



केन्द्रीय बजट
UNION BUDGET

BUDGET PROPOSALS – 2021

Key changes / amendments

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- **Depreciation** is no longer allowable on “Goodwill of business or a profession”
 - Amendment in Sec 32(1)(ii) – removed from the definition of intangible assets
 - Amendment in Sec.2(11) – removed from the definition of block of assets
- **Capital Gain** on Sale of “Goodwill of business or a profession”
 - For those Goodwill acquired on or after AY 2020-21, the computation of WDV and short-term capital gains, if any – shall be prescribed (Sec.50)
 - Cost of Acquisition – if depreciation has been claimed upto AY 2021-22, cost of acquisition shall be reduced by such depreciation claimed

- **Exemption** on ULIP maturity proceeds restricted
 - Fourth & Fifth proviso to Explanation 1 – Sec.10(10D)
 - Policy issued on or after 1-Feb-2021
 - Premium Payable during the year exceeds Rs.2,50,000
 - Multiple ULIPs – Aggregate of Premium exceeding Rs.2,50,000
 - Sixth proviso – This restriction shall not apply if sum received on death of a person
- **Capital Gains** – Maturity of those ULIPs for which above restriction applies
 - These ULIPs would be treated as Capital Assets – Sec.2(14)
 - Maturity/ Redemption would be charged as Capital Gains – Sec.45(1B)
 - If Long-Term, no indexation – Tax @ 10% for gain in excess of Rs.1L – Sec.112A

Liable to tax

- Finance Act 2020 has introduced a concept of Deemed Resident by amending Sec.6 where a citizen of India having total income exceeding Rs.15 Lakhs and not liable to tax in any other country – shall be deemed to be a resident in India
- Inorder to define this term ‘Liable to tax’, Sec.2(29AA) was introduced to define as “in relation to a person, means that there is a liability of tax on such person under any law for the time being in force in any country, and shall include a case where subsequent to imposition of tax liability, an exemption has been provided”

- Amendment to bring in transfers other than sale also under the tax ambit
 - Definition of Slump Sale amended to “transfer of one or more undertaking, by any means” – Sec.2(42C)
 - Explanation inserted to define Transfer to have the same meaning as defined under Sec.2(47)

- Currently only Infrastructure Capital Company, Infrastructure Capital Fund, Public Sector Company, Scheduled Bank as notified by Central Government could issue Zero Coupon Bonds
- This has now been extended to Infrastructure Debt Funds also – Sec.2(48) r.w. Sec.10(47)
- Rules 2F & 8B would be subsequently amended to give effect to this.
- TDS under Sec.194A shall also be relaxed by amending Sub-section 3(x)

- Interest accrued during the year on the accumulated balance
 - Where the contribution of employee, exceeds Rs.2,50,000 in aggregate in a year
 - On or after 01-Apr-2021
 - The computation of the amount liable for taxability shall be prescribed subsequently
 - To give effect to this amendment, Sec.10(11) & 10(12) has been amended to exclude from exemption these PF contributions
 - This is applicable for both Statutory Provident Fund and any other Recognised Provident Fund
 - This amendment is effective for FY 2021-22

- Also note that through Finance Act 2020, any contribution by employer in excess of Rs.7,50,000 in aggregate in Recognised PF, Pension Fund under Sec.80CCD and approved Superannuation Fund in a year, shall be taxable as Perquisite under Sec.17 which is effective from FY 2020-21

Delayed payment of Employee PF/ESI

- Employee contribution of PF/ESI is by default treated as income u.s.2(24)(x) in the hands of the employer and the same is allowed as deduction u.s.36(1)(va) provided the same is paid on or before the due-date of relevant Act
- Different stands were taken by different high courts in this matter whether to allow the delayed payment of such employees' contribution under Sec.43B provided the same is paid on or before due-date of filing of ITR.
- To put a rest to the litigation in this area, both Sec.36(1)(va) and Sec.43B has been amended by inserting explanations stating that the provision of Sec.43B does not apply and *deemed to never have been applied* for this purpose.

