UNION BUDGET 2021

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Union Budget 2021-22

Summary of the budget proposals

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1. Foreword

With the Economic survey 2021-21 confirming V-shaped recovery of the economy and IMF projecting the highest growth rate of 11.5% there was strong expectations from the FM to rejuvenate the economy.

FM for the first time presented a paperless budget a noval move.

In the wake of COVID-19 pandemic careful measures were expected from the Government in the Union Budget to support and recover the economy. The six-pillar budget for Health and Wellbeing, Infrastructure, Inclusive development, Development of human capital, Research and development, Minimum government, maximum governance focuses on contribution to aspirational India.

Detailed allocations have been made for various sectors including Agricultural, Education, Infrastructure, etc. which is a welcome move.

Measures such as target for 100 percent electrification of broad-gauge railways will reduce dependency on conventional fuels. Increase in FDI cap in the Insurance sector from 49% to 74% is an appreciable move. This will provide more exposure to players at all levels.

Not many measures from taxation perspective in the budget speech. Some of the significant changes announced are doing away with the requirement to file return of income for senior citizens who have only pension and interest income, reducing the time limit for re-opening of assessments, new rules for removal of double taxation for non-residents to bring rates in line with DTAA etc.

Further, as an extension of steps to reduce tax litigations, a Dispute Resolution Committee is going to be set-up for small taxpayers. Certain long-pending litigations are now been settled with adoption of reduced tax rates as per applicable treaties for Dividend income, denial of deduction on late deposit of employee contributions towards social security by employer, etc.

From compliance perspective, increase in threshold for tax audit applicability will be a great relief to small taxpayers. Pre-filling of return of income is further extended to have inputs regarding interest, dividend and capital gains from listed securities. Setting up Faceless Income Tax Appellate Tribunal was an expected action in the process of administrative reforms.

Start-up benefits meets industry expectations with extended tax break. Capital Gains exemption on investment in start-ups is also extended to 31 March 2022.

Overall, the budget seems to be more focusing on stabilizing the economy and infrastructural development rather attempting at bolstering the economy. 'Ease of Living' has been the mantra of budget. In short this was a budget broadly on expected lines post pandemic but more could have been done to bolster consumption.

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2. Economic Survey – Key Highlight

In the guidance of the Chief Economic Adviser of India the annual document of the Ministry of Finance, the Economic Survey was presented just before the Union budget

In 2020, COVID-19 was declared a global pandemic followed by a nationwide lockdown imposed in India. This step taken to curtail virus led to a low mortality rate and also allowed for a sharp (V-shaped) recovery in economic activities.

Some of the major focus areas of Economic Survey are provided below:

- **Gross Domestic Product (GDP)**: The survey estimates nominal GDP growth of 15.4% and real GDP growth of 11% in 2021-22. In 2020-21, GDP declined by 23.9% in the first quarter and by 7.5% in the second quarter. Overall, GDP is expected to decline by 7.7% in 2020-21 as compared to the growth of 4.2% in 2019-20.

- **Inflation:** The Consumer Price Index (CPI) based inflation was 6.6% in 2020-21 (April-December). The inflation mainly due to food inflation which increased from 6.7% in 2019-20 to 9.1% in 2020-21 (April-December).

- **Current account surplus**: In the first half of 2020-21, the current account surplus was 3.1% of GDP. The survey expects current account surplus to be at least 2% of the GDP by end of 2020-21.

- **Fiscal deficit**: As of November 2020, the fiscal deficit was 135.1% of budget estimate. In comparison, between April to November 2019, fiscal deficit was 114.8% of the budget estimate. The survey noted that the country was fiscally strained due to the disruptions caused by the COVID-19 pandemic.

- **Agriculture**: In 2020-21, the growth rate of agriculture is estimated to be 3.4%. While the contribution of the sector to Gross Value Added (GVA) declined from 18.3% to 17.8% between 2014-15 and 2019-20, it is estimated to increase to 19.9% in 2020-21. This is because the agricultural sector faced fewer disruptions on account of the COVID-19 pandemic as compared to non-agricultural sectors.

