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 02-04-1941).

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 02-04-1941 but before 02-04-1961)

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 02-04-1961 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

An Individual / HUF can opt for alternative tax regime u/s 115BAC. The provision relating to sec. 115BAC will be discussed in subsequent chapter.

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 2018-19 does not exceed □ 400 crore	25%
- In any other case	30%
In the case of a foreign company	40%

Surcharge

Total Income	Domestic	Foreign

	Company	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.

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, sec. 2(29A) has been inserted to provide 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.

Residential Status

An individual is said to be a resident in India, if he satisfies *any one* of the following conditions -

i) He is in India in the previous year for a period of *182 days or more* **[Sec. 6(1)(a)]**; **or**
ii) He is in India for a period of 60 days or more during the previous year and for 365 or more days during 4 previous years immediately preceding the relevant previous year **[Sec. 6(1)(c)]**

However, in case (among other) of an individual being an Indian citizen or a person of Indian origin comes on a visit to India during the previous year, the period of 60 days referred to in (ii) criteria has been extended to 182 days. Now the said exception has been amended as follow:

- In case of an Indian citizen or a person of Indian origin comes on a visit to India during the previous year, modified *condition (ii) of sec. 6(1)* is applicable:

Case	Modified condition (ii) of sec. 6(1)
His total income, other than the income from foreign sources[!], **exceeds □ 15 lakhs** during the previous year	He is in India for a period of **120 days** or more (but less than 182 days) during the previous year and for 365 or more days during 4 previous years immediately preceding the relevant previous year
His total income, other than the income from foreign sources, **does not exceed □ 15 lakhs** during the previous year	He is in India for a period of **182 days** or more during the previous year and for 365 or more days during 4 previous years immediately preceding the relevant previous year

[!] "*Income from foreign sources*" means income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India) and which is not deemed to accrue or arise in India.

Deemed resident in India [Sec. 6(1A)]

An individual shall be deemed to be resident in India, if the following conditions are satisfied:

a. He is a citizen of India
b. His total income, other than the income from foreign sources, exceeds □ 15 lakhs during the previous year;
c. He is not satisfying any of the basic conditions given u/s 6(1) [i.e., 182 days or 60 days + 365 days]; and
d. He is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.

Taxpoint:

- However, if such individual has satisfied either of the basic conditions, then he shall be treated as resident in India u/s 6(1).
- Further note that the exception is not applicable in case of foreign citizen even if he is a person of Indian origin.
- If these conditions are satisfied, then such individual shall be deemed as resident irrespective of number of days of his stay in India.

In case of NRIs and foreign nationals who was stranded in India due to Covid 19, the Government has assured that their stay in the country during the period will not be counted for the purpose of determining their residency status for taxation purpose.

Resident and not ordinarily resident

A. An individual shall be deemed to be resident but not ordinarily resident in India, if following conditions are satisfied:

a. He is a citizen of India
b. His total income, other than the income from foreign sources, exceeds 15 lakhs during the previous year; and
c. He is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.
d. He is deemed to be resident in India u/s 6(1A).

B. An individual shall be deemed to be resident but not ordinarily resident in India, if following conditions are satisfied:

a. He is an Indian citizen or a person of Indian origin.
b. He comes on a visit to India during the previous year
c. His total income, other than the income from foreign sources, exceeds 15 lakhs during the previous year
d. He is in India for a period of 120 days or more (but less than 182 days) during the previous year and for 365 or more days during 4 previous years immediately preceding the relevant previous year

Deferring Significant Economic Presence (SEP) proposal, Extending source rule, Aligning exemption from taxability of Foreign Portfolio Investors (FPIs), on account of indirect transfer of assets, with amended scheme of SEBI [Sec. 9(1)(i)

Sec. 9(1)(i) creates a legal fiction that following incomes shall be deemed to accrue or arise in India.

"all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India, or through the transfer of a capital asset situate in India."

Finance Act, 2018, inter alia, inserted Explanation 2A to said clause so as to clarify that the "significant economic presence" (SEP) of a non-resident in India shall constitute "business connection" in India and SEP for this purpose, shall mean:

(a) transaction in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the previous year exceeds such amount as may be prescribed; or

(b) systematic and continuous soliciting of business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means.

Said Explanation further provided that the transactions or activities shall constitute significant economic presence in India, whether or not, the agreement for such transactions or activities is entered in India; or the non-resident has a residence or place of business in India; or the non-resident renders services in India. It was also provided that only so much of income as is attributable to the transactions or activities mentioned at para 2(a) and (b) shall be deemed to accrue or arise in India.

Therefore, for the purposes of determining SEP of a non-resident in India, threshold for the aggregate amount of payments arising from the specified transactions and for the number of users were required to

be prescribed in the Rules. However, since discussion on this issue is still going on in G20-OECD BEPS project, these numbers have not been notified yet. G20-OECD report is expected by the end of December 2020. In the circumstances, it is proposed to defer the applicability of SEP to starting from assessment year 2022-23. Certain drafting changes have also been made while deferring the proposal.

The current SEP provisions shall be omitted from assessment year 2021-22 and the new provisions will take effect from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-23 and subsequent assessment years.

Further, as per the discussion going on in international forum, countries generally agree that income from advertisement that targets Indian customers or income from sale of data collected from India or income from sale of goods and services using such data collected from India, needs to be accounted for in Indian revenue. Hence, it is amended the source rule to clarify this position.

This amendment will apply in relation to the assessment year 2021-22 and subsequent assessment years. However, for attribution of income related to SEP transaction or activities the amendment will take effect from 1st April, 2022 and will, accordingly, apply in relation to the assessment year 2022-23 and subsequent assessment years.

Further, the Finance Act, 2012, inter alia, had inserted Explanation 5 to clarify that an asset or capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India if the share or interest derives, directly or indirectly, its value substantially from the assets located in India. Second proviso to said Explanation, inserted through the Finance Act, 2017, provides that the Explanation shall not apply to an asset or capital asset, which is held by a non-resident by way of investment, directly or indirectly, in Category-I or Category-II foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 [SEBI (FPI) Regulations, 2014]

Vide Gazette Notification No. SEBI/LAD-NRO/GN/2019/36, SEBI has notified Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 [SEBI (FPI) Regulations, 2019] and repealed the SEBI (FPI) Regulations, 2014. The difference between these two regulations pertinent in the present context is that the SEBI has done away with the broad basing criteria for the purposes of categorization of portfolios and has reduced the categories from three to two. In view of the same, necessary modification has been made in the proviso so inserted. Hence, it is amended so as to provide that the exception from said Explanation 5 provided to an asset or a capital asset, held by a non-resident by way of investment in erstwhile Category I and II FPIs under the SEBI (FPI) Regulations, 2014 may be grandfathered. Further, similar exception may be provided in respect of investment in Category-I FPI under the SEBI (FPI) Regulations, 2019.

Amendment to sec. 9(1)(vi)

Sec. 9(1)(vi) deems certain income by way of royalty to accrue or arise in India. Explanation 2 defines the term "royalty" to, inter alia, mean the transfer of all or any rights (including the granting of a licence) in respect of any copyright, literary, artistic or scientific work including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting, but not including consideration for the sale, distribution or exhibition of cinematographic films.

Due to exclusion of consideration for the sale, distribution or exhibition of cinematographic films from the definition of royalty, such royalty is not taxable in India even if the DTAA gives India the right to

tax such royalty. Such a situation is discriminatory against Indian residents, since India is foregoing its right to tax royalty in case of a non-resident from another country without that other country offering similar concession to Indian resident.

Hence, the definition of royalty has been amended so as not to exclude consideration for the sale, distribution or exhibition of cinematographic films from its meaning.

Income Exempt from Tax

Interest on Rupee Denominated Bond [Sec. 10(4C)]

Interest payable to a non-resident, not being a company, or to a foreign company, is exempt if following conditions are satisfied:

a) Interest is payable by any Indian company or business trust.

b) Such interest is payable in respect of monies borrowed from a source outside India by way of issue of rupee denominated bond, as referred to in sec. 194LC(2)(ia).

c) Such bond has been issued during 17-09-2018 and 31-03-2019.

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) computed in the prescribed manner

➢ *Specified fund* means 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;

ii. which is located in any International Financial Services Centre;

iii. of which all the units are held by non-residents other than units held by a sponsor or manager;

Income from specified fund [Sec. 10(23FBC)]

Any income accruing or arising to, or received by, a unit holder from a specified fund or on transfer of units in a specified fund is exempt.

- "Specified fund" shall have the same meaning as assigned to it sec. 10(4D)
- "Unit" means beneficial interest of an investor in the fund and shall include shares or partnership interests

Income of Business Trust [Sec 10(23FC)]

Any income of a business trust by way of

a) interest received or receivable from a special purpose vehicle; or

b) dividend received or receivable from a special purpose vehicle

- "Special purpose vehicle" means an Indian company in which the business trust holds controlling interest and any specific percentage of shareholding or interest, as may be required by the regulations under which such trust is granted registration

Distributed Income to unit holder of a Business Trust [Sec 10(23FD)]

Any distributed income, referred to in section 115UA, received by a unit holder from the business trust, not being that proportion of the income which is of the same nature as the income referred to in 10*(23FC)(a) [i.e., proportionate interest income] or 10(23FC)(b) [i.e., proportionate dividend income where the special purpose vehicle has exercised the option u/s 115BAA] or 10(23FCA) [i.e., proportionate rental income]*

Taxpoint: Such income is taxable in hands of unitholders.

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 Category-I or Category-II Alternative Investment Fund regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, having 100% investment in one or more of the company or enterprise or entity referred above

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.
- "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;
     v. it does not undertake any commercial activity whether within or outside India; 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;
     iii. satisfies such other conditions as may be prescribed; and
     iv. is notified by the Central Government.

Income of Indian Strategic Petroleum Reserves Limited [Sec. 10(48C)]

Any income accruing or arising to the Indian Strategic Petroleum Reserves Ltd., being a wholly owned subsidiary of the Oil Industry Development Board under the Ministry of Petroleum and Natural Gas, as a result of arrangement for replenishment of crude oil stored in its storage facility in pursuance of directions of the Central Government in this behalf is exempt.

However, nothing contained in this clause shall apply to an arrangement, if the crude oil is not replenished in the storage facility within 3 years from the end of the financial year in which the crude oil was removed from the storage facility for the first time.

Amendment in sec. 10(23C)

Any income of Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND) is also exempted u/s 10(23C). Few Procedural and other amendments have also been made in sec. 10(23C).

Exemption u/s 10(34), 10(35) and 10(45) is not available.

Salaries

Under the existing provisions of the Act, the contribution by the employer to the account of an employee in a recognized provident fund exceeding 12% of salary is taxable. Further, the amount of any contribution to an approved superannuation fund by the employer exceeding 1,50,000 is treated as perquisite in the hands of the employee. Similarly, the assessee is allowed a deduction under National Pension Scheme (NPS) for the 14% of the salary contributed by the Central Government and 10% of the salary contributed by any other employer. However, there is no combined upper limit for the purpose of deduction on the amount of contribution made by the employer.

The provision of sec. 17(2)(vii) has been amended to provide a combined upper limit of 7,50,000 in respect of employer's contribution in a year to NPS, superannuation fund and recognised provident fund and any excess contribution shall be taxable. Consequently, any annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance at the credit of the fund or scheme may be treated as perquisite to the extent it relates to the employer's contribution which is included in total income.

