AMENDMENTS

Rate of Income Tax

Individual/HUF/Association of Persons/Body of Individuals/Artificial Juridical Person

In case of Super Senior citizen

Total Income Range	Rates of Income Tax
Up to ₹ 5,00,000	Nil
₹ 5,00,001 to ₹ 10,00,000	20% of (Total income – ₹ 5,00,000)
₹ 10,00,001 and above	₹ 1,00,000 + 30% of (Total income – ₹ 10,00,000)

Super Senior Citizen means an individual who is resident in India and is of at least 80 years of age at any time during the relevant previous year (i.e. any resident person, male or female, born before 02-04-1942).

In case of Senior citizen

Total Income Range	Rates of Income Tax
Up to ₹ 3,00,000	Nil
₹ 3,00,001 to ₹ 5,00,000	5% of (Total Income – ₹ 3,00,000)
₹ 5,00,001 to ₹ 10,00,000	₹ 10,000 + 20% of (Total income – ₹ 5,00,000)
₹ 10,00,001 and above	₹ 1,10,000 + 30% of (Total income – ₹ 10,00,000)

Senior Citizen means an individual who is resident in India and is of at least 60 years of age at any time during the relevant previous year. (i.e., a resident person, male or female, born on or after 02-04-1942 but before 02-04-1962)

In case of other Individual[1] / HUF / Association of Persons / Body of Individuals / Artificial Juridical Person

Total Income Range	Rates of Income Tax
Up to ₹ 2,50,000	Nil
₹ 2,50,001 to ₹ 5,00,000	5% of (Total Income – ₹ 2,50,000)
₹ 5,00,001 to ₹ 10,00,000	₹ 12,500 + 20% of (Total income – ₹ 5,00,000)
₹ 10,00,001 and above	₹ 1,12,500 + 30% of (Total income – ₹ 10,00,000)

[1]. born on or after 02-04-1962 or non-resident individual

Rebate u/s 87A

Applicable to: Resident Individual

Conditions to be satisfied: Total income of the assessee does not exceed ₹ 5,00,000.

Quantum of Rebate: **Lower** of the following:

a. 100% of tax liability as computed above; or

b. ₹ 12,500/-

Surcharge on tax after rebate u/s 87A

Surcharge at the following rate is also payable on tax as computed above after rebate u/s 87A

Total Income	Rate of Surcharge
Total income does not exceed ₹ 50 lacs	Nil

Total income exceeds ₹ 50 lacs but does not exceed ₹ 1 crore	10% of tax
Total income exceeds ₹ 1 crore but does not exceed ₹ 2 crores	15% of tax
Total income exceeds ₹ 2 crores but does not exceed ₹ 5 crores	25% of tax*
Total income exceeds ₹ 5 crores	37% of tax*

* Where the total income includes dividend, any income chargeable u/s 111A and 112A, the surcharge on the amount of income-tax computed on that part of income shall not exceed 15%. In other words, surcharge higher than 15% is applicable only on tax on income other than dividend, income covered u/s 111A and 112A.

Marginal Relief: Available

Health & Education Cess

Applicable on: All assessee

Rate of cess: 4% of Tax liability after Surcharge

Firm or Limited Liability Partnership (LLP)

A partnership firm (including limited liability partnership) is taxable at the rate of 30%

Surcharge: 12% of income-tax (if total income exceeds ₹ 1 crore otherwise Nil)

Marginal Relief: Available

Health & Education Cess: 4% of tax liability after surcharge

Company

Company	Rate
In the case of a domestic company	
- Where its total turnover or gross receipts during the previous year 2019-20 does not exceed ₹ 400 crore	25%
- In any other case	30%
In the case of a foreign company	40%

Surcharge

Total Income	Domestic Company	Foreign Company
If total income exceeds ₹ 10 crore	12%	5%
If income exceeds ₹ 1 crore but does not exceed ₹ 10 crore	7%	2%
If income does not exceed ₹ 1 crore	Nil	Nil

Marginal Relief: Available at both points (i.e., income exceeds ₹ 1,00,00,000 or ₹ 10,00,00,000)

Health & Education Cess: 4% of tax liability after surcharge

In few cases and subject to certain conditions, companies are liable to be taxed at different rate.

Amendments to Sec. 9A

The provision of sec. 9A has been amended to provide that the Central Government may, by notification in the Official Gazette, specify that any one or more of the conditions [i.e. specified in sec. 9A(3)(a) to (m) or sec. 9A(4)(a) to (d)] shall not apply or shall apply with such modifications, as may be specified in such notification, in case of an eligible investment fund and its eligible fund manager,

if such fund manager is located in an International Financial Services Centre and has commenced its operations on or before 31-03-2024.

Income Exempt from Tax

Income received by specified fund [Sec. 10(4D)]

Any income accrued or arisen to, or received by a specified fund as a result of transfer of capital asset referred to in sec. 47(viiab), on a recognised stock exchange located in any International Financial Services Centre; **and**

Where the consideration for such transaction is paid or payable in convertible foreign exchange or as a result of transfer of securities (other than shares in a company resident in India) or any income from securities issued by a non-resident (not being a permanent establishment of a non-resident in India); **and**

Where such income otherwise does not accrue or arise in India or any income from a securitisation trust which is chargeable under the head "Profits and gains of business or profession",

- to the extent such income accrued or arisen to, or is received, is attributable to units held by non-resident (not being the permanent establishment of a non-resident in India) or is attributable to the investment division of offshore banking unit, as the case may be, computed in the prescribed manner.
  - "Specified Fund" means,—
    - i. a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate,—
      - I. which has been granted a certificate of registration as a Category III Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992 or International Financial Services Centre Authority Act, 2019;
      - II. which is located in any International Financial Services Centre; and
      - III. of which all the units other than unit held by a sponsor or manager are held by non-residents; or
    - ii. investment division of an offshore banking unit, which has been—
      - I. granted a certificate of registration as a Category-I foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 made under the Securities and Exchange Board of India Act, 1992 and which has commenced its operations on or before the 31st day of March, 2024; and
      - II. fulfils such conditions including maintenance of separate accounts for its investment division, as may be prescribed;

Income of IFSC [Sec. 10(4E)/4(F)]

- Any income accrued or arisen to, or received by a non-resident as a result of transfer of non-deliverable forward contracts entered into with an offshore banking unit of an International Financial Services Centre as referred to in sec. 80LA(1A), which fulfils such conditions as may be prescribed;
- Any income of a non-resident by way of royalty or interest, on account of lease of an aircraft in a previous year, paid by a unit of an International Financial Services Centre, if the unit has commenced its operations on or before 31-03-2024.
  - "Aircraft" means an aircraft or a helicopter, or an engine of an aircraft or a helicopter, or any part thereof;

Conditions for the purpose of sec. 10(4E) [Rule 21AK]

The income accrued or arisen to, or received by, a non-resident as a result of transfer of non-deliverable forward contracts u/s 10(4E), shall be exempted subject to fulfillment of the following conditions:

i. the non-deliverable forward contract is entered into by the non-resident with an offshore banking unit of an International Financial Services Centre which holds a valid certificate of registration granted under International Financial Services Centres Authority (Banking) Regulations, 2020 by the International Financial Services Centres Authority; and

ii. such contract is not entered into by the non-resident through or on behalf of its permanent establishment in India .

The offshore banking unit shall ensure that the aforesaid condition is complied with.

- *A non-deliverable forward contract* shall mean a contract for the difference between an exchange rate agreed before and the actual spot rate at maturity, with the spot rate being taken as the domestic rate or a market determined rate and such contract being settled with a single payment in a foreign currency

Sum received under a Life Insurance Policy [Sec. 10(10D)]

Any sum received under a life insurance policy including bonus on such policy is wholly exempt from tax. However, exemption is not available on -

1. any sum received u/s 80DD(3) or u/s 80DDA(3); or
2. any sum received under a Keyman insurance policy; or
3. any sum received under an insurance policy issued on or after 1-4-2012[1] in respect of which the premium payable for any of the years during the term of the policy exceeds 10%[2] of the actual capital sum assured.
4. Where any unit linked insurance policy (ULIP), is issued on or after 01-02-2021 and the premium payable for any of the previous year during the term of such policy exceeds ₹ 2,50,000
   - Where the premium is payable, by a person, for more than one ULIP, issued on or after 01-02-2021, the exemption shall apply only with respect to those ULIP, where the aggregate amount of premium does not exceed the aforesaid limit in any of the previous year during the term of any of those policies.

   Notes:

   a. Point (3) & (4) shall not apply to any sum received on the death of a person.
   b. Actual capital sum assured shall mean the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy.
   c. If the exemption u/s 10(10D) is not available in respect of ULIP due to point (4), income shall be taxable under the head Capital Gains u/s 45(1B) and tax liability shall be computed as per sec. 112A.
   d. For calculating actual capital sum assured (for point 3), no account shall be taken for -
      - the value of any premiums agreed to be returned; or
      - any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

[1] If policy is issued between 01-04-2003 and 31-03-2012, premium payable for any of the years during the term of the policy exceeds 20% of the actual capital sum assured

[2] Where policy is issued on or after 01-04-2013 and Insured is disable or severe disable as per sec. 80U or suffering from disease specified u/s 80DDB – 15%

Payment from Statutory or Public Provident Fund [Sec. 10(11)]

Any payment from a provident fund to which the Provident Funds Act, 1925, applies or from any other notified provident fund set up by the Central Government is exempt

Exceptions

Interest accrued during the previous year in the account of an employee maintained by the fund shall not be exempted to the extent it relates to the following amount:

Case	Interest not exempted
Where employer is giving contribution	Interest on employee's contribution (made on or after 01-04-2021) in excess of ₹ 2,50,000 per year
Where employer is not giving contribution	Interest on employee's contribution (made on or after 01-04-2021) in excess of ₹ 5,00,000 per year

In such case, income shall be computed in such manner as may be prescribed.

