An Insight Into Union Budget 2022

M2K Advisors

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Tax on Virtual Digital Assets

Tax on Virtual Digital Assets (1/4)

- Transfer of any “virtual digital asset” (such as cryptocurrencies, notified NFTs, etc.) shall be taxable at **30% plus applicable surcharge and cess** as per Section 115BBH.
- No deduction in respect of any expenditure or allowance etc. is allowed **except for cost of acquisition**.
- **No set off of current year loss or brought forward loss** is permissible against such income from transfer of cryptocurrencies.
- **Loss** arising from transfer of cryptocurrency **cannot be set off** against any income computed under any other provisions.
- **Gift of any virtual digital asset shall be subject to gift tax** under Section 56(2)(x) in the hands of the recipient.
- There is no surcharge cap of 15%, no indexation benefit, etc. on transfer of virtual digital assets by resident individuals.
- The above provisions shall be applicable from FY 2022-23 onwards.

Tax on Virtual Digital Assets (2/4)

Person responsible for paying consideration for **transfer of virtual digital assets (VDA)** to a **resident** shall **deduct an amount equal to 1% of such sum** under Section 194S. The provisions are summarized below:

When the Section applies	The Section applies on all purchases of virtual digital assets made on or after **01 July 2022** from a resident.
Rate of TDS	1%, subject to Section 206AA of the Act
Exemption	➢ Consideration payable by a specified person (*) exceeds Rs. 50,000 during the FY. ➢ Consideration payable by a person other than a specified person exceeds Rs. 10,000 during the FY.
Time of deduction	Tax shall be deducted at the time of credit of such sum or payment by any mode.
Payment of tax	If consideration is discharged in the below mentioned means, the payer shall, before releasing the consideration, ensure that tax has been paid in respect of such consideration: ➢ Wholly in kind or wholly in exchange for another virtual digital asset ➢ Partly in cash and partly in kind, but the part in cash is not sufficient to meet the TDS liability
194-O applicability? (TDS on ecommerce transaction)	The provisions of Section 194S shall override Section 194-O.

(*) Specified person means an individual or a HUF (a) whose total sales, gross receipts or turnover does not exceed Rs. 1 crore in case of business or Rs. 50 lakhs in case of profession, during the FY immediately preceding the FY in which such virtual digital asset is transferred; (b) who does not have any income under the head “Profits and gains of business or profession”.

Tax on Virtual Digital Assets (3/4)

Our comments

- The transferor might not know whether he is transferring the VDA to a resident or non-resident. Further, if the transfer is undertaken through a crypto-exchange, it would be appropriate that the exchange should facilitate tax deduction.
- Exchange of VDA (say Bitcoin for Ether) may warrant withhold of taxes by both the parties
- Tax treatment in case a mining of VDA is not yet provided. Further, how would the cost of acquisition of mined VDA be computed?
- What would be the TDS responsibility of the payer in case the transfer is to a non-resident? Would non-resident be subject to tax in India on transfer of cryptocurrency?
- It is not clear whether loss arising from transfer of one class of VDA can be set off against profits arising from other class of VDA in the same financial year cannot be carried forward.

Tax on Virtual Digital Assets (4/4)

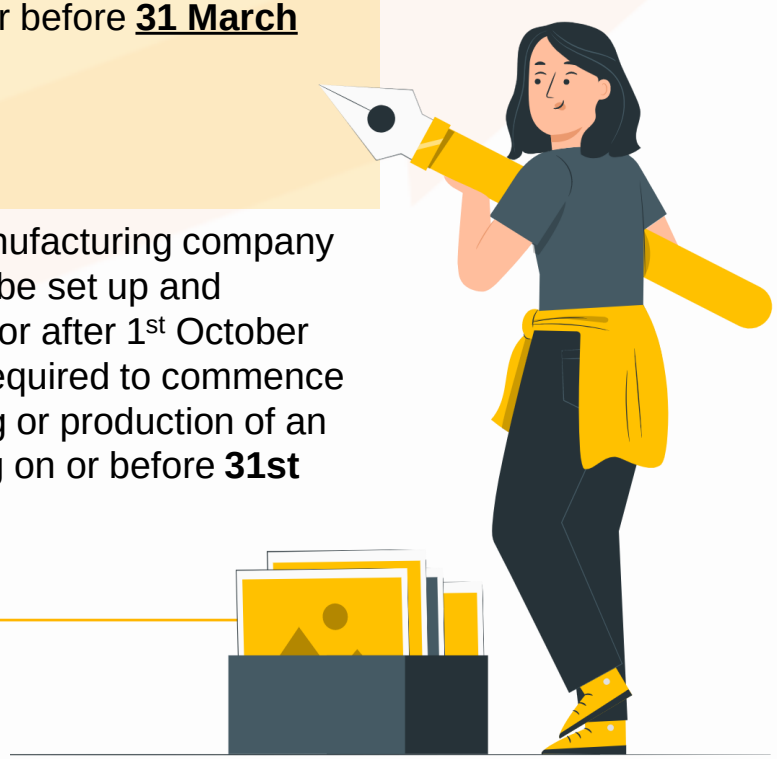
Our comments

- The provisions of 206C (TAN) and 206AB (non-filer cases) shall not be applicable in the case of 194S. However, there is no amendment made under the provisions of 206AA, i.e.., in the absence of PAN of the transferor, higher rate of 20% would apply.
- How should payer ensure that tax is already paid before payment of consideration? Should it be paid by the transferor or the transferee? Further, does this override statutory timelines prescribed for payments of TDS and advance tax?
- Valuation methodology for computing the tax on transfer / gift is not yet prescribed.
- One would still have to wait for the crypto bill for clarity on whether cryptocurrency is legal in India.
- Clarity should be provided for transfer of VDA under GST and exchange control regulations.
- Whether income earned before introduction of this section is subject to slab rates or under capital gains?

Corporate Tax

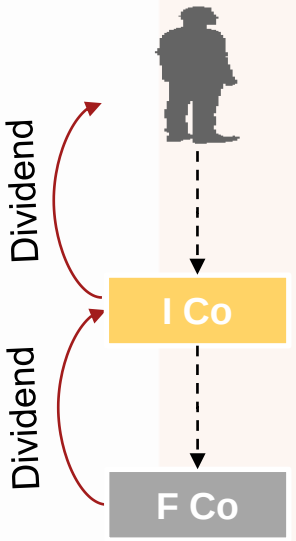
Startups & new manufacturing companies

Provision in summary	Existing sunset date	Proposed sunset date
S. 80-IAC provides for a deduction of 100% of profits derived from an eligible business by an eligible start-up* for 3 consecutive AYs out of 10 years at the option of the assessee.	Eligible start-up is required to be incorporated on or after 1 April 2016 but on or before **31 March 2022**	Eligible start-up is required to be incorporated on or after 1 April 2016 but on or before **31 March 2023**
S. 115BAB provides for concessional tax rate of 15% in case of new manufacturing companies provided they do not avail any specified incentives or deductions	Domestic manufacturing company is required to be set up and registered on or after 1st October 2019 and is required to commence manufacturing or production of an article or thing on or before **31st March 2024**.	Domestic manufacturing company is required to be set up and registered on or after 1st October 2019 and is required to commence manufacturing or production of an article or thing on or before **31st March 2024**.



Withdrawal of S. 115BBD – outbound investments

To provide parity in the tax treatment in case of dividends received by Indian companies from specified foreign companies' vis a vis dividend received from domestic companies, it is proposed to withdraw the concessional rate of 15% provided under Section 115BBD of the Act to w.e.f. FY 2022-23. The impact arising out of the same is discussed below (under three scenario) on approximate basis:



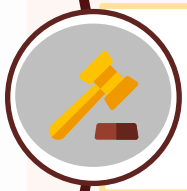
Particulars	Pre amendment			Post amendment		
	Singapore	US	UAE	Singapore	US	UAE
Rate of tax on dividend received u/s 115BBD **	15%	15%	15%	-	-	-
Rate of tax on dividend received (assuming S.115BAA is opted) **	-	-	-	22%	22%	22%
UTC / FTC benefit available	UTC	FTC (TDS @ 15%)	No UTC/ FTC	UTC	FTC (TDS @ 15%)	No UTC/ FTC
Tax payable by I Co (assuming dividend is retained at I Co) **	Marginal	15% - 15% = 0%	15%	5%	22% - 15% = 7%	22%
Tax payable by I Co (assuming entire dividend distributed to shareholders) ##	No tax is payable irrespective of the country from where the dividend is received.					

** Excluding surcharge and cess

80M deduction is allowed for dividend received from F Co. However, it is restricted to the amount of dividend distributed by I Co. For the balance undistributed amount, FTC/ UTC (if any) can be claimed. Hence, in case where whole amount received from F Co is distributed to the shareholder, there would not be any tax in the hands of I Co due to Sec 80M deduction.

