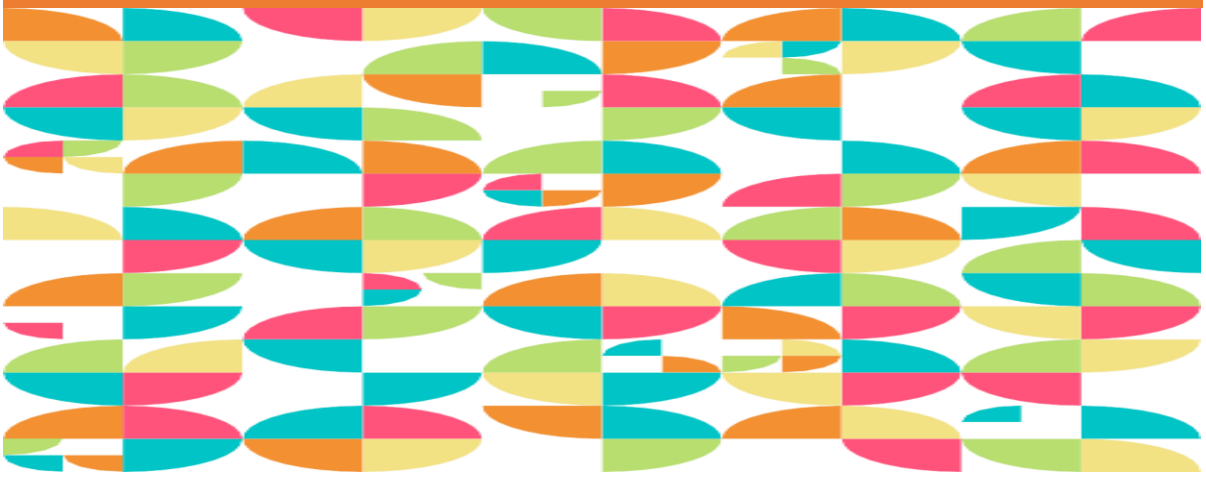
MOHINDER PURI & CO.
CHARTERED ACCOUNTANTS

Corporate Update

SPECIAL EDITION ON

THE FINANCE (No. 2) ACT, 2024



FOREWORD

Dear Reader,

This Update contains a detailed analysis of direct tax amendments made in the Finance (No. 2) Bill, 2024 of the Government of India, presented by the Finance Minister on 23rd July 2024 for the Financial Year 2024-25 and it also covers the amendments considered in the Finance Bill during the passage of the Budget in the Lok Sabha.

The Budget as passed by both the houses of the Parliament has received the assent of the President of India on 16th August 2024.

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Partner

Table of Contents

DIRECT TAX

Income Tax amendments introduced by the Finance (No. 2), Act, 2024

Tax Rates

Tax rates for residents other than Individuals or HUF

There is no change in the tax rates applicable to residents other than Individuals or HUF. Further, no changes have been made in the old tax regime (slab tax rates provided under First Schedule of the Finance (No. 2) Act, 2024) applicable to Individuals/ HUF/ AOP/ BOI.

Amendment in rates under New Tax Regime under section 115BAC for Individuals or HUF

Under the new tax regime contained in section 115BAC, concessional tax rates are provided to Individuals/ HUF/ AOP (other than co-operative society) / BOI without availing specified deductions. With effect from assessment year 2025-26, the tax rate structure has been further revised as under to benefit the taxpayers:

Total Income (Rs)	Rate
Up to 3,00,000	Nil
From 3,00,001 to 7,00,000	5%
From 7,00,001 to 10,00,000	10%
From 10,00,001 to 12,00,000	15%
From 12,00,001 to 15,00,000	20%
Above 15,00,000	30%

Tax rates for non-residents

In the case of a foreign company, the tax rate has been reduced from 40% to 35% on Business income, other than income chargeable at special rates like Royalty, Fees for Technical Services, Dividend, etc. Applicable surcharge and cess shall continue to be levied at present rates.

International Taxation other than tax rates

2% Equalisation Levy removed

The Finance Act, 2006 introduced Equalisation Levy (EL) to tax certain digital transactions. With effect from 1st June 2016, specified persons making payment to non-residents for online advertisement and related services are obligated to deduct and deposit EL @ 6% of the gross consideration.

The scope of EL was expanded by the Finance Act, 2020 to include consideration received or receivable by non-resident e-commerce operators towards supply of goods or provision of services to specified persons, subject to certain conditions. 2% EL was levied on such consideration and the obligation to deposit the same was on non-resident e-commerce operators.

The amounts subjected to EL were exempt from income tax under the Income Tax Act, 1961.

Concerns were raised that 2% levy leads to compliance burden in the hands of non-residents.

The Finance (No. 2) Act, 2024 has abolished 2% EL effective 1st August 2024 on e-commerce operator. As such, corresponding income tax exemption under section 10(50) to the non-resident taxpayers will be available only up to 31st July 2024.

It may be noted that the 6% EL would continue to apply on online advertisement and provision of digital advertising space/ facilities/ service in relation to online advertisement.

Advance Rulings

The Authority for Advance Rulings (AAR) was constituted to pronounce Advance rulings on the determination of tax liability of the non-residents or specified residents. As per the amendments made by the Finance Act, 2021, AAR ceased to operate from 1st September 2021 and the Board for Advance Ruling (BAR) was constituted to substitute AAR, as AAR was not able to discharge its functions in a timely manner due to non-appointment of eligible members.

Pursuant to this transition, applications pending before the AAR were transferred to BAR.

Certain taxpayers whose pending applications were transferred and put before BAR, were no longer keen to pursue their case before the BAR owing to reasons such as change in the constitution of BAR forum, non-binding nature of the ruling, substantial passage of time and other commercial reasons. However, the limitation period for withdrawing of application had expired and were unable to withdraw the applications.

In order to facilitate withdrawal of applications pending before BAR, Section 245Q has been amended to allow application for withdrawal by 31st October 2024 for the transferred applications to BAR (from AAR).

It is further provided that on receipt of the withdrawal application as stated above, the BAR may by an order allow withdrawal of such application on or before 31st December 2024.

These amendments shall be effective from 1st October 2024.

Safe Harbour rules

The Hon'ble Finance Minister in her Budget speech has announced that the government will expand the scope of Safe Harbour rules and make them more attractive with a view to reduce litigation and provide certainty in international taxation. It is also proposed to streamline the transfer pricing assessment procedure, for which the relevant notification shall be issued in due course.

Transfer Pricing

Thin capitalisation provision to exclude Finance Company located in IFSC

Section 94B of the Act contains Thin Capitalisation provision and places a restriction on deduction of interest expense in respect of any debt issued by a non-resident, being an associated enterprise of the borrower. As per the provision, if a borrower being an Indian company, or a permanent establishment of a foreign company in India, incurs any expenditure by way of interest or of similar nature

exceeding Rs. 1 crore (ten million) which is deductible in computing income chargeable under the head "Profits and gains of business or profession", the interest deductible shall be restricted to the extent of thirty per cent. of its earnings before interest, taxes, depreciation and amortisation.

At present, the entities engaged in the business of banking or insurance or such class of non-banking financial companies as may be notified by the Central Government are excluded from the purview of this section. The Finance (No. 2) Act, 2024 has made the provisions of this section inapplicable to finance companies located in IFSC, as defined in clause (e) of sub-regulation (1) of regulation 2 of the IFSCA (Finance Company) Regulations, 2021 made under the IFSCA Act, 2019, which satisfy such conditions and carry on such activities as may be prescribed.

This amendment shall be effective from AY 2025-26.

Determination of Arm's Length Price in respect of Specified Domestic Transactions not referred to Transfer pricing Officer

During the assessment proceedings, assessing officer may refer the determination of Arm's Length Price (ALP) of transactions with associated enterprise (whether an international transaction or a Specified Domestic Transaction) to the Transfer Pricing Officer (TPO).

Once the reference is made, the powers of the TPO are not restricted to international transaction that were referred by the tax officer or disclosed in the transfer pricing Certificate filed by the taxpayer. In other words, the Transfer Pricing Officer could even examine other international transactions which comes to his notice during the course of the proceedings. However, such power did not exist in respect of Specified Domestic Transactions.

To remove this disparity, it has now been provided that the TPO can also examine Specified Domestic Transaction(s) which have not been referred by the Assessing Officer or disclosed by the taxpayer.

This amendment shall be effective from 1st April 2025.

Business Income

Changes in taxation of Buy back of shares

Presently, the income distributed by a company on buy back of shares is taxable at 20% in the hands of such company under Section 115QA of the Act. Such income distributed by the Company to a shareholder on account of buy back is exempt in the hands of such shareholder under Section 10(34A) of the Act.