Payment from Recognised Provident Fund [Sec. 10(12)]

The accumulated balance due and becoming payable to an employee participating in a recognised provident fund, to the extent provided in rule 8 of Part A of the Fourth Schedule is exempt

Exceptions

Interest accrued during the previous year in the account of an employee maintained by the fund shall not be exempted to the extent it relates to the following amount:

Case	Interest not exempted
Where employer is giving contribution	Interest on employee's contribution (made on or after 01-04-2021) in excess of ₹ 2,50,000 per year
Where employer is not giving contribution	Interest on employee's contribution (made on or after 01-04-2021) in excess of ₹ 5,00,000 per year

In such case, income shall be computed in such manner as may be prescribed.

Income of Certain Funds [Sec. 10(23C)]

Sec. 10(23C) provides for exemption of income received by any person on behalf of different funds or institutions etc. specified in different subclauses.

Sub-clauses (iiiad) provides for the exemption for the income received by any person on behalf of university or educational institution. The exemptions are available subject to the condition that the annual receipts of such university or educational institution do not exceed the annual receipts as may be prescribed.

Similarly, sub-clauses (iiiae) provides for the exemption for the income received by any person on behalf of hospital or institution. The exemptions are available subject to the condition that the annual receipts of such hospital or institution do not exceed the annual receipts as may be prescribed.

Earlier, the prescribed limit for aforesaid sub-clauses was ₹ 1 crore. In order to provide benefit to small trust and institutions, such limit has been increased to ₹ 5 crore and such limit shall be applicable for an assessee with respect to the aggregate receipts from university or universities or educational institution or institutions as referred to in sub-clause (iiiad) as well as from hospital or hospitals or institution or institutions as referred to in sub-clause (iiiae).

Other Amendments

- Voluntary contributions made with a specific direction that it shall form part of the corpus shall be invested or deposited in one or more of the forms or modes specified in sec. 11(5) maintained specifically for such corpus.
- Application out of corpus shall not be considered as application for charitable or religious purposes for the purposes of third proviso of sec. 10(23C) and sec. 11. However, when it is invested or deposited back, into one or more of the forms or modes specified in sec. 11(5) maintained specifically for such corpus from the income of the previous year, such amount shall be allowed as application in the previous year in which it is deposited back to corpus to the extent of such deposit or investment.
- Application from loans and borrowings shall not be considered as application for charitable or religious purposes for the purposes of third proviso of sec. 10(23C) and sec. 11. However, when loan or borrowing is repaid from the income of the previous year, such repayment shall be allowed as application in the previous year in which it is repaid to the extent of such repayment.
- For the computation of income required to be applied or accumulated during the previous year, no set off or deduction or allowance of any excess application, of any of the year preceding the previous year, shall be allowed

Income to wholly owned subsidiary of Abu Dhabi Investment Authority and Sovereign Wealth Fund [Sec 10(23FE)]

Any income of the specified person in the nature of dividend, interest or long-term capital gains arising from an investment made by it in India, whether in the form of debt or share capital or unit, if the investment:

i. is made on or after 01-04-2020 but on or before 31-03-2024;
ii. is held for at least 3 years; and
iii. is in:
    a. a business trust referred to in sec. 2(13A)(i); or
    b. a company or enterprise or an entity carrying on the business of developing, or operating and maintaining, or developing, operating and maintaining any infrastructure facility or other specified business; or
    c. a domestic company, set up and registered on or after 01-04-2021, having minimum 75% investments in one or more of the companies or enterprises or entities referred to in item (b); or
    d. a non-banking financial company registered as an Infrastructure Finance Company as referred to in notification number RBI/2009-10/316 issued by the Reserve Bank of India or in an Infrastructure Debt Fund, a non-banking finance company, as referred to in the Infrastructure Debt Fund - Non-Banking Financial Companies (Reserve Bank) Directions, 2011, issued by the Reserve Bank of India, having minimum 90% lending to one or more of the companies or enterprises or entities referred to in item (b)
    e. a Category-I or Category-II Alternative Investment Fund regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, having 50% investment in one or more of the company or enterprise or entity referred above or in an Infrastructure Investment Trust referred to in sec. 2(13A)(i)

Taxpoint

- Where any income has not been included in the total income of the specified person due to the provisions of this clause, and subsequently during any previous year the specified person fails to

satisfy any of the conditions of this clause so that the said income would not have been eligible for such non-inclusion, such income shall be chargeable to income-tax as the income of the specified person of that previous year.

- In case, a Category-I or Category-II Alternative Investment Fund has investment of less than 100% in one or more of the companies or enterprises or entities, income accrued or arisen or received or attributable to such investment, directly or indirectly, which is exempt shall be calculated proportionately to that investment made in one or more of the companies or enterprises or entities, in such manner as may be prescribed.
- In case, a domestic company has investment of less than 100% in one or more of the companies or enterprises or entities, income accrued or arisen or received or attributable to such investments, directly or indirectly, which is exempt shall be calculated proportionately to the investment made in one or more of the companies or enterprises or entities, in such manner as may be prescribed.
- In case, a non-banking finance company registered as an Infrastructure Finance Company or Infrastructure Debt Fund has lending of less than 100% in one or more of the companies or enterprises or entities, income accrued or arisen or received or attributable to such lending, directly or indirectly, which is exempt shall be calculated proportionately to the lending made in one or more of the companies or enterprises or entities, in such manner as may be prescribed.
- In case, a sovereign wealth fund or pension fund has loans or borrowings, directly or indirectly, for the purposes of making investment in India, such fund shall be deemed to be not eligible for exemption under this clause.
- "Specified person" means:

  a. a wholly owned subsidiary of the Abu Dhabi Investment Authority which—
     i. is a resident of the United Arab Emirates; and
     ii. makes investment, directly or indirectly, out of the fund owned by the Government of the Abu Dhabi;

  b. a sovereign wealth fund which satisfies the following conditions, namely:—
     i. it is wholly owned and controlled, directly or indirectly, by the Government of a foreign country;
     ii. it is set up and regulated under the law of such foreign country;
     iii. the earnings of the said fund are credited either to the account of the Government of that foreign country or to any other account designated by that Government so that no portion of the earnings inures any benefit to any private person;
     iv. the asset of the said fund vests in the Government of such foreign country upon dissolution;
        - The provisions of (iii) and (iv) shall not apply to any payment made to creditors or depositors for loan taken or borrowing for the purposes other than for making investment in India;
     v. it does not participate in the day to day operations of investee but the monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director shall not be considered as participation in the day to day operations of the investee; and
     vi. it is notified by the Central Government and fulfils conditions specified in such notification

  c. a pension fund, which:

i. is created or established under the law of a foreign country including the laws made by any of its political constituents being a province, State or local body, by whatever name called;
ii. is not liable to tax in such foreign country or if liable to tax, exemption from taxation for all its income has been provided by such foreign country;
iii. does not participate in the day to day operations of investee but the monitoring mechanism to protect the investment with the investee including the right to appoint directors or executive director shall not be considered as participation in day to day operations of the investee; and
iv. is notified by the Central Government and satisfies such other conditions as may be prescribed.

Capital Gains of Resultant Fund [Sec. 10(23FF)]

Any income of the nature of capital gains, arising or received by a non-resident or a specified fund, which is on account of transfer of share of a company resident in India, by the resultant fund or a specified fund to the extent attributable to units held by non-resident (not being a permanent establishment of a non-resident in India) in such manner as may be prescribed, and such shares were transferred from the original fund, or from its wholly owned special purpose vehicle, to the resultant fund in relocation, and where capital gains on such shares were not chargeable to tax if that relocation had not taken place.

Income of certain institutions [Sec. 10(48D)/(48E)]

- Any income accruing or arising to an institution established for financing the infrastructure and development, set up under an Act of Parliament and notified by the Central Government for the purposes of this clause, for a period of 10 consecutive assessment years beginning from the assessment year relevant to the previous year in which such institution is set up [Sec. 10(48D)]
- Any income accruing or arising to a developmental financing institution, licensed by the Reserve Bank of India under an Act of the Parliament referred to in sec. 10(48D) and notified by the Central Government for this purposes, for a period of 5 consecutive assessment years beginning from the assessment year relevant to the previous year in which the developmental financing institution is set up
  However, the Central Government may, by issuing notification, extend the period of exemption for a further period, not exceeding 5 more consecutive assessment years, subject to fulfilment of such conditions as may be specified in the said notification;

Equalization Levy [Sec. 10(50)]

Any income arising from any specified service provided on or after the date on which the provisions of Chapter VIII of the Finance Act, 2016 comes into force or arising from any e-commerce supply or services made or provided or facilitated on or after 01-04-2020 and chargeable to equalisation levy under that Chapter.

