GOVERNMENT OF INDIA

MEMORANDUM EXPLAINING THE PROVISIONS IN THE FINANCE BILL, 2023

(Clauses referred to are clauses in the Bill)

FINANCE BILL, 2023

PROVISIONS RELATING TO DIRECT TAXES

Introduction

The provisions of Finance Bill, 2023 (hereafter referred to as "the Bill"), relating to direct taxes seek to amend the Income-tax Act, 1961 (hereafter referred to as 'the Act'), to continue reforms in direct tax system through tax reliefs, removing difficulties faced by taxpayers and rationalization of various provisions.

With a view to achieving the above, the various proposals for amendments are organized under the following heads:—

(A) Rates of Income-tax;

(B) Socio economic welfare measures;

(C) Ease of compliance;

(D) Widening and deepening of tax base/Anti-Avoidance;

(E) Improving compliance and Tax administration;

(F) Rationalisation of Provisions; and

(G) Others.

DIRECT TAXES

A. RATES OF INCOME-TAX

I. Rates of income-tax in respect of income liable to tax for the assessment year 2023-24.

In respect of income of all categories of assessee liable to tax for the assessment year 2023-24, the rates of income-tax have either been specified in specific sections of the Act (like section 115BAA or section 115BAB for domestic companies, 115BAC for individual/HUF and 115BAD for cooperative societies) or have been specified in Part I of the First Schedule to the Bill. There is no change proposed in tax rates either in these specific sections or in the First Schedule. The rates provided in sections 115BAA or 115BAB or 115BAC or 115BAD of the Act for the assessment year 2023-24 would be same as already enacted. Similarly, rates laid down in Part III of the First Schedule to the Finance Act, 2022, for the purposes of computation of "advance tax", deduction of tax at source from "Salaries" and charging of tax payable in certain cases for the assessment year 2023-24 would now become part I of the first schedule. Part III would now apply for the assessment year 2024-25.

(1) Tax rates under section 115BAC—

On satisfaction of certain conditions, as per the provisions of section 115BAC of the Act, an individual or HUF, from assessment year 2021-22 to assessment year 2023-24, has the option to pay tax in respect of the total income at following rates:

Total Income (Rs)	Rate
Up to 2,50,000	Nil
From 2,50,001 to 5,00,000	5%
From 5,00,001 to 7,50,000	10%
From 7,50,001 to 10,00,000	15%
From 10,00,001 to 12,50,000	20%
From 12,50,001 to 15,00,000	25%
Above 15,00,000	30%

2. With effect from assessment year 2024-25, it is proposed that the following rates provided under the proposed sub-section (1A) of section 115BAC of the Act shall be the rates applicable for determining the income-tax payable in respect of the total income of a person, being an individual or Hindu undivided family or association of persons [other than a co-operative society], or body of individuals, whether incorporated or not, or an artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2:—

Sl. No.	***Total income***	***Rate of tax***
(1)	***(2)***	***(3)***
1.	Upto Rs. 3,00,000	Nil
2.	From Rs. 3,00,001 to Rs. 6,00,000	5 per cent.
3.	From Rs. 6,00,001 to Rs.9,00,000	10 per cent.
4.	From Rs. 9,00,001 to Rs. 12,00,000	15 per cent.
5.	From Rs. 12,00,001 to Rs. 15,00,000	20 per cent.
6.	Above Rs. 15,00,000	30 per cent.

3. The above-mentioned rates shall apply to all individual or Hindu undivided family or association of persons [other than a co-operative society], or body of individuals, whether incorporated or not, or an artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2, unless an option is exercised under proposed sub-section (6) of section 115BAC.

Thus, rates given in sub-section (1A) of section 115BAC of the Act are the default rates. Further, the income-tax payable in respect of the total income of the person [other than a person who has exercised an option under sub-section (6) of section 115BAC], shall be computed without allowing for any exemption or deduction as provided under clause (i) of subsection (2) of section 115BAC of the Act. However, standard deduction as provided under clause (ia) of section 16 of the Act, deduction in respect of income in the nature of family pension as provided under clause (iia) of section 57 of the Act and deduction in respect of the amount paid or deposited in the Agniveer Corpus Fund as proposed to be provided under sub-section (2) section 80CCH of the Act, shall be allowed for the purposes of computing the income chargeable to tax under sub-section (1A) of section 115BAC.

4. If an option is exercised under sub-section (6) of section 115BAC, then nothing contained in sub-section (1A) of section 115BAC shall apply in respect of such person. The option is required to be exercised, -

(i) on or before the due date specified under sub-section (1) of section 139 of the Act for furnishing the return of income for such assessment year, in case of a person having income from business or profession, and such option once exercised shall apply to subsequent assessment years; or

(ii) along with the return of income to be furnished under sub-section (1) of section 139 of the Act for such assessment year, in case of a person not having income referred to in clause (i)

5. A person having income from business or profession who has exercised the above option of shifting out of the regime provided under the proposed sub-section (1A) of section

115BAC shall be able to exercise the option of opting back to the regime under proposed sub-section (1A) of section 115BAC only once. However, a person not having income from business or profession shall be able to exercise this option every year.