- **Industry and infrastructure**: The industrial sector is estimated to decline by 9.6% in 2020-21. Within the sector, highest decline is estimated in construction (12.6%) and mining (12.4%). The contribution of the industrial sector to GVA has declined from 32.5% in 2011-12 to 25.8% in 2020-21.

- **Service sector**: In 2020-21, the service sector is estimated to contract by 8.8% (with trade and hospitality contracting the most (21.4%)) as compared to 5.5% growth in 2019-20. Software services was the only sub-sector with positive growth (3.6%) in the period of April-September 2020.

While the pandemic led to a global slowdown in trade, the Indian service sector export remained resilient. The net services export receipts in first half of 2020-21 was USD 41.67 billion, which is 3% higher than the service export receipts in first half of 2019-20 (USD 40.47 billion).

- **Health**: The survey notes that Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (AB-PM-JAY) enhanced health insurance coverage. The proportion of health insured households between 2015-16 to 2019-20 increased by 54% in states that implemented AB-PM-JAY and decreased by 10% for states which did not implement the scheme. During this period, infant mortality rate decreased by 20% in states that implemented AB-PM-JAY whereas in states that did not implement AB-PM-JAY, infant mortality rate declined by 12%. India has one of the highest levels of out-of-pocket expenses as a share of total health expenditure. The survey observes that increasing the spending on public health from 1% of GDP to 2.5-3% of GDP will help in reducing the out-of-pocket expenses from 65% to 30%.

- **Banking sector**: During an economic crisis, adoption of regulatory forbearance could help ease stress in the financial sector. Regulatory forbearance includes measures such as allowing banks to restructure certain loans rather than change the asset classification. The survey suggests that such measures must be withdrawn in a timely manner. It was noted that regulatory forbearance was adopted after the Global Financial Crisis in 2008 for seven years. This led to an increase in non-performing assets and reduced credit growth once the measures were withdrawn. The survey observed that withdrawal of regulatory forbearance must be followed by a review of the quality of the bank's assets, and capitalisation to ensure growth in lending.

- **Credit Rating**: The survey noted that India's credit rating does not reflect the country's fundamentals in terms of GDP growth, inflation, government debt as a % of GDP, among others. It observed a bias in ratings against emerging economies like India and China. Credit rating maps the probability of default, reflecting the willingness and ability of borrower to meet debt obligations. India has no history of sovereign default (demonstrating willingness to pay), and the foreign exchange reserves are greater than the total external debt of the country (demonstrating ability to pay). Poor sovereign credit ratings have adverse impact on inflow of foreign investments.

- **Innovation**: India ranked 48 in Global Innovation Index in 2020, which makes it first among Central and South Asian countries, and third among the lower middle-income economies. However, India's gross domestic expenditure on research and development (GERD) is lowest amongst larger economies. India spends 0.7% of GDP on GERD as compared to the expenditure of over 2% of GDP by China and over 2.5% of GDP in the United States of America.

Key takeaway's

- A rebound in economic activity and the government's reforms can help the Indian economy in couple of years

- There is need for a fresh asset quality review of Indian banks

- Government support is essential for economy to revive

- Great focus is required on core inflation

- Higher research and development spending required to be made by the private sector

Tax perspective

- Initiation of Atmanirbhar Bharat Mission (ANB) including Faceless tax assessment and taxpayers' charter

- Improvement in due process of administrative proceedings - Transparent taxation - Honouring the Honest'

- The survey report explores three possible ways to keep supervisors accountable while giving them discretion:

  - Strengthen ex-ante accountability
  - Bring transparency in the decision-making process – faceless assessment and appeals
  - Build resilient ex-post resolution mechanism

- Simplification of regulations

- Rise in pending appeals – especially on account of departmental appeal even if it is known that the success rate is less

- Liberal incentive required for R&D as its growth has become an essential

3. Direct Tax

Tax rates and exemptions

Option for simplified personal income tax regime continues

There are no changes proposed in the tax rates. The tax regime that was provided as an option wherein income tax rates will be significantly reduced for the individual taxpayers who forgo deductions and exemptions still continues.