However, the income shall not include and shall be deemed never to have been included any income which is chargeable to tax as royalty or fees for technical services in India under this Act read with the agreement notified by the Central Government u/s 90 or 90A

Charitable and Religious Trust

- Voluntary contributions made with a specific direction that it shall form part of the corpus shall be invested or deposited in one or more of the forms or modes specified in sec. 11(5) maintained specifically for such corpus.
- Application out of corpus shall not be considered as application for charitable or religious purposes for the purposes sec. 11. However, when it is invested or deposited back, into one or more of the forms or modes specified in sec. 11(5) maintained specifically for such corpus from the income of the previous year, such amount shall be allowed as application in the previous year in which it is deposited back to corpus to the extent of such deposit or investment.
- Application from loans and borrowings shall not be considered as application for charitable or religious purposes for the purposes of sec. 11. However, when loan or borrowing is repaid from the income of the previous year, such repayment shall be allowed as application in the previous year in which it is repaid to the extent of such repayment.
- For the computation of income required to be applied or accumulated during the previous year, no set off or deduction or allowance of any excess application, of any of the year preceding the previous year, shall be allowed

Profits and Gains of Business or Profession

Depreciation on Goodwill

- Goodwill of a business or profession will not be considered as a depreciable asset and no depreciation to be allowed even in respect of purchased goodwill.
- Block of assets shall not include Goodwill for purposes of depreciation.
- If Goodwill is forming part of the block of asset as on AY beginning on 1 April 2020 and depreciation has been claimed, WDV and short-term capital gain to be computed in a manner to be prescribed.
- Cost of acquisition for Goodwill acquired under certain modes of acquisition shall be the purchase price of the previous owner.
- If Goodwill is purchased, such purchase price would be the cost of acquisition. However, depreciation obtained prior to AY 2021-22 shall be reduced from the purchase price of the Goodwill

Payment by employer of employee's contribution to provident fund, etc. [Sec. 36(1)(va) & 43B]

It has been clarified that the provision of sec. 43B does not apply for the purpose of determining due date u/s 36(1)(va). In other words, for the purpose of employee's contribution to provident fund, etc., payment should be made within the due date prescribed under the respective Act. Section 43B has also been amended on the same line.

Tax Audit [Sec. 44AB]

U/s 44AB, every person carrying on business is required to get his accounts audited, if his total sales, turnover or gross receipts, in business exceeds ₹ 1 crore in any previous year. Similarly, in case of a person carrying on profession he is required to get his accounts audited, if his gross receipt in profession exceeds ₹ 50 lakhs in any previous year.

In order to reduce compliance burden on small and medium enterprises, it is amended to increase the threshold limit for a person carrying on business from ₹ 5 crore to ₹ 10 crore in cases where,-

a. aggregate of all receipts in cash during the previous year does not exceed 5% of such receipt; and
b. aggregate of all payments in cash during the previous year does not exceed 5% of such payment.

Amendment to sec. 44ADA

Provision of sec. 44ADA has been amended to provide that the provision shall apply to an assessee, being an individual, HUF or partnership firm, not being an LLP.

Amendment to Sec. 43CA

In order to boost demand in the real-estate sector and to enable the real-estate developers to liquidate their unsold inventory at a rate substantially lower than the circle rate and giving benefit to the home buyers, it has been amended to increase the safe harbour from 10% to 20% u/s 43CA for the period from 12th November, 2020 to 30th June, 2021 in respect of only primary sale of residential units of value up to ₹ 2 crore. Consequential relief by increasing the safe harbour from 10% to 20% shall also be allowed to buyers of these residential units u/s 56(2)(x) of the Act for the said period. Therefore, for these transactions, circle rate shall be deemed as sale/purchase consideration only if the variation between the agreement value and the circle rate is more than 20%.

Tax neutral conversion of Urban Cooperative Bank into Banking Company

Sec. 44DB provides for computing deductions in the case of business re-organization of cooperative banks. Further, the said section, inter alia, provides that where such business reorganization of co-operative banks takes place, the deductions u/s 32, 35D, 35DD and 35DDA will be apportioned between the predecessor co-operative bank and the successor co-operative bank in the proportion of the number of days before and after the date of business reorganization. Further transfer of a capital asset by the predecessor co-operative bank to the successor co-operative bank, as well as transfer of shares by the shareholders in the predecessor co-operative bank, in a case of business reorganization u/s 47, is also not regarded as transfer.

The Reserve Bank of India (RBI) has permitted voluntary transition of primary co-operative bank [urban co-operative banks (UCB)] into a banking company by way of transfer of Assets and Liabilities vide Circular reference no. DCBR.CO.LS.PCB. Cir.No.5/07.01.000/2018-19 dated September 27, 2018.

It is amended to expand the scope of business reorganization to include conversion of a primary co-operative bank to a banking company and the deductions available u/s 44DB shall also be made applicable in relation to such conversion of primary co-operative bank to the banking company.

Further it is also amended that transfer of a capital asset by the primary co-operative bank to the banking company as a result of conversion shall not be treated as transfer u/s 47 of the Act. Consequently, the allotment of shares of the converted banking company to the shareholders of the predecessor primary co-operative bank shall not be treated as transfer under the said section of the Act.

Capital Gains

Capital Asset viz a viz Policy under ULIP [Sec. 45(1B)]

Where -

any person receives at any time during any previous year any amount under a unit linked insurance policy (including bonus on such policy), to which exemption u/s 10(10D) does not apply on account of following reasons:

a. the exemption u/s 10(10D) shall not apply with respect to any ULIP issued on or after the 01-02-2021, if the amount of premium payable for any of the previous year during the term of the policy exceeds ₹ 2,50,000.
b. the exemption u/s 10(10D) shall not apply if premium is payable by a person for more than one ULIPs, issued on or after 01-02-2021, if aggregate premium whereof exceeds ₹ 2,50,000, for any of the previous years during the term of any of the policy.

then, any profits or gains arising from receipt of such amount by such person shall be chargeable under the head "Capital gains" and shall be deemed to be the income of such person of the previous year in

which such amount was received and the income taxable shall be calculated in such manner as may be prescribed. (such ULIP is treated as capital asset)

Such ULIPs [to which exemption u/s 10(10D) does not apply on account of the applicability of the fourth and fifth proviso] in the definition of equity oriented fund in section 112A so as to provide them same treatment as unit of equity oriented fund. Thus provisions of section 111A and 112A / 112 would apply on sale/redemption of such ULIPs

Computation of capital gains for the purposes of sec. 45(1B) [Rule 8AD]

Where any person receives at any time during any previous year any amount under a specified unit linked insurance policy, including the amount allocated by way of bonus on such policy, then, —

i. where the amount is received for the first time under the specified unit linked insurance policy during the previous year, the capital gains arising from receipt of such amount by such person during the previous year in which such amount is received shall be calculated in accordance with the formula:−

   A-B

   where, -

   A= the amount received for the first time under a specified unit linked insurance policy during the previous year, including the amount allocated by way of bonus on such policy; and

   B = the aggregate of the premium paid during the term of the specified unit linked insurance policy till the date of receipt of the amount as referred to in "A";

ii. where the amount is received under the specified unit linked insurance policy during the previous year, at any time after the receipt of the amount as referred to in clause (i), the capital gains arising from receipt of such amount by such person during the previous year in which such amount is received shall be calculated in accordance to the formula,—

   C-D

   where, -

   C= the amount received under a specified unit linked insurance policy during the previous year, at any time after the receipt of the amount as referred to in clause (i), including the amount allocated by way of bonus on such policy excluding the amount that has already been considered for calculation of taxable amount under this sub- rule during the earlier previous year or years; and

   D = the aggregate of the premium paid during the term of the specified unit linked insurance policy till the date of receipt of the amount as referred to in „C" as reduced by the premium that has already been considered for calculation of taxable amount under this sub-rule during the earlier previous year or years.

The capital gains as computed above shall be deemed to be the capital gains arising from the transfer of a unit of an equity-oriented fund set up under a scheme of an insurance company comprising unit linked insurance policies.

Rationalisation of provision of transfer of capital asset to partner on dissolution or reconstitution

Profits or gains arising from the receipt of money or other asset by a partner of a firm/member of AOP/BOI at the time of its dissolution or reconstitution shall be chargeable to income-tax as income of firm/AOP/BOI under the head 'capital gains'.

Capital gain on transfer of capital assets by a firm/AOP/BOI to partner/member by way of distribution on its dissolution [Sec. 45(4) r.w.s 9B]

Situation

Where a specified person receives during the previous year any money or capital asset or both from a

specified entity in connection with the reconstitution of such specified entity,

Treatment

Any profits or gains arising from such receipt by the specified person shall be chargeable as income of such specified entity under the head "Capital gains".

- It shall be deemed to be the income of such specified entity of the previous year in which such money or capital asset or both were received by the specified person.
- Transfer of stock in trade shall be treated as business profit

Method of computation of profits or gains

Such profits or gains shall be determined in accordance with the following formula:

$A = B + C D$

where,

A = Income chargeable as capital gains of the specified entity
- If the value of "A" is negative, its value shall be deemed to be zero.

B = Value of any money received by the specified person from the specified entity on the date of such receipt;

C = Fair market value of the capital asset received by the specified person from the specified entity on the date of such receipt

D = Balance in the capital account (represented in any manner) of the specified person in the books of account of the specified entity at the time of its reconstitution.
- The balance is to be calculated without taking into account the increase in the capital account of the specified person due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset.
- "Self-generated goodwill" and "Self-generated asset" mean goodwill or asset, as the case may be, which has been acquired without incurring any cost for purchase or which has been generated during the course of the business or profession.

Taxpoint

- "Reconstitution of the specified entity" means, where—
  a. one or more of its partners or members, as the case may be, of such specified entity ceases to be partners or members; or
  b. one or more new partners or members, as the case may be, are admitted in such specified entity in such circumstances that one or more of the persons who were partners or members, as the case may be, of the specified entity, before the change, continue as partner or partners or member or members after the change; or
  c. all the partners or members, as the case may be, of such specified entity continue with a change in their respective share or in the shares of some of them;
- "Specified entity" means a firm or other association of persons or body of individuals (not being a company or a co-operative society);
- "Specified person" means a person, who is a partner of a firm or member of other association of persons or body of individuals (not being a company or a co-operative society) in any previous year.
- When a capital asset is received by a specified person from a specified entity in connection with the reconstitution of such specified entity, this provision shall operate in addition to the provisions of sec. 9B and the taxation under the said provisions thereof shall be worked out independently.

