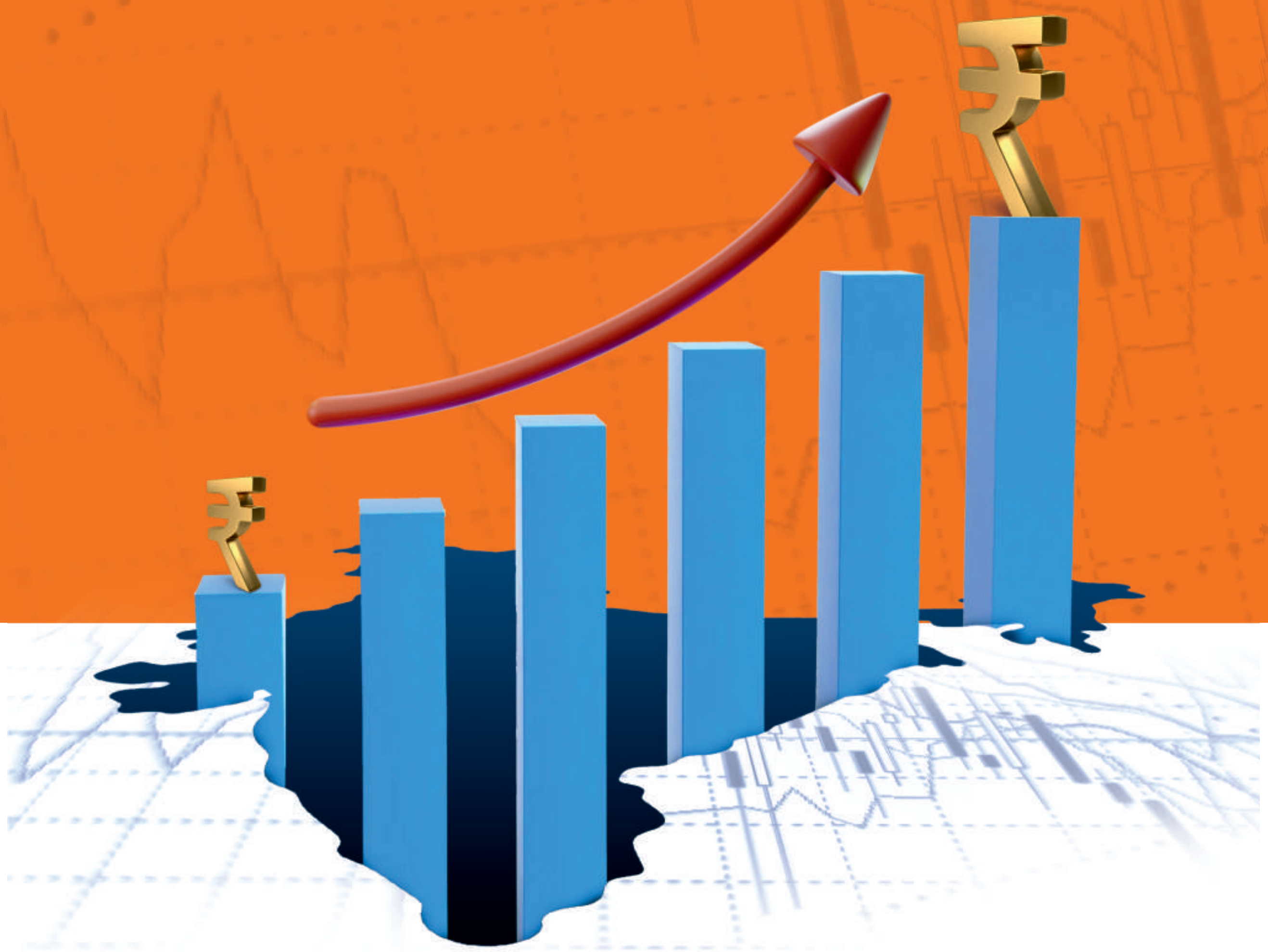
KIRTANE & PANDIT

Budget Edition July 2024

Key Direct Tax Highlights

An overview of direct tax amendments post Budget.



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8. Other Acts - Benami Property Transaction/ Black Money Act

9. Others

FOREWORD FOR DIRECT TAX PROPOSAL

Unlike the typical Budgets of yester-years, the present Budget 2024 appears, a novel one. At one hand, it has addressed some complexities like Charities taxation, and on the other hand, a clear message to the effect that, tax litigation ought to ease out. The largely successful VSV scheme has been re-launched, which can lead to the conclusion of many litigated matters (such as those arising after the decision of Honourable - apex court in the case of CHECKMATE, dealing with disallowances on account of delayed PF / ESI payments). Further, the highly popular BLOCK ASSESSMENT scheme existing till year 2003 has been re-launched, albeit with some requisite amends. A highlight of this new BLOCK ASSESSMENT scheme is, a firm tax rate of 60% coupled with complete immunity from penalties and interest. Such measures will go a long way in reaching the goal of "ease of business". Such characteristic changes make the present Budget stand out in comparison to the earlier Budgets.

A bonanza provision coming up from the Budget is the removal of Angel Taxation. Now, in yester-years, such provisions were felt necessary, perhaps in the absence of stringent provisions of Section 68 and GAAR. With these weapons available now, it was a good decision to remove Angel Taxation.

Further, a zeal for making the provisions of capital gains taxation, at par with global tax policies is also a welcome approach. Indexation of cost of acquisition was, a unique process in our country, which is not seen globally. With removal of indexation scheme, the tax rates have also been slashed. We are getting globally aligned, which is a step in the right direction.

One has to note the difficulties faced in provisions of reassessment u/s 147 of the ITA. The law on this point has reached an acutely elevated pedestal. Any tinkering with the same leads to extra multiple challenges. It appears that efforts in this area are short of expectation and contrary to the approach of pending litigation. Perhaps, much is likely to emerge from the revamped tax law, a process of which is undertaken simultaneously, and we are to expect some major changes in the next one year's time.

The decision to tax proceeds of the "Buy-back of shares" is to trigger many disputes. It is a little difficult to live with a proposition that, the cost of share capital, contributed at the first instance by a share-holder, becomes a DIVIDEND upon Buy-Back. Indeed, a strange position. Similarly, the insertion of Explanation - 3 to Section 37 leads to disallowances of expenses on regularisation charges / compounding fees. On first principles, same ought to be allowed, considering the positivity behind the same.

Moreover, it was felt that the recent judicial controversies might be reversed by way of amendments. Here are some examples -

a) Interplay between period of limitation prescribed under Sections 153 and 144C **[Roca Bathroom Products Private Limited (445 ITR 537) (Madras HC)]**
b) Document Identification Number **[Brandix Mauritius Holdings Ltd. (293 Taxman 385) (Delhi HC)]**
c) Due date to pass transfer pricing order **[Pfizer Healthcare India (P.) Ltd. (452 ITR 187) (Madras HC)]**

However, no amendments in this regard have been proposed in the Budget. Accordingly, it is now to be seen how the SC interprets and provides finality to the issues.

Despite these hiccups, in totality, the approach of ending litigation and removing tinkering problems for charities ought to be appreciated. Full marks ought to be extended on this point.

As always, we do hope you enjoy this booklet, and you will continue to give us your candid feedback. We look forward to your participation and our interaction as we continue to unravel this Budget over the coming days and weeks.

CA Kishor Phadke
Partner - Direct Tax

Budget AT GLANCE

The FM presented her seventh consecutive Budget today – which is the most of any finance minister in the history of India. As the finance minister rose to present the Union Budget 2024 of the new government, she did so with the advantage of a strong economy that provided the necessary springboard for the next generation of reforms. The expectations from India Inc. were very high with continued structural reforms to realize India's dream of being a developed nation and initiatives in infrastructure, domestic manufacturing, taxation, trade, land, labor, and the digital sphere. First impressions from the Budget speech suggest that the finance minister has lived up to the expectations and has perhaps gone beyond with several proposals for investment, growth employment generation, and tax reforms.

This forward-looking Budget is designed to foster inclusive growth, enhance productivity, and ensure sustainable development across various sectors. The Union Budget 2024-2025, announced by the Government of India, marks a significant step toward realizing the vision of "Viksit Bharat" The Budget proposal announced comes at the backdrop of India's sustained growth, which carries the tag of fastest growing large emerging economy in the world.

Budget 2024 revolves around the "Nine" priorities of the Modi 3.0 government majorly focusing on Agriculture, Employment and Skill Development, Social Justice, Manufacturing & Services, Urban Development, Energy, Infrastructure, Innovation Research & Development, and Next Generation Reforms. The Budget has tried to balance the expectations of the public and the coalition partners. The Hon'ble FM continues to focus on existing policy measures of skill development of youth, education assistance, women empowerment, and MSME to generate employment.

Job Creation

A key highlight of the Budget is its emphasis on job creation and skill development to harness the potential of India's youth. The Honourable FM has stated the following initiative in this regard in her speech –

"As the 5th scheme under the Prime Minister's package, our government will launch a comprehensive scheme for providing internship opportunities in 500 top companies to 1 crore youth in 5 years. They will gain exposure for 12 months to real-life business environment, varied professions and employment opportunities. An internship allowance of Rs. 5,000 per month along with a one-time assistance of Rs. 6,000 will be provided. Companies will be expected to bear the training cost and 10 per cent of the internship cost from their CSR funds"

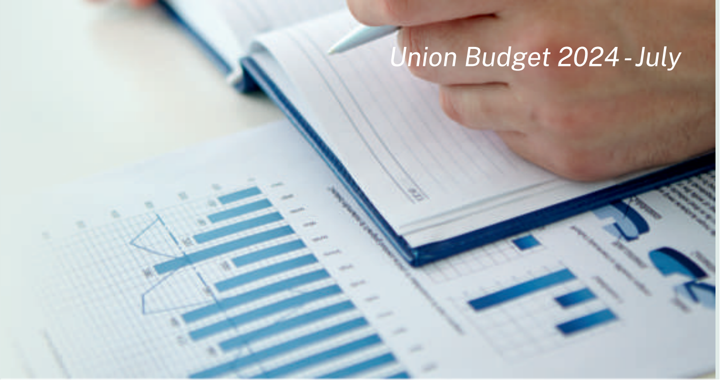
At the one hand, such a measure is certain to create job opportunities for millions of youth. On the other hand, corporates will be happy to allocate CSR funds for this activity, being a direct quid-pro-quo for their business. The proposed employment and skilling measures, including incentives for EPFO contributions and the upgrading of 1,000 Industrial Training Institutes, are expected to create millions of jobs and enhance workforce participation, particularly among women. This focus on human capital development is crucial for sustaining economic growth and improving living standards.

