

Webinar on Union Budget 2020-21 by AIFTP (CZ)

CA RAJEEV SOGANI

R SOGANI & ASSOCIATES



**TAXATION
TRUSTS**

OF

CHARITABLE



Raising of Prescribed limit for exemption under clause (23C) of section 10

Clause (23C) of section 10 of the Act provides for exemption of Income received by institutions specified in different sub clauses. The exemption under the said clause is available subject to the annual receipts by prescribed institutions.

Such Institutions are required to file Income Tax Return as per section 139(4C) irrespective of the exemption claimed by such Institutions.

It has been amended as follows:

Sub Clause	Institutions covered	Existing limit	Proposed Limit
(iiia d)	University or Educational Institutions	Annual receipts not more than 1 crore	Annual receipts not more than 5 crore.
(iiia e)	Hospitals or Institutions referred in Clause (23C)	Annual receipts not more than 1 crore	Annual receipts not more than 5 crore.

Rationalization of provision of Charitable Trust and Institutions to eliminate double deduction

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

- Voluntary contribution with a specific direction shall be invested or deposited under the mode prescribed u/s 11(5).
- Application made out of corpus fund will not be treated as application of Income
 - ❑ Shall be treated as application of income of previous year in which it is deposited back to mode prescribed u/s 11(5).
- Application from loans and borrowings shall not be considered as application of income
 - ❑ Shall be treated as application of income of previous year in which repayment of loan and borrowings shall be made.
- No set off or deduction or allowance of any excess application, of any of the year preceding the previous year, being application of Income. (Amended retrospectively being inserted through explanation)

**ASSESSMENT,
& SEARCH**

RE-OPENING



New Provisions of Income Escaping Assessment u/s 147 & 148

EXISTING

AO is required to “have reasons to believe” that income has escaped assessment.

Special provisions where relevant assessment year is assessed u/s 143(3).

PROPOSED

AO is required to have information which suggests that income has escaped assessment.

No such provision.

Time limit for Notice: New Provisions U/s 149

Existing		Proposed	
Case	Time Limits	Case	Time Limits
a) Normal Case	Up to 4 Years from the end of relevant Assessment Year	a) Normal Case	Up to 3 Years from the end of relevant Assessment Year
b) In Case income escaping assessment is Rs 1 Lakhs or more.	Up to 6 Years from the end of relevant Assessment Year	b) In Case income represented in the form of asset, which has escaped assessment amounts Rs 50 Lakhs or more:	Up to 10 Years from the end of relevant Assessment Year
c) In Case income that has escaped assessment relates to assets located outside India.	Up to 16 Years from the end of relevant Assessment Year		

Search Assessment- New Provisions

Existing	Proposed
Applicable for search initiated on or before 31 st March, 2021	Applicable for search initiated after 31 st March, 2021
Assessment u/s 153A/153C falling within six Assessment Years prior to the date of search and search year.	Assessment u/s 147/148

Requirement before Issuing Notice- New Provisions u/s 148A

- a) Prior Approval of specified authority u/s 151
- b) Conduct any enquiry (if required)
- c) Providing an opportunity of being heard to the assessee
- d) Consider the reply of assessee furnished (if any)
- e) Passing an order with the prior approval of the specified authority for issue of notice

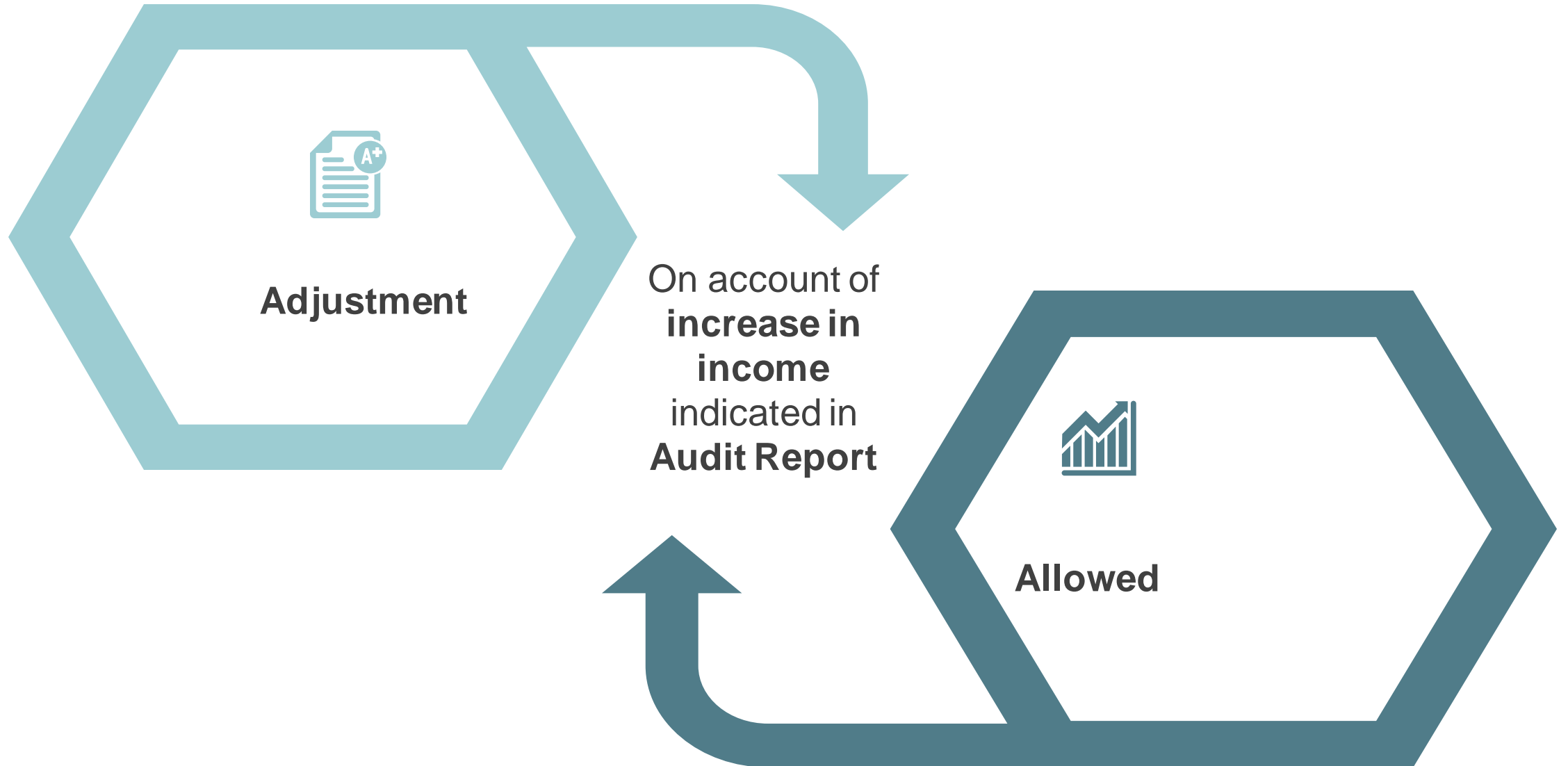
Cases where information with AO suggest that the income chargeable to tax has escaped assessment

