SUPPLEMENTARY

JUNE 2020 & DECEMBER 2020

PAPER - 7 & 16

PART - A

(Amendments upto 30th November, 2019)

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 02-04-1940).

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 during 02-04-1940 and 02-04-1960)

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 02-04-1960 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 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 income covered u/s 111A and 112A.

Health & Education Cess

Applicable on: All assessee.

Rate of cess: 4% of Tax liability after Surcharge

Firm or Limited Liability Partnership (LLP)

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

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

Marginal Relief: Available

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

Company

Company	Rate
In the case of a domestic company	
- Where its total turnover or gross receipts during the previous year 2017-18 does not exceed ₹ 400 crore	25%
- In any other case	30%
In the case of a foreign company	40%

Surcharge

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

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

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

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

Income deemed to accure or arise in India

Deemed Receipts of Gift [Sec. 9(1)(viii)]

When

- a non-resident or a foreign company receives any sum of money referred to in sec. 56(2)(x)[1]
- such receipt is from a resident person
- such money is received outside India
- such money is received on or after 05-07-2019

then

- such receipt is treated as income deemed to accrue or arise in India[2].

Relaxation in conditions of special taxation regime for offshore funds

Section 9A of the Act provides for a safe harbour in respect of offshore funds. It provides that in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager located in India and acting on behalf of such fund shall by itself not constitute business connection in India of the said fund. Further, an eligible investment fund shall not be said to be resident in India merely because the eligible fund manager undertaking fund management activities on its behalf is located in India. The benefit under section 9A is available subject to the conditions provided in sub-sections (3), (4) and (5) of the said section.

Sub-section (3) of section 9A provides for the conditions for the eligibility of the fund. These conditions, inter-alia, are related to residence of fund, corpus, size, investor broad basing, investment diversification and payment of remuneration to fund manager at arm's length.

To give an impetus to fund management activities in India, certain constraints has been amended, so as to provide that,-

(i) the corpus of the fund shall not be less than ₹ 100 crore at the end of a period of 6 months from the end of the month of its establishment or incorporation or at the end of such previous year, whichever is later; and

(ii) the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than the amount calculated in such manner as may be prescribed.

Income, which do not form part of Total Income

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, to the extent such income accrued or arisen to, or is received in respect of units held by a non-resident.

[1] Refer chapter "Income from Other Sources"
[2] Subject to DTAA and exceptions provided in sec. 56(2)(x)

- ✓ *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;

Payment from National Pension Trust [Sec. 10(12A)]

Any payment from the National Pension System Trust to an assessee on closure of his account or on his opting out of the pension scheme referred to in sec. 80CCD, to the extent it does not exceed 40% of the total amount payable to him at the time of such closure or his opting out of the scheme.

Now aforesaid exemption has been increased from 40% to 60%.

Interest on Securities [Sec. 10(15)]

Sec. 10(15) states that interest on various securities are exempt from tax. Now in the list following is also inserted to facilitate external borrowing by the units located in IFSC:

- Interest payable to a non-resident by a unit located in an International Financial Services Centre in respect of monies borrowed by it on or after 01-09-2019

Exemption u/s 10(23C)(iv)/(v)(vi)(via)

Following amendments has been made w.e.f. 01-09-2019

- The prescribed authority is empowered to satisfy himself about the compliance of requirements under any other law by such fund or trust or institution or any university or other educational institution or any hospital or other medical institutions, as are material for the purpose of achieving its objects and the prescribed authority.
- In case, where the fund or institution is approved by the prescribed authority and subsequently that Government or the prescribed authority is satisfied that:
  - i. such trust or institution has not—
    - (A) applied its income in accordance with the provisions; or
    - (B) invested or deposited its funds in accordance with the provisions; or
  - ii. the activities of such trust or institution:
    - (A) are not genuine; or
    - (B) are not being carried out in accordance with all or any of the conditions subject to which it was notified or approved; or
  - iii. such trust or institution has not complied with the requirement of any other law for the time being in force, and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality,

  it may, at any time after giving a reasonable opportunity of showing cause against the proposed action to the concerned trust or institution, rescind the notification or, by order, withdraw the approval, as the case may be.

Amendment to sec. 10(34)

In the existing provision relating to buy back of shares by an unlisted company, income arise in hands of shareholder has been exempted and the company was liable to pay tax u/s 115-QA.

Now w.e.f. 05-07-2019, the said provision is also applicable in case of listed company. i.e., listed company is also liable to pay tax u/s 115-QA.

However, the amended provision shall not apply to such buy-back of shares (being the shares listed on a recognised stock exchange), in respect of which public announcement has been made on or before the 5th day of July, 2019 in accordance with the provisions of the Securities and Exchange Board of India (Buyback of Securities) Regulations, 2018.

Cancellation of registration of the Trust or Institution

Section 12AA of the Act prescribes for manner of grating registration in case of trust or institution for the purpose of availing exemption in respect of its income under section 11 of the Act, subject to conditions contained under sections 11, 12, 12AA and 13. The section also provides for manner of cancellation of said registration.

This section provides that cancellation of registration can be on two grounds:-

(a) the Principal Commissioner or the Commissioner is satisfied that activities of the exempt entity are not genuine or are not being carried out in accordance with its objects; and

(b) it is noticed that the activities of the exempt entity are being carried out in a manner that either whole or any part of its income would cease to be exempt.

In order to ensure that the trust or institution do not deviate from their objects, section 12AA of the Income-tax Act has been amended so as to provide that:

(i) at the time of granting the registration to a trust or institution, the Principal Commissioner or the Commissioner shall, inter alia, also satisfy himself about the compliance of the trust or institution to requirements of any other law which is material for the purpose of achieving its objects;

(ii) where a trust or an institution has been granted registration u/s 12A and subsequently it is noticed that the trust or institution has violated requirements of any other law which was material for the purpose of achieving its objects, and the order, direction or decree, by whatever name called, holding that such violation has occurred, has either not been disputed or has attained finality, the Principal Commissioner or Commissioner may, by an order in writing, cancel the registration of such trust or institution after affording a reasonable opportunity of being heard.

Salaries

Enhancement of limit specified for standard deduction u/s 16(ia)

Standard deduction of ₹ 40,000 or salary income, whichever is lower, has been allowed while computing income under the head "Salaries".

The aforesaid limit of ₹ 40,000 has been increased to ₹ 50,000.

Income from House Property

No notional rent on second self occupied house property [Sec. 23]

In the existing law, net Annual value of **one** self-occupied house property, at the choice of the assessee, has been taken as *nil* and other self-occupied house property has been considered as deemed to be let out.

Now, net Annual value of **two** self-occupied house property, at the choice of the assessee, shall be taken as *nil*. Remaining self0occupied property shall be considered as deemed to be let out.

However, maximum limit for deduction u/s 24(b), in aggregate, cannot exceed ₹ 2,00,000

Property held as stock-in-trade [Sec. 23(5)]

Where house property is held as stock-in-trade & not let out during any part of the previous year, then annual value of such property upto 1 year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority has been taken as nil.

Now such benefit is extended to 2 years.

