each other.

The Finance Bill 2022 with its various amendments and clarifications has tried to bring consistency and provide clarity on taxation under peculiar circumstances. The same are summarised below on a comparative basis of section 10(23C) vs section 11, 12, 12AA/AB and 13 alongwith relevant circumstances which have been attempted to align and rationalise.

❖ Prescribed authority defined

Existing provision u/s 10(23C)(1) under various sub clauses requires certain approvals by a “prescribed authority”.

In order to align the same with section 12AA/12AB, the words “prescribed authority” has been substituted by the words Principal Commissioner or Commissioner. Similar amendment made in nineteenth proviso to section 10(23C).

This amendment will take effect from 1st April, 2022.

❖ Section 10(23C) – Insertion of Explanation 1A and 1B to third proviso: Voluntary Contributions for renovation and repair of temples, mosques, gurudwaras, churches etc as notified under section 80G(2)(b). [Section 10(23C) and 11(1) r.w.s 80G]

Donations are received for renovation and repair of temples, mosques, gurudwaras, churches etc and are for specific purposes. However, there is no clarity in the Act on whether such donations are treated as corpus donations or can be accumulated or can be applied.





In order to remove the ambiguity, explanation 1A and 1B to the third proviso to section 10(23C) has been inserted, which states that any sum received by trust or institution as a voluntary contribution for renovation and repair of temples, mosques, gurudwaras, churches or other place, such donation at the option of the Trust/institution shall form part of corpus subject to the following:

- a. Such corpus is applied only for the specific purpose for which the voluntary donation is received
- b. Such corpus is not applied by making any further contribution or donation
- c. Such corpus is maintained and separately identifiable and
- d. Such corpus is invested or deposited in mode/form prescribed under section 11(5)

Further, if any of the above conditions are violated, such sum would be treated as income of the Trust of the previous year in which such violation is committed.

❖ **Section 11(1) – Insertion of Explanation 3A and 3B**

To align the provisions between the two schemes, identical amendment as above is made by insertion of explanation 3A and 3B to section 11(1)

These amendments will take effect retrospectively from 1st April 2021 and will accordingly apply in relation to the AY 2021-22 and subsequent AYs.

❖ **Accumulation provisions [Section 10(23C) and 11]**

Section 10(23C): Inserted Explanation 3 to the third proviso

Under the existing provisions an institution is required to apply 85% of its income during the previous year. If the same cannot be applied, it can accumulate such income for a period not exceeding 5 years. As per the existing provisions of section 10(23C) there is no specific conditions attached to the accumulation.

Now, in order to align the scheme under section 10(23C) with section 11, explanation 3 to the third proviso to section 10(23C) has been inserted where the conditions to be satisfied before accumulation such income is specified, which are:

- (a) to furnish a statement in the prescribed form to the AO on or before the due date of filing ITR as per section 139(1) stating the purpose and period for accumulation which shall not exceed 5 years
- (b) the money so accumulated shall be invested / deposited as per forms or modes specified u/s 11(5)

Further, the above accumulation shall be deemed to be the income of the institution in the 5th year itself if such accumulation had been made for a period of 5 years if:





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- (i) such amount is applied for any purpose other than its objects
- (ii) such amount ceases to remain invested as per forms or mode specified u/s 11(5)
- (iii) such amount is not utilised for the purpose for which it had been accumulated
- (iv) such amount is credited to trust registered u/s 12AA/AB

❖ **Section 11: Amendment in subsection 3**

As per the existing provisions of section 11(2), if the income accumulated is not applied within 5 years from the year in which such accumulation is done, then such unspent amount shall be taxed in the 6th year.

Similarly, it has now been provided by amending section 11(3) that any accumulated amount which was set apart and had not been applied for the purpose till the end of 5 years, the same shall be taxed in the 5th year itself.

These amendments will take effect from 1st April, 2023 and will accordingly apply to the AY 2023-24 and subsequent AYs.

❖ **Books of accounts to be maintained by the trusts or institutions [Section 10(23C) and 12A]**

Section 10(23C): Substitution of tenth proviso

Existing proviso 10 to Section 10(23C) provides that where the total income of any trust/ institution exceeds the maximum amount which is not chargeable to tax in any previous year, it is required to get its accounts audited. However, there is no specific provision for maintaining books of accounts.

Now, the tenth proviso to section 10(23C) has been substituted and alongwith the existing provision related to audit, it has further been added that any trust/ institution shall now keep and maintain books of accounts and other documents in such form and manner and at such place as may be prescribed.

Section 12A: Substitution of clause (b) of subsection 1

To align the provisions between the two schemes, identical amendment is made by substituting clause (b) of section 12A sub-section (1) for trust registered under section 12A.

These amendments will take effect from 1st April, 2023 and will accordingly apply to the AY 2023-24 and subsequent AYs.





❖ **Cancellation of registration/approval for trusts / institutions [Section 10(23C), 12AB, 143(3) and 153]**

Section 10(23C): Substitution of proviso 15

Existing proviso 15 to section 10(23C) read with section 143(3) provided that the approval granted to trust/institution cannot be rescinded unless the AO has intimated the Central Government or prescribed authority the contravention of the provisions of section 10(23C).

It has now been provided by substituting proviso 15 that if the Principal Commissioner or Commissioner has during the previous year:

- a) noticed occurrence of one or more “specified violations” or
- b) has received a reference from the AO under the second proviso to section 143(3) or
- c) case has been selected in accordance with the risk management strategy, formulated by the Board from time to time

then the Principal Commissioner or Commissioner shall:

- (i) call for such documents or information or make such inquiry as he thinks necessary in order to satisfy himself about the occurrence of any specified violation;
- (ii) pass an order in writing cancelling the approval on or before the specified date, after affording a reasonable opportunity of being heard, for such previous year and all subsequent previous years, if he is satisfied that one or more specified violation has taken place;
- (iii) pass an order in writing refusing to cancel the approval on or before the specified date, if he is not satisfied about the occurrence of one or more specified violations;
- (iv) forward a copy of the order to the AO and such fund or institution or trust or any university or other educational institution or any hospital or other medical institution.

The term “specified date” as referred above means the day on which the period 6 months, calculated from the end of the quarter in which the first notice is issued by the Principal Commissioner or Commissioner, on or after the 1st April, 2022, calling for any document or information, or for making any inquiry as mentioned above under clause (i) expires.

The term “specified violation”, as referred above means—

- (a) where any income has been applied for objects other than for the purpose for which it is established; or





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- (b) where separate books of account are not maintained it in respect of the business which is incidental to the attainment of its objectives; or
- (c) where any activity is not genuine or is not being carried out in accordance with all or any of the conditions subject to which it was notified or approved; or
- (d) where fund / institution has not complied with the requirement of any other law for the time being in force

Where the AO has intimated the Central Government or the prescribed authority under the first proviso to section 143(3) about any contravention and the approval granted has not been withdrawn or rescinded, on or before 31st March, 2022, such intimation shall be deemed to be a reference as mentioned above.

Section 12AB: Substitution of subsection 4 and 5

To align the provisions between the two schemes, identical amendment is made. Similar amendments have been made by substituting sub-section 4 and 5 of section 12AB.

❖ **Consequential Amendment of the above – Section 143(3) and 153 of the Act.**

Section 143(3): To give effect to the above amendments made in section 10(23C) and 12AB, the second proviso to section 143(3) has been substituted which directs the AO to send a reference to Principal Commissioner or Commissioner for withdrawing the approval or registration of the trust / institution and no order for making any assessment shall be passed unless the effect order to Principal Commissioner / Commissioner's Order has been passed.

Section 153: To give effect to the above amendments made in section 10(23C) and 12AB, the clause (iii) of Explanation to section 153 has been amended and it states that the period commencing from the date of reference made by the AO to Principal Commissioner or Commissioner for withdrawing the approval or registration upto the date such order is passed by the Principal Commissioner or Commissioner shall be excluded in computing the period of limitation.

These amendments will take effect from 1st April, 2022.

❖ **Payment made to specified person [Section 10(23C) and 13(3)]**

As per existing section 13(3), any trust cannot pass any unreasonable benefit to persons referred in subsection 3 i.e.,

- Author/Founder of the Trust/institution including their relatives.
- Person who has made contribution of Rs 50,000 or more in previous year.
- Trustee of the Trust or manager of the institution including their relatives.
- Any concern in which the above referred persons have substantial interest.





To align both the schemes, proviso 21 to section 10(23C) has been inserted which states that no such benefit shall be passed by any fund or institution or trust or any university or other educational institution or any hospital or other medical institution.

These amendments will take effect from 1st April, 2023 and will accordingly apply to the AY 2023-24 and subsequent AYs.

❖ **Allowing certain expenditure in computing taxable income in case of non-availability of exemption [Section 10(23C) and 13(10)]**

Section 13(10) and 13(11) – Insertion of sub section 10 and 11

New subsection 10 and 11 has been inserted to section 13 which states that:

On denial of exemption to a trust on violation of:

- a) books of accounts not audited- section 12A(1)(b) or
- b) non-furnishing of return of income by the Trust- section 12A(1)(ba) or
- c) commercial receipts in excess of 20% of annual receipts of the trust in violation of section 2(15)- section 13(8)

the income of such entity shall be chargeable to tax and will be computed after allowing deduction of expenditure (other than capital expenditure) incurred in India subject to the fulfilment of following conditions:

- a) Such expenditure is not from corpus balance standing on the last day of the preceding year
- b) Such expenditure is not from any loan or borrowing
- c) No depreciation in case the cost of asset is already claimed as application of income
- d) Such expenditure is not in form of contribution or donation

As per sub section 11 to section 13, for the purpose of computing the income under the above section, no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed under any other provisions.

Section 10(23C): Insertion of proviso 22 and 23

To align both the schemes, similar amendments have been made in section 10(23C) by inserting provisos 22nd and 23rd to section 10(23C)

These amendments will take effect from 1st April, 2023 and will accordingly apply to the AY 2023-24 and subsequent AYs.





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❖ **Taxation of certain income of trusts or institutions at special rate (Section 115BBI):**

A new section 115 has been inserted for taxing certain specified income of trust / institution at special rate of 30% on the aggregate of such specified income in addition to the tax payable under the normal provisions of the Act other than the specified income. No other deductions / allowances / set off of losses shall be allowed in computing the specified income.

The term specified income includes the following:

1. Income accumulated or set apart in excess of 15% of the income where such accumulation is not allowed under any provisions of the Act; or
2. Deemed income referred to in Explanation 4 to third proviso to clause (23C) of section 10 or sub-section (3) of section 11 or sub-section 1(B) of section 11; or
3. Any income earned by the trust by investing in funds in non-specified mode. The same is a violation of section 13(1)(d). Income earned by the institutions by investing in specified modes not prescribed under section 11(5); or
4. Any unreasonable benefit passed on by the trust to person referred to in section 13(3) which is also a violation of section 13(1)(c). Similar provision has been newly insert for institutions under section 10(23C); or
5. Any income which is not excluded from total income under section 11(1)(c).