- a) Any information flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;
- b) Any final objection raised by the Comptroller and Auditor General of India to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act.

Cases where information with AO will be deemed to suggest that the income chargeable to tax has escaped assessment

- a) Search is initiated under section 132 or books of account etc are requisitioned u/s132A, on or after the 1st day of April, 2021.
- b) Survey is conducted under section 133A on or after the 1st day of April, 2021; or
- c) AO is satisfied, with the prior approval of the Commissioner, that any money etc., seized or requisitioned in case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or
- d) AO is satisfied, with the prior approval of Commissioner, that any books of account etc, seized or requisitioned in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, relate to, the assessee,

Scope of 143(1) enhanced



SPEED





Timeline for Passing Scrutiny Orders FURTHER Reduced

Section	A.Y. 2017-18 & earlier	A.Y. 2018-19	A.Y. 2019-20 & A.Y. 2020-21	A.Y. 2021-22 & Subsequent
143(3)/144	21 months from the end of relevant A.Y.	18 months from the end of relevant A.Y.	12 months from the end of relevant A.Y.	9 months from the end of relevant A.Y.

Notice under section 143 (2) can be issued within ~~6 months~~ 3 months from the end of financial year in which return was furnished.

Time limit for processing return REDUCED

Existing

No intimation u/s 143(1) shall be sent after expiry of 1 year from the end of FY in which return is made

Proposed

No intimation u/s 143(1) shall be sent after expiry of 9 months from the end of FY in which return is made

FILING OF ITR u/s 139(4) & 139(5)



Example : AY 2021-22

139(4) Belated return : 31st December 2021

Or

139(5) Revised return : 31st December 2021

TDS/TCS



TCS ON SALE OF GOODS U/S 206C(1H)

(Applicable w.e.f. 1st October, 2020)

Existing Law

- ☐ Every person, being **a seller**, who
- ☐ **Receives** any amount **as consideration for sale of any goods** exceeding Rs. 50 lakhs **in any previous year**
- ☐ Liable to collect **at the time of receipt**
- ☐ TCS @ 0.1% (0.075% till 31-3-21) of the sale consideration **exceeding Rs. 50 lakhs.**
- ☐ If PAN/ Aadhar not furnished – Rate will be 1%



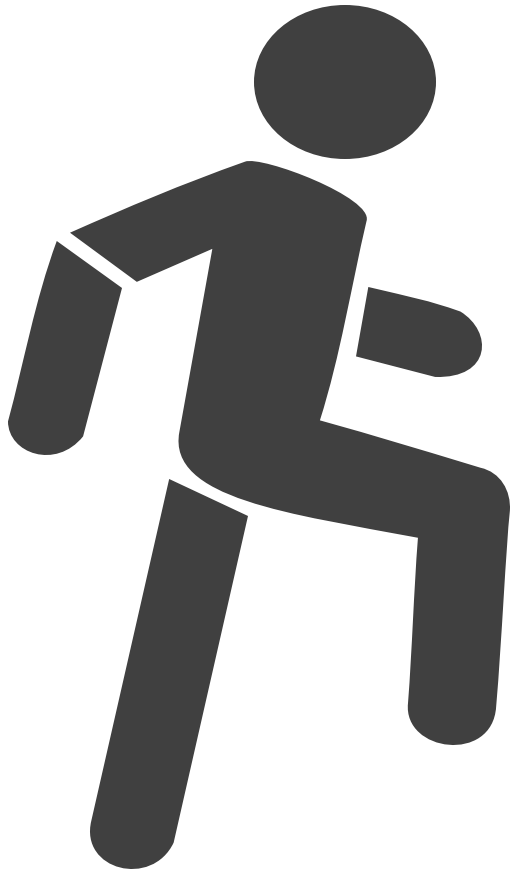
TCS ON SALE OF GOODS U/S 206C(1H)

☐ **Seller means** a person whose

☐ Total Sales, Gross Receipts or Turnover from the business carried on by him exceed

☐ Rs. 10 Crores during the financial year immediately preceding financial year

☐ in which sale of goods is carried out



SELLER
(Turnover > 10 crore)