Profits and Gains of Business or Profession

Payment made through other specified electronic modes

In respect of following sections, amendment has been made to include payment made through other prescribed electronic modes:

- Sec. 13A
- Sec. 35AD
- Sec. 40A(3) / (3A) / (4)
- Sec. 43(1)
- Sec. 43CA
- Sec. 44AD
- Sec. 50C
- Sec. 56(2)(x)
- Sec. 80JJAA
- Sec. 269SS (w.e.f. 01-09-2019)
- Sec. 269ST (w.e.f. 01-09-2019)
- Sec. 269T (w.e.f. 01-09-2019)

Interest, royalty, fees for technical services payable to a non-resident or outside India [Sec.40(a)(i)]

Any interest, royalty, fees for technical services or other sum chargeable under this Act, which is payable:

- outside India; or
- in India to a non resident (not being a company) or to a foreign company,

- on which tax is deductible at source under Chapter XVIIB; and

such tax -

- has not been deducted; or
- after deduction, has not been within the due date of submission of return of income u/s 139(1).

In case of first default following relief has been provided:

- Where an assessee fails to deduct the whole or any part of the tax on any sum but is not deemed to be an assessee in default under the first proviso to sec. 201(1), then, it shall be deemed that

the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the payee.

As per first proviso to sec.201(1), the payer is not deemed as an assessee in default:

i. Such resident recipient has furnished his return of income u/s 139

ii. Such resident recipient has taken into account such sum for computing income in such return of income; and

iii. Such resident recipient has paid the tax due on the income declared by him in such return of income,

iv. The payer furnishes a prescribed certificate to this effect from a chartered accountant

Expenditures allowed on cash basis [Sec. 43B]

Deduction in respect of certain expenses are allowed only if payment is made on or before the due date for furnishing return of income u/s 139(1) of the previous year in which such liability is incurred. The provision has been extended to any sum payable by the assessee as interest on any loan or borrowing from a deposit taking non-banking financial company or systemically important non-deposit taking non-banking financial company, in accordance with the terms and conditions of the agreement governing such loan or borrowing.

- ✓ *Systemically important non-deposit taking non-banking financial company* means a non-banking financial company which is not accepting or holding public deposits and having total assets of not less than ₹ 500 crore as per the last audited balance sheet and is registered with the RBI.
- ✓ *Deposit taking non-banking financial company* means a non-banking financial company which is accepting or holding public deposits and is registered with the RBI.

Similarly, provision of sec. 43D has also been extended to deposit taking NBFC or systemically important non-deposit taking NBFC.

Rate of depreciation

Following amendment has been made in rate of depreciation:

Block		Nature of Asset
Plant/Machinery	30%	Motor car, other than used in a business of running them on hire, acquired and put to use between 23-08-2019 and 31-03-2020
Plant/Machinery	45%	Motor buses, motor lorries and motor taxis used in a business of running them on hire, acquired and put to use between 23-08-2019 and 31-03-2020

Capital Gains

Amendment to sec. 47(viiab)

Any transfer of a capital asset, being—

a. bond or Global Depository Receipt referred to in sec. 115AC(1); or

b. rupee denominated bond of an Indian company; or

c. derivative, or

d. other notified securities

made by a non-resident on a recognised stock exchange located in any International Financial Services Centre provided the consideration for such transaction is paid or payable in foreign currency.

Valuation of consideration in case of unquoted shares [Sec. 50CA]

As per provision of sec. 50CA, where capital asset, being share of a company other than a quoted share, is transferred for a consideration which is less than the fair market value of such share, the fair market value shall be deemed to be the full value of consideration.

Now, it has been provided that the aforesaid provision is not applicable to any consideration received or accruing as a result of transfer by prescribed class of persons.

Deduction from capital gain on sale of residential house property [Sec. 54]

An assessee, being an individual and HUF, is eligible for deduction from capital gain arise on transfer of residential house property on satisfaction of certain conditions. One of the conditions for such deduction is that assesssee is required to acquired one residential house property within specified period.

In this regard, following option has been provided to the assessee:

- **When Available**: Where the amount of the capital gain does not exceed ₹ 2 crore.
- **Option**: The assessee may, at his option, purchase or construct **two** residential houses in India
- **Restriction**: Where during any assessment year, the assessee has exercised this option, he shall not be subsequently entitled to exercise the option for the same or any other assessment year. That means, the option is available once in lifetime of the assessee.

Deduction from capital gain on transfer of residential property for investment in eligible company [Sec. 54GB]

Following amendments has been made:

- The date of transfer of residential property (for investment in eligible start-up company) has been extended to 31-03-2021.
- Criteria of minimum shareholding of 50% of share capital or voting rights has been reduced to 25%
- Criteria of restricting transfer of new asset (being computer or computer software) has been reduced to 3 years.

Income from Other Sources

Share premium in excess of fair market value [Sec. 56(2)(viib)]

Where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be treated as income of the company.

The provision is not applicable where the consideration for issue of shares is received:

i. by a venture capital undertaking from a venture capital company or a venture capital fund or a ***specified fund***; or

   ✓ *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 which has been granted a certificate of registration as a Category I or a Category II 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. by a company from a class or classes of persons as may be notified by the Central Government in this behalf.

- ✓ Where the provision has not been applied to a company on account of fulfilment of conditions specified in the notification and such company fails to comply with any of those conditions, then,
  - i. Any consideration received for issue of share that exceeds the fair market value of such share shall be deemed to be the income of that company chargeable to income-tax for the previous year in which such failure has taken place; and
  - ii. It shall be deemed that the company has under-reported the income in consequence of the misreporting referred to in sec. 270A(8) and (9) [i.e. penalty proceedings] for the said previous year.

Set Off and Carry Forward of Losses

Carry Forward and Set-off of Losses in the case of Closely Held Companies [Sec. 79]

In case of a company in which public are not substantially interested (other than eligible start-up company referred below), no loss shall be carried forward and set off against the income of the previous year, unless at least 51% of the voting power of the company are beneficially held (on the last day of the previous year in which the loss is sought to be set off) by the same person(s) who held at least 51% of the shares on the last day of the financial year in which the loss was incurred. The provision is not applicable in certain cases.

In the exceptions list, following exception has also been inserted:

Distressed *Company*: The provision is not applicable to a company, and its subsidiary and the subsidiary of such subsidiary, where:

i. the National Company Law Tribunal (NCLT), on an application moved by the Central Government u/s 241 of the Companies Act, 2013, has suspended the Board of Directors of such company and has appointed new directors nominated by the Central Government, u/s 242 of the said Act; and

ii. a change in shareholding of such company, and its subsidiary and the subsidiary of such subsidiary, has taken place in a previous year pursuant to a resolution plan approved by the Tribunal u/s 242 of the Companies Act, 2013 after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

Further, to further facilitate ease of doing business in the case of an eligible start-up, it is amended so as to provide that loss incurred in any year prior to the previous year, in the case of closely held eligible start-up, shall be allowed to be carried forward and set off against the income of the previous year on satisfaction of either of the two conditions.