Delayed payment of Employee PF/ESI

- Though the explanation is inserted w.e.f 1-Apr-2021, the wordings “*deemed to never have been applied*” suggest that this **amendment is retrospective**

Charitable Trusts

- **Voluntary Contributions** in the form of Corpus Donations shall be exempted only if deposited as per the modes specified under Sec.11(5)
 - Modes – Govt Savings Certificate, PO Savings Account, Scheduled Bank, etc.
 - Sec.11(1) amended to replace “institutions” with “institution subject to condition that voluntary contributions are invested modes as per Sec.11(5)
- Amount spent from Corpus shall not be considered as **Application** against the mandatory 85% application of non-corpus income
 - Amended Sec.11(1) by inserting Explanation 4(i)
 - These amount which is not treated as application – shall be treated as application in the year in which the amount is invested in modes specified under Sec.11(5)

Charitable Trusts

- Application for Charitable or Religious purposes out of any **Loan or Borrowing** – shall not be treated as Application of income
 - Amended Sec.11(1) by inserting Explanation 4(ii)
 - This shall be treated as Application in the year in which such loan or borrowing is repaid
- **No Set-off of losses:**
 - Calculation of income required to be applied / accumulated – without any set-off / deduction allowance of any Excess Application (deficit) of any of the preceding years
- All the above amendments are applicable for both Sec.10(23C) and Sec.12AA entities

- **Prescribed limit of Rs.1 Crore** of annual receipts by a University, Educational Institution, Hospital increased to Rs.5 Crores for the purpose of claiming exemption under Sec.10(23C)

- **Safe Harbour limit** of 10% variance between Stamp Duty Value and Sale consideration has been increased to 20% for –
 - Transfer of a residential unit by a seller of an asset (other than capital asset)
 - Transfer takes place during 12-Nov-2020 to 30-Jun-2021
 - Transfer by way of first-time allotment to the home buyer (Not resale)
 - Consideration received / accruing \leq Rs.2 Crores
 - 2nd Proviso to Sec.43CA inserted
- Consequential amendment made in Sec.56(2)(x) to benefit the Buyer to include the above said increased limit

- Finance Act 2020, inserted a proviso to Sec.44AB(a) to increase the limit of tax audit to Rs.5 Crores of Sales, Turnover or Gross Receipts, provided –
 - Aggregate of all receipts in cash do not exceed 5% of total receipts; and
 - Aggregate of all payments in cash do not exceed 5% of total payments
- Finance Bill 2021 has increased this limit of Rs.5 Crores to Rs.10 Crores
- This amendment is applicable from FY 2020-21

- **Sec.44ADA** – Computation of profits and gains on presumptive taxation for professionals
 - Applicable only to eligible assesseees – Individuals, HUFs, Partnership Firms (not LLPs) all to be residents
 - This was not stated in the Section but memorandum to the Finance Bill 2016 states this.
 - To clarify the present position, it is now specified in Sec.44ADA that this applies “incase of an assessee, being an individual, HUF or a partnership firm other than a LLP, who is a resident in India”

Payment to Partners

- **Sec.45(4) amended and Sec.45(4A) inserted** to tax the transfer of assets by firm to partners during dissolution or reconstitution – in the hands of the firm

Distribution of Capital Asset Sec.45(4)

Sale Consideration = Fair Market Value of capital asset on the date of receipt by partner

Cost of Acquisition = Capital Balance in the books of the firm as on the date of receipt by partner

Capital Balance shall be reduced by any increase which was made earlier due to revaluation of capital or other assets or self-generated assets like goodwill

Distribution of Money or other Asset Sec 45(4A)

Sale Consideration = Value of Money or Fair Market Value of capital asset on the date of receipt by partner

Cost of Acquisition = Capital Balance in the books of the firm as on the date of receipt by partner

- **Sec.80EEA** – Deduction towards affordable residential house property
 - Deduction upto Rs.1,50,000 available subject to conditions, provided if the loan was sanctioned between 1-Apr-2019 and 31-Mar-2021.
 - This time-limit has been further extended to 31-Mar-2022
- **Sec.80-IAC** – Deduction for an eligible Start-up
 - Eligible start-up is eligible for a deduction of 100% of profits – for 3 consecutive years out of 10 years, subject to various conditions
 - One of the condition is that the start-up to be incorporated between 1-Apr-2016 and 31-Mar-2021.
 - This end date is now extended upto 31-Mar-2022

