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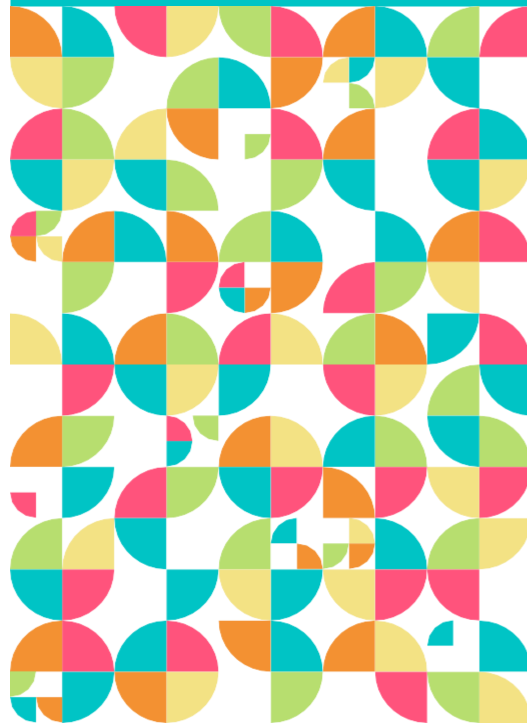
UNION BUDGET
2020-2021



An Analysis
2020

FOREWORD

Dear Reader,

The outbreak of COVID-19 has brought a substantial population of the world to a standstill. While affected countries are grappling with this medical emergency, the economic repercussion of this pandemic is a matter of equal concern and its strain on the financial backbone of such countries will be felt for a long time.

The spread of this pandemic in India has spurted at a time which coincides with the close of the financial year (31st March). Owing to the three week-long national lockdown announced by the Central Government, the practical difficulties in adhering to such timelines had become a source of great concern. To ease the burden of various compliances, the Government has extended various timelines under different legislations.

Moreover, on March 26, 2020, the Central Government announced an 'Economic Package' to provide relief to the financially distressed unorganized sector, small scale industry and the economically weaker section, which have borne the brunt of the pandemic.

Amidst this health crisis, the Finance Act, 2020 was passed by the Indian Parliament and received Presidential assent on March 27, 2020, whereby, the proposals of the Union Budget announced on February 1, 2020 were enacted. In the Finance Bill, 2020 (as introduced in the Union Budget), certain significant amendments were proposed, including abolition of Dividend Distribution Tax that was applicable upon declaration/ distribution/ payment of dividend by a domestic company. Such dividend, which was hitherto exempt in the hands of the recipient, has now been made taxable in the hands of such recipient. A seller of goods (having turnover more than INR 100 Million in the preceding year) is now under obligation to collect tax at source @ 0.1% from the buyer to whom goods aggregating to INR 5 million have been sold.

Furthermore, the Government also announced a one-time dispute resolution scheme, known as the '*Vivad se Vishwas Scheme*'. In terms of this scheme, income tax disputes pending as on January 30, 2020 can be settled by payment of the disputed tax or a proportion thereof, as prescribed by the scheme. Upon opting for this scheme, tax litigants can avail full waiver of the interest and penalty in connection with such tax disputes. The deadline for payment of tax under this scheme for availing full benefit was March 31, 2020, which has now been extended to June 30, 2020 due to the outbreak of COVID-19.

As regards personal income-tax, the Government has introduced an optional scheme of reduced tax rates for individuals. Individuals who opt for such reduced tax rates shall forego various other exemptions/ deductions available under income tax law.

On the GST front, the Government has introduced measures to ease compliance burden on small taxpayers. It has been provided that taxpayers having an aggregate turnover of upto INR 50 Million in the preceding financial year would have an option to file quarterly returns instead of monthly returns. However, tax payments would continue to be made monthly on self-assessment basis.

The Finance Act, 2020 was subsequently passed with certain additional amendments to the original Finance Bill, 2020, such as extension of the scope of equalization levy to e-commerce operators, change of tax residency rules etc. This publication also covers such additional amendments, along with the original provisions that now have been codified in the Finance Act, 2020.

We hope you would find this special budget edition of interest.

C.S. Mathur
Partner

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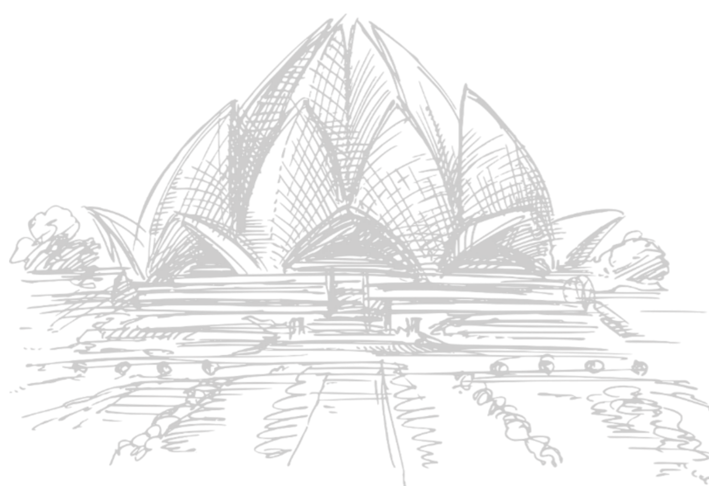

RELAXATION OF COMPLIANCE PROVISIONS DUE TO COVID-19 OUTBREAK

Owing to the outbreak of COVID-19 and announcement of a lock down at a national level, various practical difficulties were being faced in adhering to the various compliances/ and due dates under different legislations, such as Income tax law, GST and Corporate Law.

Keeping in mind the impediments in complying with such provisions, the Central Government made various announcements by a press release dated March 24, 2020, wherein, the application of various provisions has been relaxed and timelines/ due dates have been extended. The announcements in the press release pertaining to tax law have been codified by the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 as well as issuance of notifications from time to time. Furthermore, the Ministry of Corporate Affairs (MCA) has also issued various circulars/ notifications to relax some compliance burden under Corporate Law.

The key highlights of the relaxation announcements made by the Central Government are summarized as **Appendix A.**

DIRECT TAXATION AMENDMENTS

Snapshot of Tax Rates

Individuals/ HUF

While no changes in the normal tax rates have been provided in respect of individual/ HUF, an optional scheme (New Section 115BAC) has been provided for individuals/ HUF for taxation at lower rates if certain exemptions/ deductions etc. are foregone.

The important provisions in this regard have been explained under the head 'Personal taxation' at page 11 of this compilation. The rates of tax under this optional scheme as well as the normal tax rates, applicable for individuals/ HUFs for the Assessment Year 2020-21 and Assessment Year 2021-22, have been provided in **Appendix B**.

Tax rate for Companies

No changes in tax rates have been prescribed for corporates. The applicable rate of tax for the Assessment Year 2020-21 and Assessment Year 2021-22 have been provided in **Appendix C**.

International Taxation – Non Residents/ Foreign Companies

Modification of Tax Residency Rules for Individuals – an Indian citizen or a Person of Indian Origin (PIO)

a) *Amendment to prevent misuse of relaxation of residency rule by High Net Worth Individual (HNI) Indian citizen or PIO*

Under the existing tax residency provisions, an Indian citizen residing outside India would be regarded as an Indian resident if such person visits India for a period of at least 182 days in the tax year.

Lately, it was felt that Indian citizens carrying substantial economic activity from India were avoiding taxability of global income and circumventing tax residency by ensuring that their stay in India was less than 182 days. In order to prevent misuse, it has been provided that the duration threshold of 182 days shall be reduced to 120 days in case of Indian citizen or a Person of Indian Origin (PIO) having taxable

income exceeding INR 1.5 million (other than income from foreign sources), who comes on a visit to India during the relevant financial year.

b) *Indian Citizen not liable to tax in any other country to be considered as Resident in India*

Furthermore, in order to prevent misuse of residency provisions by High Net Worth (HNI) individuals being an Indian citizen having taxable income exceeding INR 1.5 million (other than income from foreign sources) who are not liable to pay taxes in any country/ jurisdiction, it has been provided that an Indian citizen who is not liable to tax in any other country by reason of his domicile, residence or any other similar criterion shall be deemed to be a resident in India.