These amendments will take effect from 1st April, 2023 and will accordingly apply in relation to the AY 2023-24 and subsequent AYs.

❖ **Filing of Return of Income [Section 10(23C) and 139(4A)]**

It has now been provided by inserting 20th proviso to section 10(23C) that for the purpose of claiming exemption under section 10(23C), any trust/institution shall be required to file ITR within the prescribed time u/s 139(4C) which in turn is as per section 139(1) i.e. normal due date for filing ITR.

This amendment will take effect from 1st April, 2023 and will accordingly apply to the AY 2023-24 and subsequent AYs.

❖ **Section 115TD – Tax on accreted Income – Substitution in subsection 1,2 and 3**

According to existing section 115TD, a **trust or an institution registered u/s 12AA or 12AB** shall in addition to the income-tax chargeable in respect of its total income be liable to pay additional income-tax at the maximum marginal rate on the accreted income as on the specified date under the circumstances as mentioned therein.

Now, the Finance Bill 2022 has widened the scope of applicability of provisions of section 115TD from **trust or institution** to **“Specified Person”**, and for the purposes of





this section, the term specified person shall include:

- (a) Any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv),(v),(vi) and (via) of section 10(23C) or,
- (b) A trust or institution registered u/s 12AA or 12AB

Due to the above, consequential amendment are made in **Section 115TE i.e. Interest payable for non-payment of tax by trust or institution u/s 115TD and section 115TF i.e when trust or institution is deemed to be assessee in default.**

The Finance Bill 2022 has widened the scope of applicability and have now brought under purview any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv),(v),(vi) and (via) of section 10(23C) alongwith the already existing trust or institution registered u/s 12AA or 12AB.

The above amendments will take effect from 1st April, 2023 and will accordingly apply in relation to the AY 2023- 24 and subsequent AYs.

❖ **271AAE (Insertion of new section) – Penalty for passing on unreasonable benefits to trustees or specified persons**

The new section has been inserted to levy penalty on trust/institution covered under section 10(23C) and section 11, if during the course of any proceedings under the Act, it is found that, the provisions of section 13(1)(c) or twenty first proviso to section 10(23C) has been violated i.e. the trust/institution is created or any part of the income is used or applied directly or indirectly for the benefit of any person referred in section 13(3) namely.

- Author/Founder of the Trust/institution including their relatives.
- Person who has made contribution of ₹ 50,000 or more in previous year.
- Trustee of the Trust or manager of the institution including their relatives.
- Any concern in which the above referred persons have substantial interest.

Then penalty may be leviable by the AO and the quantum of penalty shall be as under:

- (a) In case of first-time violation, penalty equal to the aggregate amount of income applied, directly or indirectly, for the benefit of the persons specified u/s 13(3)
- (b) In case of subsequent violation, penalty equal to 200% of the aggregate amount of income applied, directly or indirectly, for the benefit of the persons specified u/s 13(3)

The above amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the AY 2023- 24 and subsequent AYs.





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PROVISIONS WITH RELATION TO WITHHOLDING TAXES

❖ **Amendment to Sec. 194-IA – TDS on consideration for transfer of immovable property**

Previously, TDS is deductible at 1% by a transferee from the consideration being paid to a resident transferor in connection with transfer of an immovable property (other than agricultural land) if the consideration exceeds INR 50 lakhs.

However, in cases where the consideration is less than the stamp duty value of such property, by operation of sections 43CA and 50C, the stamp duty value of the property is adopted as the actual consideration for purposes of determining capital gains.

However, even in such cases, TDS was deductible on the actual consideration and not the stamp duty value. To rationalize this, section 194-IA is proposed to be amended to provide that the TDS shall be 1% of the actual consideration or the stamp duty value of the property, whichever is higher.

This amendment will take effect from 1st April, 2022.

❖ **Amendment to Sec. 194-IB – TDS on rent paid by individuals/HUF)**

An individual or HUF paying rent in excess of INR 50,000 per month are required to deduct TDS equal to 5% of total rent paid. Section 206AB, which provides for higher rates of TDS for certain non-filers of ITR, previously apply even to TDS u/s 194-IB.

In order to reduce the additional burden on individual and Hindu undivided family (HUF) taxpayers and simplify TDS compliance Finance Bill, 2022 proposes that the provisions of section 206AB will not apply to TDS u/s 194-IB.

This amendment will take effect from 1st April, 2022.

❖ **Insertion of new section 194R – TDS on value of benefits or perquisites provided to**

As per section 28(iv) of the Act, the value of any benefit or perquisite, whether convertible into money or not, arising from business or exercise of profession is taxable in the hands of the recipient.

However, such income is often not reported or incorrectly reported by the recipients. Therefore, in order to widen and deepen the tax base, section 194R is proposed to be inserted to require any person responsible for providing any such perquisite or benefit to a resident, to deduct tax at 10% percent on the value or aggregate value of such benefit or perquisite.





Section 194R shall not apply where the value or aggregate value of such benefit or perquisite provided or likely to be provided during the FY does not exceed ₹ 20,000/-

In situation where the benefit or perquisite is wholly or partly in kind, the person providing such benefit/perquisite shall make sure that TDS u/s 194R is paid correctly before releasing such benefit or perquisite.

Section 194R shall not apply to individuals/HUF, whose total sales/gross receipts does not exceed ₹ 1 crore (in case of business) or 50 lacs (in case of profession) during the FY immediately preceding the FY in which such benefit/perquisite is provided.

Section 194R will take effect from 1st July, 2022.

❖ **Amendment of Section 201/206C**

Section 201 and 206C provides consequences of persons who fail to deduct tax or collect tax or after deducting or collecting, fail to deposit the same to the Central Government. Further section 201(1A) and 206C(7) provide for payment of interest at the rates specified in case of failure to deduct/collect or deposit tax.

In cases where the default for deduction/collection or payment continues, computation of interest has been a subject matter of litigation in the past.

Accordingly, to make the intention of the legislation clear, Finance Bill, 2022 amends section 201(1A) and 206C(7) to provide that where any order is made by the AO for default u/s 201(1) or 206C(6A), **the interest shall be paid in accordance with such order.**

This amendment will take effect from 1st April, 2022.

❖ **Amendment of Section 206AB/206CCA**

Finance Act, 2021 inserted Section 206AB and 206CCA for deduction and collection of tax at source at a higher rate wherein the payment is made to or there is a receipt from specified persons.

“Specified person” was defined under section 206AB, as a person who has not filed ITR for **two** immediately preceding years (from the year in which tax was to be deducted or collection) for which the due date u/s 139(1) had expired, and also if for such purpose, the aggregate TDS and TCS in his case was INR 50,000 or more in each of these two previous years.

The provisions of section 206AB were not applicable in relation to transactions on which tax is to be deducted under sections 192, 192A, 194B, 194BB, 194LBC or 194N of the Act.

Finance Bill, 2022 amends the definition of specified person to cover only such persons who have not filed ITR for one year prior to year in which TDS or TCS is to be done, and





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the due date to file return for such year has expired, reducing from 2 previous years of non-filing of ITR.

Further Finance Bill, 2022 also proposes that section 206AB should not apply to individual and HUF taxpayers, covered under sections 194-IA, 194-IB and 194M.

These amendments will take effect from 1st April, 2022.





PENALTIES & PROSECUTION

❖ **Amendment to section 271AAB – Penalty where search has been initiated, 271AAC - Penalty in respect of certain income & 271AAD - Penalty for false entry, etc., in books of account**

Section 271 AAB, 271 AAC and 271 AAD contain provisions granting the AO the power to levy penalty in cases involving undisclosed income, where search has been initiated u/s 132 or otherwise, or for false entry etc. in books of account.

However, under Chapter XXI of the Act, which deals with penalties, Commissioner appeal also have power to levy penalty in eligible cases under section 270A/271/271A/271AA/271G which deals with concealment/ non-disclosure/ omission by assessee to evade tax.

Since sections 271AAB, 271AAC and 271AAD also pertaining to undisclosed income/ unexplained credit or expenditure/ omission in books of account, Finance bill 2022 amends these sections by enabling Commissioner Appeals to levy penalty under these sections along with AO.

This amendment will take effect from 1st April, 2022.

❖ **Amendment of Section 271C/276B – Penalty for failure to deduct TDS and failure to pay TDS**

The above section prescribes penalty/prosecution for failure of deductor to deduct the tax at source and failure of deductor to pay the tax to the credit of Central Government post deduction.

Both the sections provide reference to Second proviso to section 194B. However, Section 194B was amended vide Finance Act 1999 w.e.f. 1st April, 2000 by which the first proviso to the section was omitted and the section currently has only one proviso

Accordingly, to clear the ambiguity, Finance Bill 2022 removes the word the “second proviso to 194B” and replace it with “proviso to section 194B”.

❖ **Amendment of Section 272A – Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.**

Section 272A of the Act provides for penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections etc. At present the penalty is ₹ 100 for every day for which the failure continues.

Now, Finance Bill, 2022 amends the section by increasing the penalty from ₹ 100 per day of failure to ₹ 500 per day of failure.





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These amendments will take effect from 1st April, 2022 and will, accordingly, apply for AY 2022-23.

❖ **Amendment of section 276AB – Failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B**

Section 276AB provides provision in relation to prosecution proceedings against assessee wherein the assessee fails to comply with provisions of Section 269UC, 269 UE and 269UL. However, vide Finance Act, 2002 Section 269UC/UE and UL applicability was restricted up to 01.07.2002.

As these primary sections were itself deleted, the prosecution provision u/s 276AB are not relevant.

Accordingly, Finance Bill 2022 puts a sunset clause to section 276AB and therefore no prosecution proceedings can be initiated u/s 276AB after 1st April, 2022

❖ **Amendment of section 276CC – Failure to furnish returns of income.**

Section 276CC provides the provision in relation to levy of penalty in case of failure of assessee to furnish return of income.

However, as new section 139(8A) is inserted by Finance Bill 2022, consequential amendment is proposed to be made in section 276CC and accordingly person shall not be proceeded under section 276CC if person files the return u/s 139(8A).

❖ **Amendment of section 278A – Punishment for second and subsequent offences and 278AA - Punishment not to be imposed in certain cases**

Sections 278A and 278AA are related to punishment with prosecution against persons for failure to pay tax to the credit of Central Government under Chapter XVII-B for TDS.