Amendments have been made to tax the income arising on buy back of shares as dividend. Accordingly, sub-clause (f) has been inserted in Section 2(22) to specifically consider as 'dividend' the payment made by a company to its shareholders on buy back of shares. Consequently, the provisions of section 115QA and section 10(34) shall cease to have effect from 1st October, 2024.

Further, the buyback consideration shall be subject to withholding tax provisions under section 194 of the Act.

It has been further provided under section 57 that no deduction for expenses shall be available against such dividend income while determining the income from other sources.

Since, the cost of acquisition of the shares which have been bought back would generate a capital loss in the hands of the shareholder (as these assets have been extinguished), such loss on buy-back shall be allowed to be set-off against any other capital gain or carried forward to subsequent years, under the provisions of the Act. Section 46A has been amended in this regard.

The above amendments shall apply from 1st October 2024.

Taxation of Income from letting out of residential house property

Section 28 has been amended to provide that any income from letting out of residential house property or part of such property by the owner shall not be chargeable to tax under the head 'Profits and Gains of Business & Profession' and shall be chargeable under the head 'Income from House Property'.

The above amendment shall be effective from AY 2025-26.

Disallowance of settlement amounts being paid to settle contraventions

Explanation 1 to section 37(1) provides that any expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law shall not be deemed to have been incurred for the purpose of business or profession and no deduction or allowance shall be made in respect of such expenditure. Explanation 3 to section 37(1) clarifies the expression "expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law", referred to in Expl 1.

Settlement amounts which are incurred due to an infraction of law and relate to contraventions etc are presently not specifically covered in Expl. 3. Therefore, Expl. 3 has been amended to cover any expenditure incurred by an assessee to settle proceedings initiated in relation to a contravention under any law for the time being in force, as may be notified by the Central Government in the Official Gazette in this behalf.

The above amendment shall be effective from AY 2025-26.

Increase in deduction of employer's contribution to National Pension Scheme

Section 36(i)(iva) allows deduction of any sum paid as an employer's contribution on account of his employee under a Central Government Pension Scheme referred to in Section 80CCD [i.e. National Pension Scheme (NPS)] to the extent of 10% of the salary of the employee.

The Finance (No. 2) Act, 2024 has increased the aforesaid deduction to the extent of 14% of the salary of the employee.

Similarly, where an individual employee is employed by a non-government employer, Section 80CCD(2) allows deduction of any contribution by the employer to the extent of 10% of the salary of the employee. Section 80CCD(2) has been amended to increase the deduction of employer's contribution from 10% to 14% of the salary of such employee in the hands of an individual employee. However, such increased deduction shall only be allowed to the employee if his salary is chargeable to tax under the concessional tax regime of Section 115BAC(1A) of the Act.

The above amendments shall apply from AY 2025-26.

Increase in deduction of remuneration of working partners of a firm

Section 40(b)(v) restricts the deduction of remuneration paid by a firm to a working partner under the terms of the partnership deed where such a payment exceeds the prescribed limit.

As the aforesaid limit was placed into effect from AY 2010-11 onwards, the Government has amended the provisions of Section 40(b)(v) pursuant to which the prescribed limit restricting payment of remuneration to a working partner stands increased. The prescribed limit as it stood prior to the aforesaid amendment and post amendment have been given below in tabular format:

S. No.	Old Provision		Provision Post Amendment	
(a)	On the first INR 3,00,000 of the book-profit or in case of a loss	INR 1,50,000 or at the rate of 90% of the book-profit, whichever is more	On the first INR 6,00,000 of the book-profit or in the case of a loss	INR 3,00,000 or at the rate of 90% of the book-profit, whichever is more
(b)	On the balance of the book-profit	At the rate of 60%	On the balance of the book-profit	At the rate of 60%

The above amendment shall be effective from AY 2025-26.

Promotion of domestic cruise ship business by non-residents

In order to promote the cruise shipping industry in India and for making India an attractive cruise tourism destination, a new presumptive taxation regime for non-resident cruise ship operators has been introduced under Section 44BBC, which deems 20% of the aggregate amount received/ receivable by, or paid/ payable to, the non-resident cruise-ship operator, on account of the carriage of passengers, as profits and gains of such cruise-ship operator from this business, subject to the conditions to be prescribed.

Consequent to the introduction of the specific taxation scheme for cruise-ship operator, Section 44B (applicable for computing income of non-resident shipping

business) has been amended to exclude its applicability to non-resident cruise ship business.

The above amendments shall apply from AY 2025-26.

Further, the lease rentals paid by a company which opts for presumptive regime under section 44BBC ("the first company"), shall be exempt in the hands of the recipient company under a new exemption clause (15B) of section 10, if such company is a foreign company and such recipient company and the first company are subsidiaries of the same holding company.

The above amendment shall apply from AY 2025-26 till AY 2030-31.

Capital Gains

Holding period of Short-Term Capital Asset

Presently, in terms of section 2(42A) of the Act, 'Short Term Capital Asset' is defined as an asset which is held for a period of less than thirty-six months, with a few exceptions where the threshold period of holding for being a short-term capital asset is less than twenty-four / twelve months. Thus, there are three categories of assets under short term capital asset with different holding period threshold.

The Finance (No. 2) Act, 2024 has reduced the period of holding for an asset to be considered as a short-term capital asset from thirty-six months to twenty-four months. Accordingly, there will only be two holding periods, 12 months and 24 months, for determining whether the capital gain is short-term capital gain or long term capital gain. Any holding beyond the aforesaid period shall fall in the category of Long Term capital asset.

For all listed securities, the holding period shall be 12 months and for all other assets, it shall be 24 months. A comparative chart for different type of assets is as under:

Type of Asset	Threshold period of holding prior to the Finance (No. 2) Act, 2024	Threshold period of holding post the Finance (No. 2) Act, 2024
Listed securities (other than a unit)	Twelve Months	Twelve Months
Listed Units	Thirty-six months	Twelve Months
Unit of the UTI / equity-oriented fund / Zero Coupon Bond	Twelve Months	Twelve Months
Immovable Property being land or building or both	Twenty-Four Months	Twenty-Four Months
Unlisted Shares	Twenty-Four Months	Twenty-Four Months
Assets other	Thirty-six	Twenty-Four

than mentioned above	Months	Months

This amendment will take effect from 23rd July 2024.

Removal of Indexation benefit on the cost of acquisition/ improvement of an asset

Section 48 of the Act provides the mode of computation of capital gains whereby Cost of Acquisition ("COA") and Cost of Improvement ("COI") is reduced from the sale consideration for computing the capital gains.

Further, as per second proviso to section 48, in case of transfer of a long-term capital asset, COI and COA are allowed to be adjusted/ recomputed to compensate for inflation as per Cost Inflation Index notified by the government, except for specified capital assets.

The Finance (No. 2) Act, 2024 has discontinued the benefit of indexation on the long-term capital gain arising from the transfer made on or after 23rd July 2024. However, a benefit has been granted to taxpayers in the case of transfer of a long-term capital asset, being land or building or both acquired before 23rd July 2024, to limit its taxation to the extent of earlier tax rate of 20% with indexation benefit if the taxation as per the new tax rate of 12.5% results in higher taxation. Such beneficial provision is limited to capping the maximum tax liability to 20% with indexation. Therefore, in the case of loss, this option will not operate and set off and carry forward shall be based on the amended provisions without the benefit of indexation.

This amendment shall take effect from 23rd July 2024.

Changes in the tax rates for Short Term and Long term Capital Gains

- **Short Term Capital Gain**

  Presently, in terms of section 111A of the Act, Short Term Capital Gain (STCG) arising from the transfer of STT paid equity share in a company or a unit of an equity-oriented fund or a unit of business trust is taxed at the rate of 15%.

  The Finance (No. 2) Act, 2024 has increased this rate from 15% to 20% on the aforementioned STCG arising on or after 23rd July 2024.

  This increased rate of 20% will also be applicable in case of STCG earned by a specified fund or FII from the transfer of assets specified under section 111A. Accordingly, a consequential amendment is made in Section 115AD(1)(ii) as well.