6. In respect of income chargeable to tax under sub-section (1A) of section 115BAC of the Act, the "advance tax" for FY 2023-24 shall be increased by a surcharge, for the purposes of the Union, computed, in the case of every individual or Hindu undivided family or association of persons, or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act,-

(i) having a total income (including the income by way of dividend or income under the provisions of section 111A, section 112 and section 112A of the Act) exceeding fifty lakh rupees but not exceeding one crore rupees, at the rate of 10% of such "advance-tax";

(ii) having a total income (including the income by way of dividend or income under the provisions of section 111A, section 112 and section 112A of the Act) exceeding one crore rupees but not exceeding two crore rupees, at the rate of 15% of such "advance-tax"; and

(iii) having a total income (excluding the income by way of dividend or income under the provisions of section 111A, section 112 and section 112A of the Act) exceeding two crore rupees, at the rate of 25% of such "advance-tax";

(iv) having a total income (including the income by way of dividend or income under the provisions of section 111A, section 112 and section 112A of the Act) exceeding two crore rupees, but is not covered under clause (iii) above, at the rate of fifteen per cent. of such "advance-tax";

6.1 In case where the provisions of sub-section (1A) of section 115BAC are applicable and the total income includes any income by way of dividend or income under the provisions of section 111A, section 112 and section 112A of the Act, the rate of surcharge on the "advance-tax" in respect of that part of income shall not exceed fifteen per cent.

6.2 Further, in the case of an association of persons consisting of only companies as its members, and having its income chargeable to tax under sub-section (1A) of section 115BAC, the rate of surcharge on the "advance-tax" shall not exceed fifteen per cent.

7. Marginal relief shall be provided in such cases.

(2) Tax rate under section 115BAD and section 115BAE of the Act—

A co-operative society resident in India has the option to pay tax at 22% for assessment year 2021-22 onwards as per the provisions of section 115BAD of the Act, subject to fulfilment of certain conditions.

2. Under proposed new section 115BAE of the Act, a new manufacturing co-operative society set up on or after 01.04.2023, which commences manufacturing or production on or before 31.03.2024 and does not avail of any specified incentive or deductions, may opt to pay tax at a concessional rate of 15% for assessment year 2024-25 onwards. Surcharge would be at 10% on such tax.

(3) Tax rates under Part I of the first schedule applicable for the assessment year 2023-24

A. Individual, HUF, association of persons, body of individuals, artificial juridical person.

Paragraph A of Part-I of First Schedule to the Bill provides following rates of income-tax:—

(i) The rates of income-tax in the case of every individual (other than those mentioned in (ii) and (iii) below) or HUF or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act (not being a case to which any other Paragraph of Part III applies) are as under:—

Up to Rs. 2,50,000	Nil.
Rs. 2,50,001 to Rs.5,00,000	5%
Rs. 5,00,001 to Rs.10,00,000	20%
Above Rs. 10,00,000	30%

(ii) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Up to Rs. 3,00,000	Nil.
Rs. 3,00,001 to Rs.5,00,000	5%
Rs. 5,00,001 to Rs.10,00,000	20%
Above Rs. 10,00,000	30%

(iii) in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Up to Rs.5,00,000	Nil.
Rs. 5,00,001 to Rs.10,00,000	20%
Above Rs 10,00,000	30%

B. Co-operative Societies

In the case of co-operative societies, the rates of income-tax have been specified in Paragraph B of Part I of the First Schedule to the Bill. They remain unchanged at (10% up to Rs 10,000; 20% between Rs 10,000 and Rs 20,000; and 30% in excess of Rs 30,000).

C. Firms

In the case of firms, the rate of income-tax has been specified in Paragraph C of Part I of the First Schedule to the Bill. They remain unchanged at 30%

D. Local authorities

The rate of income-tax in the case of every local authority has been specified in Paragraph D of Part I of the First Schedule to the Bill. They remain unchanged at 30%.

E. Companies

The rates of income-tax in the case of companies have been specified in Paragraph E of Part I of the First Schedule to the Bill. In case of domestic company, the rate of income-tax shall be 25% of the total income, if the total turnover or gross receipts of the previous year 2020-21 does not exceed four hundred crore rupees and in all other cases the rate of Income-tax shall be 30% of the total income.

2. In the case of company other than domestic company, the rates of tax are the same as those specified for the FY 2021-22.

(4) Surcharge on income-tax for the assessment year 2023-24

The amount of income-tax shall be increased by a surcharge for the purposes of the Union,—

(a) in the case of every individual or HUF or association of persons, except in a

case of an association of persons consisting of only companies as its members, or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act, including an individual or HUF exercising option under section 115BAC, not having any income under section 115AD of the Act,—

(i) having a total income (including the income by way of dividend or income under the provisions of section 111A,112 and 112A of the Act) exceeding fifty lakh rupees but not exceeding one crore rupees, at the rate of ten per cent. of such income- tax; and

(ii) having a total income (including the income by way of dividend or income under the provisions of section 111A, 112 and 112A of the Act) exceeding one crore rupees but not exceeding two crore rupees, at the rate of fifteen per cent. of such income-tax;

(iii) having a total income (excluding the income by way of dividend or income under the provisions of section 111A, 112 and 112A of the Act) exceeding two crore rupees but not exceeding five crore rupees, at the rate of twenty-five per cent. of such income-tax;

(iv) having a total income (excluding the income by way of dividend or income under the provisions of section 111A, 112 and 112A of the Act) exceeding five crore rupees, at the rate of thirty-seven per cent. of such income-tax;

(v) having a total income (including the income by way of dividend or income under the provisions of section 111A, 112 and 112A of the Act) exceeding two crore rupees, but is not covered under clause (iii) or (iv) above, at the rate of fifteen per cent of such income tax:

1.1 It is further provided that in case where the total income includes any income by way of dividend or income chargeable under section 111A, 112 and 112A of the Act, the rate of surcharge on the amount of income-tax computed in respect of that part of income shall not exceed fifteen percent;

1.2 However, surcharge shall be at the rates provided in (i) to (v) above for all category of income without excluding dividend or capital gains in case if the income is taxable under section 115A, 115AB, 115AC, 115ACA and 115E.