Exemption for LTC Cash Scheme

Special cash package equivalent in lieu of Leave Travel Concession Fare for Central Government Employees during the Block 2018-21 **[Office Memorandum F.No. 12(2)/2020-EII(A) dated 12/10/2020]**

1. In view of Covid 19 pandemic and resultant nationwide lockdown as well as disruption of transport and hospitality sector, as also the need for observing social distancing, a number of Central Government employees are not in a position to avail themselves of LTC for travel to any place in India or their Hometowns in the current Block of 2018-21.
2. With a view to compensate and incentivise consumption by Central Government employees thereby giving a boost to consumption expenditure, it has been decided that cash equivalent of LTC, comprising Leave Encashment and LTC fare of the entitled LTC may be paid by way of reimbursement, if an employee opts for this in lieu of one LTC in the Block of 2018-21 subject to the following conditions:-
   a) The employee spends the money of a larger sum than the entitlement on account of LTC on actual expenditure.
   b) Cash equivalent of full leave encashment will be allowed, provided the employee spends an equal sum. This will be counted towards the number of leave encashment on LTC available to an employee.
   c) The deemed LTC fare for this purpose is given below :-

Category of employees	Deemed LTC fare per person (Round Trip)
Employees who are entitled to business class of airfare	Rs. 36,000

Employees who are entitled to economy class of airfare	Rs. 20,000
Employees who are entitled to Rail fare of any class	Rs. 6,000

d) The cash equivalent may be allowed if the employee spends a sum **3 times** of the value of the fare given above.

e) The amount both on account of leave encashment and fare shall be admissible if the employee spends
   (i) an amount equal to the value of leave encashment and;
   (ii) an amount 3 times of the cash equivalent of deemed fare, as given above on purchase of such items / availing of such services which carry a GST rate of not less than 12% from GST registered vendors / service providers through digital mode and obtains a voucher indicating the GST number and the amount of GST paid.

f) The admissible payment shall be restricted to the full value of the package [leave encashment as admissible for LTC and deemed fare] or depending upon the spending as per following example:

Example

Pay of an employee: □ 1,38500 and has family of 4 eligible for economy class air travel.
Leave Encashment = (□ 1,38,500 x 1.17) / 30 = □ 54,015
Fare Value = □ 20,000 x 4 = □ 80,000
Total Value = □ 1,34,015
Amount to be spend for full cash benefit = □ 54,015 + □ 2,40,000 (i.e., 3 times of air fare) = □ 2,94,015
(a) Share of Leave Encashent in total = (□ 54,015 x 100) / □ 2,94,015 = 18%
(b) Share of fare in total = (□ 80,000 x 100) / □ 2,94,015 = 27%
Thus, if an employee spends □ 2,94,015 or above, he will be allowed cash amount of □ 1,34,015
If the employee spends □ 2,40,000 only, then he may be allowed 18% on account of leave encashment (i.e., □ 43,200) and 27% on account of fare value (i.e., □ 64,800). The total amount payable shall be □ 1,08,000.

g) While TDS is applicable in the case of leave encashment, since the cash reimbursement of LTC fare is in lieu of deemed actual travel, the same shall be allowed exemption on the lines of existing income-tax exemption available to LTC fare. The legislative amendment to the provisions of the Income-Tax Act, 1961 for this purpose shall be proposed in the due course. Hence, TDS shall not be required to be deducted on the reimbursement of deemed LTC fare.

3. Head of the Departments / DDOs may make reimbursement under this package as per the details given above on receipt of invoices of purchases made / services availed during the period post the issuance of this order from the employees who are desirous to avail this package. **It may be noted that in order to avail this package an employee should opt for both leave encashment and LTC fare.**
4. An amount upto 100% of leave encashment and 50% of the value of deemed fare may be paid as advance into the bank account of the employee which shall be settled based on production of receipts towards purchase and availing of goods and services as given in Para 2(e). The claims under this package (with or without advance) are to be made and settled within the current financial year. Non-utilization / under-utilization of advance is to be accounted for by the DDOs in accordance with the extant provisions relating to LTC advance i.e. immediate recovery of full

advance in the case of non-utilisation and recovery of unutilized portion of the advance with penal interest.

5. These orders will take effect from the date of issuance of this Office Memorandum and will be in force during the current financial year till 31st March, 2021.

Deemed LTC fare to non-Central Government employees [Press Release dated 29/10/2020]

The payment of cash allowance, subject to maximum of □ 36,000 per person as Deemed LTC fare per person (Round Trip) to non-Central Government employees, shall be allowed income-tax exemption subject to fulfilment of following conditions:

a. The employee exercises an option for the deemed LTC fare in lieu of the applicable LTC in the Block year 2018-21.
b. The employee spends a sum equals to 3 times of the value of the deemed LTC fare on purchase of goods / services which carry a GST rate of not less than 12% from GST registered vendors / service providers ('the specified expenditure') through digital mode during the period from the 12th of October, 2020 to 31st of March, 2021 ('specified period') and obtains a voucher indicating the GST number and the amount of GST paid.
c. An employee who spends less than 3 times of the deemed LTC fare on specified expenditure during the specified period shall not be entitled to receive full amount of deemed LTC fare and the related income-tax exemption and the amount of both shall be reduced proportionately as explained in following example:

Example

Deemed LTC Fare : □ 20,000 x 4 = □ 80,000
Amount to be spent : □ 80,000 x 3 = □ 2,40,000

Thus, if an employee spends □ 2,40,000 or above on specified expenditure, he shall be entitled for full deemed LTC fare and the related income-tax exemption. However, if the employee spends □ 1,80,000 only, then he shall be entitled for 75% (i.e. □ 60,000) of deemed LTC fare and the related income-tax exemption. In case the employee already received □ 80,000 from employer in advance, he has to refund □ 20,000 to the employer as he could spend only 75% of the required amount.

The DDOs shall allow income-tax exemption subject to fulfilment of the above conditions after obtaining copies of invoices of specified expenditure incurred during the specified period. Further, as this exemption is in lieu of the exemption provided for LTC fare, an employee who has exercised an option to pay income tax under concessional tax regime u/s 115BAC shall not be entitled for this exemption.

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 □ 1 crore to □ 5 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.

In order to incentivise non-cash transactions to promote digital economy and to further reduce compliance burden of small and medium enterprises, the provision has been amended to increase the threshold from □ 5 crore to □ 10 crore in cases listed above.

Further, it is amended that the tax audit report shall be furnished by the said assessees at least one month prior to the due date of filing of return of income.

Similarly, audit report required to be filed u/s 10, 10A, 12A, 32AB, 33AB, 33ABA, 35D, 35E, 44AB, 44DA, 50B, 80-IA, 80-IB, 80JJAA, 92F, 115JB, 115JC and 115VW of the Act are required to be furnished at least one month prior to the due date of filing of return of income.

Option to avail deduction u/s 35AD

The deduction under this section is optional in nature. For claiming deduction under this section, assessee is required to claim the same.

Amendment in definition of Speculative transaction [Sec. 43(5)]

Section 43(5) has been amended so as to substitute "recognized stock exchange" for "recognized association".

Upward revision of tolerance limit under section 43CA

Section 43CA is applicable in cases where stamp duty value is more than 110% (earlier 105%) of actual consideration

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%.

Amendment to sec. 35

Procedure for getting approval of various research entity and other entity u/s 35 has also been modified.

Deduction u/s 35 shall be allowed only if a statement is furnished by the research entity who shall be required to furnish a statement in respect of such receipt and in the event of failure to do so, fee and penalty shall be levied

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.

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’.

Rationalisation of the provisions of sec. 49 and 2(42A) in respect of segregated portfolios

Section 49 provides for cost of acquisition for the capital asset which became the property of the assessee under certain situations. Further, sec. 2(42A) provides the definition of the term “short-term

capital asset". It also provides for determination of period of holding of the capital asset held by the assessee.

SEBI has, vide circular SEBI/HO/IMD/DF2/CIR/P/2018/160 dated December 28, 2018, permitted creation of segregated portfolio of debt and money market instruments by Mutual Fund schemes. As per the SEBI circular, all the existing unit holders in the affected scheme as on the day of the credit event shall be allotted equal number of units in the segregated portfolio as held in the main portfolio. On segregation, the unit holders come to hold same number of units in two schemes –the main scheme and segregated scheme.

In view of the above, section 2(42A) has been amended to provide that in the case of a capital asset, being a unit or units in a segregated portfolio, referred to in sec. 49(2AG), there shall be included the period for which the original unit or units in the main portfolio were held by the assessee.

Further, a new sub-section (2AG) has been inserted in section 49 to provide that the cost of acquisition of a unit or units in the segregated portfolio shall be the amount which bears to the cost of acquisition of a unit or units held by the assessee in the total portfolio, the same proportion as the net asset value of the asset transferred to the segregated portfolio bears to the net asset value of the total portfolio immediately before the segregation of portfolios.

Further, it is also provided that the cost of the acquisition of the original units held by the unit holder in the main portfolio shall be deemed to have been reduced by the amount as so arrived.

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 this, all types of "transfer" as defined in sec. 2(47) are included within its scope.

Upward revision of tolerance limit under section 50C and 56(2)(x)

Section 50C is applicable in cases where stamp duty value is more than 110% (earlier 105%) of actual consideration. Similar amendment has also been made in section 56(2)(x).

Computation of cost of acquisition [Sec. 55(2)]

The existing provisions of sec. 55 provide that for computation of capital gains, an assessee shall be allowed deduction for cost of acquisition of the asset and also cost of improvement, if any. However, for computing capital gains in respect of an asset acquired before 01-04-2001, the assessee has been allowed

an option of either to take the fair market value of the asset as on 01-04-2001 or the actual cost of the asset as cost of acquisition.

Now it is amended to provide that in case of a capital asset, being land or building or both, the fair market value of such an asset on 01-04-2001 shall not exceed the stamp duty value of such asset as on 01-04-2001 where such stamp duty value is available.

Income from Other Sources

Dividend

Section 115-O provides that, in addition to the income-tax chargeable in respect of the total income of a domestic company, any amount declared, distributed or paid by way of dividends shall be charged to additional income-tax @ 15%. The tax so paid by the company (called DDT) was treated as the final payment of tax in respect of the amount declared, distributed or paid by way of dividend. Such dividend referred to in section 115-O is exempt in the hands of shareholders u/s 10(34). In case of business trust, specific exemption was provided u/s 115-O(7), subject to certain conditions. Similarly, exemption was provided for distributed profits of a unit of an International Financial Service Centre, on fulfilment of certain conditions, u/s 115-O(8).

Similarly, u/s 115R, specified companies and Mutual Funds were liable to pay additional income-tax at the specified rate on any amount of income distributed by them to its unit holders. Such income was then exempt in the hands of unit holders u/s 10(35).

Amendment

Now, dividend or income from units shall be taxable in the hands of shareholders or unit holders at the applicable rate and the domestic company or specified company or mutual funds are not required to pay any DDT. Further, it is also provided that the deduction for expense u/s 57 shall be maximum 20% of the dividend or income from units. Therefore, following amendments has been made:

- Dividend distribution tax has been abolished.
- Exemption u/s 10(34) or 10(35) is not applicable to any income, by way of dividend, received.
- Provision of sec. 115R is not applicable on the income distributed after 31-03-2020
- Sec. 10(23FC)(v) has been amended to provide that all dividends received or receivable by business trust from a special purpose vehicle is exempt.
- Sec. 10(23FD) has been amended so as to exclude dividend income received by a unit holder from business trust from the exemption so that the dividend income is taxable in the hand of unit holder of the business trust.
- Sec. 115UA(3) has been amended so that distributed income of the nature as referred to in sec. 10(23FC) or 10(23FCA) shall be deemed to be income of the unit holder and shall be charged to tax as income of the previous year. Thus, dividend income distributed by a special purpose vehicle to business trust would be taxed in the hands of unit holder.

- Reference of section 115-O in various sections like section 10(23D), section 57, section 115A, section 115AC, section 115ACA, section 115AD and section 115C has been removed.
- Section 80M has been inserted to remove the cascading affect of tax on dividend provided set off will be allowed only for dividend distributed by the company one month prior to the due date of filing of return.
- Provision of sec. 115BBDA is not applicable on dividend declared, distributed or paid by a domestic company after 31-03-2020.
- Sec. 57 has been amended to provide that no deduction shall be allowed from dividend income, or income in respect of units of mutual fund or specified company, other than deduction on account of interest expense and in any previous year. Further, such deduction shall not exceed 20% of the dividend income or income from units included in the total income for that year without this deduction
- Section 194 has been amended so as to include dividend for tax deduction.

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.

Carry forward & set-off of accumulated loss in scheme of amalgamation of Banking Company or General Insurance Companies [Sec. 72AA]

Situation: In case of amalgamation of:

a) one or more banking company with any other banking institution under a scheme sanctioned and brought into force by the Central Government u/s 45(7) of the Banking Regulation Act, 1949; or

b) one or more corresponding new bank or banks with any other corresponding new bank under a scheme brought into force by the Central Government u/s 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or similar provisions of 1980 Act; or

c) one or more Government company or companies with any other Government company under a scheme sanctioned and brought into force by the Central Government u/s 16 of the General Insurance Business (Nationalisation) Act, 1972

***Treatment*:** The accumulated loss and the unabsorbed depreciation of amalgamating concern shall be deemed to be the loss of amalgamated concern for the previous year in which the scheme of amalgamation was brought into force.