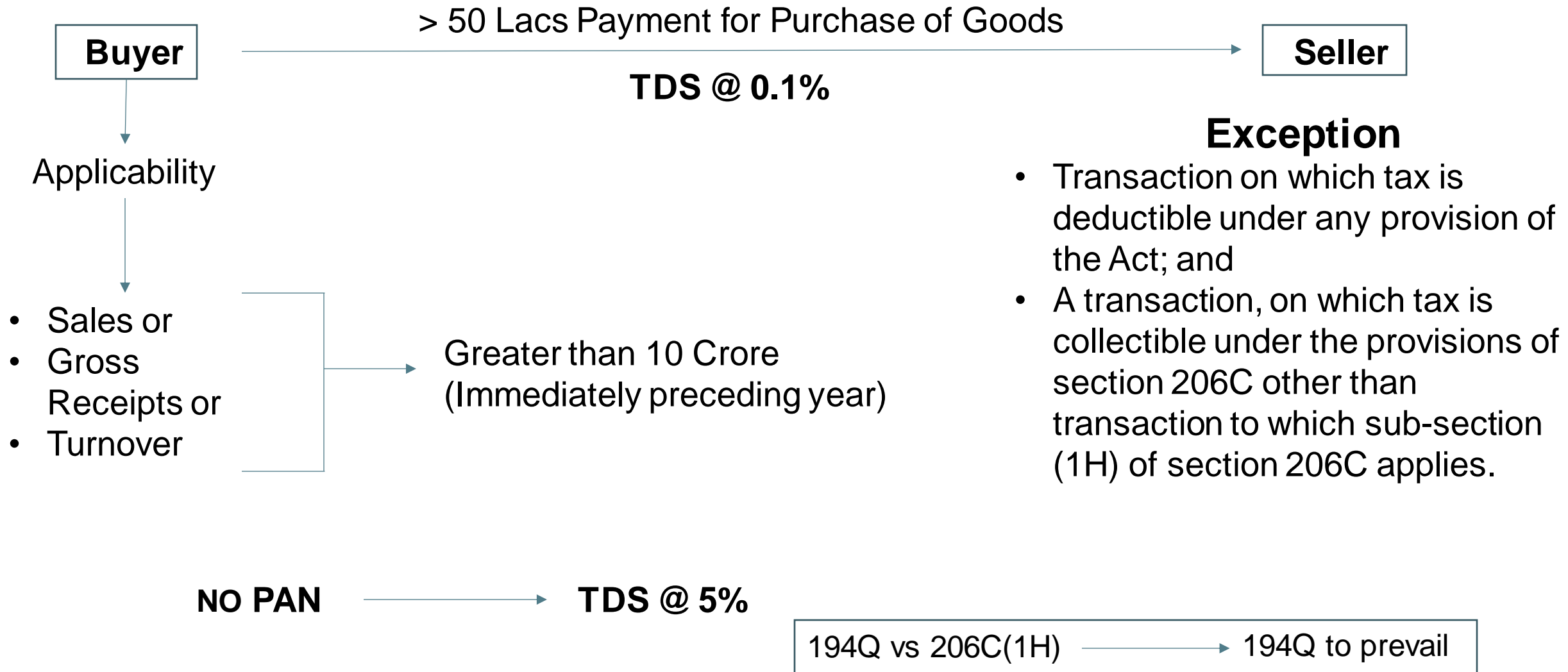
SELLS TO BUYER
(Sale consideration > 50 lacs)



SELLER
(Collect TCS on amount in excess of Rs. 50 lacs @0.075%)
(Non PAN/Aadhar : 1%)

TDS on Purchase of Goods

New Section:- 194Q w.e.f. 01.07.2021



TDS on non-filers - higher rates

Higher Of:

Rate under **New Section 206AB**

OR

Rate under **Section 206AA**

- **Twice** X rate specified in the relevant provision of the Act
- **Twice** X rate(s) in force
- **5 percent**

w.e.f.
01.07.2021

HIGHER

206AB:

Not Applicable where TDS deducted u/s **192, 192A, 194B, 194BB, 194LBC or 194N**

Specified Person: (not NR who does not have a permanent establishment in India.)

- Not filed ROI in immediately preceding 2 PYs of such Previous Years
- Time limit u/s 139(1) has expired for such PYs
- Aggregate of TDS & TCS in his case \geq Rs. 50,000 in each of these PYs.

TCS on non-filers - higher rates

Higher Of:

Rate under **New Section 206CCA**

OR

Rate under **Section 206CC**

- **Twice** X rate specified in the relevant provision of the Act
- **5 percent**