- **Sec.80-IBA** – Deduction in respect of **Housing Projects**
 - Assessee involved in business of developing and building housing projects shall be allowed 100% deduction of profits from such business subject to various conditions
 - One of the conditions being that the housing project shall be approved by competent authority between 1-Jun-2016 and 31-Mar-2021
 - This clause is amended to increase this time-limit to 31-Mar-2022
- **Sec.80-IBA** – Sub-Section (1A) inserted to include
 - 100% deduction to assesseees involved in developing and building **rental housing projects**
 - Rental Housing Project definition and conditions – will be notified on or before 31-Mar-2022

- **Sec.196D** – Income of FIIs from Securities
 - TDS applicable on such income is 20% {if payable to a fund under Sec.10(4D) Expln (c) – 10% }
 - Proviso inserted to provide the benefit of Treaty (DTAA) if the same is applicable to the payee – w.e.f. 01-Apr-2021

- **Sec. 194P** – TDS in case of Specified Senior Citizens (SSC)
 - SSC –
 - Resident Individual ≥ 75 years
 - Having Pension Income and Interest income only from the same bank account in which he is receiving pension
 - Furnishes declaration which shall be prescribed subsequently
 - Deductor shall compute income of the SSC after giving effect to Chapter VI-A and Sec.87A rebate
 - TDS shall be deducted at rates in force
 - No Return of income needs to be filed by such SSC if TDS deducted by deductor in the above manner

- **Dividends – Sec.194**
 - TDS on Dividends shall not apply if paid to Business Trust by special purpose vehicle r.w.10(23FC)
 - Powers given to CBDT to notify any such persons for whom TDS on dividends shall not apply

- Finance Act 2020 introduced TCS on Sale of Goods (subject to conditions) on receipt of Sale consideration in excess of Rs.50 Lakhs
- Finance Bill 2021 has introduced TDS on Purchase of Goods – Sec.194Q – with similar conditions. These are discussed below:

TDS on Purchase of Goods (194-Q)	TCS on Sale of Goods (206C(1H))
Proposed to apply from 1-Jul-2021	In force w.e.f 1-Oct-2020
Deductor: Buyer, who is responsible of paying any sum towards purchase of goods	Collector: Seller, who receives any amount as consideration for sale of goods
Buyer (Deductor) definition: <ul style="list-style-type: none">- Turnover, Gross Receipts, Sales > Rs.10 Crores in previous FY- As specified by CBDT	Seller (Collector) definition: <ul style="list-style-type: none">- Turnover, Gross Receipts, Sales > Rs.10 Crores in previous FY- As specified by CBDT

TDS/TCS – Purchase / Sale of Goods

BUDGET PROPOSALS – 2021 DIRECT TAXES

TDS on Purchase of Goods (194-Q)	TCS on Sale of Goods (206C(1H))
At the <u><i>time of credit</i></u> to the account of seller or at the time of payment in excess of Rs.50 Lakhs per payee per annum {credit includes crediting suspense account of any account in the books of account}	Consideration <u><i>Received</i></u> in excess of Rs.50 Lakhs per payer per annum
TDS Rate – 0.1% If no PAN – 5% If Seller has not filed returns for two preceding financial years – 5% - Applies on amount in excess of Rs.50Lakhs	TCS Rate – 0.1% If no PAN – 5% If Buyer has not filed returns for two preceding financial years – 5% - Applies on amount in excess of Rs.50Lakhs

TDS on Purchase of Goods (194-Q)	TCS on Sale of Goods (206C(1H))
<p>Does not apply:</p> <ul style="list-style-type: none">- If tax deductible under any other provisions- If tax is collectible under other provisions except 206C(1H)	<p>Does not apply:</p> <ul style="list-style-type: none">- If Buyer is a CG, SG, Embassy, High Commission, Legation, Commission, Consulate, trade representation of a foreign state, Local Authority, person importing goods into India- Exports outside India- If Buyer liable to deduct tax under any other provisions

- Expecting the below to be addressed by circulars:
 - If buyer deducts under 194-Q and seller charging TCS on Invoice, there will be a situation of double TDS/TCS charging

- **Sec.206AB** – TDS Rate applicable in case of Non-filers of ITR
 - In addition to Sec.206AA which mandates to deduct a higher TDS rate for payees who do not provide valid PAN
 - Sec.206AB mandates to deduct a higher tax if
 - *the payee has not filed ITR for 2 previous financial years where time-limit for ITR filing {Sec.139(1)}has expired;*
 - *Aggregate of TDS/TCS \geq Rs.50,000 in each of the above two FYs*
 - This is applicable, payee despite providing a valid PAN
 - Rate applicable is higher of:
 - Two times (2x) the rate as per the relevant provision of the Act
 - Two times (2x) the rates in force
 - 5%
 - If 206AA is also applicable then TDS rate at higher of 206AA and 206AB