Notes:

1. 'Accumulated loss' means so much of the loss under the head "Profits and gains of business or profession" (not being a loss sustained in a speculation business) which such amalgamating company, would have been entitled to carry forward and set-off u/s 72 if the amalgamation had not taken place.
2. Unabsorbed depreciation means so much of the allowance for depreciation of the amalgamating company, which remains to be allowed and which would have been allowed to such company if amalgamation had not taken place.

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 31-03-2020.

In order to continue promoting purchase of affordable housing, the period of sanctioning of loan by the financial institution has been extended to 31-03-2021.

Deduction u/s 80G

- Donation given to Prime Minister Citizen Assistance and Relief in Emergency Situations Fund (PM CARES FUND) is eligible for 100% deduction u/s 80G.
- The process for approval for the new and existing entities has been amended.
- Deduction u/s 80G/ 80GGA to a donor shall be allowed only if a statement is furnished by the donee who shall be required to furnish a statement in respect of donations received and in the event of failure to do so, fee and penalty shall be levied

Deduction u/s 80GGA

Similar to sec. 80G, deduction of cash donation u/s 80GGA shall be restricted to □ 2,000/- only.

Deduction u/s 80-IAC

The existing provisions of sec. 80-IAC provide 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 3 consecutive assessment years out of 7 years, at the option of the assessee, subject to the condition that the eligible start-up is incorporated on or after 01-04-2016 but before 01-04-2021 and the total turnover of its business does not exceed □ 25 crore.

In order to further rationalise the provisions relating to start-ups, it is amended to provide that:

a. the deduction shall be available to an eligible start-up for a period of 3 consecutive assessment years out of 10 years beginning from the year in which it is incorporated.
b. the deduction shall be available to an eligible start-up, if the total turnover of its business does not exceed □ 100 crore in any of the previous years beginning from the year in which it is incorporated.

Deduction u/s 80-IBA

In order to incentivise building affordable housing to boost the supply of such houses, the period of approval of the project by the competent authority has been extended to 31-03-2021.

Deduction in respect of inter-corporate dividend [Sec. 80M]

Applicable to

Domestic Company

Conditions to be satisfied

a. ***Dividend Income***: Gross total income of the assessee includes any income by way of dividends from any other domestic company or a foreign company or a business trust.
b. ***Dividend Distribution***: Assessee distributes dividend among its shareholder within due date
   - *Due date* means the date one month prior to the due date for furnishing the return of income.

Quantum of Deduction

Minimum of the following:

(a) Dividend so received by the assessee; or
(b) Dividend distributed by the assessee within due date

Other Points

No Double Deduction: Where any deduction, in respect of the amount of dividend distributed by the domestic company, has been allowed in any previous year, no deduction shall be allowed in respect of such amount in any other previous year.

Alternative Tax Regime for Individual / HUF [Sec. 115BAC]

Applicable to

Individual / HUF

Conditions

a. Total income of the assessee shall be computed:
   i. Without any exemption or deduction under following provisions

Deduction not available under following section	Details
10(5)	Leave Travel Concession
10(13A)	House Rent Allowance
10(14)	Special Allowances ***Exception***: Few prescribed allowances

10(17)	Allowance to MPs/MLAs
10(32)	Exemption in respect of clubbing of minor child
10AA	Special Economic Zone
16	Deduction under the head Salaries - Standard Deduction, Deduction for Entertainment allowance and Deduction for professional tax
24(b) in respect of self occupied property	Interest on borrowed capital *Taxpoint: Deduction is available in respect of other properties like let out, deemed to be let out*
32(1)(iia)	Additional Depreciation
32AD	Investment Allowance
33AB	Tea / Coffee / Rubber Development Allowance
33ABA	Site Restoration Fund
35(2AA) or 35(1)(ii) / (iia) / (iii)	Scientific Research through outside institution
35AD	Capital Expenditure in respect of specified business
35CCC	Agriculture Extension Project
57(iia)	Standard deduction in respect of family pension
Deduction under chapter VIA	***Exception***: Deduction in respect of contribution to NPS u/s 80CCD(2); deduction u/s 80JJAA and deduction u/s 80LA is available

ii. without set off of any loss:
   a. carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred above;
   b. under the head "Income from house property" with any other head of income;

iii. by claiming the depreciation, if any, u/s 32 [except additional depreciation], determined in prescribed manner; and

iv. without any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being in force.

b. The assessee is required to exercise the option (in prescribed manner) to avail the benefit of this section.

Rate of Tax

Under this tax regime, income tax shall be computed at the option of the assessee considering the following rate:

Total income	Rate of tax
Upto ₹ 2,50,000	Nil
From ₹ 2,50,001 to ₹ 5,00,000	5%
From ₹ 5,00,001 to ₹ 7,50,000	10%
From ₹ 7,50,001 to ₹ 10,00,000	15%
From ₹ 10,00,001 to ₹ 12,50,000	20%
From ₹ 12,50,001 to ₹ 15,00,000	25%
Above ₹ 15,00,000	30%

Taxpoint

- *If a person opts for this regime, ₹ 2,50,000 shall be considered as basic exemption limit irrespective of his age. In other words, for all category of individual i.e, senior citizen, super senior citizen and others, basic exemption limit is ₹ 2,50,000*
- *Rebate u/s 87A is available*

- *Computed tax is further increased by applicable surcharge, if any, and health and education cess*
- *If any income is taxable at special rate u/s 110 to sec. 115BBG (except sec. 115BAC), such income shall be taxable at that special rate of tax.*

Other Points

- ***Full effect of loss and depreciation***: The loss and depreciation referred above shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year. Where there is a depreciation allowance in respect of a block of assets which has not been given full effect to prior to the assessment year 2021-22, corresponding adjustment shall be made to the written down value of such block of assets as on 01-04-2020 in the prescribed manner (if the option is exercised for a previous year relevant to the assessment year 2021-22).
- ***Exercise of option***: The provision of this section shall not apply unless option is exercised in the prescribed manner by the person:

Where the person has income from business or profession	Within the due date specified u/s 139(1) for furnishing the returns of income for any previous year relevant to the assessment year **and** such option **once** exercised shall apply to subsequent assessment years
Where the person not having aforesaid income	Alongwith the return of income to be furnished u/s 139(1) for a previous year relevant to the assessment year

- ***Withdrawal of option***: In case person having income from business or profession, option once exercised for any previous year can be withdrawn only once for a previous year other than the year in which it was exercised and thereafter, the person shall never be eligible to exercise option. However, if such person ceases to have any income from business or profession in which case, he may exercise the option for that assessment year.

  Where the person fails to satisfy the conditions in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and other provisions of this Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year.

  Further where the option was exercised by a person having income from business or profession, in the event of failure to satisfy the conditions, it shall become invalid for subsequent assessment years also and other provisions of this Act shall apply for those years accordingly.
- ***Alternate Minimum Tax***: In case, the person has opted for this scheme, the provision of alternate minimum tax (AMT) u/s 115JC is not applicable. Consequently, any credit of AMT cannot be adjusted against tax liability computed u/s 115BAC.

Alternative Tax Regime for Resident Co-operative Society [Sec. 115BAD]

Applicable to

Resident Co-operative Society

Conditions

b. Total income of the assessee shall be computed:

v. Without any exemption or deduction under following provisions

Deduction not available under following section	Details
10AA	Special Economic Zone
32(1)(iia)	Additional Depreciation
32AD	Investment Allowance
33AB	Tea / Coffee / Rubber Development Allowance

33ABA	Site Restoration Fund
35(2AA) or 35(1)(ii) / (iia) / (iii)	Scientific Research through outside institution
35AD	Capital Expenditure in respect of specified business
35CCC	Agriculture Extension Project
Deduction under chapter VIA	***Exception***: Deduction u/s 80JJAA and deduction u/s 80LA is available

vi. without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred above;

vii. by claiming the depreciation, if any, u/s 32 [except additional depreciation], determined in prescribed manner.

Rate of Tax

22% (+SC @ 10% + HEC)

Taxpoint: If any income is taxable at special rate u/s 110 to sec. 115BBG (except sec. 115BAD), such income shall be taxable at that special rate of tax.

Other Points

- ***Full effect of loss and depreciation***: The loss and depreciation referred above shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year. Where there is a depreciation allowance in respect of a block of assets which has not been given full effect to prior to the assessment year 2021-22, corresponding adjustment shall be made to the written down value of such block of assets as on 01-04-2020 in the prescribed manner (if the option is exercised for a previous year relevant to the assessment year 2021-22).
- ***Exercise of option***: The provision of this section shall not apply unless option is exercised within the due date specified u/s 139(1) for furnishing the returns of income for any previous year relevant to the assessment year **and** such option **once** exercised shall apply to subsequent assessment years. Once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

  Where the person fails to satisfy the conditions in computing its income in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.
- ***Alternate Minimum Tax***: In case, the person has opted for this scheme, the provision of alternate minimum tax (AMT) u/s 115JC is not applicable. Consequently, any credit of AMT cannot be adjusted against tax liability computed u/s 115BAD.

Return of Income & Assessment

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

Following amendments has been made in due date for filing return of income u/s 139(1):

a. the due date for an assessee referred to in Explanation 2(a) of sec. 139(1) shall be 31st October of the assessment year (as against 30th September)

b. the distinction between a working and a non-working partner of a firm with respect to the due date of filing return of income has been removed.

Extending due date for filing return of income in some cases, reducing time to file belated return and to revise original return and also to remove difficulty in cases of defective returns

Sec. 139 contains provisions in respect of the filing of return of income for different persons or class of persons. The said section also provides the due dates for filing of original, belated and revised returns of income for different classes of assessee.

Sub-section (1) provides for the filing of original return of income for an assessment year. The Explanation 2 of the said section specifies the due-dates for filing of original return for different class of persons. It provides that the due date for filing of original return of income for the partner of a firm whose accounts are required to be audited shall be 31st day of October of the assessment year.

Sec. 5A provides for taxation of spouses governed by Portuguese Civil Code. On account of this provision any income earned by a partner of a firm whose accounts are required to be audited shall be apportioned between the spouses and included in their total income, if the section 5A applies to them.

Since the total income of a partner can be determined after the books of accounts of such firm have been finalised, the due dates of partners are already aligned with the due date of the firm. Thus, the due date for filing of original return of income of such partner is 31st October of the assessment year. However, this relaxation is not there for spouse of such partner to whom sec. 5A applies. Therefore, it is amended that the due date for the filing of original return of income be extended to 31st October of the assessment year in case of spouse of a partner of a firm whose accounts are required to be audited, if the provisions of section 5A applies to them.

Further, in the case of a firm which is required to furnish report from an accountant for entering into international transaction or specified domestic transaction, as per sec. 92E, the due date for filing of original return of income is the 30th November of the assessment year. Since the total income of such partner can be determined after the books of accounts of such firm have been finalised, it is provided that the due date of such partner be extended to 30th November of the assessment year.

Sub-sections (4) and (5) contain provisions relating to the filing of belated and revised returns of income respectively. The belated or revised returns could be filed before the end of the assessment year or before the completion of the assessment whichever is earlier. With the massive technological upgrade in the Department where the processes under the Act are moving towards becoming faceless and jurisdiction-less, the time taken to conduct and complete such processes has greatly reduced. Therefore, it is provided that the last date for filing of belated or revised returns of income, as the case may be, be reduced by 3 months. Thus, the belated return or revised return could now be filed 3 months before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

Sub-section (9) lays down the procedure for curing a defective return. It provides that in case a return of income is found to be defective, the Assessing Officer will intimate the defect to the assessee and give him a period of 15 days or more to rectify the said defect and if the defect is not rectified within the said period, the return shall be treated as an invalid return and the assessee will be considered to have never filed a return of income. The Explanation to the sub-section lists the conditions in which a certain return of income shall be considered to be defective. Representations have been received that the aforesaid

conditions create difficulties for both the taxpayer and the Department, as a large number of returns become defective by application of the said conditions. This has resulted in a number of grievances. It has been represented that the conditions given in the said Explanation may be relaxed in genuine cases. Therefore, the Board, vide notification, may provide that any of the above conditions shall not apply for a class of assessee or shall apply with such modifications, as maybe specified in such notification.