(b) in the case of individual or every association of person, except in a case of an association of persons consisting of only companies as its members, or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act having income under section 115AD of the Act,-

(i) having a total income exceeding fifty lakh rupees but not exceeding one crore rupees, at the rate of ten per cent of such income-tax; and

(ii) having a total income exceeding one crore rupees but not exceeding two crore rupees, at the rate of fifteen per cent of such income-tax;

(iii) having a total income [excluding the income by way of dividend or income of the nature referred to in clause (b) of sub-section (1) of section 115AD of the Act] exceeding two crore rupees but not exceeding five crore rupees, at the rate of twenty-five per cent. of such income-tax;

(iv) having a total income [excluding the income by way of dividend or income of the nature referred to in clause (b) of sub-section (1) of section 115AD of the Act] exceeding five crore rupees, at the rate of thirty-seven per cent. of such income-tax;

(v) having a total income [including the income by way of dividend or income of the nature referred to in clause (b) of sub-section (1) of section 115AD of the Act] exceeding two crore rupees but is not covered in sub-clauses (iii) and (iv), at the rate of fifteen per cent. of such income-tax:

1.3 It is further provided that in case where the total income includes any income by way of dividend or income chargeable under clause (b) of sub-section (1) of section 115AD of the Act, the rate of surcharge on the income-tax calculated on that part of income shall not exceed fifteen percent;

(c) in the case of an association of persons consisting of only companies as its members, calculated,—

(i) at the rate of 10% of such income-tax, where the total income exceeds fifty lakh rupees but does not exceed one crore rupees;

(ii) at the rate of 15% of such income-tax, where the total income exceeds one crore rupees;

(d) in the case of every co-operative society (except resident co-operative society opting under section 115BAD)-

(i) at the rate of 7% of such income-tax, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of 12% of such income-tax, where the total income exceeds ten crore rupees;

(e) in the case of every firm or local authority, at the rate of 12% of such income-tax, where the total income exceeds one crore rupees;

(f) in case of resident co-operative society opting under section 115BAD of the Act, at the rate of 10% of such income tax;

(g) in the case of every domestic company, except such domestic company whose income is chargeable to tax under section 115BAA or section 115BAB of the Act,—

(i) at the rate of 7% of such income-tax, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of 12% of such income-tax, where the total income exceeds ten crore rupees;

(h) in the case of domestic company whose income is chargeable to tax under section 115BAA or 115BAB of the Act, at the rate of 10%;

(i) in the case of every company, other than a domestic company,—

(i) at the rate of two per cent. of such income-tax, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such income-tax, where the total income exceeds ten crore rupees;

(j) In other cases (including sections 92CE, 115QA, 115R, or 115TD of the Act), the surcharge shall be levied at the rate of 12%.

(5) Marginal Relief—

Marginal relief has also been provided in all cases where surcharge is proposed to be imposed.

(6) Health and Education Cess—

For assessment year 2023-24, "Health and Education Cess" is to be levied at the rate of 4% on the amount of income tax so computed, inclusive of surcharge wherever applicable, in all cases. No marginal relief shall be available in respect of such cess.

II. Rates for deduction of income-tax at source during the financial year (FY) 2023-24 from certain incomes other than "Salaries".

The rates for deduction of income-tax at source during the FY 2023-24 under the provisions of sections 193, 194A, 194B, 194BB, 194D, 194LBA, 194LBB, 194LBC and 195

have been specified in Part II of the First Schedule to the Bill. The rates will remain the same as those specified in Part II of the First Schedule to the Finance Act, 2022, for the purposes of deduction of income-tax at source during the FY 2022-23. Further, Part II shall now also apply to the proposed section 194BA for deduction of income-tax at source on income by way of winnings from online games at the rate of 30 % being the rate in force.

2. For sections specifying the rate of deduction of tax at source, the tax shall continue to be deducted as per the provisions of these sections.

3. Surcharge—

3.1 The amount of tax so deducted shall be increased by a surcharge,—

(a) in the case of every individual or HUF or association of persons, except in case of an association of persons consisting of only companies as its members, or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act, being a non-resident, calculated,—

(i) at the rate of 10% of such tax, where the income or aggregate of income (including the income by way of dividend or income under the provisions of sections 111A, 112 and 112A of the Act) paid or likely to be paid and subject to the deduction exceeds fifty lakh rupees but does not exceed one crore rupees;

(ii) at the rate of 15% of such tax, where the income or aggregate of income (including the income by way of dividend or income under the provisions of sections 111A 112and 112A of the Act) paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed two crore rupees;

(iii) at the rate of 25% of such tax, where the income or aggregate of income (excluding the income by way of dividend or income under the provisions of sections 111A, 112 and 112A of the Act) paid or likely to be paid and subject to the deduction exceeds two crore rupees but does not exceed five crore rupees;

(iv) at the rate of 37% per cent. of such tax, where the income or aggregate of income (excluding the income by way of dividend or income under the provisions of sections 111A, 112 and 112A of the Act) paid or likely to be paid and subject to the deduction exceeds five crore rupees;

(v) at the rate of 15% of such tax, where the income or aggregate of income (including the income by way of dividend or income under the provisions of section 111A,112 and 112A of the Act) paid or likely to be paid and subject to the deduction exceeds two crore rupees, but is not covered under (iii) and (iv) above

(II) It may be noted that in case where the total income of the individual or HUF or association of persons [except in case of an association of persons consisting of only companies as its members], or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act includes any income by way of dividend or income chargeable under section 111A, 112 and section 112A of the Act, the rate of surcharge on the amount of income-tax deducted in respect of that part of income shall not exceed fifteen per cent.