- Sec.206AB – Rate applicabe in case of Non-filers of ITR
 - Does not apply to:
 - TDS under Sections 192, 192A, 194B, 194BB, 194LBC, 194N
 - Payee is a non-resident who does not have a Permanent Establishment in India

- **Sec.206CCA** – TCS Rate applicable in case of Non-files of ITR
 - In addition to Sec.206CC which mandates to deduct a higher TDS rate for payees who do not provide valid PAN
 - Rate applicable is higher of:
 - Two times (2x) the rate as per the relevant provision of the Act
 - 5%
 - If 206CC is also applicable then TDS rate at higher of 206CCA and 206CC
 - Other conditions and features – same as Sec.206AB

- Benefit of relief from Sec.234C interest on deferment of advance tax has been extended to Dividend income (other than dividend u.s.2(22)(e))
- The relief is provided where the income is included in the quarter in which assessee has received and advance tax is discharged

ITR and Assessments

BUDGET PROPOSALS – 2021 DIRECT TAXES

- Time-limits – ITR and Intimation

Particulars	Existing Time-limit	Revised Time-limit
Belated returns (Sec.139(4))	Before end of AY or assessment w.e.earlier 31 st March	3 months before end of AY or end of assessment w.e.earlier 31 st Dec
Revised returns (Sec.139(5))	Before end of AY or assessment w.e.earlier 31 st March	3 months before end of AY or end of assessment w.e.earlier 31 st Dec
Intimation under sec.143(1)(a)	Within 1 year from end of FY in which return is filed	Withing 9 months from end of FY in which is return is filed
Assessment from AY 2021-22 – Sec.143 or 144	12 months from end of AY	9 months from end of AY
Notice u.s.143(2)	6 months from end of FY in which return is filed	3 months from end of FY in which return is filed

- Changes in Reassessment – New Sec.148A – Inquiry before Notice u.s.148

Inquiry before issue of Notice under Sec.148

AO conducts inquiry with prior approval of specified authority with respect to information which suggests that income has escaped assessment

AO issues SCN as to why notice u/s.148 not be issued

Assessee to reply within 7 – 30 days

AO to pass an order based on the assessee's reply & material available – with prior approval of specified authority – within 1 month from end of the month of reply from assessee

What is “**information which suggests income has escaped assessment**” ?

- Information flagged in accordance with the Risk Management Strategy formulated by CBDT
- Final objection raised by C&AG – that assessment has not been made in accordance with the provisions of Act

Who is “**Specified Authority**” ?

- Principal Commissioner, Principal Director, Commissioner, Director – **if 3 years or lesser** has elapsed from the end of relevant AY
- Principal Chief Commissioner, Principal Director General, Chief Commissioner, Director General – **if more than 3 years** have elapsed

- **Sec.148A** – Inquiry before notice u/s.148 – Shall not apply to:
 - Search under sec.132 on or after 1-Apr-2021
 - Books of Accounts, Documents, Assets requisitioned in case assessee – Sec.132A on or after 1-Apr-2021
 - Any seizure of money, bullion, jewellery or other valuables in a search in case of any other person, on or after 1-Apr-2021 – AO is satisfied that it belongs to assessee
 - Any books of accounts, documents, assets seized in a search in case of any other person, on or after 1-Apr-2021 – AO is satisfied that it pertains to assessee
- All inquiries under Sec.148A shall be faceless
- Any order issued under Sec.148A is not appealable as a corresponding amendment is not brought into Sec.246A. However, assessee may opt for a writ petition

- **Changes in Sec.148** – Issue of Notice where Income has escaped assessment
 - AO to issue notice based on **Information which suggests income has escaped assessment**
 - AO to obtain **prior approval** of specified authority before issuing notice
 - Meaning of “Information which suggests income has escaped assessment” and “specified authority” are same as in Sec.148A
 - Key change – “furnishing the reasons to reopening” no longer required