The Income-tax rates as applicable to Individuals and HUF's are provided below:

Taxable Income Slab (Rs.)	0-2.5 Lakhs	2.5-5 Lakhs	5 - 7.5 Lakhs	7.5-10 Lakhs	10-12.5 Lakhs	12.5-15 Lakhs	Above 15 Lakhs
Existing tax rates	Exempt	5%	20%	25%	30%	30%	30%
New tax rates as introduced in previous budget	Exempt	5%	10%	15%	20%	25%	30%

LTC cash scheme

In the outbreak of COVID pandemic, it is proposed to provide tax exemption to cash allowance in lieu of LTC. Accordingly, value in lieu of any travel concession shall be exempt subject to fulfilment of following conditions:

- The employee exercises an option for the deemed LTC fare in lieu of the applicable LTC in the Block year 2018-21;
- Specified expenditure means expenditure incurred by an individual or a member of his family during the specified period on goods or services which are liable to 12% GST;
- Specified period means the period commencing from 12 October 2020 to 31 March 2021;
- The amount of exemption shall not exceed thirty-six thousand rupees per person or one-third of specified expenditure, whichever is less;
- The payment to GST registered vendor/service provider is made in prescribed modes;

This amendment will take effect from 1 April 2021.

Affordable Rental Housing

Section 80-IBA provides 100% deduction on any profits and gains derived from the business of developing and building affordable housing project. This is now extended to rental housing project which is notified by the Central Government in the Official Gazette and satisfies certain conditions.

Further, the outer limit for applicability of this section is extended from 31 March 2021 to 31 March 2022.

This amendment will take effect from 1 April 2022

Extending time limit for sanctioning of loan for affordable housing deduction under section 80EEA

An additional deduction of Rs. 1.5 lakhs in respect of interest on loan taken from any financial institution for acquisition of an affordable residential house property was provided where the loan was sanctioned by financial institution during the period 1 April 2019 to 31 March 2021.

To promote purchase of affordable housing, the period of sanctioning loan by financial institution is proposed to be extended to 31 March 2022.

Tax incentives for units located in International Financial Services Centre (IFSC)

Tax Holiday expanded to include Capital Gains for Aircraft Leasing Companies in IFSC and Tax Exemption to Lease paid to Non-resident therefrom.

Issuance of zero-coupon bond by infrastructure debt fund

Definition for Zero Coupon Bond has been revised by allowing the infrastructure company to issue zero coupon bond with effect from 1 April 2021

Tax neutral conversion of Urban Cooperative Bank into Banking Company

It is proposed to expand the scope of business reorganization to include conversion of a primary co-operative bank to a banking company. Further, deductions available under section 44DB of the Act shall also be made applicable in relation to such conversion of primary co-operative bank to the banking company.

It is also proposed that transfer of a capital asset by the primary co-operative bank to the banking company as a result of conversion shall not be treated as transfer under section 47 of the Act.

Facilitating strategic disinvestment of public sector company

It is proposed to relax the provisions of Section 2 (19AA) that defines ‘demerger’ and Section 72A of the Act that provides for carry forward and set off of accumulated loss and unabsorbed depreciation allowance to enable public sector companies in order to facilitate strategic disinvestment of Public Sector Company by the Government.

<u>Modification to definition of 'Block of Assets' to remove Goodwill of a business or profession</u>

It is proposed that goodwill of a business or profession will not be considered as a depreciable asset and would not be eligible for depreciation in any situation. In a case where goodwill is purchased by an assessee, the purchase price of the goodwill will continue to be considered as cost of acquisition for the purpose of computation of capital gains under section 48 of the Act subject to the condition that in case depreciation was obtained by the assessee in relation to such goodwill prior to the assessment year 2021-22, then the depreciation so obtained by the assessee shall be reduced from the amount of the purchase price of the goodwill.

To give effect to this, the following provisions are proposed to be amended:

- Section 2(11) of the Income-tax Act, 1961 ('the Act') defining the 'block of asset';
- Section 32(1)(ii) providing assets eligible for depreciation;
- Section 50 of the Act that provides for computation of capital gains in case of depreciable assets;
- Section 55 of the Act providing 'cost of acquisition'

These amendments will take effect from 1 April 2021

<u>Extension of date of incorporation for eligible start up for exemption</u>

Earlier, a start-up eligible for deduction under section 80-IAC of the Act should have been incorporated on or after 1 April 2016 but before 1 April 2021. This time period is now extended to 1 April 2022.