Disallowance under section 14A

Section 14A of the Act deals with the disallowance of expenses incurred exclusively for earning the exempt income. However, there has been ambiguity in interpreting the allowance of expenses incurred by the entity in the year where it has not earned any exempt income but has incurred the expenses relating to the exempt income



Various courts in past have ruled in the favour of assessee allowing such expenditure on the grounds that *"if no exempt income was earned in relevant assessment year by assessee, section 14A could not be invoked"* (Refer - **Chettinad Logistics P Ltd [2018] 95 taxmann.com 250 (SC)**

In order to overcome those judgements, Explanation 1 to Section 14A of the Act has been proposed to be inserted w.e.f. AY 2022-23 to clarify that such expenses **shall not be allowed irrespective of whether the exempt income has not been received/accrued/ arisen during the year or not**. Illustrative example has been enumerated for ease of understanding:

Particulars	Existing position	Proposed position
i) Non-exempt income	Rs. 150,000	Rs. 150,000
ii) Exempt income	Nil	Nil
iii) Expense for Non-exempt income	Rs. 100,000	Rs. 100,000
iv) Expense for exempt income	Rs. 20,000	Rs. 20,000
v) Whether Rs. 20,000 given in (iv) above shall be allowed?	Allowed by Tribunal/ courts	Disallowed

Disallowance of freebies & other expenses in violation of law

- Plethora of litigation shrouded the issue of deduction of business expenditure u/s 37 of the Act in relation to certain items such as payments made in violation of any law including any foreign law, compounding fees for compounding any offence under foreign law. Further payments made to persons to provide any benefit or perquisite to such person (meeting his expenditure relating to travel, hospitality, conference etc.,) if such person is barred to accept such payments, as may have been prescribed under law governing conduct of such persons

- Finance Act 2022 has **proposed to disallow**, the above expenditures on the grounds that they shall not be deemed to have been incurred for the purpose of business.

- Case laws on **disallowance of expenses** which are incurred in violation of any law:
  - Indian Pharmaceutical Industry Vs Central Board of Direct Taxes [(2013) 335 ITR 388 (HP)
  - Kap Scan and Diagnostic Centre (P) Ltd. [(2012) 344 ITR 476 (P&H)]

- Case laws on **allowability of expense** for offences paid under foreign law:
  - Mylan Laboratories Ltd [2020] 113 taxmann.com 6 (Hyderabad - Trib.)
  - ITO vs Reliance Share and Stockbrokers Ltd (2014) 51 Taxmann.com 215 (Mum ITAT)
  - DCIT vs Shri Anil Ambani (ITA No. 3676/Mum/2016)

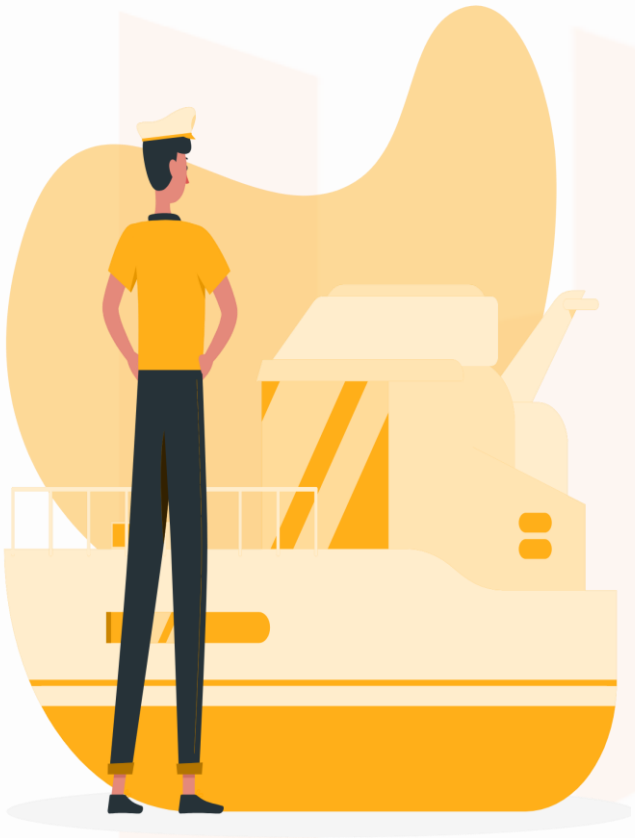
Disallowance of Education cess and surcharge - Clarification

- There was an ambiguity on whether “cess” or “surcharge” paid is not allowed as a deduction while computing business income under Section 40(a)(ii).
- Various High Courts and Tribunals relied on a circular issued by CBDT which held that “cess” or “surcharge” were not specifically mentioned in Section 40(a)(ii) and hence allowed as a deduction.
- To provide clarity, Section 40(a)(ii) is proposed to be amended w.e.f. AY 2005-06 to clarify that tax shall include and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax. Therefore, surcharge and education cess will not be allowed as a deduction while computing income

Conversion of interest into debentures

- As per the existing provisions of the Act any expense which is actually paid during the year (or) on/before the due date of filing the return shall only be allowed as an expenditure.
- With respect to interest payment, it was earlier explained by the legislation that **conversion of interest into loan or borrowing** shall not be deemed to have been paid and allowed under the Act.
- Conversion of accumulated interest into debenture was previously eligible for deduction as business expenditure, based on the principle that such interest so converted was an effective discharge of interest liability in lieu of actual payment.
  [Refer – MM Aqua Technologies Ltd [2021] 129 taxmann.com 145 (SC)]
- However, Finance Bill 2022 now proposes to clarify that conversion of interest **to any debentures or any other instrument** by which liability to pay is deferred to a future date shall also be deemed to have been not paid and hence shall be disallowed.

Benefits provided to IFSCs



- Section 10(4F) which provides for exemption to a non-resident in respect of **royalty or interest income** arising on account of lease of an aircraft to an IFSC unit is proposed to be expanded to include "**lease of ships**".
- Similarly, **exemption provided under Section 80LA** in case of capital gains arising from transfer of aircrafts which were leased by IFSC (provided that the unit commenced operations on or before 31st March 2024) is proposed to be expanded to include **capital gains arising from transfer of ships** by an IFSC.
- Section 56(2)(viib) provisions does not apply where the consideration for issue of shares is received by specified funds. The definition of the term "**specified fund**" is expanded to include a fund which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund **and is regulated under the International Financial Services Centers Authority Act, 2019**.
- Section 10(4E) is proposed to be amended to extend the exemption available to a non-resident in respect of **income on account of transfer of offshore derivative instruments or over the counter derivatives** entered into with an Offshore Banking Unit of an IFSC.
- Section 10(4G) is proposed to be introduced to exempt income received by a non-resident from portfolio of securities or financial products or funds, managed or administered by any portfolio manager, in an account maintained with an Offshore Banking Unit of an IFSC, to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.

M&A Transactions

Assessment of Successor Entity and modifying return

Return of Income in case of business reorganization

- Where an entity has furnished return of income u/s 139 and subsequently order of approval of amalgamation/ merger/ demerger is received, the successor entity may furnish modified return within a period of 6 months from the date of the order of reorganization.

Our Comments : Where business reorganizations are approved with an appointed date covering the period for which return of income is already filed and the timeline for filing revised return of income is elapsed, there was no enabling provision in the Act to furnish a return of income duly giving effect to the business reorganization. The Supreme Court ruling in the case of **Dalmia Power Ltd [CA 9466-99/209]** is considered.

Assessment/ Re-assessment/ Other Proceedings in case of business reorganization

- Various High Courts and Supreme Court **(Maruti Suzuki Ltd [416 ITR 630] & Spice Infotainment Ltd [CA 285/2014])** had quashed the proceedings conducted by the authorities on predecessor entity which are non-existent.

- To over come those rulings, it is proposed that where an amalgamation/ merger/ demerger took place, in the notice is issued for assessment/ re-assessment/ other proceedings in the hands of predecessor during the pendency of reorganization, the said proceedings would be deemed to have been made on the successor entity.

Our Comments : This amendment only cure existing notices that are issued before order of relevant court/NCLT for reorganization and does not cure notice issued on predecessor entity post the order of reorganization received by Pr. Commissioner or Commissioner.

Transaction tax

- **Amendment in the definition of "slump sale":**
  - Vide the Finance Act 2021, "slump sale" definition was amended to expand its scope to cover all forms of transfer (such as slump exchange, etc.). However, reference to the word "sales" was still inadvertently present in the definition. To rectify the same, the word "sales" is replaced with the word "transfer" w.e.f. 1st April 2021.
- **Reduction of goodwill from block of assets is transfer**
  - Clarificatory amendment is brought in Section 50 w.e.f. 1st April 2021 to provide that reduction of goodwill from the block of assets shall be deemed to be a transfer i.e.., where there is no asset in the block or value of block becomes nil. This amendment introduced is in line with Rule 8AC.
- **Set off of losses in case of strategic disinvestment of public sector undertakings**
  - Losses shall be allowed to be carried forward by an erstwhile public sector company if the **ultimate holding company** of such company, immediately after the completion of strategic disinvestment, **continues to hold either directly or through its subsidiary or subsidiaries, at least 51% of the voting power** in aggregate.
  - If the above condition is not complied with in any previous year after the completion of strategic disinvestment, then provisions of Section 79 will apply for such previous year and subsequent years.
  - It is to be noted that the words used in the provisions is "ultimate holding company" and not beneficial holding.

Litigation

Faceless Assessment – Sec 144B

- As part of transparency and international practices, the GOI had moved away from the physical interface of the taxpayers and tax authorities for the purpose of carrying out assessment and appeals. While the intention to move to a faceless regime was applauded, but the assessment concluded under the regime were challenged through Writs across High Courts. Various High Courts had quashed many of the assessment orders, which are not in conformity with the scheme or the principles of natural justice. Further, the Constitutionality of the Scheme was challenged before the Madras and Kerela High Court on various grounds.