Key Features:

- The fiscal deficit to GDP is projected to reduce from 5.6% to 4.9% in the next fiscal year.
- The fiscal deficit target of 4.5% of GDP by FY26 is well within reach and this will have a positive long-term effect for the country.
- Government capex more than doubled over five years to 3.4% of GDP and 1.5 trillion.
- Technology will drive IBC proceedings through an Integrated Technology Platform to ensure consistency, transparency, timely processing, and better oversight for all investors.
- Angel Tax has been abolished.

The Finance Bill, 2024, represents a strategic blueprint for India's economic trajectory under Modi 3.0 government, combining stability with progressive reforms. By addressing immediate fiscal challenges and laying the groundwork for sustainable growth, the Budget highlights the government's commitment to inclusive development and global competitiveness. The Budget sticks to the fiscal discipline which has come to be the hallmark of Modi's Govt in all terms.

To Conclude, overall the Union Budget 2024-2025 is a comprehensive document that lays the groundwork for a resilient and inclusive economy. By addressing immediate needs and setting the stage for long-term growth, the Budget reflects the government's commitment to making India a global economic powerhouse. The focus on job creation, tax simplification, and support for innovation and entrepreneurship will be key drivers in achieving this vision Union Budget 2024-2025 is ***forward-thinking*** and a balanced approach to economic policy. It provides a clear roadmap for sustainable development, emphasizing the importance of human capital, innovation, and a business-friendly environment. This Budget positions India well to navigate global economic challenges and ***capitalize on emerging opportunities.***



BRIEF DIRECT TAX PROPOSALS

Rates of Taxes

- Taxation Slabs tweaked to have net tax saving of Rs 10,000 for the New Scheme of Taxation.
- No Changes in Taxation Slab and Rates for the Old Tax Regime.
- Standard Deduction from Salary increased to Rs 75,000 from Rs 50,000 under the New Tax Regime.
- Foreign Company's tax rate reduced to 35% from 40%.

Rationalization and simplification of taxation of capital gains :

- Indexation benefits not available on long-term capital gains on the sale of immovable property albeit with a lower rate of tax of 12.5% instead of 20%.
- Buy back tax abolished - proceeds now taxable in the hands of shareholders as deemed dividend; cost of acquisition to be available as capital loss and the same available to be set off against capital gains.
- Overhaul of capital gains tax regime: LTCG increased to 12.5% and STCG to 20% on listed shares; Period of holding for capital gain to qualify as LTCG restricted to 12 months and 24 months category, 36 months category subsumed into 24 months category.
- Security Transactions Tax on futures and options of securities increased to 0.02% and 0.1%, respectively.

Abolition of Angel tax i.e. Section 56(2)(viib) of the Act for all categories of investors

Abolition of Equalization Levy of 2%; 6% category of Equalization Levy to continue

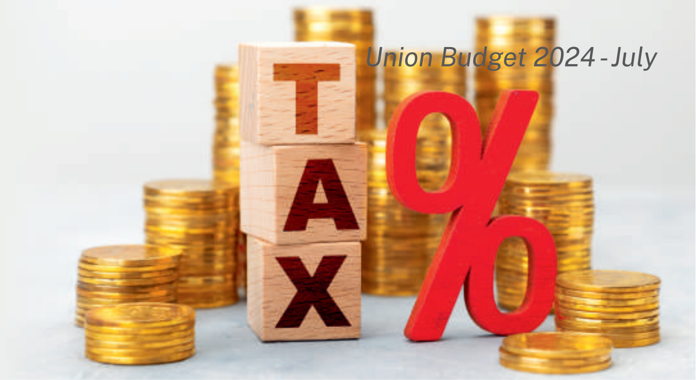
Introduction of another dispute settlement scheme i.e. Vivad se Vishwas 2024

Provisions relating to search & seizure and re-assessment are revamped

A comprehensive review of the Income-tax Act in the next 6 months

Two tax exemption regimes for charities to be merged into one

01.
RATES OF INCOME TAX



1.1 Applicable Tax Slabs for Individual / HUF / AOP / BOI:

New Regime (115BAC)			
Rate of Tax	**Existing Provision**	**New Provision**	**Effective Tax Saving**
Nil	Up to 3,00,000	Up to 3,00,000	NIL
5%	From 3,00,001 to **6,00,000**	From 3,00,001 to **7,00,000**	**Rs. 5,000**
10%	From 6,00,001 to 9,00,000	From 7,00,001 to 10,00,000	NIL
15%	From **9,00,001** to 12,00,000	From **10,00,001** to 12,00,000	**Rs. 5,000**
20%	From 12,00,001 to 15,00,000	From 12,00,001 to 15,00,000	NIL
30%	Above 15,00,000	Above 15,00,000	NIL
Total Savings as attributable to changes in Slab Rates			**Rs. 10,000**

***No changes** have been proposed and as such the following tax slab rates shall continue*

Old Regime			
Rate of Tax	Income Slabs for HUFs and Individuals		
	Below 60 years of Age	**Above 60 and below 80 years of Age**	**Above 80 years of Age**
Nil	Up to 2,50,000	Up to 3,00,000	Up to 5,00,000
5%	From 2,50,001 to 5,00,000	From 3,00,001 to 5,00,000	NA
20%	From 5,00,001 to 10,00,000	From 5,00,001 to 10,00,000	From 5,00,001 to 10,00,000
30%	Above 10,00,000	Above 10,00,000	Above 10,00,000

1.2 Applicable Surcharge:

- Surcharge rates as applicable to Individuals, HUF, BOI & AOP **remain unchanged:**

Taxable Income range	Old Regime	New Regime
50 lakhs to 1 Crore	10%	10%
1 Crore to 2 Crore	15%	15%
2 Crore to 5 Crore	25%	25%
More than 5 Crore	37%	25%

- There has been **no change in surcharge** as applicable on STCG (111A), LTCG (112 & 112A), and Dividend (from Equity Shares and equity-oriented MF) under the old as well as new regimes. The same shall continue to remain capped at 15%, irrespective of the income range.
- Further, the surcharge as applicable to Domestic Companies, Foreign companies, and Partnership Firms also **remains unchanged.**

1.3 Benefits to Salaried Employees:

- Increase in standard deduction:

  The standard deduction against the income from salaries is **increased from Rs. 50,000 to 75,000** (applicable from the 1st of April 2025).
  (It may be noted that the above incremental benefit is available only in case the employee files the ITR under the NEW Regime)

- TCS credit can be considered by the employer while withholding TDS u/s 192

  The provisions of Section 192(2B) have been amended so as to enable the employer to take into consideration the available TCS credit while determining TDS to be withheld against salary u/s 192.

- Rationalization of deduction u/s 80CCD to all employees

  The amount allowed as a deduction to non-government employers and their employees towards employer contribution to a Pension Scheme referred to in Section 80CCD has been increased to **14% of salary** as against 10%.

  (It may be noted that the above incremental benefit is available only in case the employee files the ITR under the NEW Regime)

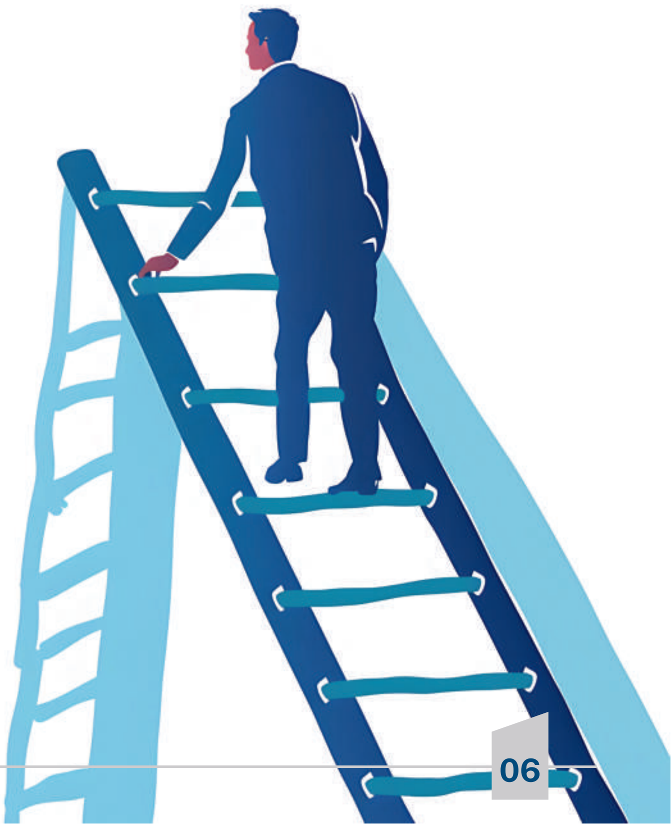
- Increase in Standard Deduction and deduction from family pension:

Existing Provision	New Provision
The deduction available is 1/3rd of Pension Income or **Rs. 15,000** Whichever is lower	The deduction available is 1/3rd of Pension Income or **Rs. 25,000** Whichever is lower

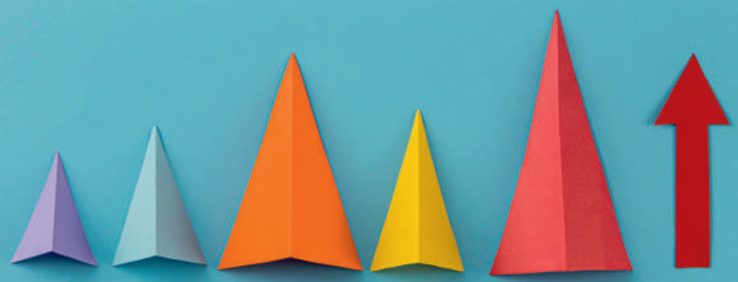
(It may be noted that the above incremental benefit is available only in case the employee files the ITR under the NEW Regime)

1.4 Benefits to Foreign Companies:

- The tax rate as applicable to Foreign Companies has now been reduced to **35%** from 40% w.e.f. AY 2025-26.
- However, various incomes earned by a foreign company in India that are taxable at special rates would continue to be taxed at such specified special rates.