Further, section 54GB that provides for exemption of capital gain which arises from the transfer of a long-term capital asset, being a residential property provided the net consideration for subscription in the equity shares of an eligible start-up is also now extended from 31 March 2021 to 31 March 2022.

Relaxation of provisions

<u>Increase in safe harbour limit for home buyers</u>

As per Section 43CA of the Act where 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 for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall for the purpose of computing profits and gains from transfer of such assets, be deemed to be the full value of consideration.

The section provided safe harbour provisions where differential value is 10 percent or less. It is proposed to increase the safe harbour threshold from existing 10% to 20% under section 43CA of the Act on satisfaction of certain conditions.

Further gift tax provisions under section 56(2)(x) have also been amended to provide consequential relief. These amendments will take effect from 1 April 2021

Relaxation for senior citizens from filing return of income

In order to provide relief to senior citizens who are of the age of 75 year or above and to reduce compliance for them, it is proposed to provide a relaxation from filing the return of income, provided they are earning only pension and interest income from the same bank in which he is receiving his pension income

This amendment will take effect from 1 April 2021.

Rationalisation of provisions related to Sovereign Wealth Fund (SWF) and Pension Fund (PF)

The provision to exempt the income of specified person by the way of dividend, interest, long-term capital gains arising from investment made by it in India was introduced through the Finance Act, 2020 to encourage investments of SWF and PF into infrastructure sector of India. This is now relaxed from 100% investment in AIF to not less than 50%.

Addressing mismatch in taxation of income from notified overseas retirement fund

At present, withdrawal of overseas retirement funds may be taxed on receipt basis in such foreign countries, while on accrual basis in India.

It is proposed to insert a new section 89A to the Act to provide that the income of a specified person from specified account shall be taxed in the manner and in the year as prescribed by the Central Government. This amendment is made to address mismatch in taxation of retirement benefits.

This amendment will take effect from 1 April 2022

Rationalisation of provisions of Minimum Alternate Tax (MAT)

At present, book profit under section 115JB does not provide for any adjustment on account of additional income of past year(s) included in books of account of current year on account of secondary adjustment under section 92CE or on account of an Advance Pricing Agreement (APA) entered with the taxpayer under section 92CC

Similarly, dividend income is now taxable in the hand of shareholders. Dividend received by a foreign company on its investment in India is required to be excluded for the purposes of calculation of book profit in case the tax payable on such dividend income is less than MAT liability on account of concessional tax rate provided in the Double Taxation Avoidance Agreement (DTAA)

Provisions of section 115JB have been amended to bring effect to the above adjustments with effect from 1 April 2021

Exemption of deduction of tax at source on payment of Dividend to business trust

Section 194 of the Act provides for deduction of tax at source (TDS) on payment of dividends to a resident. It is proposed to amend second proviso to section 194 of the Act to further provide that the provisions of this section shall also not apply to such income credited or paid to a business trust by a special purpose vehicle or payment of dividend to any other person as may be notified.

This amendment will take effect retrospectively from 1 April 2020.

Withholding on payment made to Foreign Institutional Investors (FIIs)

Section 196D of the Act provides for deduction of tax on income of FII from securities as referred to in clause (a) of sub-section (1) of section 115AD of the Act at the rate of 20 per cent. So far, benefit of agreements under section 90 or section 90A of the Act was not considered at the time of tax deduction on payments to FIIs.

It is proposed to insert a proviso to subsection (1) of section 196D of the Act to provide that tax shall be deducted at the rate of twenty per cent. or rate or rates of income-tax provided in such agreement for such income, whichever is lower.

This amendment will take effect from 1st April, 2021.

Rationalisation of provisions relating to tax audit in certain cases

Provisions of section 44AB of the Act are proposed to be amended to increase the threshold for its applicability to a person carrying on business from *one crore* rupees to *five crore* rupees in order to reduce compliance burden.