- The faceless appeal scheme was also challenged before the Bombay High Court and before the Apex Court, the GoI had submitted that they are in the process of revisiting some of the aspects of the appeal scheme and the revised appeal scheme was recently issued (28 Dec 2021) by the CBDT, which removed various anomalies. In line with the appeal scheme finance bill had amended assessment provisions

- NeAC is only an interface between the taxpayers and various Units (AU,VU,TU,RU) Concept of ReAC is completely removed
- Concept of revised draft assessment order, final draft assessment order is removed
- AU shall prepare income or loss determination in writing and in case of variation issue a show cause notice through NeAC
- NeAC based on automated allocation send the draft order to Review Unit
- AU can accept or reject some or all of the modifications proposed and record reasons
- AU can request for assistance from VU, TU etc. through NeAC
- Mandatory Personal hearing, if taxpayer as requested – DHC in ***Bharat Aluminum (W.P 14528/2011)*** addressed
- Best Judge or Reassessment is brought under 144B. Directions u/s. 142(1) shall be issued by PCIT. Also, provision for special audit is introduced.
- Order shall not be treated as non-est in case it is passed not in conformity the section

Income Escaping Assessment (1/3)

Amendment under Section 148A of the IT Act

- The scheme of income escaping assessment ('re-assessment') as introduced vide Finance Act, 2021 requires prior approval (1 under Sec 148 and 3 under 148A) of the prescribed authority at various stages. Amendment were proposed to remove the following approvals:
  - ***148A(b) – Provide opportunity of being heard to the assessee***
  - ***148 – No approval is required issue notice u/s. 148 in case an approval is already obtained under 148A(d)***
- Exceptions have been provided where procedure under Section 148A shall not be followed. Amendment to expand such exception to Information collected under Section 135A of IT Act (e-verification scheme).

Amendment under Section 148 of the IT Act

- The AO can issue notice under Section 148 for escapement of income which can be based on information available with him. The information shall be either from risk management strategy formulated by board or any final objection raised by Comptroller and Auditor General of India (C&AG). ***The scope of 'information' is proposed to be widened to include <u>any</u> audit objection, information received under tax information exchange agreement (TIEA), e-verification scheme (for calling for/ collection of information, etc..,) and the matters that requires action in consequence of the order of Tribunal or a Court.*** Further, the word 'flagged' is also omitted under risk management strategy.

Income Escaping Assessment (2/3)

Our Comments : Various courts have held that re-assessment cannot be initiated based on audit objections in the context of erstwhile scheme of re-assessment. The new scheme of re-assessment provided that re-assessment can be resorted to for final objection raised by C&AG. While this itself is a departure from the judicial precedence, the proposed amendment of 'any audit objection' still widens the scope of re-assessment to a large extent.

Further, the scope of re-assessment under 'any information which requires action in consequence of the order of Tribunal or a Court' appears ambiguous and is capable for a very wide interpretation.

The increase in the scope of re-assessment results in prolonged uncertainty in tax matters and does not appear to be in line with the policies of the Government on promoting trust-based governance and litigation management.

- Explanation 2 provides that the assessing officer is deemed to possess 'information' which suggest income escaped for 3 preceding years relevant to AY for issuance of 148 notice in cases of search, seizure, survey proceedings in specific scenarios were conducted. ***The scope of the same proposed to be expanded by inclusion of survey conducted pursuant to any function, ceremony or event. However, the period for which the information which suggest that escapement of income shall be reduced to one year i.e.. the relevant AY and not applicable to earlier three years.***

Income Escaping Assessment (3/3)

Increase of timeline for reassessment beyond 3 years upto 10 years in specific circumstances

- Hither to the Section 149(1)(b) provides that notice under Section 148 can be issued beyond 3 years and upto 10 years from the end of relevant AY, only where the AO possesses evidence that income escaped assessment for Rs. 50 lakhs or more is **represented in the form of an asset**.

- Amendment were proposed to expand Section 149(1)(b) to include the Rs. 50 lakhs or more limits to
  - (i) expenditure in respect of transaction or in relation to an event or occasion
  - (ii) an entry or entries are found in the books of account

  Further, if the expenditure incurred relates to more than one AY, notice under issuance of separate notices under Section 148 for each of such AY is proposed.

Our Comments : Introduction of expenditure or entry-based limits within the monetary limit of INR 50 Lakhs with an enhanced timeline on 10 years coupled with other amendments in Section 148 will increase the scope of reopening. This is not line with the object behind revamping of entire Reassessment procedure made in the earlier budget.

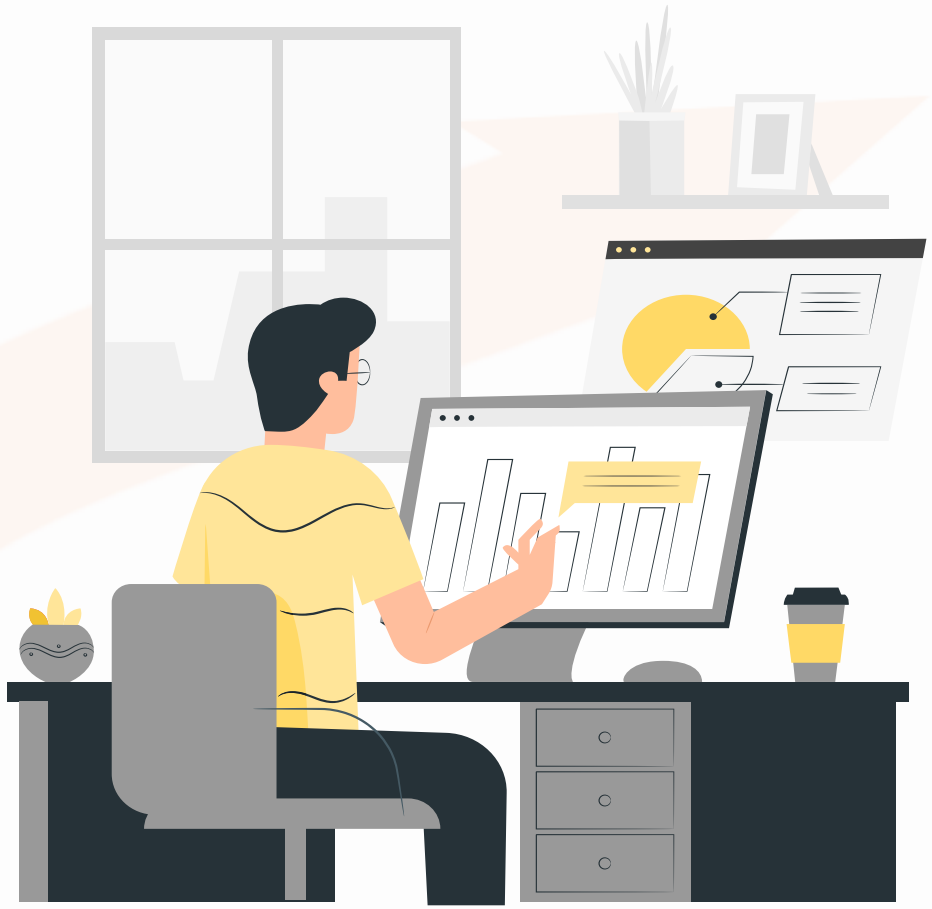
- It was provided that the time limit for issuance of notice for AY 2021-22 or earlier AYs would be governed by erstwhile Section 149. ***Similar provision is proposed for issuance of notice under Section 153A (assessment in case of search or requisition) and 153C (assessment for income of any other person) as well***

Income-Tax Assessments (1/3)

Assessment/ re-assessment/ re-computation in Search proceedings

- The scheme of assessment and re-assessment were revised vide Finance Act, 2021 and the assessment / re-assessment for search cases were to be made under Section 143(3), 144 or 148, as the case may be. However, the provisions relating to application of seized assets or return of books of account or other documents seized inadvertently has reference to erstwhile Sections dealing with assessment in search cases. The same has been corrected now.

- It is proposed that the assessment/ re-assessment/ re-computation order in case of search/ seizure/ survey proceedings shall be passed only by assessing officer with the rank of Joint Commissioner or higher ranks.



Assessment Order in conformity with the directions of Dispute Resolution Committee (DRC)

- Where DRC has issued the order, it shall be binding on the AO to pass assessment/ re-assessment/ re-computation order in conformity with such directions within one month of receipt of the DRC's order.

Income-Tax Assessments (2/3)

Fresh Transfer Pricing Assessment in case of set-aside/ cancelled assessments

- A time limit of 9 months from the end of the FY in which the order setting-aside/ cancelling the assessment is provided for fresh-assessments in cases where the assessment order was set-aside/ cancelled by ITAT/ PCIT/ CIT.
- It is proposed that the said timeline would apply even for Transfer Pricing Order u/s 92CA, where TP Order was set-aside/ cancelled. This is to give effect to amendment made under Section 263 of IT Act.

Timelines for TP Order giving effect & Assessment Order in conformity with TP Order giving effect

- A timeline of 3 months have been provided to the AO for passing giving-effect order for appellate/ revisionary orders. **It is proposed that the said timeline would apply even for a TPO for giving effect to TP Orders.**
- It is proposed that the assessment/ reassessment/ re-computation order in conformity with TP Order giving effect to revisionary order has been passed and forwarded to the AO shall be passed within two months from the end of the month in which TP Order is received by the AO.