- Changes in Sec.148 – Issue of Notice where Income has escaped assessment
 - AO “*deemed to have ‘information which suggests income has escaped assessment’*” for 3 AYs preceding the relevant AY, in the following situations:
 - Search initiated on or after 1-Apr-2021 [Sec.132]
 - Books requisitioned on or after 1-Apr-2021 [Sec.132A]
 - Survey conducted on or after 1-Apr-2021 [Sec.133]
 - Any seizure of money, bullion, jewellery or other valuables in a search in case of any other person, on or after 1-Apr-2021 – AO is satisfied that it belongs to assessee
 - Any books of accounts, documents, assets seized in a search in case of any other person, on or after 1-Apr-2021 – AO is satisfied that it pertains to assessee

- **Time-limit – Sec.149** – Replaced

Conditions	Revised Time-limits
No Notice	Beyond 3 Years (presently it is 4/6 Years)
Books/Documents with AO which reveal that income which has escaped assessment is \geq Rs.50 Lakhs for that year	Upto 10 Years

- Revised time-limits shall not apply to search initiated u.s.132 or books, documents requisitioned u.s.132A on or before 31-Mar-2021
- All search related assessment sections will cease to have effect from 1-Apr-2021, as the same has been included under Sec.147 r.w. sec.148 & 148A

- **Sec.142 – Inquiry before assessment**
 - Presently only an Assessing Officer has the authority to issue notice to assessee – who has not submitted the returns, asking for submission of returns
 - Due to introduction of faceless assessments, the section is being amended to give power to prescribed income tax authority besides the AO to issue notice under this section

Settlement Commission

- Income Tax Settlement Commission (ITSC) shall cease to operate w.e.f 1-Feb-2021
- No application for settlement of cases – on or after 1-Feb-2021
- All pending valid applications on which no order was issued as on 31-Jan-2021 shall be transferred to an Interim Board consisting of three members with a rank of Chief Commissioner
- Assessee can opt to withdraw any pending application within 3 months from the date of commencement of Finance Act 2021
- A scheme shall be formulated for the purpose of settlement of pending applications which could be similar to faceless assessments & appeals.

- Income Tax Appellate Tribunal (ITAT) – Scheme to be introduced to convert the existing appeal process to Faceless
 - Sec.255(7) inserted to give powers to CBDT to formulate a scheme in this regard
 - Outer time-limit for issuing notification under this section fixed at 31-Mar-2023

- Sec.271AAD – Penalty for false entry in books – which was introduced in Finance Act 2020 and effective from FY 2020-21, where penalty is equal to aggregate amount of such false / omitted entry
- Sec.281B which gives the power to the AO for making provisional attachment of assets – this has been extended to cover Sec.271AAD also

Equalisation Levy

- ***Royalty, FTS***
 - Proviso to Sec.163(3) of Finance Act 2016 inserted to remove Royalty and Fees for Technical Services from the ambit of Equalisation Levy where the same is taxable under Income Tax Act r.w. Treaty
- ***Online Sale of Goods / Services – scope widened***
 - Explanation to Sec.164-clause(cb) inserted to include the following:
 - Acceptance of offer for sale
 - Placing of Purchase order
 - Acceptance of Purchase order
 - Payment of consideration
 - Supply of goods or provision of services – wholly or partly

Equalisation Levy

- ***Online Sale of Goods / Services – scope widened***
 - Sec.165A(3) amended to define “*consideration received or receivable from e-commerce supply or services*” :
 - Consideration for sale of goods irrespective of whether e-commerce operator owns the goods
 - Consideration for provision of services irrespective of whether services is provided or facilitated by the e-commerce operator

- For smaller disputes
 - Returned income \leq Rs.50 Lakhs
 - Variation in specified order \leq Rs.10 Lakhs
- New Sec.245MA introduced
- Shall constitute one or more Dispute Resolution Committee (DRC)
- Eligible assesseees who can approach DRC shall be notified
- Order under Sec.132, 132A (Search); S.133A (Survey); Treaty related issues –
Not eligible
- DRC has powers to reduce / waive any penalty; grant immunity from prosecution
- Scheme shall be proposed for making faceless

Advance Ruling

- Present Authority for Advance Ruling shall cease to operate w.e.f a date to be notified later
- Main reason being, the posts of Chairman and Vice-Chairman in the Authority been vacant for a long time
- Board of Advance Ruling shall be constituted
- Sec.245N is amended
- Scheme to make the process of Advance Ruling faceless, shall be announced