This amendment will take effect from 1 April 2021

Advance tax instalment on dividend income

Section 234C of the Act provides for payment of interest by an assessee who fails to pay on time the advance tax instalments. It is proposed to provide relaxation on this interest with regard to Dividend income. Effectively, advance tax liability on dividend income shall arise on payment/ declaration.

This amendment will take effect from 1 April 2021

Income received by any person on behalf of different funds or institutions

Section 10(23C)(iiiad) and (iiiae) provides for exemption for the income received by any person on behalf of university or educational institution and income received by any person on behalf of hospital or institution respectively.

In order to provide benefit to small trust and institutions, it has been proposed that the exemption under these provisions shall be increased from Rs 1 crore to Rs 5 crore with effect from 1 April 2022

Extending due date for filing return of income in some cases

- The due date for filing of original return of income of partner of a firm whose accounts are required to be audited is **31st October** of the assessment year. It is proposed to extend applicability of this due date to spouse of a partner as well.

- Further, if the firm is required to furnish report from an accountant for entering into international transaction or specified domestic transaction, as per section 92E of the Act, then it is proposed to extend the due date of filing return of income of partner to **30th November** of the assessment year.

- It is proposed that the last date for filing of belated or revised returns of income under Sub-sections (4) and (5) of section 139 of the Act respectively, be **three months** before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier

- As per sub-section (9) of section 139 of the Act a return of income is found to be defective, the Assessing Officer will intimate the defect to the assessee and give him a period of 15 days or more to rectify the said defect and if the defect is not rectified within the said period, the return shall be treated as an invalid return. It is proposed to relax this hardship subject to conditions as may be notified.

These amendments will take effect from 1 April 2021

Rationalisation of provisions

Payment of employees contribution to a specified fund on or before due date

There is a distinction between employer contribution and employee‘s contribution towards welfare fund. It may be noted that employee‘s contribution towards welfare funds is a mechanism to ensure the compliance by the employers of the labour welfare laws. Employee‘s contribution is employee own money and the employer deposits this contribution on behalf of the employee in fiduciary capacity.

By late deposit of employee contribution, the employers get unjustly enriched by keeping the money belonging to the employees. Therefore section 36(1)(va) is amended to clarify the provision of section 43B does not apply and deemed to never have been applied for the purposes of determining the due date under this clause. Thereby delay in payment of employees contribution is liable to tax under section 2(24)(x) of the Act with effect from 1 April 2021

Constitution of Dispute Resolution Committee for small and medium taxpayers

In order to provide early tax certainty to small and medium taxpayers, it is proposed to introduce a new scheme for preventing new disputes and settling the issue at the initial stage from 1 April 2021.

The new scheme is proposed to be incorporated in a new section 245MA and disputes where the returned income is *fifty lakh* rupee or less and the aggregate amount of variation proposed in specified order is *ten lakh* rupees or less shall be eligible to be considered by the DRC.

Constitution of the Board for Advance Ruling

There are three benches of the Authority. The principal bench consists of Chairman, one revenue member and one law member. The other benches consist of one Vice-Chairman, one revenue member and one law member, each. A bench cannot function if the post of Chairman or Vice-Chairman is vacant. As per section 245-O of the Act, persons eligible for appointment as Chairman of AAR are retired judges of the Supreme Court, retired Chief Justice of a High Court or retired Judge of a High Court who has served in that capacity for at least seven years.

This has seriously hampered the working of AAR and a large number of applications are pending since last many years. To overcome this, it is proposed that The Authority for Advance Rulings shall cease to operate and the Central Government shall constitute one or more Board for Advance Rulings for giving advance rulings under the said Chapter on and after the notified date. To give effect to the same the provisions of Section 245N, Section 245O, Section 245OB, 245P, etc. are proposed to be amended.

Time limit for income escaping assessment

Earlier, assessment was made for a block of 6 years and 10 years under section 153A for the assessee and under section 153C for other persons. These provisions are done away with.