Income-Tax Assessments (3/3)

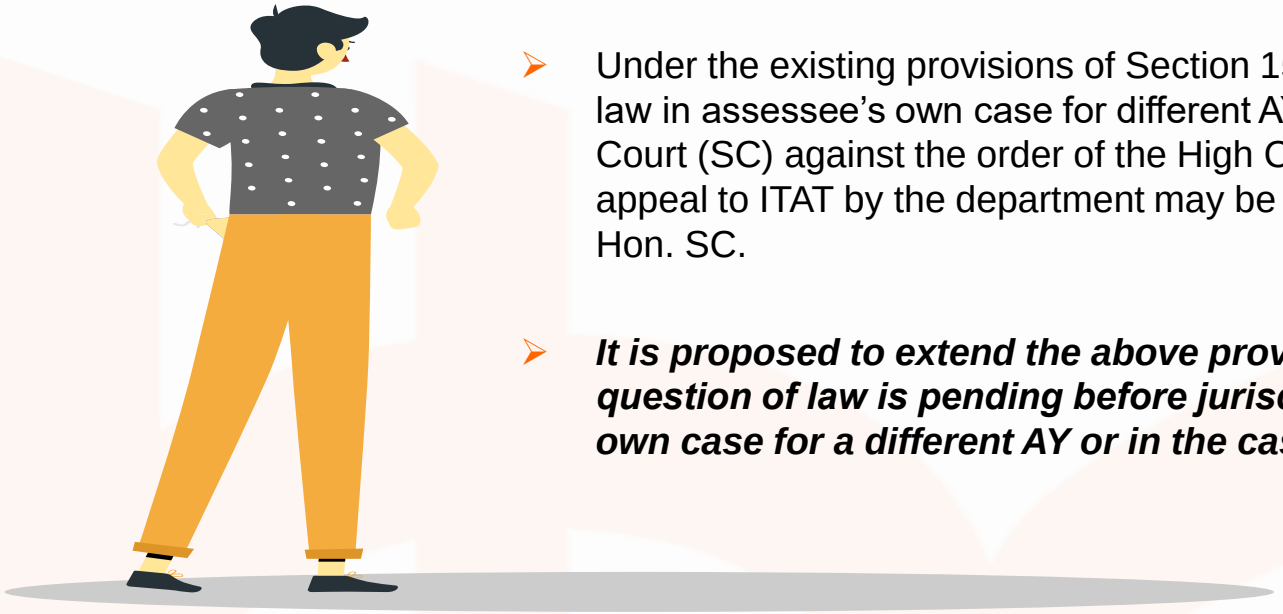
Period to be excluded in computing the period of limitation

- The period (not exceeding 182 days) from the date of commencing the search/ seizure proceedings to the date of hand over of the seized articles to the jurisdictional AO shall be excluded in computing period of limitation of assessment pursuant to search/ seizure proceedings.

Revision of notice of demand for assessee pursuant to Insolvency and Bankruptcy Code, 2016 (IBC)

- It is proposed to provide for revision of notice of demand pursuant to reduction of demand in accordance with the order of adjudicating authority or appellate authorities under IBC.

Measures to reduce repetitive appeal



- Under the existing provisions of Section 158AA of the Act, where identical question of law in assessee's own case for different AY was pending before Honourable Supreme Court (SC) against the order of the High Court favourable to the assessee, the filing of appeal to ITAT by the department may be deferred till the disposal of the appeal by the Hon. SC.

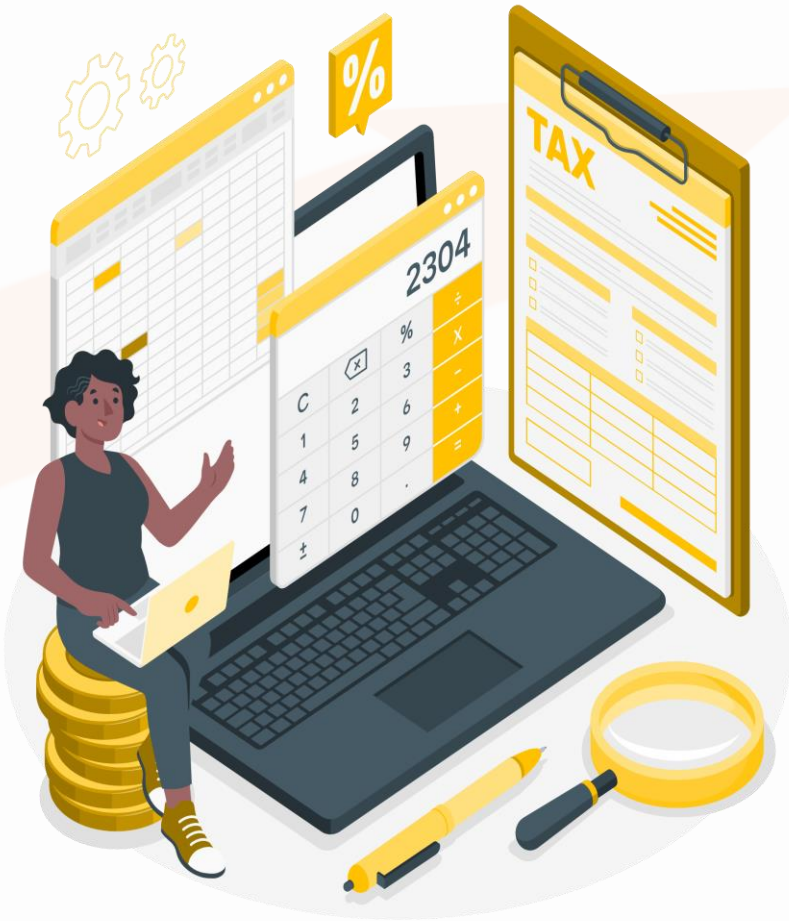
- ***It is proposed to extend the above provision to the cases where identical question of law is pending before jurisdictional High Court (HC) in assessee's own case for a different AY or in the case of any other assessee for any AY.***

Our Comments : It is noted that the scope of this provision has been significantly enhanced to include identical q**uestion of law pending before Jurisdictional HC** even **in the case of any other assessee**. This is a welcome step to avoid number of appeals being filed in respect of same/ identical question of law, and is expected to result in saving of time, efforts and cost of litigations for the taxpayers and the tax administration.

Effective implementation of this provision and timely actions on the same would be the key for the success of this initiative.

Refund of TDS grossed-up

- Where the deductor has borne the TDS and remitted the same to the credit of the government, whereas tax was not required to be deducted on the income, may file an application for refund with the AO within a period of 30 days of payment of tax.
- The Assessing officer shall pass an order in writing within 6 months from the end of the month of receipt of application.
- Opportunity of being heard to be provided by the AO, if he proposes to reject the application.
- Assessing Officer also has powers to conduct necessary inquiries in connection with such application.
- Appeal could be filed with CIT(A) against the said order passed by the AO
- Earlier provision of filing an appeal with CIT(A) for refund of grossed up TDS u/s. 248 is repealed on account of the introduction of the above provisions.



Other amendments (1/3)

Enhancement of Scope of revision by CIT

- Tribunals have held that the CIT cannot revise a final order passed u/s. 144C, because the final orders are passed pursuant to the DRP (3 member CIT) who are superiors to Commissioner under Sec. 263. Further, Sec. 92CA also provides that the AO has to pass an assessment order in-line with the order of the TPO. Owing to this the Commissioner were not empowered to revise the TP Order.

- ***To over come the above, revision powers of the Commissioner were also extended to TP Orders***.

Powers of Central Government to frame a faceless scheme for Transfer Pricing (TP) Assessments, Dispute Resolution Panel (DRP) and Income Tax Appellate Tribunal (ITAT)

- Central Government was empowered to frame a faceless scheme for TP Assessments, DRP and ITAT on or before 31 March 2022/ 31 March 2023. **The said timeline is now proposed to be extended till 31 March 2024.**

'Income-tax authority' empowered to conduct/ exercise powers relating to survey

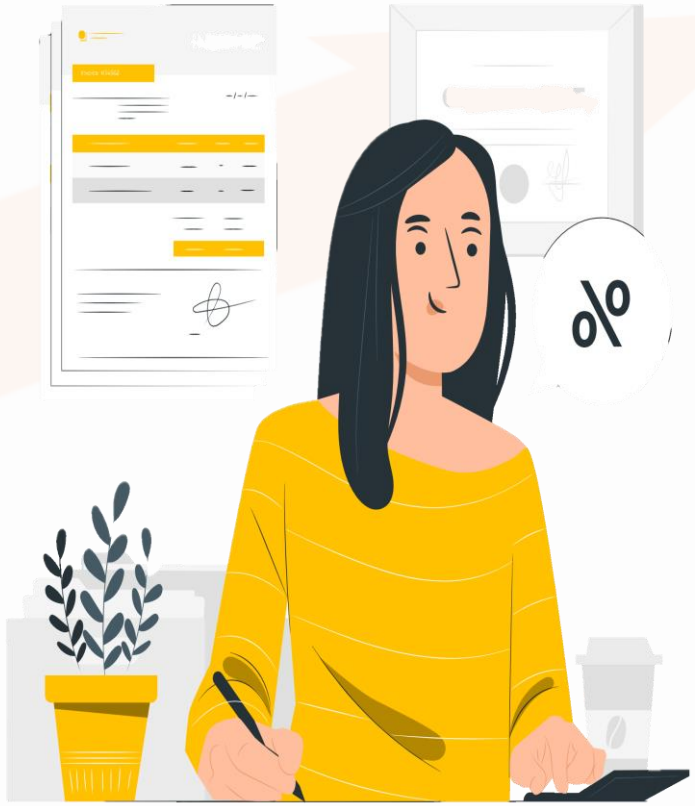
- The powers relating to conduct/ exercise powers relating to survey are proposed to be extended to any income-tax authority who is sub-ordinate to Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner, as the case may be, specified by the Board.