w.e.f.
01.07.2021

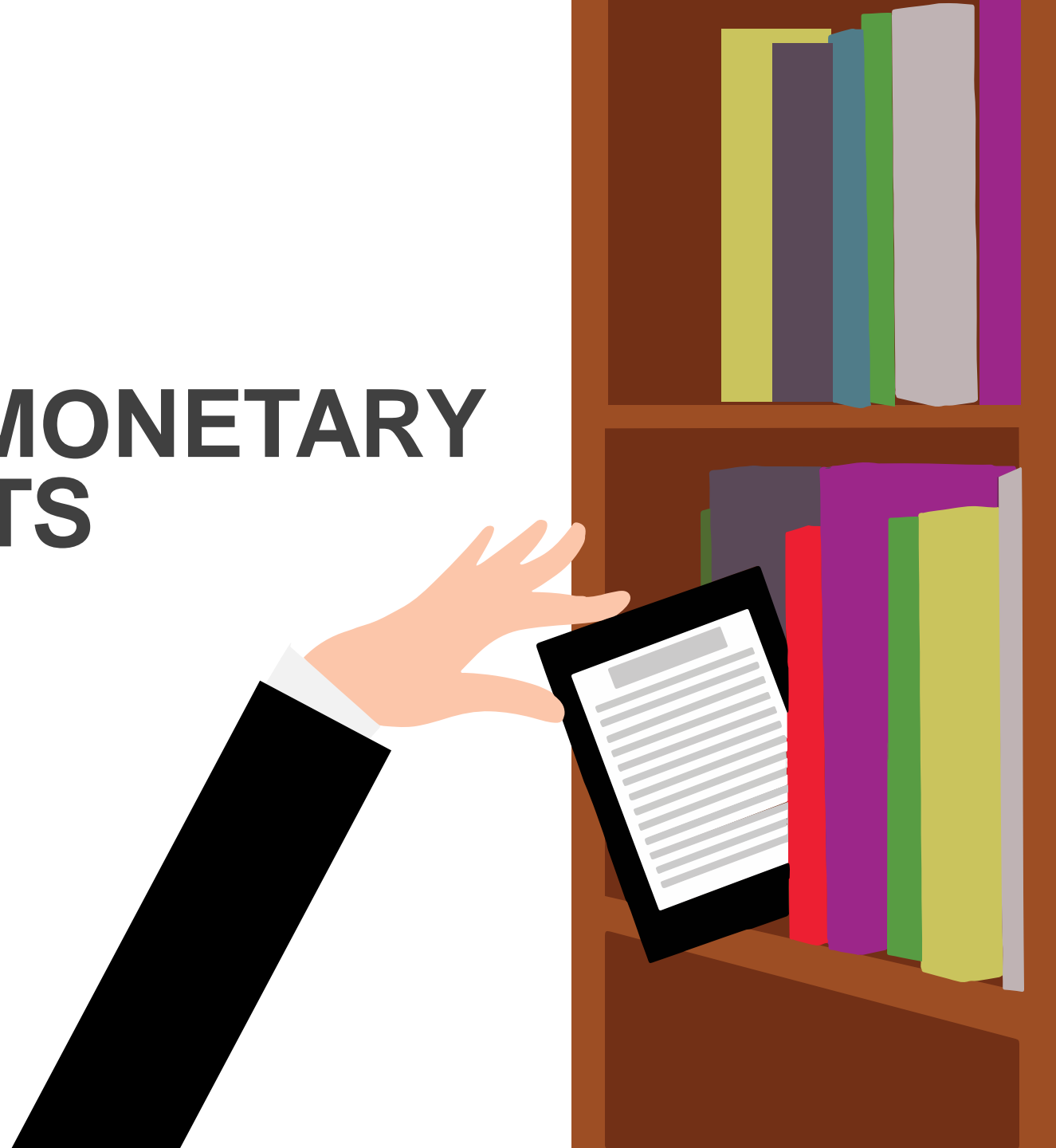
HIGHER

206CCA:

Specified Person: (not NR who does not have a permanent establishment in India.)

- Not filed ROI in immediately preceding 2 PYs of such Previous Years
- Time limit u/s 139(1) has expired for such PYs
- Aggregate of TDS & TCS in his case \geq Rs. 50,000 in each of these PYs.

RELAXATION IN MONETARY LIMITS OF TAX AUDITS





Monetary Limit for Tax Audit **FURTHER** Increases

- A) To incentivize non-cash transactions;
- B) Promote Digital Economy;
- C) Reduce compliance burden on small and medium enterprises.

Threshold for person carrying on business:

- A) Rs 1 crore** – If cash payments and cash receipts are more than 5% of aggregate of payments and aggregate of receipts.
- ~~B) Rs 5 crore~~ Rs 10 crore** – If cash payments and cash receipts are less than 5% of aggregate of payments and aggregate of receipts.



PRESUMPTIVE TAXATION





SPECIAL PROVISIONS FOR PRESUMPTIVE TAXATION FOR PROFESSIONALS UNDER SECTION 44ADA [With Effect From A.Y. 2021-22]

CLARIFICATION

The section
shall apply to:

- a) Individual
- b) HUF
- c) Partnership

The section shall
not apply to:

LLP

[Because they are
required to
maintain books of
accounts under
the LLP Act, 2008]



FACELESSNESS

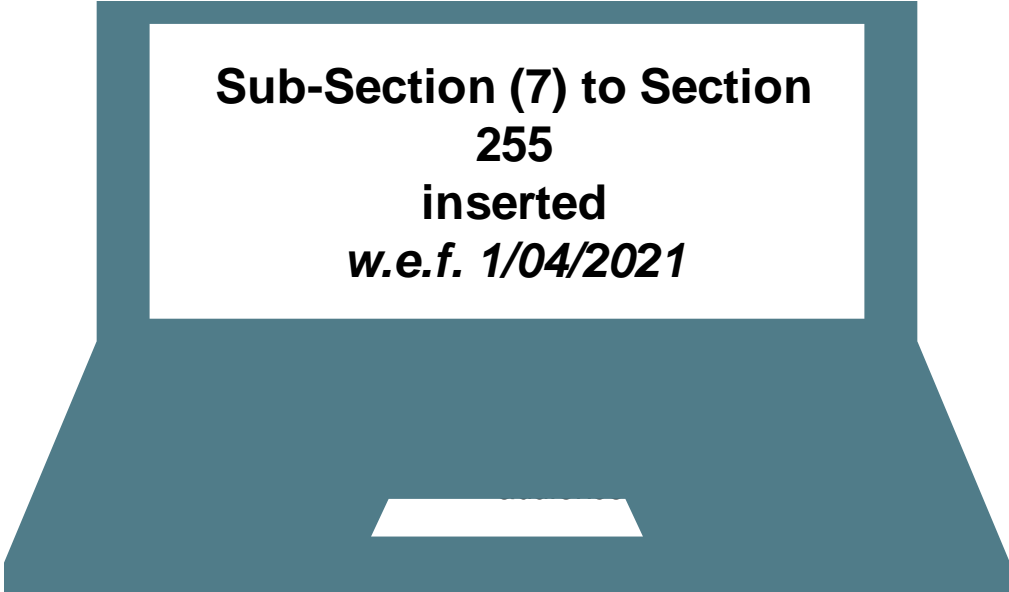


Faceless ITAT

Current provisions

- ✓ Faceless Assessment Scheme
- ✓ Faceless Appeal Scheme
- ✓ Faceless Penalty Scheme

Going Forward....