Extension of time limits of certain compliances to provide relief to taxpayers in view of the severe pandemic [Circular 9/2021 dt. 20/05/2021]

The Central Board of Direct Taxes, in exercise of its power under section 119 of the Income-tax Act, 1961 (hereinafter referred to as "the Act") provides relaxation in respect of the following compliances:

1. The Statement of Financial Transactions (SFT) for the Financial Year 2020-21, required to be furnished on or before 31/05/2021 under Rule 114E of the Income-tax Rules, 1962 (hereinafter referred to as "the Rules") and various notifications issued thereunder, may be furnished on or before 30/06/2021;
2. The Statement of Reportable Account for the calendar year 2020, required to be furnished on or before 31/05/2021 under Rule 114G of the Rules, may be furnished on or before 30/06/2021;
3. The Statement of Deduction of Tax for the last quarter of the Financial Year 2020-21, required to be furnished on or before 31/05/2021 under Rule 31A of the Rules, may be furnished on or before 30/06/2021;
4. The Certificate of Tax Deducted at Source in Form No 16, required to be furnished to the employee by 15/06/2021 under Rule 31 of the Rules, may be furnished on or before 15/07/2021;
5. The TDS/TCS Book Adjustment Statement in Form No 24G for the month of May 2021, required to be furnished on or before 15/06/2021 under Rule 30 and Rule 37CA of the Rules, may be furnished on or before 30/06/2021;
6. The Statement of Deduction of Tax from contributions paid by the trustees of an approved superannuation fund for the Financial Year 2020-21, required to be sent on or before 31/05/2021 under Rule 33 of the Rules, may be sent on or before 30/06/2021;
7. The Statement of Income paid or credited by an investment fund to its unit holder in Form No. 64D for the Previous Year 2020-21, required to be furnished on or before 15/06/2021 under Rule 12CB of the Rules, may be furnished on or before 30/06/2021;
8. The Statement of Income paid or credited by an investment fund to its unit holder in Form No. 64C for the Previous Year 2020-21, required to be furnished on or before 30/06/2021 under Rule 12CB of the Rules, may be furnished on or before 15/07/2021;
9. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which is 31/07/2021 under sub-section (1) of section 139 of the Act, is extended to 30/09/2021;
10. The due date of furnishing of Report of Audit under any provision of the Act for the Previous Year 2020-21, which is 30/09/2021, is extended to 31/10/2021;
11. The due date of furnishing Report from an Accountant by persons entering into international transaction or specified domestic transaction under section 92E of the Act for the Previous Year 2020-21, which is 31/10/2021, is extended to 30/11/2021;

12. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which is 31/10/2021 under sub-section (1) of section 139 of the Act, is extended to 30/11/2021;
13. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which is 30/11/2021 under sub-section (1) of section 139 of the Act, is extended to 31/12/2021;
14. The due date of furnishing of belated/ revised Return of Income for the Assessment Year 2021-22, which is 31/12/2021 under sub-section (4)/ sub-section (5) of section 139 of the Act, is extended to 31/01/2022.

Clarification 1: it is clarified that the extension of the dates as referred to in clauses (9), (12) and (13) above shall not apply to Explanation 1 to section 234A of the Act, in cases where the amount of tax on the total income as reduced by the amount as specified in clauses (i) to (vi) of sub-section (1) of that section exceeds □ 1,00,000.

Clarification 2: For the purpose of Clarification 1, in case of an individual resident in India referred to in sub-section (2) of section 207 of the Act, the tax paid by him under section 140A of the Act within the due date (without extension under this Circular) provided in that Act, shall be deemed to be the advance tax.

Further Extension of time lines for filing of Income-tax returns and various reports of audit for the Assessment Year 2021-22 [Circular 17/2021 dt. 09/09/2021]

On consideration of difficulties reported by the taxpayers and other stakeholders in electronic filing of Income-tax returns and various reports of audit under the provisions of Income-tax Act, 1961 (Act), the Central Board of Direct Taxes (CBDT), in exercise of its powers under Section 119 of the Act, provides relaxation in respect of the following compliances:

i. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which was 31/07/2021 under sub-section (1) of section 139 of the Act, as extended to 30/09/2021 vide Circular No. 9/2021 dated 20/05/2021, is hereby further extended to 31/12/2021;
ii. The due date of furnishing of Report of Audit under any provision of the Act for the Previous Year 2020-21, which is 30/09/2021, as extended to 31/10/2021 vide Circular No. 9/2021 dated 20/05/2021, is hereby further extended to 15/01/2022;
iii. The due date of furnishing Report from an Accountant by persons entering into international transaction or specified domestic transaction under section 92E of the Act for the Previous Year 2020-21, which is 31/10/2021, as extended to 30/11/2021 vide Circular No. 9/2021 dated 20/05/2021, is hereby further extended to 31/01/2022;
iv. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which is 31/10/2021 under sub-section (1) of section 139 of the Act, as extended to 30/11/2021 vide Circular No. 9/2021 dated 20/05/2021, is hereby further extended to 15/02/2022;
v. The due date of furnishing of Return of Income for the Assessment Year 2021-22, which is 30/11/2021 under sub-section (1) of section 139 of the Act, as extended to 31/12/2021 vide Circular No. 9/2021 dated 20/05/2021, is hereby further extended to 28/02/2022;
vi. The due date of furnishing of belated/ revised Return of Income for the Assessment Year 2021-22, which is 31/12/2021 under sub-section (4)/ sub-section (5) of section 139 of the Act, as extended to 31/01/2022, vide Circular No. 9/2021 dated 20/05/2021, is hereby further extended to 31/03/2022;

Clarification 1: It is clarified that the extension of the dates as referred to in clauses (9), (12) and (13) of Circular No. 9/2021 dated 20/05/2021 and as referred to in clauses (1), (4) and (5) of this Circular shall not apply to Explanation 1 to section 234A of the Act, in cases where the amount of tax on the total income as reduced by the amount as specified in clauses (i) to (vi) of sub-section (1) of that section exceeds □ 1,00,000.

Clarification 2: For the purpose of Clarification 1, in case of an individual resident in India referred to in Sub-section (2) of section 207 of the Act, the tax paid by him under section 140A of the Act within the due date (without extension under Circular No. 9/2021 dated 20/05/2021 and this Circular) provided in that Act, shall be deemed to be the advance tax.

Relaxation for certain category of senior citizen from filing return of income-tax

Sec. 139(1) provides that every person being an individual, if his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax, shall, on or before the due date, furnish a return of his income.

In order to provide relief to senior citizens who are of the age of 75 year or above and to reduce compliance for them, relaxation from filing the return of income, has been provided if the following conditions are satisfied:-

(i) The senior citizen is resident in India and of the age of 75 or more during the previous year;

(ii) He has pension income and no other income. However, in addition to such pension income he may have also have interest income from the same bank in which he is receiving his pension income;

(iii) This bank is a specified bank. The Government will be notifying a few banks, which are banking company, to be the specified bank; and

(iv) He shall be required to furnish a declaration to the specified bank. The declaration shall be containing such particulars, in such form and verified in such manner, as may be prescribed.

Once the declaration is furnished, the specified bank would be required to compute the income of such senior citizen after giving effect to the deduction allowable under Chapter VI-A and rebate allowable u/s 87A, for the relevant assessment year and deduct income tax on the basis of rates in force. Once this is done, there will not be any requirement of furnishing return of income by such senior citizen for this assessment year.

Verification of the return of income and appearance of authorized representative [Sec. 140 and Sec. 288]

Sec. 140 provides that in case of company the return is required to be verified by the managing director (MD) thereof. Where the MD is not able to verify for any unavoidable reason or where there is no MD, any director of the company can verify the return. It is also provided that in case of a company in whose case application for insolvency resolution process has been admitted by the Adjudicating Authority (AA) under the Insolvency and Bankruptcy Code, 2016 (IBC), the return has to be verified by the insolvency professional appointed by such AA. Similarly, in case of a limited liability partnership

(LLP), the return has to be verified by the designated partner of the LLP or by any partner, in case there is no such designated partner.

Now the sec. 140 has been amended so as to enable any other person, as may be prescribed by the Board to verify the return of income in the cases of a company and a limited liability partnership.

Similar amendment has also been made in sec. 288

Rationalisation of the provision relating to processing of returned income and issuance of notice u/s 143(2)

Provisions of sec. 143 has been amended to reduce the time limit for sending intimation from one year to 9 months from the end of the financial year in which the return was furnished.

Consequently, the time limit for service of notice u/s 143(2) has also been reduced from 6 months to 3 months from the end of the financial year in which the return is furnished.

New scheme for assessment [Sec. 143(3A)]

- The scope of section has been extended to assessment u/s 144
- Further, it has also been provided that Central Government may issue any direction upto 31-03-2021.

Reduction of time limit for completing assess-ment

Sec. 153 contains provisions in respect of time-limit for completion of assessment, reassessment and re-computation under the Act. It provides that the time-limit for passing an assessment order u/s 143 or 144 shall be 21 months from the end of the assessment year in which the income was first assessable. However, this time limit had earlier been curtailed in order to improve the efficacy and efficiency of the Department to give effect to computerization of processes under the Act. As a result, the time limit for completion of assessment proceedings u/s 143 or 144 was reduced to 18 months for A.Y. 2018-19 and 12 months for A.Y. 2019-20 and subsequent assessment years vide the Finance Act, 2017.

Since then, the assessment procedure has been completely overhauled by the introduction of the Faceless Assessment Scheme, 2019. The assessment procedure is now conducted in a completely faceless and jurisdiction-less way where all internal and external communication is made electronically and different aspects of the assessment procedure like verification, scrutiny of books of accounts etc. are carried on by different units. The person-to-person interface between the taxpayer and the Department has been eliminated. This team-based approach for assessment with a dynamic jurisdiction is technologically driven and very efficient. Thus, the time required for completion of assessment procedure needs to be further reduced.

The benefits of shorter time period for scrutiny proceedings are manifold. On the one hand, it reduces the compliance burden on the taxpayers who find it easier to explain matters pertaining to a recent previous year which also improve the ease of doing business. On the other hand, it enhances the ability

of the Department to detect and bring to tax any leakages of revenue as the instances of tax evasion come to the notice of the Department within a shorter span of time.

Hence, it has been amended that the time limit for completion of assessment proceedings may be reduced further by 3 months. Thus, the time for completing of assessment is 9 months from the end of the assessment year in which the income was first assessable, for the assessment year 2021-22 and subsequent assessment years.

TDS and TCS

Deferring TDS or tax payment in respect of income pertaining to Employee Stock Option Plan (ESOP) of start- ups [Sec. 156, 191 and 192]

ESOPs have been a significant component of the compensation for the employees of start-ups, as it allows the founders and start-ups to employ highly talented employees at a relatively low salary amount with balance being made up via ESOPs. ESOPs are taxed as perquisites u/s 17(2) read with Rule 3(8)(iii) of the Rules. The taxation of ESOPs is split into two components:

i. Tax on perquisite as income from salary at the time of exercise.

ii. Tax on income from capital gain at the time of sale.

The tax on perquisite is required to be paid at the time of exercising of option which may lead to cash flow problem as this benefit of ESOP is in kind.

In order to ease the burden of payment of taxes by the employees of the eligible start-ups or TDS by the start-up employer, sec. 192 has been amended to clarify that for the purpose of deducting or paying tax, a person, being an eligible start-up referred to in sec. 80-IAC, responsible for paying any income to the assessee being perquisite of the nature specified in sec. 17(2)(vi), in any previous year, deduct or pay, as the case may be, tax on such income within 14 days:

a. after the expiry of 48 months from the end of the relevant assessment year; or

b. from the date of the sale of such specified security or sweat equity share by the assessee; or

c. from the date of which the assessee ceases to be the employee of the person;

whichever is the earliest on the basis of rates in force of the financial year in which the said specified security or sweat equity share is allotted or transferred .

Similar amendments have been carried out in sec. 191 (for assessee to pay the tax direct in case of no TDS) and in sec. 156 (for notice of demand) and in sec. 140A (for calculating self-assessment).