Transfer in a re-location of capital asset by original fund to resulting fund [Sec. 47(viiac) / (viiad)]

- Any transfer, in a relocation, of a capital asset by the original fund to the resulting fund;
- Any transfer by a shareholder or unit holder or interest holder, in a relocation, of a capital asset being a share or unit or interest held by him in the original fund in consideration for the share or unit or interest in the resultant fund.

Taxpoint

- *Original fund* means a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions:
  a) the fund is not a person resident in India;
  b) the fund is a resident of a country or a specified territory with which an agreement referred to in sec. 90or 90A has been entered into; or is established or incorporated or registered in a notified country or a specified territory;
  c) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident; and
  d) fulfils such other conditions as may be prescribed;
- *Relocation* means transfer of assets of the original fund, or of its wholly owned special purpose vehicle, to a resultant fund on or before 31-03-2023, where consideration for such transfer is discharged in the form of share or unit or interest in the resulting fund to,—
  a. shareholder or unit holder or interest holder of the original fund, in the same proportion in which the share or unit or interest was held by such shareholder or unit holder or interest holder in such original fund, in lieu of their shares or units or interests in the original fund; or
  b. the original fund, in the same proportion as referred above, in respect of which the share or unit or interest is not issued by resultant fund to its shareholder or unit holder or interest holder;
- *Resultant fund* means a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership, which—
  a. has been granted a certificate of registration as a Category I or Category II or Category III Alternative Investment Fund, and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992 or International Financial Services Centre Authority Act, 2019; and
  b. is located in any International Financial Services Centre as referred to in sec. 80LA(1A)

Transfer of capital asset by India Infrastructure Finance Company Ltd [Sec. 47(viiae)]

Any transfer of capital asset by India Infrastructure Finance Company Ltd to an institution established for financing the infrastructure and development, set up under an Act of Parliament and notified by the Central Government.

Transfer of capital asset by public sector company [Sec. 47(viiaf)]

Any transfer of capital asset, under a plan approved by the Central Government, by a public sector company to another notified public sector company or to the Central Government or to a State Government

Sec. 49 has been amended to insert the reference of sec. 47(viiac)/(viiad)/(viiae)/(viiaf).

Rationalization of provision relating to slump sale [Sec. 50B]

In relation to capital assets being an undertaking or division transferred by way of slump sale,—

- the "net worth" of the undertaking or the division, as the case may be, shall be deemed to be the cost of acquisition and the cost of improvement for the purposes of sec. 48 and 49 and no regard shall be given to the provisions contained in the second proviso to sec. 48;
- fair market value of the capital assets as on the date of transfer, calculated in the prescribed manner, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of such capital asset

Further, while computing networth, value of capital asset being goodwill of a business or profession, which has not been acquired by the assessee by purchase from a previous owner, shall be nil

Further, for the purpose of slumpsale, all types of "transfer" as defined in sec. 2(47) are included within its scope.

Extension of date of incorporation for eligible start up for exemption and for investment in eligible start-up

The existing provisions of the sec. 80-IAC, inter alia, provides for a deduction of an amount equal to 100% of the profits and gains derived from an eligible business by an eligible start-up for three consecutive assessment years out of ten years at the option of the assessee. This is subject to the condition that the total turnover of its business does not exceed ₹ 100 crore. The eligible start-up is required to be incorporated on or after 01-04-2016 but before 01-04-2021.

The existing provisions of the section 54GB of the Act, inter alia, provide for exemption of capital gain which arises from the transfer of a long-term capital asset, being a residential property (a house or a plot of land), owned by the eligible assessee. The assessee is required to utilise the net consideration for subscription in the equity shares of an eligible start-up, before the due date of furnishing of return of income u/s 139(1). The eligible start-up is required to utilise this amount for purchase of new asset within one year from the date of subscription in equity shares by the assessee. Further, it has been provided that benefit is available only when the residential property is transferred on or before 31st March, 2021.

Now, in order to help such eligible start-up and help investment in them,-

a. the provisions of section 80-IAC has been amended to extend the outer date of incorporation to before 1st April, 2022; and
b. the provisions of sec. 54GB has been amended to extend the outer date of transfer of residential property from 31st March 2021 to 31st March 2022.

Income from Other Sources

In order to boost demand in the real-estate sector and to enable the real-estate developers to liquidate their unsold inventory at a rate substantially lower than the circle rate and giving benefit to the home buyers, it has been amended to increase the safe harbour from 10% to 20% u/s 43CA for the period from 12th November, 2020 to 30th June, 2021 in respect of only primary sale of residential units of value up to ₹ 2 crore. Consequential relief by increasing the safe harbour from 10% to 20% shall also be allowed to buyers of these residential units u/s 56(2)(x) of the Act for the said period. Therefore, for these transactions, circle rate shall be deemed as sale/purchase consideration only if the variation between the agreement value and the circle rate is more than 20%.

Further, exception list of sec. 56(2)(x) has been amended to provide that the provision of sec. 56(2)(x) is not applicable in case of transfer of capital asset in the circumstances covered u/s 47(viiac) or 47(viiad) or 47(viiae) or 47(viiaf).

Set off and Carry Forward of Losses

Facilitating strategic disinvestment of public sector company

Sec. 2(19AA) defines that "demerger", in relation to companies, means the transfer, pursuant to a scheme of arrangement under sections 391 to 394 of the Companies Act, 1956, by a demerged company of its one or more undertakings to any resulting company on satisfaction of conditions prescribed in the said clause.

Sec. 72A provides provisions relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger, etc. Sub-section (1) provides that the accumulated loss and unabsorbed depreciation of the amalgamating company or companies shall be deemed to be the accumulated losses and unabsorbed depreciation of the amalgamated company or companies in specified cases and subject to the conditions specified in the said section.

Aforesaid provisions of these 2 sections has been relaxed for public sector companies in order to facilitate strategic disinvestment by the Government. Accordingly, following amendments has been made:

a. sec. 2(19AA) has been amended to insert Explanation 6 to clarify that the reconstruction or splitting up of a public sector company into separate companies shall be deemed to be a demerger, if
   - such reconstruction or splitting up has been made to transfer any asset of the demerged company to the resultant company; and
   - the resultant company is a public sector company on the appointed date indicated in the scheme approved by the Government or any other body authorised under the provisions of the Companies Act, 2013 or any other Act governing such public sector companies in this behalf; and
   - fulfils such other conditions as may be notified by the Central Government in the Official Gazette.

b. Sec. 72(1) has been amended:
   - to provide that the provision of sec. 72A(1) shall also apply in case of amalgamation of one or more public sector company or companies with one or more public sector company or companies.
   - to provide that the provision of sec. 72A(1) shall also apply in case of amalgamation of an erstwhile public sector company with one or more company or companies, if
     - the share purchase agreement entered into under strategic disinvestment restricted immediate amalgamation of the said public sector company; and
     - the amalgamation is carried out within 5 years from the end of the previous year in which the restriction on amalgamation in the share purchase agreement ends.

c. Further, it is provided that the accumulated loss and the unabsorbed depreciation of the amalgamating company, in case of an amalgamation (referred above), which is deemed to be loss or, as the case may be, allowance for unabsorbed depreciation of the amalgamated company shall not be more than the accumulated loss and unabsorbed depreciation of the public sector company as on the date on which the public sector company ceases to be a public sector company as a result of strategic disinvestment;

d. "Control" shall have the same meaning as assigned to in sec. 2(27) of the Companies Act, 2013;

e. "Erstwhile public sector company" means a company which was a public sector company in earlier previous years and ceases to be a public sector company by way of strategic disinvestment by the

Government.

f. "Strategic disinvestment" shall mean sale of shareholding by the Central Government or any State Government in a public sector company which results in reduction of its shareholding to below 51%, along with transfer of control to the buyer.

Exception to sec. 79

Exception list of sec. 79 has been amended to provide that the provision of sec. 79 is not applicable in case of change in shareholding take place during the previous year due to the circumstances covered u/s 47(viiac) or 47(viiad).

Deductions

Extending time limit for sanctioning of loan for affordable housing for availing deduction u/s 80EEA

The existing provisions of sec. 80EEA provide for a deduction in respect of interest on loan taken from any financial institution for acquisition of an affordable residential house property. The deduction allowed is up to ₹ 1,50,000 and is subject to certain conditions. One of the conditions is that loan has been sanctioned by the financial institution during the period from 01-04-2019 to 31-03-2021.

In order to continue promoting purchase of affordable housing, the period of sanctioning of loan by the financial institution has been extended to 31-03-2022.

Amendment to sec.80-IAC

Refer sec. 54GB

Amendment to sec.80-IBA

The existing provision of the sec. 80-IBA provides that where the gross total income of an assessee includes any profits and gains derived from the business of developing and building affordable housing project, there shall, subject to certain conditions specified therein, be allowed a deduction of an amount equal to 100% of the profits and gains derived from such business. One of the conditions is that the project is approved by the competent authority after 01-06-2016 but on or before 31-03-2021.

To help migrant labourers and to promote affordable rental, it is amended to allow deduction u/s 80-IBA also to such rental housing project which is notified by the Central Government in the Official Gazette and fulfils such conditions as specified in the said notification.

Further, the outer time limit for getting approval of the affordable housing project has also been extended to 31st March 2022 from 31st March 2021 and same outer time limit be also provided for the affordable rental housing project.

Amendment to sec. 80LA

The amendments are as under:

- Deduction is also available to a unit of International Financial Services Centre if it is registered under the International Financial Services Centre Authority Act, 2019
- Income arising from transfer of an asset, being an aircraft or aircraft engine which was leased by a unit
- of IFSC to a person subject to condition that the unit has commenced operation on or before 31-03-2024.
- In case the unit is registered under the International Financial Services Centre Authority Act, 2019 then the copy of permission shall mean a copy of the registration obtained under the International Financial Services Centre Authority Act, 2019.