**Sub-Section (7) to Section
255
inserted
*w.e.f. 1/04/2021***

The Central Government to make a scheme for the purposes of disposal of appeals by the Appellate Tribunal on or before 31.03.2023.

- Eliminate the interface between ITAT and parties to the appeal
- Dynamic jurisdiction introduced
- Extent of technological feasibility to be considered

INTERNATIONAL TRANSACTIONS



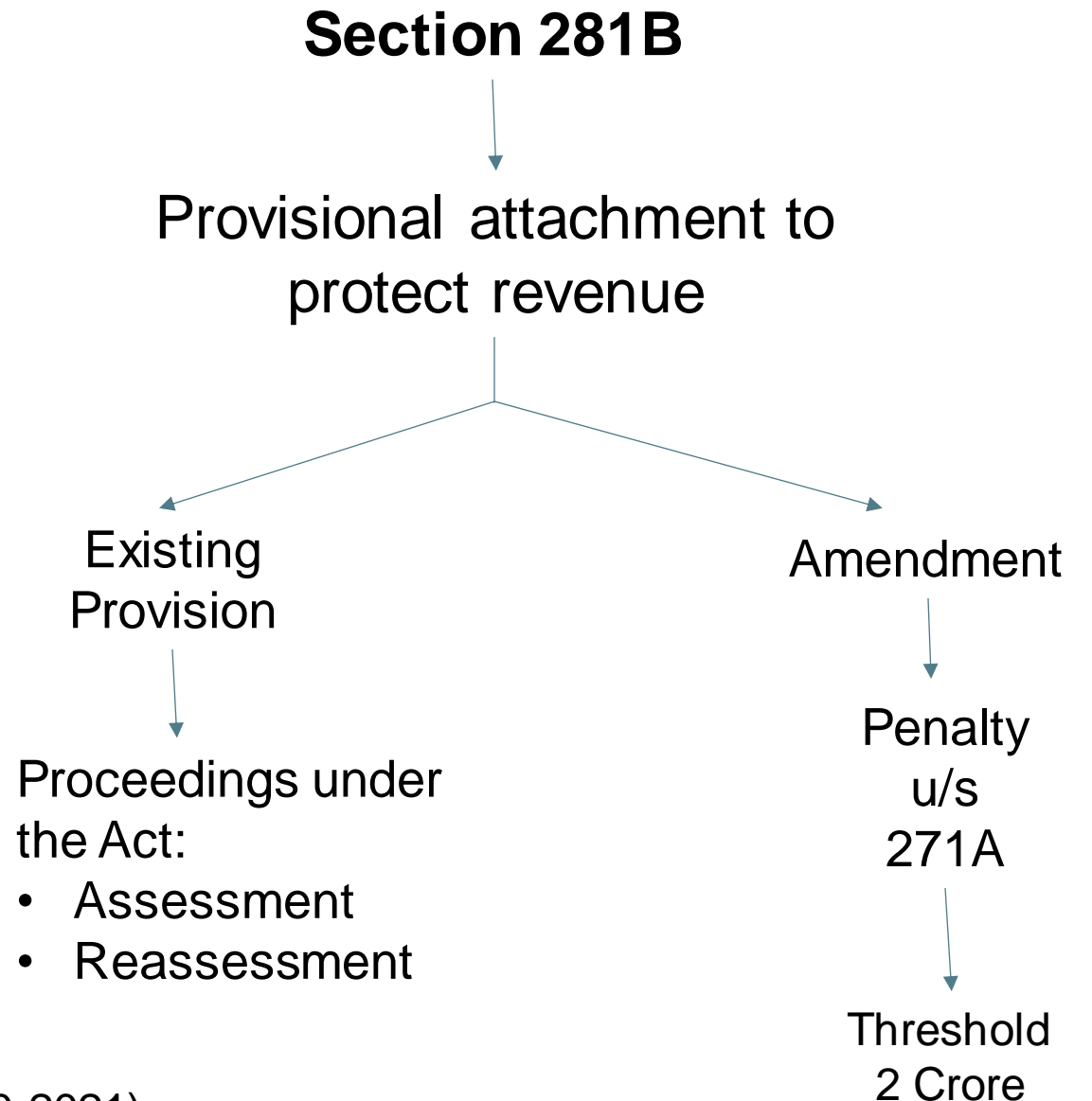
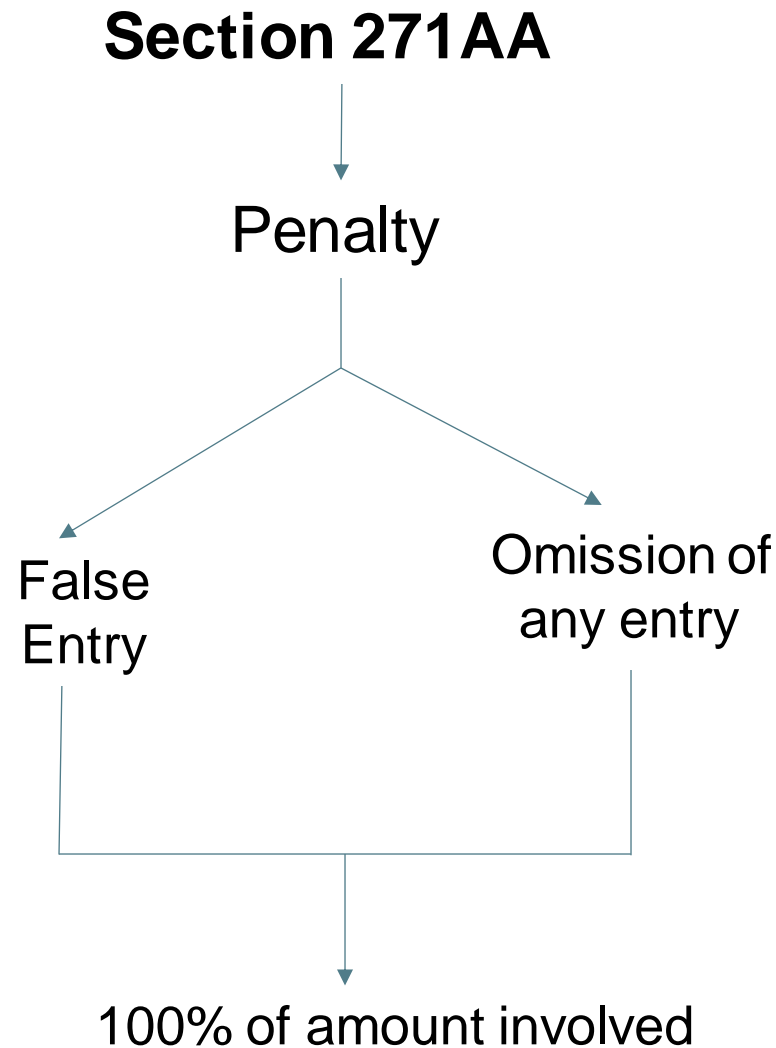
Equalization Levy - E-commerce Supply or Services