TDS on Dividends [Sec. 194]

Who is responsible to deduct tax: The principal officer of a *domestic company* paying dividend u/s 2(22) to any *resident shareholder*.

Note: In the following cases, tax is not required to be deducted:

A. No deduction shall be made if dividend is paid to an insurance company

B. No deduction shall be made in the case of a shareholder, being an individual, if:
   a. the dividend is paid by the company by any mode other than cash; and

b. the amount of such dividend or the aggregate of the amounts of such dividend distributed or paid or likely to be distributed or paid during the financial year by the company to the shareholder, does not exceed □ 5,000:

When tax shall be deducted: At the time of payment

Rate of TDS: 10% (No surcharge, health and education cess) on dividend considered u/s 2(22) [From 14-05-2020 to 31-03-2021: 7.5%]

Exemption or relaxation from the provision:

- When the recipient applies to the Assessing Officer in Form No. 13 and gets a certificate authorizing the payer to deduct tax at lower rate or deduct no tax
- When a declaration in Form 15G (in duplicate) is furnished by the assessee to the payer

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

Sec. 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. Second proviso to sec. 194 has been 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.

Enlarging the scope for tax deduction on interest income u/s 194A

Sec. 194A governs tax deduction on interest other than interest on securities. It provides that any person not being individual or HUF who is responsible for paying to a resident any income by way of interest other than income by way of interest on securities, shall deduct income-tax at the rates in force.

In order to extend the scope of this section to interest paid by large co-operative society, it is amended to provide that a co-operative society referred to in sub section (3)(v) or (viia) shall be liable to deduct income-tax, if-

a. the total sales, gross receipts or turnover of the co-operative society exceeds □ 50 crore during the financial year immediately preceding the financial year in which the interest is credited or paid; and
b. the amount of interest, or the aggregate of the amount of such interest, credited or paid, or is likely to be credited or paid, during the financial year is more than □ 50,000 in case of payee being a senior citizen and □ 40,000, in any other case.

Further, an individual or a HUF, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed □ 1 crore in case of business or □ 50 lakh in case of profession during the financial year immediately preceding the financial year in which such interest is credited or paid shall also be liable to deduct tax. Similar amended has also been made in sec. 194C, 194H, 194-I and 194J.

Amending definition of "work" in sec. 194C

Sec. 194C of the Act provides for the deduction of tax on payments made to contractors. The section provides that any person responsible for paying any sum to a resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract shall at the time of such credit or at the time of payment whichever is earlier deduct an amount equal to 1% in case payment is made to an individual or an HUF and 2% in other cases. In the said section "work" includes manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer. However, it excludes manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer.

Now the definition of "work" has been amended to provide that in a contract manufacturing, the raw material provided by the assessee or its associate shall fall within the purview of the 'work'. Associate means a person who is placed similarly in relation to the customer as is the person placed in relation to the assessee u/s 40A(2)(b).

Reducing the rate of TDS on fees for technical services (other than professional services) u/s 194J

Sec. 194J provides that any person, not being an individual or a HUF, who is responsible for paying to a resident any sum by way of fees for professional services, or fees for technical services, or any remuneration or fees or commission by whatever name called (other than those on which tax is deductible u/s 192, to a director), or royalty or any sum referred to in sec. 28(va), shall, at the time of payment or credit of such sum to the account of the payee, deduct an amount equal to 10% as income-tax.

Sec. 194C provides that any person responsible for paying any sum to a resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract shall at the time of payment or credit of such sum deduct an amount equal to 1% in case payment is made to an individual or a HUF and 2% in other cases.

It is noticed that there are large number of litigations on the issue of short deduction of tax treating assessee in default where the assessee deducts tax u/s 194C, while the tax officers claim that tax should have been deducted u/s 194J of the Act.

Therefore to reduce litigation, it has been amended to reduce rate for TDS in sec. 194J in case of fees for technical services (other than professional services) to 2% from existing 10%. The TDS rate in other cases u/s 194J would remain same at 10%.

Extension of Scope of sec. 194N

Who is responsible to deduct tax: Every person, being,—

i. a banking company to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act);
ii. a co-operative society engaged in carrying on the business of banking; or
iii. a post office,

who is responsible for paying cash (in aggregate) in excess of □ 1 crore (□ 20 lakh in case of defaulter) during the previous year, to any person from one or more accounts maintained by the recipient with it.

When tax shall be deducted: At the time of payment

Rate of TDS:

Case	Rate
In case of defaulter	
- Aggregate payment exceeds □ 20 lakh but does not exceed □ 1 crore	2%
- Aggregate payment exceeds □ 1 crore	5%
In any other case	2%

Defaulter means the recepient who has not filed the returns of income for all of the 3 assessment years relevant to the 3 previous years, for which the time limit to file return of income u/s 139(1) has expired, immediately preceding the previous year in which the payment of the sum is made to him

Exception

The provision is not applicable if payment is made to:

a) the Government;

b) any banking company or co-operative society engaged in carrying on the business of banking or a post office;

c) any business correspondent of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the guidelines issued in this regard by the Reserve Bank of India under the Reserve Bank of India Act, 1934;

d) any white label automated teller machine operator of a banking company or co-operative society engaged in carrying on the business of banking, in accordance with the authorisation issued by the Reserve Bank of India under the Payment and Settlement Systems Act, 2007;

e) such other person or class of persons, which the Central Government may, by notification in the Official Gazette, specify in consultation with the Reserve Bank of India.

f) Other notified person

Other Point: Tax deducted u/s 194N is not considered as deemed receipt of income.

TDS on payment of certain sums by e-commerce operator to e-commerce participant [194-O]

Who is responsible to deduct tax: Where sale of goods or provision of services of an e-commerce participant is facilitated by an e-commerce operator through its digital or electronic facility or platform (by whatever name called), such e-commerce operator shall deduct tax.

Note: If following conditions are satisfied, TDS shall not be deducted:

a. e-commerce participant is an individual or Hindu undivided family.

b. The gross amount of such sale or services or both during the previous year does not exceed □ 5,00,000

c. Such e-commerce participant has furnished his Permanent Account Number or Aadhaar number to the e-commerce operator.

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

Rate of TDS: 1% [From 14-05-2020 to 31-03-2021: 0.75%] of the gross amount of such sales or services or both [if e-commerce participant does not intimate his PAN to eCommerce operator, then rate of TDS is 5%]

Taxpoint: Any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant for the sale of goods or provision of services or both, facilitated by an e-commerce operator, shall be deemed to be the amount credited or paid by the e-commerce operator to the e-commerce participant and shall be included in the gross amount of such sale or services for the purpose of deduction of tax

Other Points

- A transaction in respect of which tax has been deducted by the e-commerce operator (or which is not liable to deduction due to threshold limit), shall not be liable to TDS under any other provisions. However, any amount received is or receivable by an e-commerce operator for hosting advertisements or providing any other services which are not in connection with the sale or services, other provision relating to TDS, if any, is applicable.
- "Electronic commerce" means the supply of goods or services or both, including digital products, over digital or electronic network;
- "e-Commerce operator" means a person who owns, operates or manages digital or electronic facility or platform for electronic commerce;
- "e-Commerce participant" means a person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce;
- "Services" includes "fees for technical services" and fees for "professional services", as defined in sec. 194J

Exemption or relaxation from the provision

When the recipient applies to the Assessing Officer in Form 13 and gets a certificate authorising the payer to deduct tax at lower rate or deduct no tax [Refer sec. 197]

Lower deduction in certain cases for a limited period [Sec. 197B]

In case the provisions of sections 193, 194, 194A, 194C, 194D, 194DA, 194EE, 194F, 194G, 194H, 194-I, 194-IA, 194-IB, 194-IC, 194J, 194K, 194LA, 194LBA(1), 194LBB(i), 194LBC(1), 194M and 194-O require deduction of tax at source during the period commencing from 14-05-2020 to 31-03-2021, then the deduction of tax shall be made at the rate being the $3/4^{th}$ of the rate specified in these sections.

Scope of TCS Provision Extended [Sec. 206C]

A. Every person -

c. being an authorised dealer, who receives an amount, for remittance out of India from a buyer, being a person remitting such amount out of India under the Liberalised Remittance Scheme of the Reserve Bank of India;

d. being a seller of an overseas tour program package, who receives any amount from a buyer, being the person who purchases such package

shall collect from the buyer at the time of

- Debiting the amount payable by the buyer; or
- Receipt of such amount from the said buyer

- whichever is earlier,

Taxpoint

- *Authorised dealer* means a person authorised by the Reserve Bank of India u/s 10(1) of the Foreign Exchange Management Act, 1999 to deal in foreign exchange or foreign security;
- *Overseas tour programme package* means any tour package which offers visit to a country or countries or territory or territories outside India and includes expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto.

Exception

i. The authorised dealer shall not collect the sum, if aggregate of the amounts being remitted by a buyer is less than □ 7,00,000 in a financial year and is for a purpose other than purchase of overseas tour program package.

Taxpoint: *If remittance is more than □ 7,00,000 (say □ 8,00,000), then tax shall be collected on excess amount (i.e. □ 1,00,000).*

ii. The authorised dealer shall not collect the sum on an amount in respect of which the sum has been collected by the seller.

iii. The provision is not applicable, if the buyer is:

a. liable to deduct tax at source under any other provision of this Act and has deducted such amount;

b. the Central Government, a State Government, an embassy, a High Commission, a legation, a commission, a consulate, the trade representation of a foreign State, a local authority as defined in the Explanation to sec. 10(20) or any other notified person

B. Every person, being a seller, who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding □ 50,00,000 in any previous year shall at the time of receipt of such amount, collect from the buyer, a sum equal to 0.1% of the sale consideration exceeding □ 50,00,000.

Exception

- The provision is not applicable in case of goods being exported out of India or motor vehicle or any goods covered in point 3 above.

- If the buyer has not provided the Permanent Account Number or the Aadhaar number to the seller, tax shall be collected @ 1%
- The provisions shall not apply, if the buyer is liable to deduct tax at source under any other provision of this Act on the goods purchased by him from the seller and has deducted such amount.

Taxpoint: For the purposes of this:

a. *Buyer* means a person who purchases any goods, but does not include:
   i. the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or
   ii. a local authority; or
   iii. a person importing goods into India or any other notified person

b. *Seller* 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 sale of goods is carried out, but does not include notified person

Rate of TCS

Particulars	**Rate as a % of the amount payable by the buyer or licensee or lessee***
1. Alcoholic liquor for human consumption	1%
2. Tendu leaves	5% [From 14-05-2020 to 31-03-2021: 3.75%]
3. Timber obtained under a forest lease	2.5% [From 14-05-2020 to 31-03-2021: 1.875%]
4. Timber obtained by any mode other than under a forest lease	2.5% [From 14-05-2020 to 31-03-2021: 1.875%]
5. Any other forest produce (not being timber or tendu leaves)	2.5% [From 14-05-2020 to 31-03-2021: 1.875%]
6. Scrap	1% [From 14-05-2020 to 31-03-2021: 0.75%]
7. Specified minerals	1% [From 14-05-2020 to 31-03-2021: 0.75%]
8. Motor car value of which exceeds □ 10 lakh	1% [From 14-05-2020 to 31-03-2021: 0.75%]
9. Parking lot, toll plaza, mining and quarrying	2% [From 14-05-2020 to 31-03-2021: 1.50%]
10. In case of aforesaid point A	
a) if the amount being remitted out is a loan obtained from any financial institution as defined in sec. 80E, for the purpose of pursuing any education	0.5%
b) In other case	5%
11. In case of aforesaid point B	0.1% [From 14-05-2020 to 31-03-2021: 0.075%]

Requirement to furnish PAN by collectee [Sec. 206CC]

- Any person paying any sum, on which tax is collectible at source shall furnish his PAN to the person responsible for collecting such tax, failing which tax shall be collected at the higher of the following rates:
  i. at twice of the specified TCS rate; or
  ii. at the rate of 5%.
- Where the PAN provided is invalid or does not belong to the collectee, it shall be deemed that the collectee has not furnished his PAN to the collector.