Income from foreign sources means income accruing or arising outside India (except income derived from a business or profession controlled from India).

c) *Scope of Status of Resident but not ordinarily Resident (RNOR) expanded*

A Resident but Not Ordinarily Resident (RNOR) person is generally taxable only on income accruing or arising in India. Under the extant provisions, an individual is categorised as a RNOR if such individual is a non-resident in India in 9 out of 10 financial years preceding the relevant financial year OR had been in India for period of 729 days or less during 7 financial years preceding the relevant financial year.

The scope of RNOR has been expanded to cover an Indian citizen or a Person of Indian Origin having taxable income of INR 1.50 million (other than foreign sourced income) who is in India for 120 days or more but less than 182 days.

Furthermore, the Indian citizen considered as 'Resident' as per paragraph (b) above shall also be considered as RNOR. Thus, where a person being an Indian Citizen is considered as a Resident but not Ordinarily Resident in India as per paragraph (b) above [due to he being not liable to tax in any other country by reason of his domicile or residence and his taxable income in India exceeds INR 1.5 million (other than foreign sourced income)], his income from foreign sources accruing or arising outside India shall continue to remain non-taxable in India. The only income accruing or arising outside India that will come under the ambit of taxation in India shall be income derived from a business or profession controlled from India.

The above amendments shall be applicable from AY 2021-22 onwards.

Equalisation Levy – Inclusion of E-Commerce Operator

Earlier, Finance Act, 2016 had introduced the concept of Equalisation Levy which sought to levy tax at rate of 6% on payment exceeding INR 0.1 million per financial year made to non-resident service provider in relation to specified services by a resident business entity or person or a non-resident having a PE in India. The specified services covered online advertisement and provision of digital advertising space/ facilities/ service in relation to online advertisement.

Now, the Finance Act, 2020 has expanded the scope of equalisation levy at the rate of 2% on consideration received or receivable by a non-resident e-commerce operator for specified e-commerce supply and service made or provided or facilitated by it to the following persons:

- Person resident in India;

- Non-resident who sells advertisement which targets an Indian resident customer OR a customer who accesses advertisement through internet protocol address located in India;

- Non-resident who sells data which is collected from a person who is an Indian resident or from a person who uses internet protocol address located in India;

- Person who buys such goods or services or both using internet protocol address located in India.

The above provisions shall be applicable in respect of an e-commerce operator whose minimum sales, turnover or gross receipts from aforesaid persons is INR 20 million or more during the year.

Where a transaction is covered under the earlier provision of equalisation levy, it shall not be subjected to equalisation levy now leviable @ 2%. That is, in case a transaction is subject to equalisation levy under earlier provision as well as the new provision, it shall continue to be governed by the earlier provision.

The term 'e-commerce operator' has been defined to mean a non-resident who owns, operates or manages digital or electronic facility or platform for online sale of goods or online provision of services or both.

Further, the term 'e-commerce supply or services' has been defined to mean the following:

- Online sale of goods owned by the e-commerce operator; or

- Online provision of services provided by the e-commerce operator; or

- Online sale of goods or provision of services or both, facilitated by the e-commerce operator; or

- Any combination of above-mentioned activities.

The aforesaid equalisation levy shall not be applicable where the e-commerce operator has a Permanent Establishment in India and the e-commerce supply or services is effectively connected with such Permanent Establishment. In such a case normal provisions for computation of profits shall apply.

To ensure efficient revenue collection, the amount of equalisation levy for each quarter shall be required to be paid by an e-commerce operator to the credit of Central Government within the following due dates:

1. For Quarter April–June: By 7th July

2. For Quarter July–September: By 7th October

3. For Quarter October–November: By 7th January

4. For Quarter January–March: By 31st March

The above provisions shall be applicable with effect from April 1, 2020.

Provisions for Significant Economic Presence (SEP) deferred

Earlier, the scope of 'business connection' under the scheme of Indian domestic tax law was expanded by the Finance Act, 2018, by introduction of the concept of SEP. Such concept, which is based on the recommendations of Action Plan 5 of the BEPS initiative of the OECD, was introduced to bring into the tax net, digital transactions which did not require any physical presence in India. However, the threshold to determine Significant

economic presence was not specified till date.

As a global understanding is yet to be reached based on OECD initiative to specify the threshold limit for aggregate amount of payments arising from specified transactions and number of users, the applicability of SEP under domestic law has been deferred and shall apply from AY 2022-23 onwards, with certain modifications.

Expansion of scope of source rule of taxation in certain cases

In order to align the Indian domestic tax law with discussions being held at international forums, certain amendments have been made in relation to the provisions relating to attribution of income where a 'business connection' exists in the hands of a non-resident. As per the new Explanation 3A to section 9(1)(i) as inserted, the income attributable to operations carried out in India shall now include:

(i) income from advertisements which targets Indian customers or customers accessing advertisement through IP address located in India;

(ii) income from sale of data collected from India; and

(iii) income from sale of goods or services using aforesaid data collected.

The aforesaid attribution criteria shall also govern the case where business connection is on account of having 'significant economic presence'.

This provision shall be applicable from AY 2021-22 onwards.

Definition of 'Royalty' expanded to tax income of non-residents from cinematographic films

Under existing domestic tax law provisions, revenue arising from sale, distribution or exhibition of cinematographic films is not characterised as royalty [Explanation 2 to Section 9(1)(vi)]. However, in many tax treaties entered into by India, income of such nature is not excluded from the scope of royalty. As provisions of the domestic tax law being favourable than tax treaties, non-residents were not liable to tax on such income.

In order to align the domestic tax law provisions with the tax treaty, such exemption under the domestic tax law has been done away with.

This provision is applicable from AY 2021-22 onwards.

Relaxation in conditions for exemption of offshore funds from constituting 'business connection'

Relaxation in conditions for exemption of offshore funds from constituting 'business connection' in India has been introduced in order to reduce hardship being faced by funds in India. The relaxations are as under:

(a) Participation in the fund by person resident in India was capped at 5% of the corpus, to avail benefit of this provision. A relaxation has been introduced that that such capping will not include contributions of the eligible fund manager up to INR 250 Million, during the first three years of operation.

(b) The time limit for maintaining a corpus of INR 1 Billion for newly incorporated funds has been fixed at 12 months from the date of its establishment, as against the earlier condition of maintaining within six months from the last day of the month of its establishment, or at the end of the relevant financial year, whichever is later.

These amendments are applicable with

retrospective effect from AY 2020-21.

Aligning purpose of Multilateral Instrument (MLI) with DTAA

The Action Plan reports issued under the BEPS initiative of the OECD had proposed various anti-abuse recommendations, some of which have culminated in the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI). India, along with numerous other countries, is a signatory to this Convention.

Article 6 of the MLI seeks to modify the preamble text of bilateral treaties, which defines the purpose of entering into such treaty. Under such provision, the purpose of tax treaties shall be to eliminate double taxation without creating opportunities for tax abuse or tax avoidance.

Section 90 of the Income-tax Act (provision which lays down the power to enter into bilateral tax treaties) has been aligned with the aforesaid text of Article 6 of the MLI. Similar amendment has been carried out in Section 90A (treaties with specified associations) of the Income-tax Act.

The above amendment is applicable with effect from April 1, 2021.

Exemption to non-resident from filing tax return in certain cases

At present, as per Section 115A(5) of the Act, a non-resident is not required to furnish return of income if its total income consists only of certain dividend or interest income (taxed on gross basis at 10% plus surcharge and cess) and tax has been withheld thereon.

The waiver from filing tax return has been extended to non-residents whose taxable income includes Royalty or Fees for Technical Services as well, besides interest & dividend, on which tax has been deducted at the rates mentioned in Section 115A. In case withholding of tax has been made at DTAA rate which is lower than the rate prescribed under section 115A (along with applicable surcharge and cess), this exemption from filing return of income in India may not be available, unless clarification in this regard is issued by the Government.

The above amendment is applicable from AY 2020-21.