Now, in section 148 as per explanation 2 where search/ survey is conducted on or after 01 April 2021, then the AO shall be deemed to have information which suggest that the income chargeable to tax has escaped. Corresponding amendment is made in section 153A and 153C

Further, re-opening of Assessment has been reduced to 3 years from 6 years only where there is concealment of Income of Rs. 50 lakhs or more, assessment can be re-opened upto 10 years and that too with the approval of Pr. CCIT

Allowing prescribed authority to issue notice under section 142(1)(i)

Section 142 of the Act provides for conduct of inquiry before assessment in order to enable centralized issuance of notices etc. in an automated manner. It is proposed to amend the provisions of clause (i) of the sub-section (1) of the section 142 to empower the prescribed income-tax authority besides the Assessing Officer to issue notice under the said clause.

Faceless Proceedings before the Income-tax Appellate Tribunal (ITAT)

It is proposed to insert new sub-sections in the section 255 of the Act so as to provide that the Central Government may notify a scheme for the purposes of disposal of appeal by the ITAT.

It is also proposed to empower the Central Government, for the purpose of giving effect to the scheme, for issuing notification in the Official Gazette, to direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. Such directions are to be issued on or before 31 March 2023

Discontinuance of Income-tax Settlement Commission

It is proposed to discontinue Income-tax Settlement Commission (ITSC) and to constitute Interim Board of settlement for pending cases.

The Central Government may, for the purposes of giving effect to the said scheme, by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. However, no such direction shall be issued after the 31 March 2023

Reduction of time limit for completing assessment

It has been proposed that the time limit for completion of assessment proceedings may be reduced to **nine months** from the end of the assessment year in which the income was first assessable, for the assessment year 2021-22 and subsequent assessment years.

Rationalisation of the provision of Charitable Trust and Institutions to eliminate possibility of double deduction while calculating application or accumulation

Section 12AB is the new section which comes into effect from the 1 April, 2021. The entities under this provision is not allowed to accumulate more than 15% of their income or accumulate for specific purpose up to 5 years, other than corpus donations.

To ensure that there is no double counting while calculating application or accumulation, it has been proposed that

- Voluntary contributions made with a specific direction that it shall form part of the corpus shall be invested or deposited in specified forms
- Application out of corpus shall not be considered as application for charitable or religious purposes
- Application from loans and borrowings shall not be considered as application for charitable or religious purposes. However, when loan or borrowing is repaid from the income of the previous year, such repayment shall be allowed as application in the previous year in which it is repaid to the extent of such repayment.

These amendments will take effect from 1April 2022

Taxation of proceeds of high premium unit linked insurance policy (ULIP)

Clause (10D) of section 10 of the Act provides for the exemption for the sum received under a life insurance policy, including the sum allocated by way of bonus. Under the existing provisions of the Act, there is no cap on the amount of annual premium being paid by any person during the term of the policy

It is proposed to insert Explanation 3 to the clause (10D) of section 10 of the Act to define ULIP as a life insurance policy which has components of both investment and insurance and is linked to a unit.

Further, it is proposed to insert fourth proviso to clause (10D) of section 10 of the Act to provide that the exemption under this clause shall not apply with respect to any ULIP issued on or after the 1 February 2021, if the amount of premium payable for any of the previous year during the term of the policy exceeds two lakh and fifty thousand rupees

These amendments will take effect from 1 April 2021

Rationalisation of the provision of slump sale

Section 50B of the Act contains special provision for computation of capital gains in case of slump sale. It is proposed to amend the scope of the definition of the term ‘slump sale’ by amending the provision of clause (42C) of section 2 of the Act so that all types of transfer as defined in clause (47) of section 2 of the Act are included within its scope.