Other amendments (2/3)

Interest under Section 201(1A)/ 206C(6A)

- It is proposed that where an order is made u/s 201(1)/ 206C, interest shall be payable in accordance with such order.

Our Comments : Interest is ought to be computed in accordance with the provisions of 201(1A) / 206C(6A) in any order made u/s 201(1)/ 206C. However, the proposed amendment that the interest shall be in accordance with the order appears to confer unbridled powers to the AO making the order to compute the interest.



Powers of Central Board of Direct Taxes ('CBDT') to provide relaxation from fee u/s 234F

- Section 119 empowers CBDT to provide relaxation from compliances, procedures, interest, fee and penalties prescribed under various Sections of the Act. It is proposed to extend such powers of CBDT to provide relaxation from fee for delay in filing of return of income under 234F.

Other amendments (3/3)

Penalties and Prosecution

- The powers to levy penalties in the below cases are proposed to be extended to the CIT(A).
  - where search proceedings have been initiated
  - Undisclosed income
  - False entry etc.. in the books of account.

- Section 276BB prescribes for prosecution proceedings in case of failure to pay the tax collected at source to the credit of the Central Government. ***Amendments are proposed to Section 278AA that prosecution under Section 276BB should not apply if there was a reasonable cause for the failure.***

Anti-avoidance measures

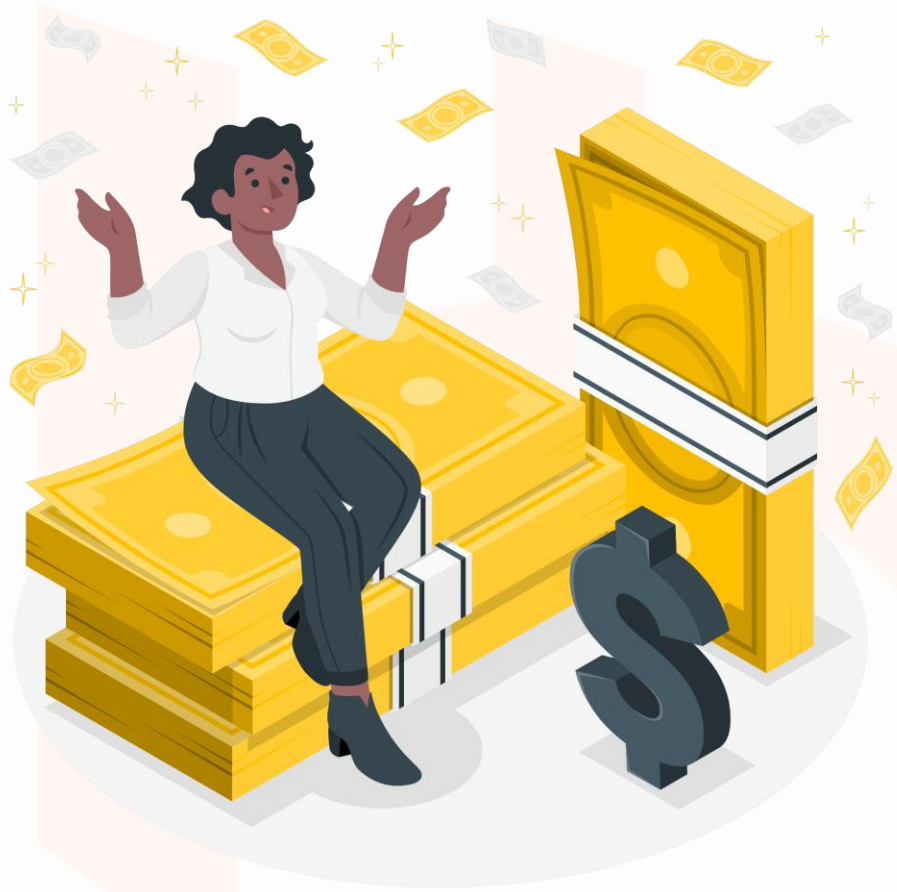
Bonus & dividend stripping

- A plain reading of Section 94(8) suggested that “bonus stripping” provisions were applicable only to “units” and not to “securities” and that it excluded notional loss incurred by taxpayers through purchase of bonus securities and immediate disposal after the allotment of bonus shares. **Provisions of bonus stripping will now be applicable to securities** as well w.e.f. 1st April 2022.

- This amendment will overrule the rulings of Bangalore ITAT in the case of B.G. Mahesh [2014] (43 taxmann.com 158) and Pune ITAT in the case of Adar Poonawalla (ITA No.2252/PUN/2014) which were in favor of taxpayers who had capital loss from transfer of shares.

- Further, the provisions of Section 94(7) & (8) are proposed to be expanded to **include bonus stripping and dividend stripping arising on account of units issued by Investment Trusts (InvIT), Real Estate Investment Trust (REIT) and Alternative Investment Fund (AIF)**.

Unexplained cash credits



- Section 68 was introduced to combat routing of black money. In FA 2012 in respect of share capital, premium or application money received by a closely held company, the proviso created an obligation that the source of funds in the hands of shareholder to be provided.
- The onus on explaining the source of funds is not applicable in case of loans and borrowings.
- To overcome the same, section 68 provides that any credit in the books of the assessee in respect of which assessee does not offer explanation about the nature and source, or the explanation offered is not satisfactory in the opinion of the AO, such sum may be charged to tax as income.
- The provisions shall not apply if the creditor if they are well regulated i.e. Venture capital fund, venture capital registered with SEBI

Restriction on set off of losses against undisclosed income

- Any brought forward loss or unabsorbed depreciation, or current year's loss cannot be set off against undisclosed income included in the total income pursuant to search, requisition, seizure, survey (other than survey by the income-tax authorities for the purpose of verification of TDS & TCS Compliances) proceedings.

- "Undisclosed income" has been defined as:

  - income represented by money, jewellery, other valuable article or thing

    entry in the books of account or other documents or transactions found in the course of search, seizure or survey proceedings -

    (a) which have not been recorded on or before the date of search or requisition or survey in the books of other documents maintained in the normal course

    (b) which have not been disclosed to the Pr CIT/ CC / PC / CIT before the date of search or requisition or survey

  - Income of the PY represented by any entry in respect of expense recorded in the books of account or other documents maintained in the normal course relating to the PY, which is found to be false and which would not have been found so, in the absence of search, requisition, seizure, survey proceedings.

Compliance

Updated Return of Income (1/2)

- An opportunity has been afforded for assessee who have not filed return of income or has filed a return of income but has not offered any income to tax or has short-paid the tax to furnish an updated return of income within 24 months from the end of relevant AY.

- Additional income-tax would be payable as follows:

When is updated return furnished	Additional income-tax
Before 12 months from the end of relevant AY	25% of net tax and interest payable
After expiry of 12 months from the relevant AY (but before the end of 24 months)	50% of net tax and interest payable

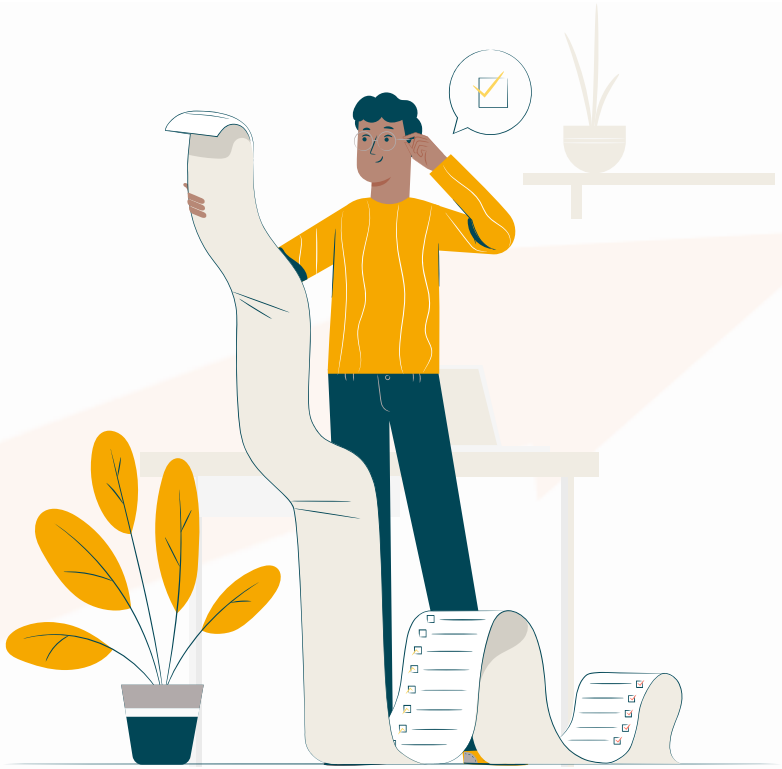
- An updated ROI cannot be filed, if it result in a favourable position (i.e... reduction in income, increase in losses, reduction in tax payable or increase in refund of taxes).