Deductions

Deduction u/s 80C in respect of LIC premium, contributions to PF, etc.

To enable the Central Government employees to have more options of tax saving investments under National Pension System, sec. 80C has been amended to provide that any amount paid or deposited by a Central Government employee as a contribution to his Tier-II account of the pension scheme shall be eligible for deduction under the said section.

Similarly, under the existing provisions of sec. 80CCD, in respect of any contribution by the Central Government or any other employer to the account of the employee referred to in the section, the assessee shall be allowed a deduction in the computation of his total income, of the whole of the amount contributed by the Central Government or any other employer, as does not exceed 10% of his salary in the previous year. In order to ensure that the Central Government employees get full deduction of the enhanced contribution, the limit has been increased from 10 to 14% of contribution made by the Central Government to the account of its employee.

Deduction u/s 80EEA in respect of interest on loan taken for certain house property

Applicable to

Individual (resident or non-resident) not eligible for deduction u/s 80EE

Conditions to be satisfied

1. *Loan*: The assessee has taken loan for acquisition of the residential house property from any financial institution.
2. *Sanction of Loan*: The loan has been sanctioned by the financial institution (as defined u/s 80EE) during the Previous Year 2019-20.
3. *Value of Residential Property*: The stamp duty value of the residential house property does not exceed ₹ 45 lakhs.
4. *No other residential property*: The assessee does not own any residential house property on the date of sanction of the loan.
5. *No deduction u/s 80EE*: The assessee is not eligible for deduction u/s 80EE.

Quantum of Deduction

Minimum of the following:

a. Interest on loan payable for the previous year

b. ₹ 1,50,000

Other Points

Double deduction is not available: Where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year.

Deduction u/s 80EEB in respect of purchase of electric vehicle

Applicable to

Individual (resident or non-resident)

Conditions to be satisfied

1. *Loan*: The assessee has taken loan for purchase of an electric vehicle from any financial institution.
   - ✓ *Electric vehicle* means a vehicle which is powered *exclusively* by an electric motor whose traction energy is supplied exclusively by traction battery installed in the vehicle and has such electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy.
   - ✓ *Financial institution* means a banking company to which the Banking Regulation Act, 1949 applies, or any bank or banking institution referred to in sec. 51 of that Act and includes any deposit taking non-banking financial company or a systemically important non-deposit taking non-banking financial company as defined u/s 43B.

2. *Sanction of Loan*: The loan has been sanctioned by the financial institution during 01-04-2019 and 31-03-2023.

Quantum of Deduction

Minimum of the following:

a. Interest on loan payable for the previous year

b. ₹ 1,50,000

Other Points

Double deduction is not available: Where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year.

Deduction in respect of profits and gains from Housing Projects [Sec. 80-IBA]

The existing provisions of the section 80-IBA, inter alia, provide that where the gross total income of an assessee includes any profits and gains derived from the business of developing and building housing projects, there shall, subject to certain conditions, be allowed, a deduction of an amount equal to 100% of the profits and gains derived from such business.

With a view to align the definition of "affordable housing" u/s 80-IBA with the definition under GST Act, the said section has been amended to modify certain conditions regarding the housing project approved on or after 01-09-2019. The modified conditions are as under:

(i) the assessee shall be eligible for deduction under the section, in respect of a housing project if a residential unit in the housing project have carpet area not exceeding 60 square meter in metropolitan cities or 90 square meter in cities or towns other than metropolitan cities of Bengaluru, Chennai, Delhi National Capital Region (limited to Delhi, Noida, 12 Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan Region); and

(ii) the stamp duty value of such residential unit in the housing project shall not exceed ₹ 45 lakh

(iii) The time limit for approval has been extended to 31-03-2020.

Deduction u/s 80LA in respect of certain incomes of Offshore Banking Units

The existing provisions of the section 80LA of the Act, inter alia, provide profit linked deduction of an amount equal to 100% of income for the first 5 consecutive assessment years and 50% of income for the next 5 consecutive assessment years, to units of an IFSC. With a view to further incentivize operation of units in IFSC, it has been amended so as to provide that the deduction shall be increased to 100% for any 10 consecutive years. The assessee, at his option, may claim the said deduction for any 10 consecutive assessment years out of 15 years beginning with the year in which the necessary permission was obtained.

Non Resident

Tax on dividends, royalty and technical service fees in the case of foreign companies [Sec. 115A]

Section 115A of the Act provides the method of calculation of income-tax payable by a non-resident (not being a company) or by a foreign company where the total income includes any income by way of dividend (other than referred in section 115-O), interest, royalty and fees for technical services; etc. Section 80LA, provides for deduction in respect of certain incomes to a unit located in an IFSC. However, sec. 115A(4) prohibits any deduction under chapter VIA which includes section 80LA. In order to ensure that units located in IFSC claim full deduction, it has been amended so as

to provide that the conditions contained in sub-section (4) of section 115A shall not apply to a unit of an IFSC for under section 80LA is allowed.

Company Assessment

Minimum Alternate Tax (MAT) or Tax on Book Profit [Sec. 115JB]

- The rate of MAT has been reduced from 18.5% to 15%.
- While computing book profit, the amount of brought forward loss or unabsorbed depreciation, whichever is less as per books of account shall be reduced. In the said clause following exception has been inserted:

  The **aggregate** (not lower) amount of unabsorbed depreciation & loss brought forward shall be reduced, in case of a:

  a. company, and its subsidiary and the subsidiary of such subsidiary, where, the Tribunal, on an application moved by the Central Government u/s 241 of the Companies Act, 2013 has suspended the Board of Directors of such company and has appointed new directors who are nominated by the Central Government u/s 242 of the said Act;

  b. company against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under Insolvency and Bankruptcy Code, 2016

Tax on income of certain domestic companies [Sec. 15BAA]

Applicable to: Domestic Company

Conditions:

The total income of the company shall be computed:

a. without any deduction u/s 10AA or 32(1)(iia) or 32AD or 33AB or 33ABA or 35(1)(ii) or 35(1)(iia) or 35(1)(iii) or 35(2AA) or 35(2AB) or 35AD or 35CCC or 35CCD or under any provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes" other than the provisions of sec. 80JJAA.

   Exception

   In case of unit in the International Financial Services Centre, the deduction u/s 80LA shall be available to such Unit subject to fulfilment of the conditions contained in sec. 80LA.

b. Without set off of any loss carried forward from any earlier assessment year if such loss is attributable to any of the deductions referred above; and

c. Depreciation u/s 32 [other than 32(1)(iia)], is determined in the manner as may be prescribed.

***Rate of Tax*: 22% + SC @ 10% + Cess**

Other Points

- Income taxable at special rate shall be taxable at special rate of tax applicable on that income. E.g., short term capital gain covered u/s 111A is taxable @ 15%.
- The loss referred to in the conditions shall be deemed to have been already given full effect to and no further deduction for such loss shall be allowed for any subsequent year.
- The scheme is optional. The option is exercised by the person in the prescribed manner[3] on or before the due date specified u/s 139(1) for furnishing the first of the returns of income which the person is required to furnish under the provisions of this Act. Further, once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

[3] Uploading Form 10-IB

- 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 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.
- Where a person has exercised the option u/s 115BAA, the provision of sec. 115JB (i.e. MAT) is not applicable.
- In case of a person, where the option exercised by it, u/s 115BAB has been rendered invalid due to violation of conditions contained in that section, such person may exercise option under this section.
- Further, section 115BA has been amended to provide that where the person exercises option u/s 115BAA, the option under sec. 115BA may be withdrawn.

