

ALL INDIA FEDERATION OF TAX PRACTITIONERS - CZ

UNION BUDGET 2022

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CA. ANIL MATHUR, JAIPUR
Chairman - CZ
(M) +91-9829056151

PROMOTING VOLUNTARY TAX COMPLIANCE & REDUCING LITIGATION

CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
38, 39, 41, 48, 64, 65 & 81	139 Insertion of new section 139(8A), 140B	Regarding filing of return	<ul style="list-style-type: none">- Facility for providing more time under the Act to file particulars of income in an updated return.- Amount equal to 25% or 50% as additional tax on tax and interest due on additional income is required to be paid.- New Sub Section 8A added to provide for furnishing of updated return.- New section 140B added to provide for tax required to be paid under the proposed provision.- Consequential amendment in section 144, 153, 234A, 234B and 276CC have been made.

PROMOTING VOLUNTARY TAX COMPLIANCE & REDUCING LITIGATION

CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
			<ul style="list-style-type: none">- It is proposed to introduce new provision in section 139 for filing updated return whether assessee has filed a return previously or not.- The proposal is to make use of huge data available with the Income Tax Department taking to logical end and for ease of compliance to tax payer without undergoing litigation.- Assessee may furnish updated return for such assessment year within 24 months from end of relevant AY in prescribed form and containing prescribed particulars.- Assessee cannot opt for filing updated return in case of loss return or which has effect of decreasing total tax liability on the basis of earlier returns or results in refund or increase the refund due on the basis of earlier returns.

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CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
			<div><div>- Assessee also not eligible to furnish updated return, if:-</div><div><div>• Search has been initiated u/s 132 or provisions of section 132A attracted</div><div>• Survey conducted u/s 133A other than sub section (2A) of this section</div><div>• Notice u/s 132/132A issued</div><div>• If updated return already furnished</div><div>• Any proceeding for assessment or re-assessment or revision is pending or completed for the relevant assessment year.</div><div>• Where AO has information under provision of PMLA Act/ Black Money Act/ Benami Property etc.</div><div>• Information received under an agreement referred to in section 90, 90A</div><div>• Prosecution proceedings initiated prior to filing of such return</div><div>• He is a person or belongs to a class of person as may be notified by the Board.</div></div></div>

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CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
			<ul style="list-style-type: none">- Tax and interest to be paid before furnishing updated return- The additional tax payable shall be equal to 25% of aggregate tax and interest payable if such return is furnished after expiry of present time limit and before completion of period of 12 months from end of relevant AY.- If return furnished after expiry of 12 months from end of relevant AY, the additional tax payable shall be 50% of the aggregate of tax and interest payable.- While calculating the additional liability, credit will be available for TDS, Self Assessment Tax, any tax credit u/s 115JAA or 155JD etc.- Consequential ammendment made in section 234A, 234B, 144, 153 and 276CC of the Act.- These Amendments are effective from 1st April 2022

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CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
51 & 52	158AA	Pendency of appeal on identical question of law before jurisdictional High Court or Supreme Court	<ul style="list-style-type: none">- It is proposed to insert new section 158AB to provide that where the “Collegium” is of the opinion that any question of law arising in the case of an assessee for any year is identical with a question of law already raised in his case or in case of any other assessee which is pending before the jurisdictional High Court u/s 260A or Supreme Court u/s 261 or in SLP. It may decide and intimate the CIT/ PCIT not to file any appeal at this stage to ITAT or to High Court against respective orders.- Specific Procedures have been provided for this purpose- “Collegium” shall comprise of two or more CCIT or PCIT or CIT as specified by the board- Sunset clause to be inserted in section 158AA to provide that no direction shall be given on or after 1st April 2022- These amendments are effective from 1st April 2022

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CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
67	245MA	Dispute Resolution Committee	<ul style="list-style-type: none">- Finance Act 2021 introduced new chapter in XIX-AA in the Act consisting of this section for constituting Dispute Resolution Committee for specified persons.- Under the existing provisions of that section, there was no provision enabling the assessing officer to pass an order giving effect to the order of DRC- Therefore it is proposed to insert new section to this section to enable the AO to pass an order giving effect to the order of DRC- These amendments are effective from 1st April 2022

PROMOTING VOLUNTARY TAX COMPLIANCE & REDUCING LITIGATION

CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
13	40	Amounts not deductible while computing income chargeable under the head PGBP	<ul style="list-style-type: none">- Sub clause (II) of clause A or section 40 of the Act provides that any sum paid on account of any rate or tax levied on profit or gains shall not be deducted in computing the income under this head.- Certain Courts have however permitted the allowability of CESS or Surcharge u/s 40 of the Act since it has not been specifically mentioned in the provisions. Courts were also relying upon circular of the board dated 18.05.1967.- Hon'ble Bombay High Court in case of Sesa Goa Limited and Hon'ble Rajasthan High Court in the case of Chambal Fertilisers and Chemicals Limited allowed these deductions interpreting the circular of the board.- However in latest judgment of ITAT Kolkata in case of Kanoria Chemical & Industries Limited dated 26.10.21 held that CESS is not an allowable deduction by considering the judgment of Hon'ble Supreme Court in case of CIT vs. K. Srinivasan