Relief u/s 89A

Relief from taxation in income from retirement benefit account maintained in a notified country [Sec. 89A]

Where a specified person has income accrued in a specified account, such income shall be taxed in such manner and in such year as may be prescribed.

- "Specified account" means an account maintained in a notified country by the specified person in respect of his retirement benefits and the income from such account is not taxable on accrual basis but is taxed by such country at the time of withdrawal or redemption.
- "Notified country" means a country as may be notified by the Central Government in the Official Gazette.
- "Specified person" means a person resident in India who opened a specified account in a notified country while being non-resident in India and resident in that country.

Vide Notification No. 25/2022 dated 04/04/2022, following countries are notified u/s 89A

1. Canada
2. United Kingdom of Great Britain and Northern Ireland
3. United States of America

Further, Notification No. 24/2022 dated 04/04/2022 inserted Rule 21AAA:

1. Where a specified person has income accrued in a specified account or accounts, during a previous year relevant to any assessment year beginning on or after 01-04-2022, such income shall, at the option of the specified person, be included in his total income of the previous year relevant to the assessment year in which income from the said specified account or accounts is taxed at the time of withdrawal or redemption, as the case may be, in the notified country.
2. Where aforesaid option has been exercised by a specified person, the total income of the specified person for the previous year in which income is taxable shall not include the income which,—
   a. has already been included in the total income of such specified person in any of the earlier previous years during which such income accrued and tax thereon has been paid in accordance with the provisions of the Act; or
   b. was not taxable in India, in the previous year during which such income accrued, on account of,—
      i. such specified person being a non-resident, or not ordinarily resident, during that previous year; or
      ii. application of the Double Taxation Avoidance Agreement, if any,

   and the foreign tax paid on such income, if any, shall be ignored for the purposes of computation of the foreign tax credit under rule 128.
3. The option shall be exercised by the specified person in respect of all the specified accounts maintained by the specified person.
4. In a case where the specified person becomes a non-resident during any relevant previous year, then-
   i. the option shall be deemed to have never been exercised with effect from the relevant previous year; and
   ii. the income which has accrued in the specified account or accounts during the period, beginning with the previous year in respect of which the option was exercised and ending with the previous year immediately preceding the relevant previous year, shall be taxable during the previous year immediately preceding the relevant previous year and tax shall be paid on or before the due date for furnishing the return of income for the relevant previous year.

5. The option to be exercised by the specified person, for any previous year relevant to the assessment year beginning on or after 01-042022, shall be in Form No. 10-EE and it shall be furnished electronically under digital signature or electronic verification code on or before the due date specified u/s 139(1), for furnishing the return of income.
6. Subject to the provisions of sub-rule (4), the option once exercised for a specified account or accounts in respect of a previous year in Form No. 10- EE shall apply to all subsequent previous years and cannot be subsequently withdrawn for the previous year for which the option was exercised or any previous year subsequent to that previous year.

Non Resident

Amendment to sec. 115ACA

The benefit of sec. 115ACA has been extended to include GDR created in an IFSC issued to investor against the issue of ordinary shares (of issuing foreign company) if such GDR is listed and traded on any IFSC.

Amendment to sec. 115AD

where the specified fund is investment division of an offshore banking unit, the provisions of this section shall apply to the extent of income that is attributable to the investment division of such banking units, referred to in the Explanation to sec. 10(4D)(c)(ii), as a Category-I portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 made under the Securities and Exchange Board of India Act, 1992, calculated in such manner as may be prescribed.

Company Assessment

Amendment to sec. 115JB

- In case of a company, where there is an increase in book profit of the previous year due to income of past year (or years) included in the book profit on account of an advance pricing agreement entered into by the assessee u/s 92CC or on account of secondary adjustment required to be made u/s 92CE, the Assessing Officer shall, on an application made to him in this behalf by the assessee, recompute the book profit of the past year (or years) and tax payable, if any, by the assessee during the previous year. In this situation, the provisions of sec. 154 shall apply and the period of 4 years shall be reckoned from the end of the financial year in which the said application is received by the Assessing Officer. This provision shall apply only if the assessee has not utilised the credit of tax paid under this section in any subsequent assessment year u/s 115JAA.
- While computing book profit, following income (or expenses) shall not be considered if the assessee is a foreign company and the income tax on such income is less than 15%:
    - **a.** the capital gains arising on transactions in securities; or
    - **b.** the interest, royalty or fees for technical services chargeable to tax u/s 115A to 115BBG

  In the aforesaid list, dividend is also included.

Tax on income of investment fund and its unit holders [Sec. 115UB]

Investment fund means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the SEBI (Alternative Investment Fund) Regulations, 2012.

Now, it also covered aforesaid fund regulated under the International Financial Services Centre Authority Act, 2019.

PAN

Any person intends to enter into following specified transactions are required to obtain PAN 7 days before entering into such transactions.

1. Cash deposit or deposits aggregating to ₹ 20 lakh or more in a financial year, in one or more account of a person with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies or a Post Office;
2. Cash withdrawal or withdrawals aggregating to ₹ 20 lakh or more in a financial year, in one or more account of a person with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies or a Post Office;
3. Opening of a current account or cash credit account by a person with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 applies or a Post Office

Further, such person is required to quote PAN or Aadhar number on any document pertaining to such transactions.

Return of Income & Assessment

Mandatory furnishing of return in case of high value transactions [7th proviso to sec. 139(1)]

Following criteria are also prescribed for mandatory filing of return

- If his total sales, turnover or gross receipts, as the case may be, in the business exceeds ₹60 lakhs during the previous year; or
- If his total gross receipts in profession exceeds ₹ 10 lakh during the previous year; or
- If the aggregate of TDS and TCS during the previous year, in the case of the person, is ₹ 25,000 or more (in case of senior citizen ₹ 50,000); or
- The deposit in one or more savings bank account of the person, in aggregate, is ₹ 50 lakh or more during the previous year

Due date of filing return of income [Exp. 2 to sec. 139(1)]

A return should be filed on or before the following due date (of respective assessment year):

Assessee	Due date
• Where the assessee (including the partners of the firm) is required to furnish a report in Form 3CEB u/s 92E pertaining to international transaction(s)	30th November
• Where the assessee is a partner[3] in a firm and the said firm is required to furnish report in Form 3CEB u/s 92E pertaining to international transaction(s)	30th November
• Where the assessee is a company not having international transaction(s)	31st October
• *Any other assessee*	
– Where accounts of the assessee are required to be audited under any law	31st October
– Where the assessee is a partner[1] in a firm and the accounts of the firm are required to be audited under any law	31st October
– In any other case	31st July

Due date for filing revised return or belated return

[3] Also spouse of such partner if the provisions of section 5A applies to such spouse

A revised or belated return can be filed with December 31 (instead of one year i.e. March 31) of the relevant assessment year or before completion of assessment, whichever is limit.

Fee for default in furnishing return of income [Sec. 234F]

Where a person required to furnish a return of income u/s 139, fails to do so within the due date, he shall pay fee of:

Case	Fee
Total income does not exceed ₹ 5 lakh	₹ 1,000
Total income exceeds ₹ 5 laks	₹ 5,000

Defective Return

It is provided that the Board may, by notification in the Official Gazette, specify that any of the conditions specified in clauses (a) to (f) to the Explanation shall not apply to such class of assessees or shall apply with such modifications, as may be specified in such notification

Allowing prescribed authority to issue notice u/s 142(1)(i)

Section 142 of the Act provides for conduct of inquiry before assessment. Clause (i) of sub section (1) of the said section gives the Assessing Officer the authority to issue notice to an assessee, who has not submitted a return of income, asking for submission of return. This is necessary to bring into the fold of taxation non-filers or stop filers who have transactions resulting in income. However, this power can be currently invoked only by the Assessing Officer.

The Central Government is following a conscious policy of making all the processes under the Act, where physical interface with the assessee is required, fully faceless by eliminating person to person interface between the taxpayer and the Department.

In line with this policy, and in order to enable centralized issuance of notices etc. in an automated manner, the provisions of clause (i) of the sub-section (1) of the section 142 has been amended to empower the prescribed income-tax authority besides the Assessing Officer to issue notice under the said clause.

Assessment

- Sec. 143(1)(a)(iv) has been amended to allow for the adjustment on account of increase in income indicated in the audit report but not taken into account in computing the total income.
- Sec. 143(1)(a)(v) has been amended so as to give consequential effect to amendment carried out in sec. 10AA or sec. 80HH to 80RRB.
- Sec. 143 has been amended to reduce the time limit for sending intimation u/s 143(1) from one year to nine months from the end of the relevant assessment year. Similarly, time limit for completion of assessment u/s 144 has also been reduced to 9 months from the end of the relevant assessment year.
- Further, time limit for service of notice u/s 143(2) has also been reduced to three months from the end of the financial year in which the return is furnished.
- e-Verification Scheme is notified for the purpose of sec. 133, 133B, 133C, 134 and 135.
- Faceless Inquiry or Valuation Scheme, 2022 has been notified

Income Escaping Assessment (New Scheme)

If any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the Assessing Officer may, subject to the provisions of sec. 148 to 153, assess or reassess such income or recompute the loss or the depreciation allowance or any other allowance or deduction for such assessment year.

For the purpose of assessment or reassessment or recomputation, the Assessing Officer may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, irrespective of the fact that the provisions of sec. 148A have not been complied with.