Amendment in Finance Act, 2016	Finance Act, 2020	Finance Act, 2021
Exceptions to Meaning of E-commerce Supply or Services :	<p>EXCEPTIONS:</p> <ul style="list-style-type: none"> If NON-RESIDENT E-COMMERCE OPERATORS have PERMANENT ESTABLISHMENT in India and e-commerce supply or services are effectively connected to those establishments; or The levy at 6% on "specified services" i.e. if the service or supply is chargeable under section 165 of the Finance Act, 2016; or <p>Threshold of less than INR 2 crores of SALES, TURNOVER, OR GROSS RECEIPTS during the financial year</p>	<p>EXCEPTIONS ADDED :</p> <ul style="list-style-type: none"> To further include considerations which are taxable as royalty or fees for technical services in India.
Rate of levy	<ul style="list-style-type: none"> 2% on consideration received or receivable by e-commerce operators from e-commerce supply or services 	<ul style="list-style-type: none"> No Change

FAKE INVOICES- PROVISIONAL ATTACHMENT



Section 271AA Penalty – Provisional Attachment



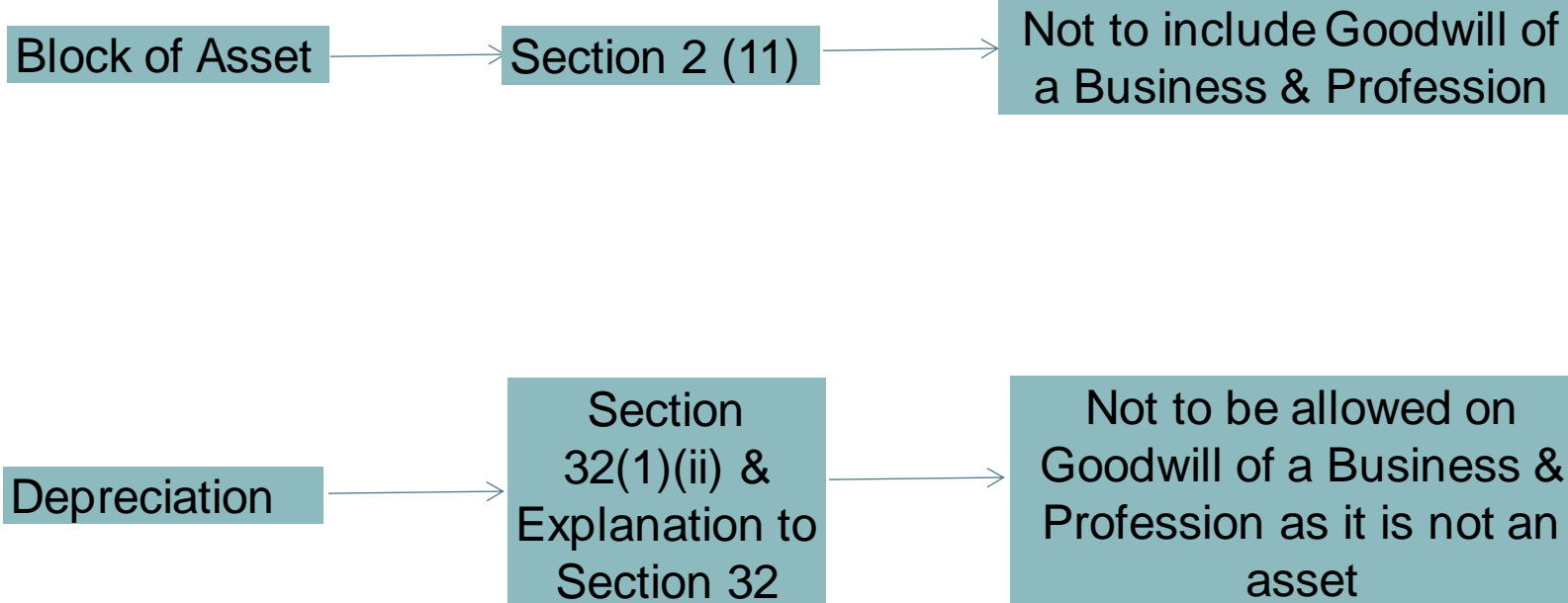
Note: Applicable with effect from 1st April, 2021 (F.Y. 2020-2021)