(III) Further, in case where the income of the individual or HUF or association of persons [except in case of an association of persons consisting of only companies as its members], or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act, is chargeable to tax under sub-section (1A) of section 115BAC of the Act, the surcharge at the rate of 37% on the income or aggregate of income of such person (excluding the income by way of dividend or income under the provisions of sections 111A, 112 and 112A of the Act) exceeding five

crore rupees shall not be applicable. In such cases the surcharge shall be restricted to 25%.

(b) in the case of an association of persons, being a non-resident, and consisting of only companies as it members,—

(i) at the rate of 10% of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds fifty lakh rupees but does not exceed one crore rupees;

(ii) at the rate of 15% of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(c) in the case of every co-operative society, being a non-resident, calculated ,—

(i) at the rate of 7% of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of 12% of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

(d) in the case of every firm, being a non-resident at the rate of 12% of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees;

(e) in the case of every company, other than a domestic company, calculated,—

(i) at the rate of 2% of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of 5% of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

3.2 No surcharge will be levied on deductions in other cases.

(2) Health and Education Cess—

"Health and Education Cess" shall continue to be levied at the rate of four per cent. of income tax including surcharge wherever applicable, in the cases of persons not resident in India including company other than a domestic company.

III. Rates for deduction of income-tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the FY 2023-24 (Assessment Year 2024-25).

The rates for deduction of income-tax at source from "Salaries" or under section 194P of the Act during the FY 2023-24 and also for computation of "advance tax" payable during the said year in the case of all categories of assessee have been specified in Part III of the First Schedule to the Bill. These rates are also applicable for charging income-tax during the FY 2023-24 on current incomes in cases where accelerated assessments have to be made, for instance, provisional assessment of shipping profits arising in India to non-residents, assessment of persons leaving India for good during the financial year, assessment of persons who are likely to transfer property to avoid tax, assessment of bodies formed for a short duration, etc. There is no change in the tax rates from last year except for those whose income is chargeable to tax under sub-section (1A) of section 115BAC of the Act. The salient features of the rates specified in the said Part III as well as specific sections of the Act are indicated

in the following paragraphs-

A. Individual, HUF, association of persons, body of individuals, artificial juridical person.

The rates provided in sub-section (1A) of section 115BAC of the Act shall be applicable, as default, for determining the income-tax payable in respect of the total income for FY 2023-24 (AY 2024-25), of an individual or Hindu undivided family or association of persons [other than a co-operative society], or body of individuals, whether incorporated or not, or an artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2. These rates are given in the following table.

Sl. No.	***Total income***	***Rate of tax***
(1)	***(2)***	***(3)***
1.	Upto Rs. 3,00,000	Nil
2.	From Rs. 3,00,001 to Rs. 6,00,000	5 per cent.
3.	From Rs. 6,00,001 to Rs.9,00,000	10 per cent.
4.	From Rs. 9,00,001 to Rs. 12,00,000	15 per cent.
5.	From Rs. 12,00,001 to Rs. 15,00,000	20 per cent.
6.	Above Rs. 15,00,000	30 per cent.

2. However, if such person exercises the option under the proposed sub-section (6) of section 115BAC of the Act, the rates as provided in Part III of the First Schedule shall be applicable.

3. Paragraph A of Part-III of First Schedule to the Bill provides following rates of income-tax:—

(i) The rates of income-tax in the case of every individual (other than those mentioned in (ii) and (iii) below) or HUF or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act (not being a case to which any other Paragraph of Part III applies) are as under:—

Upto Rs.2,50,000	Nil.
Rs. 2,50,001 to Rs.5,00,000	5%
Rs. 5,00,001 to Rs.10,00,000	20%
Above Rs10,00,000	30%

(ii) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Upto Rs.3,00,000	Nil.
Rs. 3,00,001 to Rs.5,00,000	5%
Rs. 5,00,001 to Rs.10,00,000	20%
Above Rs10,00,000	30%

(iii) in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Upto Rs.5,00,000	Nil.
Rs. 5,00,001 to Rs.10,00,000	20%
Above Rs10,00,000	30%

4. The amount of income-tax computed in accordance with the preceding provisions of this Paragraph (including capital gains under section 111A, 112 and 112A), shall be increased by a surcharge at the rate of,—

(a) having a total income (including the income by way of dividend or income under the provisions of sections 111A, 112 and 112A of the Act) exceeding fifty lakh rupees but not exceeding one crore rupees, at the rate of 10% of such income-tax;

(b) having a total income (including the income by way of dividend or income under the provisions of sections 111A, 112 and 112A of the Act) exceeding one crore rupees, at the rate of 15% of such income-tax;

(c) having a total income (excluding the income by way of dividend or income under the provisions of sections 111A, 112 and 112A of the Act) exceeding two crore rupees but not exceeding five crore rupees, at the rate of 25% of such income-tax;

(d) having a total income (excluding the income by way of dividend or income under the provisions of sections 111A, 112 and 112A of the Act) exceeding five crore rupees, at the rate of 37% of such income-tax;

(e) having a total income (including the income by way of dividend or income under the provisions of section 111A, 112 and section 112A of the Act) exceeding two crore rupees, but is not covered under clauses (c) and (d), shall be applicable at the rate of 15% of such income-tax:

4.1 Provided that in case where the total income includes any income by way of dividend or income chargeable under section 111A, section 112 and section 112A of the Act, the rate of surcharge on the amount of income-tax computed in respect of that part of income shall not exceed fifteen percent.

4.2 Provided further that in case of an association of persons consisting of only companies as its members, the rate of surcharge on the amount of income-tax shall not exceed fifteen per cent.