- **Long Term Capital Gain**

  For Long term capital gains, the Finance (No. 2) Act, 2024 has introduced a flat tax rate of 12.5% in respect of all category of assets. Presently, the Act provides different tax rates for different assets and a comparative chart pre and post the Finance (No. 2) Act is given hereunder:

Type of Asset transferred	Tax rate prior to 23rd July 2024	Tax rate on or after 23rd July 2024
Section 112A - STT paid equity share in a company or a unit of an equity-oriented fund or a unit of business trust	10% (Without Indexation benefit)	12.5% (Without indexation benefit)
Section 112 - Any other asset by a Resident	20% (After indexation)	12.5% (No indexation benefit available post this date). However, in respect of land and building acquired prior to 23rd July 2024, the tax under the new provisions shall not exceed the tax computed under the present provisions with indexation benefits.
Section 115AB – Transfer by an offshore fund of the units purchased in foreign currency	10% (Without Indexation benefit)	12.5% (Without indexation benefit)
Section 115AC – Transfer of bonds or GDRs (purchased in foreign currency) by a Non-resident	10% (Without Indexation benefit)	12.5% (Without indexation benefit)
115ACA – Transfer of GDRs (issued in accordance with ESOP scheme and purchased in foreign currency) by resident employee of an Indian company (engaged in specified knowledge based industry or service)	10% (Without Indexation benefit)	12.5% (Without indexation benefit)
115AD – Transfer of securities (other than units referred in 115AB) by a FII or 'Specified Fund'	10% (Without Indexation benefit)	12.5% (Without indexation benefit)
115E – Transfer of Specified Asset (shares, debentures, etc	10% (Without Indexation benefit)	12.5% (Without Indexation benefit)

in an Indian company) by a Non-Resident Indian		
115E – Transfer of asset other than Specified Asset by a Non-Resident Indian	20% (Without Indexation benefit)	20% (Without Indexation benefit)
Listed bonds / debentures	10% (Without Indexation benefit)	12.5% (Without indexation benefit)
Unlisted bonds / debentures	20% (Without Indexation benefit)	Any gains arising from such sale will now be considered as STCG

In addition to the above change, the exemption of gains on STT paid equity shares, units of equity-oriented fund and business trust has been increased to Rs. 1.25 lakh (0.125 million) from the previously available exemption up to Rs. 1 lakh (0.1 million). This amendment is effective from 23rd July 2024.

Capital Gains on transfer of capital asset under a gift or will or an irrevocable trust

Section 47 of the Act provides for exemption of certain transactions from the ambit of 'transfer' for the purposes of chargeability under 'Capital Gains' under section 45. Clause (iii) of section 47 excludes transfer of a capital asset under a gift or will or an irrevocable trust from capital gains taxation.

There were litigations on the issue whether a company can avail this exemption on gift of shares to other company, and the courts in some decisions have decided in favour of the taxpayers.

In order to avoid further litigation and clarify the position, the abovementioned clause has been amended to provide that the exemption will apply only in case of transfer of a capital asset, under a gift or will or an irrevocable trust, by an individual or a Hindu Undivided Family (HUF).

This amendment shall be applicable from AY 2025-26.

Gain arising on sale of Unlisted Bonds and Debentures to be considered as Short Term

The Finance Act, 2023 inserted a new section 50AA to provide that gains arising from the transfer or redemption or maturity of a Market Linked Debenture or a Specified Mutual Fund shall be deemed to be the STCG irrespective of its period of holding, and taxed as per the tax rates applicable to the taxpayer.

In the Finance (No. 2) Act, 2024, same treatment of capital gain arising on transfer of unlisted bonds and unlisted debentures has been made under the scope of section

50AA with effect from 23rd July 2024. In other words, with effect from 23rd July 2024 any gains arising from the transfer / redemption/maturity of an unlisted bond/debenture shall be deemed to be STCG and will be taxable at applicable rates.

The definition of 'Specified Mutual Fund' provided under section 50AA of the Act has also been amended. Presently, Specified Mutual Fund means a Mutual Fund where not more than 35% of its total proceeds is invested in the equity shares of domestic companies. In other words, at least 65% of the proceeds should be invested in securities other than equity shares of domestic companies. In the Finance (No. 2) Act, 2024, it is provided that for a Mutual Fund to be considered as a Specified Mutual Fund more than 65% of the proceeds should be invested in debt and money market instruments or in units of a mutual fund where more than 65% proceeds are invested in debt and money market instruments as classified by the Securities and Exchange Board of India.

This part of the amendment shall apply from AY 2026-27.

Cost of Acquisition in case of unlisted equity shares sold under an Offer for sale to Public

The Finance Act, 2018 withdrew the exemption on long-term capital gains from the transfer of equity shares if Securities Transaction Tax (STT) is paid on both acquisition and transfer. With the withdrawal of the exemption, a specific provision in the form of section 112A of the Act was inserted to tax long-term capital gains on transfer of equity shares on which STT is paid at the time of acquisition and transfer. Simultaneously, clause (ac) of sub-section (2) of section 55 of the Act was inserted to provide a special mechanism for computation of cost of acquisition in respect of assets covered under section 112A of the Act and acquired prior to 1st February 2018.

Such long term assets are presently taxed at 10% rate if the Securities Transaction Tax is paid at the time of acquisition as well as transfer of such assets.

As per clause (ac) of section 55(2), in case of transfer of assets covered under section 112A of the Act acquired before 1st February 2018, the cost of acquisition shall be higher of the following:

a) actual cost of acquisition and
b) lower of FMV and sale consideration

Under section 112A(4), the Central Government notified some cases of acquisitions to be given the benefits of section 112A where STT could not have been paid at the time of acquisition.

Due to this relaxation, a lacuna has arisen in computation of cost of acquisition in the case of equity shares transferred under Offer-For-Sale (OFS) as part of Initial Public Offering (IPO) process where STT is paid at the time of transfer. However, the equity shares at the time of OFS are unlisted on the date of transfer, since the listing happens a few days after the transfer, and therefore some taxpayers are taking the plea that the computation of FMV is not covered on a literal reading of the Explanation to clause (ac) of sub-section (2) of section 55, which provides for the 'fair

market value' where the capital asset is an equity share in a company which is not listed on a recognised stock exchange as on the 31st January 2018 but listed on such exchange on the date of transfer.

Therefore the Explanation to clause (ac) of sub-section (2) of section 55 of the Act has been amended to specifically provide that in a case where the capital asset is an equity share in a company which is not listed on a recognised stock exchange as on the 31st January 2018, or which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31stJanuary 2018 by way of transaction not regarded as transfer under section 47, but listed on such exchange subsequent to the date of transfer, where such transfer is in respect of sale of unlisted equity shares under an offer for sale to the public included in an initial public offer, "fair market value" would mean an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the financial year 2017-18 bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the first day of April, 2001, whichever is later.

This amendment shall take effect retrospectively from 1st April 2018.

Charitable organisations

Merger of two taxation regimes of trusts

Presently, charitable institutions can claim exemption either under sub-clause(s) (iv), (v), (vi) or (via) of clause (23C) of section 10 [First Regime] or under Sections 11 to 13 [Second Regime].

As both the regimes intend to grant similar benefit, in order to simplify the procedures, the Finance (No. 2) Act, 2024 has discontinued special exemptions under first regime and allow such specific institutions to make a transition to exemption under section 11 on expiry of their current registration. Therefore, it is provided that:

- Applications seeking approval or provisional approval under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10, and filed on or after 1st October, 2024, shall not be considered. The amendments have been made in first and second proviso to section 10(23C) in this regard. However, applications filed under these sub-clauses before 1st October 2024, and which are pending would be processed and considered under the extant provisions of the first regime itself. A new proviso twenty-fourth has been inserted to provide for the same.

- Approved trusts, funds or institutions would continue to get the benefit of exemption, as per the provisions of sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10, till the validity of the said approval. Afterwards, they would be eligible to apply for registration under the second regime. Section 12A has been amended to provide for the same.

These amendments shall be effective from 1st October 2024.

Certain eligible modes of investment under the first regime protected in the second regime

The specified mode of investments for institutions registered under the First Regime has been grandfathered and would continue on transition to the Second Regime.

These modes of investment are now included in the proviso to section 13(1)(d) so as to allow trust or institutions to continue its existing investments even on switching to the Second Regime.

The above amendment shall be effective from 1st October 2024.

Condonation of delay in filing registration application by Trusts or Institutions

It was observed that certain new trusts/institutions did not apply for regular registration after getting provisional registration and certain existing trusts/ institutions did not apply for re-registration/approval.

In case a trust or institution is unable to apply for regular registration/re-registration within time specified under section 12A of the Act, it may become liable to tax on accreted income as per provisions of section 115TD which is in the nature of exit tax. Further, a situation of permanent exit of trust or institution from the exemption regime may also arise.

Therefore, PCIT/CIT has been empowered to condone the delay in filing application if there is a reasonable cause. A new sub-clause (vi) has been inserted in section 12A(1)(ac) to provide for the same.

This amendment shall be effective from 1st October 2024.

Merger of trusts under the exemption regime with other trusts

When a trust or institution which is approved / registered under the First Regime i.e. section 10(23C) or Second Regime i.e. section 11 merges with another approved / registered entity under either regime, it may attract the provisions of Chapter XII-EB, relating to tax on accreted income in certain circumstances.