This amendment will take effect from the 1 April 2021

Rationalisation of provision of transfer of capital asset to partner on dissolution or reconstitution

Section 45(4) of the Act provides that the profits or gains arising from the transfer of a capital asset by way of distribution of capital assets on the dissolution of a firm or other association of persons or body of individuals or otherwise, shall be chargeable to tax. There is uncertainty regarding applicability of provisions of aforesaid sub-section to a situation where assets are revalued or self-generated assets are recorded in the books of accounts and payment is made to partner or member which is in excess of his capital contribution

It is proposed to substitute the existing sub-section (4) of section 45 of the Act with a new sub-section (4) and also insert a new sub-section (4A) to this section. New proposed sub-section (4) of section 45 of the Act applies in a case where a specified person who receives during the previous year any capital asset at the time of dissolution or reconstitution of the specified entity

Further, for determining capital gains under section 48 of the Act:

- value of the money or the fair market value of other asset on the date of such receipt shall be deemed to be the full value of the consideration

- the balance in the capital account of the specified person in the books of accounts of the specified entity at the time of its dissolution or reconstitution shall be deemed to be the cost of acquisition.

Provisional attachment in Fake Invoice cases

Section 281B of the Act contains provisions which provide that in cases of assessment or reassessment the Assessing Officer may provisionally attach any property of the assessee, if necessary. Further, section 271AAD of the Act was inserted vide the Finance Act, 2020 to impose penalty on a person or a person who causes such person to make a false entry or omit an entry from his books of accounts

In order to protect the interest of revenue, it is proposed to amend the provision of section 281B of the Act to enable the Assessing Officer to exercise the powers under this section during the pendency of proceedings for imposition of penalty under section 271AAD of the Act, if the amount or aggregate of amounts of penalty imposable is likely to exceed two crore rupees.

This amendment will take effect from 1 April 2021.

Rationalisation of the provisions of Equalisation Levy

Equalisation Levy is to be levied at the rate of two per cent. of the amount of consideration received or receivable by an e-commerce operator from ecommerce supply or services made or provided or facilitated.

It is seen that there is need for some clarification to correctly reflect the intention of various provisions concerning this levy:

- clarifying that consideration received or receivable for specified services and consideration received or receivable for e-commerce supply or services shall not include consideration which are taxable as royalty or fees for technical services in India

- Explanation to clause (cb) of section 164 is inserted defining e-commerce supply or service, online sale of goods and online provision of services to include - Acceptance of offer for sale, Placing the purchase order, Acceptance of the Purchase order, Payment of consideration or Supply of goods or provision of services, partly or wholly

- Further, section 165A is proposed to be amended to provide that consideration received or receivable from e-commerce supply or services shall include consideration for sale of goods irrespective of whether the e-commerce operator owns the goods and consideration for provision of services irrespective of whether service is provided or facilitated by the e-commerce operator.

These amendments will take effect retrospectively from 1 April 2020.

Processing of returned income and issuance of notice under sub-seciton (2) of section 143 of the Act

It is proposed to reduce the time limit for issue of notice under sub-section (2) of section 143 of the Act from six months to three months from the end of the financial year

Further, it is proposed to amend section 143(1) of the Act to allow:

- Adjustment on account of increase in income indicated in the audit report but not taken into account in computing the total income
- to give consequential effect to amendment carried out in section 80 AC
- to reduce the time limit for sending intimation under section 143 (1) of the Act from one year to nine months from the end of the financial year

Rationalisation of the provision of presumptive taxation for professionals under section 44ADA

Section 44ADA of the Act relates to special provision for computing profits and gains of profession on presumptive basis. It is proposed to amend the said provisions from 1 April 2021 to provide that the provision of this section shall apply to an assessee, being an individual, HUF or partnership firm, not to an LLP.

Clarification regarding the scope of Vivad se Vishwas Act, 2020

It is clarified that VsV was enacted for the resolution of disputed tax and not for the taxes covered by an order in pursuance to the settlement of a case under Chapter XIX-A of the Income-tax Act.

The said amendments are proposed to take effect retrospectively from the 17th March 2020.

Definition of the term —Liable to tax

It is proposed to insert section 2(29A) providing definition of the term ‘liable to tax’ - in relation to a person means that there is a liability of tax on that person under the law of any country and will include a case where subsequent to imposition of such tax liability, an exemption has been provided.