Transfer Pricing

Attribution of profits under Safe Harbour Rules ('SHR') and under Advance Pricing Agreement ('APA')

The provisions of SHR and APA have helped in reduction of various disputes and in providing certainty in the field of transfer pricing. In order to reduce disputes and provide certainty in case of attribution of profit to a non-resident in respect of business operations carried out in India, an amendment has been made to cover attribution of income under section 9(1)(i) in case of a non-resident person, under the provisions of SHR as well as APA.

The aforesaid amendments shall be applicable with retrospective effect from AY 2020-21.

Exclusion of PE of a non-resident bank from the ambit of calculation of interest limitation under section 94B of the Act

Section 94B limits the quantum of deduction in respect of interest paid/ payable by an Indian Company or by PE of a foreign company to its non-resident Associated Enterprise (AE).

In the case of an Indian branch of a foreign banking company, the provisions of Section 94B are attracted in respect of debt issued by PE to the foreign banking company, as the branch of the foreign company in India is a non-resident in India.

In order to remove practical difficulties arising for such position, Section 94B of the Income-tax Act has been amended to provide that such provisions would not apply to interest paid in respect of a debt issued by a lender which is a PE of a non-resident, being engaged in the banking business in India.

This amendment is applicable from AY 2021-22 onwards.

Concessional Taxation Scheme (other than Individual/ HUF)

Amendments in Concessional Taxation Scheme for domestic companies

The Taxation Laws (Amendment) Act, 2019 inserted Section 115BAA and Section 115BAB in the Income-tax Act, to provide an option of concessional tax rate to the domestic companies, if they do not avail various concessional deductions including falling under Chapter VI-A excluding section 80JJAA, losses and allowances (except depreciation allowance) available under the Income-tax Act. However, with respect to deduction under Chapter VI-A, the restriction was limited only to deductions covered under 'Part-C' of Chapter VI-A (which deals with deductions such as section 80G) and not to whole of Chapter VI-A.

As per the amendment made, domestic companies availing such scheme shall be entitled only to the deductions under 80JJAA (deduction for new workforce) and the newly inserted Section 80M (deduction on redistribution of dividend income) for Assessment Year 2021-22 onwards. No other deduction under Chapter VI-A shall be allowed.

Further, in the case of companies opting for section 115BAA, deduction of capital expenditure under section 35AD for specified business is not allowed.

In terms of Section 35AD, no expenditure (even depreciation) was admissible under any other provision, even if a taxpayer opts to be governed by Section 115BAA. Resultantly, a legal anomaly had crept in, as a result of which, permissibility of depreciation was uncertain to tax payers who were carrying on the business specified under Section 35AD, yet had opted for Section 115BAA.

In order to remove this ambiguity, a clarificatory amendment has been made in Section 35AD to permit such business to claim allowance of depreciation under Section 115BAA. Such amendment is effective from AY 2020-21.

Extension of concessional tax rate to Co-operative societies

On the similar lines to the concessional tax rate scheme for domestic companies under section 115BAA, the Government has now extended the benefit of concessional tax rate of 22% to resident Co-operative societies as well, by way of introduction of new section 115BAD.

Such amendment is applicable from AY 2021-22 onwards.

Special Income and Withdrawal of Dividend Distribution Tax

Abolition of Dividend Distribution Tax (DDT) and reintroduction of taxation in the hands of the shareholders

Under the provisions of Section 115-O, a domestic company which has declared, distributed or paid dividend was required to pay Dividend Distribution Tax ('DDT') at an effective tax rate of 20.55%. Similarly, DDT was also payable by Mutual Fund companies distributing income to unit holders under Section 115R.

Such dividend on which DDT was paid was exempt in the hands of the recipient, under

Section 10(34) and 10(35) of the Income-tax Act.

In a significant change, the Government has done away with DDT, while shifting the burden of tax in the hands of the recipient of such dividend income. The recipient shall be taxable at the tax rates applicable for such recipient.

Thus, the present regime of DDT will not be applicable to dividends declared, distributed or paid (by domestic companies) or income distributed (by mutual fund companies) on or after April 1, 2020.

However, the exemption under Section 10(34) shall continue to be applicable in respect of such dividend income that has been declared before April 1, 2020 and DDT has been paid, although such dividend is received on or after April 1, 2020.

The recipient of income shall be allowed deduction only in respect of interest expense for realising the dividend under section 57 of the Act, with an overall capping of 20% of dividend income.

Consequential amendments have been made in other provisions of the Income-tax Act, wherever necessary.

Further, withholding tax provisions have been provided in respect of dividends/ mutual fund income. For this purpose, the provisions of Section 194 dealing with tax deducted at source on dividends paid/ distributed by an Indian company to an Indian resident has been amended to provide for a withholding tax rate of 10% on such dividends.

Furthermore, a new Section 194K has been provided in terms of which a withholding tax rate of 10% shall be applicable in respect of payments to a resident of any income (other than capital gains) in respect of mutual funds.

For both the aforesaid withholding tax provisions, a lower monetary threshold of INR 5,000/- has been provided.

The rate of withholding tax on dividend payments to 'non-resident' shareholders is 20%. However, such non-residents may seek to claim applicable rate in respect of lower TDS, if any, under the respective tax treaties.

These amendments will be applicable from April 1, 2020 onwards.

Removal of the cascading effect of tax on dividend received by a domestic company

Section 80M (which was omitted vide Finance Act, 2003) has been reinserted to remove the cascading effect of tax on dividend income received by a domestic company from another domestic company, foreign company or a business trust forming part of its gross total income, where the recipient company pays further dividend to its shareholders till one month prior to the due date for furnishing the return of income.

The deduction in respect of dividend income shall be available to the extent of dividend distributed by the recipient company.

This amendment is applicable from AY 2021-22 onwards. The deduction shall also be available to companies opting to pay tax under sections 115BAA and 115BAB of the Act.

Increase in safe harbour limit for deemed income on receipt of property for inadequate consideration under section 56 from 5% to 10%

Section 56(2)(x) provides for taxation in the hands of the recipient for receipt of money, certain movable and immovable property, where such money or property has been

received for no consideration or inadequate consideration.

In cases of receipt of immovable property for inadequate consideration (where stamp value exceeds INR 50 thousand), a safe harbour tolerance band has been provided, which is the higher of INR 50 thousand and '5%' of the consideration. The latter tolerance band of 5% has been enhanced to 10%.

This amendment will apply from AY 2021-22 onwards.

Personal Taxation

Introduction of concessional taxation scheme for individuals and HUFs- Alternate Tax Rates applicability

The current slab rates for Individuals and HUFs shall remain unchanged. However, an option has been provided to Individuals and HUFs to opt for the concessional taxation provisions under section 115BAC, wherein income tax rates would be significantly reduced if certain exemptions and deductions are foregone.

A table depicting comparison of tax rates for individuals and HUF is provided in Appendix B annexed hereto.

The major exemption/ deductions required to be foregone to opt for the lower tax regime are:

- Standard deduction;
- Any deduction under chapter VI-A, except the deduction under sub-section (2) of section 80CCD and section 80JJAA;
- Leave Travel Allowance;
- House Rent Allowance;
- Specific allowances under section 10(14);
- Entertainment allowance and employment/ professional tax under section 16;
- Interest under section 24 in respect of self-occupied or vacant property referred to in sub-section (2) of section 23;
- Deduction on account of family pension;
- Other specified deductions pertaining to scientific research, specified businesses.

Furthermore, the individual/ HUF opting for such scheme shall not be eligible to claim set off of losses/ depreciation arising on account of the aforesaid deductions. Moreover, the assessee shall not be eligible to claim set off of loss from house property with 'any other head of income'.

The option between current tax regime and new tax regime shall need to be exercised at the time of filing of return of income within the due date.

If such option is exercised by an individual/ HUF having business income or professional income, such option shall be applicable in perpetuity. However, such persons would be allowed to withdraw from this scheme only once, and having so withdrawn, would not be able to opt for this scheme in any future year (unless they cease to have business income or professional income).

The provisions of section 115JC providing for Alternate Minimum Tax shall not apply to persons opting for taxation under section 115BAC.

This Section will be applicable from AY 2021-22 onwards.