The Finance (No. 2) Act, 2024 has inserted a new section 12AC which provides that the provisions of the provisions of Chapter XII-EB shall not apply if—

- the other trust or institution has same or similar objects;
- the other trust or institution is registered under section 12AA/ 12AB or approved under sub-clauses (iv)/(v)/(vi)/(via) of clause (23C) of section 10, as the case may be; and
- the said merger fulfils such conditions as may be prescribed.

The above amendment shall be effective from AY 2025-26.

Rationalisation of timelines for funds or institutions to file applications seeking approval under section 80G

It has been provided that in case of institutions which have already commenced activities and want to apply directly for

regular approval (without provisional registration), the application can be made at any time after the commencement of such activities without the condition of not availing of benefit of exemption under section 10(23C), section 11 or section 12 in any previous year ending on or before the date of such application.

This amendment will take effect from the 1st October 2024.

Time limit for disposal of applications for exemption under section 12AB or approval under section 80G

For better administration and monitoring, timelines for disposing applications made by trusts or funds or institutions for registration/ approval or renewal thereof have been rationalised. Accordingly, the amendments have been made in section 12AB and section 80G(5).

It has been provided that where provisionally registered/ approved trusts or funds or institutions apply for registration/ approval or where registered/ approved trusts or funds or institutions apply for further registration/ approval under section 12AB or section 80G, as the case may be, the order granting registration/ rejecting application should be passed before expiry of the period of six months from the end of the quarter in which the application was received instead of the existing time limit of six months from the end of the month in which the application was received.

This amendment shall be effective from 1st October 2024.

Return Filing, Assessment, Time limit for completion of assessment, Appeal

Set off and withholding of refunds

Sec 245 permits withholding of refund due to a person by the assessing officer, where he is of the opinion that the grant of refund is likely to adversely affect the revenue having regard to the fact that proceedings for assessment or reassessment are pending in the case of such person, till the date on which the assessment or reassessment is completed. Further, no additional interest on refund under section 244A of the Act is payable to the assessee for the period beginning from the date on which such refund is withheld and ending with the date on which assessment / reassessment is made.

The period of withholding the refund 'up to the date of assessment' was found to be inadequate, as the demand becomes due after thirty days of the date of assessment. Hence, the period of withholding of the refund has been extended up to 60 days from the date on which such assessment or reassessment is made.

Consequential amendment has been made in section 244A to allow non-payment of additional interest up to the date till which such refund is withheld under section 245(2) of the Act.

These amendments shall be effective from the 1st October 2024.

Streamlining the provisions related to quoting of Aadhaar number

Section 139AA of the Income-tax Act mandates quoting of Aadhaar number by individual taxpayers in the application form for obtaining PAN as well as in their annual return of income. Further, said section allows mentioning of Aadhaar Enrolment ID in the above documents in those cases where the individuals have already applied for Aadhaar but same was not allotted to them.

Taking into consideration wide coverage of Aadhaar number since the introduction of this provision, the option of quoting of the Enrolment ID of Aadhaar application form has been discontinued, as there is an apprehension that any allotment of PAN against the Enrolment ID may lead to duplication and misuse of PAN.

It is further provided that those individuals who had already obtained PAN by quoting Aadhaar Enrolment ID would now be required to furnish their Aadhaar number to the tax authorities on or before a notified date.

Such amendments shall be effective from 1st October 2024.

Amendments in relation to procedure for filing appeals

With view to reduce litigation, it is proposed to increase the monetary threshold (i.e. Tax Effect) for filing an appeal before Appellate Tribunals, High Courts and Supreme Court to INR 6 million (from Rs. 5 million), INR 20 million (from Rs. 10 million) and INR 50 million (from Rs. 2 million) respectively. A separate notification in this regard shall be issued by the CBDT.

Apart from the above, the following amendments have been made in connection with filing an appeal before Appellate Tribunals, the second appellate authority-

a) Section 253(1)(a) of the Act specifies the list of orders that can be contested before the Income-tax Appellate Tribunal. However, such list excludes order passed under Section 158BFA of the Act, wherein, penalty is levied on undisclosed income in those cases where 'Search' proceedings have been initiated. As such, the taxpayers aggrieved by such penalty order could not file an appeal before the Appellate Tribunal.

   It is provided to cover such penalty orders in the purview of appealable orders under Section 253(1)(a) of the Act.

b) To provide simplification and ease of tracking for the tax authorities, time limit for filing an appeal before the Appellate Tribunal is now revised to two months from the end of month in which order sought to be appealed is communicated to the Assessee/ PCIT, as against the earlier period of sixty days from the date of receipt of the order.

These amendments shall be effective from 1st October 2024.

Extension of powers of Commissioner (Appeals)

The existing provisions of section 251(1) specify the powers of Commissioner (Appeals), the first appellate authority. Such powers include confirming, reducing, enhancing or annulling the assessment.

In the matters related to best judgement assessments under Section 144 of the Income-tax Act where Assessee failed to respond to notices issued by Assessing Officer, the issues are directly taken up by the Commissioner (Appeals).

Considering the huge pendency of appeals at the Commissioner (Appeals) stage, the powers of Commissioner (Appeals) have been extended to include remand back the matters arising from best judgement assessments to the Assessing Officers for fresh verification. As such, the amendment would reduce the burden of pending appeals on Commissioner (Appeals).

Consequently, Section 153(3) has been amended to provide a timeline for completion of such fresh assessments. The Assessing Officer would be required to complete such assessment within 12 months from the end of the financial year in which the order under section 250 of the Commissioner (Appeals) setting aside the matter is received by the Pr. CCIT/ CCIT/ Pr. CIT/ CIT.

These amendments shall be effective from 1st October 2024 onwards.

Amendments to the time limit for completion of various proceedings

The existing provisions of section 153 of the Act specify the various time-limits for completion of assessment, reassessment and recomputation under various provisions of the Act. In order to address the procedural difficulties in implementation of the provisions of the said section, the following amendments have been made:–

a. A new sub-section (1B) has been inserted so that order of assessment of cases where return of income is furnished in consequence of an order passed by CBDT (condoning the delay in filing the return of income) under section 119(2)(b) may be completed within twelve months from the end of the financial year in which such return is furnished.

   Simultaneously, an amendment to Section 139 has been made to provide that the provisions of Section 139 shall apply in those cases where return of income is filed in pursuance of order passed under Section 119(2)(b) of the Act.

b. Section 153A of the Act empowers the Assessing Officer to conduct block assessment for six assessment years where 'Search' proceedings are initiated against the Assessee on or before 31st March 2021. Any search proceedings initiated post such date were governed by the provisions relating to reassessment proceedings. The provisions of Chapter XIV-B have been amended to provide for separate provisions for 'Search and Seizure' proceedings initiated on or after 1st September 2024.

It is provided that during the block assessment, regular assessment proceedings of any assessment year falling in the block period would be abated. However, in case of subsequent annulment of block assessment proceedings, regular assessment of those particular assessment years would stand revived.

On the lines of existing provisions of Section 153A(2) of the Act, the above revived regular assessment proceedings are to be completed within 12 months from the end of the month of revival or period specified in Section 158BE, whichever is later.

c. Explanation 1 to Section 153 of the Act provides the list of exclusions while computing the period of limitation of proceedings. One of such exclusions under clause (xii) pertains to the time period between initiation of search and handing over of seized material to the Assessing Officer. The Finance (No. 2) Act, 2024 has amended the provision to provide that where after exclusion of such time period, if the date of limitation of proceedings ends before the end of a particular month, such period shall be extended to the end of such month.

These amendments shall be effective from 1st October 2024.

Reassessment and Block Assessment

Introduction of block assessment provisions in cases of search under section 132 and requisition under section 132A

By the Finance Act, 2021, the separate regime for search assessments was abolished and section 147 to section 151A were amended to provide for assessment in case of search or requisition made on or after 1st April 2021.

Under the present scheme of assessment, in the absence of any legal requirement for consolidated assessments in search cases had led to a situation where every year only the time-barring year is reopened in the case of the searched assessee. This resulted in staggered assessments due to which coordinated investigation were not feasible and consequentially, the assessee would be engaged in the search assessment process for almost up to ten years.

In order to make the assessment procedure of search cases cost effective, efficient and meaningful, the Finance (No. 2) Act, 2024, has revived the scheme of block assessment (which was effective prior to 1st June, 2003) for the cases in which search under section 132 or requisition under section 132A has been initiated or made.

The salient provisions of the revised sections 158B to 158BI of the Act (Chapter XIV-B of the Act) are as under: -

1. It is provided that where a search is initiated under section 132, or any requisition is made under section 132A on or after 1st September, 2024 in case of any person, the Assessing Officer

shall proceed to assess or reassess the total income of such person in accordance with the provisions of Chapter XIV-B. The total income of such person shall include undisclosed income which shall include any money, bullion, jewellery, or other valuable article or thing or any expenditure or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act, or any expense, deduction or allowance claimed under this Act which is found to be incorrect.