- Further, the assessee would not be eligible to furnish updated return of income:
  - if search/ survey proceedings have been initiated for the relevant AY and two preceding AYs
  - if updated return of income for the relevant AY has already been furnished
  - assessment/ re-assessment/ re-computation / revision proceeding is pending or has been completed for the relevant AY (cntd..)

Updated Return of Income (2/2)

- the assessee has received notice regarding information with AO under various criminal laws
- the assessee has received notice regarding information with AO received from foreign country based on tax information exchange agreements (TIEA)
- Proceedings for offences / prosecution under the Income Tax Act has been initiated for relevant AY.

- A time limit of 9 months from the end of the FY in which updated return was filed is proposed for completion of assessment, where updated return of income was filed.



Our Comments : While the intent of the introduction of these provisions are said to be for promoting voluntary compliance and reducing the litigations, the bar on taxpayers to file updated return in case an assessment is already pending will dilute the eligibility of the taxpayers given the fact that the timeline for issuance of notice and completion of assessment is already reduced to 3 and 9 months, respectively.

TDS on benefits to resident carrying business/ profession

- Chapter XVII-B of the Act covering the TDS provisions has been further widened to include Section 194R for deduction of taxes on benefit/ perquisite provided by any person to a resident carrying business/ profession.

- The following are the conditions and applicability of **Section 194R:**

  - The benefit/ perquisite extended to a resident, convertible to money or not and **arising from business or profession** exercised by such resident.
  - The onus to deduct the tax is on the **person providing** the benefit/ perquisite.
  - The total sales/ gross receipts/ turnover from the business or profession carried on by him **exceeds Rs. 1 crore or Rs. 50 lakhs,** respectively during the **preceding FY.**
  - **Threshold** - **aggregate value more than Rs. 20,000** during a financial year.
  - Tax shall be deducted at the **rate of 10%** of value of such benefit or perquisite.
  - Time of deduction shall be **before providing such benefit/ perquisite**.
  - For benefit/ perquisite in kind, or partly in cash and partly in kind, the provider shall ensure that the taxes has been paid before releasing the benefit/perquisite –

Practical Challenges:

- In case of benefit/ perquisite made in Kind or partly in cash and partly in kind:
  - Who shall be responsible to payment of tax - recipient or payer?
  - In case of TDS, the remittance is 7th of next month from payer perspective and in case of recipient, advance tax is payable quarterly – The requirement of taxes being paid before releasing the benefit is departure for this

Rationalization of provisions for non-filers

- The Finance Act 2021 had introduced higher rates of TDS/ TCS for persons who have not filed the return of income for the previous two years where time limit for filing such return under Section 139(1) of the Act has expired and aggregate TDS and TCS in his case is >= Rs. 50,000 in each of these two previous years.

- In order to ensure that all persons in whose case significant amount of tax has been deducted, do furnish their income, it is proposed in Finance Bill 2022 to **reduce the time period from 2 years to 1 year.**

- Hence with effect from 01 April 2022, even if the Return of income has not been furnished for a year and if the conditions prescribed under the said section is satisfied then the higher rate of TDS/ TCS shall be applicable.

- However, in order to reduce the additional burden on individual and HUF, taxpayers covered under Section 194-IA, 194-IB and 194M are excluded from the ambit of Section 206AB.

Withholding Tax on Immovable Property

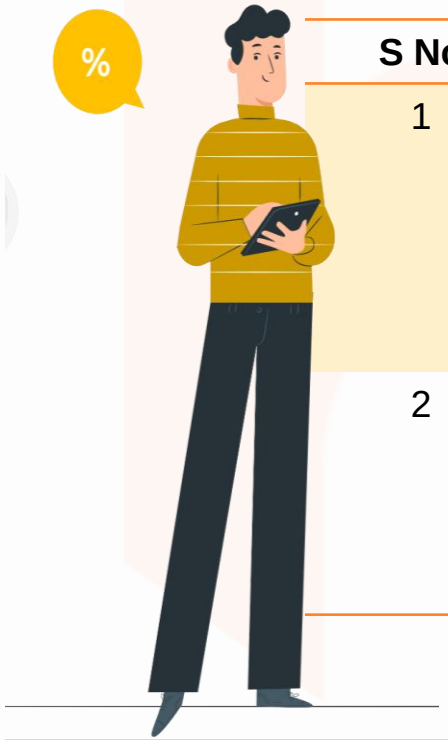
- TDS on payment for transfer of immovable property to a resident transferor is subject to TDS at the rate of **1% of the consideration of transfer**. Whereas, under section 50C/ 43CA of the Act provides the computation of PGBP or capital gain take into consideration of stamp duty value, if the same is higher.
- Provision of safe harbour under 43CA and 50C is not provided for in 194-IA
- In order to curb the inconsistency between Section 194-IA and Section 50C/43CA, the finance Bill 2022 proposes to modify **section 194-IA** to deduct taxes on higher of the following amount upon transfer of immovable property:
  - consideration of transfer
  - the stamp duty value.

Non-Profit Organisation

Rationalization of provisions of charitable trust (1/4)

- Generally, the income of any charitable trust or fund or institution is exempt from tax either under section 10(23C) or under section 12AA / 12AB, subject to fulfilment of conditions provided under the respective sections. However, the operational mechanism of both these regimes were different and in order to align the same, various amendments have been proposed in the Finance Bill 2022.

- The aforesaid amendments, which are discussed in the subsequent part of this deck, would mean amendments under both the exemption regime, i.e.., section 10(23C) and section 12AA / 12AB unless specifically provided and any reference to trusts would mean reference to institutions as well.



S No	Particulars	Amendment	Effective from
1	Corpus donation	It is proposed to provide that contribution received by a trust for the purpose of **renovation or repair of specified property** may optionally be treated as **corpus donation**, subject to satisfaction of prescribed conditions. Any violation of the conditions will result in taxability of such donation as income in the year of violation	AY 2021-22
2	Application of income to be considered on actual payment (Sub	Irrespective of the method of accounting adopted by the Trust, the application of income shall be allowed only on actual payment. Further, it is also clarified that any sum claimed as application in one year cannot be claimed as application in any subsequent year.	AY 2022-23

Rationalization of provisions of charitable trust (2/4)

S No	Particulars	Amendment	Effective from
3	Maintenance of books of accounts	The Trust has to maintain the **books of account and other documents** in the prescribed manner without considering any basic exemption limit.	AY 2023-24
4	Cancellation or refusing of cancellation of registration of trust	Cancellation of registration of trusts by **specifically providing the instances, procedure and timeline** where the Principal Commissioner or the Commissioner shall call for documents or information from the trust or institution to satisfy himself about the occurrence of any **specified violation** and accordingly pass an order. The term 'specified violation' is also clarified. The assessing officer can also make recommendation for cancellation.	AY 2022-23

Rationalization of provisions of charitable trust (3/4)

S No	Particulars	Amendment	Effective from
5	Accumulation provisions	Accumulation of unpent amount available for trust is also extended to institution registered u/s. 10(23C)	AY 2023-24
6	Taxability of unspent accumulated amount	If a trust accumulates the income that falls short of the minimum application and **subsequently violates the specified conditions**, then such accumulation shall be deemed to be income of the year in which such violation takes place.	AY 2023-24
7	ROI	Institution must file ROI to avail exemption u/s. 10(23C)	AY 2023-24
8	Commercial profits	That portion of commercial profits will be taxed on net basis without allowing capital expenditure	AY 2023-24

Rationalization of provisions of charitable trust (4/4)

S No	Particulars	Amendment	Effective from
8	Computation of income in case of violation	The specified income (violated portion of income) will be taxed at the rate of 30% without allowing any deductions or set-off of loss u/s. 115BBI	AY 2023-24
9	Exit Tax	Exit Tax provisions are also extended to Section 10(23C)	AY 2023-24
10	Penalty	It is proposed to introduce **Section 271AAE** in the Act which would levy penalty on the trusts for passing on **unreasonable benefits**, directly or indirectly, to the trustee or other specified person. The levy of penalty would be equal to **100%** of the income applied for such benefit in case of first instance in a previous year and **200%** of the income applied for such benefit in case of violation in a subsequent year.	AY 2023-24

Our Comments :

- Majority of the aforesaid amendments are in the nature of rationalizing the provisions between both the exemption regimes and hence would provide more clarity in the operational mechanism.
- Introduction of a new taxation scheme, which would tax only that part of income which involves violation, is a welcome move as there was lack of clarity in relation to the same and many trusts were denied the exemption in entirety.
- Bringing in of a new penal provision, in cases where trusts pass on unreasonable benefits, would now ensure that the trust applies the income for the specified objects

Personal tax

Personal tax – COVID relief measures

- Section 17(2) of the IT Act provides the definition of perquisites which shall be taxable in the hands of employees. As part of a relief measure, this section is proposed to be amended stating that if any sum paid by **employer** in respect of actual expenditure incurred by employee **on medical treatment relating to COVID-19 illness of self or any of his family member**, subject to certain conditions, the said amount **shall not be taxable as perquisite**.