Issue of notice where income has escaped assessment [Sec. 148]

- *Notice for filing return*: Before making the assessment, reassessment or recomputation u/s 147, and subject to the provisions of sec. 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, u/s 148A(d), requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year. For filing of such return, provision relating to sec. 139 shall be applicable.
- *Prior Information and approval*: No notice shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice.
  - The information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means:
    a. Any information flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;
    b. any final objection raised by the Comptroller and Auditor General of India to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act.
- Where,
  i. a search is initiated u/s 132 or books of account, other documents or any assets are requisitioned u/s 132A, on or after 01-04-2021, in the case of the assessee; or
  ii. a survey is conducted u/s 133A, other than u/s 133A(2A) or 133A(5), on or after 01-04-2021, in the case of the assessee; or
  iii. the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner, that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned u/s 132 or 132A in case of any other person on or after 01-04-2021, belongs to the assessee; or
  iv. the Assessing Officer is satisfied, with the prior approval of Principal Commissioner or Commissioner, that any books of account or documents, seized or requisitioned u/s 132 or 132A in case of any other person on or after 01-04-2021, pertains or pertain to, or any information contained therein, relate to, the assessee,

  the Assessing Officer shall be deemed to have information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the 3 assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.
- Specified authority means the specified authority referred to in sec. 151.

Conducting inquiry, providing opportunity before issue of notice u/s 148 [Sec. 148A]

The Assessing Officer shall, before issuing any notice u/s 148:

a. conduct any enquiry, if required, with the prior approval of specified authority (as referred to in sec. 151), with respect to the information which suggests that the income chargeable to tax has escaped assessment;

b. provide an opportunity of being heard to the assessee, with the prior approval of specified authority, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than 7 days and but not exceeding 30 days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice u/s 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per (a);
c. consider the reply of assessee furnished, if any, in response to the show-cause notice referred to in (b);
d. decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice u/s 148, by passing an order, with the prior approval of specified authority, within 1 month from the end of the month in which the reply is received by him, or where no such reply is furnished, within 1 month from the end of the month in which time or extended time allowed to furnish a reply expires:

Exception

The provisions of this section shall not apply in a case where:

a. a search is initiated u/s 132 or books of account, other documents or any assets are requisitioned u/s 132A in the case of the assessee on or after 01-04-2021; or
b. the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any money, bullion, jewellery or other valuable article or thing, seized in a search u/s 132 or requisitioned u/s 132A, in the case of any other person on or after 01-04-2021, belongs to the assessee; or
c. the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search u/s 132 or requisitioned u/s 132A, in case of any other person on or after 01-04-2021, pertains or pertain to, or any information contained therein, relate to, the assessee.

Time limit for notice [Sec. 149]

No notice u/s 148 shall be issued for the relevant assessment year:

General Case	Within 3 years from the end of the relevant assessment year, unless the case falls below
Special Case	Where the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to ₹50 lakhs or more for that year, notice can be issued beyond 3 years, but not beyond 10 years from the end of the relevant assessment year.

Taxpoint:

- For the purposes of computing the period of limitation, the time or extended time allowed to the assessee, as per show-cause notice issued u/s 148A or the period during which the proceeding u/s 148A is stayed by an order or injunction of any court, shall be excluded.
- Where immediately after the exclusion of the said period, the period of limitation available to the Assessing Officer for passing an order u/s 148A is less than 7 days, such remaining period shall be extended to seven days and the period of limitation shall be deemed to be extended accordingly.
- “Asset” shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.
- No notice shall be issued without getting approval u/s 151

- As per sec. 150(1), the notice may be issued at any time for the purpose of making assessment or reassessment in consequence of or to give effect to any findings or directions contained in an order passed by -
  - any authority in any proceedings under this Act by way of appeal, reference or revision; or
  - a court in any proceeding under any other law.

  Exception: The provisions shall not apply in any case where any such assessment (reassessment or recomputation) relates to an assessment year in respect of which an assessment (reassessment or recomputation) could not have been made at the time the order which was the subject-matter of the appeal, reference or revision, as the case may be, was made by reason of aforesaid time-limitation.

Sanction for issue of notice [Sec. 151]

Specified authority for the purposes of sec. 148 and 148A shall be:

Case	Specified Authority
Where 3 years have not elapsed from the end of the relevant assessment year	Principal Commissioner or Principal Director or Commissioner or Director
Where more than 3 years have elapsed from the end of the relevant assessment year	Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General

Faceless assessment of income escaping assessment [Sec. 151A]

The Central Government may make a scheme for the purposes of assessment, reassessment or re-computation u/s 147 or issuance of notice u/s 148 or 148A or sanction for issue of such notice u/s 151, so as to impart greater efficiency, transparency and accountability by—

a. eliminating the interface between the income-tax authority and the assessee or any other person to the extent technologically feasible;
b. optimising utilisation of the resources through economies of scale and functional specialisation;
c. introducing a team-based assessment, reassessment, re-computation or issuance or sanction of notice with dynamic jurisdiction.

Taxpoint: The Central Government may, for the purpose of giving effect to the scheme, direct (upto 31-03-2022) that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified

Rate of taxation [Sec. 152(1)]

If an assessment/reassessment is made u/s 147, then tax shall be chargeable at the rates at which it would have been charged had the income not escaped assessment.

When can a reassessment proceeding be dropped [Sec. 152(2)]

Where an assessment is reopened u/s 147 and the assessee -

a) has not opposed any part of the original assessment order for that year either u/s 246 to 248 or u/s 264; and

b) shows that he had been assessed on an amount or to a sum not lower than what he would be rightly liable for even if the income alleged to have escaped assessment had been taken into account, or the assessment or computation had been properly made.

- then the proceedings u/s 147 shall be dropped.

Time limit for completion of assessment u/s 147

No order of assessment, reassessment shall be made u/s 147 after the expiry of 12 months from the **end of the financial year** in which notice u/s 148 was **served**.

Assessment u/s 153A and 153C

Where a search is initiated u/s 132 or books of account, other documents or any assets are requisitioned u/s 132A **on or before 31-03-2021**, then assessment shall be made u/s 153A and 153C.

Penalty

e-Faceless Penalty Scheme, 2021 has been notified vide Notification No. 54/2022 dated 27/05/2022

TDS and TCS

Exemption of deduction of tax at source on payment of Dividend to business trust in whose hand dividend is exempt

Section 194 provides for deduction of tax at source (TDS) on payment of dividends to a resident. The second proviso to this section provides that the provisions of this section shall not apply to such income credited or paid to certain insurance companies or insurers. The second proviso is amended to provide that the provisions of this section shall also not apply to such income credited or paid to a business trust by a special purpose vehicle or payment of dividend to any other person as may be notified.

Amendment to sec. 194A

Tax is not required to be deducted u/s 194A on income in relation to a zero coupon bond issued by infrastructure debt fund.

Note: In order to enable infrastructure debt fund [which are notified by the Central Government in the Official Gazette u/s 10(47)] to issue zero coupon bond necessary amendments has been incorporated in sec. 2(48).

TDS for non-filers of ITR [Sec. 206AB]

Where tax is required to be deducted at source under aforesaid provisions, other than sec. 192, 192A, 194B, 194BB, 194LBC or 194N on any sum or income or amount paid, or payable or credited, by a person (hereafter referred to as deductee) to a specified person, the tax shall be deducted at the higher of the following rates, namely:—

a. at twice the rate specified in the relevant provision of the Act; or

b. at twice the rate or rates in force; or

c. at the rate of 5%.

Taxpoint

➢ *Specified person* means

- a person who has not filed the returns of income for both of the 2 assessment years relevant to the 2 previous years immediately prior to the previous year in which tax is required to be deducted, for which the time limit of filing return of income u/s 139 has expired; and
- the aggregate of TDS and TCS in his case is ₹ 50,000 or more in each of these 2 previous years.

  However, specified person shall not include a non-resident who does not have a permanent establishment in India. Permanent establishment includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.

- If the provisions of sec. 206AA is applicable to a specified person, in addition to the provision of this section, the tax shall be deducted at higher of the two rates provided in this section and in sec. 206AA.

Amendment to sec.194-IB

The provision of sec. 194-IB(4) has been amended so as to insert reference of sec. 206AB for the purpose of the said section.

TDS in respect of certain specified senior citizen [Sec. 194P]

Who is responsible to deduct tax: Specified Bank

When tax shall be deducted: In case of a specified senior citizen, the specified bank shall, after giving effect to the deduction allowable under Chapter VI-A and rebate allowable u/s 87A, compute the total income of such specified senior citizen for the relevant assessment year and deduct income-tax on such total income on the basis of the rates in force (i.e. slab rates).

Taxpoint:

- Such specified senior citizen is not required to file his return of income for the assessment year relevant to the previous year in which the tax has been deducted.
- Specified bank means notified banking company
- Specified senior citizen means an individual, being a resident in India:
  a) who is of the age of 75 years or more at any time during the previous year;
  b) who is having income of the nature of pension and no other income except the interest income received or receivable from any account maintained by such individual in the same specified bank in which he is receiving his pension income; and
  c) has furnished a declaration to the specified bank containing such particulars, in such form and verified in such manner, as may be prescribed.

TDS on certain sums for purchase of goods [Sec. 194Q]

Who is responsible to deduct tax: Any person, being a buyer who is responsible for paying any sum to any resident seller for purchase of any goods of the value or aggregate of such value exceeding ₹ 50 lakhs in any previous year.

- "Buyer" means a person whose total sales, gross receipts or turnover from the business carried on by him exceed ₹ 10 crore during the financial year immediately preceding the financial year in which the purchase of goods is carried out. However, buyer does not include certain notified person provided they satisfied specified conditions.

When tax shall be deducted: At the time of payment or crediting the payee, whichever is earlier.

Taxpoint: *Where any amount is credited to any account (for e.g. "Suspense account" or by any other name) instead of seller account, such crediting shall be deemed to be credit of such sum to the account of the seller.*

Rate of TDS: 0.1% of such sum exceeding ₹ 50 lakhs.

