



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 Individual¹ / 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:

- 100% of tax liability as computed above; or
- ₹ 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



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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

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 1-4-2012¹ 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.

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

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%



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 (iiiie) 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 (iiiie).

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

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.

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. 90 or 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(viaf)]

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)/(vii ae)/(vii af).

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
 - o the share purchase agreement entered into under strategic disinvestment restricted immediate amalgamation of the said public sector company; and
 - o 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 01-04-2022, 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.

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



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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)	30 th 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)	30 th November
• Where the assessee is a company not having international transaction(s)	31 st October
• <u>Any other assessee</u>	
– Where accounts of the assessee are required to be audited under any law	31 st 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	31 st October
– In any other case	31 st July

Due date for filing revised return or belated return

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 lacs	₹ 5,000

Fee for default relating to intimation of Aadhaar number [Sec. 234H]

Where a person is required to intimate his Aadhaar number and such person fails to do so on or before 31-03-2022, he shall be liable to pay such fee, as may be prescribed, not exceeding ₹ 1,000, at the time of making intimation u/s 139AA after the said date.

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 assessee 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

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



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.
- Faceless Inquiry or Valuation Scheme, 2022 has been notified

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.



Other

Definition of the term —Liabile 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.