Tax on income of new manufacturing domestic companies [Sec. 115BAB]-

Applicable to: Domestic Company

Conditions:

a) The company has been set-up and registered on or after 01-10-2019, and has commenced manufacturing or production of an article or thing on or before 31-03-2023.

b) The business is not formed by splitting up, or the reconstruction, of a business already in existence.

Exception

i. Where business is formed as a result of the re-establishment, reconstruction or revival by the person of the business of any such undertaking as is referred to in sec. 33B, in the circumstances and within the period specified in that section.

c) The company does not use any machinery or plant previously used for any purpose.

- Any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled:

  A. such machinery or plant was not, at any time previous to the date of the installation used in India;

  B. such machinery or plant is imported into India from any country outside India; and

  C. no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the person.

- Where in the case of a person, any machinery or plant or any part thereof previously used for any purpose is put to use by the company and the total value of such machinery or plant or part thereof does not exceed 20% of the total value of the machinery or plant used by the company, then, this condition shall be deemed to have been complied with.

d) The company does not use any building previously used as a hotel or a convention centre, as the case may be, in respect of which deduction u/s 80-ID has been claimed and allowed.

e) The company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.

Exception

The business of manufacture or production of any article or thing shall not include business of:

i. development of computer software in any form or in any media;

ii. mining;

iii. conversion of marble blocks or similar items into slabs;

iv. bottling of gas into cylinder;

v. printing of books or production of cinematograph film; or

vi. any other business as may be notified by the Central Government in this behalf; and

f) The total income of the company has been computed:

A. without any deduction u/s 10AA or 32(1)(iia) or 32AD or 33AB or 33ABA or 35(1)(ii) or 35(1)(iia) or 35(1)(iii) or 35(2AA) or 35(2AB) or 35AD or 35CCC or 35CCD or under any provisions of Chapter VI-A under the heading "C.—Deductions in respect of certain incomes" other than the provisions of sec. 80JJAA.

B. Without set off of any loss carried forward from any earlier assessment year if such loss is attributable to any of the deductions referred above; and

C. Depreciation u/s 32 [other than 32(1)(iia)], is determined in the manner as may be prescribed.

***Rate of Tax*: 15% + SC @ 10% + Cess**

Other Points

- Income taxable at special rate shall be taxable at special rate of tax applicable on that income. E.g., short term capital gain covered u/s 111A is taxable @ 15%.
- Where the total income of the person, includes any income, which has neither been derived from nor is incidental to manufacturing or production of an article or thing and in respect of which no specific rate of tax has been provided separately under this Chapter, such income shall be taxed @ 22% and no deduction or allowance in respect of any expenditure or allowance shall be allowed in computing such income.
- The income-tax payable in respect of income being short term capital gains derived from transfer of a capital asset on which no depreciation is allowable under the Act shall be computed @ 22%
- 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 subsequent assessment years and other provisions of the Act shall apply to the person as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.
- The loss referred to in the conditions shall be deemed to have been already given full effect to and no further deduction for such loss shall be allowed for any subsequent year.
- The scheme is optional. The option is exercised by the person in the prescribed manner[4] on or before the due date specified u/s 139(1) for furnishing the first of the returns of income which the person is required to furnish under the provisions of this Act. Further, once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.
- Where a person has exercised the option u/s 115BAB, the provision of sec. 115JB (i.e. MAT) is not applicable.
- If any difficulty arises regarding fulfilment of the conditions, the Board may, with the approval of the Central Government, issue guidelines for the purpose of removing the difficulty and to promote manufacturing or production of article or thing using new plant and machinery. Every guideline issued by the Board shall be laid before each House of Parliament, and shall be binding on the person, and the income-tax authorities subordinate to it.
- Where it appears to the Assessing Officer that, owing to the close connection between the person to which this section applies and any other person, or for any other reason, the course

[4] Uploading Form 10-IB

of business between them is so arranged that the business transacted between them produces to the person more than the ordinary profits which might be expected to arise in such business, the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take the amount of profits as may be reasonably deemed to have been derived therefrom:

Taxpoint:

- ✓ In case the aforesaid arrangement involves a specified domestic transaction referred to in sec. 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in sec. 92F(ii).
- ✓ The amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the person. Such income is computed @ 30%

Tax on distributed profits by a Domestic Company [Sec. 115-O]

The existing provisions of the section 115-O provides that no tax on distributed profits shall be chargeable in respect of the total income of a company, being a unit of an IFSC, deriving income solely in convertible foreign exchange, for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after 01-04-2017, out of its current income, either in the hands of the company or the person receiving such dividend. To facilitate distribution of dividend by companies operating in IFSC, it is amended so as to provide that any dividend paid out of accumulated income derived from operations in IFSC, after 01-04-2017 shall also not be liable for tax on distributed profits.

Tax on distributed income to unit holders [Sec. 115R]

The existing provisions of the section 115R provides that any amount of income distributed by the specified company or a Mutual Fund to its unit holders shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income-tax on such distributed income. In order to incentivize relocation of Mutual Fund in IFSC, it has been amended so as to provide that no additional income-tax shall be chargeable in respect of any amount of income distributed, on or after 01-09-2019, by a Mutual Fund of which all the unit holders are non-residents and which fulfills certain other specified conditions.

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

Section 115UB of the Act, inter alia, provides for pass through of income earned by the Category I and II AIF, except for business income which is taxed at AIF level. Pass through of profits (other than profit & gains from business) has been allowed to individual investors so as to give them benefit of lower rate of tax, if applicable. Pass through of losses are not provided under the existing regime and are retained at AIF level to be carried forward and set off in accordance with Chapter VI. In order to remove the genuine difficulty faced by Category I and II AIFs , it is amended so as to provide that

(i) the business loss of the investment fund, if any, shall be allowed to be carried forward and it shall be set-off by it in accordance with the provisions of Chapter VI and it shall not be passed onto the unit holder;

(ii) the loss other than business loss, if any, shall also be ignored for the purposes of pass through to its unit holders, if such loss has arisen in respect of a unit which has not been held by the unit holder for a period of atleast 12 months;

(iii) the loss other than business loss, if any, accumulated at the level of investment fund as on 31-03-2019, shall be deemed to be the loss of a unit holder who held the unit on 31-03-2019 in respect of the investments made by him in the investment fund and allowed to be carried forward by him for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year and it shall be set-off by him in accordance with the provisions of Chapter VI;

(iv) the loss so deemed in the hands of unit holders shall not be available to the investment fund for the purposes of chapter VI.