Exception

- The provisions of higher rate shall not be applicable to a non-resident who does not have permanent establishment in India.
- In case of point B, if the buyer has not provided the Permanent Account Number or the Aadhaar number to the seller, tax shall be collected @ 1%

Meaning of "person responsible for paying" [Sec. 204]

For the purpose of TDS, meaning of person responsible for paying is provided u/s 204. The provision has been amended so as to provide that in the case of a person not resident in India, the person himself or any person authorised by such person or the agent of such person in India including any person treated as an agent u/s 163 shall be considered as person responsible for paying.

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 sec. 208. 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 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: –

(a) the amount of capital gains; or

(b) income of the nature referred to in sec. 2(24)(ix) [i.e., winning from lottery etc.]; or

(c) 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; or

(d) income of the nature referred to in sec. 115BBDA(1)

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, after considering various representations favourably, it is amended to include dividend income in the above exclusion but not deemed dividend us/ 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.

Faceless Regime

Faceless jurisdiction of income-tax authorities [Sec. 130]

The Central Government may notify a scheme for the purposes of:

a. exercise of all or any of the powers and performance of all or any of the functions conferred on, or, as the case may be, assigned to income-tax authorities by or under this Act as referred to in sec. 120; or
b. vesting the jurisdiction with the Assessing Officer as referred to in sec. 124; or
c. exercise of power to transfer cases u/s 127; or
d. exercise of jurisdiction in case of change of incumbency as referred to in sec. 129,

so as to impart greater efficiency, transparency and accountability by—

i. eliminating the interface between the income-tax authority and the assessee or any other person, to the extent technologically feasible;
ii. optimising utilisation of the resources through economies of scale and functional specialisation;
iii. introducing a team-based exercise of powers and performance of functions by two or more income-tax authorities, concurrently, in respect of any area or persons or classes of persons or incomes or classes of income or cases or classes of cases, 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 in the notification:

Faceless inquiry or Valuation [Sec. 142B]

- The Central Government may notify a scheme for the purposes of issuing notice u/s 142(1) or making inquiry before assessment u/s 142(2), or directing the assessee to get his accounts audited u/s 142(2A)

or estimating the value of any asset, property or investment by a Valuation Officer u/s 142A, so as to impart greater efficiency, transparency and accountability by:

a. eliminating the interface between the income-tax authority or Valuation Officer and the assessee or any person to the extent technologically feasible;
b. optimising utilisation of the resources through economies of scale and functional specialisation;
c. introducing a team-based issuance of notice or making of enquiries or issuance of directions or valuation with dynamic jurisdiction.

- The Central Government may 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 in the notification.

Faceless Assessment [Sec. 144B]

Notwithstanding anything to the contrary contained in any other provisions of this Act, the assessment u/s 143(3) or u/s 144, in the specified cases, shall be made in a faceless manner as per the following procedure:

i. the National Faceless Assessment Centre shall serve a notice on the assessee u/s 143(2);
ii. The assessee may, within 15 days from the date of receipt of notice (as referred above), file his response to the National Faceless Assessment Centre.
iii. Where the assessee:
   a. has furnished his return of income u/s 139 or in response to a notice issued u/s 142(1) or u/s 148(1), and a notice u/s 143(2) has been issued by the Assessing Officer or the prescribed income-tax authority, as the case may be; or
   b. has not furnished his return of income in response to a notice issued u/s 142(1) by the Assessing Officer; or
   c. has not furnished his return of income u/s 148(1) and a notice u/s 142(1) has been issued by the Assessing Officer,

   the National Faceless Assessment Centre shall intimate the assessee that assessment in his case shall be completed in accordance with the procedure laid down under this section.
iv. The National Faceless Assessment Centre shall assign the case selected for the purposes of faceless assessment under this section to a specific assessment unit in any one Regional Faceless Assessment Centre through an automated allocation system;
v. Where a case is assigned to the assessment unit, it may make a request to the National Faceless Assessment Centre for—
   a. obtaining such further information, documents or evidence from the assessee or any other person, as it may specify;
   b. conducting of certain enquiry or verification by verification unit; and
   c. seeking technical assistance from the technical unit;

ii. Where a request for obtaining further information, documents or evidence from the assessee or any other person has been made by the assessment unit, the National Faceless Assessment Centre shall issue appropriate notice or requisition to the assessee or any other person for obtaining the information, documents or evidence requisitioned by the assessment unit;

iii. The assessee or any other person, as the case may be, shall file his response to the notice referred above, within the time specified therein or such time as may be extended on the basis of an application in this regard, to the National Faceless Assessment Centre;

iv. Where a request for conducting of certain enquiry or verification by the verification unit has been made by the assessment unit, the request shall be assigned by the National Faceless Assessment Centre to a verification unit in any one Regional Faceless Assessment Centre through an automated allocation system;

v. Where a request for seeking technical assistance from the technical unit has been made by the assessment unit, the request shall be assigned by the National Faceless Assessment Centre to a technical unit in any one Regional Faceless Assessment Centre through an automated allocation system;

vi. The National Faceless Assessment Centre shall send the report received from the verification unit or the technical unit, based on the request to the concerned assessment unit;

vii. Where the assessee fails to comply with the notice referred to in (vi) or notice issued u/s 142(1) or with a direction issued u/s 142(2A), the National Faceless Assessment Centre shall serve upon such assessee a notice u/s 144 giving him an opportunity to show-cause, on a date and time to be specified in the notice, why the assessment in his case should not be completed to the best of its judgment;

viii. The assessee shall, within the time specified in the aforesaid notice or such time as may be extended on the basis of an application in this regard, file his response to the National Faceless Assessment Centre;

ix. However, if the assessee fails to file response to the notice within the time specified therein or within the extended time, if any, the National Faceless Assessment Centre shall intimate such failure to the assessment unit;

x. The assessment unit shall, after taking into account all the relevant material available on the record make in writing, a draft assessment order or, in a case where intimation referred to in (xiii) is received from the National Faceless Assessment Centre, make in writing, a draft assessment order to the best of its judgment, either accepting the income or sum payable by, or sum refundable to, the assessee as per his return or making variation to the said income or sum, and send a copy of such order to the National Faceless Assessment Centre;

xi. The assessment unit shall, while making draft assessment order, provide details of the penalty proceedings to be initiated therein, if any;

xii. The National Faceless Assessment Centre shall examine the draft assessment order in accordance with the risk management strategy specified by the Board, including by way of an automated examination tool, whereupon it may decide to—

   a. finalise the assessment, in case no variation prejudicial to the interest of assessee is proposed, as per the draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, along with the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment; or

   b. provide an opportunity to the assessee, in case any variation prejudicial to the interest of assessee is proposed, by serving a notice calling upon him to show cause as to why the proposed variation should not be made; or

c. assign the draft assessment order to a review unit in any one Regional Faceless Assessment Centre, through an automated allocation system, for conducting review of such order;

xiii. The review unit shall conduct review of the draft assessment order referred to it by the National Faceless Assessment Centre whereupon it may decide to—

a. concur with the draft assessment order and intimate the National Faceless Assessment Centre about such concurrence; or

b. suggest such variation, as it may deem fit, in the draft assessment order and send its suggestions to the National Faceless Assessment Centre;

xiv. The National Faceless Assessment Centre shall, upon receiving concurrence of the review unit, follow the procedure laid down in (a) or (b) of clause (xvi);

xv. The National Faceless Assessment Centre shall, upon receiving suggestions for variation from the review unit, assign the case to an assessment unit, other than the assessment unit which has made the draft assessment order, through an automated allocation system;

xvi. The assessment unit shall, after considering the variations suggested by the review unit, send the final draft assessment order to the National Faceless Assessment Centre;

xvii. The National Faceless Assessment Centre shall, upon receiving final draft assessment order follow the procedure laid down in (a) or (b) of clause (xvi);

xviii. The assessee may, in a case where show-cause notice has been served upon him as per the procedure laid down (b) of (xvi), furnish his response to the National Faceless Assessment Centre on or before the date and time specified in the notice or within the extended time, if any;

xix. The National Faceless Assessment Centre shall,—

a. Where no response to the show-cause notice is received:

A. in a case where the draft assessment order or the final draft assessment order is in respect of an eligible assessee and proposes to make any variation which is prejudicial to the interest of said assessee, forward the draft assessment order or final draft assessment order to such assessee; or

B. in any other case, finalise the assessment as per the draft assessment order or the final draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;

b. in any other case, send the response received from the assessee to the assessment unit;

xx. The assessment unit shall, after taking into account the response furnished by the assessee, make a revised draft assessment order and send it to the National Faceless Assessment Centre;

xxi. The National Faceless Assessment Centre shall, upon receiving the revised draft assessment order:

a. in case the variations proposed in the revised draft assessment order are not prejudicial to the interest of the assessee in comparison to the draft assessment order or the final draft assessment order, and—

A. in case the revised draft assessment order is in respect of an eligible assessee and there is any variation prejudicial to the interest of the assessee proposed in draft assessment order or the final draft assessment order, forward the said revised draft assessment order to such assessee;

B. in any other case, finalise the assessment as per the revised draft assessment order and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;

b. in case the variations proposed in the revised draft assessment order are prejudicial to the interest of the assessee in comparison to the draft assessment order or the final draft assessment order, provide an opportunity to the assessee, by serving a notice calling upon him to show-cause as to why the proposed variation should not be made;

xxii. The procedure laid down in (xxiii), (xxiv) and (xxv) shall apply mutatis mutandis to the notice referred to in (b) of (xxv);

xxiii. Where the draft assessment order or final draft assessment order or revised draft assessment order is forwarded to the eligible assessee as per (A) of (a) of (xxiii) or (xxv), such assessee shall, within the period specified in sec. 144C(2), file his acceptance of the variations to the National Faceless Assessment Centre;

xxiv. The National Faceless Assessment Centre shall,—

a. upon receipt of acceptance as per clause (xxvii); or

b. if no objections are received from the eligible assessee within the period specified in sec. 144C(2)

finalise the assessment within the time allowed u/s 144C(4) and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;

xxv. Where the eligible assessee files his objections with the Dispute Resolution Panel, the National Faceless Assessment Centre shall upon receipt of the directions issued by the Dispute Resolution Panel u/s 144C(5), forward such directions to the concerned assessment unit;

xxvi. The assessment unit shall in conformity of the directions issued by the Dispute Resolution Panel u/s 144C(5), prepare a draft assessment order in accordance with sec. 144C(13) and send a copy of such order to the National Faceless Assessment Centre;

xxvii. The National Faceless Assessment Centre shall, upon receipt of draft assessment order referred to in (xxx), finalise the assessment within the time allowed u/s 144C(13) and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;

xxviii. The National Faceless Assessment Centre shall, after completion of assessment, transfer all the electronic records of the case to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Act.

Taxpoint

- The faceless assessment shall be made in respect of such territorial area, or persons or class of persons, or incomes or class of incomes, or cases or class of cases, as may be specified by the Board.
- The Board may, for the purposes of faceless assessment, set up the following Centres and units and specify their respective jurisdiction, namely:

i. a National Faceless Assessment Centre to facilitate the conduct of faceless assessment proceedings in a centralised manner, which shall be vested with the jurisdiction to make faceless assessment;

ii. Regional Faceless Assessment Centres, as it may deem necessary, to facilitate the conduct of faceless assessment proceedings in the cadre controlling region of a Principal Chief Commissioner, which shall be vested with the jurisdiction to make faceless assessment;

iii. assessment units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of making assessment, which includes identification of points or issues material for the determination of any liability (including refund) under the Act, seeking information or clarification on points or issues so identified, analysis of the material furnished by the assessee or any other person, and such other functions as may be required for the purposes of making faceless assessment;

iv. verification units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of verification, which includes enquiry, cross verification, examination of books of accounts, examination of witnesses and recording of statements, and such other functions as may be required for the purposes of verification;

v. technical units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of providing technical assistance which includes any assistance or advice on legal, accounting, forensic, information technology, valuation, transfer pricing, data analytics, management or any other technical matter which may be required in a particular case or a class of cases, under this section; and

vi. review units, as it may deem necessary to facilitate the conduct of faceless assessment, to perform the function of review of the draft assessment order, which includes checking whether the relevant and material evidence has been brought on record, whether the relevant points of fact and law have been duly incorporated in the draft order, whether the issues on which addition or disallowance should be made have been discussed in the draft order, whether the applicable judicial decisions have been considered and dealt with in the draft order, checking for arithmetical correctness of variations proposed, if any, and such other functions as may be required for the purposes of review.