02. CAPITAL GAINS



2.1 Overview

Effective from July 23, 2024, the Finance Bill introduces streamlined capital gains tax rules. In particular, long-term capital gains on various asset classes will now be taxed at a unified rate of 12.5%, simplifying the tax regime and ensuring parity between domestic and foreign investors. Adjustments to holding periods for assets like listed securities aim to stimulate investment activity while aligning with typical global practices. It is pertinent to note that the FM has abolished the indexation benefit that was available on the sale of long-term capital assets.

2.2 Period of Holding- Section 2(42A) of ITA 1961

- An overview of various asset classes based on proposed amendments:

Income Type	Market Linked Debentures & Debt Oriented Mutual Funds		All Listed Securities & Equity MF, Units of UTI, Zero Coupon Bond		Any Other Capital Assets	
	Holding Period	Tax Rate	Holding Period	Tax Rate	Holding Period	Tax Rate
Short Term	Any Period	Slab Rate/ Applicable Rate	Up to 12 Months	20%	Up to 24 Months	Slab Rate/ Applicable Rate
Long Term	NA	NA	More than 12 Months	12.5%	More than 24 Months	12.5%

- The period of holding for an asset to be treated as a long-term asset is more elaborate as follows:

Nature of Security	Existing Provision		New Provision	
	Listed	Unlisted	Listed	Unlisted
Equity Shares	12 Months	24 Months	No Change	
Preference Shares	12 Months	24 Months		
Units of Equity Oriented Funds	12 Months	12 Months		
Zero Coupon Bonds	12 Months	12 Months		
Units of UTI	12 Months	12 Months		
Units of Business Trust	36 Months	36 Months	12 Months	24 Months
Units of Debts Oriented MF	NA Always STCG	NA Always STCG	NA Always STCG	NA Always STCG
Other Units	36 Months	36 Months	12 Months	24 Months
Debentures	12 Months	36 Months	12 Months	24 Months

Nature of Security	Existing Provision		New Provision	
	Listed	Unlisted	Listed	Unlisted
Government Securities	12 Months	36 Months	12 Months	24 Months
Other Bonds	12 Months	36 Months	12 Months	24 Months
Other Securities	12 Months	36 Months	12 Months	24 Months
Immovable Property (Land & Building or Both)	24 Months		No Change	
Any Other Assets	36 Months		24 Months	

Note: Market-linked Debentures (MLDs), Specified Mutual Funds (SMFs) i.e. debt oriented mutual funds, and depreciable assets are always treated as short-term capital assets irrespective of the period of holding. Further, Section 50AA is proposed to be amended to provide that an ***unlisted bond or an unlisted debenture*** that is transferred or redeemed or which matures on or after 23rd July, 2024 shall also be treated as short-term capital assets irrespective of the actual period of holding.

2.3 Tax Rates

Section 111A of ITA 1961 dealing with Short-term Capital Gains on Listed Securities where STT is paid is amended to increase the rate of taxation to 20% from the earlier rate of 15%.

Section 112 of ITA 1961 dealing Long Term Capital Gains on all assets (except assets covered under Section 112A) whether listed or non-listed is amended to reduce the rate of taxation to 12.5% from the earlier rate of 20%.

Section 112A of ITA 1961 dealing Long Term Capital Gains on Listed securities where STT is paid is amended to increase the rate of taxation to 12.5% from the earlier rate of 10%.

Further Section 112A is also amended to increase the exemption limit from Rs. 1 Lacs to 1.25 Lacs per annum.

2.4 Removal of Indexation Benefit

The second proviso to Section 48 of ITA 1961 is amended to remove the indexation benefit to all types of Long-Term assets that are sold on or after 23rd July 2024.

Our Comments

a) The holding period for an asset to become long-term has been made uniform to 24 months except for listed shares which will be 12 months.

b) The streamlining of capital gains tax, featuring simplified holding periods and a unified 12.5% rate for long-term gains by abolishing indexation, alongside enhanced parity between resident and non-resident taxpayers, appears to have been well-received by the stock markets.

c) Parity in tax rates on capital gains across residents and non-residents covered under Sections 115AD, 115AB, 115AC, 115ACA, and 115E with that proposed under Section 112A/ 112B rates under Section 111 A.

d) The removal of indexation would hurt the taxpayer, especially for investors in the real estate category. The withdrawal of indexation benefit may, particularly, impact the middle class significantly and meager Budgetary tax savings garnered over the years may be evaporated in one stroke, when a capital asset such as house property is sold.

e) Removal of Indexation would consequentially Increase outflow for claiming deduction u/s 54 of ITA 1961.

This amendment will take effect from 23rd July 2024 and all transactions which will happen thereafter.

Example for comparative analysis

If an **example of Gold of 100 Grams** purchased over a period from FY 2001-02 to FY 2021-22 is taken into consideration and it is assumed to have been sold during FY 2024-25 for a consideration of Rs. 6,88,330/- (i.e. as per Gold Rates as of 24th July 2024), the following would be its outcome:

Year of Purchase	Cost of Acq.	Cost Inflation Index	Indexed Cost of Acq.	Old Tax @ 20% with Indexation		Proposed Tax @ 12.5%		Savings/ (Loss) in the new Regime
				Capital Gain	Tax Outflow	Capital Gain	Tax Outflow	
FY 2001-02	43,000	100	1,56,090	5,32,240	1,06,448	6,45,330	80,666	25,782
FY 2005-06	76,380	117	2,36,974	4,51,356	90,271	6,11,950	76,494	13,777
FY 2010-11	2,07,280	167	4,50,555	2,37,775	47,555	4,81,050	60,131	(12,576)
FY 2015-16	2,49,310	254	3,56,297	3,32,033	66,407	4,39,020	54,878	11,529
FY 2021-22	4,80,990	317	5,50,787	1,37,543	27,509	2,07,340	25,918	1,591

On perusal of the above, it would transpire that, in most of the cases, the new proposed tax scheme seems to be more beneficial.

2.5 Cost of Acquisition Section 55 of ITA 1961

Section 55(2)(ac) provides of cost of acquisition in case of shares that are sold and STT is paid. To plug the anomaly lacuna the following amendment is proposed.

It is proposed to amend Section 55(2)(ac)(a)(iii) of the Act, to specifically provide that in a case where the capital asset is an equity share in a company that is not listed on a recognized stock exchange as on the 31st day of January, 2018, but listed on such exchange after the date of transfer, where such transfer is in respect of sale of unlisted equity shares under an offer for sale to the public included in an initial public offer, “fair market value” would mean an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the FY 2017-18 bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the first day of April, 2001, whichever is later.

Our Comments

This is a welcome move to reduce the ambiguity.

2.6 Specified Mutual Funds to be always short-term:-Section 50AA.

The Finance Act, of 2023 introduced a special taxation regime of deemed short-term capital gains taxation for Market Linked Debentures and Specified Mutual Funds by way of the introduction of Section 50AA of the Act. The gains in such cases were to be taxed as Short-term Capital Gains irrespective of the period of holding.

There was ambiguity regarding the classification of some classes of mutual funds like Exchange Traded Funds (ETFs), Gold Mutual Funds, Gold ETFs, Funds of Funds, etc into equity-oriented or debt-oriented.

As per the new Section specified mutual fund shall mean a mutual fund:

(a) A Mutual Fund by whatever name called, which invests more than sixty-five percent of its total proceeds in debt and money market instruments; or

(b) A fund that invests sixty-five percent or more of its total proceeds in units of a fund referred to in sub-clause (a).

The above amendment under clause (ii) of Explanation of Section 50AA is proposed to be brought into effect from the 1st day of April, 2026, and shall be applicable from AY 2026-27 onwards.

2.7 Buyback of Shares to be considered normal Dividends on Gross Consideration

The Finance (No.2) Bill, 2024 has introduced a chain of amendments for shifting the tax burden on buy-back of shares from the company to its shareholders

Existing Provision	New Provision
As per Section 115QA read with Section 46A of ITA 1961, any amount received against the buyback of the shares was exempt in the hands of the recipient of the Money.	New Section 2(22)f) is proposed to be introduced to treat any amount received in accordance with the provision of Section 68 of the Companies Act 2013 would be treated as ***dividends under the head "other sources".*** and would be taxable as per slab / Applicable rates.
Previously, the companies were paying tax on the buy-back of shares because of Section 115QA, and correspondingly the shareholders enjoyed an exemption because of Section 10(34).	The Finance (No.2) Bill, 2024 proposes to omit Section 10(34) which provided exemption in respect of any income arising to an assessee, being a shareholder, on account of the buy-back of shares is exempt. The key expression is ***"any income".***
Previously, Section 46A was not operative because of Section 10(34) which provided blanket exemption from tax.	The Finance (No..2) Bill, 2024 proposes to insert a proviso w.e.f. 01.10.2024 to provide that where a shareholder receives any consideration of the nature referred to in sub-clause (f) of Section 2(22) from any company, in respect of any buy-back of shares, on or after 01.10.2024, then for the purposes of Section 46A, ***the value of consideration received by the shareholder shall be deemed to be "Nil'.***

Our Comments

a) Overhaul of buyback tax following the abolition of the Dividend Distribution Tax (DDT) and its treatment as deemed dividend has come as a surprise, affecting many restructuring plans of NRI investments.

b) Now the companies are relieved from payment of tax under Section 115QA.

c) Section 46A uses the expression that the consideration received on the buy-back of shares **shall be deemed to be `Nil',** which means the cost of acquisition of extinguished shares would partake the character of **capital loss to be set off against the other capital Income or to be carried forward.** The said amount of capital loss may be a long-term or a short-term capital loss based on the period of holding of the shares.

d) The cost of acquisition of those shares will be available as a deduction only against future gains. What if there is no gain from such shares in the future? Requiring the shareholder to pay tax on gross consideration at a marginal rate is clearly penal.

e) In any case, treating the contributed share capital as "dividend" is contrary to first principles. Dividend ought to be, top-up over the contributed capital, and not the capital itself. One will have to live with this peculiarity.

f) Resident Assessee would be worse off since the burden of taxes would increase from around 20% u/s 115QA to the applicable rate of say 36%.