In case where seller do not have PAN, then rate of TDS shall be 5%

Taxpoint

- TDS u/s 194Q shall be deducted on the taxable value i.e. exclusive of GST component. However, on the amount paid as advance, TDS shall be deducted on entire amount since GST component cannot be separately identified. [Circular 13/2021 dated 30-06-2021]
- The provision is not applicable where seller is Central or State Government. The exemption is not applicable where seller is public sector undertaking or corporation. [Circular 20/2021 dated 25-11-2021]
- The provisions of this section shall not apply to a transaction on which:
  a. tax is deductible under any of the provisions of this Act; and

   b. tax is collectible u/s 206C other than a transaction to which sec. 206C(1H) applies.

- The provision is not applicable in case of following transactions:
  a. Transaction in securities and commodities traded through recognised stock exchange
  b. Transaction in electricity, renewable energy certificate and energy saving certificate through power exchanges [Circular 13/2021 dated 30-06-2021]

Amendment to sec. 196D

Where DTAA agreement applies to the payee and if the payee has furnished a certificate referred to sec. 90 or 90A, as the case may be, then, tax shall be deducted at the rate of 20% or at the rate provided in such agreement for such income, whichever is lower.

Amendment to sec. 206AA

It is provided that where the tax is required to be deducted u/s 194Q and Permanent Account Number (PAN) is not provided, the TDS shall be at the rate of 5% (instead of 20%).

Special provision for TCS for non-filers of ITR [Sec. 206CCA]

Where tax is required to be collected at source under the aforesaid provisions, on any sum or amount received by a person (hereafter referred to as collectee) from a specified person, the tax shall be collected at the higher of the following rates:

- at twice the rate specified in the relevant provision of the Act; or
- at the rate of 5%.

Taxpoint

- If the provisions of sec. 206CC is applicable to a specified person, in addition to the provisions of this section, the tax shall be collected at higher of the two rates provided in this section and in sec. 206CC.
- Specified person means
  a) a person who has not filed the returns of income for both of the 2 assessment years relevant to the 2 previous years immediately prior to the previous year in which tax is required to be collected, for which the time limit of filing return u/s 139(1) has expired and
  b) aggregate of tax deducted at source and tax collected at source in his case is ₹ 50,000 or more in each of these two previous years.

  However, the specified person shall not include a non-resident who does not have a permanent establishment in India. Permanent establishment includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.

Applicability of sec. 206C(1G) [[Notification No. 20/2022 dated 30/03/2022]

The provisions of sec. 206C(1G) shall not apply to an individual who is not a resident in India in terms of clause (1) and clause (1A) of section 6 of the Act, and who is visiting India.

Interest and Fee

Advance tax instalment for dividend income

Sec. 234C provides for payment of interest by an assessee who does not pay or fails to pay on time the advance tax instalments as per section 208 of the Act. The assessee is liable to pay a simple interest at the rate of 1% per month for a period of 3 months on the amount of shortfall calculated with respect to the due dates for advance tax instalments.

The first proviso of the sub section (1) provides for the relaxation that if the shortfall in the advance

tax instalment or the failure to pay the same on time is on account of the income listed therein, no interest u/s 234C shall be charged provided the assessee has paid full tax in subsequent advance tax instalments. These exclusions are: -

- the amount of capital gains; or
- income of the nature referred to in sub-clause (ix) of clause (24) of section 2; or
- income under the head "Profits and gains of business or profession" in cases where the income accrues or arises under the said head for the first time

Aforesaid relaxation is to insulate the taxpayers from payment of interest u/s 234C in cases where accurate determination of advance tax liability is not possible due to the intrinsic nature of the income. Therefore, it is amended to include dividend income in the above exclusion but not deemed dividend u/s 2(22)(e)

Fee for default relating to statement or certificate [Sec. 234G]

Where:

a. the research association, university, college or other institution or company referred to in 35(1)(ii) or (iii) or (iia) fails to deliver a statement within the time prescribed u/s 35(1A); or
b. the institution or fund fails to deliver a statement within the time prescribed u/s 80G(5)(viii) or fails to furnish a certificate u/s 80G(5)(ix)

it shall be liable to pay fee @ ₹ 200 for every day during which the failure continues.

***Maximum Fee*: ** The amount of fee shall not exceed the amount in respect of which the failure referred to therein has occurred.

Taxpoint: Such fee shall be paid before delivering the statement or before furnishing such certificate.

Appeal, Revision & Settlement Commission

Faceless Appeal scheme has been notified on 28-12-2021 [Notification No. 139/2021 dated 28/12/2021]. Similarly, e-advance rulings Scheme, 2022 has been notified on 18/01/2022 [Notification No. 07/2022 dated 18/01/2022]

Settlement Commission

- Settlement Commission shall cease to operate after 31/01/2021
- No application for settlement shall be made after aforesaid date
- In respect of pending applications, the Central Government shall constitute one or more Interim Boards for Settlement, as may be necessary, for the settlement of pending applications.
- Every Interim Board shall consist of 3 members, each being an officer of the rank of Chief Commissioner, as may be nominated by the Board.
- If the Members of the Interim Board differ in opinion on any point, the point shall be decided according to the opinion of the majority.

Dispute Resolution Committee [Sec. 245MA]

- The Central Government shall constitute Dispute Resolution Committees (one or more) for dispute resolution in the case of such persons or class of persons, as may be specified by the Board.
- The assessee have an option to opt (or not to opt) for dispute resolution in respect of dispute arising from any variation in the specified order in his case and who fulfils the specified conditions.

- The Dispute Resolution Committee, subject to such conditions, as may be prescribed, shall have the powers to reduce or waive any penalty imposable under this Act or grant immunity from prosecution for any offence punishable under this Act in case of a person whose dispute is resolved under this Chapter.

Taxpoint

- "Specified conditions" in relation to a person means a person who fulfils the following conditions:
  - I. where he is not a person,—
    - A. in respect of whom an order of detention has been made under the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.
    - B. in respect of whom prosecution for any offence punishable under the provisions of the Indian Penal Code, the Unlawful Activities (Prevention) Act, 1967, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Prohibition of Benami Transactions Act, 1988, the Prevention of Corruption Act, 1988 or the Prevention of Money-laundering Act, 2002 has been instituted and he has been convicted of any offence punishable under any of those Acts;
    - C. in respect of whom prosecution has been initiated by an income-tax authority for any offence punishable under the provisions of this Act or the Indian Penal Code or for the purpose of enforcement of any civil liability under any law for the time being in force, or such person has been convicted of any such offence consequent upon the prosecution initiated by an income-tax authority;
    - D. who is notified u/s 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992;
  - II. such other conditions, as may be prescribed.
- "Specified order" means such order, including draft order, as may be specified by the Board, and,—
  - i. aggregate sum of variations proposed or made in such order does not exceed ₹ 10 lakhs;
  - ii. where return has been filed by the assessee for the assessment year relevant to such order, total income as per such return does not exceed ₹ 50 lakhs

  Exception

  Specified order does not include the order which is based on search-initiated u/s 132 or requisition u/s 132A in the case of assessee or any other person or survey u/s 133A or information received under an agreement referred to in sec. 90 or sec. 90A.
- The Central Government may make a scheme (for faceless proceedings), for the purposes of dispute resolution, so as to impart greater efficiency, transparency and accountability by—
  - a. eliminating the interface between the Dispute Resolution Committee and the assessee in the course of dispute resolution proceedings to the extent technologically feasible;
  - b. optimising utilisation of the resources through economies of scale and functional specialisation;
  - c. introducing a dispute resolution system with dynamic jurisdiction.
- The Central Government may, for the purposes of giving effect to the scheme, direct (on or before 31-03-2023) that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the said notification.

Vide Notification No. 26/2022 dated 05/04/2022, Rule 44DAA to Rule 44DAD has been inserted in respect of dispute resolution committee. Further, vide Notification No. 27/2022 dated 05/04/2022, e-Dispute Resolution Scheme, 2022 has been notified.

Amendment to sec. 263

The Principal Commissioner or Commissioner may initiate revision u/s 263. The provision has been amended to insert the reference of Principal Chief Commissioner or Chief Commissioner within it.

Faceless proceedings before ITAT

The Central Government may make a scheme, for the purposes of appeal to the Appellate Tribunal, so as to impart greater efficiency, transparency and accountability by:

a. optimising utilisation of the resources through economies of scale and functional specialisation;
b. introducing a team-based mechanism for appeal to the Appellate Tribunal, with dynamic jurisdiction.

The Central Government may, for the purpose of giving effect to the scheme, direct (within 31-03-2022) that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified

Board for Advance Ruling

The Central Government shall constitute Boards for Advance Rulings (one or more) for giving advance rulings. The Board for Advance Rulings shall consist of two members, each being an officer not below the rank of Chief Commissioner, as may be nominated by the Board [Sec. 245-OB]

Taxpoint:

- No proceeding before, or pronouncement of advance ruling by, the Board shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Board for Advance Rulings [Sec. 245P]
- The Ruling or the Order of the Board will not be binding on the Department or on the applicant.

Advance Ruling [Sec. 245N(a)]

Advance ruling means:

(i) A determination by the Board for Advance Rulings in relation to a transaction which has been undertaken or is proposed to be undertaken by a non-resident applicant; or

(ii) A determination by the Board for Advance Rulings in relation to the tax liability of a non-resident arising out of a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with such non-resident; or

(iia) A determination by the Board for Advance Rulings in relation to the tax liability of a resident applicant, arising out of a transaction which has been undertaken or is proposed to be undertaken by such applicant

In above cases, such determination shall include the determination of any question of law or of fact specified in the application.