This amendment will take effect from 1 April 2021

Income Declaration Scheme (IDS) amendment

It is proposed to amend the proviso of section 191 so as to provide that the excess amount of tax, surcharge or penalty paid in pursuance of a declaration made under the Scheme shall be refundable to the specified class of persons without payment of any interest. This amendment will take effect retrospectively from 1 June 2016

Tax Deduction at Source (TDS) on purchase of goods

It is proposed that the tax is only required to be deducted by those person (i.e —buyer) whose total sales, gross receipts or turnover from the business carried on by him exceed *ten crore rupees* during the financial year immediately preceding the financial year in which the purchase of goods is carried out. The rate of TDS is kept at 0.1%. However, where PAN is not provided, the applicable rate shall be 5%.

TDS/TCS on non filer at higher rates

It is proposed to insert a new section 206AB in the Act as a special provision providing for higher rate for TDS for the non-filers of income-tax return (higher of the following):

- twice the rate specified in the relevant provision of the Act; or
- twice the rate or rates in force; or
- the rate of five per cent

Similarly, it is proposed to insert a section 206CCA in the Act as a special provision for providing for higher rate of TCS for non-filers of income-tax return (higher of the following):

- twice the rate specified in the relevant provision of the Act; or
- the rate of five percent

This amendment will take effect from 1July 2021.

Taxability of Interest on various funds where income is exempt

Section 10(11) provides for exemption with respect to any payment from a provident fund. Further section 10(12) provides for exemption with respect to the accumulated balance due and becoming payable to an employee participating in a recognised provident fund.

It is proposed to amend that these clauses shall not apply to the interest income accrued during the previous year in the account of the person to the extent it relates to the amount or the aggregate of amounts of contribution made by the person exceeding two lakh and fifty thousand rupees in a previous year in that fund, on or after 1 April 2021

4. Indirect Tax

GST

There are proposals for changes in certain sections of Central Goods and Service Tax, 2017/ Integrated Goods and Services Tax Act, 2017 / Union Territory Goods and Services Tax Act, 2017 such as-

- When a person other than individual, supplies goods or service to its member or constitution for a consideration of cash, deferred payment, or any other mode, it will be a taxable service and vice versa - retrospective from 1 July]2017.

- The Input Tax Credit on invoice or debit note issued by the supplier shall be only be availed when details of such invoices and debit notes are furnished by the supplier in its statement of outward supply.

- There is no requirement for getting annual account audited and submission of reconciliation statement by specified professional further simplifying the filing of annual return on self-clarification basis and by exempting certain class of taxpayers to file annual return.

- Interest will be charged on net cash liability due from payer - retrospectively from 1 July 2017

- The proceedings for goods and conveyances in transit, seize and confiscate by the officers will be held separately from those for recovery of taxes.

- A sum of 25% of penalty amount need to pay by appellant to appeal against assessment order before the filing of appeal.

Customs

On the Customs side, few new reform policies are being proposed like introduction of Common Customs Electronic Portal, grant of conditional exemption of custom duty for the period of 2 years ending on March 31, 2023, introducing time limit of 2 years for completion of proceeding , any export goods wrongly claimed for refund or remission shall be liable to confiscate and liable for penalty which may extend to 5 times the amount of refund claim in a case of fraudulently utilisation of ITC for discharge of any duty or tax, anti-absorption measures in countervailing duty and anti-dumping duty, revised in tariff rate of certain tariff items including some of the followings

- Household goods and appliances from 10% to 20%.
- Electrical Appliances from 10% to 20%.
- Manufacturing of electrical vehicle earlier varies between 10% to 25%, to now 15% to 40%.
- Parts of mobile phone like vibrator/ringer, display panel and touch assembly from nil to 10%, also fingerprint reader from nil to 15%, etc.
- Food processing of walnuts shelled from 30% to 100%., etc.

There has been withdrawn of about 80 exemptions on ground that those items are redundant, outdated or have outlived their utility.

An Agriculture Infrastructure and Development Cess has been introduced on import of specific items simultaneously lowering BCD Rates on them. Health cess has been imposed on import of medical device. NCCD on Cigarettes and tobacco products has been increase ranging from Rs. 200 – 735 per thousand, depending upon length of cigarette and on filter/non-filter basis, On smoking mixtures for pipes and cigarettes, from 45% to 60%, other form of tobacco except bidis 10% to 25%.