These amendments will take effect from the 1st day of October 2024 and will accordingly apply to any buy-back of shares that takes place on or after this date.

2.8 Increase in Securities Transaction Tax (STT)- Futures & Options

In view of this exponential growth of the derivative markets, it is proposed to increase the said rates of securities transaction tax on the sale of an option in securities and on the sale of a futures in securities:

Transaction Type	Existing Rate	New Rate
Sale of Option Premium	**0.0625%** of the Premium Value of Option	**0.1%** of the option premium
Sale of Future in securities	**0.0125%** of the price at which such "futures" are traded	**0.02%** of the price at which such "futures" are traded

Our Comments

a) The increase in STT rates on derivatives is in line with the concerns expressed in the Economic Survey and by the market regulator regarding excessive speculative activity.

b) An increase in STT rates for Derivatives to 0.1% and futures to 0.02% may not go well with investors.

This amendment is proposed to be made effective from the 1st day of October, 2024.

2.9 Gifts Other Than Individuals and HUF- Section 47 (iii)

Section 47(iii) provides that nothing contained in Section 45 shall apply to any transfer of a capital asset under a gift or will or an irrevocable trust. The first proviso to the said clause makes an exception to the clause in respect of specified ESOPs.

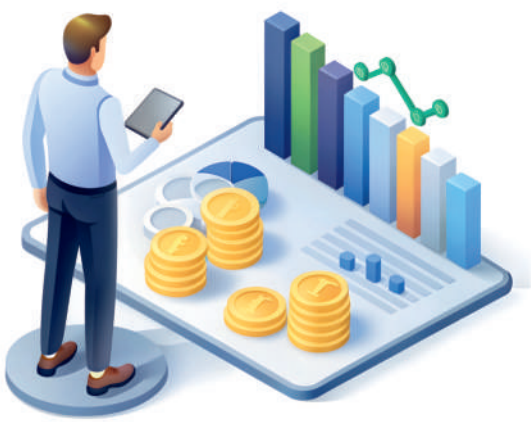
In multiple cases, taxpayers have argued before judicial fora that the transaction of gift of shares by a company is still not liable to capital gains tax, in view of the provisions of Section 47(iii) of the Act.

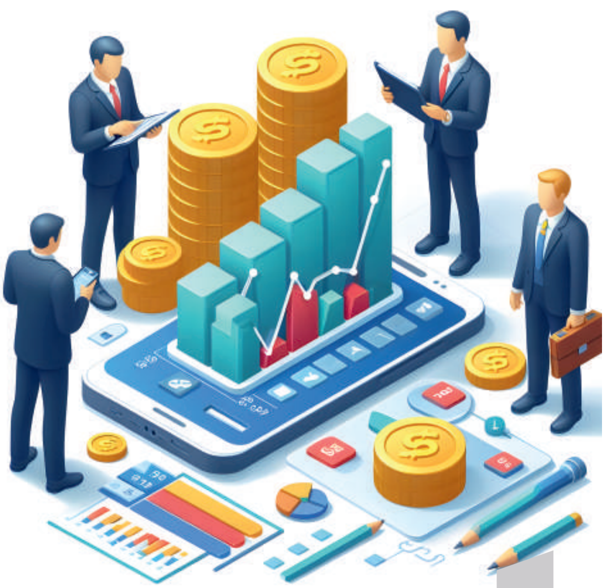
Now, through the amendment it is proposed to substitute the existing Section and proviso by replacing it to provide that nothing contained in Section 45 shall apply to the transfer of a capital asset, under a gift or will or an irrevocable trust, by an individual or a Hindu undivided family.

Our Comments

The ambiguities surrounding the taxability of corporate gifts have been put to rest by restricting the gift exemption to Individuals and HUFs.

This amendment is proposed to be made effective from the 1st day of April 2025 and will accordingly apply to assessment year 2025-26 and subsequent assessment years.





03. SIMPLIFICATION & RATIONALIZATION OF ASSESSMENT PROCEDURES

3.1 Block assessment provisions- search u/s 132 and requisition u/s 132A

Vide Finance Act, 2021, the separate regime for search assessments u/s 153A-153C was abolished and all search assessments were subsumed into the reassessment provisions u/s 147 of ITA, 1961. However, such a scheme faced multiple problems like

- Absence of consolidated assessments
- Staggered search assessments
- The assessment process is time-consuming almost ten years
- Escalate the cost of litigation
- Change in a legal position or change of opinion w.r.t inquiry
- Different additions in different years, on the same issue

Now to make search cases cost-effective, efficient, and meaningful, the scheme of block assessment for the cases is introduced with the following objective.

- Early finalization of search assessments
- Coordinated investigation
- Reduction in multiplicity of proceedings

Accordingly, Chapter XIV-B of the Act i.e. 'Special Procedure For Assessment Of Search Cases' has been amended.

Summary of Key Amendment		
Particulars	**Existing Provision**	**New Provision**
Applicability	Search Prior to 01/09/24	Search on or after 01/09/24
Provisions governing search assessment	Section 147 & related Section	Amended Chapter XIV-B covering **Section 158B to Section 158BI**
Period covered	10 Years	6 Years
Method of Assessment	Each Year Separate	One Consolidated Assessment
Assessment of	Only Escaped Income	Total Income including undisclosed income
Tax Rate	Applicable Rate or 60% depending on the nature of income assessed	60%
Surcharge	As applicable considering the nature of income or assessee i.e. 10% / 15%/ 25%	No Surcharge
Interest u/s	Applicable	Not Applicable
234A / 234B / 234C		
Penalty 270A	Applicable 50% or 200% depending upon the nature of income	Not Applicable

Summary of Key Amendment		
Particulars	**Existing Provision**	**New Provision**
Penalty on Undisclosed Income	Applicable	Applicable (50% of tax payable for undisclosed income). No penalty if the assessee offers such income in return in pursuance to search and pays the tax on such income along with the return of income.
Time Limit for completion of assessment	12 months from the end of FY in which notice u/s 148 of ITA, 1961	12 months from the end of the month in which the last search authorization is issued

Our Comments

a) Amendment with a clear objection to reducing litigation & simplification of assessment.

b) Law has been amended from time to time, for dealing with search-based assessments
1st scheme – prior to the year 2003 (i.e. Section 158BC, etc.).
2nd scheme – from the year 2003 to the year 2021 (i.e. Section 153A-153C).
3rd scheme – from the year 2021 to the present date (subsumed in Sections 147-151).
4th scheme – now proposed.

c) The present scheme is a re-introduction of the scheme prior to the year 2003 (Scheme-1). But in the new scheme, colors of 153A (i.e. 2nd scheme) and 147 (i.e. 3rd scheme) are included.

d) A reasonable overall tax rate of 60% is introduced, and, complete immunity from interest and penalty is granted.

e) However, all these immunities are available only if, income emanating from "search" proceedings is duly included in the return of income to be filed, after the "search", and taxes are duly paid by that date.

f) This new scheme is, thus, akin to a scheme of the **"Settlement Commission".**

g) Some controversial issues are likely to emerge w.r.t. assessment of "total income" vis-à-vis "undisclosed income" and abatement of proceedings, etc.

h) Further, the period of 12 months available for completion of assessment in this new scheme is, on a speedy fast track.

i) It is expected, that the involved procedures will fall in place (like say, getting copies of search material, statements recorded during a search, etc.).

j) Assuming that such processes go on a fast-track mode too, then, this new scheme is expected to be a large success.

k) However, on a fine print analysis, it transpires, that the authority to pursue a separate taxation of aspects unrelated to search material and/or, such aspects that do not emerge from information available on record, is perhaps lost.

3.2 Period of limitation for imposing penalties:

Amendment in Section 275 of ITA, 1961 to remove the confusion regarding the time limit for completion assessment for IT authorities

Particulars	Existing Provision	New Provision
Amendment Applicable	Prior to 01/10/2024	Post 01/10/2024
The time limit for passing the order	Within 6 months from the end of the month or within 1 year from the end of FY (as the case may be) Penalty is to be levied on receipt of the order in the office of -Principal Chief Commissioner or -Chief Commissioner or -Principal Commissioner or -Commissioner	Within 6 months from the end of the month or within 1 year from the end of FY (as the case may be) Penalty is to be levied on receipt of the order in the office of -Removed -Removed -Principal Commissioner, or -Commissioner

Our Comments

a) Amendment to provide clarity to IT officer for time limits for completion of penalty proceedings. A period of 6 months is to be counted on more realistic terms now, since some litigation has cropped up on the point of "date of receipt of the Appellate Orders", since, the I-T office is, typically, a large establishment involving many ranges/circles/wings, etc.

b) As per new clarification, the period count is to start from receipt of the order in the **"relevant"** office of the Assessing Officer.

3.3 Set-off and withholding of refunds

Procedural Amendment in provisions of Section 245 to withhold the refund of the assessee.

Particulars	Existing Provision	New Provision
Amendment Applicable	Prior to 01/10/24	Post 01/10/24
The requirement to withhold a refund if a case is pending of assessment or set of off refund against outstanding liability	AO should satisfy two conditions to withhold the refund or adjust the refund • Form an opinion that the grant of refund is likely to adversely affect the revenue • For reasons to be recorded in writing and with the previous approval of PCIT	AO should satisfy one condition to Withhold a refund or adjust the refund • Removed • For reasons to be recorded in writing and with the previous approval of PCIT
Period of withholding for refund	Up to the date of assessment	Up to sixty days from the date on which such assessment

Particulars	Existing Provision	New Provision
Interest u/s 244A	No interest u/s 244A is to be given from the date of withholding up to the date of assessment	-No interest u/s 244A is to be given from the date of withholding up to sixty days from the date on which such assessment

Our Comments

a) Clarificatory Amendment.
b) Loss of interest on refund without any fault of the assessee.