Rationalisation of tax treatment of employer's contribution to recognised provident funds, superannuation funds and National Pension Scheme

Under the existing provisions of the Act, contribution of employer in a recognised provident fund exceeding 12% of salary is taxable. Similarly, contribution to an approved superannuation fund exceeding INR 1,50,000 is treated as perquisites in the hands of employee and deduction of 14% of salary contributed by central government and 10% of salary contributed by any other employer (other than Central Government) under National Pension Scheme ('NPS') is allowed as deduction.

Section 17(2) has been amended in order to provide a combined upper limit of INR 7,50,000 in respect of employer's contribution in a year to NPS, superannuation fund and recognised provident fund and any excess contribution over INR 7,50,000 shall be taxable.

It has further been provided that any annual accretion by way of interest, dividend or any other amount of similar nature to the balance at the credit of fund or scheme, may be treated as perquisites, to the extent it relates to the contribution in excess of INR 7,50,000 as aforesaid, which is included in the total income.

This amendment will be applicable from AY 2021-22 onwards.

Deferment of taxability of ESOP income of employees of start-ups

Under the provisions of the Indian tax law, ESOPs are taxed as perquisites under section 17(2) of the Act at the time of exercising of option by the employees.

In order to reduce the tax burden of employees of the eligible start-ups or TDS by the eligible start-ups, a new sub-section (1C) has been inserted in section 192, to provide that an eligible start-up referred to in section 80-IAC responsible for paying any income in the nature of perquisites as specified in section 17(2)(vi), towards value of specified security or sweat shares allotted or transferred free of cost or at concessional rate, shall deduct or pay taxes on income within 14 days:

- after the expiry of forty-eight months from end of relevant assessment year, or;
- from the date of sale of such specified security or sweat equity share by the employee, or;
- from the date on which the employee ceases to be an employee of the person.

whichever is the earliest, at rates prevailing in the financial year when the shares were allotted/ transferred to the employee.

Similar amendments have also been made in section 191 (for assessee to pay tax directly in case of no TDS) and in section 156 (for notice of demand) and in section 140A (for calculating self-assessment tax).

This amendment will be effective from AY 2021-22 onwards.

Extension of limit for sanctioning of loan for purchase of residential house property in order to claim deduction under 80EEA

In order to incentivise first time buyer to invest in residential house property whose stamp duty value does not exceed INR 45,00,000 (INR 4.50 million), the existing provisions of section 80EEA, subject to certain conditions, provide a deduction of INR 1,50,000 is allowed in respect of interest on loan taken from any financial institution for acquisition of affordable residential house property.

One of the conditions to claim the said deduction is that the loan has been

sanctioned by the financial institution during the period from April 1, 2019 to March 31, 2020. This period of sanctioning the loan by the financial institution has now been extended to March 31, 2021.

This amendment is effective from AY 2021-22 onwards.

Capital Gains

Increase in the safe harbour limit under sections 50C from 5% to 10%

Section 50C of the Act provides that where the consideration declared to be received or accruing as a result of the transfer of land or building or both, is less than the value adopted or assessed or assessable by stamp valuation authority ('SVA') for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall be deemed to be the full value of the consideration, and capital gains shall be computed on the basis of such consideration under section 48 of the Act.

The said section also provides that where the value adopted or assessed or assessable by the SVA does not exceed 105 per cent of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall be deemed to be the full value of the consideration for computation of capital gain.

An amendment has been made under section 50C of the Act, wherein the safe harbour limit has been raised to 10% from existing 5%.

This amendment would be effective from AY 2021-22 onwards.

Rationalization of provisions of section 55 for computing cost of acquisition in certain cases

The existing provisions of section 55 of the Act provide that for computation of capital gains, an assessee shall be allowed deduction for cost of acquisition of the asset and also cost of improvement, if any. For computing capital gains in respect of an asset acquired before April 1, 2001, the assessee is allowed an option of either to take the fair market value of the asset as on April 1, 2001 or the actual cost of the asset as cost of acquisition.

In order to rationalize the existing provision, it has been provided that in case of a capital asset, being land or building or both, the fair market value of such an asset on April 1, 2001 shall not exceed the stamp duty value of such asset as on April 1, 2001 where such stamp duty value is available. Furthermore, stamp duty value shall mean the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property.

This amendment would be applicable from AY 2021-22 onwards.

Withholding Tax and Tax Collection at Source (TCS)

Amendment in the definition of "work" under 194C to enlarge withholding tax applicability

Under the erstwhile provisions, raw material purchased from a person other than a customer was not covered under the purview of "work" to attract withholding tax under section 194C. The definition of "work" under section 194C has now been amended to provide that cases of contract manufacturing where the raw material is provided by the associate of the customer,

will also trigger withholding tax under section 194C.

An associate shall be a person related to the customer, in the manner as provided under Section 40A(2)(b) of the Income-tax Act.

This amendment is applicable from April 1, 2020.

Amendment in Section 194LC - Extension of eligible period of concessional tax rate on interest in case of External Commercial Borrowing

The provisions of section 194LC of the Act provide that the interest payable to a non-resident by a specified company on borrowings made by it in foreign currency from sources outside India under a loan agreement or by way of issue of any long-term bond including long-term infrastructure bond or Rupee Denominated bond is eligible for concessional tax deduction (TDS) of five per cent in respect of borrowings made before July 1, 2020.

This concessional withholding tax rate of 5% is now available in respect of aforesaid borrowings made before July 1, 2023 as against July 1, 2020 earlier.

Furthermore, in respect of interest on long-term bond or Rupee Denominated bond which are listed on a recognised stock exchange located in any International Financial Services Centre, withholding tax rate has been reduced from 5% to 4%. Consequential amendments have also been made in the provisions of Section 115A to provide for the reduced rate of taxation on such interest.

This amendment shall be applicable from April 1, 2020.

Amendments in Concessional withholding tax scheme for FIIs/ QFIs

Under the provisions of Section 194LD, a concessional withholding tax rate of 5% is provided on interest payable to a Foreign Institutional Investor (FII) or a Qualified Foreign Investor (QFI) in respect of investment made in a rupee denominated bond of an Indian company or a Government security subject to the condition that the rate of interest does not exceed the rate notified by the Central Government in this regard. The section further provides that the interest should be payable at any time on or after June 1, 2013 but before July 1, 2020.

In order to attract fresh investment, create jobs and stimulate the economy, Section 194LD has been amended, wherein, the following changes have been made:

a) The period of rate of TDS of 5% under the said section has been extended to July 1, 2023 from the existing July 1, 2020;

b) The concessional rate of TDS of 5% under the said section shall now also apply to the interest payable, on or after April 1, 2020 but before July 1, 2023, to a FII or QFI in respect of the investment made in municipal debt security.

This amendment is applicable from April 1, 2020.

Withholding tax on Cash withdrawals from bank accounts

The government had introduced Section 194N by the Finance (No. 2) Act, 2019 in order to discourage cash transactions in the country and promote digital economy. In terms of the said section, TDS of 2% is required to be deducted by a banking company/ co-operative bank/ post office on cash payments exceeding INR 10 Million made by it to a person who has one or more accounts with it.

The aforesaid Section has been substituted by the Finance Act, 2020, as per which, certain modifications have been made to the erstwhile provision. It has been provided that in case of cash payments to a person who has not filed income tax returns of 3 years preceding the financial year of such payment (and the due date for filing such returns has also lapsed), then tax shall be deducted on entire amount at 2% (if amount of cash paid is between INR 2 Million to INR 10 Million). However, if amount of cash paid exceeds INR 10 Million, deduction shall be made at 5%.

The newly substituted provision shall be applicable from July 1, 2020

Withholding Tax on E-Commerce Transactions

In order to bring e-commerce transactions within the tax net, the Government has introduced a new Section 194-O, which provides for a withholding tax rate of 1% on certain e-commerce transactions.

Under the new provision, an e-commerce operator who facilitates sale of goods or services of e-commerce participants through its digital platform or electronic facility, shall withhold tax in respect of revenue of resident 'e-commerce participants' at the time of credit of the amount or payment, whichever is earlier, to the e-commerce participant.

'E-commerce participant' means a person resident in India selling goods or providing services or both, including digital products, through digital or electronic facility or platform for electronic commerce. Services include 'fees for technical services' and fees for 'professional services'.