However, similar provisions for offence with respect to tax collected at source under Chapter XVII-BB, providing for punishment with prosecution against persons failing to pay tax collected at source is not there under sections 278A and 278AA.

Therefore, Finance Bill includes section 276BB under sections 278A and 278AA.





OTHER PROVISIONS

❖ **Amendment in Section 50 – Reduction of Goodwill from block of assets to be considered as ‘transfer’**

From AY 2021-22, goodwill of a business or profession is not considered as a depreciable asset. In case where goodwill is purchased by an assessee, the purchase price of the goodwill will continue to be considered as cost of acquisition for the purpose of computation of capital gains u/s 48, subject to the condition that in case depreciation was obtained by the assessee in relation to such goodwill prior to the AY 2021-22, then the depreciation so obtained by the assessee shall be reduced from the amount of the cost of acquisition of the goodwill.

Amendment to section 50 of the Act, provides that reduction of the amount of goodwill of a business or profession from the block of asset in accordance with the relevant provisions of section 43 shall be deemed to be transfer.

This amendment will take effect retrospectively from 1st April 2021 and will accordingly apply in relation to the AY 2021-22 and onwards.

❖ **Amendment to section 115BBD – Tax on certain dividends received from foreign companies.**

Section 115BBD of the Act provides for a concessional rate of tax of 15% on the dividend income received by an Indian company from a foreign company in which the said Indian company holds 26% or more in nominal value of equity shares.

The said rates was in line with 115-O but Finance Act, 2020 abolished DDT provisions and dividend income is now taxable in the hands of the recipient.

As a result, dividend received by an Indian Company from another Indian Company was charged at applicable rates while the dividend received by Indian Company from specified Foreign Company was charged at 15%.

Now, to remove this disparity, Finance Bill 2022 discontinues section 115BBD and accordingly the dividend received by Indian Company from a specified foreign company to also tax at applicable rates.

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

❖ **Amendment to section 92CA – Reference to Transfer Pricing Officer**

Finance Bill, 2022 extended the date for issuing directions, in relation to Faceless assessment scheme, for the purposes of section 92CA till 31st March, 2024.





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❖ **Amendment to section 94 – Avoidance of tax by certain transactions in securities**

Section 94 of the Act contains anti avoidance provisions to deal with transactions in securities and units of mutual fund which, inter-alia, include avoidance of tax by certain transaction in securities.

However, the current provisions were not applicable to Bonus Stripping and accordingly Finance Bill 2022 amends section 94(8), by including bonus stripping in it, so as to make the said provision applicable to Bonus securities allotted as well.

The Explanation is amended to modify the definition of unit, so as to include units of business trusts such as InvIT, REIT and AIF, within the definition of units.

This amendment will take effect from 1st April, 2023 and will accordingly apply in relation to the AY 2023-24 and onwards.

❖ **Amendment of section 245MA – Provision for passing an order giving effect to the order or directions of the Dispute Resolution Committee**

Section 245MA constitutes Dispute Resolution Committee (“DRC”) for specified persons who may opt for dispute resolution under the said section and who fulfil specified conditions mentioned in the said section.

After the resolution of the dispute by the DRC the assessed income of the person who had applied to DRC has to be determined and demand notice under section 156 of the Act to be issued.

Finance Bill 2022 proposes to insert a new sub-section to this section to enable the AO to pass an order giving effect (within a period of one month from the end of the month in which order is received) to the resolution of dispute by the DRC as previously there was no such provision.

A taxpayer may opt for approaching either the DRP u/s 144C or the DRC under section 245MA.

This amendment will take effect from 1st April, 2022.

❖ **Substitution to section 285B – Submission of statement by producers of cinematograph films**

Previously, section 285B requires producer of cinematographic films to furnish within 30 days from the end of the FY or from the date of completion of the film, whichever is earlier, a statement containing particulars of all payments over ₹ 50,000/- in the aggregate.

Finance Bill 2022 expanded the scope of section 285B by including persons engaged in specified activities under the ambit of section 285B.



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“Specified Activities” would mean event management, documentary production, production of programs for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may, by notification in the Official Gazette.

This amendment will take effect from 1st April, 2022.





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RATES OF TDS APPLICABLE

TDS

TDS RATES FOR ASSESSMENT YEAR 2023-24 (FINANCIAL YEAR 2022-23)

(A) On payments to Residents (subject to notes below)

Sr. No.	Payments to Resident Payee	Criteria for Deduction	Section	Company	Partnership Firm	Individual, HUF, AOP, BOI
Rate (%)**						
1	Pre- mature withdrawal from Employee Provident Fund Scheme (Note 1)	Payment in excess of ₹ 50,000/-	192A	-	-	10
2	Interest on Securities (Note 2 & Note 3)	Payment in excess of ₹ 10,000/-	193	10	10	10
3	Dividends distributed by Domestic Company (Note 4)	Rate (%)*	194	10	10	10
4	Interest on Bank Deposits, Co-operative society carrying on banking business and Deposits with Post Office for Senior Citizens (Note 5 & Note 6)	Payment in excess of ₹ 50,000/- per financial year (For Senior Citizens)	194A	10	10	10
5	Interest on Bank Deposits, Co-operative society carrying on banking business and Deposits with Post Office (For Others)(Note 5 & Note 6)	Payment in excess of ₹ 40,000/- per financial year (For Others)	194A	10	10	10
6	Other Interest (Note 5 & Note 6)	Payment in excess of ₹ 5,000/- per financial year	194A	10	10	10
7	Winnings from Lotteries, crossword, puzzles, card games and other games of any sort	Payment in excess of ₹ 10,000/-	194B	30	30	30
8	Winnings from Horse Race	Payment in excess of ₹ 10,000/-	194BB	30	30	30



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Sr. No.	Payments to Resident Payee	Criteria for Deduction	Section	Company	Partnership Firm	Individual, HUF, AOP, BOI
						Rate (%)**
9	Payments to Contractors (Note 7 & Note 6)	Payment in excess of ₹ 30,000/- per transaction or ₹ 1,00,000/- per financial year	194C	2	2	1
10	Insurance Commission	Payment in excess of ₹ 15,000/- per financial year	194D	5	5	5
11	Sum received for Life Insurance Policy including bonus [except exempt u/s 10(10D)]	Payment in excess of ₹ 1,00,000/- per financial year	194DA	5	5	5
12	Payments in respect of deposits under National Savings Scheme, etc Central Government Schemes	Payment in excess of ₹ 2,500/- per financial year	194EE	10	10	10
13	Commission on Sale of Lottery Tickets	Payment in excess of ₹ 15,000/-	194G	5	5	5
14	Other Commission/ Brokerage (Note 16)	Payment in excess of ₹ 15,000/- per financial year	194H	5	5	5
15	Rent for Plant & Machinery, Equipments	Payment in excess of ₹ 2,40,000/- per financial year	194-I (a)	2	2	2
16	Rent for Land or Building or Furniture or Fittings	Payment in excess of ₹ 2,40,000/- per financial year	194-I (b)	10	10	10
17	Income by way of Rent from SPV distributed by REITs (Note 8 & Note 6)	No Threshold Limit	194-I	-	-	-
18	Consideration for Transfer of Immovable Property (other than Agricultural Land) (Note 9)	Sale Consideration / Stamp Duty Value of such property exceeds ₹ 50,00,000/-	194-IA	1	1	1
19	Income by way of Rent (Note 10 & 11)	Rent exceeds ₹ 50,000 p.m. or part thereof	194-IB	5	5	5





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Sr. No.	Payments to Resident Payee	Criteria for Deduction	Section	Company	Partnership Firm	Individual, HUF, AOP, BOI
20	Monetary Payment in respect of Joint Development Agreement	No Threshold Limit	194-IC	10	10	10
21	Professional Fees / Royalties/ Fees for Technical Services (Note 6)	Payment in excess of ₹ 30,000/- p.a.	194J	10	10	10
22	Professional Fees (for certain payees) (Note 12)	Payment in excess of ₹ 30,000 p.a.	194J	2	2	2
23	Income of units issued by Mutual funds or Unit Trust of India (Note no 13)	Payment in excess of ₹ 1,000 p.a.	194K	10	10	10
23	Consideration for Compulsory Acquisition of Immovable Property (other than Agricultural Land)	Payment in excess of ₹ 2,50,000/-	194LA	10	10	10
24	Interest distributed from SPV distributed by Business Trusts i.e. REITs & INVITs	No Threshold Limit	194LBA	5	5	5
25	Dividend distributed from SPV distributed by Business Trusts i.e. REITs & INVITs	No Threshold Limit	194LBA	10	10	10
26	Income other than business income distributed by an Alternate Investment Fund (Category I and II)	No Threshold Limit	194LBB	10	10	10
27	Income in respect of investment in Securitization Trust	No Threshold Limit	194LBC	30	30	25
28	Payments to Contractors/ Professionals (Other than those covered in 194 C & 194J) (Note: 14)	Payment in excess of ₹ 50,00,000/- or aggregate of such payment exceeding ₹ 50,00,000/-, during a financial year	194M	5	5	5

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Sr. No.	Payments to Resident Payee	Criteria for Deduction	Section	Company	Partnership Firm	Individual, HUF, AOP, BOI
						Rate (%)**
29	Payment by a banking company /banking institution/ co-operative society engaged in banking business/ post office.	who is responsible for paying any sum, or, as the case may be, aggregate of sums, in cash, in excess of one crore rupees during the previous year, to any person (herein referred to as the recipient) from an account maintained by the recipient with it shall, at the time of payment of such sum, deduct an amount equal to two per cent. of sum exceeding one crore rupees, as income-tax	194N	2	2	2
30	Payment by a Banking company /Banking Institution/ Co-operative society engaged in banking business/ post office. (Note 15)	Cash withdrawals or aggregate of such withdrawals in excess of ₹ 1,00,00,000/- from an account maintained by a recipient, during the previous year .	194N	2	2	2
31	Credit of Amount by E-Commerce Operator to E-Commerce participant in respect of sale of goods/ provision of services facilitated through its platform (Note 16)	Payment in excess of ₹ 5,00,000/- or aggregate of such payment exceeding ₹ 5,00,000/-, during a financial year.	194O	5	5	5
32	ESOP issued by eligible startups	Refer Note : 17	192	At applicable rates		