3.4 Rationalization of the time limit for filing appeals to the ITAT

The time limit for filing an appeal before ITAT is changed

Particulars	Existing Provision	New Provision
Law Applicable	Prior to 01/10/2024	Post 01/10/2024
Time limit to file an appeal to ITAT	**60 days from the date** of communication of the order to the assessee or PCIT	**Two months from the end of the month** in which the order is communicated to the assessee or PCIT

Our Comments

Extension of the time limit will benefit assessee too.

3.5 Powers of the Commissioner (Appeals)

Particulars	Existing Provision	New Provision
Law Applicable	Prior to 01/10/2024	Post 01/10/2024
Power of CIT(A) as per Section 250(4)	No power to SET ASIDE case to AO for re-adjudication	Limited Power to SET ASIDE case for carrying out a fresh assessment to the file of AO granted if an assessment is carried out as best judgment assessment u/s 144 of ITA, 1961
Time Limit on Set Aside u/s 153	Not Applicable	On Set Aside of AO, there is a time limit to complete the fresh assessment is provided

Our Comments

a) A welcome provision. As per the existing scheme, such matters where, the Assessee is not heard on merits, get set aside at the level of ITAT. This process leads to a waste of time and money.

b) This provision will assist early disposal of appeals and reduce litigation.

c) Assessee benefits as additional opportunity of being heard is available.

d) Power ought to have been extended in cases of “additional evidences”.

3.6 Reassessment- Section 147/ 148

The Finance Act, of 2021 has changed the entire procedure governing reassessment proceedings u/s 147, primarily by modifying Section 148 and Section 149 of the IT Act and introducing a new Section 148A. However, due to varied interpretations of these provisions and extensive litigation across different forums, the provisions of Section 148 and Section 148A provisions deserved re-visit. Further, search-based assessments are directed to be covered under BLOCK ASSESSMENT now. As such, all cases of "search" assessments were also required to be removed from the scope of Sections 147-151 of ITA. On this background, the following changes are proposed.

- Issue of Notice u/s 148

Particulars	Existing Provision	New Provision
Issue of notice u/s 148	To be issued independently	Must be issued along with a copy of order u/s 148A(3) determining it to be a fit case
Maximum time limit to file return in response to notice u/s 148	30 days from the date of notice	3 months from the end of the month
Increase in scope of Information (Considering new scheme of search)		Any information in the case of the assessee emanating from a survey conducted under Section 133A, other than under sub-Section (2A) of the said Section, on or after the 1st day of September 2024.

- Procedure to be followed before the issue of notice u/s 148

Section 148A of the IT Act, which provides the procedure to be followed by AO before issuing notice under Section 148, is proposed to be substituted so as to provide the following:

Step	Existing Scheme	Proposed scheme	Critique
Get information from various sources	Five sources as per Explanation-1 of 148	Six sources as per Section 148(3)	Source of survey u/s 133A increased
Apply quantum filters and period filters for cases relating to specified years	If information relates to a period over 3 years to 10 years, apply a quantum filter of Rs. 50 lacs (in totality), which is to be represented by assets/entries in books, etc. Further, such quantum is to be tested for all involved years in totality	If information relates to a period over 3 years to 5 years, apply the quantum filter of Rs. 50 lacs (in totality), which is to be represented by assets/entries in books, etc. Further, quantum is to be tested for each year (and not in totality)	Years of disturbance / period of disturbance, reduced substantially Quantum test is on a totality basis in the existing scheme. The same is proposed on a yearly basis in a new scheme.
Conduct enquiry	148A(a)		Condition for "enquiry" is missing in a new scheme
Provide opportunity of being heard	148A(b)	148A(1)	'Information" ought to be extended, as per the new scheme

Step	Existing Scheme	Proposed scheme	Critique
Get a reply and consider the same	148A(c)	148A(2)	Same
Get Approval	151 – Approval of CCIT / PCCIT	151 – Approval of Addl CIT	Approving authorities' degrees lowered
Pass order dealing with objections, if any	148A(d)	148A(3)	A time limit of 1 month was removed herein (However, extra time of 3 months provided in Section 149)
Issue reassessment notice u/s 148 as per safeguard u/s 149	Maximum period for issuance to be 3 years / 10 years along with balance period (if any) emanating from 148A(b) / (d)	Maximum period for issuance to be 3 years & 3 months OR 5 years & 3 months	Major change, since, the disturbance period reduced substantially

- Section 148(4) inserted

  The above procedure is not required if the information is received under scheme notified u/s 135A (faceless collection of information collected under powers provided under Section 133/133B/133C/ 134/135)

Our Comments

a) Any data received from the six sources u/s 148(3) is being treated as "Information suggesting escapement". In the existing scheme, such raw data emanating from five / six sources was to be filtered out by AO after conducting an enquiry. This crucial step of "conducting an enquiry" is not existing in the new Section 148. Treating any data as information suggesting escapement is, a matter of debate. Dispute is imperative in this regard.

b) Reduction of the period of 10 years to 5 years, is a welcome provision considering the objective of reducing litigation and simplification of procedure.

c) A quantum filter for a combined period (all years together) is given up. Now, the quantum test is to be applied qua each year. This is a welcome measure.

d) Dilution of authorities for approvals appears a conscious view to overcome some related court decisions in the case of JM Financial & Investment Consultancy Services Pvt. Ltd. vs. ACIT [2023] 451 ITR 205 (Bom). As a result, the safeguard appears diluted.

e) In the existing scheme, two approvals are envisaged, first at the 148A(b) stage and second at the 148A(d) stage. In the proposed scheme, only one approval is provided at the 148(3) stage. This again appears as a dilution of stiff safeguards.

04. VIVAD SE VISHWAS SCHEME (AMNESTY SCHEME)

Taking into consideration the large quantum of pending tax litigation as well as the encouraging response to the Vivad Se Vishwas Scheme of 2020, the said amnesty scheme has again been introduced for a limited period.

- **Which disputes would become eligible?**
  - All pending disputes under the Income Tax Act, of 1961.
  - As pending before DRP, CIT(A), ITAT, High Court, or Supreme Court (either filed by the Assessee or the IT Department).
  - Appeals filed on or before 22nd July 2024

- **Conditions**
  - Applications are to be filed in the prescribed Forms
  - Tax Liability as determined to be paid on or before 31st December 2024 (without late payment fee of 10%)

- **Benefits of the Scheme**
  - Complete waiver of Interest
  - Complete waiver of Penalty in case where a dispute is pending against the Quantum as well as Penalty
  - Waiver of 75% (70% for OLD Appeals) penalty or fees in case dispute is against penalty or any fees
  - Additional 50% waiver of Tax or Penalty or Fees in case where an appeal or writ or SLP has been filed by IT Department against an order already issued in favor of the assessee.

Our Comments

a)The above scheme is quite similar to the earlier Vivad se Vishwas Scheme, 2020.

b)No clarification has been provided as to whether orders whose time limit to file an appeal is yet to expire would be eligible for application under the present scheme.

c)Appeals pending as of 31st January 2020 (i.e. such disputes which could have also been settled under the VsV of 2020) are also eligible subject to some additional prescribed payments.

05. INTERNATIONAL TAXATION TRANSFER PRICING

5.1 Equalisation Levy 2% - Non-Resident e-commerce Operators

Effective from 01 April 2020, the Government of India has widened the scope of its Equalisation Levy to include e-commerce sales of goods and services provided by non-resident operators to Indian customers. The Equalisation Levy is imposed at 2% on the considerations received or receivable by the non-resident e-commerce operators.

Existing Provision	New Provision
EL shall be levied at 2% on consideration received or receivable by an e-commerce operator from e-commerce supply or services made or provided or facilitated to: a) A person resident of India b)A person who is NR in India who operates an online platform and is involved in sales and supply of goods and services c)A person buying goods services etc. by using an IP address in India	The said provision of the **Equalization Levy** pertaining to the non-resident e-commerce operations has been deleted. As per the proposal, this equalization levy at the rate of 2% shall not be applicable to consideration received or receivable for e-commerce supply or services, on or after the 1st day of August 2024. Income of such e-commerce operators will be taxable post 1st August 2024. Income of such e-commerce of operators wherein equalization levy has been paid for the period 1st April 2020 to 31st July 2024 will be exempt u/s 10(50) of ITA 1961

Our Comments

a) Abolishing the Equalization Levy will also go a long way in instilling investor confidence.

b) This will ease the tax burden on foreign e-commerce operators.

c) The levy itself was ambiguous from the date of introduction and irrespective of various representations for clarification ambiguity persisted.

d) Withdrawal of the Equalization Levy which indicates aligning with international initiatives such as OECD's Pillar One.

e) Removal of Equalisation Levy will also lead to the inclusion of cases u/s 194-O. This will lead to litigation.

This amendment will take effect from 1st August 2024 and the transaction happening thereafter.

5.2 Transfer Pricing Provisions- Overall

On the transfer pricing front, the Budget speech mentioned the expansion of the safe harbor rules and the streamlining of the transfer pricing procedures. We must wait for the revised safe harbor rules to review the details. Expansion of safe harbor rules and streamlining of transfer pricing assessments to reduce international tax disputes are major proposals that could be considered a move towards **Pillar Two.**

Further, with an intent to provide impetus to the diamond cutting and polishing industry, the Hon'ble FM specifically mentioned that a new Safe harbour would be introduced for foreign mining companies selling raw diamonds in the country.

Our Comments

a) This is a welcome move by the government, clearly demonstrating their intent to simplify and enhance certainty and reduce litigation in Indian TP provisions.

b) The move is likely to be lauded by MNCs who were looking for some respite on various TP challenges they often encounter.

c) It would be interesting to see the changes which are brought out in the revised Safe Harbour scheme under the Indian Income Tax Rules, 1962 in the coming months and the financial year from which these are made operational for taxpayers.

5.3 ALP Determination for undisclosed Specified Domestic Transactions (SDT)

Once a transaction is classified as a Specified Domestic Transaction, all the regulatory requirements such as transfer pricing documents, the accountant's reports, and so on apply to it in the same way as they do to international transactions.