Return of Income & PAN

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

A person (other than firm and company), who is not required to furnish a return as per aforesaid provision, and who during the previous year:

a) has deposited an aggregate amount exceeding ₹1 crore in one or more current accounts maintained with a banking company or a co-operative bank; or

b) has incurred expenditure of an aggregate amounts exceeding ₹ 2 lakh for himself or any other person for travel to a foreign country; or

c) has incurred expenditure of an aggregate amount exceeding ₹1 lakh towards consumption of electricity; or

d) fulfils such other conditions as may be prescribed,

shall furnish a return of his income on or before the due date in such form and verified in such manner and setting forth such other particulars, as may be prescribed.

Further, currently, a person claiming rollover benefit of exemption from capital gains tax on investment in specified assets like house, bonds etc., is not required to furnish a return of income, if after claim of such rollover benefits, his total income is not more than the maximum amount not chargeable to tax. In order to make furnishing of return compulsory for such persons, it amended so as to provide that a person who is claiming such rollover benefits on investment in a house or a bond or other assets, u/s 54, 54B, 54D, 54EC, 54F, 54G, 54GA and 54GB of the Act, shall necessarily be required to furnish a return, if before claim of the rollover benefits, his total income is more than the maximum amount not chargeable to tax.

Inter-changeability of PAN & Aadhaar and mandatory quoting in prescribed transactions

Existing provision of section 139A, inter alia, provides that every person specified therein, who has not been allotted a PAN, shall apply to the Assessing Officer for allotment of PAN. It has been observed that in many cases persons entering into high value transactions, such as purchase of foreign currency or huge withdrawal from the banks, do not possess a PAN. In order to keep an audit trail of such transactions, for widening and deepening of the tax base, it has been amended so as to provide that every person, who intends to enter into certain prescribed transactions and has not been alloted a PAN, shall also apply for allotment of a PAN.

To ensure ease of compliance, it has been amended to provides for inter-changeability of PAN with the Aadhaar number. Accordingly, the provisions of section 139A has been amended so as to provide that:

(i) every person who is required to furnish or intimate or quote his PAN under the Act, and who, has not been allotted a PAN but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of PAN, and such person shall be allotted a PAN in the prescribed manner;

(ii) every person who has been allotted a PAN, and who has linked his Aadhaar number under section 139AA, may furnish or intimate or quote his Aadhaar number in lieu of a PAN.

Section 139A, inter alia, provides that every person, receiving a document relating to a transaction for which PAN is required to be quoted shall ensure that the PAN has been duly quoted therein. It has been amended to provide that every person receiving such documents shall also ensure that the PAN or the Aadhaar number, as the case may be, has been duly quoted.

A new sub-section (6A) is also inserted to ensure quoting of PAN or Aadhaar number for entering into prescribed transactions and authentication thereof in the prescribed manner.

In order to ensure proper compliance of the provisions relating to quoting and authentication of PAN or Aadhaar, the penalty provision contained in section 272B has also been amended.

Tax Deducted at Source

Increase of threshold limit for TDS from rent u/s 194-I

The limit has been increased from ₹ 1,80,000 to ₹ 2,40,000

TDS on Payment in respect of Life Insurance Policy [194DA]

Under section 194DA of the Act, a person is obliged to deduct tax at source, if it pays any sum to a resident under a life insurance policy, which is not exempt u/s 10(10D). The present requirement is to deduct tax at the rate of 1% of such sum at the time of payment. Several concerns have been expressed that deducting tax on gross amount creates difficulties to an assesse who otherwise has to pay tax on net income (i.e after deducting the amount of insurance premium paid by him from the total sum received). From the point of views of tax administration as well, it is preferable to deduct tax on net income so that the income as per TDS return of the deductor can be matched automatically with the return of income filed by the assessee. The person who is paying a sum to a resident under a life insurance policy is aware of the amount of insurance premium paid by the assessee. Hence, it has been amended so as to provide for tax deduction at source at the rate of 5% on income component of the sum paid by the person.

TDS on transfer of certain immovable property other than agricultural land [Sec. 194-IA]

Section 194-IA relates to payment on transfer of certain immovable property other than agricultural land and provides for levy of TDS at the rate of 1% on the amount of consideration paid or credited for transfer of such property. The term 'consideration for immovable property' was not defined for the purposes of this section. It was noted that in the transaction involving purchase of immovable property, there are other types of payments made besides the sales consideration and the buyer is contractually bound to make such payments to the builder/seller, either under the same agreement or under a different agreement. Some of such payments are those for rights to amenities like club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee etc. Accordingly, it is amended so as to provide that the term "consideration for immovable property" shall include all charges of the nature of club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property.

Payment of certain sums by certain individuals or Hindu undivided family [Sec. 194M][5]

Who is responsible to deduct tax: An individual or a Hindu undivided family (other than those who are required to deduct income-tax as per the provisions of sec. 194C, 194H *or* 194J) responsible for paying following sum during the financial year:

i. any sum to any resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract,

ii. any sum to any resident by way of commission (not being insurance commission referred to in section 194D) or brokerage or

iii. any sum to any resident by way of fees for professional services

Note: Tax cannot be deducted if the aggregate amount of such sum credited or paid to a resident during the financial year does not exceed ₹ 50 lakh

[5] W.e.f. 01-09-2019

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

Rate of TDS: 5%

Other Point: The payer is not required to obtain TAN. He shall deposit the tax deducted under this section by using his PAN.

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]

Payment of certain amounts in cash [Sec. 194N][4]

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 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: 2% on payment in excess of ₹ 1 crore.

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.

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

Online filing of application seeking determination of tax to be deducted at source on payment to non-residents

Under sec. 195(2), if a person who is responsible for paying any sum to a non-resident which is chargeable to tax under the Act (other than salary) considers that the whole of such sum would not be income chargeable in the case of the recipient, he can make an application to the Assessing Officer to determine the appropriate proportion of such sum chargeable. This provision is used by a person making payment to a non-resident to obtain certificate/order from the Assessing Officer for lower or nil withholding-tax. However, the process was manual. In order to use technology to streamline the process, which will not only reduce the time for processing of such applications, but shall also help tax administration in monitoring such payments, it has been amended so as to allow for prescribing the form and manner of application to the Assessing Officer and also for the manner of determination of appropriate portion of sum chargable to tax by the Assessing Officer. Similar

amendment has also been made in sec. 195(7) which are applicable to specified class of persons or cases.

Electronic filing of statement of transactions on which tax has not been deducted

Section 206A of the Act relates to furnishing of statement in respect of payment of certain income by way of interest to residents where no tax has been deducted at source. At present, the section provides for filing of such statements on a floppy, diskette, magnetic tape, CD-ROM, or any other computer readable media. To enable online filing of such statements, it has been amended so as to provide for filing of statement (where tax has not been deducted on payment of interest to residents) in prescribed form in the prescribed manner. It has also been amended so as to provide for correction of such statements for rectification of any mistake or to add, delete or update the information furnished.