(iii) A determination or decision by the Board for Advance Rulings in respect of an issue relating to computation of total income which is pending before any income-tax Board for Advance Rulings or the Appellate Tribunal and such determination or decision shall include the determination or decision of any question of law or of fact relating to such computation of total income specified in the application.

(iv) A determination or decision by the Board for Advance Rulings whether an arrangement, which is proposed to be undertaken by any person being a resident or a non-resident, is an impermissible avoidance arrangement as referred to in Chapter X-A or not.

Applicant [Sec. 245N(b)]

Applicant means any person who is:

a) a non-resident referred to in sub-clause (*i*) of clause (*a*) above; or

b) a resident referred to in sub-clause (*ii*) of clause (*a*) above; or

c) a resident who has undertaken or propose to undertake one or more transactions of value of ₹ 100 crore or more in total [Notification No. 73, dated 28-11-2014]

d) a public sector company [Notification No. 725, dated 03-08-2000]

e) a resident or a non-resident referred to in sub-clause (*iv*) of clause (*a*) above

- makes an application u/s 245Q

Application for Advance Ruling [Sec. 245-Q]

- An applicant desirous of obtaining an advance ruling may make an application stating the question on which the advance ruling is sought in quadruplicate.
- The application shall be accompanied by a fee of
  a. ₹ 10,000 or
  b. such fees as may be prescribed.
  – whichever is higher
- An applicant may withdraw an application within 30 days from the date of the application.

Procedure on Receipt of Application [Sec. 245R]

- On receipt of an application, the Board for Advance Rulings shall cause a copy thereof to be forwarded to the Principal Commissioner or Commissioner and, if necessary, call upon him to furnish the relevant records. Where any records have been called for by the Board for Advance Rulings, such records shall, as soon as possible, be returned to the Principal Commissioner or Commissioner.
- The Board for Advance Rulings may, after examining the application and the records called for, by order, either allow or reject the application. However, where the question raised in the application -
  (i) is already pending before any income-tax Board for Advance Rulings or Appellate Tribunal [except in the case of a resident applicant falling in sec. 245N(b)(*iii*)] or any court;
  (ii) involves determination of fair market value of any property;
  (iii) relates to a transaction or issue which is designed *prima facie* for the avoidance of income-tax [except in the case of a resident applicant falling in sec. 245N(b)(*iii*)]
  - shall be rejected by the Board for Advance Rulings.
- The words 'already pending', should be interpreted to mean: 'already pending as on the date of the application' and not with reference to any future date [*Monte Harris* -vs.- *CIT (AAR)*]
- No application shall be rejected unless an opportunity has been given to the applicant of being heard. Further, where the application is rejected, reasons for such rejection shall be given in the order.
- A copy of every order (allowing or rejecting) shall be sent to the applicant and to the Principal Commissioner or Commissioner.
- Where an application is allowed, the Board for Advance Rulings shall, after examining such further material as may be placed before it by the applicant or obtained by the Board for Advance Rulings, pronounce its advance ruling on the question specified in the application.
- On a request received from the applicant, the Board for Advance Rulings shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or

through a duly authorised representative.
- The Board for Advance Rulings shall pronounce its advance ruling in writing within 6 months of the receipt of application.
- A copy of the advance ruling pronounced by the Board for Advance Rulings, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the Principal Commissioner or Commissioner, as soon as may be, after such pronouncement.
- *Faceless Proceedings*: The Central Government may make a scheme for the purposes of giving advance rulings by the Board for Advance Rulings, so as to impart greater efficiency, transparency and accountability by:
  a. eliminating the interface between the Board for Advance Rulings and the applicant in the course of proceedings to the extent technologically feasible;
  b. optimising utilisation of the resources through economies of scale and functional specialisation;
  c. introducing a system with dynamic jurisdiction.
- The Central Government may, for the purposes of giving effect to the scheme (on or before 31-03-2023), direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification.

Appellate Authority not to Proceed in certain Cases [Sec. 245RR]

No Income-tax authority or the Appellate Tribunal shall proceed to decide any issue in respect to which an application has been made by an applicant, being a resident, u/s 245Q.

Advance Ruling to be void in certain circumstances [Sec. 245-T]

- Where the Board for Advance Rulings finds, on a representation made by the Principal Commissioner or Commissioner or otherwise, that an advance ruling pronounced has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void *ab initio* and thereupon all the provisions of this Act shall apply to the applicant as if such advance ruling had never been made.
- A copy of such order shall be sent to the applicant and the Principal Commissioner or Commissioner.

Powers of the Board for Advance Rulings [Sec. 245U]

The Board for Advance Rulings shall, for the purpose of exercising its powers, have all the powers of a civil court under the Code of Civil Procedure, 1908 as are referred to in section 131 of this Act.

Appeal [Sec. 245W]

- The applicant, if he is aggrieved by any ruling pronounced or order passed by the Board for Advance Rulings or the Assessing Officer, on the directions of the Principal Commissioner or Commissioner, may appeal to the High Court against such ruling or order of the Board for Advance Rulings within 60 days from the date of the communication of that ruling or order, in such form and manner, as may be prescribed.
- Where the High Court is satisfied, on an application made by the appellant in this behalf, that the appellant was prevented by sufficient cause from presenting the appeal within the specified period, it may grant further period of 30 days for filing such appeal.
- The Central Government may make a scheme for the purposes of filing appeal to the High Court by the Assessing Officer, so as to impart greater efficiency, transparency and accountability by:
  a. optimising utilisation of the resources through economies of scale and functional specialisation;

b. introducing a team-based mechanism with dynamic jurisdiction.

- The Central Government may, for the purposes of giving effect to the scheme (within 31-03-2023), direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the said notification.

Equalisation Levy

Rationalisation of the provisions of Equalisation Levy

U/s 165A of Finance Act, 2016, equalisation levy is to be levied at the rate of 2% of the amount of consideration received or receivable by an e-commerce operator from e-commerce supply or services made or provided or facilitated, by it-

(i) to a person resident in India; or

(ii) to a non-resident in the specified circumstances; or

(iii) to a person who buys such goods or services or both, using internet protocol address located in India.

For this purpose, E-commerce supply or service is defined as to mean:-

(i) online sale of goods owned by the e-commerce operator;

(ii) online provision of services provided by the e-commerce operator;

(iii) online sale of goods or provision of services or both, facilitated by the e-commerce operator; or

(iv) any combination of activities listed in clause (i), (ii) or clause (iii);

Sec. 10(50) provides for the exemption for the income arising from any specified service provided on or after the date on which the provisions of Chapter VIII of the Finance Act, 2016 comes into force or arising from any e-commerce supply or services made or provided or facilitated on or after 01-04-2021 and chargeable to equalisation levy under that Chapter.

It is seen that there is need for some clarification to correctly reflect the intention of various provisions concerning this levy. Hence, following amendments has been made in the Finance Act, 2016:-

- *Consideration received or receivable* from e-commerce supply or services shall include:
    i. consideration for sale of goods irrespective of whether the e-commerce operator owns the goods, so, however, that it shall not include consideration for sale of such goods which are owned by a person resident in India or by a permanent establishment in India of a person non-resident in India, if sale of such goods is effectively connected with such permanent establishment.
    ii. consideration for provision of services irrespective of whether service is provided or facilitated by the e-commerce operator, so, however, that it shall not include consideration for provision of services which are provided by a person resident in India or by permanent establishment in India of a person non-resident in India, if provision of such services is effectively connected with such permanent establishment.
- The equalisation levy shall not be charged, where the consideration received or receivable for specified services shall not include the consideration, which are taxable as royalty or fees for technical services in India, read with the agreement notified u/s 90 or 90A of the Income-Tax Act.
- *e-commerce operator* means a non-resident who owns, operates or manages digital or electronic facility or platform for online sale of goods or online provision of services or both;
- For the purposes of defining e-commerce supply or service, "online sale of goods" and "online provision of services" shall include one or more of the following activities taking place online:

    (a) Acceptance of offer for sale;

(b) Placing the purchase order;
(c) Acceptance of the Purchase order;
(d) Payment of consideration; or
(e) Supply of goods or provision of services, partly or wholly

Also refer sec. 10(50)

Other

Amendment to sec. 281B

Section 281B contains provisions which provide that in cases of assessment or reassessment the Assessing Officer may provisionally attach any property of the assessee, if necessary, in order to protect the interest of revenue.

This can be done only with prior approval of Pr. Chief Commissioner or Pr Director General or Chief Commissioner or Director General or Principal Commissioner or Principal Director or Commissioner or Director, of Income-tax. Such provisional attachment is valid for a period of 6 months. Further, the said section allows the assessee to furnish a bank guarantee of the value of the property so attached for revocation of the provisional attachment. The above bank guarantee shall be invoked if the assessee fails to pay his tax demand on time. The powers under this section can only be exercised by the Assessing Officer.

Section 271AAD of the Act was inserted vide the Finance Act, 2020 to impose penalty on a person or a person who causes such person to make a false entry or omit an entry from his books of accounts. It is an anti-abuse provision. Upon initiation of such penalty proceedings, it is highly likely that the taxpayer may also evade the payment of such penalty, if imposed. Hence, in order to protect the interest of revenue, the provision of sec. 281B has been amended to enable the Assessing Officer to exercise the powers under this section during the pendency of proceedings for imposition of penalty u/s 271AAD, if the amount or aggregate of amounts of penalty imposable is likely to exceed ₹ 2 crore.

Definition of the term —Liable to tax”

The Act currently does not define the term “liable to tax” though this term is used in sec. 6, in sec. 10(23FE) and various agreements entered into u/s 90 or 90A. Hence, it is proposed to insert clause 2(29A) providing its definition. The term “liable to tax” in relation to a person means that there is a liability of tax on that person under the law of any country and will include a case where subsequent to imposition of such tax liability, an exemption has been provided.