No withholding tax shall be deducted from payments being made to resident Individuals or HUF e-commerce participants whose gross revenue from such transactions does not exceed INR 500 thousand, so long as such individuals/ HUFs furnish their PAN/ Aadhaar to the e-commerce operator.

The e-commerce operator is liable to withholding tax even if customers make direct payments to the e-commerce participant.

This amendment is applicable from October 1, 2020.

Reduction in rate of withholding tax (TDS) on 'fees for technical services' and certain 'royalty' (other than professional services)

To reduce litigation, the rate of TDS under 194J in case of payment of fees for technical services (other than professional services) as well as certain royalty payments for sale, distribution or exhibition of cinematographic films has been reduced from 10% to 2%. The rate of withholding tax in all other cases covered under Section 194J would remain the same, i.e. at 10%.

This amendment is applicable from April 1, 2020.

Amendments in Tax Collected at Source Provisions

The scope of Tax Collected at Source ('TCS') has been extended to:

a) Overseas Remittance under the Liberalized Remittance Scheme ('LRS');

b) Sale of Overseas Tour Packages;

c) On Sale of Goods.

For overseas remittances under the LRS, the Authorized Dealer ('AD') shall be responsible to collect TCS at 5% from the buyer, for remittances of INR 700 thousand or more (10% in non-PAN/ Aadhaar cases). However, where the remittance is for purchase of overseas tour programme package, the aforesaid limit of INR 700

thousand shall not apply. TCS on remittance overseas under LRS exceeding INR 700 thousand will be reduced from 5% to 0.5%, if the remittance is out of the loan obtained from a financial institution (as defined in Section 80E of the Act) for the purpose of pursuing any education.

A seller of an overseas tour program package who receives any amount from any buyer for purchase of overseas tour programme package shall be liable to collect TCS at the rate of 5% (10% in non-PAN/ Aadhaar cases).

Furthermore, TCS provisions have also been expanded on sale of goods (excluding goods exported out of India) exceeding in the aggregate, INR 5 million in a financial year, which will attract a rate of 0.1% (1% in non-PAN/ Aadhaar cases). The responsibility for collection of such TCS shall be on a seller whose gross receipts or turnover in the immediately preceding financial year is more than INR 100 Million.

It has also been clarified that the TCS wouldn't be required to be collected if the buyer is required to withhold tax in respect of payments for goods purchased by him under a different provision and has deducted such amount. Further, the buyer shall not include any person importing goods into India. Therefore, the provision of TCS shall not apply to a foreign seller.

This amendment is applicable from October 1, 2020.

Penalties and Prosecution

Scheme for e-penalty proceedings

The Central Government has amended Section 274 of the Income-tax Act to introduce a scheme for e-penalty proceedings in line with the faceless scheme for e-assessments. The scheme for e-penalty proceedings shall be notified in due course.

This amendment is effective from April 1, 2020.

New penalty for false entries or omission of entries in Books of Accounts

A new penalty provision has been inserted under section 271AAD to curb the practice of falsification of accounts and usage of fake documents. If during any proceeding under the Act, it is found that the books contain false entry or that any entry has been omitted to evade tax liability, a penalty equal to the aggregate amount of such false or omitted entry will be levied.

Such penalty shall also be applicable on the persons who 'cause' such false entry or omission of entry.

The term false entry has been defined, which includes use or intention to use, forged/ falsified documents such as fake invoices, invoices without actual supply/ receipt of goods or services and usage of fake persons in such invoices.

This amendment is effective from April 1, 2020.

Administrative and Procedural changes

Expansion of e-assessment scheme

E-assessment Scheme, 2019 was notified under sub-section 143(3A) of the Act in order to impart greater efficiency, transparency and accountability by certain means specified therein. Presently, only the assessment under section 143(3) is covered under the e-assessment scheme.

Section 143(3A) of the Act has been amended to include best judgement assessment under section 144 of the Act also within the purview of e-assessment.

This amendment is applicable from April 1, 2020.

Enabling provision for introduction of Scheme for e-appeal

Presently, most of the functions/ processes under the Income Tax Act, including filing/ processing of returns, assessments, issuance of refunds/ demand notices and filing of appeals before Commissioner of Income-tax (Appeal) [CIT(A)] are done electronically.

The filing of appeals before CIT(A) has already been enabled in an electronic mode. However, the process that follows after filing of appeal involves human interface.

Section 250 of the Income Tax Act has been amended to enable faceless appeal on the lines of faceless assessment.

This amendment is applicable from April 1, 2020.

Imposition of condition for mandatory Pre-Deposit for grant of Stay of demand by Tax Tribunal

Section 254(2A) has been amended to introduce a mandatory pre-deposit or security if an appellant is seeking a stay of demand from the Income-tax Appellate Tribunal. Such pre-deposit shall be at least 20% of the disputed amount (tax, fee, interest, penalty or any sum payable under the Income-tax Act) or a security equivalent thereto.

This amendment is applicable from April 1, 2020.

Advancement of Due Dates in certain cases

In order to enable pre-filling of returns in case of persons having income from business or profession, amendments have been made in various sections of the Act to provide that tax audit report, TP certificates and such other reports shall be furnished by the said assessees at least one month prior to the due date of filing of return of income.

Amongst others, the due date of filing of return of income, tax audit report and TP Certificate has been changed, which is summarised as **Appendix D**.

Similarly, the provisions of section 10(23C), section 10A, section 12A, section 32AB, section 33AB, section 33ABA, section 35D, section 35E, section 44DA, section 50B, section 80-IA, section 80-IB, section 80JJAA, section 115JB, section 115JC and section 115VW of the Income-tax Act have been amended to require filing of relevant report/ certificate under each section one month before due date of furnishing the return under section 139(1) of the Income-tax Act.

These amendments are applicable from AY 2020-21.

Streamlining the provisions related to Tax Audit Report

The Income-tax Act provides for checks and balances in order to ensure adherence to the various provisions. With such intention, section 44AB of the Income-tax Act mandates furnishing of tax audit report, where total turnover/ gross receipts of a business exceed INR 10 million.

In order to encourage digital mode of transactions, the above threshold limit has now been increased to five crore rupees (INR 50 million) for those businesses where-

- Aggregate of all amounts received in cash (including cash receipts/ turnover) during the year does not exceed 5% of the total receipts/ turnover; and

- Aggregate of all payments made in cash for expenditure during the year

does not exceed 5% of the total payments.

Additional information to be made available in E-filing Account to facilitate compliance

Section 203AA of the Act requires income tax authorities to deliver a statement in Form 26AS to every person from whose income tax has been deducted or in respect of whose income tax has been paid, specifying the amount of tax deducted or paid.

With the advancement in the data analysis technology, multiple information like sale/ purchase of immovable property, share transactions etc. are being captured by the authorities.

Section 285BB has been inserted to enable making available advanced information on the registered e-filing account of each taxpayer to ensure better compliance. Consequently, section 203AA has been omitted with effect from June 1, 2020.

The above amendment will be effective from June 1, 2020.

Provisions relating to Trusts and Charitable Institutions

Rationalisation of the process of registration of Charitable Trusts or Institutions

As per the existing provisions, registration once granted to a Charitable Trust or Institution under sections 12A/ 12AA could be withdrawn/ revoked only in case of non-compliance of certain specified conditions.

A new section 12AB has been introduced primarily to restrict the registration of trust/ charitable trust for a maximum period of five years to ensure adherence with conditions of approval. Further, in order to apply new provisions to the registrations granted under the earlier provisions, the new amendment provides for revocation of the existing registration under section 12AA, while specifying the new procedure for registration.

Under the new provisions of registration, for the first-time applicant, provisional registration shall be granted for a period of 3 years from AY for which the registration is sought. The timelines and scenarios where the application under the new regime is mandatory, are summarized as **Appendix E**.

The procedure to provide registration is largely same as in Section 12AA. For entities registered under section 12A or 12AA, there is no specific provision requiring production of documents and evidences as are required in other cases for registration.