Recovery of Tax

Rationalisation of provision relating recovery of tax in pursuance of agreements with foreign countries

The existing provisions of sec. 228A provide, *inter alia*, that where an agreement is entered into by the Central Government with the Government of any foreign country for recovery of income-tax under the Income-tax Act and the corresponding law in force in that country and where such foreign country sends a certificate for the recovery of any tax due under such corresponding law from a person having any property in India, the Board, on receipt of such certificate may, forward it to the Tax Recovery Officer within whose jurisdiction such property is situated for the recovery of tax in pursuance of agreement with such foreign country. In order to provide assistance in recovery of tax as per treaty obligation with the other country, it has been amended so as to provide for tax recovery where details of property of the persons are not available but the said person is a resident in India. It has also been amended so as to provide for tax recovery, where details of property of an assessee in default under the Act are not available but the said assessee is a resident in a foreign country.

Refund

Rationalisation of provisions relating to claim of refund

The existing provisions of sec. 239 provide inter alia that every claim of refund under Chapter XIX of the Act shall be made in the prescribed form and verified in the prescribed manner. In order to simplify the procedure for claim of refund, it has been amended so as to provide that every claim for refund under Chapter XIX of the Act shall be made by furnishing return in accordance with the provisions of section 139 of the Act.

Misc

Mandating acceptance of payments through prescribed electronic modes

In order to achieve the mission of the Government to move towards a less cash economy to reduce generation and circulation of black money and to promote digital economy, a new section 269SU has been inserted in the Act so as to provide that every person, carrying on business, shall, provide facility for accepting payment through the prescribed electronic modes, in addition to the facility for other electronic modes of payment, if any, being provided by such person, if his total sales, turnover or gross receipts in business exceeds ₹ 50 crore during the immediately preceding previous year.

In order to ensure compliance of the aforesaid provisions, section 27IDB has been inserted so as to provide that the failure to provide facility for electronic modes of payment prescribed u/s 269SU shall attract penalty of a sum of ₹ 5,000, for every day during which such failure continues. However, the penalty shall not be imposed if the person proves that there were good and sufficient reasons for such failure. Any such penalty shall be imposed by the Joint Commissioner.

Rationalisation of penalty provisions relating to under-reported income

Section 270A contains provisions relating to penalty for under-reporting and misreporting of income. The existing provisions provide for various situations for the purposes of levy of penalty under this section. However, these provisions do not contain the mechanism for determining under-reporting of income and quantum of penalty to be levied in the case where the person has under-reported income and furnished the return of income for the first time u/s 148 of the Act. In order to provide for manner of computing the quantum of penalty in a case where the person has under-reported income and furnished his return for the first time u/s 148, section 270A has been suitably amended.

Widening the scope of Statement of Financial Transactions (SFT)

Existing provisions of section 285BA of the Act, inter alia, provide for furnishing of statement of financial transaction (SFT) or reportable account by person specified therein. In order to enable pre-filling of return of income, it has been amended so as to obtain information by widening the scope of furnishing of statement of financial transactions by mandating furnishing of statement by certain prescribed persons other than those who are currently furnishing the same. It has also been amended to remove the current threshold of ₹ 50,000 on aggregate value of transactions during a financial year, for furnishing of information, with a view to ensure pre-filling of information relating to small amount of transactions as well. In order to ensure proper compliance, provision of sub section (4) has also been amended so as to provide that if the defect in the statement is not rectified within the time specified therein, the provisions of the Act shall apply as if such person had furnished inaccurate information in the statement.

Consequently, the penalty provisions contained in section 271FAA has also been amended so as to ensure correct furnishing of information in the SFT and widen the scope of penalty to cover all the reporting entities under section 285BA.

Clarification regarding definition of the "accounting year" in section 286 of the Act

Section 286 of the Act contains provisions relating to specific reporting regime in the form of Country-by-Country Report (CbCR) in respect of an international group. It provides that every parent entity or the alternate reporting entity, resident in India, shall, for every reporting accounting year, in respect of the international group of which it is a constituent, furnish a report, to the prescribed authority within a period of 12 months from the end of the said reporting accounting year, in the form and manner as may be prescribed. Several concerns have been expressed that in case of an alternate reporting entity (ARE) resident in India whose ultimate parent entity is not resident in India, the accounting year would always be the accounting year applicable in the country where such ultimate parent entity is resident and cannot be the previous year of the entity resident in India.

Accordingly, it has been requested that this unintended anomaly as regards the interpretation of accounting year in case of ARE, resident in India may be removed.

In order to address such concerns and to bring clarity in law, section 286 has been amend so as to provide that the accounting year in case of the ARE of an international group, the parent entity of which is not resident in India, the reporting accounting year shall be the one applicable to such parent entity.

Rationalisation of the provisions of section 276CC

The existing provisions of section 276CC of the Act, inter alia, provide that prosecution proceedings for failure to furnish returns of income against a person shall not proceeded against, for failure to

furnish the return of income in due time, if the tax payable by such person, not being a company, on the total income determined on regular assessment does not exceed ₹ 3,000. The existing provisions do not provide for taking into account tax collected at source and self-assessment tax for the purposes of determining the tax liability. Since the intent of said provision has always been to take into account pre-paid taxes, while determining the tax payable, it has been amended so as to make the legislative intention clear and to include the self-assessment tax, if any, paid before the expiry of the assessment year, and tax collected at source for the purpose of determining tax liability. Further, in order to rationalise the existing threshold limit of tax payable under said section, the limit of tax payable has been increased from the existing rupees ₹ 3,000 to ₹ 10,000.

Provision of credit of relief provided under section 89

Section 89 of the Income-tax Act contains provisions for providing tax relief where salary, etc. is paid in arrears or in advance. The existing provisions of section 140A, section 143, section 234A, section 234B and section 234C contain provisions relating to computation of tax liability after allowing credit for prepaid taxes and certain admissible reliefs, credits etc. However, the relief under section 89 is not specifically mentioned in these sections, which is resulting into genuine hardship in the case of taxpayers who are eligible for this relief. In view of the above, section 140A, section 143, section 234A, section 234B and section 234C has been amended so as to provide that computation of tax liability shall be made after allowing relief under section 89.

Demerger

Section 2(19AA) provides demerger (in relation to companies) means the transfer, pursuant to a scheme of arrangement u/s 230 to 232 of the Companies Act, 2013, by a demerged company of its one or more undertakings to any resulting company in prescribed. One of the conditions is that assets and liabilities of the undertaking or undertakings being transferred by the demerged company are transferred at its book-value (without considering revaluation) immediately before the demerger.

Following exception has been provided to aforesaid condition.

- The provisions is not applicable where the resulting company records the value of the property and the liabilities of the undertaking or undertakings at a value different from the value appearing in the books of account of the demerged company, immediately before the demerger, in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015.

International Taxation

Clarification with regard to power of the Assessing Officer in respect of modified return of income filed in pursuance to signing of the Advance Pricing Agreement (APA)

Section 92CC of the Act empowers the Central Board of Direct Taxes (CBDT) to enter into an APA, with the approval of the Central Government, with any person for determining the Arm's Length Price (ALP) or specifying the manner in which ALP is to be determined in relation to an international transaction which is to be entered into by that person. The APA is valid for a period, not exceeding 5 previous years, as may be specified therein. This section also provides for rollback of the APA for 4 years. Thus, once the APA is entered into, the ALP of the international transaction, which is subject matter of the APA, would be determined in accordance with such APA.