- The assessment unit, verification unit, technical unit and the review unit shall have the following authorities, namely:—
  a. Additional Commissioner or Additional Director or Joint Commissioner or Joint Director, as the case may be
  b. Deputy Commissioner or Deputy Director or Assistant Commissioner or Assistant Director, or Income-tax Officer, as the case may be;
  c. such other income-tax authority, ministerial staff, executive or consultant, as considered necessary by the Board.
- All communication among the assessment unit, review unit, verification unit or technical unit or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making a faceless assessment shall be through the National Faceless Assessment Centre.
- All communications between the National Faceless Assessment Centre and the assessee, or his authorised representative, or any other person shall be exchanged exclusively by electronic mode; and

all internal communications between the National Faceless Assessment Centre, Regional Faceless Assessment Centres and various units shall be exchanged exclusively by electronic mode. However, the provisions shall not apply to the enquiry or verification conducted by the verification unit in the specified circumstances.

- For the purposes of faceless assessment—
  - i. an electronic record shall be authenticated by—
    - a. the National Faceless Assessment Centre by affixing its digital signature;
    - b. assessee or any other person, by affixing his digital signature if he is required to furnish his return of income under digital signature, and in any other case, by affixing his digital signature or under electronic verification code in the prescribed manner;
  - ii. Every notice or order or any other electronic communication shall be delivered to the addressee, being the assessee, by way of—
    - a. placing an authenticated copy thereof in the assessee's registered account; or
    - b. sending an authenticated copy thereof to the registered email address of the assessee or his authorised representative; or
    - c. uploading an authenticated copy on the assessee's Mobile App,

    and followed by a real time alert;
  - iii. Every notice or order or any other electronic communication shall be delivered to the addressee, being any other person, by sending an authenticated copy thereof to the registered email address of such person, followed by a real time alert;
  - iv. The assessee shall file his response to any notice or order or any other electronic communication, through his registered account, and once an acknowledgement is sent by the National Faceless Assessment Centre containing the hash result generated upon successful submission of response, the response shall be deemed to be authenticated;
  - v. The time and place of dispatch and receipt of electronic record shall be determined in accordance with the provisions of section 13 of the Information Technology Act, 2000
  - vi. A person shall not be required to appear either personally or through authorised representative in connection with any proceedings before the income-tax authority at the National Faceless Assessment Centre or Regional Faceless Assessment Centre or any unit
  - vii. In a case where a variation is proposed in the draft assessment order or final draft assessment order or revised draft assessment order, and an opportunity is provided to the assessee by serving a notice calling upon him to show cause as to why the assessment should not be completed as per the such draft or final draft or revised draft assessment order, the assessee or his authorised representative, as the case may be, may request for personal hearing so as to make his oral submissions or present his case before the income-tax authority in any unit;
  - viii. The Chief Commissioner or the Director General, in charge of the Regional Faceless Assessment Centre, under which the concerned unit is set up, may approve the request for personal hearing referred to in (vii) if he is of the opinion that the request is covered by the specified circumstances
  - ix. Where the request for personal hearing has been approved by the Chief Commissioner or the Director General, in charge of the Regional Faceless Assessment Centre, such hearing shall be conducted exclusively through video conferencing or video telephony, including use of any

telecommunication application software which supports video conferencing or video telephony, in accordance with the procedure laid down by the Board;

x. Subject to certain exception, any examination or recording of the statement of the assessee or any other person (other than statement recorded in the course of survey u/s 133A) shall be conducted by an income-tax authority in any unit, exclusively through video conferencing or video telephony, including use of any telecommunication application software which supports video conferencing or video telephony in accordance with the procedure laid down by the Board;

xi. The Board shall establish suitable facilities for video conferencing or video telephony including telecommunication application software which supports video conferencing or video telephony at such locations as may be necessary, so as to ensure that the assessee, or his authorised representative, or any other person is not denied the benefit of faceless assessment merely on the consideration that such assessee or his authorised representative, or any other person does not have access to video conferencing or video telephony at his end;

xii. The Principal Chief Commissioner or the Principal Director General, in charge of the National Faceless Assessment Centre shall, with the prior approval of the Board, lay down the standards, procedures and processes for effective functioning of the National Faceless Assessment Centre, Regional Faceless Assessment Centres and the unit set up, in an automated and mechanised environment, including format, mode, procedure and processes in respect of the following, namely:—

a. service of the notice, order or any other communication;
b. receipt of any information or documents from the person in response to the notice, order or any other communication;
c. issue of acknowledgement of the response furnished by the person;
d. provision of "e-proceeding" facility including login account facility, tracking status of assessment, display of relevant details, and facility of download;
e. accessing, verification and authentication of information and response including documents submitted during the assessment proceedings;
f. receipt, storage and retrieval of information or documents in a centralised manner;
g. general administration and grievance redressal mechanism in the respective Centres and units.
h. circumstances which are required to be specified for applicability of various provision of this section.

- The Principal Chief Commissioner or the Principal Director General in charge of National Faceless Assessment Centre may at any stage of the assessment, if considered necessary, transfer the case to the Assessing Officer having jurisdiction over such case, with the prior approval of the Board.
- Assessment made u/s 143(3) or 144 in the cases referred to (other than the cases transferred on or after 01-04-2021), shall be non-est if such assessment is not made in accordance with the procedure laid down under this section.

Definitions

- "automated allocation system" means an algorithm for randomised allocation of cases, by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimise the use of resources;
- "automated examination tool" means an algorithm for standardised examination of draft orders, by using suitable technological tools, including artificial intelligence and machine learning, with a view to reduce the scope of discretion;
- "computer resource of assessee" shall include assessee's registered account in designated portal of the Income-tax Department, the Mobile App linked to the registered mobile number of the assessee, or the registered e-mail address of the assessee with his e-mail service provider;
- "designated portal" means the web portal designated as such by the Principal Chief Commissioner or Principal Director General, in charge of the National Faceless Assessment Centre;
- "faceless assessment" means the assessment proceedings conducted electronically in 'e-Proceeding' facility through assessee's registered account in designated portal;
- "eligible assessee" shall have the same meaning as assigned to in sec. 114C(15)(b);
- "e-mail" or "electronic mail" and "electronic mail message" means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message;
- "Mobile app" shall mean the application software of the Income-tax Department developed for mobile devices which is downloaded and installed on the registered mobile number of the assessee;
- "real time alert" means any communication sent to the assessee, by way of Short Messaging Service on his registered mobile number, or by way of update on his Mobile App, or by way of an e-mail at his registered e-mail address, so as to alert him regarding delivery of an electronic communication;
- "registered account" of the assessee means the electronic filing account registered by the assessee in designated portal;
- "registered e-mail address" means the e-mail address at which an electronic communication may be delivered or transmitted to the addressee, including—
  i. the e-mail address available in the electronic filing account of the addressee registered in designated portal; or
  ii. the e-mail address available in the last income-tax return furnished by the addressee; or
  iii. the e-mail address available in the Permanent Account Number database relating to the addressee; or
  iv. in the case of addressee being an individual who possesses the Aadhaar number, the e-mail address of addressee available in the database of Unique Identification Authority of India; or
  v. in the case of addressee being a company, the e-mail address of the company as available on the official website of Ministry of Corporate Affairs; or
  vi. any e-mail address made available by the addressee to the income-tax authority or any person authorised by such authority.
- "registered mobile number" of the assessee means the mobile number of the assessee, or his authorised representative, appearing in the user profile of the electronic filing account registered by the assessee in designated portal;

- "video conferencing or video telephony" means the technological solutions for the reception and transmission of audio-video signals by users at different locations, for communication between people in real-time.

Faceless rectification, amendments and issuance of notice or intimation [Sec. 157A]

The Central Government may make a scheme, for the purposes of rectification of any mistake apparent from record u/s 154 or other amendments u/s 155 or issue of notice of demand u/s 156, or intimation of loss u/s 157, 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 rectification of mistakes, amendment of orders, issuance of notice of demand or intimation of loss, 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.

Other Amendments

- Time limit for linking Aadhar with PAN has been extended to 31-03-2021
- Due date of filing TDS return for the first two quarters of financial year 2020-21 has been extended to 31-03-2021.

Other Circulars

Residential status of certain individuals under Income-tax Act, 1961 [Circular 2/2021 dated 03-03-2021]

Section 6 contains provisions relating to determination of residency of a person. The status of an individual, as to whether he is resident in India or a non--resident or not ordinarily resident, is dependent, inter-alia, on the period for which the person is in India during a previous year or years preceding the previous year.

2. Relaxation for Previous Year 2019-20

Considering the COVID-19 pandemic and the resultant overstay of an individual who had come to India on a visit before 22-03-2020, circular no 11 of 2020 dated 08-05-2020 was issued by the Board u/s 119 to avoid genuine hardship in such cases. It was clarified that for the purpose of determining the residential status u/s 6 during the previous year 2019-20 in respect of an individual who has come to India on a visit before 22-03-2020 and:

(a) has been unable to leave India on or before 31-03-2020, his period of stay in India from 22-03-2020 to 31-03-2020 shall not be taken into account; or

(b) has been quarantined in India on account of Novel Corona Virus (Covid-19) on or after 01-03-2020 and has departed on an evacuation flight before 31-03-2020 or has been unable to leave India on or before 31-03-2020, his period of stay from the beginning of his quarantine to his date of departure or 31-03-2020, as the case may be, shall not be taken into account; or

(c) has departed on an evacuation flight before 31-03-2020, his period of stay in India from 22-03-2020 to his date of departure shall not be taken into account.

3. Residential Status for Previous year 2020-21

The Board has received various representations requesting for relaxation in determination of residential status for previous year 2020-21 from individuals who had come on a visit to India during the previous year 2019-20 and intended to leave India but could not do so due to suspension of international flights. The matter has been examined by the Board and following facts have emerged: –

I. Short stay will not result in Indian residency

There may be a situation where a person, who was a non-resident during the previous year 2019-20, gets stranded in India by reason of the COVID-19 pandemic for some time during the previous year 2020-21. In such situations, there are less chances that the person would acquire residence status in India during the PY 2020-21 only for this reason as explained below: –

A. A citizen of India or a person of Indian origin may become resident in India only in one of the following situations: –

(i) if his total income from Indian sources (i.e., other than the income from foreign sources) does not exceed 15,00,000 in the PY 2020-21 and he stays in India for 182 days or more during the PY 2020-21; or

(ii) if his total income from Indian sources (i.e., other than the income from foreign sources) exceed 15,00,000 in PY 2020-21

(a) he stays during PY 2020-21 for 182 days or more; or

(b) he stays during the PY 2020-21 for 120, days or more and also stays for 365 days or more in preceding four previous years.

B. An Individual who is not citizen of India or a person of Indian origin may become resident in India only in one of the following situations: –

(i) if he stays during PY 2020-21 for 182 days or more; or

(ii) if he stays during the PY 2020-21 for 60 days or more and also stays for 365 days or more in preceding four previous years.

Thus, generally, a person will become resident in India for the PY 2020-21 only if he stayed in India for 182 days or more unless he is covered by the exceptions discussed above.

II. Possibilities of dual non-residency in case of general relaxation

Most of the countries have the condition of stay for 182 days or more for determining residency. Thus, a person in most situations will be resident in only one country since there are 365 days in a year. In fact, if general relaxation for the stay period of 182 days is provided, there may be cases of double non-residency. In such situation, a person may not become a tax resident in any country in PY 2020-21 even after staying for more than 182 days or more in India resulting in double non-taxation and end up not paying tax in any country.

III. Tie breaker rule as per Double Taxation Avoidance Agreement (DTAA)

As discussed above, a person may become resident in India in some cases even if he stays for less than 182 days in India. In that situation, there may be a case of dual residency. However, due to applicability of Double Taxation Avoidance Agreement (DTAA), such person will become resident of only one country as per the "tiebreaker rule" in the DTAA. For example, the Indo-USA DTAA contains following tiebreaker rule in Article 4(2):

> *"Where by reason of the .provisions of paragraph I, an individual is a resident of both Contracting States., then his status' shall be determined as follows:*
> *(a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);*
> *(b) if the State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;*
> *(c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national,.*
> *(d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.*

Thus, as per the provisions of the Indo-USA DTAA, a person can become resident of two countries only in the following case:

(a) he has a permanent home available to him in both countries or in none of the two countries; and

(b) centre of vital interests cannot be determined; and

(c) he has a habitual abode in both States or in neither of them; and
(d) he is a national of both States or of neither of them.