2. The 'block period' shall consist of previous years relevant to six assessment years preceding the previous year in which the search was initiated or any requisition was made and shall include the period starting from the 1st of April of the previous year in which search was initiated or requisition was made and ending on the date of the execution of the last of the authorisations for such search or date of such requisition.

3. Till block assessment is complete, no further assessment / reassessment proceeding shall take place in respect of the period covered in the block and regular assessments for the block period shall abate as there will be one consolidated assessment for the block period.

4. In case of annulment of block assessment subsequent to any appeal or other legal proceedings, the assessment or re-assessment abated will be revived and the timeline to conclude such assessment will be within a period of one year from the end of the month of such revival or within the period specified in the said section or sub-section (1) of section 153B, whichever is later.

5. The Assessing Officer in respect of search initiated/ requisition made, issue notice to the person to file a return in the form and verified in manner as prescribed within a period of 60 days from the day on which such person set forth his total income including undisclosed income for the block period provided that return furnished under this clause shall not be entitled to be revised.

6. During assessment, where the Assessing Officer is satisfied that undisclosed income pertains to person other than person in respect of whom search is initiated/ requisition made, then, any money, bullion, jewellery or other valuable article or thing, or assets, or expenditure, or books of account, other documents, or any information contained therein, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer and the assessment of such other person shall be governed under section 158BD.

7. The computation of the undisclosed income shall be in accordance with the

provisions of this Act and as per section 113 of the Act. Tax on the same shall be charged at sixty per cent of the undisclosed income for the block period. However, no surcharge or interest under section 234A/234B/234C has been prescribed for income chargeable to tax for the block period.

8. Penalty on the undisclosed income of the block period as determined by the Assessing officer shall be levied at fifty per cent of the tax payable on such income. However, no such penalty shall be levied if the assessee offers undisclosed income in the return furnished in pursuance of search and pays the tax along with the return.

9. The time limit for completion of the block assessment shall be twelve months from the end of the month in which the last of the authorisations for search was executed or requisition made. However, if during the course of the proceedings for the assessment or reassessment of the relevant block period, any reference under sub-section (1) of section 92CA is made, the period available for making an order of assessment or reassessment in respect of the block period shall be extended by twelve months.

10. The provisions of section 144C (Objections before DRP) of the Act shall not apply to any proceeding under the said Chapter.

11. Appeal against the order passed by an assessing officer under section 158BC(1)(c) shall lie before the CIT(A) under section 246A.

These amendments shall be effective from 1st September 2024.

Amendments in the Procedure of Reassessment under section 148 and 148A of the Act

The Finance Act, 2021 amended the procedure for assessment or reassessment of income in the Act under section 148, section 149 and also introduced a new section 148A in the Act with effect from the 1st April, 2021.

The existing provisions of section 148 of the Act have been substituted. Under the amended provisions, the following changes have been made: -

a) The time limitation for issuance of notice under section 148 of the Act as mentioned in section 149 has been amended as follows: -

Particulars	Time Limit for issuing notice
1. Normal Case- Notice issued under section 148	No notice to be issued beyond 3 years and 3 months from the end of relevant assessment year
2. Special Case – Income amounting to Rs. 50 lakhs (5 million) has escaped Assessment	No notice under section 148 to be issued beyond 5 years and 3 months from the end of relevant assessment year

The specified authority for the purposes of approval of notice under section 148 shall be the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director.

b) No approval of the specified authority is required for issuing notice under section 148 (as the order under section 148A is already passed with the prior approval of the specified authority). The approval of the specified authority will however be required when the information suggesting the escapement of income is received under section 135A, in which case the provisions of section 148A are not applicable.

The existing provisions of section 148A of the Act have been substituted. Under the amended provisions, the following changes have been made: -

a) The time limitation for issuance of notice under section 148A of the Act as mentioned in section 149 is amended as follows: -

Particulars	Time Limit for issuing notice
1. Normal Case- Notice issued under section 148A	No notice to be issued beyond 3 years from the end of relevant assessment year
2. Special Case – Income amounting to Rs. 50 lakhs (5 million) has escaped Assessment	No notice under section 148A to be issued beyond 5 years from the end of relevant assessment year

b) The assessing officer shall pass an order under section 148A(2) with the prior approval of the specified authority, which for the purpose of section 148 and 148A shall be Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director.

Section 152 of the Act has been amended to provide that:

a) Where a search has been initiated under section 132 or requisition is made under section 132A or a survey is conducted under section 133A [other than under sub-section (2A)] on or after the 1st April, 2021 but before the 1st September, 2024, the provisions of section 147 to 151 shall apply as they stood immediately before the commencement of the Finance (No. 2) Act, 2024.

b) Where a notice under section 148 has been issued or an order under clause (d) of section 148A has been passed, prior to the 1st September, 2024, the assessment, reassessment or recomputation in such case shall be governed as per the provisions of sections 147 to 151, as they stood prior to their amendment by Finance (No. 2) Act, 2024.

These amendments shall be effective from the 1st September 2024.

Rationalisation of Provisions related to time limit for completion of Reassessment

The existing provisions of section 153 of the Act specify the various time limits for completion of assessment, reassessment and re-computation under various provisions of the Act. Sub-section (1) of section 153 provided that assessment under section 143 or section 144 shall be completed within twelve months from the end of the assessment year in which the income was first assessable. In this regard, a new sub-section (1B) has been inserted so that order of assessment of cases where return of income is furnished in consequence of an order under section 119(2)(b) may be completed within twelve months from the end of the financial year in which such return is furnished.

Sub-section (3) of the said section provides the time-limit for passing the fresh assessment order before the expiry of nine months from the end of the financial year in which order under section 254 is received or order under section 263 or section 264 is passed setting aside or cancelling an assessment. The Finance (No. 2) Act, 2024 has inserted the reference of section 250 in this sub-section in order to provide the time-limit for disposal of cases which shall be set aside by the Commissioner (Appeals).

These amendments will take effect from the 1st October 2024.

TDS and TCS (withholding tax)

TDS on Payments made to Partners by Partnership Firm

Presently, there is no provision for deduction of tax at source (TDS) on payments made to partners by the partnership firm. The Finance (No. 2) Act, 2024 has inserted a new Section 194T to bring the payment made by the partnership firm in the nature of salary, remuneration, commission, bonus, and interest to any account (including capital account) of the partner under the purview of TDS if the aggregate of the aforesaid amounts exceeds Rs 20,000 during the financial year.

The rate of TDS shall be 10%.

This amendment shall be effective from 1st April 2025.

TDS on Sale of Immovable Property

Section 194-IA of the Act provides for deduction of tax on payment of consideration for transfer of land (other than agricultural land) or building to a resident at the rate of 1% of the consideration or the stamp duty value of such property, whichever is higher, where the consideration or the stamp duty value of such property is more than Rs. 50 lakh (5 million).

In case of more than one transferor or transferee of a property, transferees were found to be applying the withholding provision only on each individual buyer's payment if it exceeded Rs. 50 lakh (5 million).

In order to clarify the position, it is provided that even in cases where there is more than one transferor or transferee in respect of an immovable property, for the purpose of

withholding tax the consideration shall be the aggregate of the amounts paid or payable by all the transferees to all the transferors for the transfer of such immovable property.

This amendment shall be effective from 1st October 2024.

TDS on Floating Rate Savings Bonds

Section 193 of the Act provides for deduction of tax at source on payment of any income to a resident by way of interest on securities. Any interest payable on any security of the Central Government or a State Government is excluded from the purview of withholding tax. However, interest exceeding rupees ten thousand payable on 8% Savings (Taxable) Bonds, 2003 or 7.75% Savings (Taxable) Bonds, 2018 during the financial year was subject to TDS.

The Finance (No. 2) Act, 2024 has included interest payments on the following securities within the scope of TDS:

1. Floating Rate Savings Bonds (FRSB) 2020 (Taxable); and
2. Any security specified by the Central Government or State Government.

The TDS will apply to the payments exceeding Rs. 10,000 during the financial year.

This amendment shall be effective from 1st October 2024.

Inclusion of Foreign Taxes as Deemed Income

Section 198 of the Act provides that TDS deducted in accordance with the provisions of Chapter XVII-B shall, for the purpose of computing the income of an assessee, be deemed to be income received. Some taxpayers were not including taxes withheld outside India for the purposes of calculating their total income while they were claiming credit for the taxes withheld abroad, resulting in double deduction.

In order to address this issue, Section 198 has been amended to provide that tax deducted outside India in respect of which an assessee is allowed a credit against the tax payable under the Act, shall be deemed as income received for the purpose of computing the assessee's income.

This amendment shall be effective from AY 2025-26.