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Sr. No.	Payments to Resident Payee	Criteria for Deduction	Section	Company	Partnership Firm	Individual, HUF, AOP, BOI	Rate (%)**
32	Interest paid by Specified Bank (Note : 18)	Towards sums maintained by a Senior Citizen (above 75 yrs of age) earning only pension income	194P	-	-	Rates in force	
33	Payment by Buyer of Goods (Note : 19)	Towards purchase of goods having value (or aggregate value during the Financial Year) exceeding ₹ 50,00,000/-	194Q	0.1	0.1	0.1	
34	Payment of benefit of perquisite in respect of business or profession (Note : 6 & 20)	Value or aggregate of value of the benefit or perquisite exceeds ₹ 20,000/- during the Financial Year	194R	10	10	10	
35	Payment on transfer of virtual digital asset. (Note : 21)	Value or aggregate of value of consideration payable by specified person exceeds ₹ 50,000/-	194S	1	1	1	
		Value or aggregate of value of consideration payable by other than specified person exceeds ₹ 10,000/-		1	1	1	

Notes	
1	TDS to be deducted at maximum marginal rate in case PAN is not furnished by the deductee.
2	In case payment of interest on listed debentures to individuals TDS is required to be deducted on payments in excess of ₹ 5,000/-
3	TDS is required to be deducted for interest on 7.75% Savings (Taxable) Bonds, 2018 exceeding ₹ 10,000/- during the financial year.
4	TDS provisions are not applicable for dividends paid to Business trusts (viz. INVITs & ReITs covered u/s/ 10(23FC)), certain insurance companies or insurers certain are now excluded from provisions of S. 194





5	<p>For interest on Bank Deposits and Deposits with Post Office, the threshold limit is ₹ 50,000/- for senior citizens and ₹ 40,000/- for others.</p> <ul style="list-style-type: none"> - Also applicable on payment of Interest on time deposits by co-operative banks to its members and payment of interest on Recurring Deposit - Computation of interest income shall be made taking into account income credited or paid by the bank (including all branches) who has adopted core banking solutions.
6	<p>For the purposes of Section 194 A/ 194C, 194 H, 194I and 194J previously, Individual / HUF are liable to deduct TDS where their turnover / gross receipts exceed the following limits:</p> <ul style="list-style-type: none"> a) INR 1 crore in case of Business b) INR 50 Lakhs in case of Profession during the financial year immediately preceding the financial year in which payment is made under the respective sections.
7	<p>No TDS on payment made to contractor who owns ten or less goods carriage at any time during the year and furnishes PAN.</p>
8	<p>No deduction shall be made under section 194-I of the Act where the income by way of rent is credited or paid to a Real Estate Investment Trust.</p> <p>No TDS is required to be deducted on remittance of Passenger Service Fees by an Airline to Airline Operator (Circular No. 21/2017)</p>
9	<p>The term “Consideration for immovable property” has been defined : “to include all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property”</p> <p>With effect from 1st April, 2022, the TDS is required to be deducted on sums paid / credited to the account of resident or stamp duty value of the property whichever is higher.</p>
10	<p>Provisions of Section 194-IB are applicable in cases where the deductor is individuals or HUFs other than those covered by Tax Audit u/s 44AB in immediately preceding financial year, subject to the threshold and other conditions.</p>
11	<p>Deduction u/s 206AA shall not exceed Amount of Rent payable for last month of previous year (March) or last month of tenancy, as the case may be.</p>
12	<p>TDS is to be deducted u/s 194J @ 2% where the :-</p> <ul style="list-style-type: none"> a) Payee is only engaged in the business of operation of call centre. b) Fees are for technical services (not being a professional service) <p>Any payments to a director of a company other than those which are “salaries” are specifically covered u/s 194J.</p>



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13	The person responsible for making the payment shall, at the time of credit of such income to the account of payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of ten per cent. Further, credit to a suspense account shall also be deemed to be credit to the account of person.
14	The provisions of S. 194M shall be applicable only to person, being an individual or a Hindu undivided family (other than those who are required to deduct income-tax as per the provisions of section 194C or section 194J).
15	The provisions of Section 194N has come into effect 01/09/2019. Also the section shall not apply to any payments made to Government, Banking company, Co-operative society engaged in Banking business, Business correspondent/ White label automated teller machine operator of such Banking company or Co-operative society.
16	Threshold shall only apply in case of the electronic participant is Individual/HUF and where PAN has been furnished by such electronic participant
17	The employer shall deduct or pay, as the case may be, tax on ESOP issued to employees within fourteen days of the following — <ul style="list-style-type: none"> (i) after the expiry of forty eight months from the end of the relevant assessment year; or (ii) from the date of the sale of such specified security or sweat equity share by the assessee; or (iii) from the date of which the assessee ceases to be the employee of the person; whichever is the earliest on the basis of rates in force of the financial year in which the said specified security or sweat equity share is allotted or transferred.
18	The interest paid to senior citizen (Aged 75 years or more), where the said individual is in receipt of only pension income & other income comprises of Interest received from amounts maintained by him in the same specified bank shall be covered by S. 194P. The TDS needs to be deducted after giving all deductions and rebates at rates in force.
19	The provisions of Section 194Q has come into effect 01/07/2021, the TDS is required to be deducted by the buyer towards purchase of any goods of the value (or aggregate value during the financial year) exceeding ₹ 50 lakh rupees at a rate of 0.1% Note: The provisions of this section shall not apply : <ul style="list-style-type: none"> i) When the total sales, gross receipts or turnover from the business carried on by buyer does not exceed ten crore in preceeding Financial Year.



	ii) Where TDS/ TCS (except collectible u/s 206C(1H)) is deductible/ collectible under the provisions of Act.
20	<p>Vide Finance Bill 2022, the provisions of S. 194 R were introduced into effect from July 1, 2022, as per the said section TDS is required to deducted at 10% on the value of benefit or perquisite covered u/s 28(iv) paid or likely to be paid by any person to a resident in excess of ₹ 20,000/- during a financial year.</p> <p>In cases where the benefit or perquisite, as the case may be, is “wholly in kind” or “partly in cash and partly in kind but such part in cash is not sufficient to meet the TDS liability in respect of whole of such benefit or perquisite”, the ‘person responsible for providing’ such benefit of perquisite shall, before releasing it, ensure that tax has been paid in respect of the benefit or perquisite.</p>
21	<p>Vide Finance Bill 2022, the provisions of S. 194 S with come into effect from July 1, 2022, as per the said section TDS is required to deducted at a rate of 1% on the consideration of transfer of a virtual digital asset at the time of credit or payment whichever is earlier. In cases where the consideration is wholly in kind or in exchange of another virtual digital asset or "partly in cash and partly in kind but such part in cash is not sufficient to meet the TDS liability in respect of whole of such benefit or perquisite", the 'person responsible for paying such consideration shall, before releasing the consideration, ensure that tax has been paid in respect of such consideration for the transfer of virtual digital asset</p> <p>Specified Person is defined to mean Individual / HUF not having any Income under the head PGBP or having turnover / gross receipts below the following limits:</p> <p>a) INR 1 crore in case of Business</p> <p>b) INR 50 Lakhs in case of Profession during the financial year immediately preceeding the financial year in which payment is made under the respective sections.</p> <p>Further, credit to a suspense account shall also be deemed to be credit to the account of person.</p>
GENERAL CONSIDERATIONS	
a	TDS shall be deducted u/s 206AA @ 20% (5% in case where S. 194Q is applicable) or the higher rate as provided under the Act, if PAN is not furnished by the deductee.
b	<p>With effect from 1st April 2022, TDS u/s 206AB shall be deducted at a higher of "5%" or "Twice the Rates in Force" or "Twice the rate specified in the act", in case of a person:</p> <p>i) Who has not filed the return of income for financial year immediately preceding the financial year in which tax is to be deducted AND</p> <p>ii) Aggregated of tax deducted at source and tax collected at source in his case exceeds ₹ 49,999/- for each of these years,</p>



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	The said section shall not apply to: i) A Non-resident who does not have a Permanent Establishment in India; or ii) Where TDS is deductible under 192, 192A, 194B, 194BB, 194LBC or 194N or iii) Where TDS deductible u/s 206AA is higher than than S. 206AB
c	No TDS is required to be deducted in case where the payee is an entity whose income is exempt u/s 10 and is not required to file returns as per Section 139. (Circular No. 18/2017)
d	Certificate for deduction at lower rate can be applied for Sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA, 194LBB, 194LBC, 194M.
e	Certificate for nil rate of tax deduction can be applied for Sections 194, 194EE, 192A, 193, 194A, 194DA, 194K, 194-I.
f	No TDS where the deductee furnishes a self-declaration in Form 15G/ 15H for deduction of tax under Sections 194, 194EE, 192A, 193, 194A, 194D, 194DA, 194-I and 194K.
g	As per Section 196, no deduction of tax shall be made by any person from any sums payable to Government, RBI, a Corporation established under Central Act, a Mutual Fund specified under section 10(23D).





(B) On payments to Non-Residents (subject to notes below)

Sr. No.	Payments to Non-Resident Payee	Criteria for Deduction	Section	Rate (%)
1	Tax on Short Term Capital Gains	On sale of shares or units of mutual funds where STT is paid	111A	15
		On sale of shares or units of mutual funds where STT is not paid		
		(a) In case of companies	45	40
		(b) In case of persons other than companies		30
2	Tax on Long Term Capital Gains	Not being long term capital gains referred to section 10(33), 10(36) and 10(38) ie. on listed shares, units of an equity oriented fund, or units of business trust i.e. REITs & Invits [Except for transactions covered u/s 112(1)(c)(iii)]	112	20
		on income by way of long-term capital gains from unlisted securities u/s 112(1)(c)(iii)	112	10
3	Tax on Long Term Capital Gains on Transfer of Equity Share in company or a unit of equity oriented mutual fund or a unit of Business Trust (Note 9)	(i) STT is applicable on acquisition/transfer (except Transfer on a recognised stock exchange located in any International Financial Services Centre and consideration is received in foreign currency), (ii) Tax on Long Term Capital Gains exceeding ₹ 1,00,000/-	112A	10
4	Winning From Lotteries crossword puzzles, card games and other games of any sort	Payment in excess of ₹ 10,000/-	194B	30
5	Winning From Horse Race	Payment in excess of ₹ 10,000/-	194BB	30
6	Tax on royalty or copyrights or on fees for technical services matters included in industrial policy or under approved agreements by an Indian concern or by Government of India	Agreements made or entered into after 31st March, 1976	115A(1) (b)	10



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Sr. No.	Payments to Non-Resident Payee	Criteria for Deduction	Section	Rate (%)
7	Tax on Interest	On borrowings in foreign currency:-		
		(a) by an Indian concern or by Government of India other than interest referred in (b) or (c) below	115A(1) (a)	20
		(b) On notified infrastructure debt fund	194LB	5
		(c) By Specified Companies or Business Trusts (REITs & Invits) under a loan agreement or any long term bond : i) On Long-term bond or rupee denominated bond listed only on a recognised stock exchange located in any International Financial Services Centre. (Issued on or after the 1st day of April, 2020 but before the 1st day of July, 2023)	194LC	4
		ii) Other than above	194LC	5
8	Income by way of interest from SPV distributed by Business Trusts (REITS & INVITS)	No Threshold Limit	194LBA	5
9	Income by way of Rent from SPV distributed by REITs	No Threshold Limit	195	-
10	Income other than business income distributed by an Alternate Investment Fund (Category I & II)	No Threshold Limit	194LBB	Rates in Force (Refer Note:5)
11	Income in respect of Investment in Securitization Trust	No Threshold Limit	194LBC	"Rates in Force (Refer Note:5)"