Similarly, an entity approved/ registered under section 10(23C) or section 80G shall be required to apply for approval/ registration and an entity approved/ registered under section 35 of the Act shall be required to intimate regarding it being approved, and on doing so, the approval/ registration in respect of the entity shall be valid for a period of 5 years.

As a consequence, this amendment will increase the compliance burden as charitable trusts/ institutions are now required to seek renewal of registration every five years, even in the absence of any change in the objects/ activities undertaken.

Restriction on switching of exemption provisions by Trust, institutions and funds

Section 11 of the Act provides for grant of exemption in respect of income derived from property held under trust for charitable or religious purposes, to the extent to which such income is applied or accumulated during the previous year for such purposes

in accordance with the provisions contained in sections 11, 12, 12A, 12AA and 13 of the Act. Similarly, certain trusts, etc., avail a specific or general exemption under section 10 of the Act in respect of similar nature of activities.

The existing provisions of section 11(7) of the Act provide that if the trusts or institutions are registered under section 12A/ 12AA of the Act (claiming benefits under section 11), then no exemption shall be granted under section 10 of the Act except for agricultural income and income referred to in section 10(23C) of the Act. Therefore, the entities were either allowed to claim benefits under section 12A/ 12AA or section 10(23C) of the Act. Such option is also extended for exemption under section 10(46) [income arising to a body or authority or Board or Trust or Commission established under any Act or constituted by the Government with the object of regulating or administering any activity for the benefit of the general public].

However, in order to discourage the practice of routine switching between section 10 and section 11, in the case of trusts or institutions which have obtained approval under both the sections (i.e. section 10 or section 11 read with 12A/ 12AA), it has been provided that their registration under section 12A or 12AA shall become inoperative from the date of their approval under section 10(23C) or 10(46), as the case may be, or from June 1, 2020, whichever is later.

In order to facilitate switching to the provisions of section 12AB, an option has been given to trusts to get their registrations operative again under section 12AB subject to giving-up the approval under section 10(23C) or 10(46) of the Act.

The above amendment will be effective from June 1, 2020.

Rationalisation of provisions relating to Trust, institutions and funds

Section 10(23C) of the Income tax Act deals with exemption to trusts, institutions engaged in educational, charitable purposes and not for purposes of profit. This exemption is similar to exemption under section 11 available to entities registered under section 12A or 12AA of the Act.

Corpus donation made to entities registered under section 12A or 12AA is not considered as income under section 11 in the hands of such entities and as such the restriction of application of income during the year is not applicable to such donation. This benefit was not available in case of entities claiming exemption under section 10(23C) of the Act. In order to rationalise the provision, section 10(23C) has been amended to provide that corpus donation shall not be included in the income of entities claiming exemption under section 10(23C) and consequently, corpus donation made by such entities to any other entity claiming exemption under section 10(23C) shall not be considered as application of income.

The aforesaid amendments are applicable with retrospective effect from AY 2020-21.

Filing of Statement of donation by donee to cross verify claim of donation by donor

As per the existing provisions of the Act, while computing the total income, a donor gets deduction under section 80G of the amount of donation given to exempt entities, which utilize the funds towards the fulfillment of their objective.

In order to reconcile the amount claimed as donation by the donee with the amounts received by the exempt entities, it has been provided that the recipient entity will furnish a statement and issue certificate to the payer, based on which the payer will claim

the deduction for the donation.

It has also been provided that w.e.f. June 1, 2020, non-compliance to the above procedure will invite levy of fee of INR 200/- per day and may also entail penalty of not less than INR 10,000/-, which may extend up to INR 1,00,000/-.

Further, the prescribed audit report in Form 10B is now required to be furnished by the charitable trust/ institution within the specified date referred to in section 44AB, i.e. one month prior to date of filing the return u/s 139(1) of the Act.

Similar amendment has also been made in section 80GGA of the Act in respect of donation for scientific research or rural development.

Other Amendments

Allowability of deduction on actual payment to insurance sector

Section 43B of the Income-tax Act disallows the claim of deduction of certain expenditure, where no actual payment has been made by the taxpayer. However, same is allowed subsequently in the year in which such sum is actually paid by the taxpayer. The insurance businesses (other than life insurance business) were deprived of the benefit of subsequent allowance, as the same were governed by a special code under the First Schedule to the Income-tax Act.

To extend the benefit of allowance in subsequent years to such insurance companies, Rule 5(c) of the First Schedule to the Income-tax Act has been amended, which will be applicable retrospectively from AY 2020-21.

Expansion of the scope of Dispute Resolution Panel (DRP)

The provisions of section 144C provide an alternate dispute resolution mechanism for eligible assesses, viz. foreign companies or any person in whose case transfer pricing adjustments have been made under section 92CA(3) of the Act.

In case of eligible assessees, the tax officer is first required to forward a draft assessment order to an eligible assessee, if he proposes to make any variation in the 'income or loss returned' which is prejudicial to the interest of the assessee.

The expression 'income or loss returned' has been deleted from section 144C. Thus, even if the tax officer does not propose any variation in the income, yet there is a tax demand on account of an enhanced effective tax rate, such eligible assessee can approach DRP.

Furthermore, the scope of the said section has been extended to include other classes of non-residents apart from foreign companies, such as individuals, firms etc.

This amendment is applicable from April 1, 2020 onwards.

Increase in threshold and extension of period for claim of deduction by start-ups

Section 80-IAC of the Income-tax Act provides relief to the eligible start-ups by providing a tax holiday period of three consecutive years out of initial seven years after the incorporation of the start-up. Furthermore, such deduction can be claimed only by the start-ups having turnover less than INR 250 Million (in the year of claim of deduction).

The aforesaid provision has been amended to provide that the deduction can be claimed for any three consecutive years out of initial ten years instead of initial seven years. Such relief will be available to all start-ups having turnover less than INR 1 Billion.

This amendment is applicable from AY 2021-22.

Insertion of Taxpayer's Charter in the Income Tax Act

With the aim of enhancing the efficiency and fairness of tax administration, a new section 119A has been inserted in the Income Tax Act to empower the Central Board of Direct Taxes to adopt and declare a Taxpayer's Charter and issue such orders, instructions, directions or guidelines to other income-tax authorities as it may deem fit for the administration of Charter.

This amendment is effective from April 1, 2020.

One Time Dispute Settlement Scheme - Vivad Se Vishwas Scheme

The Government has recently introduced a onetime dispute settlement scheme called the 'Vivad se Vishwas Scheme'. This scheme was announced during the Union Budget, 2020, to provide for early settlement of disputes in respect of income tax appeals pending before Commissioner (Appeals), Tax Tribunal, High Court and Supreme Court as on January 31, 2020 and reduce pending Indian Income-tax litigation, provide taxpayer with peace of mind, certainty and savings on account of time and resources that would otherwise be spent on the long-drawn and vexatious litigation process.

Under this scheme, the prescribed amount to be deposited in respect of disputed tax, interest or penalty was required to be deposited before March 31, 2020, to avail the full benefit of the scheme. This scheme was available even after March 31, 2020 (but on or before June 30, 2020), although with an additional payment as prescribed under the scheme.

The key features of this scheme were summarised by us in our note which was circulated vide mail dated March 6, 2020. On account of the outbreak of COVID-19 and the practical difficulties that arose in implementation of this scheme, the Government, vide Ordinance dated March 31, 2020 has extended the timelines for availing full benefit till June 30, 2020.

INDIRECT-TAX AMENDMENTS

Goods and Services Tax

Simplified Return

As mentioned by the Hon'ble Finance Minister during her Budget Speech, simplified return forms shall be implemented from April 1, 2020. It will make return filing simple with various innovative features.

In this regard, Taxpayers having aggregate turnover **upto INR 5 Crore** (50 million) in the preceding financial year would have an option to file their GST return **quarterly**. However, tax payment would be done on monthly basis on self-assessment. Types of quarterly GST returns depending upon the nature of transactions to be filed are provided in **Appendix F**.

However, taxpayers having an aggregate turnover of **more than INR 5 Crore** (50 million) in the preceding financial year shall be required to file **monthly** return in **Form GST RET-1**. Such return would have 2 tables, i.e. Form GST ANX-1 for reporting Outward Supplies and Form GST ANX-2 for availing Input Tax Credit. Details in Form GST ANX-2 would get auto populated based on details uploaded by supplier in Form GST ANX-1.