TCS on Notified Goods

Section 206C(1F) has been amended to extend the levy of TCS to any other goods with a value exceeding Rs. 10 lakh (1 million), as may be specified by the Central Government.

These goods are intended to encompass items classified as luxury goods.

This amendment shall be effective from 1st January 2025.

Notification of certain persons or class of persons as exempt from TCS

There are entities whose income is exempt from taxation and are not required to furnish returns of income. However, they face

difficulty as tax is being collected on transactions carried out by them.

Based on the representations received in this regard, sub-section (12) has been inserted in section 206C to provide that no collection of tax shall be made or that collection of tax shall be made at such lower rate in respect of specified transaction, from such person or class of persons, including institution, association or body or class of institutions, associations or bodies, as may be notified by the Central Government.

This amendment shall be effective from 1st October, 2024.

Allowing TCS Credit and all TDS deductions against tax deductible on Salary

The present provisions of Section 192(2B) permit consideration of income under any other head and tax, if any, deducted thereon for the purpose of computing tax deductible on salary. No credit of TCS is allowed against salary tax. The employees claim TCS as refund in the ITR.

The scope of Section 192(2B) has been expanded to include any tax deducted or collected at source.

These amendments shall be effective from 1st October 2024.

Late Deposit of TCS would also attract interest @ 1.5% per month as in case of TDS

As per section 206C(7), late deposit of TCS attracts interest @ 1% per month from the date on which such tax was collectible to the date on which the tax was actually paid, whether such late deposit is due to non-collection of TDS or non-deposit of TDS to the exchequer.

Under the similar provisions for TDS deposit, a higher interest rate of 1.5% is applicable where tax has been deducted but not been deposited to Government account.

To align the interest rate applicable for late collection or deposit of TCS with the identical provisions for late deduction or deposit of TDS, the interest rate under Section 206C(7) for default in payment of tax collected at source to the government has been increased from 1% to 1.5% per month or part thereof from the date on which the tax was collected to the date on which the tax is actually paid.

This amendment shall be effective from 1st April 2025.

Claiming Minor's TCS Credit by the Parent

There is no provision in the Act for allowing credit of TCS to any other person (eg. parent) other than the collectee. The Finance (No. 2) Act, 2024 has introduced a provision in section 206C empowering the CBDT to notify rules for cases where credit of TCS is allowed to a person other than the collectee.

To prevent misuse of this provision, TCS credit for a minor will only be allowed if the minor's income is clubbed with that of the parent in accordance with Section 64(1A).

This amendment will take effect from 1st January 2025.

Extending the Scope for Lower Deduction / Collection Certificate of Tax at Source

Section 194Q provides that a buyer for the purchase of any goods of the value or aggregate of value exceeding Rs. 50 lakh (5 million) is required to deduct tax at rate of 0.1% of the consideration exceeding Rs. 50 lakh (5 million). Section 206C(1H) provides that a seller receiving any amount for sale of goods exceeding Rs 50 lakhs (5 million) is required to collect at rate of 0.1% of consideration exceeding Rs. 50 lakhs (5 million).

There were instances where the taxpayers were incurring losses and due to tax deducted under section 194Q of the Act, their funds were getting blocked.

In order to provide an option to seek a lower deduction certificate to reduce compliance burden on the assessee, Section 197(1) has been amended to bring Section 194Q within its ambit and similarly, Section 206C(9) has been amended to bring Section 206C(1H) within its ambit.

These amendments shall be effective from 1st October 2024.

Time limitation for orders deeming any person to be Assessee in Default

Sections 201 and section 206C provides for the consequences when a person does not deduct/ collect, or does not pay, or after so deducting/ collecting fails to pay, the whole or any part of the tax, as required.

While there is a time limit of seven years for order made under section 201(1) of the Act deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax where the payee is a person resident in India, there is no time limit when there has been a failure to deduct the whole or any part of the tax from a non-resident.

Similarly, there is no time limit for deeming a person to be an assessee in default for failure to collect or deposit TCS.

The Finance (No. 2) Act, 2024 has amended Section 201(3) and inserted a new sub-section (7) in Section 206C providing that no order shall be made deeming any person to be an assessee in default at any time after the expiry of 6 years from the end of financial year in which payment is made or credit is given or tax is collectible or 2 years from the end of financial year in which the correction statement is delivered, whichever is later.

These amendments shall be effective from 1st April 2025.

Time Limit for Filing Correction Statement for TDS/TCS Statements

Section 200(3) and Section 206C prescribe a time limit for submission of statements detailing TDS/TCS. However, no time limit has been prescribed for furnishing correction statements, and as a result statements are revised multiple times indefinitely resulting in difficulty to deductees/collectees.

Section 200 and sub-section (3B) of Section 206C have been amended to provide that no correction statement shall be filed after

the expiry of 6 years from the end of the financial year in which the TDS/TCS statement is required to be filed.

These amendments shall be effective from 1st April 2025.

Changes in TDS rates

Changes in TDS rates have been made in the Finance (No. 2) Act, 2024 as in *Annexure*:

Personal Taxation

Increase in Standard Deduction and Deduction from Family Pension

As per the existing provisions under section 16(ia), Rs. 50,000 is allowed as a standard deduction while computing the income under the head Income from salaries, irrespective of the taxation regime an Individual has considered while computing the Income Tax.

The Finance (No. 2) Act, 2024 has increased the limit of standard deduction from existing Rs. 50,000 to Rs. 75,000 in cases where income tax is computed under the new tax regime. This move is in consistent with the governments objective to incentivize salaried class to transition to the new taxation regime.

Further, the amount of standard deduction available against income from family pension under section 57(iia) has been increased from the existing maximum limit of Rs. 15,000 to Rs. 25,000, income which is taxable under the head Income from other sources.

The aforesaid amendments shall be effective from AY 2025-26.

Miscellaneous Amendments

Abolition of Angel Tax - Amendment of Section 56

Section 56(2)(viib) of the Act was inserted by the Finance Act, 2012 to tax share premium received by a closely held company from resident investors in excess of its fair market value, with an object to prevent generation and circulation of unaccounted money.

The Finance Act, 2023 extended the scope of this section to consideration received from non-residents as well.

The aforesaid tax, colloquially known as 'Angel tax' was often viewed as an impediment to the startup industry and discouraged investment. The government, agreeing to the long-standing demand of abolishing such provision, has made the provisions of section 56(2) (viib) ineffective from AY 2025-26.

Penalties and Prosecution

Submission of statement by non-resident having liaison office

Every person, being a non-resident having a liaison office in India, is required to prepare and deliver a statement in respect of its activities in a financial year to the Assessing Officer within sixty days from the end of such financial year under section 285 of the Act. It is proposed that the period within which such statement is to be filed, be henceforth prescribed under the Rules.

Further, in order to ensure better compliance in this respect, it is proposed that failure to furnish statement will attract a penalty of Rs. 1000 for every day for which the failure continues, if the period of failure does not exceed three months; and Rs. 100,000 in any other case. A new section 271GC is proposed to be inserted in this regard

However, this penalty shall not be leviable if the assessee proves that there was reasonable cause for the said failure. Section 273B has been amended to provide for the same .
These amendments shall be effective from the 1st April 2025.

Penalty for failure to furnish TDS/TCS statements

Section 271H of the Act inter alia relates to penalty for failure to file Tax Deducted at Source (TDS) or Tax Collected at Source (TCS) returns/ statements within the due date. Sub-section (3) of section 271H of the Act states that no penalty shall be levied if the person proves that after paying TDS/ TCS along with fees and interest to the credit of the Central Government, the person has filed the TDS/TCS statement before the expiry of period of one year from the time prescribed for furnishing such statement.

The above time limit was aligned with the due date to file a belated return of income which was one year from the end of the assessment year. Since, the time limit to file a belated tax return is considerably reduced and is to be filed by 31st December of the same assessment year, the deductees/ collectees face great inconvenience if the TDS/TCS statements by deductors/ collectors are not furnished in time leading to mismatch in TDS/TCS during processing of income tax returns and resulting in raising of infructuous demands.

In view of the above, section 271H(3) has been amended to provide that no penalty shall be levied if the person proves that after paying TDS/ TCS along with fees and interest to the credit of the Central Government, he has filed the TDS/TCS statement before the expiry of period of one month from the time prescribed for furnishing such statement.
This amendment shall be effective from 1st April 2025.

Provisions relating to period of limitation for imposing penalties

Section 275 of the Act provides for the period of limitation for imposing Penalties. In certain circumstances, the limitation period is based on receipt of the order of the JCIT(A) or CIT(A) or, as the case may be, Appellate Tribunal by Principal Chief Commissioner of Income-tax, Chief Commissioner of Income-tax, Principal Commissioner of Income-tax or Commissioner of Income-tax.