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Sr. No.	Payments to Non-Resident Payee	Criteria for Deduction	Section	Rate (%)
12	Income by way of interest to FII or QFI	a) On Rupee denominated Bonds of Indian Company and Government Securities. b) On Municipal debt securities (Income arising on or after 01st April, 2020 but before 1st day of July 2023) (Note 8)	194LD	5
13	Payments to Non-Resident Sportsmen/Entertainer/Sports Association	Other than to a non-resident being an Indian citizen	194E	20
14	Other income	(a) In case of non-resident companies	-	40
		(b) In case of non-residents other than foreign companies	-	30
15	Dividends distributed by Domestic Company	(Refer Note No. 11 below)		
16	Income of Foreign Institutional Investor (Note -12)	Income other than interest covered above in S. 194D & other than capital gains taxable u/s 115AD	196D	Rates in Force [effectively] (Refer Note-5& 12)
17	Equalisation Levy	(Refer Note No. 6 below)		

Notes

1	Cess @ 4% shall be levied additionally.
2	Treaty rates will differ from Country to Country. Treaty rates will apply only if Tax Residency Certificate is produced.
3	NRIs opting to be taxed under chapter XII-A, tax shall be deductible at the rate of ten percent on long term capital gains referred to in section 115E and twenty percent on investment income.
4	The rate of TDS will be deducted u/s 206AA @ 20% in all cases, if PAN is not quoted by the deductee. However, this condition is not applicable: -in respect of Royalties, FTS, Dividend, Interest and Capital Gains on compliance of conditions in Rule 37BC. -in respect of Interest covered u/s 194LC
5	TDS is to be deducted at "Rate in Force". The term "Rate in force" means rate as per Income Tax Act, 1961 or Relevant DTAA rate, whichever is more beneficial.





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6	"Equalisation Levy 1.0 has been introduced for online advertisement/digital advertising space services provided by a non-resident to a resident or a permanent establishment of non-resident in India. The rate for such levy shall be six percent of the consideration. Equilisation Levy 2.0 as introduced by Finance Act, 2020 for the consideration received or receivable by an e-commerce operator from ecommerce supply/services made/ services provided / services facilitated at a rate of 2%."
7	TDS on Interest Payments u/s 194LC will now be available in respect of borrowings made before 1st July, 2023
8	TDS on Interest Payments u/s 194LD will now be available in respect of interest payable before 1st July, 2023
9	The Long Term Capital Gains shall be computed without giving effect to 1st and 2nd proviso to Section 48.
10	No tax at source is required to be deducted under section 195 by National Technical Research Organisation ('NTRO') on payments of royalty or fees for technical services paid to non resident or foreign company
11	Vide Finance Act, 2021 2nd Proviso to Section 195 has been deleted, thereby distribution distributed and received by a non resident would be covered under the provisions of section 195.

GENERAL CONSIDERATIONS

- a Certificate for deduction at lower rate can be applied for Section 195.
- b With effect from 1st April 2022, TDS u/s 206AB shall be deducted at a higher of "5%" or "Twice the Rates in Force" or "Twice the rate specified in the act", in case of a person:
 - i) Who has not filed the return of income for financial year immediately preceding the financial year in which tax is to be deducted AND
 - ii) Aggregated of tax deducted at source and tax collected at source in his case exceeds ₹ 49,999/- for each of these years,

The said section shall not apply to::

- i) A Non-resident who does not have a Permanent Establishment in India; or
 - ii) Where TDS is deductible under 192, 192A, 194B, 194BB, 194LBC or 194N or
 - iii) Where TDS deductible u/s 206AA is higher than than S. 206AB
- c Applicable Surcharge Rates



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Sr. No.	Payee Status	Deduction Threshold	Rate (%)
(a)	Non-Resident Individual, HUF, AOP, BOI or Artificial Judicial Person	Exceeding ₹ 50 lakhs upto 1crore	10%
(b)	Non-Resident Individual, HUF, AOP, BOI or Artificial Judicial Person [Note: Surcharge of an Association of Persons consisting of only companies is capped at 15%]	Exceeding ₹ 1 crore upto ₹ 2 crore	15%
(c)	Non-Resident Individual, HUF, AOP, BOI or Artificial Judicial Person	Exceeding ₹ 2 crore upto ₹ 5 Crore (excluding income covered under 111A, 112 and 112A) [Refer Note Below]	25%
(d)	Non-Resident Individual, HUF, AOP, BOI or Artificial Judicial Person	Exceeding ₹ 5 crores (excluding Capital Gains covered under section 111A, 112 and 112A and Dividend Income & income covered under 115AD (for FIIs)) [Refer Note Below]	37%
(e)	Co-Operative Society	Exceeding ₹ 1 crore	12%
(f)	Foreign Company	Exceeding ₹ 1 crore upto ₹ 10 crores	2%
(g)	Foreign Company	Exceeding ₹ 10 crores	5%





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TCS

TDS RATES FOR ASSESSMENT YEAR 2023-24 (FINANCIAL YEAR 2022-23)

Sr. No.	Nature of Goods/Contract/Licence /Lease	Criteria for Collection	Rate (%) *
1	Alcoholic Liquor for Human Consumption	No Threshold Limit	1
2	Tendu Leaves	No Threshold Limit	5
3	Timber obtained under a Forest Lease	No Threshold Limit	2.5
4	Timber obtained by any mode other than under a Forest Lease	No Threshold Limit	2.5
5	Any other Forest produce	No Threshold Limit	2.5
6	Scrap	No Threshold Limit	1
7	Minerals, being Coal or Lignite or iron ore	No Threshold Limit	1
8	Motor Vehicle (Note 1)	Payment in excess of ₹ 10,00,000/-	1
9	Cash Sale of Bullion	Payment in excess of ₹ 2,00,000/-	1
10	Cash Sale of any other goods (other than bullion and jewellery) or Providing any service for Cash	Payment in excess of ₹ 2,00,000/-	1
11	Transfer of right or interest in any Parking Lot or Toll Plaza or Mining and Quarrying (other than of mineral oil) under any contract, licence and lease	No Threshold Limit	2
12	Amount received by an Authorised Dealer from Buyer for Remittance out of India under the Liberalised Remittance Scheme of the Reserve Bank of India(Note 2)	Amount, or an aggregate of amounts, of seven lakh rupees or more in a financial year (other than for repayment of education loan)	5
	Amount received by an Authorised Dealer from Buyer for Remittance out of India under the Liberalised Remittance Scheme of the Reserve Bank of India (Note 2)	Amount, or an aggregate of amounts, of seven lakh rupees or more in a financial year for the purpose of repayment of loan obtained for the purpose of pursuing any education	0.5
13	Amount received by Seller from Buyer in respect of overseas tour program package (Note 2)	No Threshold Limit	5



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Sr. No.	Nature of Goods/Contract/Licence /Lease	Criteria for Collection	Rate (%) *
14	Amount received by Seller as consideration for sale of any goods other than the goods covered in sub-section (1) or sub-section (1F) or sub-section (1G) (Note 3), (Note 4)	Value or aggregate of such value exceeding fifty lakh rupees in any previous year	0.1
Note 1	No TCS shall be collected where the buyer is the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; local authority as defined in explanation to clause (20) of Section 10; a public sector company which is engaged in the business of carrying passengers.		
Note 2	The provisions of subsection (1G) shall not apply in case where : (i) Where TDS has to be deducted under any provision and has been deducted (ii) the buyer is Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority as defined in the Explanation to clause (20) of section 10 or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein		
Note 3	The tax shall be collected on Amount exceeding 50 Lakhs.		
Note 4	The provisions of subsection (1H) shall not apply in case where : (i) if the buyer is liable to deduct tax at source under any other provision of this Act and has deducted such amount. (ii) Where the purchaser is the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or a local authority as defined in the Explanation to clause (20) of section 10; or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to such conditions as may be specified therein;		
*	TCS shall be deducted u/s 206CC @ twice the rate applicable or 5% (10% in case of Overseas Tour Package & LRS for other purposes), whichever is higher, if PAN is not furnished by the collectee. For the purpose of Sec 206C(1H), the rate will be 1% instead of 5%		
**	W.e.f. 01.07.2021, in case of a person who has: i) Who has not filed the return of income for financial year immediately preceding the financial year in which tax is to be collected AND ii) Aggregated of tax deducted at source and tax collected at source in his case exceeds ₹ 49,999/- for each of these years, TCS u/s 206CCA shall be collected at a higher of : 5% “or” Twice the rate specified in the act”.		





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Sr. No.	Nature of Goods/Contract/Licence /Lease	Criteria for Collection	Rate (%) *
	The said section shall not apply where :		
	i) TCS collectible u/s 206CC is higher than S. 206CCA”		
***	Surcharge Applicable:-		
Sr. No.	Payee Status	Deduction Threshold	Rate (%)
(a)	Non-Resident Individual, HUF, AOP, BOI or Artificial Judicial Person	Exceeding ₹ 50 lakhs upto 1 crore	10%
(b)	Non-Resident Individual, HUF, AOP, BOI or Artificial Judicial Person	Exceeding ₹ 1 crore upto ₹ 2 crore	15%
(c)	Non-Resident Individual, HUF, AOP, BOI or Artificial Judicial Person	Exceeding ₹ 2 crore upto ₹ 5 Crore (excluding income covered under 111A and 112A) [Refer Note Below]	25%
(d)	Non-Resident Individual, HUF, AOP, BOI or Artificial Judicial Person	Exceeding ₹ 5 crores (excluding Capital Gains covered under section 111A & 112A and Dividend Income & income covered under 115AD (for FIIs)) [Refer Note Below]	37%
(e)	Co-Operative Society	Exceeding ₹ 1 crore	12%
(f)	Foreign Company	Exceeding ₹ 1 crore upto ₹ 10 crores	2%
(g)	Foreign Company	Exceeding ₹ 10 crores	5%

#- Surcharge for Dividend Income & Capital Gains is capped at a rate of 15%.