Even in such situations when all the above (a) to (d) are applicable (which may be a very rare situation), the Indo-USA DTAA provides a resolution mechanism through Mutual Agreement Procedure.

It is also relevant to note that even in cases where an individual became resident in India due to exceptional circumstances, he would most likely become not ordinarily resident in India and hence his foreign sourced income shall not be taxable in India unless it is derived from business controlled in or profession set up in India.

IV. Employment income taxable only subject to conditions as per DTAA

Further, Article related to employment income in the DTAA with different countries governs the taxation of employment income. For example, Article 16 of the Indo-USA DTAA provides following for taxation of employment income:

"DEPENDENT PERSONAL SERVICES

1. Subject- to the provisions of Articles 17 (Directors' Fees), 18 (income Earned by Entertainers. and Athletes), 19 (Remuneration and Pensions in respect of Government Service), 20 (Private Pensions, Annuities, Alimony and Child Support), 21 (Payments received by Students and Apprentices) and 22 (Payments received by Professors, Teachers and Research Scholars), salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall he taxable only in that State unless the employment is exercised in the other Contracting State. if the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State, if

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the relevant taxable year;

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

(c) the remuneration is not borne by a permanent establishment or a fixed base or a trade or business which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operating in international traffic by an enterprise of a Contracting State may be taxed in that State."

The DTAA distributes the taxation rights between the employee's jurisdiction of residence and the place where the employment is exercised. Salaries, wages and other similar remuneration are taxable only in the country in which the employee is resident unless the employment is exercised in the other country. Generally, as per the DTAAs, such other country (the source jurisdiction) has taxation rights only if the employee is present in that country for more than 183 days or the employer is a resident of the source jurisdiction, or the employer has a permanent establishment in the source jurisdiction that bears the remuneration. Accordingly, if a USA resident under employment of a USA corporation has got stranded in India and performs employment from India, its salary will not be taxable in India unless he is present in India for 183 days or more during the PY 2020-21 or if the salary is borne by Indian permanent establishment of such USA corporation.

V. Credit for the taxes paid in other country:

Further, a resident person in India shall be entitled to claim credit of the taxes paid in any other country in accordance with the rule 128 of the Income-tax Rules, 1962.

VI. International Experience

A. The Organisation for Economic Co-operation and Development (OECD)

The Organisation for Economic Co-operation and Development (OECD) in its OECD Policy Responses to Coronavirus (COVID-19), [OECD Secretariat analysis of tax treaties and the impact of the COVID-19 crisis, Version 3 April 2020 has provided following guidance on this matter:

"28. Despite the complexity of the rules, and their application to a wide range of potentially affected individuals, it is unlikely that the COVID-19 situation will affect the treaty residence position.

30. Two main situations could be imagined:

1. A person is temporarily away from their home (perhaps on holiday, perhaps to work for a few weeks) and gets stranded in the host country by reason of the COVID-19 crisis and attains domestic law residence there,

2. A. person is working in a country (the "current home country') and has acquired residence status there, but they temporarily return to their "previous home country" because of the COVID-19 situation. They may either never have lost their status as resident of their previous home country under its domestic legislation, or they may regain residence status on their return.

31. In the, first scenario, it is unlikely that the person would acquire residence status in the country where the person is temporarily because of extraordinary circumstances, There are however rules in domestic legislation deeming a person to be a resident if he or she is present in the country, for a certain number of days, But even if the person becomes a resident under such rules, if a tax treaty is applicable, the person would not be a resident of that country for purposes of the tax treaty. Such a temporary dislocation should therefore have no tax implications.

32. In the second scenario, it is again unlikely that the person would regain residence status for being temporarily and exceptionally in the previous home country, But even if the person is or becomes a resident under such rules, if a tax treaty is applicable, the person would not become a resident of that country under the tax treaty due to such temporary dislocation."

Thus, it has been recognised by the OECD that DTAAs contain the necessary provisions to deal with the cases of dual residency arising due to COVID-19 situations.

B. Relief by other countries:

A study of the measures taken by different countries reveals that there is mix response some of the countries have provided relief for certain number of days subject to the satisfaction of prescribed conditions whereas some of the countries have not provided any relief. For example, USA have provided relief up to a maximum of 60 days subject to the satisfaction of certain conditions and furnishing of information in specified Form. Similarly, UK has provided relief of 60 days in exceptional circumstances depending on fact and circumstances of each case. Similarly, Australia issued guidelines for allowing relief by examining facts and circumstances. Germany has clarified that in the absence of a risk of double taxation, there is basically no factual inequity if the right to tax is transferred from one contracting state to another due to changed facts.

4. Conclusion

Thus, it can be seen that OECD as well as most of the countries have clarified that in view of the provisions of the domestic income tax law read with the DTAAs, there does not appear a possibility of the double taxation of the income for FY 2020-21, As explained above, the possibility of double taxation does not exist as per the provisions of the Income-tax Act, 1961 read with the DTAAs. However, in

order to understand the possible situations in which a particular taxpayer is facing double taxation due to the forced stay in India, it would be in the fitness of things to obtain relevant information from such individuals. After understanding the possible situations of double taxation, the Board shall examine that

(1) whether any relaxation is required to be provided in this matter; and

(ii) if required, then whether general relaxation can be provided for a class of individuals or specific relaxation is required to be provided in individual cases.

Therefore, if any individual is facing double taxation even after taking into consideration the relief provided by the respective DTAAs, he may furnish the information in Form —NR annexed to this circular by 31st March, 2021. This form shall be submitted electronically to the Principal Chief Commissioner of Income-tax (International Taxation).

Extension of time lines related to certain compliances by the Taxpayers under the Income-tax Act 1961 [Circular 8/2021 dated 30-04-2021]

In view of severe pandemic, the Board, in exercise of its powers u/s 119, provides following relaxation in respect of Income-tax compliances by the taxpayers:

1. Appeal to Commissioner (Appeals) under Chapter XX of the Income-tax Act,1961 for which the last date of filing under that Section is 1st April 2021 or thereafter, may be filed within the time provided under that Section or by 31st May 2021, whichever is later;
2. Objections to Dispute Resolution Panel (DRP) under Section 144C of the Income-tax Act,1961, for which the last date of filing under that Section is 1st April 2021 or thereafter, may be filed within the time provided under that Section or by 31st May 2021, whichever is later;
3. Income-tax return in response to notice under Section 148 of the Income-tax Act,1961, for which the last date of filing of return of income under the said notice is 1st April 2021 or thereafter, may be filed within the time allowed under that notice or by 31st May 2021, whichever is later;
4. Filing of belated return under sub-section (4) and revised return under sub-section (5) of Section 139 of the Income-tax Act,1961 for Assessment Year 2020-21, which was required to be filed on or before 31st March 2021, may be filed on or before 31st May 2021;
5. Payment of tax deducted under Section 194-IA, Section 194-IB and Section 194M of the Income-tax Act,1961 and filing of challan-cum-statement for such tax deducted, which are required to be paid and furnished by 30th April 2021 under Rule 30 of the Income-tax Rules, 1962, may be paid and furnished on or before 31st May 2021;
6. Statement in Form No. 61, containing particulars of declarations received in Form No.60, which is due to be furnished on or before 30th April 2021, may be furnished on or before 31st May 2021.

Clarification regarding the limitation time for filing of appeals before the CIT (A) under the Income Tax Act, 1961 [Circular 10/2021 dated 25-05-2021]

1. The Central Board of Direct Taxes has issued Circular No. 8 of 2021 on 30th April 2021 providing various relaxations till 31st May 2021 including extending the time for filing the appeals before CIT(Appeals). At the same time, the Hon'ble Supreme Court vide order dated 27th April 2021 in Suo Motu Writ Petition (Civil) NO.3 of 2020 restored the order dated 23rd March 2020 and in continuation of the order dated 8th March 2021 directed that the period(s) of limitation, as prescribed under any General or Special Laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended till further orders.

2. The Central Board of Direct Taxes clarifies that if different relaxations are available to the taxpayers for particular compliance, the taxpayer is entitled to the relaxation which is more beneficial to him. Thus, for the purpose of counting the period(s) of limitation for filing of appeals before the CIT(Appeals) under the Act, the taxpayer is entitled to a relaxation which is more beneficial to him and hence the said limitation stands extended till further orders as ordered by the Hon'ble Supreme Court in Suo Motu Writ Petition (Civil) No. 3 of 2020 vide order dated 27th April 2021.

Extension of time limits of certain compliances to provide relief to taxpayers in view of the severe pandemic [Circular 12/2021 dated 25-06-2021]

On consideration of genuine hardship being faced by the taxpayers in making various compliances under the Income-tax Act, 1961 (hereinafter referred to as "the Act") in view of severe pandemic, the Board, in exercise of its power u/s 119, provides relaxation in respect of the following compliances as under:

1) Objections to Dispute Resolution Panel (DRP) and Assessing Officer under section 144C of the Act, for which the last date of filing under that Section is 01/06/2021 or thereafter, may be filed within the time provided in that Section or by 31/08/2021, whichever is later;

2) The Statement of Deduction of Tax for the last quarter of the Financial Year 2020-21, required to be furnished on or before 31/05/2021 under Rule 31A of the Income-tax Rules, 1962 (hereinafter referred to as "the Rules"), as extended to 30/06/2021 vide Circular No. 9 of 2021, may be furnished on or before 15/07/2021;

3) The Certificate of Tax Deducted at Source in Form No.16, required to be furnished to the employee by 15/06/2021 under Rule 31 of the Rules, as extended to 15/07/2021 vide Circular No. 9 of 2021, may be furnished on or before 31/07/2021;

4) The Statement of Income paid or credited by an investment fund to its unit holder in Form No. 64D for the Previous Year 2020-21, required to be furnished on or before 151h June, 2021 under Rule 12CB of the Rules, as extended to 30th June, 2021 vide Circular No.9 of 2021, may be furnished on or before 15th July, 2021;

5) The Statement of Income paid or credited by an investment fund to its unit holder in Form No. 64C for the Previous Year 2020-21, required to be furnished on or before 30/06/2021 under Rule 12CB of the Rules, as extended to 15/07/2021 vide Circular No. 9 of 2021, may be furnished on or before 31/07/2021;

6) The application under Section 10(23C), 12AB, 35(1)(ii)/ (iia)/ (iii) and 80G of the Act in Form No. 10A/ Form No. 10AB, for registration/ provisional registration/ intimation/ approval/ provisional approval of Trusts/ Institutions/ Research Associations etc. required to be made on or before 30/06/2021, may be made on or before 31/08/2021;

7) The compliances to be made by the taxpayers such as investment, deposit, payment, acquisition, purchase, construction or such other action, by whatever name called, for the purpose of claiming any exemption under the provisions contained in Section 54 to 54GB of the Act, for which the last date of such compliance falls between 01/04/2021 to 29/09/2021 (both days inclusive), may be completed on or before 30/09/2021;

8) The Quarterly Statement in Form No. 15CC to be furnished by authorized dealer in respect of remittances made for the quarter ending on 30/06/2021, required to be furnished on or before 15/07/2021 under Rule 37BB of the Rules, may be furnished on or before 31/07/2021;

9) The Equalization Levy Statement in Form No. 1 for the Financial Year 2020--21, which is required to be filed on or before 30/06/2021, may be furnished on or before 31/07/2021;

10) The Annual Statement required to be furnished under sub-section (5) of section 9A of the Act by the eligible investment fund in Form No. 3CEK for the Financial Year 2020-21, which is required to be filed on or before 29/06/2021, may be furnished on or before 31/07/2021;

11) Uploading of the declarations received from recipients in Form No. 15G/15H during the quarter ending on 30th June, 2021, which is required to be uploaded on or before 15/07/2021, may be uploaded by 31/08/2021;

12) Exercising of option u/s 245M(1) in Form No. 34BB which is required to be exercised on or before 27/06/2021 may be exercised on or before 31/07/2021.