Section 275 has been amended to omit the reference to 'receipt of order by the Principal Chief Commissioner or Chief Commissioner' based on the suggestions received from the authorities that the reference to the office of Principal Chief Commissioner of Income-tax, Chief Commissioner of Income-tax poses ambiguity for the purposes of calculation of the number of days for imposition of penalties.

This amendment shall be effective from 1st October 2024.

Section 271FAA amended to comply with the Automatic Exchange of Information (AEOI) framework

The penalty provisions under section 271FAA(1) apply where a person as specified in section 285BA(1) of the Act provides inaccurate information in the prescribed statement of financial transaction or a reportable account. While reviewing India's CRS legislative framework under the Automatic Exchange of Information (AEOI) framework, the Global Forum on Transparency and Exchange of Information for tax purposes has formed a view that the penal sanction available under the said section for inaccuracies would not automatically extend to all cases where due diligence was not correctly done if the information provided did not lead to incorrect reporting.

In view of the above, the following amendments have been made in section 271FAA to provide that the prescribed income tax authority may levy penalty of Rs 50,000 under the said section in any of the following circumstances–

a. furnishing inaccurate information in the statement;
b. failure to comply with due diligence requirement in the statement.

Further, section 273B has been amended to add the reference of section 271FAA in order to provide that no penalty shall be imposable for any failure referred to in the said section if the assessee proves that there was reasonable cause for such failure.

This amendment shall be effective from 1st October 2024.

Prosecution on Failure to pay tax to the credit of the Central Govt under chapter XII-D or XVII-B

Section 276B of the Act provides for prosecution in case of failure to pay TDS.

Section 276B has been amended to provide for exemption from prosecution for failure to pay TDS, if the payment of tax deducted in respect of a quarter has been made to the credit of the Central Government at any time on or before the time prescribed for filing of TDS return.

This amendment shall be effective from 1st October 2024.

Penalty on block assessment provisions introduced in cases of search under section 132 and requisition under section 132A

A penal provision has been introduced within the framework of the newly inserted Chapter XIV-B relating to search provisions. In terms of this amendment, penalty on the undisclosed income of the block period as determined by the Assessing Officer in case of search shall be levied at 50% of the tax payable on such income. No such penalty shall be levied if the assessee offers undisclosed income in the return furnished in pursuance of search and pays the tax along with the return.

This amendment shall be effective from 1st September 2024.

Reintroduction of Direct Tax – Vivad se Vishwas Scheme, 2024

Considering the success of Vivad Se Vishwas Scheme 2020, which resulted in disposal of large number of tax disputes, the government has reintroduced the Vivad Se Vishwas Scheme, 2024 ("VsV" or "Scheme") on the same lines as earlier scheme. The Scheme shall come into force from the date to be notified by the Central Government.

The salient features of VsV are given as under:

Applicability

The Scheme is applicable in cases:

a) where an appeal or Writ Petition or SLP filed by an assessee or by the Income Tax Authority or both are pending as on 22nd July 2024.
b) Where objections before Dispute Resolution Panel ("DRP") have been filed and DRP has not issued any direction on or before 22nd July 2024.
c) Where DRP has issued directions and the Assessing Officer ("AO") has not passed order pursuant to such direction on or before 22nd July 2024.
d) Where revision under section 264 before the Commissioner has been filed and such application is pending as on 22nd July 2024.

Ineligible cases

Though VsV can be opted in a case where appeal is pending as on 22 July 2024, however, there are certain class of assessees or cases which are not eligible to avail the Scheme as given below:

a) Where assessment has been made on the basis of search initiated as per section 132 or section 132A of the Act.
b) Where prosecution has been instituted relating to the relevant assessment year on or before the date of filing of declaration.
c) Where the tax arrears relate to any undisclosed income/asset located outside India.
d) Where assessment relating to tax arrear is made on the basis of information received from foreign governments under Tax Information Exchange Agreements.
e) Any person in respect of whom an order of detention has been made under the provisions of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, subject to certain conditions.
f) Any person in respect of whom prosecution has been instituted for any offence punishable under the provisions of the Unlawful Activities (Prevention) Act, 1967, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Prevention of Corruption Act, 1988, the Prevention of Money Laundering Act, 2002, the Prohibition of Benami Property Transactions Act, 1988 on or before the filing of the declaration or such person has been convicted of any such offence punishable under any of those Acts.
g) Any person in respect of whom prosecution has been initiated by an Income- Tax authority under the provisions of the Bharatiya Nyaya Sanhita, 2023 or for the purpose of enforcement of any civil liability under

any law for the time being in force, on or before the filing of the declaration or such person has been convicted of any such offence consequent to the prosecution initiated by an Income-tax authority.

h) Any person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 on or before the filing of declaration.

Time limit for making payment and filing of declaration under the Scheme

a) The amount of disputed tax as computed under the Scheme (discussed in Para 4 below) will be required to be deposited on or before 31st December 2024. There will be an increase of 10% in the amount of disputed tax deposited after 31 December 2024 but before the notified date.

b) The amount paid under the declaration shall not be refundable. However, where the amount paid earlier i.e. before filing the declaration in respect of tax arrear exceeds the amount payable under VsV, the declarant shall be entitled to a refund of such excess amount but without any interest.

Amount required to be paid to avail the Scheme

a) In case of appeal filed by the assessee:-

Case 1. Tax Arrear is disputed tax, interest and penalty (quantum appeal)

Amount payable	Appeal is filed after 31 January 2020 but on or before 22 July 2024 (New cases)	Appeal is filed on or before 31 January 2020 (pending at the same appellate forum) (Old cases)
By 31 December 2024	100% of disputed tax	110% of disputed tax
After 31 December 2024	110% of disputed tax	120% of disputed tax

Case 2. Tax Arrear is disputed interest / penalty / fee (other than quantum appeal)

Amount payable	Appeal is filed after 31 January 2020 but on or before 22 July 2024 (New cases)	Appeal is filed on or before 31 January 2020 (pending at the same appellate forum) (Old cases)
By 31 December 2024	25% of disputed interest/ penalty/ fee	30% of disputed interest/ penalty/ fee

After 31 December 2024	30% of disputed interest/ penalty/ fee	35% of disputed interest/ penalty/ fee

b) In case of appeal filed by the Tax Authorities:-

In case where the Tax Authorities have filed an appeal or writ petition or SLP on any issue, the amount payable shall be 50% of the amount in the tables above.

c) In case disputed issues are covered in favour of the assessee by the order of appellate forums:-

In a case where an appeal is filed by the assessee and the issue is covered in the favour of assessee by the order of ITAT, High Court, the amount shall be 50% of the amount stated in Table above, if the same has not been reversed by any higher court.

d) The Designated Authority would pass an order concluding the case, pursuant to payment of the amount payable as determined by it, in the manner as provided above. The designated authority shall not institute any proceedings in respect of an offence; or impose or levy any penalty; or charge any interest under the Income-tax Act in respect of tax arrears.

Computation of disputed tax in various scenarios

a) The computation of disputed tax under various cases covered under VsV is given as under:

Nature of case	Amount of disputed tax under VsV
Where an appeal/writ/SLP is pending before any appellate forum as on 22nd July 2024	Amount of tax payable if such appeal was to be decided against taxpayer.
Where objections are pending before DRP as on 22nd July 2024	Amount of tax payable if DRP was to confirm variation proposed in the draft order
Where DRP has issued directions but AO has not passed the final assessment order as on 22nd July 2024	Amount of tax payable computed if the assessment order was to be passed as per directions of DRP
Where an application for revision under section 264 filed by the taxpayer is pending as on 22nd July 2024	Amount of tax payable if the application for revision was to be rejected

b) Disputed tax in case of losses and MAT credit

The assessee incurring losses during the year or making payment under MAT provisions, have been given an option either to include the amount of tax

related to such tax credit or loss or depreciation in the amount of disputed tax, or to carry forward the reduced tax credit or loss or depreciation, in such manner as may be prescribed.

Further, as the amount of disputed tax is the tax payable considering the appeal is decided against the taxpayer, the assessee having brought forward losses or MAT credit may adjust the disputed tax against such brought forward losses or MAT credit without having to make payment in cash.

Procedure to file declaration

a) The declaration shall be filed before the designated authority in the form and manner to be prescribed.
b) The designated authority shall, within 15 days, determine the amount payable by the declarant and grant a certificate containing the particulars of tax arrears and the amount payable after such determination.
c) The declarant shall be required to pay the amount within 15 days and intimate the details of such payment to the designated authority. The designated authority shall pass an order stating that the declarant has paid the amount.
d) Upon filing the declaration, appeal pending before ITAT or CIT(A) shall be deemed to have been withdrawn from the date on which certificate as mentioned in point no. b) above is issued.
e) Where the declarant has filed any appeal or writ petition, he shall withdraw such appeal or writ petition with the leave of the court wherever required after issuance of certificate referred to in point no. b) above and furnish the proof of such withdrawal along with the intimation of payment to the designated authority.
f) The declarant shall furnish an undertaking waiving his right to seek or pursue any remedy or any claim in relation to the tax arrears which may otherwise be available to him under any law.