Additional details/ information required in New Returns in comparison to existing returns is provided in **Appendix F**.

These changes have been decided in the 37th GST Council meeting held on September 20, 2019. However, notification for such changes has not yet been issued by CBIC.

Further, in the 39th GST Council meeting held on March 14, 2020, implementation of Simplified Returns has been proposed to be deferred to September 30, 2020 and shall now be implemented from October 1, 2020. However, notification for such changes has not yet been issued by CBIC.

E-Invoicing in GST

E-invoice is an innovation in which critical information shall be electronically captured in a centralised system. It was proposed to be implemented from April 1, 2020.

All Registered Suppliers having aggregate turnover of more than INR 100 Crore (1 billion) shall be required to issue E-Invoice to all Registered Recipients (B2B Supplies). However, in case of other than B2B supplies, normal invoice shall be issued.

All Registered Suppliers having aggregate turnover of more than INR 500 Crore (5 billion) to issue invoice with QR Code (Quick Response Code) to all unregistered recipients (B2C Supplies). This is applicable apart from issuance of E-Invoice to B2B supplies.

Documents covered under such facility would include Tax Invoice, Debit Note & Credit Note, Export Invoices and any other document as may be notified. It will be in a standard format so that invoice generated by one software can be read by any other software.

E-invoice would be issued from ERP of supplier and would be subsequently validated from Government Portal. Once, it is validated, GST portal would auto prepare GSTR 1 and ANX 1 & ANX 2 with respect to B2B Supplies and also E-Way bill will be generated using E-Invoice data.

The changes have been made effective vide Notification No. 70/2019-Central Tax and 72/2019-Central Tax dated December 13, 2019 and the portals for validation of E-Invoices have been notified vide Notification No. 69/2019-Central Tax dated December 13, 2019.

However, the implementation of E-invoicing and QR Code has been deferred to September 30, 2020 and the above-mentioned changes shall now be applicable from October 1, 2020 (as per Notification no. 13/2020-Central Tax dated March 21, 2020).

Other Changes in GST Law

(i) Entry 4(a) and 4(b) in Schedule II of the CGST Act has been amended to omit the words 'whether or not for a consideration'. This amendment is made retrospectively from July 1, 2017.

(ii) Section 10(2) of the CGST Act, 2017 has been amended to extend the scope of ineligibility to opt for 'Composition Scheme' as per Section 10(1) of the CGST Act, 2017 to the taxpayers supplying services which are not leviable to GST, inter-state supply of services and supply of services through E-Commerce Operator. This amendment is made to bring uniformity of composition schemes in relation to goods and services.

(iii) Section 132 of the CGST Act, 2017 has been amended to provide for punishment to persons who cause to commit and retain the benefit of specified offences. Section 132(1)(c) and (e) of the CGST Act, 2017 has been amended to extend the punishment for the cases where ITC is availed fraudulently without any invoice or bill.

Customs Law

Changes in Customs Law

India is now making and exporting high quality products. In order to promote 'Make in India' initiative, custom duty on certain goods which are used as inputs and raw material has been reduced. However, custom duty has been increased on certain finished goods which are imported in large quantities although they are also being made domestically. Also, exemptions/ concessions on certain products has been withdrawn leading to increase in effective rate of duty.

Accordingly, a new duty of customs namely, 'Health Cess' at 5% has been introduced on import of medical devices falling under specified headings.

Other goods on which Custom duty has been increased include Household Items and appliances, Footwear, Toys, Stationery Items, Compressor for refrigerator and air conditioner, heat pumps, ice-making machinery, water cooler, vending machine etc.

The above changes have been made effective by issuance of various notifications dated February 2, 2020.

Social Welfare Surcharge

To fulfil the commitment of the government to provide and finance education, health and social security, a custom duty was imposed vide Finance Act, 2018, on specified goods being imported into India. Such duty was named as 'Social Welfare Surcharge' and is to be calculated at 10% on the aggregate of duties, taxes and cesses which are levied and collected under section 12 of the Customs Act, 1962.

However, a notification was issued in February, 2018 to provide for exemption to certain goods from the levy of Social Welfare Surcharge. The government has withdrawn such exemption on certain goods. Consequently, exemption is available to limited products such as printed circuit boards, information technology software, commercial vehicles including electric vehicles imported as completely built unit etc.

The above changes have been made effective by issuance of Notification No. 09/2020-Customs dated February 2, 2020.

Appendix A

A. INCOME TAX LAW

Particulars	Remarks
Extension of due date for availing full benefit under the Vivad se Vishwas Scheme (i.e. without payment of additional 10% of disputed tax)	Due date extended from March 31, 2020 to June 30, 2020
Extension of last date for filing income tax return (belatedly) for the Financial Year 2018-19 (Assessment Year 2019-20)	Last date extended from March 31, 2020 to June 30, 2020
Extension of last date for making contribution to various funds for claiming deduction under Section 80G (for instance, PM CARES fund), whether as CSR or otherwise	Last date extended from March 31, 2020 to June 30, 2020
Extension of last date for making investment, payment, purchase etc. for claiming exemption under Section 54 to 54GB from capital gains or other investments/ deductions under Chapter VI-A, such as section 80C	Last date extended from March 31, 2020 to June 30, 2020
Extension of due date for issue of notices, sanction or approvals etc. falling between March 20, 2020 and June 29, 2020	Due date(s) extended to June 30, 2020
Extension of due date for filing of appeals, applications, statement or report etc. falling between March 20, 2020 and June 29, 2020	Due date(s) extended to June 30, 2020
Delayed payment of advance tax, self-assessment tax, withholding tax etc. falling due between March 20, 2020 and June 29, 2020 and payment made till June 30, 2020	• No extension in due date • Reduced interest rate of 9% p.a. instead of 18%/ 12% p.a. • No late fee/ penalty/ prosecution
Extension of validity of Nil/ Lower withholding tax certificates expiring on March 31, 2020	Validity extended to June 30, 2020
Extension of due date for filing TDS Return in Form 24Q/ 26Q for 4th quarter ending March 31, 2020	Due date extended to June 30, 2020
Issuance of Form 16/ Form 16A for 4th quarter ending March 31, 2020	Due date extended to June 30, 2020

B. GOODS AND SERVICE TAX

Extension of due date of GSTR 1 returns:

Return Period	Actual Due Date	Revised Due date	Remarks
March, 2020	April 11, 2020	June 30, 2020	No late fee shall be levied if the return is filed up to June 30, 2020
April, 2020	May 11, 2020		
May, 2020	June 11, 2020		

Extension of due date of GSTR 3B for taxpayers having an aggregate turnover up to INR 5 crores in the preceding financial year:

Return Period	Actual Due Date	Revised Due date		Remarks
		Turnover up to INR 1.5 Crore in preceding F.Y.	Turnover of more than INR 1.5 Crore but up to INR 5 Crore in preceding F.Y.	
February, 2020	March 20, 2020	June 30, 2020	June 29, 2020	• **No late fee or interest obligation if filed by revised due date** • However, in case the return is filed after the respective due dates, then interest at the rate **18% p.a**. shall be levied from the actual due date till the date of filing of return.
March, 2020	April 20, 2020	July 3, 2020	June 29, 2020	
April, 2020	May 20, 2020	July 6, 2020	June 30, 2020	
May, 2020	*Staggered Manner*			• Revised due dates would be 12th and 14th July 2020, depending upon the state of registration.

<u>Extension of due date of GSTR 3B for taxpayers having an aggregate turnover of more than INR 5 crores in the preceding financial year:</u>

Return period	Actual Due date	Effective revised Due date	Remarks
February, 2020	March 20, 2020	April 4, 2020	• Though the due date for GSTR 3B has not been extended, however, due to relaxation on account of no late fee and no interest, there is effective revision of Due dates of GSTR 3B. • No late fee shall be levied if the return is filed up-to June 24, 2020. • No interest obligation will arise if the return is filed within the respective revised due dates. • In case the return is not filed within the respective revised due dates but filed on or before June 24, 2020, a reduced rate of interest at the rate **9% p.a.** shall be levied from the revised due date till the date of filling of return. • However, in case the return is filed after June 24, 2020 then interest at the rate **18% p.a**. shall be levied from the actual due date till the date of filing of return.
March, 2020	April 20, 2020	May 5, 2020	
April, 2020	May 20, 2020	June 4, 2020	
May, 2020	June 20, 2020	June 27, 2020	• Due Date Extended by 7 Days.