4.3 Further, for person whose income is chargeable to tax under sub-section (1A) of section115BAC of the Act, the surcharge at the rate 37% on the income or aggregate of income of such person (excluding the income by way of dividend or income under the provisions of sections 111A, 112 and 112A of the Act) exceeding five crore rupees shall not be applicable. In such cases the surcharge shall be restricted to 25%. Further, in case of such persons, the surcharge on income chargeable to tax under Chapter XII or Chapter XII-A shall also be restricted to 25%.

5. Marginal relief is provided in cases of surcharge.

B. Co-operative Societies

In the case of co-operative societies, the rates of income-tax have been specified in Paragraph B of Part III of the First Schedule to the Bill. These rates will continue to be the same as those specified for FY 2022-23. The amount of income-tax shall be increased by a surcharge at the rate of 7% of such income-tax in case the total income of a co-operative society exceeds one crore rupees but does not exceed ten crore rupees. Surcharge at the rate of 12% of shall continue to be levied in case of a co-operative society having a total income exceeding ten crore rupees.

2. Marginal relief is provided in cases of surcharge.

3. On satisfaction of certain conditions, a co-operative society resident in India shall have the option to pay tax at 22 per cent. as per the provisions of section 115BAD. Surcharge would be at 10% on such tax. Further, under proposed new section 115BAE of the Act, a new manufacturing co-operative society set up on or after 01.04.2023, which commences manufacturing or production on or before 31.03.2024 and does not avail of any specified incentive or deductions, may opt to pay tax at a concessional rate of 15% for assessment year 2024-25 onwards. Surcharge would be at 10% on such tax.

C. Firms

In the case of firms, the rate of income-tax has been specified in Paragraph C of Part III of the First Schedule to the Bill. This rate will continue to be the same as that specified for FY 2022-23. The amount of income-tax shall be increased by a surcharge at the rate of 12% of such income-tax in case of a firm having a total income exceeding one crore rupees. However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

D. Local authorities

The rate of income-tax in the case of every local authority has been specified in Paragraph D of Part III of the First Schedule to the Bill. This rate will continue to be the same as that specified for the FY 2022-23. The amount of income-tax shall be increased by a surcharge at the rate of 12% of such income-tax in case of a local authority having a total income exceeding one crore rupees. However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

E. Companies

The rates of income-tax in the case of companies have been specified in Paragraph E of Part III of the First Schedule to the Bill. In case of domestic company, the rate of income-tax shall be 25% of the total income, if the total turnover or gross receipts of the previous year 2021-22 does not exceed four hundred crore rupees and where the companies continue in section 115BA regime. In all other cases the rate of income-tax shall be 30% of the total income. However, domestic companies also have an option to opt for taxation under section 115BAA or section 115BAB of the Act on fulfillment of conditions contained therein. The tax rate is 15% in section 115BAB and 22% in section 115BAA. Surcharge is 10% in both cases.

2. In the case of company other than domestic company, the rates of tax are the same as those specified for the FY 2022-23.

3. Surcharge at the rate of 7% shall continue to be levied in case of a domestic company (except those opting for taxation under section 115BAA and section 115BAB of the Act), if the total income of the domestic company exceeds one crore rupees but does not exceed ten crore rupees. Surcharge at the rate of 12% shall continue to be levied, if the total income of the domestic company (except those opting for taxation under section 115BAA and section 115BAB of the Act) exceeds ten crore rupees.

4. In case of companies other than domestic companies, the existing surcharge of 2% shall continue to be levied, if the total income exceeds one crore rupees but does not exceed ten crore rupees. Surcharge at the rate of 5% shall continue to be levied, if the total income of the company other than domestic company exceeds ten crore rupees.

5. Marginal relief is provided in surcharge in all cases.

6. In other cases [including sub-section (2A) of section 92CE, 115QA, 115R, or 115TD], the surcharge shall be levied at the rate of 12%

7. For FY 2023-24, additional surcharge called the "Health and Education Cess on income-tax" shall be levied at the rate of 4% on the amount of tax computed, inclusive of surcharge (wherever applicable), in all cases. No marginal relief shall be available in respect of such cess.

8. For the newly inserted provision 115BBJ, tax rate is provided in the section itself and surcharge shall be levied based on status of the taxpayer as is otherwise applicable to such taxpayer.

IV. Rebate under section 87A

Under the provisions of section 87A of the Act, an assessee, being an individual resident in India, having total income not exceeding Rs 5 lakh, is provided a rebate of 100 per cent of the amount of income-tax payable i.e., an individual having income till Rs 5 lakh is not required to pay any income-tax.

2. From assessment year 2024-25 onwards, an assessee, being an individual resident in India whose income is chargeable to tax under the proposed sub-section (1A) of section 115BAC, shall now be entitled to a rebate of 100 per cent of the amount of income-tax payable on a total income not exceeding Rs 7 lakh.

[Clause 2, 43, 50, 52, 55, 56 & the First Schedule]

B. Socio Economic Welfare Measures

Promoting timely payments to Micro and Small Enterprises

Section 43B of the Act provides for certain deductions to be allowed only on actual payment. Further, the proviso of this section allows deduction on accrual basis, if the amount is paid by due date of furnishing of the return of income.

2. In order to promote timely payments to micro and small enterprises, it is proposed to include payments made to such enterprises within the ambit of section 43B of the Act. Accordingly, it is proposed to insert a new clause (h) in section 43B of the Act to provide that any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development (MSMED) Act 2006 shall be allowed as deduction only on actual payment. However, it is also proposed that the proviso to section 43B of the Act shall not apply to such payments.