SDTs cover the following transactions:

- A transaction that is referred to in Section 80A
- A transfer of goods or services that is stated in Section 80-IA (8)
- A business transacted between the taxpayer and any other person in Section 80-IA (10)
- Any transaction mentioned in any other Section of Chapter VI-A or Section 10AA that is subject to the provisions of Sections 80-IA (8) and 80-IA (10)
- A business transacted between the persons stated under Section 115BAB(6)

In order to be considered a specified domestic transaction, the transaction must not fall within the 'international transaction' definition as stated in Section 92B, and the aggregate value of the transactions referred to above must exceed INR 20 Crore in the fiscal year.

Existing Provision	New Provision
Sub-Section (2A) and (2B) of Section 92CA TPO has powers to determine the ALP of International Transactions which are not disclosed in Form 3CEB, or which is not referred to him by the AO. Such powers for determination of the Alp are not for the undisclosed / un-referred SDT's	It is proposed to amend sub-Sections (2A) and (2B) of Section 92CA to enable the TPO to deal with SDTs that have not been referred to TPO by the AO and/or such transactions that are not disclosed in form 3CEB

Our Comments

The proposed change will help avoid any unwanted disputes between the taxpayers and tax authorities around the authority of the TPO in roping in, unreported SDTs. Furthermore, this change will also help in bringing the provisions in respect of international transactions and SDTs to par.

This amendment will take effect from 1st April 2025 and will be applicable for AY 2025-26 and subsequent assessment years.

5.4 Compliances Liaison Office of the non-resident in India

Under Section 285 of the Act, the Liaison Office is required to submit a statement of its activities in a financial year, to be delivered to the jurisdictional Assessing Officer, within sixty days from the end of such financial year

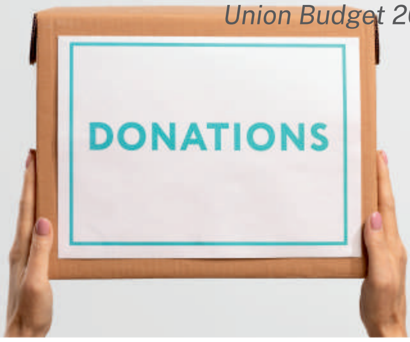
Existing Provision	New Provision
Rule 114DA is prescribed for compliance in form 49C by the Liaison Office. There are no penalty provisions prescribed if the compliance is not done within the stipulated timeframe.	A New Section 271GC is proposed to be inserted to ensure better compliance in this respect. a) Rs 1000 per day for which the failure continues, if the period of failure does not exceed three months. b) One lakh rupees in any other case c) Amendment to Section 273B is also proposed to include reasonable cause for non-applicability of the penalty

Our Comments

This is a typical compliance measure and will have an impact accordingly. Typically, MNCs have apprehensions in filing returns/statements in case of the existence of a mere "LIAISON OFFICE". Strong reactions to the **"per day penalty of Rs. 1,000"** are likely from MNCs / foreign companies in this regard.

This amendment will take effect from 1st April 2025 and will be applicable for AY 2025-26 and subsequent assessment years.

06. TRUSTS



6.1 Rationalization of the provisions of Charitable Trusts and Institutions

Presently, there are two main regimes for trusts or funds or institutions to claim exemptions.

- 1st Regime: Approved charities u/s 10(23)(iv)/ (v)/ (vi) (via)
- 2nd Regime: Registered charities u/s 11 to 13

It is proposed that, in a phased manner, the 1st regime will subsume into the 2nd regime. As such, sunset clauses are introduced to the effect that –

- Applications for approval under the 1st regime will be received only before 1st October 2024. Thereafter, applications can be made for registration under the 2nd regime.
- Applications for approval under 1st regime will be disposed off by the competent authority of 1st regime only
- Approvals under the 1st regime will be valid only till the end date prescribed therein. Thereafter, applications will have to be made under the 2nd regime only.

Our Comments

a) Both these regimes, i.e. Section 10(23C) and Sections 11-13, are intended to grant benefits to charities. Many provisions of the two regimes correspond to each other. However, there are some subtle and pointed differences. As a result, errors in applying the procedure of Regime-1 to Regime-2 (and vice-versa) are rampant, leading to litigation. It was high time to merge the two regimes into one.

b) A much-awaited amendment to reduce the complexity of procedures and taxation of charities.

c) Will assist I-T offices for easy governance, under one domain.

d) Will also assist assesses to ensure timely and smooth compliance.

e) In any case, after the decision in the case of the New Noble Educational Society Vs. the CCIT, controversies have arisen as regards the interpretation of the word **"solely** for education" and so on.

f) Due to the strict interpretation of the word "solely", many education institutions were finding it difficult to live with the ratio of the said decision.

g) As such, the movement for a shift towards the 2nd regime was already initiated by many charities.

h) Vide present finance bill, such leaning towards 2nd regime will be accelerated.

6.2 Power of condonation of delay and rationalization of timelines

Particulars	Existing Provision	New Provision
Condonation of delay in filing application for registration by trusts or institutions	No Such Provision	PCIT granted the power to condone the delay and treat such application as filed within a time where there is a reasonable cause.
Extension of Time Limit for Granting Approval	6 months from the **end of the Month** in which the application is made	6 months from the **end of the Quarter** in which the application is made

This amendment will take effect from the 1st day of October 2024.

Our Comments

a) A most welcome amendment.

b) In our country, lacs of charities exist; and, at any point in time, some charities are bound to find themselves on the wrong footing in making timely applications for registration/approval, and that too, under the correct Section / sub-Section considering very complex provisions of ITA.

c)Assuming that, the first application is rejected, and assuming that, subsequently, a corrected submission for registration / approval is made (after some delay); executive officers are unable to help, since, the power to condone delay was not available.

d)Charities, thus, after making such unintentional defaults, were finding themselves in a helpless situation.

e)Now, the grant of power to CIT for condonation of delay will go a long way.

f)This 'bestowing of delay condonation power' will reduce litigation.

g)Granting of power to CIT is a welcomed step considering the complexity involved in trust.

h)Technical rejections of trust registration will, hopefully, end soon, so that, only merits based 'approvals-rejections' era will evolve.

i) A good provision indeed.

07.
TDS & TCS RELATED AMENDMENTS

7.1 New Section 194T introduced - TDS on payments to Partners of the Firm.

As per this Section now TDS would be applicable even on payment of salary, remuneration, interest, bonus, or commission to any of the partners by the firm.
A Summary of the proposed Section 194T is as follows:

- **Who is required to deduct TDS** – Every Partnership Firm making payment to its partners.
- **Whose TDS is required to be deducted** – Partner of the firm.
- **Exemption Limit** – TDS is not required to be deducted if the aggregate value of the benefit does not exceed **Rs. 20,000/-** during the financial year.
- **Rate of TDS** – TDS is required to be done @ **10%**.
- **Effective Date** – The amendment will take effect **from 1st April 2025**

7.2 Rationalization of Tax Deducted at Source rates:

To improve the ease of doing business and better compliance by taxpayers, the TDS rates are proposed to be reduced. New TDS Rates for payments are as follows:

Section No.	Explanation for Section	TDS Deductor (Payer)	Payee	Existing Rates	Proposed Rates
194DA	Payment in respect of life insurance policy	Every Person	Resident	5.00%	2.00%
194D	Payment of Insurance Commission **(w.e.f. 1st Apr 25)**	Every Person	Resident	5.00%	2.00%
194G	Commission, etc on sale of lottery tickets	Any Person	Any Person	5.00%	2.00%
194H	Payment of commission or brokerage	Any Person(Other than Individual/HUF)	Resident Person	5.00%	2.00%
194 IB	Payment of Rent by Certain Individuals or HUF	Individual or HUF	Resident Person	5.00%	2.00%
194M	Payment of certain sums by certain individuals or Hindu undivided family	Individual or HUF (to whom provision of Section 194C, 194H or 194J do not apply)	Resident Person	5.00%	2.00%
194O	Payment by E-commerce operator to E-commerce participant	E-Commerce Operator	E-Commerce Participant	1.00%	0.10%
194F	TDS on payments on repurchase of units by Mutual Fund or UT	Any Person	Any Individual/ HUF	20.00%	Section Omitted

The above new rates except for 194D are applicable w.e.f. 1st October 2024

7.3 Amendment in Section 194C

TDS @1% or 2% is applicable u/s 194C for payments to contractors.

However, there were cases wherein some payments were getting covered under the provisions of Section 194J as well as 194C. In order to remove the said overlap, the specific amendment has been made whereby in case any payment is subject to TDS u/s 194J then the provisions of Section 194C would not apply to the same.

Our Comments

a) The earlier benefit of withholding TDS u/s 194C at a lower rate (either 1% or 2%) is no longer available and TDS would necessarily be required to be withheld @ 10% as per provisions of Section 194J in case payments get covered under both Sections.

b) The new amendment specifically proposes that, any sum referred to in 194J(1) does not constitute "work" for the purposes of TDS under Section 194C.

The above new rates except for 194D are applicable w.e.f. 1st October 2024.

7.4 Clarification in Section 194IA

It has been clarified that, for the purpose of deducting TDS u/s 194IA, the value of the full property needs to be taken into consideration and not the contribution of individual buyers in cases where multiple buyers are jointly buying a single property.

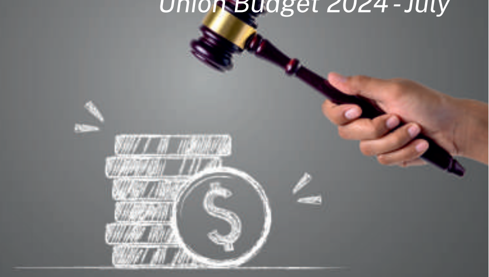
Example				
Total Consideration of Property	**Purchase - 1**	**Purchase - 2**	**Earlier Provision**	**New Provision**
Rs. 80 Lacs	Rs. 40 Lacs	Rs. 40 Lacs	NO 194IA TDS, since the consideration paid by each person was less than Rs 50 Lacs	TDS is applicable to both the buyers, since the total consideration for the Property is more than Rs 50 Lacs

Our Comments

Welcome amendment since ambiguity cleared.