- Section 56(2)(x) of the IT Act provides that any amount received by any individual from any person with respect to actual medical treatment on account of COVID-19 illness of self or any of his family member is not taxable as gift.

- Further, under Section 56(2)(x) of IT Act, it has also been proposed to include that any amount received by family member of deceased individual from the following person where the cause of death is due to COVID-19, shall also not be taxable, if such amount is received within 12 months from the date of death of such person:

  - Employer of deceased individual (without limit), or
  - Any other persons to the extent of Rs. 10,00,000 in aggregate.

- The above amendment shall be effective from 1st April 2020.

Personal tax – Other amendments

Releasing of annuity to disabled person

- Section 80DD of the IT Act is proposed to be amended to allow deduction in the hands of resident individual or HUF ('Assessee') even where the annuity / lump sum amount is received with respect to a policy taken for disabled dependent during the lifetime of such assessee, provided such assessee attains the age of 60 years or more.
- Further, such annuity / lump sum amount received by disabled dependent before the death of assessee shall not be chargeable to tax.
- The above amendment shall be effective from 1st April 2023.

NPS incentive for State Government employees

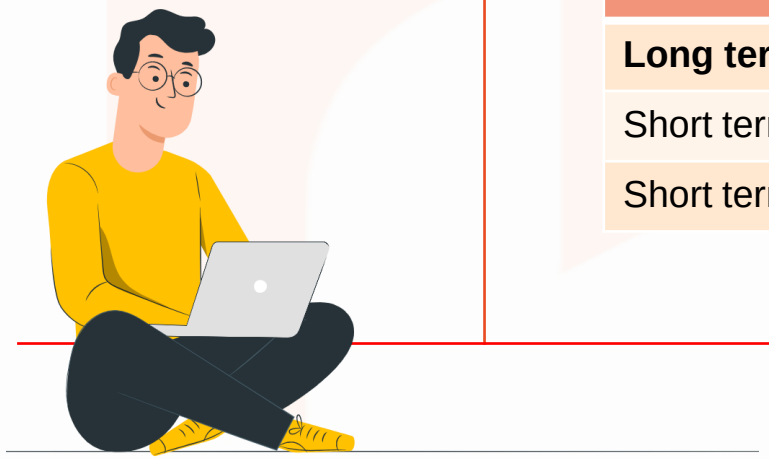
- Deduction under Section 80CCD of IT Act for employer's contribution to pension scheme in case of state government employees has been increased from 10% to 14%, at par with Central government employees.
- The above amendment shall be effective from 1st April 2020.

Rates of taxes

Rates of taxes (1/2)

Particulars	Amendment
Individual, HUF	➢ No change in slab rates.
Surcharge on LTCG	➢ The maximum surcharge for Long term capital gains ('LTCG') except for listed shares were earlier subject upto 37% of the tax amount for individuals/ private trusts/ HUFs. However, the Finance Bill 2022 now proposes to reduce the same to a maximum cap of 15%. ➢ However, the surcharge rates on short term capital gains (other than arising under Section 111A) shall continue to be charged based on the erstwhile provisions i.e.., can be charged as high as 37%. ➢ The maximum surcharge under the following nature of capital gain shall be as follows:

Nature of capital gain	Max Surcharge
Long term Capital gain on sale of any capital asset	**15%**
Short term Capital gain on sale of shares u/s 111A	15%
Short term Capital gain on sale of any other assets	37%



Rates of taxes (2/2)

Particulars	Amendments
Co-operative society	➢ Surcharge has been relaxed to 7% of tax amount as against 12% earlier, for the cooperative societies having total income during the year exceeding Rs. 1 crore upto Rs. 10 crores. ➢ Marginal relief has also been granted for such surcharge. . ➢ **Note:** There is no change in the following rates: ➢ i) Income tax slabs and rates ➢ ii) Rate of surcharge for total income in excess of Rs. 10 crores (12% surcharge) ➢ Further, the Alternate Minimum Tax for cooperative societies in par to the companies has been reduced to 15% as against 18.5% earlier. ➢ Alternatively, a co-operative society resident in India can opt to pay tax at the rate of 22 per cent. as per the provisions of section 115BAD. Surcharge would be capped at 10% on such tax.
AOP with Corporate members	➢ The Finance Bill, 2022 has proposed to introduce a cap of 15% on surcharge on rates applicable to Association of Persons (“AOP”) with only companies as members (i.e.., in case of a consortium arrangement).
Other taxpayers	➢ **For Corporates** -The base year for computation of turnover limit of Rs. 400 crores in order to be taxed at 25% under normal tax regime has been modified from FY 2019-20 to FY 2020-21. ➢ No change in base tax rates for others i.e.. for firms / LLP.

Indirect tax

Additional Condition on availing Input Tax Credit

Powers given to department to restrict ITC on invoices in GSTR 2B upon default by supplier

- Section 16(2) was recently amendment w.e.f. 1 Jan 2022 wherein ITC shall be available to recipient only when same has been declared and communicated by the supplier in his GSTR-1 returns and appearing in GSTR 2B.

- In addition to the above new clause (ba) to section 16(2) has been introduced whereby the ITC can be availed only for invoices which **has not been restricted in the details** communicated under Section 38.

- Thus, a new concept of restricted credit distinct from unmatched credits u/s 16(2)(aa) or Blocked Credit u/s 17(5) has been introduced.

- The credit may be restricted by the department for the reasons as listed in Section 38(2)(b), which is as follows:

  - ✓ Inward supplies from a registered period within prescribed period from taking new registration.
  - ✓ Invoices from Supplier who has defaulted in payment of tax beyond a prescribed period.
  - ✓ Supplier whose output tax payable as per GSTR-1 exceeds output tax liability paid through GSTR 3B by a prescribed limit.
  - ✓ Supplier whose ITC availed in GSTR 3B exceeds unrestricted credit availed in GSTR 2B by a prescribed limit.
  - ✓ Supplier whose proportion of output tax discharged through ITC exceeds the prescribed limit under newly inserted Section 49(12).
  - ✓ Supplies from such other class of persons as may be prescribed.

Our comments: Additional reconciliation and vendor engagement process would be required for availing ITC, especially in the absence of any visibility regarding the supplier's mechanism of availing ITC

Relaxation in Timelines

There is marginal relaxation in timeline for availing Input tax Credit, making amendment in returns and issuance of credit as given below:

Particulars	Relevant Section	Old time limit	New Time limit
Availment of Input tax Credit	Section 16(4)	Due date for filling GSTR 3B for the month of September of following year	**30 November of next financial year**
Rectification or omission in GSTR1 for the F.Y	First proviso of Section 37(3)	Due date for filling GSTR 1 for the month of September of the following year	
Rectification or omission in GSTR 3B for the F.Y	Proviso of Section 39(9)	Due date for filling GSTR 3B for the September of following year	
Issuing Credit note	Section 34(2)	30 September of next financial year	**30 November of next financial year**

Our comments: Additional time is provided to avail ITC in GSTR 3B and make amendment in GSTR 1 returns. However, the returns in which the ITC is availed, or amendment is carried would have to filed on or before 30 November of next financial year, irrespective of tax period. Due date has been linked from due date of filing of returns to a cut off date, giving more clarity to tax-payers.

Concept of Provisional ITC is Removed

Concept of Input tax credit availment on self assessment basis shall be final

- **The Concept of provisional ITC has been removed from Section 41** and is substituted by new Section 41. The said amendment has following implication;
  - The Input tax credit availed in the GSTR 3B as self assessed shall be considered as final credit.
  - It the tax on the ITC availed is not paid by the supplier, then the recipient have to **reverse input tax credit along with interest,** in the prescribed manner.
  - The recipient will be allowed re-avail such input tax credit, upon payment of outward tax liability by the supplier.
- **Omission of Sections relating to Matching Concept** Due to removal of provisional ITC availment in Section 41 and amendment in Section 16(2)(a), matching, reversal, reclaiming of Input Tax Credit as provided in Section 42, 43 and 43A has been omitted.

Our comments:

- Tax-payer will have additional burden of verification of tax payment by the supplier for availment of Input tax credit and would have to pay interest for delay in payment of tax by vendors as well. The government on the other hand, will be entitled to collect interest from both supplier and recipient in case of delay in filing of returns by the supplier.
- Hopefully, the government prescribes at-least a minimum timeline of 3 months (considering the option of quarterly filing), before requiring reversal of credit.

Linkage of GSTR 1 and GSTR 3B

Only Sequential filing of returns will be allowed

Linkage of GSTR-1 and GSTR-3B

- The registered person shall not be allowed to furnish Form GSTR-1/IFF If he has not furnished GSTR-1 for previous tax period.
- Furnishing of GSTR 1 mandatory before filling of return in Form GSTR 3B for the same period.
- The taxpayer shall not be allowed to furnish FORM GSTR-1/IFF If he has not furnished FORM GSTR-3B for preceding 2 months OR preceding quarter (Quarterly filers).

Interest on ITC under Section 50(3) w.e.f. 01.07.2017

Interest on ITC wrongly availed and utilized under Section 50(3)

Upon omission of section 42 and 43 of CGST Act, the sub-section (3) of section 50 is substituted as follows and shall be effective from 01.07.2017

*"Where the input tax credit has been **wrongly availed and utilized**, the registered person shall pay **interest on such input tax credit wrongly availed and utilized**, at such rate not exceeding **twenty-four per cent**. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed.*

The rate of interest shall be 18% per annum w.e.f. 01.07.2022 rather than 24%, which was notified under the existing provisions.