It is pertinent to note that the benefit of capping the surcharge at 15 % for Dividend & Capital Gains income is not available to non-residents where the said income is taxable under the provisions of section 115A, 115AB, 115AC, 115ACA & 115E, while it continues to apply for income earned by Foreign Institutional Investor where the same is taxed u.s 115AD. - **[The said position is inferred from Memorandum explaining provisions of the Bill, the Finance Bill is silent on the said aspect]**





CUSTOMS

I. AMENDMENTS IN THE CUSTOMS ACT, 1962

S. No.	Amendment
1.	Clause (34) of section 2 contains definition of “proper officer”. This section is being modified to specifically state that assignment of functions to an officer of Customs by the Board or the Principal Commissioner of Customs or the Commissioner of Customs shall be done under the newly inserted sub-sections (1A) and (1B) of Section 5 in the Customs Act, 1962 (52 of 1962).
2.	Section 3 is being amended to specifically include the officers of DRI, Audit and Preventive formation in the class of Officers. This amendment has been made to remove any ambiguity as regards the class of officers of Customs.
3.	Sub-Section (1A) and 1(B) to Section 5: Sub-section (1A) and (1B) have been inserted in section 5 of the Act to explicitly provide power of assignment of function to officers of customs by the Board or as the case may be by the Principal Commissioner of Customs or Commissioner of Customs. This amendment has been necessitated to correct the infirmity observed by the Courts in recent judgments that the Act required explicit provision conferring powers for assignment of function to officers of Customs as “proper officers” for the purposes of the Act, besides the definition clause (34) in section 2 of the Customs Act
4.	Sub-section (4) to Section 5 is being inserted to delineate the criteria which the Board may adopt while imposing limitations or conditions under sub-section (1) or while assigning functions under sub-section (1A) to the officer of Customs. For instance, one of the limitations/ conditions that the Board currently imposes on “officers of Customs” is that they are required to operate within a specified territorial jurisdiction. However, with the launch of faceless assessments and other trade facilitation initiatives wherein, for instance, a need is felt for the development of industry-specific expertise in assessments the Board may need to confine jurisdiction to certain goods or class of goods.
5.	Sub-section (5) to Section 5 is being inserted to ensure that wherever necessary, for the proper management of work, two or more officers of customs, can concurrently exercise powers and functions (for example in the case of faceless assessment)
6.	Section 14 is being amended to include provisions for rules enabling the Board to specify the additional obligations of the importer in respect of a class of imported goods whose value is not being declared correctly, the criteria of selection of such goods, and the checks in respect of such goods. This amendment is a measure to address the issue of undervaluation in imports.



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S. No.	Amendment
7.	Section 28E is being amended to omit the Explanation under clause (c) and omit clause (h).
8.	Section 28H is being amended to make provisions for prescribing appropriate fees by Board relating to application for advance Ruling and also give flexibility to the applicant to withdraw his application at any time before a ruling is pronounced from the current 30 days' time period. Consequently, the sub-section (3) is being omitted.
9.	Sub-section (7) under section 28I is being substituted so as to remove the word "Members" and also make changes accordingly.
10.	Sub-section (2) under Section 28J is being substituted so that advance ruling under sub-section (1) of Section 28J is now valid for a period of three years or till there is a change in law or facts on the basis of which the advance ruling has been pronounced, whichever is earlier. A proviso is also being inserted to provide that the advance rulings in force on the date on which the Finance Bill, 2022 receives assent of the President, the said period of three years shall be reckoned from the date on which the Finance Bill receives assent of the President.
11.	Section 110AA is being inserted with a view to affirm the principle that, wherever, an original function duly exercised by an officer of competent jurisdiction, is the subject matter of a subsequent inquiry, investigation, audit or any other specified purpose by any other officer of customs, then, notwithstanding, such inquiry, investigation, audit or any other purpose, the officer, who originally exercised such jurisdiction shall have the sole authority to exercise jurisdiction for further action like re- assessment, adjudications, etc. consequent to the completion of such inquiry, investigation, audit or any other purpose.
12.	Section 135AA is being inserted to protect the import and export data submitted to Customs by importers or exporters in their declarations by making the publishing of such information unless provided by the law, as an offence under Customs Act.

II. OTHER LEGISLATIVE AMENDMENTS PERTAINING TO CUSTOMS

S. No.	Amendment
1.	A clause [] has been inserted in the Finance Bill, 2022. This clause seeks to give validation to any action taken or functions performed before the date of commencement of the Finance Act, 2022, under certain Chapters of the Customs Act by any officer of Customs, as specified in Section 3 of the Customs Act, as amended, where such action was in pursuance of their appointment and assigning of functions by the Central government or the Board under the Customs Act.





III. AMENDMENTS IN THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975



IV. PRUNING AND REVIEW OF CUSTOMS DUTY CONCESSIONS/ EXEMPTIONS



V. PROPOSALS INVOLVING CHANGES IN EFFECTIVE BASIC CUSTOMS DUTY RATES IN RESPECT OF PHASED MANUFACTURING PROGRAM [PMP] WITH RESPECT TO SPECIFIC ELECTRONIC GOODS

S. No.	Chapter, heading, sub-heading, or tariff item	Commodity	From	To			
				2022-23	2023-24	2024-25	2025-26
PMP for Wrist Wearable Devices (Smart watches)							
Following parts [S. No. 1 to 7] for manufacture of wearable devices falling under tariff item 8517 62 90 of the Customs Tariff							
1.	8517 79 10	Printed Circuit Board Assembly (PCBA)	NIL	NIL	10%	15%	15%
2.	8544	Charging Cable	10%	NIL	5%	10%	15%
3.	39, 73, 85	Specified parts of wearable devices	As per CTH	NIL	5%	10%	15%
4.	8507 60 00/ 8507 80 00	Battery	15%	NIL	5%	10%	15%
5.	8517 79 90	Display Assembly	NIL	NIL	NIL	5%	10%
6.	8501	Vibrator Motor	10%	10%	10%	10%	10%



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S. No.	Chapter, heading, sub-heading, or tariff item	Commodity	From	To			
				2022-23	2023-24	2024-25	2025-26
7.	Any Chapter	Parts, sub-parts, and raw materials for use in the manufacture of the S. Nos 1 to 6 above	As per CTH	NIL	NIL	NIL	NIL
8.	8517 62 90	Wrist Wearable Devices (Commonly known as Smart Watches)	20%	20%	20%	20%	20%
<p><i>Note: IGCR conditions shall apply for the items in S. No. 1 to 7 above.</i></p> <p style="text-align: center;">PMP for Hearable Devices</p> <p>Following parts [S. No. 1 to 6] for manufacture of hearable devices falling under sub-headings 8518 21, 8518 22, 8518 29 or 8518 30 of the Customs Tariff</p>							
1.	8518 90 00	PCBA for Hearable Device	10%	NIL	10%	15%	15%
2.	8544	USB Cable	10%	15%	15%	15%	15%
3.	73, 74, 85	Specified parts of hearable devices	As per CTH	NIL	5%	10%	15%
4.	8507 60 00/ 8507 80 00	Battery	15%	NIL	5%	10%	15%
5.	8518 90 00	Speaker Assembly (Pre-assembled speaker driver with protective mesh, but not including PCBA or battery)	10%	NIL	NIL	5%	10%
6.	Any Chapter	Parts, sub-parts, and raw materials for use in the manufacture of the S. Nos 1, 3, 4, and 5 above	As per CTH	NIL	NIL	NIL	NIL
7.	8518 21, 8518 22, 8518 29, 8518 30	Hearable Devices <i>Note - Hearable devices mean: - (i) true wireless stereo</i>	15%	20%	20%	20%	20%



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S. No.	Chapter, heading, sub-heading, or tariff item	Commodity	From	To			
				2022-23	2023-24	2024-25	2025-26
		<p>(TWS), headphones, earphones and similar devices like earbuds, neckbands, headsets, etc., whether or not combined with a microphone, being capable of connecting through a wireless medium; and</p> <p>(ii) portable bluetooth speakers comprising of an amplifier and loudspeaker(s) with maximum output power not exceeding 40 Watts, having battery as a source of power and capable of wireless connectivity through bluetooth.</p>					
<p>Note: IGCR conditions shall apply for the items in S. No. 1 to 6 above.</p>							
<p>PMP for Smart Meters</p>							
<p>Following parts [S. No. 1 to 6] for manufacture of smart meters falling under tariff item 9028 30 10 of the Customs Tariff</p>							
1.	9028 90 10	Assembled / Populated PCB for Smart Meters	7.5%	20%	20%	20%	20%
2.	8517 69 90	Communication Module	10%	NIL	NIL	5%	10%
3.	8536 49 00	Relay	10%	5%	10%	10%	15%
4.	8517 71 00	Antenna	NIL	NIL	NIL	5%	10%
5.	8524 11 00/8524 91 00	LCD & Backlight for LCD	15%	NIL	5%	10%	10%
6.	8506 50 00	Battery	10%	NIL	5%	10%	10%





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S. No.	Chapter, heading, sub-heading, or tariff item	Commodity	From	To			
				2022-23	2023-24	2024-25	2025-26
7.	Any Chapter	Parts, sub-parts, and raw materials for use in the manufacture of the S. Nos 1 to 6 above	As per CTH	NIL	NIL	NIL	NIL
8.	9028 30 10	Smart Meters	15%	25%	25%	25%	25%

Note: IGCR conditions shall apply for the items in S. No. 1 to 7 above.