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CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
			<ul style="list-style-type: none">- The judgments of Hon’ble Rajasthan and Bombay High Court did not consider the judgment of Apex Court and therefore were considered to be “<i>per incuriam</i>”- In order to make the intention of the legislation clear it is proposed to include an explanation in the Act retrospectively to clarify that the term “TAX” includes and shall be deemed to have always included an Surcharge or CESS by whatever name called on such tax- Amendment is made to make clear the position irrespective of the Circular of the Board- Amendment will be retrospective from 1st April 2005 and will apply from assessment year 2005-06 and onwards

PROMOTING VOLUNTARY TAX COMPLIANCE & REDUCING LITIGATION

CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
50, 53 & 54	Chapter XV Section 170	Liability in certain special cases	<ul style="list-style-type: none">- Section provides for assessment in case of succession otherwise then on death- Once an entity starts process of reorganisation, a lot of time is consumed by an authority or Court since such process are long drawn and not time bound. The reorganisation is always from a preceding date.- The Income Tax proceedings and assessments are often carried out and completed on the predecessor entity only which the Courts subsequently held illegal.- Therefore a new Sub Section (2A) is proposed to be inserted to provide that the proceeding or assessment on predecessor shall be deemed to be made on the successor.- A new Section 170A is also proposed to be inserted to enable the entities going through reorganisation for filing modified returns for the period between the date of effectivity of the order and date of final order.- In case of business reorganisation it has been also found that the Court or Tribunal or an authority under IBC court recast the liability to ensure future viability of such sick units and modify the demand created by the Income Tax Department.- A new Section 156A is proposed to be inserted to give effect and modify such demands.- These amendments will be effective from 1st April 2022.

PROMOTING VOLUNTARY TAX COMPLIANCE & REDUCING LITIGATION

CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
9	14A	No deduction in respect of expenditure incurred in relation to income not forming part of total income (Exempt Income)	<ul style="list-style-type: none">- There have been disputes of disallowance under this section where no exempt income has accrued, arisen or received by assessee. The board in its circular dated 11.02.2014 had also clarified for providing for disallowance of expenditure where tax payer has not earned any income.- The Courts in number of cases have taken a view that no disallowance u/s 14A can be made for year if there is no exempt income.- To make the intention of legislation clear and free from misinterpretation, an explanation to section 14A is proposed to be inserted clarifying that the provision of this section shall apply and deem to have always applied in a case where exempt income has not accrued, arisen or received and the expenditure has been incurred during the previous year in relation to such exempt income.- It is proposed to amend sub section 1 of the section to include a non-obstante clause in respect of other provisions of the Act and provide that no deduction shall be allowed in relation to exempt income.- This amendment is effective from 1st April 2022

PROMOTING VOLUNTARY TAX COMPLIANCE & REDUCING LITIGATION

CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
12	37	Allowability of revenue and non personal expenditure (other than those falling u/s 30 to 36)	<ul style="list-style-type: none">- Explanation 1 of sub section (1) of section 37 provides that if an expenditure is incurred for any purpose which is an offence or prohibited by law, the same shall be not deemed to have been incurred for purpose of business and accordingly no allowable.- The tax payers were claiming deduction of expenditure incurred in offering certain benefits or perquisites to a person which was not intended to be allowed as expenditure. Example, expenditure related to travel, hospitality, conferences etc.- The Board in its circular dated 01.08.2012 took note of the provisions of Indian Medical Council Regulations, 2002 and made these expenses inadmissible in the hands of such pharmaceutical industries or others providing such benefits.- To counter judgments of various authorities and to make intention of legislation clear, it is proposed to insert a new explanation 3 to sub section (1) to clarify the position about disallowability of such expenditure.- This amendment is effective from 1st April 2022

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CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
14	43B	Allowability of deduction on actual payment	<ul style="list-style-type: none">- Explanation 3C, 3CA and 3D provide of deduction being interest payable on loan or borrowing from specified financial institutions etc., only if such interest has been actually paid and any interest which has been converted into loan or borrowing shall not be deemed to have been actually paid.- Instances have come of claiming deduction under this section on account of conversion of interest payable on existing loan into debenture treating such conversion as discharge of interest liability which was upheld by Courts also.- It is therefore proposed to amend explanation 3C, 3CA and 3D of section 43B to provide that such conversion of interest payable into debenture or any other instrument by which liability is deferred to future date, shall not be deemed to have been actually paid.- This amendment is effective from 1st April 2023 and will apply to AY-2023-24 and subsequent years.