7.5 Other Miscellaneous TDS/ TCS amendments

- The interest as applicable on delayed deposits of TCS has now been increased to 1.5% per month instead of 1% per month earlier.
- TDS credit of minor can now be claimed by the parent in whose ITR the respective income has been clubbed.
- An exemption from prosecution has been proposed in cases where the TDS liability has been fully deposited prior to the due date of filing of the respective quarterly TDS returns.
- The scope of the LOWER TDS application has now also been made applicable to TDS u/s 194Q and TCS u/s 206C(1H).
- A time limit of "6 years from the end of the financial year of the respective due date" has been proposed for correction/revision of TDS as well as TCS returns already filed.



08.
OTHER ACTS -
BENAMI PROPERTY TRANSACTION/ BLACK MONEY ACT

8.1 Extension of Time Limits "Prohibition of Benami Property Transactions Act, 1988"

Section 24 of the Prohibition of Benami Property Transactions (PBPT) Act, 1988 relates to notice and attachment of property involved in Benami transaction.

Particulars	Existing Provision	New Provision
Section 24(2A) of PBPT 1988 requires to furnish the reply to the Notice issued to the Benamidars or beneficial owner	**No time limit** is provided to the owner or Benamidars.	**Three months** from the end of the month in which notice is issued under sub-Section (1)
Section 24(3) and Section 24(4) provide a time limit for issuing notice for provisionally attaching the property.	A time limit of **90 days** from the last day of the month in which notice by the Initiating Officer is issued to provisionally attach the property or continuation of provisional attachment or deciding not to attach the property	Increase the said period to **four months** from the end of the month in which notice under sub-Section (1) of the said Section is issued.
Section 24(5) provides for time limits for initiating authority to draw up a statement of the case and refer it to the Adjudicating Authority	Currently Initiating officer has to draw up the statement of the case and refer it to the adjudication authority within 15 days of the date of the attachment order	**One month** from the end of the month in which the attachment order is passed.

Our Comments

These are administrative measures to streamline the provision and to reduce the hardship to the assessee as well as the administration.

These amendments will take effect from the 1st day of October 2024

8.2 Immunity from Penalty/ Prosecution to Benamidars who turn approvers

As per Section 53(2) of the PBPT Act 1988, the offense of benami transaction is punishable with a penalty of rigorous imprisonment for a minimum of one year to a maximum of seven years along with a fine extending to 25% of the fair market value of the benami property. This penalty is the same for a Benamidars a beneficial owner or any person who abets or induces any person to enter into a benami transaction. Due to the same quantum of penalty & prosecution as is imposable in the case of the beneficial owner and abettor, Benamidars do not come forward to give evidence against the beneficial owner. A new Section 55A is introduced which extends power to the Initiating Officer to grant "immunity" from prosecution to the Benamidars, provided, such Benamidars make a full and true disclosure of the whole circumstances relating to the benami transaction. Related sub-Sections provide for withdrawal of immunity if the conditions are not met/complied with.

Existing Provision	New Provision
Currently, the Penalty and prosecution provision for Benamidar and the beneficial owner are the same and equal. The existing provision of the PBPT Act 1988 does not provide any incentive to the Benamidar / abettors to become approvers or to come forward to give evidence against the beneficial owner assisting.	There is a proposal to provide immunity from prosecution to Benamidars and certain other persons (abettors) that come forward and provide evidence pertaining to a benami transaction. Such an 'immunity' is provided subject to such Benamidars complying with 'conditions' contained in the 'tender of immunity'

Our Comments

a) Uncertainty persists regarding what kind of 'conditions' can be included within the tender of immunity. Suitable guidelines in this regard give clarity on what such conditions could be welcomed by the assessee.

b) Ambiguity still persists whether other civil proceedings as well as penalty proceedings under the Benami Act can continue against such Benamidars when immunity is provided solely from 'prosecution'.

c) This will enhance the administration's investigative capabilities in the collection of evidence.

d) Apparently, the immunity power appears as a savior from prosecution. However, information likely to be fetched from the Benamidars is expected to be used against the beneficial owners. In one sense, it is a TRAP, against the beneficial owner and other involved Benamidars thereto.

This amendment will take effect from the 1st day of October 2024.

8.3 Black Money Act, 2015- Penalty for failure to disclose foreign income and assets in the ITR

The Undisclosed Foreign Income and Assets (Imposition of Tax) Bill, 2015 was introduced in Lok Sabha on March 20, 2015, by the Minister of Finance, Mr. Arun Jaitley. The Bill applies to Indian residents for the taxation of foreign income. It penalizes the concealment of foreign income and provides for criminal liability for attempting to evade tax in relation to foreign income. Under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, a penalty is provided for failure by a resident taxpayer to furnish or furnish inaccurate particulars of foreign assets or foreign incomes in the return of income. The CBDT, in a circular issued in 2015, had clarified that non-disclosure in Schedule FA (Foreign Assets Schedule) of the tax return, of a foreign asset acquired out of disclosed income, would attract the penalty.

- **Penalty for offenses**
  - **Undisclosed foreign income/assets:** The penalty for non-disclosure of foreign income or assets would be equal to three times the amount of tax payable, in addition to tax payable at 30%.

  - **Failure to furnish returns:** The penalty for not furnishing income tax returns in relation to foreign income or assets is a fine of Rs 10 lakh. This would not apply to an asset, with a value of five lakh rupees or less.

  - **Undisclosed or inaccurate details of foreign assets:** If a person who has filed tax returns does not disclose his foreign income, or submits inaccurate details of the same, he has to pay a fine of Rs 10 lakh. This would not apply to an asset, with a value of five lakh rupees or less.

  - **Second-time defaulter:** Any person, who continues to default in paying tax that is due, would be liable to pay an amount equal to the amount of tax arrears.

  - **Other defaults:** If a person fails to abide by the tax authority in (i) answering questions, (ii) signing off on a statement, (iii) attending or producing relevant documents, he is to pay a fine between Rs. 50,000 to two lakh rupees.

Existing Provision	New Provision
Under the Black Money Act, failure to disclose foreign assets (except for **bank account balances up to INR 5 Lakhs)** by taxpayers in their return of income could lead to a hefty penalty of up to INR 10 lakhs.	With a view to decrease the hardship on small taxpayers, the Government has limited the applicability of penalty provisions on non-disclosure of **all types of undisclosed foreign assets.** (excluding immovable property) only to scenarios where the aggregate value of such foreign assets exceeds **INR 20 lakhs.**

Our Comments

a) Stringent provisions of the BMA 2016, have caused hardship to small taxpayers, who, typically, fail to disclose minor assets located abroad.

b) Earlier provision of Rs 5 lacs and Foreign bank accounts disclosure requirements have affected Indian employees of multinational companies, receiving ESOPs, and individuals investing in foreign shares who unintentionally omitted these assets in their tax filings.

c) Many assessee who have worked abroad or Foreign return students, etc have faced hardship for failure to declare minor foreign assets located abroad.

d) This amendment significantly benefits those who acquired foreign assets up to INR 20 lakhs from taxed income but failed to report them, as they are no longer liable for penalties under Sections 42 and 43.

e) This is a welcome move and will save small taxpayers from the hassles of penalties and litigation around the Black Money Law and lead to greater efficiency in the allocation of administrative resources.

This amendment will take effect from the 1st day of October 2024.

8.4 Black Money Act, 2015- Tax clearance certificate

Section 230(1A) requires to take the Tax Clearance Certificate from the income-tax authorities stating that he has no liabilities under the Income-tax Act, 1961, or the Wealth-tax Act, or the Gift-tax Act, 1958, or the Expenditure-tax Act, 1987 or he makes satisfactory arrangements for the payment of all or any of such taxes which are or may become payable by that person.

Earlier the reference to the Black Money Act was not covered now the reference to liabilities arising under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015) is also proposed to be covered.

This amendment will take effect from the 1st day of October 2024.

8.5 Black Money Act, 2015- Recovery of the Liability through Seized Assets.

Section 132B of the Act provides that liability arising under the Income Tax Act, Gift Tax Act, Expenditure-tax Act, Wealth-tax Act, etc may be recovered from the taxpayer out of the seized assets under Section 132 or requisitioned under Section 132.

Now it is proposed to insert the reference of Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 in Section 132B of the Income-tax Act, 1961 so as to recover the existing liabilities under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, out of seized assets.

This amendment will take effect from the 1st day of October 2024.

09. OTHERS

9.1 Abolition of Angel Tax- Amendment of Section 56(2)(viib) of the Act

The Finance Act, 2012 inserted a clause (viib) in sub-Section (2) of Section 56 wherein if a private company receives consideration for the issue of shares from a resident if the consideration received for the issue of shares exceeds the face value of such shares, the aggregate consideration received for such shares exceeding such fair market value shall be chargeable to income tax under the head “Income from other sources”.

The government has now decided to end this provision by amending the Provision of Sec 56.

Our Comments

a) The angel tax provisions which were amended in the earlier Budget drew a lot of reaction from the nonresident investor community. Removal of the angel tax is a “better late than never” move and brings cheer to foreign investors and the start-up community.

b) One of the major demands of the start-up ecosystem was the removal of the 'Angel Tax', the Budget 2024 has announced the abolishing of the 'Angel Tax', giving much-needed relief to the entrepreneurial climate, enhancing the investment climate, boosting investor confidence, and stimulating economic growth.

*This amendment is proposed to be made effective from the **1st day of April 2025**, and shall accordingly apply from assessment year 2025-26.*

9.2 Presumptive taxation scheme for 'NR' engaged in the business of operation of cruise ships

To attract global tourists to cruise shipping in India and to popularise cruise shipping with Indian tourists some tax incentives are proposed. Participation of international cruise-ship operators in this sector will encourage the development of this sector and enable access to international best practices. In order to provide clarity, certainty, and a simple structure for the business of cruise shipping, which may be operating as multi-layer entities, the following is proposed.

- It is proposed to introduce a new provision (Section 44BBC) to provide for a presumptive taxation scheme for non-residents engaged in the business of operation of cruise ships, subject to conditions as may be prescribed. The **income of such assessees shall be 20% of the aggregate amount** paid or payable to the assessee and the amount received or deemed to be received by the assessee on account of carriage of passengers.