VI. OTHER PROPOSALS INVOLVING CHANGES IN BASIC CUSTOMS DUTY RATES/HEALTH CESS IN RESPECTIVE NOTIFICATIONS [with effect from 2.2.2022, unless specified otherwise]

S. No.	Chapter, heading, sub-heading, or tariff item	Commodity	From	To
Agricultural Products and By Products				
1.	0306	Live Black tiger shrimp (<i>Penaeus monodon</i>)	30%	10%
2.	0306 19 00	Frozen Krill	30%	15%
3.	1518	Algal Oil for manufacturing of aquatic feed	30%	15%
Fuels, Chemicals and Plastics				
4.	2710 19	Fuel oil	5%	2.5%
5.	2710 19	Straight run fuel oil	5%	2.5%
6.	2710 19	Low sulphur wax residue	5%	2.5%
7.	2710 19	Vacuum residue, Slurry	5%	2.5%
8.	2710 19	Vacuum gasoil	5%	2.5%
9.	2837 11 00	Sodium cyanide	7.5%	10%
Paper				
10.	4707	Recovered (waste and scrap) paper or paperboard for use in manufacturing of paper, paperboard or newsprint	NIL	2.5%
Gems and Jewellery Sector				
11.	7102 21 7102 31 00	Simply Sawn Natural Diamonds imported under Kimberley Process Certification Scheme (KPCS)	Applicable Rate	NIL



S. No.	Chapter, heading, sub-heading, or tariff item	Commodity	From	To
12.	71	Cut and Polished Diamonds	7.5%	5%
13.	71 (except 7104 99 00)	Cut and Polished Natural Gemstones	7.5%	5%
		Metals		
14.	7204	Iron and steel scrap, including stainless steel scrap [Exemption hitherto available till 31.3.2022 is being extended up to 31.03.2023]	NIL [upto 31.3.2022]	NIL [upto 31.3.2023]
		Electrical and Electronics Sector		
15.	3920 99 99, 9002 11 00	Camera lens for use in manufacture of Camera Module for Cellular Mobile Phone	10%/15%	2.5%
16.	Specific CTH	Specified parts for use in manufacture of transformers of chargers/adapters	10%/15%	5%
17.	74 or 76	Copper/Aluminium based Copper clad laminate for use in manufacture of PCB/MCPCB	5%/7.5%	NIL
18.	90	Following items used in manufacture of X-ray items: a) X-Ray grid b) Multi Leaf Collimator/ Iris c) Static User Interface	5%	10%
19.	90	X-Ray Machines	7.5%	10%
		Medical devices		
20.	9018 32 10	Surgical needles imported for manufacture of Surgical sutures	Health Cess @5%	Health Cess @Nil
		Toys		
21.	9503	Parts of electronic toys for manufacture of electronic toys	15%	25%
		Capital Goods		
22.	7325 10 00	S. G. Ingot Castings used in manufacturing of Plastic Processing Machinery	10%	7.5%
23.	8483 40 00, 8477 90 00	Ball Screw and Linear Motion Guide used in manufacturing of Plastic Processing Machinery	7.5%	5%



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S. No.	Chapter, heading, sub-heading, or tariff item	Commodity	From	To
24.	84	Bushing (made up of platinum and rhodium alloy, imported in exchange of worn-out bushing exported for refurbishment)	10%	7.5%
25.	8419	Coffee roasting, brewing or vending machineries for use in the manufacturing or processing of coffee	10%	7.5%

VII. DUTY CONCESSIONS ON SPECIFIED ITEMS WHEN IMPORTED BY BONAFIDE EXPORTERS

1. A scheme for duty-free imports for the purpose of use in goods meant for export, based on end-use monitoring is being introduced for bonafide exporters subject to the requirement of exporting value added products manufactured using inputs imported under these exemptions, within a period of six months. Importer shall be required to follow the procedure under the Import of Goods at Concessional Rate (IGCR) Rules, 2017.
2. The following changes are being made to operationalize the scheme as detailed under:
 - Conditions required for availing exemptions vide S. No. 257 are being amended.
 - S. No. 257A is being inserted to provide for conditional exemptions for import of specified items like decorative papers, motifs, back of photo frames, etc. to be used in manufacture of *handicraft products* meant for exports.
 - S. No. 257B is being inserted to provide for conditional exemptions for import of specified items like fasteners, inlay cards, lining and inter-lining materials, wet blue chrome tanned leather, etc. to be used in manufacture of *textile or leather garments* meant for exports.
 - S. No. 257C is being inserted to provide for conditional exemptions for import of specified items like buckles, buttons, locks etc. to be used in manufacture of *leather or synthetic footwears, or other leather products* meant for exports.
 - S. No. 288, having been subsumed under new S. No. 257B, is being omitted.





VIII. REVIEW OF LEVY OF SOCIAL WELFARE SURCHARGE [SWS] ON VARIOUS ITEMS BY AMENDING NOTIFICATION NO. 11/2018- CUSTOMS DATED 02.02.2018

S. No.	Amendment
1.	All goods falling under tariff items 0802 91 00, 0802 92 00 and 0802 99 00 have been exempted from SWS.
2.	All goods falling under sub-headings 1509 90 and 1510 90 have been exempted from SWS.
3.	All goods falling under tariff items 2515 12 90, 2516 11 00, 2516 12 00 have been exempted from SWS.
4.	All goods falling under the sub-headings 5208 39, 5209 31, 5209 32, 5209 39, 5209 49, 5210 39, 5211 31, 5211 32, 5211 39, and 5211 49 have been exempted from SWS.
5.	All goods falling under the sub-heading 5407 61 have been exempted from SWS.
7.	All goods falling under tariff items 5516 22 00 and 5516 23 00 have been exempted from SWS.
8.	All goods falling under tariff item 5802 30 00 have been exempted from SWS.
9.	The current SWS exemption has been withdrawn for all goods falling under tariff item 6001 92 00.
10.	The current SWS exemption has been withdrawn for all the goods falling under tariff item 6101 20 00; goods falling under sub-heading 6101 30; goods falling under tariff items 6102 10 00 & 6102 20 00; goods falling under sub-heading 6102 30; goods falling under sub-heading 6104 19 (except of wool or fine animal hair or cotton); and goods falling under tariff items 6104 62 00 , 6104 63 00.
11.	SWS exemption has been withdrawn for all the goods falling under sub-headings 6201 30, 6201 40, 6202 30, 6202 40; falling under tariff items 6204 11 00, 6204 13 00; goods falling under sub-heading 6204 19, 6204 31; goods falling under tariff items 6204 32 00 & 6204 33 00; and goods falling under sub-headings 6204 39 & 6204 69.
12.	In the heading 6203, the exemption from SWS has been narrowed down to all the goods falling under tariff items 6203 22 00, 6203 23 00; goods falling under sub-heading 6203 29; goods falling under tariff item 6203 41 00; and goods falling under sub-heading 6203 42.
13.	SWS exemption has been withdrawn for all the goods falling under Sl. No. 3 [Men's or boy's overcoats, car coats, capes, cloaks, anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles, knitted or crocheted, other than those of heading 6103, of wool or fine animal hair, falling under tariff item 6101 90 90] and Sl. No.4 [Upholstery fabrics falling under the following headings or sub-headings - 5208 39, 5209 31, 5209 32, 5209 39, 5209 49, 5210 39, 5211 31, 5211 32, 5211 39, 5211 49, 5407 61, 5516 22 00, 5516 23 00, 5802 30 00] of the notification No. 11/2018 – Customs dated 02.02.2018.



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IX. OTHER MISCELLANEOUS CHANGES IN VARIOUS NOTIFICATIONS PROVIDING CONCESSION ON IMPORTS

S. No.	Notification No.	Amendment
1.	Notification 148/94- Customs dated 13.07.1994	The notification prescribes exemption from customs duty on imports of specified free gifts, donations, relief and rehabilitation material imported by Charitable organizations, Red Cross Society, CARE and Government of India. This notification has been amended to provide exemption from Health Cess, Agriculture Infrastructure and Development Cess (AIDC) and Road and Infrastructure Cess (RIC) for goods imported under this notification.
2.	Notification No.38/96- Customs dated 23.07.1996	The notification grants customs duty exemption on trans-shipment of goods either imported from foreign country for export to Bhutan/ Nepal, all goods imported from Bhutan/Nepal for export to other countries and certain other specified goods. This notification has been amended to provide exemption from Health Cess, Agriculture Infrastructure and Development Cess (AIDC) and Road and Infrastructure Cess (RIC) for goods imported under this notification.
3.	Notification No. 104/10- Customs dated 01.10.2010	The notification prescribes exemption from customs duty on specified goods imported from Nepal. This notification has been amended to provide exemption from Agriculture Infrastructure and Development Cess (AIDC) for goods imported under this notification.
4.	Notification No. 60/2011- Customs dated 14.07.2011	The notification prescribes exemption from customs duty on imports of specified goods locally produced in border districts of Bangladesh. This notification has been amended to provide exemption from Agriculture Infrastructure and Development Cess (AIDC) for goods imported under this notification.
5.	Notification No. 40/2017- Cus.dated 30.06.2017	The notification prescribes exemption from customs duty on imports of the specified goods from Bhutan, Bangladesh and China. This notification has been amended to provide exemption from Health Cess, Agriculture Infrastructure and Development Cess (AIDC) and Road and Infrastructure Cess (RIC)for goods imported under this notification.
6.	Notification No. 50/2017 – Customs dated 30.06.2017	Treatment of rare diseases: A new entry at S. No. 167A is being introduced to exempt drugs or medicines, falling under Chapter 30 or Heading 9804 of the First Schedule to the Customs Tariff Act, 1975, which are used for the treatment of rare diseases, when imported by 8 Centre of Excellence (CoE) listed in the List 2 (inserted) or any other person/institution on their recommendation. This is in tune with the National Policy for Rare Diseases, 2021.





X. OTHER CHANGES (INCLUDING CERTAIN CLARIFICATIONS/ TECHNICAL CHANGES BY AMENDING NOTIFICATION NO. 50/2017-CUSTOMS DATED 30.06.2017)

S. No.	S. No. of notification No. 50/2017	Description
1.	6	The condition of Specific Pathogen Free (SPF) for Live <i>L. Vannamei</i> Shrimp has been removed from the notification No. 50/2017 – Customs, as the same is being regulated by the Department of Fisheries.
2.	525, 526A and 531A	Certain clarificatory amendments have been made to entry no. 525, 526A and 531A of notification No. 50/2017 dated 30.06.2017, in order to bring clarity about the scope of exemptions in relation to imports of completely knocked down/semi knocked down forms (CKD/SKD) of electric vehicles (EV) (including commercial, passenger and two-wheeled electric vehicles). These amendments clarify that for an EV kit to be eligible for the duty benefits available to a CKD form of an EV, each individual component in the kit need not be in a dis-assembled form. Further, it has been clarified that even if some components are missing in the EV kit, the benefit of concessional rate of duty available to CKD/SKD kits would still be available provided that the kit as presented has the essential character of an EV.
3.	531A	This entry provides for concessional rate of Customs duty on imports of two-wheeled electrical vehicles. The words ‘electric compressor’ and ‘contactor’ have been deleted from this entry as these parts are not used in two-wheelers.

XI. ANTI-DUMPING DUTY (ADD)/ COUNTERVAILING DUTY (CVD)/ SAFEGUARD MEASURES

1.	Anti-Dumping duty is being permanently revoked, on imports of the following- <ol style="list-style-type: none"> Straight Length Bars and Rods of alloy-steel, originating in or exported from People’s Republic of China, imposed vide notification No. 54/2018-Cus (ADD) dated 18.10.2018; High Speed Steel of Non-Cobalt Grade, originating in or exported from Brazil, People’s Republic of China and Germany, imposed vide notification No. 38/2019-Cus (ADD) dated 25.09.2019;
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	c) Flat rolled product of steel, plated or coated with alloy of Aluminum or Zinc, originating in or exported from People's Republic of China, Vietnam and Korea RP, imposed vide notification No. 16/2020-Cus (ADD) dated 23.06.2020.
2.	Countervailing duty is being permanently revoked on imports of Certain Hot Rolled and Cold Rolled Stainless Steel Flat Products, originating in or exported from People's Republic of China, imposed vide notification No. 1/2017-Cus (CVD) dated 07.09.2017.