GOODWILL



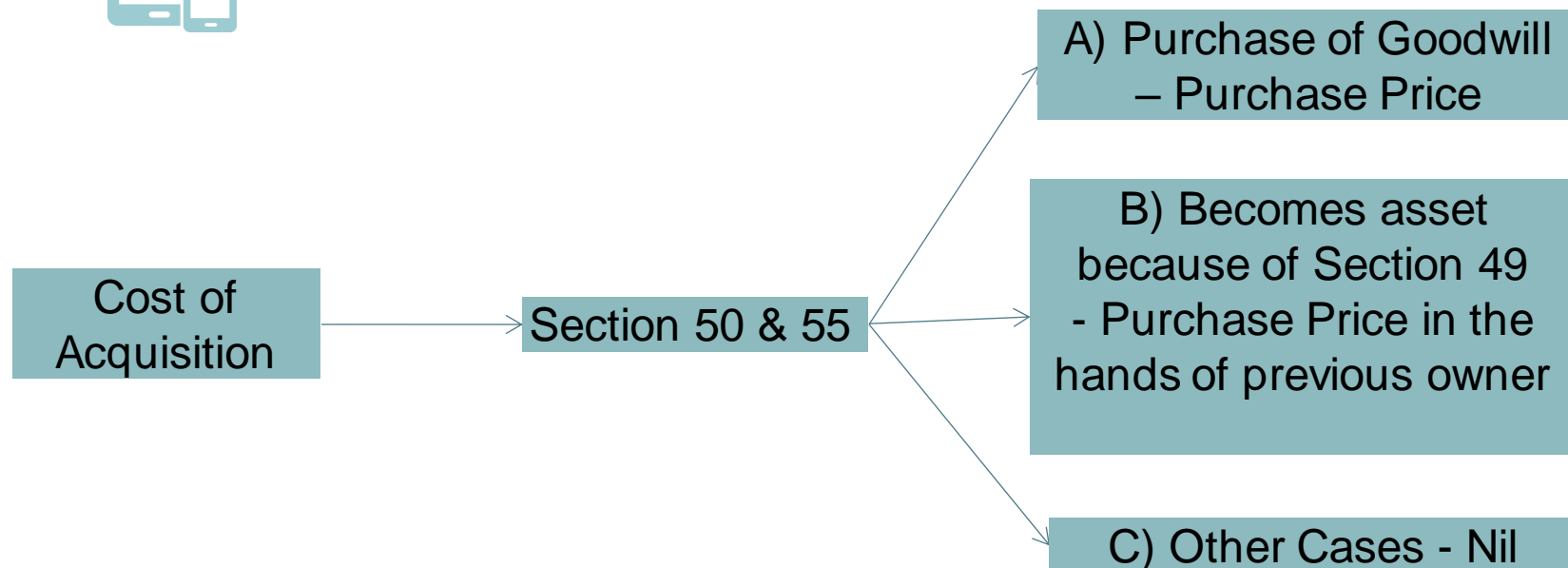


Goodwill – Not Depreciable





Goodwill Sale – Liable for Capital Gain



Cost of Acquisition to be reduced by the amount of depreciation claimed before 01/04/2021.

Goodwill

RELAXATION TO REAL ESTATE



VARIATION OF 20% ALLOWABLE FOR THE PURPOSES OF SECTION 43CA & 56(2)(x) – [A.Y. 2021-22]

While computing income under:

- Business Profits [Section 43CA],
- Other Sources [Section 56(2)(x)]

arising out of transactions of transfer of immovable property (Capital asset or SIT), the Sale Consideration or Stamp Duty Value, whichever is higher has to be offered for tax.

Exception:

Sale Consideration shall not be substituted with Stamp Duty Value if variation between the two is within the tolerance band*.

** Existing Tolerance Band for above sections is 10%. However, it is proposed to be increased to 20% on fulfillment of the following conditions:*

Condition 1	Condition 2	Condition 3
The transfer of residential unit takes place during the period from 12 th November, 2020 to 30 th June, 2021	The transfer is by way of first time allotment of the residential unit to any person	The consideration received or accruing as a result of such transfer does not exceed two crore rupees