C. CORPORATE LAW

Particulars	Remarks
Extension of maximum time gap between any two consecutive board meetings for the Quarters ended June 2020 and September 2020	Time gap of 120 days extended to 180 days
Applicability of Companies (Auditor's Report) Order, 2020 ['CARO 2020']	Applicability deferred from FY 2019-20 to FY 2020-21
Time limit to file declaration for Commencement of Business by newly incorporated companies	Earlier timeline of 180 days from date of incorporation extended to 360 days
Requirement of minimum residency for at least 182 days by at least one director of the company, has been dispensed with for FY 2019-20	Non-compliance of minimum residency for at least 182 days by at least a director, for FY 2019-20, will not be treated as a violation of the provisions of the Act

Appendix B

Applicable Tax Rates for Individuals (Normal Provisions) for Assessment Year 2020-21 and 2021-22:

Income tax slabs	Age less than 60 years	Age of 60 years or more	Age of 80 years or more
Up to INR 250,000	Nil	Nil	Nil
INR 250,000 to INR 300,000	5% of income in excess of INR 250,000	Nil	Nil
INR 300,000 to INR 500,000	INR 2,500 + 5% of income in excess of INR 300,000	5% of income in excess of INR 300,000	Nil
INR 500,000 to INR 1,000,000	INR 12,500 + 20% of income in excess of INR 500,000	INR 10,000 + 20% of income in excess of INR 500,000	20% of income in excess of INR 500,000
Above INR 1,000,000	INR 112,500 + 30% of income in excess of INR 1,000,000	INR 110,000 + 30% of income in excess of INR 1,000,000	INR 100,000 + 30% of income in excess of INR 1,000,000

Comparative Chart of Tax Rates under Normal Provisions and Optional Scheme under Section 115BAC:

Taxable Income Slab	Existing Tax Slab	New Tax Rates
Below INR 2,50,000	Exempt	Exempt
INR 2,50,000 – INR 5,00,000	5%	5%
INR 5,00,000 – INR 7,50,000	20%	10%
INR 7,50,000 – INR 10,00,000	20%	15%
INR 10,00,000 – INR 12,50,000	30%	20%
INR 12,50,000 – INR 15,00,000	30%	25%
INR 15,00,000 and above	30%	30%

Note: The a*foresaid rates of tax are subject to additional surcharge (as per following table) as well as cess of 4%*

Rates of Surcharge

Particulars	Rates of Surcharge
Where taxable income is less than INR 5 Million	Nil
Where taxable income exceeds INR 5 Million but does not exceed INR 10 Million	10%
Where taxable income exceeds INR 10 Million but does not exceed INR 20 Million	15%
Where taxable income exceeds INR 20 Million but does not exceed INR 50 Million (excluding income under Section 111A and Section 112A)	25%
Where taxable income exceeds INR 50 Million (excluding income under Section 111A and Section 112A)	37%
Where taxable income includes income under Section 111A (Short term capital gain on equity) and Section 112A (Long term capital gain on equity) and such taxable income after inclusion of income under Section 111A and Section 112A exceeds INR 20 Million	15% on such income under Section 111A and Section 112A
Where taxable income exceeds INR 20 Million or 50 Million and also includes income under Section 111A and Section 112A in addition	25% or 37% as aforesaid. 15% on income under Section 111A and Section 112A

Appendix C

Summary of Tax Rates for Corporates for the Assessment Year 2020-21 and 2021-22:

Particulars	Tax Rates
Domestic Companies:	
Tax Rate for Assessment Year 2020-21 where turnover for Financial Year 2017-18 is up to INR 4 Billion Tax Rate for Assessment Year 2021-22 where turnover for Financial Year 2018-19 is up to INR 4 Billion	25%
Tax Rate for Assessment Year 2020-21 where turnover for Financial Year 2017-18 is more than INR 4 Billion Tax Rate for Assessment Year 2021-22 where turnover for Financial Year 2018-19 is more than INR 4 Billion	30%
Domestic manufacturing companies opting for Concessional taxation under sec 115BA	25%
Domestic companies opting for Concessional taxation under sec 115BAA	22%
New manufacturing companies opting for Concessional taxation under sec 115BAB	15%
Foreign Companies	40%

Note: The a*foresaid rates of tax are subject to additional surcharge (as per following table) as well as cess of 4%*

Rates of Surcharge

Particulars	Rates of Surcharge
Domestic Companies (not opting for concessional taxation under Section 115BAA and Section 115BAB)	
Where taxable income is less than INR 10 Million	Nil
Where taxable income exceeds INR 10 Million but does not exceed INR 100 Million	7%
Where taxable income exceeds INR 100 Million	12%
Companies opting for Concessional taxation under sec 115BAA	10%
Companies opting for Concessional taxation under sec 115BAB	10%
Foreign Companies	
Where taxable income is less than INR 1 Million	Nil
Where taxable income is less than INR 10 Million but does not exceed INR 100 Million	2%
Where taxable income exceeds INR 100 Million	5%

Appendix D

Due dates of Various Annual Compliances Under Income-tax Act:

Taxpayer	Due date of furnishing of tax audit report/ other reports	Due date of filing the return of income	Due date of filing of Form 3CEB
Where Transfer Pricing is not applicable:	30th September of the relevant Assessment Year ('**AY**')	31st October of the relevant AY	Not Applicable
In case of a company			
In case of person other than the company whose accounts are required to be audited			
In case of partner of a firm			
Where the assessee is required to file Transfer Pricing Certificate	31st October of the relevant AY	30th November of the relevant AY	31st October of the relevant AY

Appendix E

Timelines for Making an Application for Registration under Section 12AB:

Scenarios	Timeline for Filing an Application for registration u/s 12AB
Already registered u/s 12A/12AA	Within 3 months from the date of coming into force of the amendment, i.e. up to August 31, 2020.
Registered u/s12AB and due to expire	At least 6 months prior to the expiry of the registration.
Provisionally registered u/s 12AB	At least 6 months prior to the expiry or commencement of activities, whichever is earlier.
Inoperative registration due to approval for exemption under other sections	At least 6 months prior to commencement of AY from which registration is sought.
Modifications in the Objects	Within 30 days of modification/ adoption
In any other case	At least 1 month prior to commencement of AY from which registration is sought.

Appendix F

Types of Returns under Goods and Service Tax Law:

Basis	Sahaj Return Form GST RET-2	Sugam Return Form GST RET-3
Who Can File?	Taxpayers having only ***B2C*** transactions and Inward Supplies liable to reverse charge	All other taxpayers having turnover up to INR 5 Crore (50 million)
Who Cannot file?	E-Commerce Operators who are required to collect tax under Section 52	E-Commerce Operators who are required to collect tax under Section 52

Information to Be Reported in GST Returns:

Basis	New Returns	Existing Returns
B2C Supplies	To be reported on tax rate wise level and No bifurcation is required between B2CS & B2CL	Reported on tax rate wise level and transactions with B2CS & B2CL needs to be reported separately
HSN Details	6 digits HSN details to be provided at invoice level	4 digits HSN details are provided at summary level
RCM Supplies	Inward Supplies liable to RCM to be reported GSTN wise	Inward Supplies liable to RCM are reported invoice wise

About Us

Mohinder Puri & Co. is a leading firm of Chartered Accountants established in 1954. Led by eminent and highly experienced partners and complemented by a team of multi-disciplinary professionals, we offer a diverse range of professional services to our clients, besides our core competencies of audit and taxation. With over 60 years of experience, we have been providing advice and support to domestic and international clients in diverse sectors on audit accounting, taxation and regulatory matters. Built on a strong commitment to client service, the Firm acts as a One-Stop Advisor offering expertise and hands-on support. We pride ourselves on our quality and integrity to drive the growth of our clients.

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