- Section 44B of the IT Act which provides for a presumptive taxation scheme for non-residents engaged in the business of shipping is proposed to be amended to exclude non-residents engaged in the business of cruise shipping.

- Section 10(15B) of the IT Act is inserted to provide an exemption of lease rentals received by foreign companies from leasing cruise ships to specified companies i.e., companies opting for presumptive taxation under Section 44BBC. The foreign companies shall be eligible for exemption under Section 10(15B) provided both the foreign company and the specified company are subsidiaries of the same holding company. The sunset for such exemption is March 31, 2030.

- This amendment is proposed to come into effect from April 1, 2025, and will accordingly apply in relation to AY 2025-26 and thereafter.

Our Comments

a) In light of the tremendous potential for cruise tourism in India, the FM has proposed a simpler tax regime for foreign shipping companies.

b) 20% of the gross receipts as a Net Income is a reasonable proposition.

9.3 Characterization of income from renting of Residential house property

A new Explanation 3 is proposed to be inserted into Section 28 of the Act clarifying that any income from renting out a residential house or a part of the house by the owner shall be chargeable under the head "Income from house property" and not under "Profits and gains of business or profession".

Our Comments

a) Welcome, move to reduce the ambiguity for the rental of Residential House property.

b) However, ambiguity regarding the treatment of the rental income of commercial properties still exists.

Applicable w.e.f. AY 2025-26.

9.4 Schedule 1 of the IT Act –Life Insurance Business- Certain disallowances:

Section 44 of the Act specifies that the profits and gains of any insurance business, including those run by mutual insurance companies or cooperative societies, should be calculated according to the **First Schedule of the Act**, regardless of other specific provisions in the Act.
Accordingly, Rule 2 of the said Schedule provides for the manner of computation of profits and gains of a life insurance business.
A proviso to Rule 2 is proposed to be inserted wherein any expenditure which is not admissible under Section 37 of the IT Act in computing the profits and gains of a business, shall be included back to the profits and gains of the life insurance business.

Our Comments

This amendment is made to ensure that non-business expenses shall not be allowed to life insurance business.

This amendment will take effect from 1st April, 2025 and will, accordingly, apply in relation to the assessment year 2025-2026 and subsequent years.

9.5 Disallowance of settlement amounts being paid to settle contraventions

Section 37(1) of the IT Act allows business-related expenses to be deducted. However, expenses incurred which is an offense or prohibited by law not allowed as a deduction. Thus, to expand the scope of this disallowance additional clause is proposed to add for expenses incurred to settle the proceeding

Existing Provision	New Provision
Section 37(1) of the IT Act provides for allowability of expenditure incurred wholly and exclusively for the purpose of business or profession. Further, Explanation 1 of Section 37(1) provides that any expenditure incurred by an assessee which is an offense, or which is prohibited by law shall not be deemed to have been incurred for the purpose of business/profession and accordingly, no deduction/ allowance shall be made in respect of the same.	Explanation 3 of Section 37(1) clarifies the scope of the term "expenditure incurred by an assessee for any purpose which is an offence, or which is prohibited by law" used in Explanation 1 of Section 37(1) of the IT Act. An additional **clause (iv) is proposed to be inserted** in Explanation 3 **to include any expenditure incurred by an assessee to settle proceedings initiated in relation to a contravention under any law** as notified by the Central Government within the ambit of the aforesaid term.

Our Comments

a) In Desiccant Rotors International Pvt. Ltd 201 Taxman 144 (Delhi) (HC), the assessee claimed a deduction under Section 37 for settling a patent infringement dispute with a customer. It was held that the payment was compensatory and not a penalty, as it arose from a settlement to compensate for losses incurred by the customer due to patent infringement, and hence was allowable.

b) Further, several companies have also settled the contravention of the financial market laws with SEBI without admitting the guilt or contravention such settlement may also be disallowed due to the proposed amendment.

c) Similarly, courts have held that the decision to settle the dispute is based on commercial expediency and business interests. It is to ensure that the assessee is able to carry out its business operations without interruption. Thus, any amount paid to settle a dispute was allowed as a business expenditure under Section 37(1) of the IT Act.

d) However, with the insertion of clause (iv) to Explanation 3 to Section 37(1), no deduction shall be allowed for expenditure incurred to settle proceedings.

e) An issue remains, whether, court decisions granting deductions for restitution penalties, become a nullity. Correctness of the same is a litigative issue.

This amendment is proposed to come into effect from April 1, 2025 and accordingly, would apply in relation to AY 2025-26 and thereafter.

9.6 Discontinuation of quoting of Aadhaar Enrolment ID in place of Aadhaar number

Since the coverage of the Aadhaar number has been increasing and now encompasses a majority of the population in India, it is proposed to discontinue the option of quoting the Enrolment ID of the Aadhaar application form, to obviate duplication and misuse of PAN.

These amendments will take effect from 1st October, 2024.

9.7 Penalty u/s 271FAA-Automatic Exchange of Information (AEOI)

It is proposed to substitute sub-Section (1) of Section 271FAA wherein the prescribed income-tax authorities can levy a penalty of INR 50,000/- in case a person who is required to furnish a statement under Section 285BA of the IT Act makes any of the following defaults:

- provides inaccurate information in the statement or fails to furnish correct information within the period specified under sub-Section (6) of Section 285BA; or

- fails to comply with the due diligence requirement prescribed under sub-Section (7) of Section 285BA.

This amendment is proposed to come into effect from October 1, 2024.

9.8 Amendment to Section 94B of the IT Act -IFSC Units

Section 94B of the IT Act i.e. provisions of thin capitalization restrict deductions of interest expense in respect of any debt borrowed from a non-resident, being an associated enterprise of the borrower, and applies to an Indian company or a permanent establishment of a foreign company in India.

Currently, the said Section does not apply to Indian companies or permanent establishments of foreign companies that are engaged in the business of banking or insurance, or such class of non-banking financial companies as may be notified by the Central Government.

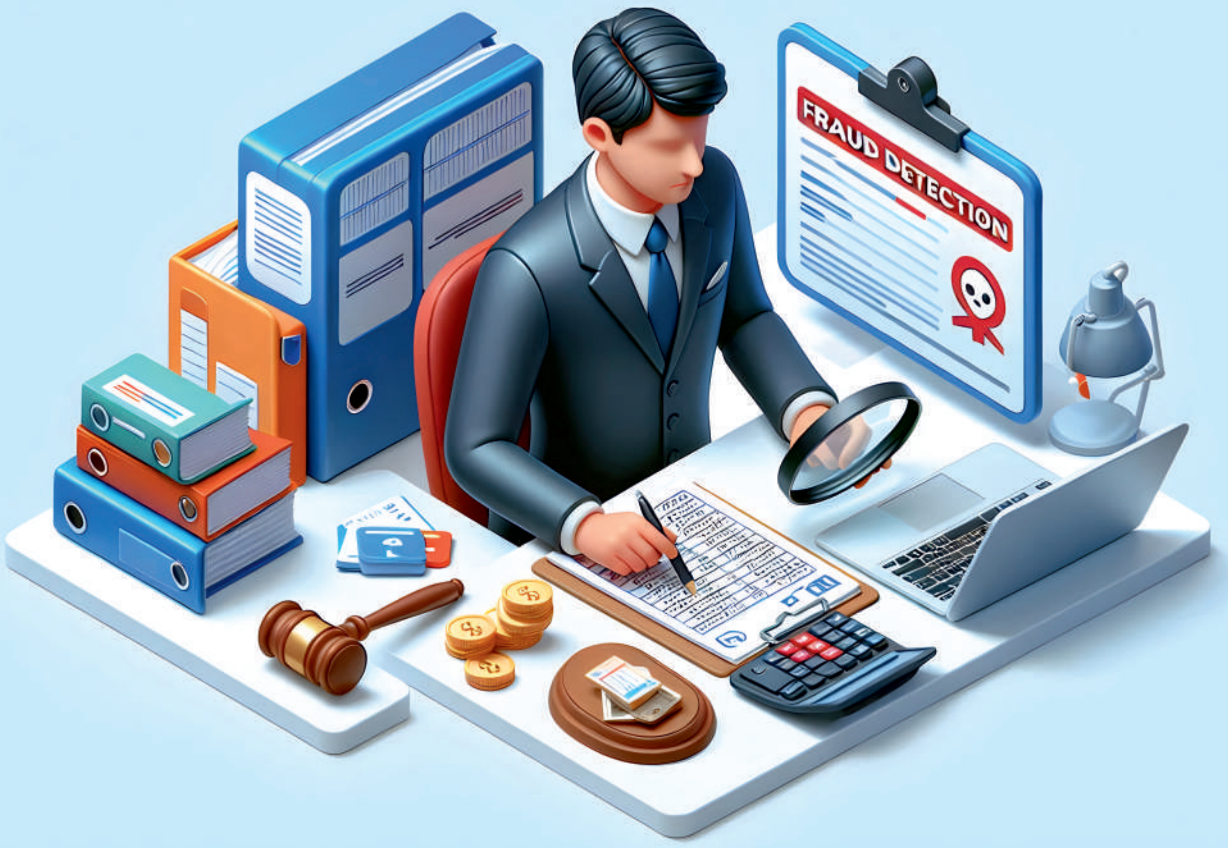
It is now proposed to amend Section 94B of the IT Act to exclude finance companies located in IFSC from the ambit of the said Section.

Our Comments

The aforesaid amendment is a welcome step and will enable the raising of funds by a finance company in IFSC from its foreign holding or group company using debt.

9.9 Increase in allowable remuneration limits to working partners of a firm:

Existing Provision	Proposed Provision
(a) **<u>on the first Rs. 3,00,000</u>** of the book profit or in case of a loss → **<u>Rs. 1,50,000</u>** or at the rate of 90 percent of the book profit, whichever is more; (b) on the balance of the book profit at the rate of 60 percent:	(a) **<u>on the first Rs. 6,00,000</u>** of the book profit or in case of a loss → **<u>Rs. 3,00,000</u>** or at the rate of 90 percent of the book profit, whichever is more; (b) on the balance of the book profit at the rate of 60 percent



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