3. Section 15 of the MSMED Act mandates payments to micro and small enterprises within the time as per the written agreement, which cannot be more than 45 days. If there is no such written agreement, the section mandates that the payment shall be made within 15 days. Thus, the proposed amendment to section 43B of the Act will allow the payment as deduction only on payment basis. It can be allowed on accrual basis only if the payment is within the time mandated under section 15 of the MSMED Act.

4. This amendment will take effect from 1st April, 2024 and will accordingly apply to the assessment year 2024-25 and subsequent assessment years.

[clause 13]

Agnipath Scheme, 2022

The Ministry of Defence has introduced the Agnipath Scheme, 2022 (the Scheme) for enrolment of Agniveers in Indian Armed Forces. It has come into force on 1st November, 2022. In pursuance of the Government's decision to implement the Agnipath Scheme, 2022, the Competent Authority has decided to create a non-lapsable dedicated Agniveer Corpus Fund in the interest-bearing section of the Public Account head. The package given to an Agniveer from Agniveer Corpus Fund is called as 'Seva Nidhi'.

2. In the Scheme, the Agniveer Corpus Fund is defined as a Fund in which consolidated contributions of all the Agniveers and matching contributions of the Government along with interest on these contributions would be held in their respective accounts. The scheme

will be administered and the Fund will be maintained under the aegis of Ministry of Defence (MoD) with the following features –

(i) Each Agniveer is to contribute 30% of his monthly customized Agniveer Package to the individual's Agniveer Corpus Fund. Further the Government will also contribute a matching amount to the 'Agniveer Corpus Fund'. The Government will also pay to the subscriber interest as approved from time to time on the contributions standing in his account.

(ii) On completion of the engagement period of four years, Agniveers will be paid one time 'Seva Nidhi' package, which shall comprise of their contribution including interest thereon and matching contribution from the Government equal to the accumulated amount of their contribution including interest.

3. In order to allow deduction from the computation of total income of Agniveer, any contribution made by him or the Central Government to his Agniveer Corpus Fund account and to exempt from tax any payment received by Agniveer or his nominee, from the Agniveer Corpus Fund, it is proposed to make the following amendments:

(i) It is proposed to insert a new clause (12C) in section 10 of the Act to provide that any payment received from the Agniveer Corpus Fund by a person enrolled under the Agnipath Scheme, 2022, or the nominee of such person shall be exempted from income tax.

(ii) It is further proposed to insert a new section 80CCH to the Act to provide that an assessee, being an individual enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund on or after the 1st day of November, 2022, shall be allowed a deduction of the whole of the amount deposited by him and also the amount contributed by the Central Government to his account in the Agniveer Corpus Fund, from his total income.

(iii) For the purposes of this proposed clause (12C) of section 10 and section 80CCH, it is proposed to define 'Agnipath scheme' as a scheme for the enrolment in Indian Armed Forces introduced by the Central Government, and 'Agniveer Corpus Fund' as a fund defined in para 2(c) of Agnipath Scheme notified by the Central Government.

(iv) It is also proposed to insert a new sub-clause in clause (1) of section 17 of the Act so as to provide that the contribution made by the Central Government in the previous year, to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme referred to in section 80CCH shall be considered as salary of that individual. A corresponding deduction of the same has been provided as mentioned above.

(v) Further, it is proposed to provide that in the new tax regime of section 115BAC an individual enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund shall get a deduction of the government contribution to his Seva Nidhi [sub-section (2) of section 80CCH].

4. These amendments will take effect from the 1st day of April, 2023 and will apply in relation to assessment year 2023-24 and subsequent assessment years.

[Clauses 5, 10, 39, 50]

Relief to sugar co-operatives from past demand

Sugar factories operating in the co-operative sectors in certain States of India pay to sugarcane growers a final amount, often referred to as Final Cane Price (FCP) which is over and above the Statutory Minimum Price (SMP) fixed by the Central Government under the Sugarcane Control Order, 1996. FCP is decided on the basis of the particular factory's working results which take into account all the revenues and expenditure incurred by the factory.

2. The payment of FCP by the co-operative sugar factories over and above the SMP for purchase of sugarcane had resulted into tax litigation. The co-operative sugar factories were claiming this excess payment as business expenditure whereas the same has been disallowed in the assessment on the ground that the excess price paid for purchase of sugar cane over and above SMP is in the nature of appropriation/distribution of profit and hence not allowable as deduction.

3. In order to provide certainty in this matter and to encourage co-operative movement in sugar sector, a new clause (xvii) was inserted to amend sub-section (1) of section 36 of the Act to provide that the amount paid for purchase of sugarcane by the co-operative societies engaged in the manufacture of sugar at a price which is equal to or less than the price fixed by or fixed with the approval of the Government shall be allowed as deduction for computing business income of the sugar co-operative factories. The said amendment came into force through the Finance Act 2015 on 01.04.2016 and was applicable from Assessment Year 2016-17 onwards. Pending demands and litigation still persisted in respect of AYs prior to 2016-17.

4. Therefore, to conclude the matter logically and to extend the benefit of the above-mentioned relief to all the applicable years, it is proposed to amend section 155 of the Act to insert a new sub-section (19). It shall provide that in the case of a sugar mill co-operative, where any deduction in respect of any expenditure incurred for the purchase of sugarcane has been claimed by an assessee and such deduction has been disallowed wholly or partly the Assessing Officer shall, on the basis of an application made by such assessee in this regard, recompute the total income of such assessee for such previous year. The Assessing Officer shall allow such deduction to the extent such expenditure is incurred at a price which is equal to or less than the price fixed or approved by the Government for that previous year. Also, the provision of section 154 shall, so far as may be, apply thereto, and the period of four years specified in sub-section (7) of section 154 shall be reckoned from the end of previous year commencing on the 1st day of April, 2022.