In order to give effect to the APA, section 92CD also provides for mechanism, including filing of modified return of income by the taxpayer and manner of completion of assessments by the Assessing Officer having regard to terms of the APA.

Sub-section (3) of this section deals with a situation where assessment or re-assessment has already been completed, before expiry of the time allowed for filing of modified return. Apprehensions

have been expressed stating that due to the use of words "assess or reassess or recompute", the Assessing Officer may start fresh assessment or reassessment in respect of completed assessments or reassessments of the assessees who have modified their returns of income in accordance with the APA entered into by them, while the intention of the legislature is for Assessing Officer to merely modify the total income consequent to modification of return of income in pursuance to APA.

It has been amended so as to clarify that in cases where assessment or reassessment has already been completed and modified return of income has been filed by the tax payer, the Assessing Officers shall pass an order modifying the total income of the relevant assessment year determined in such assessment or reassessment, having regard to and in accordance with the APA.

Consequential amendment has also been made u/s 246A(1)(bb).

Clarification with regard to provisions of secondary adjustment and giving an option to assessee to make one-time payment

In order to align the transfer pricing provisions with international best practices, section 92CE of the Act provides for secondary adjustments in certain cases. It, inter alia, provides that the assessee shall be required to carry out secondary adjustment where the primary adjustment to transfer price. The section also provides exemption in cases

- where the amount of primary adjustment made in any previous year does not exceed ₹ 1 crore and
- the primary adjustment is made in respect of an assessment year commencing on or before 1st April, 2016.

In order to address such concerns and to make the secondary adjustment regime more effective and easy to comply with, section 92CE has been amended so as to provide that:-

i. the condition of threshold of ₹ 1 crore and of the primary adjustment made upto assessment year 2016-17 are alternate conditions;

ii. the assessee shall be required to calculate interest on the excess money or part thereof;

iii. the provision of this section shall apply to the agreements which have been signed on or after 1st April, 2017; however, no refund of the taxes already paid till date under the pre amended section would be allowed;

iv. the excess money may be repatriated from any of the associated enterprises of the assessee which is not resident in India;

v. in a case where the excess money or part thereof has not been repatriated in time, the assessee will have the option to pay additional income-tax @ 18% on such excess money or part thereof in addition to the existing requirement of calculation of interest till the date of payment of this additional tax. The additional tax is to be increased by a surcharge of 12%;

vi. the tax so paid shall be the final payment of tax and no credit shall be allowed in respect of the amount of tax so paid;

vii. the deduction in respect of the amount on which such tax has been paid , shall not be allowed under any other provision of this Act; and

viii. if the assessee pays the additional income-tax, he will not be required to make secondary adjustment or compute interest from the date of payment of such tax.

Rationalisations of provisions relating to maintenance, keeping and furnishing of information and documents by certain persons

- Every person,—
  a. who has entered into an international transaction or specified domestic transaction shall keep and maintain such information and document in respect thereof as may be prescribed;

b. being a constituent entity of an international group, shall keep and maintain such information and document in respect of an international group as may be prescribed.

- The Board may prescribe the period for which the information and document shall be kept and maintained under the said sub-section.
- The Assessing Officer or the Commissioner (Appeals) may, in the course of any proceeding under this Act, require any person referred to in (a) to furnish any information or document referred therein, within a period of 30 days from the date of receipt of a notice issued in this regard. However, such period may, on an application made by such person, be further extended for a period not exceeding 30 days.
- The person referred to in (b) shall furnish the information and document referred therein to the authority prescribed u/s 286(1), in such manner, on or before such date, as may be prescribed. If such person fails to furnish the information and documents, penalty of ₹ 5,00,000 shall be levied on that person u/s **271AA**.

Meaning of Specified Domestic Transactions [Sec. 92BA]

"Specified Domestic Transaction" in case of an assessee means any of the following transactions, not being an international transaction, namely:

i. any transaction referred to in sec. 80A;

ii. any transfer of goods or services referred to in sec. 80-IA(8);

iii. any business transacted between the assessee and other person as referred to in sec. 80-IA(10);

iv. any transaction, referred to in any other section under Chapter VI-A or sec. 10AA, to which provisions of sec. 80-IA(8) or (10) are applicable; or

v. any other transaction as may be prescribed,

and where the aggregate of such transactions entered into by the assessee in the previous year exceeds a sum of ₹ 20 crore.

In the aforesaid items, following has also been inserted:

"any business transacted between the persons referred to in sec. 115BAB(4)"

PART - B

(Amendments from 1st December, 2019 to 31st May, 2020)

Tax Audit Report

As per sec. 44AB, certain assessee are required to get their accounts audited by a chartered accountant and to furnish (electronically) the audit report in a specified formon or before due date of furnishing return. In order to reduce compliance burden, the threshold limit has been revised to increase it for a person carrying on business from ₹ 1 crore to ₹ 5 crore, if the following conditions are satisfied:

(a) aggregate of all amounts received including amount received for sales, turnover or gross receipts during the previous year, in cash, does not exceed 5% of the said amount; **and**

(b) aggregate of all payments made including amount incurred for expenditure, in cash, during the previous year does not exceed 5% of the said payment.

In nutshell, applicability of tax audit in case of business assessee are as under:

Case	Applicability
Turnover exceeds ₹ 5 crore	Applicable
Turnover does not exceed ₹ 2 crore and assessee is covered u/s 44AD	Not applicable
Turnover does not exceed ₹ 5 crore and aforesaid conditions are satisfied	Not applicable
Turnover does not exceed ₹ 5 crore but exceed ₹1 crore and aforesaid conditions are not satisfied (assessee is not covered u/s 44AD)	Applicable

Furthermore, it is also provided that the tax audit report should be furnished one month prior to the due date of submission of return of income u/s 139(1). Hence, tax audit report should be furnished by 30 Sept of the relevant assessment year.

Similarly, all reports specified under various sections which were required to be furnished alongwith return of income, are now required to be furnished one month prior to due date of filing return of income.

Impact of Covid 19

One month relaxation has been provided in furnishing such report. Hence, for assessment year 2020-21, such report is required to be furnish by 31-10-2020

Due date of filing return of income u/s 139(1)

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

Assessee	Due date	
	Earlier	New
• Where the assessee is required to furnish a report in Form 3CEB u/s 92E pertaining to international transaction(s)	30th November	30th November
• Where the assessee is a company not having international transaction(s)	30th September	31st October
• *Any other assessee*		
– Where accounts of the assessee are required to be audited under any law	30th September	31st October
– Where the assessee is a *working partner* (from A.Y. 2020-21, all partner) in a firm and the accounts of the firm are required to be audited under any law	30th September	31st October
– In any other case	31st July	31st July

Impact of Covid 19

Due date in all cases is 30th November 2020.