Our comments: Presently, the department were insisting on payment of interest on all reversal of ITC, irrespective whether the same is utilized or not. With this amendment, it is clarified that Interest shall be payable only for reversal of ITC which is wrongly availed and utilized.

Restriction of usage of ITC

Insertion of Section 49 (12) - Power to restrict utilization of credit in certain circumstances

Section 49(4), which deals with utilization of ITC has been amended to include such restrictions as may be prescribed.

Section 49 (12) empowers government to prescribe **maximum proportion of output tax liability which may be discharged through the electronic credit ledger.**

Further, Section 49(10), which allowed transfer of any amount of tax, interest or any other amount in electronic cash ledger from tax head to another head has been amended to allow **transfer of the balance lying the electronic cash ledger of one registration to another registration of the same person,** provided there is no unpaid liability in the electronic liability ledger.

Our comments: This will help tax-payers having the excess amount lying in electronic cash ledger of one registration to another registration, rather than going through the option of seeking refund from department.

System for strict compliances

Amendment - Cancellation or Suspension of registration for Composition Taxpayer

The proper officer may cancel the registration of the taxpayer who is subject to tax under composition levy if he fails to file his annual return in GSTR 4 beyond three months from the due date of furnishing such return. Earlier, it was failure to file returns for three consecutive years.

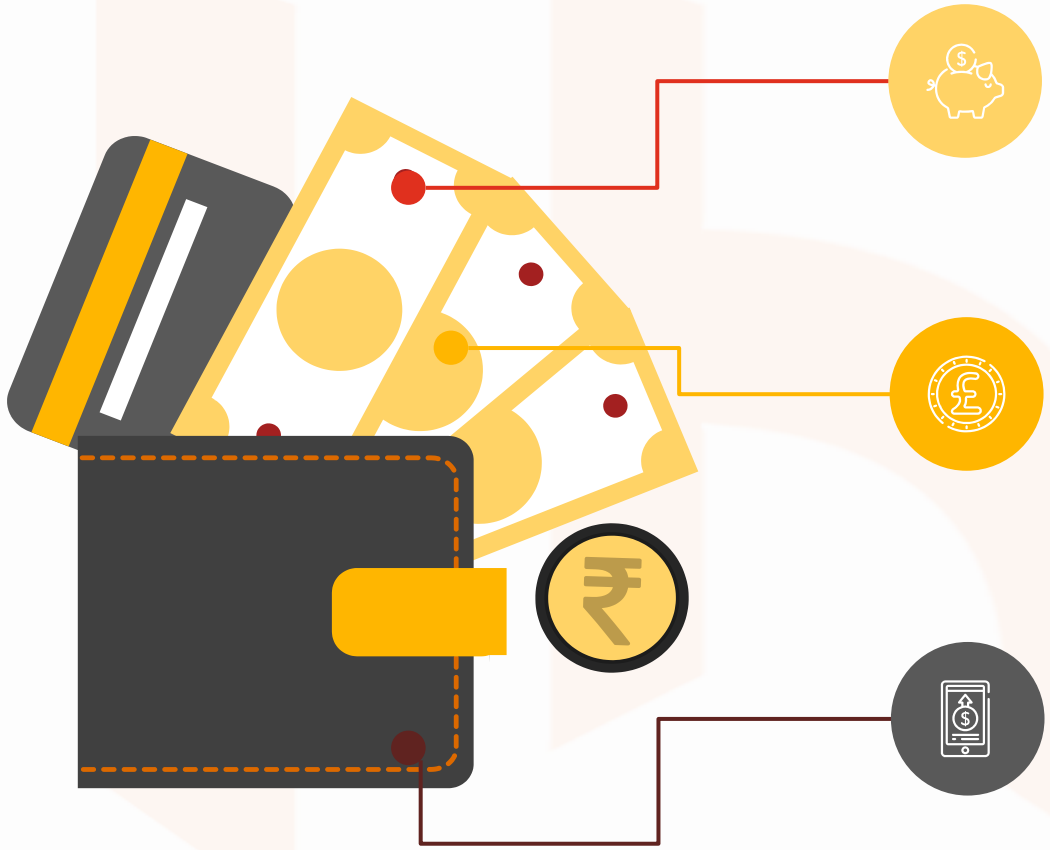
Cancellation or Suspension of registration – Other Taxpayers

Existing law empowered the officer to cancel the registration if there is failure to file returns for a continuous period of 6 months, which has been amended to the such continuous period as prescribed under rules.

Late fee for delay in TCS return

Late fee is prescribed for delay in furnishing GSTR-8, a return to be filed by the e-commerce operators who are required to deduct TCS (Tax collected at source) under GST.

Other Amendments



Alcoholic liquor licence

Notifications providing the grant of alcoholic liquor license neither a supply of goods nor a supply of service as per Section 7(2) of CGST Act, 2017 have been given retrospective effect from 01.07.2017. However, if tax has been paid, refund shall not be granted

Time limit for filling GSTR-5 return by a Non-resident taxpayer

The due date for filing GSTR-5 has been revised to thirteen days after the end of the calendar month instead of 20 days

Relevant date for refund against supplies made to SEZ units or developer

In case of zero-rated supplies to Special Economic Zone (SEZ) units or developers, the relevant date for refund shall be the due date of filing the return in respect of zero-rated supplies.

Changes in the Customs

Expansion in Class of Officers

- **Assignment of Functions**: The term 'Proper officer' u/s 2(34) is modified to cover the officers who is assigned those functions by the Board or the Principal Commissioner/ Commissioner of Customs u/s 5 of the Customs Act, 1962. Further, criteria for assigning functions or imposing limitations or conditions has been delineated.

- **Officers of DRI / Audit / Preventive to be regarded as Proper Officer**: In order to overcome the recent judgement as regards the class of officers of Customs. Amendment is brought under Section 3 of the Customs Act to include Officers of DRI, Audit and Preventive formation as the class of officers of Customs.

- Clause has been inserted to give validation to any action taken or functions performed before the date of commencement of Finance Act, 2022 under certain chapters of the Custom Act by any officers of the customs, notwithstanding anything contained in the any judgement or decree or order of court.

Additional Obligations to check menage of under Valuation

- Additional Obligations on importer to check the menace of Under Valuation - it is now provided that in respect of certain class of imported goods, where the Board has reason to believe that the value of such goods may not be declared truthfully or accurately, having regard to the trend of declared value of such goods or any other relevant criteria, then in such cases the importer would be required to undertake some additional obligations and certain additional checks to be exercised.

Changes in the Customs (1/2)

- **Rationalization of Advance Authority procedures**
  - Advance Ruling shall be valid for a period of 3 years or till there in change in law or facts. Existing Advance Ruling shall be valid for a period of 3 years from date on which the finance bill receives president asset.
- **Others**
  - Stringent provisions for Protection of Data of the taxpayer by making it a punishable offence.
  - 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.

Changes in the Customs (2/2)

Changes in Rules

- Amendment proposed in Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017 (ICGR Rules)
  - Automate entire process of submission / processing of all the application / documents electronically through a common portal including generation of IGCR Identification Number (IIN). The IIN would have to be mentioned in the Bill of Entry.
  - Standardizing of the various forms in which details are to be submitted electronically.
  - 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.
  - Changes in procedures for Re-export of unused or defective goods, sending goods for job work etc.
- Duty Concessions on specified items by Bonafide Exports.
  - 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 within a period of 6 months.
  - Importer shall be required to follow the procedure under the IGCR Rules

Changes in the Customs

- **<u>Comprehensive review of effective customs duty rate to simply customs tariff structure</u>** by moving the unconditional concessional rates from existing exemption notifications to the First Schedule of Customs Tariff Act.
  - Changes in Tariff Rate of around 414 number of items without any change in effective rate of basic customs duty (BCD). Consequently, the relevant exemption / concessional rate notification for the said items have been removed. This will be effective from 1 May 2022.
  - Changes in Tariff Rate of around 95 number of items with relevant entries in notification 50/2017 and 82/2017 (concessional rate) being omitted effective from 1 May 2022. The notification no. 82/2017 will be rescinded from 1 May 2022. This will impact Project Imports where in effective BCD rate will be 7.5% as against existing rate ranging between 0% to 5%.
  - Existing Project Import registered till 30 September 2022 will be grandfathered till 30 September 2023.
- Customs duty exemptions on certain capital goods (32 items) under notification 50/2017 are proposed to be gradually phased out.
- Customs duty exemptions on certain goods under notification 50/2017 are omitted, in addition to the rate rationalization.
- Anti dumping duty is permanently revoked on the import of Straight length bars and rods of alloy steel originating in or exported from China, High speed steel of Non-Cobalt Grade, originating in or exported from Brazil, China and Germany and Flat rolled product of steel, plated or coated with alloy of Aluminum or Zinc originating in or exported from China, Vietnam and South Korea.
- 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.

Reforms in SEZ Act

- Reforms proposed in the Customs Administration of SEZs by making it fully IT driven with a focus on higher facilitation and with only risk-based checks from Sep 2022 onwards.

- Special Economic Zone Act, 2005 shall be replaced with a new legislations to ease business operations of the entities in the SEZ.

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