5. This amendment will take effect from the 1st day of April, 2023.

[Clause 74]

Increasing threshold limit for co-operatives to withdraw cash without TDS

Section 194N of the Act provides that a banking company or a co-operative society engaged in carrying on the business of banking or a post office, which is responsible for paying any sum to any person (referred to as the recipient) shall, at the time of payment of such sum in cash, deduct an amount equal to two per cent of such sum, as income-tax. The requirement to deduct tax applies only when the payment of amount or aggregate of amount in cash during the year exceeds one crore rupees.

2. However, in case of a recipient who is a non-filer tax is to be deducted at the rate of 2% on any sum exceeding Rs. 20 lakh but not exceeding Rs. 1 crore in aggregate during the financial year and, at the rate of 5% on sum exceeding Rs. 1 crore in aggregate during the financial year.

3. Non-filer means a recipient who has not filed any income-tax return for all of the three assessment years relevant to the three previous years immediately preceding the previous year in which such payment is received.

4. It is proposed to amend section 194N of the Act by inserting a new proviso to provide that where the recipient is a co-operative society, the provisions of this section shall have effect, as if for the words “one crore rupees”, the words “three crore rupees” had been substituted.

5. This amendment will take effect from 1st April, 2023.

[clause 85]

Penalty for cash loan/ transactions against primary co-operatives

Section 269SS of the Act provides that no person shall take from any person any loan or deposit otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, if the amount of such loan or deposit is Rs. 20,000 or more. Similarly, section 269T provides that no loan or deposit shall be repaid otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, if the amount of such loan or deposit is Rs. 20,000 or more. Certain exceptions have, however, been specified in the provisions.

2. Request was received to bring parity to Primary Agricultural Credit Societies ("PACS") and Primary Co-Operative Agricultural and Rural Development Bank ("PCARD") for limits on cash transactions with banking companies with regards to sections 269SS and 269T of the Act as they are involved in granting loans and accepting deposits from the rural segment. Present provisions state that every person including PACS and PCARD are liable for penalty on accepting loan or deposit in cash exceeding Rs.20,000 as per Section 269SS as well as repayment of loan and deposit in cash exceeding Rs.20,000 under section 269T. Since PACS and PCARD are providing credit facilities at the grass-root level, relaxation may be made for them under the aforesaid provisions.

3. To provide relief to the low-income groups and facilitate easier conduct of business operations in such areas it has been proposed that an amendment may be made in the section 269SS of the Act by raising the limit of Rs. 20,000 to Rs. 2 lakh for PACS and PCARD. This will imply where such deposit is accepted by a primary agricultural credit society or a primary co-operative agricultural and rural development bank from its member or such loan is taken from a primary agricultural credit society or a primary co-operative agricultural and rural development bank by its member. The penalty would be leviable only if the amount of a loan or deposit is Rs. 2 lakh or more.

4. In continuation of the above, it is also proposed to amend the provisions to section 269T of the Act and increase the limit of Rs. 20,000 to Rs. 2 lakh in the case of PACS and PCARD. As a result, in a case where a deposit is paid by a PACS or a PCARD to its member or a loan is repaid to a PACS or a PCARD by its member, payment shall be made by an account payee cheque or account payee bank draft or online transfer through a bank account if the amount of such or deposit is more than Rs. 2 lakh. Penalty shall be imposable if the amount of such loan or deposit exceeds Rs. 2 lakh.

5. These amendments will take effect from 1st April, 2023.

[Clauses 105 & 106]

Relief to start-ups in carrying forward and setting off of losses

Section 79 of the Act restricts carrying forward and setting off of losses in cases of companies, other than the companies in which the public is substantially interested. It prohibits setting off of carried forward losses if there is change in shareholding. The carried forward loss is set off only if at least 51% shareholding (as on the last date of the previous year) remains same with the company on the last date of the previous year to which the loss belongs.

2. However, some relaxation has been provided in case of an eligible start-up as referred to in section 80-IAC of the Act. The condition of continuity of at least 51%shareholding is not applicable to the eligible start-up, if all the shareholders of the company as on the last day of the year, in which the loss was incurred, continue to hold those shares on the last day of the previous year in which the loss is set off. There is an additional condition that the loss is allowed to be set off, under this relaxation, only if it has been incurred during the period of seven years beginning from the year in which such company is incorporated.

3. In order to align this period of seven years with the period of ten years contained in sub-section (2) of section 80-IAC of the Act, the time period for loss of eligible start-ups to be considered for relaxation is proposed to be increased from seven years to ten years from the date of incorporation.

4. It is therefore proposed to amend the proviso to sub-section (1) of section 79 of the Act so that the carried forward loss of eligible start-ups shall be considered for set off under this proviso, if such loss has been incurred during the period of ten years beginning from the year in which such company was incorporated.

5. This amendment will take effect from 1st day of April, 2023 and will accordingly apply to the assessment year 2023-2024 and subsequent assessment years.

[clause 35]

Extension of date of incorporation for eligible start-up for exemption

The existing provisions of the section 80-IAC of the Act, *inter alia*, provides for a deduction of an amount equal to hundred percent of the profits and gains derived from an eligible business by an eligible start-up for three consecutive assessment years out of ten years, beginning from the year of incorporation, at the option of the assessees subject to the condition that,

(i) the total turnover of its business does not exceed one hundred crore rupees,

(ii) it is holding a certificate of eligible business from the Inter-Ministerial Board of Certification, and

(iii) it is incorporated on or after 1st day of April, 2016 but before 1st day of April 2023.