Due date for payment of TDS u/s 194M[Circular 31/2019 dated 19-12-2019]

The due date for payment of tax deducted at source u/s 194M during the month of September, 2019 and October, 2019 and the due date for furnishing the challan-cum-statement in Form 26QD for the same, from 31.10.2019 and 30.11.2019 respectively has been extended to 31.12.2019. Consequently, the due date of furnishing of the certificate of deduction of tax in Form 16D has also been extended for the tax deducted during the month of September, 2019 and October, 2019 to 15.01.2020.

Clarification in respect of computation of number of days for residential status [Circular 11/2020 dated 08-05-2020]

For the purposes of determining the residential status during the previous year 2019-20 in respect of an individual who has come to India on a visit before 22nd March, 2020 and:

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

(ii) has been quarantined in India on account of Corona Virus on or after 1st March, 2020 and has departed on an evacuation flight on or before 31st March, 2020 or has been unable to leave India on or before 31st March, 2020, his period of stay from the beginning of his quarantine to his date of departure or 31st March, 2020, as the case may be, shall not be taken into account; or

(iii) has departed on an evacuation flight on or before 31st March, 2020, his period of stay in India from 22nd March, 2020 to his date of departure shall not be taken into account.

Clarification in respect of prescribed electronic modes specified u/s 269SU [Circular 32/2019 dated 30-12-2019 r.w. Notification 105/2019]

The Notification notifies three electronic modes of payments viz. (i) Debit Card powered by RuPay (ii) Unified Payments Interface (UPI) (BHIM-UPI) and (iii) Unified Payments Interface Quick Response Code (UPI QR Code) (BHIM-UPI QR Code) as mandatory modes of electronic payments with effect from 1 January 2020 for every person carrying on business if his total sales, turnover or gross receipts in business (turnover) exceeds ₹ 50 crore during the immediately preceding previous year. These modes are in addition to any other electronic modes being provided by such person.

The Circular clarifies that, from 1 January 2020, the specified person must provide the facilities for accepting payment through the above referred prescribed electronic modes. Further, in view of a new provision in the Payment and Settlement Systems Act, 2007 (PSSA), any charge including the Merchant Discount Rate (MDR) shall not be applicable on or after 1 January 2020 on payment made through above referred prescribed electronic modes.

The Circular also clarifies that a penalty of ₹ 5,000 per day is applicable in case of failure by specified person to comply with sec. 269SU. However, in order to allow sufficient time to the specified person to install and operationalize the facility for accepting payments through prescribed electronic modes, no penalty shall be levied if the specified person installs and operationalizes the facilities on or before 31 January 2020. However, if the specified person fails to do so, he shall be liable to pay a penalty of ₹ 5,000 per day from 1 February 2020 for such failure.

Further, vide Circular 12/2020 dated 20-05-2020, it is hereby clarified that the provisions of section 269SU of the Act shall not be applicable to a specified person having only B2B transaction s (i.e. no transaction with retail customer/consumer) if at least 95% of aggregate of all amounts received during the previous year, including amount received for sales, turnover or gross receipts, are by any mode other than cash.

Clarification regarding short deduction of TDS/TCS due to increase in rates of surcharge by Finance (No.2) Act, 2019 [Circular 08/2020 dated 13-04-2020]

The Finance (No.2) Bill, 2019 was tabled in Lok Sabha on 5th July, 2019 which was passed by both the houses of Parliament and became Finance (No.2) Act, 2019 (the Act) which received assent of the President on 1st August, 2019. The Act provided for increase in the rate of surcharge. The enhanced rates of surcharge were applicable from the day of April, 2019 for previous year 2019-20 relevant to assessment year 2020-21. TDS/TCS under various provisions of the Income-tax Act is required to be deducted/ collected after taking into account the enhanced rate of surcharge.

In this context, deductors/ collectors were held to be an assessee in default for short deduction of TDS/short collection of TCS in cases where final transaction was done before laying of the Finance (No.2) Bill, 2019 in the Parliament, i.e. 5th July, 2019.

In this context, it is clarified that a person responsible for deduction/collection of tax will not be considered to be an assessee in default in respect of transactions where:

(a) such transaction has been completed and entire payment has been made to the deductee/ payee on or before 5th July, 2019 and there is no subsequent transaction between the deductor/ collector and the deductee/payee in the financial year 2019-20 from which the shortfall of tax could have been deducted/collected by the deductor/collector;

(b) TDS has been deducted or TCS has been collected by such deductor/collector on such sum as per the rates in force as per the provisions prior to the enactment of the Act;

(c) such tax deducted or collected has been deposited in the account of Central Government by the deductor/collector on or before the due date of depositing the same;

(d) TDS/TCS statement has been furnished by such person on before the due date of filing of the said statement.

However, if the person fails to fulfill any of the conditions as laid down above, such a person will, with respect to short deduction/collection, not be eligible for benefit provided under this

Further, if the deductor/collector has deducted/collected shortfall of tax after 5th of July, 2019 from the transaction(s) made subsequently after the said date, interest, if any, for delay in deduction/ collection of such tax shall not be levied.

The above relaxation does not absolve the deductee/payee to pay proper tax including enhanced surcharge by advance tax or self-assessment tax and file return of income after paying such tax.

Tax Audit Report: No need to report GAAR & GST details in clauses 30C & 44 of Tax audit Report for A.Y. 2020-21 – Circular 10/2020 dated 24-04-2020

Section 44AB of the Income-tax Act, 1961 read with rule 6G of the Income-tax Rules, 1962 requires specified persons to furnish the Tax Audit Report along with the prescribed particulars in Form No. 3CD. The existing Form No. 3CD was amended vide notification no. GSR 666(E) dated 20th July, 2018 with effect from 20th August, 2018. However, the reporting under clause 30C and clause 44 of the Tax Audit Report was kept in abeyance till 31st March, 2019 vide Circular No. 6/2018 dated 17.08.2018, which was subsequently extended to 31.03.2020 vide Circular No. 9/2019.

In view of the prevailing situation due to COVID-19 pandemic across the country, the reporting under clause 30C and clause 44 of the Tax Audit Report shall be kept in abeyance till 31st March, 2021.

Change in definition of speculative transaction

Subject to certain conditions, trading in commodity derivatives carried out in a recognised association is not treated as speculative transaction. Now, the exception covers transaction carried out in a recognised stock exchange instead of recognised association.

Other amendments due to Covid 19

A. Following is the revised due dates:

Case	New Due Date[1]
Aadhar and PAN linking	30-06-2020
Filing of Income tax return for A.Y. 2019-20	30-06-2020
Time limit for completing any proceedings by income-tax authority where time limit expires during 20-03-2020 and 29-06-2020	30-06-2020
Investment / payment for the purpose of sec. 54 to 54GB and sec. 80C to 80GGC	30-06-2020
Beginning of manufacturing / production of articles / things or providing any services referred to in sec. 10AA, in a case where the letter of approval has been issued on or before 31-03-2020	30-06-2020

B. Interest on tax or levy, for which due date is during 20-03-2020 and 29-06-2020, is 9% p.a. provided such tax or levy is paid on or before 30-06-2020

C. Donation to PM Cares fund is eligible for 100% deduction u/s 80G

[1] These due dates are further extended.