PROMOTING VOLUNTARY TAX COMPLIANCE & REDUCING LITIGATION

CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
60 & 62	201, 206C	Consequence of failing to deduct tax or after deducting fail to deposit to credit of Central Government	<ul style="list-style-type: none">- Default in compliance of these sections incur liability to pay simple interest at the specified rates- It is observed that computation of interest is subject matter of frequent litigation and therefore it is proposed to - amend sub section (1A) of section 201 and sub section (7) of section 206C to provide that interest shall be paid by the person in accordance with the order made by the assessing officer in this regard.- These amendments will be effective from 1st April 2022.

WIDENING & DEEPENING OF TAX BASE

CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
57, 61 & 63	206AB, 206CCA	Provision for deduction of tax at source for non filers of Income Tax returns	<ul style="list-style-type: none">- It is proposed to reduce two years requirement to one year by amending sections 206AB and 206CCA of the Act- Substituted furnishing the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted, for which the time limit for furnishing the return of income under sub-section (1) of section 139 has expired and the aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in the said previous year.- Further added that provisions of section 206AB will not apply in relation to transactions on which tax is to be deducted u/s 194-IA, 194-IB- Earlier this section was not applicable where TDS has been deducted under sections 192 , 192A, 194B, 194BB, 194 LBC only

WIDENING & DEEPENING OF TAX BASE

CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
56	194IA	Payment on transfer of certain immovable properties other than agricultural land @ 1% on value of sales consideration	<ul style="list-style-type: none">- In case of transfer of an immovable property (other than agricultural land), TDS is to be deducted at the rate of one per cent. of such sum paid or credited to the resident or the stamp duty value of such property, whichever is higher.- In case the consideration paid for the transfer of immovable property and the stamp duty value of such property are both less than fifty lakh rupees, then no tax is to be deducted under section 194-IA.- This amendment is applicable from 1st April 2022.

WIDENING & DEEPENING OF TAX BASE

CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
58	194R	New Insertion	<ul style="list-style-type: none">- Proposed TDS to be deducted on value of benefits or perquisite, whether convertible into money or not, given by the employer @ 10%- No proposed TDS is required to be deuced if :-<ul style="list-style-type: none">- If value of benefit / perquisite is less than Rs. 20000/-- If in case of an individual or a Hindu undivided family, whose total sales, gross receipts or turnover does not exceed one crore rupees in case of business or fifty lakh rupees in case of profession during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided.- In case the benefit or perquisite is partly in cash or in kind and cash portion is not sufficient to cover the tax liability, the employer, must ensure that tax has been paid in respect of the benefit or perquisite before releasing such benefit / perquisite.

WIDENING & DEEPENING OF TAX BASE

CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
84	285B	Obligation to furnish statement of financial transactions by reportable entities	<ul style="list-style-type: none">- Enhance the scope of reporting activities u/s 285B in Form No. 52A i.e. statement containing particulars of all payments over Rs. 50,000/- in the aggregate the producer of cinematographic films is obliged to furnish within 30 days from the end of the financial year or from the date of completion of the film, whichever is earlier- Include persons in “Specified Activities” would mean event management, documentary production, production of programs for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may, by notification in the Official Gazette, specify in this behalf.

WIDENING & DEEPENING OF TAX BASE

CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
25	94	Avoidance of tax by certain transactions in securities	<ul style="list-style-type: none">- Amend clause (4) of Section 94 pertaining to the prevention of tax evasion through bonus stripping, so as to make the said provision applicable to securities as well.- Further amend the explanation to the said section to modify the definition of unit, so as to include units of business trusts such as Infrastructure Investment Trust (InvIT) or Real Estate Investment Trust (REIT) and AIF (Alternative Investment Fund), within the definition of units.

PHASING OUT OF EXEMPTION

CLAUSE NO.	RELEVANT SECTION	EXISTING PROVISIONS	PROPOSED AMENDMENTS
4	10 (8), (8A), (8B), (9)	Exemption to certain entities	<p>- Following exemptions were available to Individual/consultant assigned duties in India in relation to Technical assistance programs and projects in accordance with an agreement between Central Government and foreign state/agency i.e international organisation and paying tax/ social security tax to government of foreign state or country of origin:</p> <p>1.Individual receiving remuneration in respect of such duties from foreign state and any other income accruing or arising outside India</p> <p>2.Consultant being foreign citizen or not ordinarily resident in case of individual or non resident in case of others and receiving remuneration from agency.</p> <p>3.Individual being employee of such consultant receiving remuneration from him.</p> <p>4.Family members of above who accompanies them to India in respect of income accruing or arising outside India.</p> <p><u>Amendment:</u> The following exemptions are not available from Assessment year 2023-2024</p>



Thank You