XII. CHANGES IN EXPORT DUTY RATES IN NOTIFICATION NO. 27/2011 - CUSTOMS [with effect from 02.02.2022]

S. No.	Chapter	Commodity	From	To
		Leather		
1.	41	Raw hides and skins of buffalo	40%	30%





CHANGES IN RULES UNDER THE CUSTOMS ACT, 1962

S. No.	Amendment(s)
1.	<p>Trade Facilitation- Amendment to IGCR rules, 2017</p> <p>Customs (Import of goods at concessional rate of duty) Rules, 2017 are being amended to provide the following facilities:</p> <ol style="list-style-type: none">To introduce end to end automation in the entire process. Requirement of submitting all the necessary details electronically, through a common portal, is being brought out in the Rules itself.Standardizing and notifying the various forms in which details are to be submitted electronically.Leveraging the advantage of such submissions electronically, the need for any transaction based permissions and intimations are all being done away with.Consequently, the procedure to claim the notification benefit is being simplified and automated.For effective monitoring of the use of goods for the intended purposes, a Monthly Statement is being proposed which is to be submitted by the importer on the Common Portal.An option for voluntary payment of the necessary duties and interest, through the Common Portal is being provided to the importer.



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EXCISE

I. AMENDMENTS IN THE FOURTH SCHEDULE

S. No.	Amendment
1.	Two new tariff items, that is, 2710 12 43 and 2710 12 44, falling under Chapter 27, have been inserted in the Fourth Schedule to the Central Excise Act, 1944, relating to E12 and E15 fuel blends, conforming to the new BIS specification [IS 17586] that has been issued for Ethanol Blended Petrol with percentage of ethanol up to twelve (E12) and fifteen (E15) percent respectively. This will align the Fourth Schedule to the Central Excise Act, 1944, with the similar proposed amendment in the sub-heading 2710 12 in the First Schedule to the Customs Tariff Act, 1975.

II. CHANGE IN EFFECTIVE RATE OF ADDITIONAL BASIC EXCISE DUTY ON UNBLENDED PETROL AND DIESEL

In order to promote blending of Motor Spirit (commonly known as Petrol) with ethanol/methanol and blending of High Speed Diesel with bio-diesel, an additional Basic Excise Duty of ₹ 2 per litre on Petrol and Diesel, intended to be sold to retail consumers without blending, would be levied with effect from the 1st day of October, 2022.

III. AMENDMENTS IN THE SCHEDULE VII OF THE FINANCE ACT, 2001 (NCCD SCHEDULE)

S. No.	Amendment
1.	The Seventh Schedule of the Finance Act, 2001, is being amended by substituting Central Excise tariff item 2709 20 00 with 2709 00 10 [Petroleum Crude]

IV. OTHER CHANGES [INCLUDING CERTAIN CLARIFICATIONS/TECHNICAL CHANGES]

S. No.	Amendment
1.	Notification No. 49/2008-Central Excise (N.T.) dated 24.12.2008, provides for Retail Sale Price(RSP) based valuation for specified goods and prescribes an abatement as a percentage of retail sale price for such goods. This notification was issued under section 4A of the Central Excise Act, 1944. Since then statutory/legal position has changed. Accordingly, this notification has been superseded by notification No. 01/2022- Central Excise (N.T.) dated the 1st February, 2022, in order to align the notification No. 49/2008-Central Excise (N.T.) with the current legal position, post rollout of GST regime.





GOODS AND SERVICE TAX

I. AMENDMENTS IN THE CGST ACT, 2017

S. No.	Amendment
1.	<p>A new clause (ba) to sub-section (2) of section 16 of the CGST Act is being inserted to provide that input tax credit with respect to a supply can be availed only if such credit has not been restricted in the details communicated to the taxpayer under section 38.</p> <p>Further, sub-section (4) of section 16 of the CGST Act is being amended so as to provide for an extended time for availment of input tax credit by a registered person in respect of any invoice or debit note pertaining to a financial year upto thirtieth day of November of the following financial year.</p>
2.	<p>Clause (b) and (c) of sub-section (2) of section 29 of the CGST Act are being amended so as to provide that the registration of a person is liable for cancellation, where -</p> <p>(i) a person paying tax under section 10 has not furnished the return for a financial year beyond three months from the due date of furnishing of the said return;</p> <p>(ii) a person, other than those paying tax under section 10, has not furnished returns for such continuous tax period as may be prescribed.</p>
3.	<p>Sub-section (2) of section 34 of the CGST Act is being amended so as to provide for an extended time for issuance of credit notes in respect of any supply made in a financial year upto thirtieth day of November of the following financial year.</p>
4.	<p>Section 37 of the CGST Act is being amended so as to:</p> <p>(i) provide for prescribing conditions and restrictions for furnishing the details of outward supply and for communication of the details of such outward supplies to concerned recipients;</p> <p>(ii) do away with two-way communication process in return filing;</p> <p>(iii) provide for an extended time upto thirtieth day of November of the following financial year for rectification of errors in respect of details of outward supplies furnished under sub-section (1);</p> <p>(iv) provide for tax period-wise sequential filing of details of outward supplies under sub-section (1).</p>



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S. No.	Amendment
5.	Section 38 of the CGST Act is being substituted for prescribing the manner as well as conditions and restrictions for communication of details of inward supplies and input tax credit to the recipient by means of an auto-generated statement and to do away with two-way communication process in return filing.
6.	Section 39 of the CGST Act is being amended so as to: (i) provide that the non-resident taxable person shall furnish the return for a month by thirteenth day of the following month; (ii) provide an option to the persons furnishing return under proviso to sub-section (1), to pay either the self-assessed tax or an amount that may be prescribed; (iii) provide for an extended time upto thirtieth day of November of the following financial year, for rectification of errors in the return furnished under section 39; (iv) provide for furnishing of details of outward supplies of a tax period under sub-section (1) of section 37 as a condition for furnishing the return under section 39 for the said tax period.
7.	Section 41 of the CGST Act is being substituted so as to do away with the concept of “claim” of eligible input tax credit on a “provisional” basis and to provide for availment of self- assessed input tax credit subject to such conditions and restrictions as may be prescribed.
8.	Sections 42, 43 and 43A of the CGST Act are being omitted so as to do away with two-way communication process in return filing.
9.	Section 47 of the CGST Act is being amended so as to provide for levy of late fee for delayed filing of return under section 52. Further, reference to section 38 is being removed consequent to the amendment in section 38 of the CGST Act.
10.	Consequent to the amendment in section 38 of the CGST Act, sub-section (2) of section 48 of the CGST Act is being amended so as to remove reference to section 38 therefrom.
11.	Section 49 of the CGST Act is being amended so as to: (i) provide for prescribing restrictions for utilizing the amount available in the electronic credit ledger; (ii) allow transfer of amount available in electronic cash ledger under the CGST Act of a registered person to the electronic cash ledger under the said Act or the IGST Act of a distinct person; (iii) provide for prescribing the maximum proportion of output tax liability which may be discharged through the electronic credit ledger.





S. No.	Amendment
12.	Sub-section (3) of section 50 of the CGST Act is being substituted retrospectively, with effect from the 1st July, 2017, so as to provide for levy of interest on input tax credit wrongly availed and utilized.
13.	Sub-section (6) of section 52 of the CGST Act is being amended so as to provide for an extended time upto thirtieth day of November of the following financial year for rectification of errors in the statement furnished under sub- section (4).
14.	Section 54 of the CGST Act is being amended so as to: <ul style="list-style-type: none"> (i) explicitly provide that refund claim of any balance in the electronic cash ledger shall be made in such form and manner as may be prescribed; (ii) provide the time limit for claiming refund of tax paid on inward supplies of goods or services or both under section 55 as two years from the last day of the quarter in which the said supply was received; (iii) extend the scope of withholding of or recovery from refunds in respect of all types of refund; (iv) provide clarity regarding the relevant date for filing refund claim in respect of supplies made to a Special Economic Zone developer or a Special Economic Zone unit by way of insertion of a new sub-clause (ba) in clause (2) of Explanation thereto.
15.	Consequent to the amendment in section 38 of the CGST Act, sub-section (2) of section 168 of the CGST Act is being amended so as to remove reference to section 38 therefrom.
16.	Notification No. 9/2018 – Central Tax, dated the 23rd January, 2018, is being amended so as to notify www.gst.gov.in, retrospectively, with effect from 22nd June, 2017, as the Common Goods and Services Tax Electronic Portal, for all functions provided under Central Goods and Services Tax Rules, 2017, other than those provided for e-way bill and for generation of invoices under sub-rule (4) of rule 48 of the CGST Rules.
17.	Notification No. 13/2017 – Central Tax, dated the 28th June, 2017, is being amended retrospectively, with effect from the 1st day of July, 2017, so as to notify rate of interest under sub- section (3) of section 50 of the CGST Act as 18%.

II. AMENDMENTS IN THE IGST ACT, 2017

S. No.	Amendment
1.	Notification No. 6/2017 – Integrated Tax, dated the 28th June, 2017, is being amended retrospectively, with effect from the 1st day of July, 2017, so as to notify rate of interest under sub- section (3) of section 50 of the CGST Act as 18%.





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III. AMENDMENTS IN THE UTGST ACT, 2017

S. No.	Amendment
1.	Notification number 10/2017 – Union Territory Tax, dated the 30th June, 2017, is being amended retrospectively, with effect from the 1st day of July, 2017, so as to notify rate of interest under sub-section (3) of section 50 of the CGST Act as 18%.

IV. RETROSPECTIVE AMENDMENTS OF GST RATE NOTIFICATIONS

S. No.	Amendment
1.	Central Tax, Union Territory Tax and Integrated Tax on supply of unintended waste generated during the production of fish meal (falling under heading 2301), except fish oil, is being exempted during the period commencing from the 1st day of July, 2017, and ending with the 30th day of September, 2019 (both days inclusive), subject to the condition that if said tax has been collected, the same would not be eligible for refund.
2.	Service by way of grant of alcoholic liquor license, against consideration in the form of license fee or application fee or by whatever name it is called by the State Governments, has been declared as an activity or transaction which shall be treated neither as a supply of goods nor a supply of service vide notification No. 25/2019-Central Tax (R) dated 30.09.2019, notification No. 24/2019- Integrated Tax (R) dated 30.09.2019 and notification No. 25/2019- Union Territory Tax (R) dated 30.09.2019. These notifications have been given retrospective effect from 01.07.2017. However, no refund shall be made of tax which has been collected, but which would not have been so collected, had the said notifications been in force at all material times.



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