RELAXATION IN DUE DATES



DUE DATE FOR FILING ITR

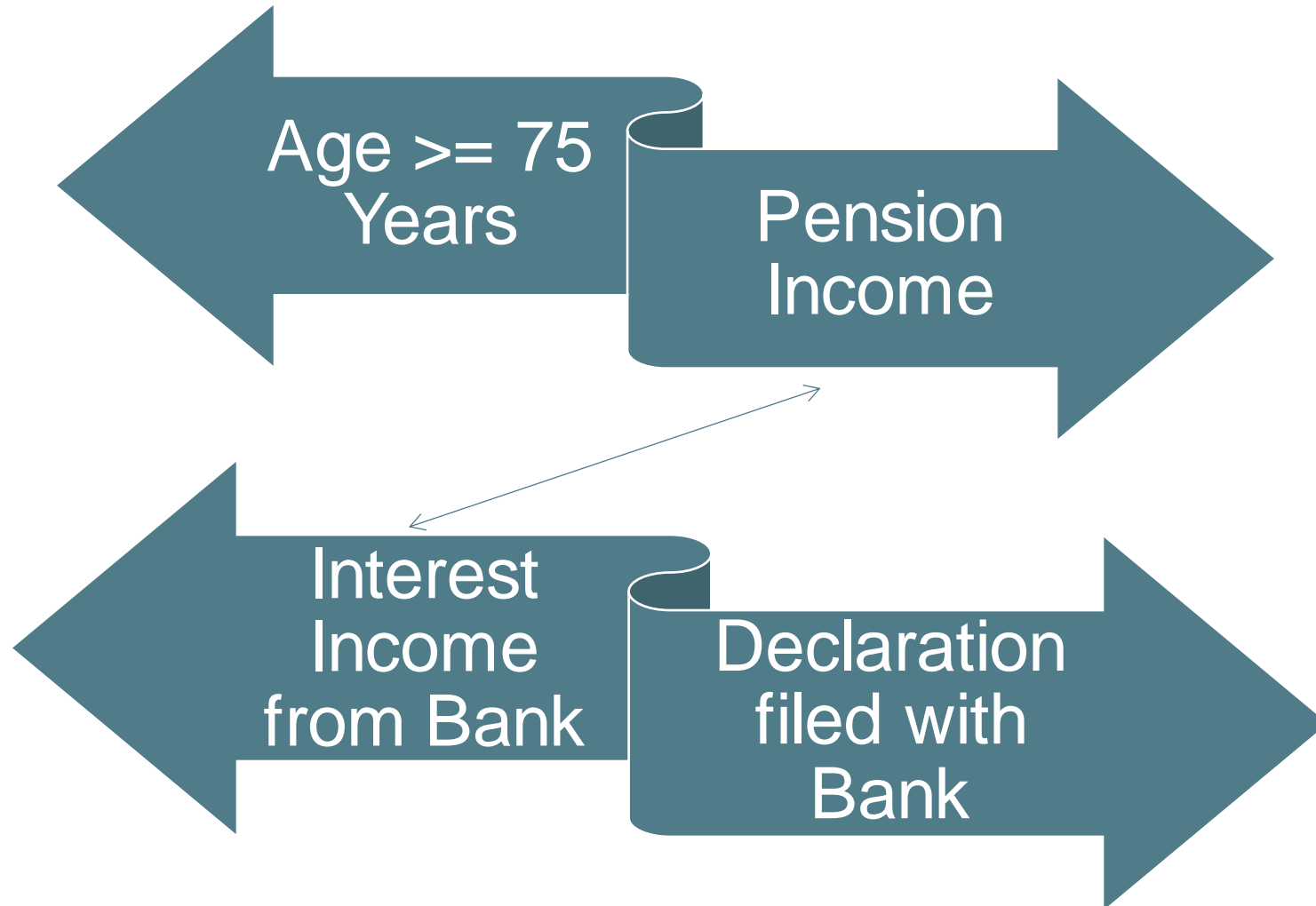
Assessee	Due Date (Existing)	Due Date (Proposed)
Firm are required to furnish report u/s 92E	30 th November	30 th November
Working Partner of above firm	31 st October	30 th November

OTHER CHANGES



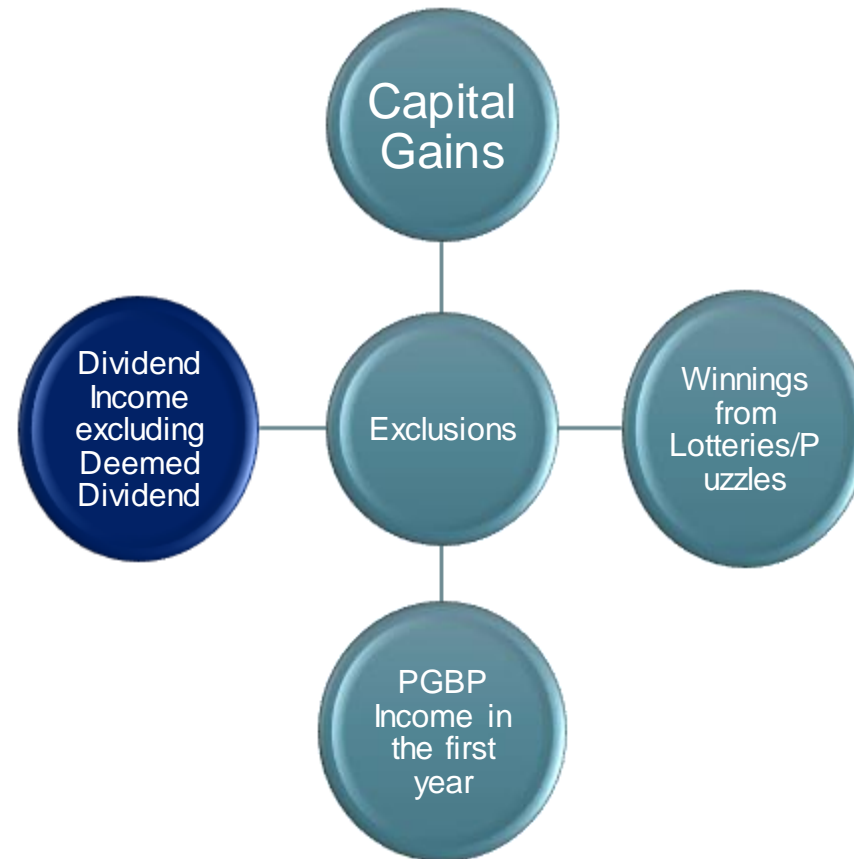
NON-FILING OF ROI FOR SENIOR CITIZENS

➤ SUBJECT TO FULFILMENT OF BELOW CONDITIONS



NO LIABILITY FOR ADVANCE TAX

INTEREST OF 1% HAS TO BE PAID ON SHORTFALL AMOUNT WITH RESPECT TO ADVANCE TAX INSTALMENTS



THANKYOU