Implication of making false declaration

The declaration shall be presumed to have never been made if:

a) Material particulars are found to be false;
b) Declarant violates any of the conditions of the Scheme;
c) Declarant acts in any manner not in accordance with the undertakings given by him.

Jurisdiction of any court or appellate forum on the issue covered in the Declaration

No appellate forum shall proceed to decide any issue relating to tax arrears, where the designated authority has passed the order under VsV.

Whether Declaration amounts to acceptance of addition/disallowance

Making a declaration under the Scheme shall not amount to conceding the tax position. As such, the assessee as well as the Income Tax Authority shall be at liberty to raise the same issue in any other assessment year in any appeal or writ petition.

Whom it may benefit

a) This Scheme may be useful for pending tax disputes and avoiding levy of interest / penalty. Each case needs to be examined separately, taking into consideration the time involved in reaching finality of the issue, consequential interest liability which may arise if the issue is decided against the assessee, emerging jurisprudence on the disputed issue, etc.
b) Particularly, the Scheme may be useful for assessees who have large brought forward losses or MAT credit which are going to expire very soon without having chances of their set off against future income.
c) Further, for assessees who have merely filed appeals to avoid levy of penalty, this Scheme must be opted for.
d) In case of low value appeals where the litigation cost is high, the assessee may also consider availing this Scheme.

Amendments in Black Money Act, 2015

Application of seized or requisitioned assets under Black Money Act, 2015

The existing provisions of Section 132B of the Act provides that any existing liability under the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Expenditure-tax Act, 1987, the Gift-tax Act, 1958 and the Interest-tax Act, 1974, and the amount of liability determined on completion of the assessment or reassessment in consequence of search or requisition, may be recovered from the taxpayer out of the seized assets under section 132 or requisitioned under section 132.

With the introduction of Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 undisclosed foreign income and undisclosed foreign assets is taxed under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 in place of the Income-tax Act, 1961.

In view of the above, the reference of Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 has been inserted in the section 132B of the Income-tax Act, 1961 so as to recover the existing liabilities under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, out of seized assets.

This amendment shall be effective from 1st October 2024.

Reference of Black Money Act, 2015 for the purposes of obtaining a tax clearance certificate

The existing provisions of sub-section (1A) of section 230 of Act specify that, inter-alia, no person who is domiciled in India, shall leave India, unless he obtains a certificate from the income-tax authorities stating that he has no liabilities under Income-tax Act, 1961, or the Wealth-tax Act, 1957 (27 of 1957), or the Gift-tax Act, 1958 (18 of 1958), or the Expenditure-tax Act, 1987 (35 of 1987), or he makes satisfactory arrangements for the payment of all or any of such taxes which are or may become payable by that person. Such certificate is required to be obtained where circumstances exist which, in the opinion of an income-tax authority render it necessary for such person to obtain the same.

In this regard, it was observed that most of the liabilities arising under the Acts administered by the Central Board of Direct Taxes (CBDT) have been covered in the sub-section (1A) of section 230 of the Act, for the purpose of obtaining a tax clearance certificate, except the liabilities arising under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (22 of 2015).

In view of the same, the Finance (No. 2) Act, 2024 has inserted the reference of liabilities under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 in the section 230(1A) of the Act, for the purposes of obtaining a tax clearance certificate.

Upon announcement of the aforesaid amendment, it was widely being misreported that all Indian citizens are required to obtain such tax clearance certificate prior to leaving the country. The CBDT has issued a clarification on 20th August 2024 through Press Information Bureau clarifying that this position / interpretation is factually incorrect. Furthermore, the CBDT, referring to the provisions of Section 230 and earlier instruction issued therein, reiterated that a tax clearance certificate shall be needed by residents only in rare cases, such as:

a. where a person is involved in serious financial irregularities or
b. where a tax demand of more than Rs. 10 lakh (1 million) is pending which is not stayed by any authority.

This amendment shall be effective from 1st October 2024.

Amendments in section 42 and 43 of the Black Money Act, 2015 relating to penalty for failure to disclose foreign income and asset in the ITR

Every resident and ordinarily resident, while filing the return of income, shall disclose all foreign assets (including investment in shares and securities) and income from such foreign assets in the Income Tax Return. Failure to furnish the ITR in relation to foreign income and asset or to report such foreign income and assets located outside India in the ITR may attract a penalty under section 42 or 43 of the Black Money Act, of an amount of Rs 10 lakhs (1 million) regardless of the value of asset located outside India.

Further, provisos to the aforementioned sections of the Black Money Act state that the provisions of these sections shall not apply in respect of an asset, being one or more bank accounts having an aggregate balance which does not exceed a value equivalent to five hundred thousand rupees at any time during the previous year. Representations were made that the threshold limit of Rs. 5 lakhs (0.5 million) is very low which results in many penalties where the asset value itself is less than the penalty amount.

Sections 42 and 43 of the Black Money Act have been amended to provide that the penalty of Rs.10 lakh (1 million) apply in respect of an asset or assets (other than immovable property) where the aggregate value of such asset or assets does not exceed Rs. 20 lakh (2 million).

This amendment will take effect from 1st October 2024.

Amendments to the Prohibition of Benami Property Transactions Act, 1988

Changes in timelines for issue of notice of attachment of property involved in Benami transaction

Section 24 of the Prohibition of Benami Property Transactions (PBPT) Act, 1988 relates to notice and attachment of property involved in Benami transaction.

The following amendments have been made in Section 24 with regard to timelines:

1. Amendment has been made to provide a maximum time limit of three months from the end of the month in which notice is issued for the benamidar or the beneficial owner to file their explanations or submissions.

2. The time limit available to the Initiating Officer to provisionally attach the property or to pass an order for continuing the provisional attachment or revoking the provisional attachment or deciding not to attach the property, as the case may be, is increased from 90 days to four months from the end of the month in which the notice to the benamidar to treat the property as 'benami property' is issued.

3. The time period of fifteen days from the date of attachment order as available to the Initiating Officer to draw up a statement of the case and refer it to the Adjudicating Authority has been increased to one month from the end of the month in which the attachment order has been passed.

These amendments shall be effective from the 1st October 2024.

Insertion of Section 55A to empower the Initiating Officer to tender immunity from prosecution to the Benamidar

As per the PBPT Act, the offence of benami transaction is punishable with rigorous imprisonment for minimum one year to maximum seven years along with fine extending to 25% of the fair market value of the benami property. The prosecution and fine are the same for a benamidar or a beneficial owner or any person who abets or induces any person to enter into a benami transaction.

In order to induce benamidars to become approvers, a new section 55A has been inserted to empower the Initiating Officer to grant immunity to the benamidar on making a full and true disclosure of the whole circumstances relating to the benami transaction. It has been provided that the Initiating Officer, with a view to obtaining the evidence of the benamidar or any other person, may tender immunity from prosecution/ penalty for any offence to the benamidar or any other person, other than the beneficial owner, with the previous sanction of the competent authority, on condition of his making a full and true disclosure of the whole circumstances relating to the benami transaction.

Further, it is also provided that immunity to such person shall be deemed to be withdrawn if it appears to the Initiating

Officer that the person has not complied with the condition on which the tender was made. The Initiating Officer may record a finding to that effect, and thereupon, with the previous sanction of the competent authority, withdraw the immunity.

This amendment shall be effective from 1st October 2024.

[Please refer to Page 29 on "Changes in TDS rates"]

ANNEXURE

Section and payment	Present Rate	Amended Rate	Effective From
Section 194DA - Payment in respect of life insurance policy	5%	2%	1.10.2024
Section 194G - Commission etc, on sale of lottery tickets	5%	2%	1.10.2024
Section 194H - Payment of commission or brokerage	5%	2%	1.10.2024
Section 194-IB - Payment of rent by certain individuals or HUF	5%	2%	1.10.2024
Section 194M - Payment of certain sums by certain individuals or Hindu undivided family	5%	2%	1.10.2024
Section 194-O - Payment of certain sums by e-commerce operator to e-commerce participant	1%	0.1%	1.10.2024
Section 196B- LTCG from transfer of units referred to in section 115AB to an Offshore fund.	10%	12.5%	23.7.2024
Section 196C – LTCG on transfer of Bonds or Global Depository receipts referred to in section 115AC to Non-resident.	10%	12.5%	23.7.2024
Section 194F relating to payments on account of repurchase of units by Mutual Fund or Unit Trust of India	Omitted		1.10.2024

About Us

Mohinder Puri & Co. is a 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 65 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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