2. In order to further promote the development of start-ups in India and to provide them with a competitive platform, it is proposed to amend the provisions of section 80-IAC of the Act so as to extend the period of incorporation of eligible start-ups to 1st day of April 2024.

3. This amendment will take effect from the 1st day of April, 2023 and shall accordingly, apply in relation to the assessment year 2023-24 and subsequent assessment years.

[Clause 41]

Conversion of Gold to Electronic Gold Receipt and *vice versa*

Pursuant to the announcement in the Union Budget 2021-22 about Gold Exchange, SEBI has been made the regulator of the entire ecosystem of the proposed gold exchange. Accordingly, SEBI has come out with a detailed regulatory framework for spot trading in gold on existing stock exchanges through the instrument of Electronic Gold Receipts (EGR).

2. In order to promote the concept of Electronic Gold, it is proposed to exclude the conversion of physical form of gold into EGR and vice versa by a SEBI registered Vault Manager from the purview of 'transfer' for the purposes of Capital gains

3. It is also proposed that the cost of acquisition of the EGR for the purpose of computing capital gains shall be deemed to be the cost of gold in the hands of the person in whose name Electronic Gold Receipt is issued, and the holding period for the purpose of capital gains, would include the period for which gold was held by the assessee prior to its conversion into EGR. Similarly, provision for conversion from gold to EGR is also proposed.

4. For the above changes following amendments are proposed to be made:

i. To insert a new clause in section 47 of the Act so as to provide that any transfer of a capital asset, being physical gold to the Electronic Gold Receipt issued by a Vault Manager or such Electronic Gold Receipt to physical gold shall not be considered as 'transfer'.

ii. For the purposes of this newly inserted clause, the expressions 'Electronic Gold Receipt' and 'Vault Manager' shall have the meanings respectively assigned to

them in clauses (h) and (l) of sub-regulation (1) of regulation 2 of Securities and Exchange Board of India (Vault Managers) Regulations, 2021.

iii. To insert a new sub-section (10) to section 49 of the Act to provide that where an Electronic Gold Receipt issued by a Vault Manager, became the property of the person as consideration of a transfer, as referred in the newly inserted clause in section 47, the cost of acquisition of the asset for the purpose of the said transfer, shall be deemed to be the cost of gold in the hands of the person in whose name Electronic Gold Receipt is issued. Similarly, where the gold released against an Electronic Gold Receipt, which became the property of the person as consideration for a transfer, as referred in the newly inserted clause in section 47, the cost of acquisition of the asset (being gold) for the purposes of the said transfer shall be deemed to be the cost of the Electronic Gold Receipt in the hands of such person.

iv. To insert a new clause (hi) to *Explanation 1* of sub-section (42A) of section 2 of the Act to provide that the holding period for the purpose of capital gain shall include the period for which the Gold was held by the assessee prior to conversion into the Electronic Gold Receipt.

v. To insert a new clause (hi) in *Explanation 1* of sub-section (42A) of section 2 of the Act to provide that the holding period for the purpose of capital gain shall include the period for which the Gold was held by the assessee prior to conversion into the Electronic Gold Receipt and similarly the holding period for the purpose of capital gain shall include the period for which the Electronic Gold Receipt was held by the assessee prior to conversion into the Gold.

5. These amendments will take effect from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

[Clauses 3, 21, 23]

Tax Incentives to International Financial Services Centre

Over the past few years several tax concessions have been provided to units located in International Financial Services Centre (IFSC) under the Act to make it a global hub of financial services sector.

2. In order to further incentivize operations from IFSC, it is proposed to provide the following:

(i) It is proposed to amend clause (b) of the *Explanation* to clause (viiad) of section 47 of the Act to extend the date for transfer of assets of the original fund, or of its wholly owned special purpose vehicle, to a resultant fund in case of relocation to 31st March, 2025 from current limitation of 31st March, 2023.

(ii) Income of non-residents on transfer of Offshore Derivative Instruments (ODI) entered into with IFSC Banking unit is exempt under section 10 (4E) of the Act. Under the ODI contract, the IFSC Banking Unit (IBU) makes the investments in permissible Indian Securities. Income earned by the IBU on such investments is taxed as capital gains, interest, dividend under section 115AD of the Act. After the payment of tax, the IBU passes such income to the ODI holders. Presently, the exemption is provided only on the transfer of ODIs and not on the distribution of income to the non-resident ODI holders, hence this distributed income is taxed twice in India i.e. first when received by the IBU and second, when the same income is distributed to non-resident ODI holders. Therefore, in order to remove the double taxation, it is proposed to amend clause (4E) of section 10 of the Act, to also provide exemption to any income distributed on the offshore derivative instruments, entered into with an offshore banking unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, which fulfils such conditions as may be prescribed. It has also been provided that such exempted income shall include only that amount which has been charged to tax in the hands of the IFSC Banking Unit under section 115AD.

(iii) IFSCA (Fund Management) Regulations, 2022 has come into force from May 19, 2022. To bring the reference of the said regulation in the provisions of the Act, it is proposed to amend the definition of "Specified Fund", "Resultant Fund" and "Investment Fund" to include the reference of IFSCA (Fund Management) Regulations, 2022 in the Act.

3. The above amendments referred to in para 2(i) and 2(iii) will take effect from the 1st day of April, 2023 and accordingly apply to assessment year 2023-24 and subsequent assessment years. The amendment in Para 2(ii) will take effect from the 1st day of April, 2024 and accordingly apply to assessment year 2024-25 and subsequent assessment years

[Clauses 5, 21, 59]

Exemption to development authorities etc.

Clause (46) of section 10 of the Act provides exemption to any specified income arising to a body or authority or Board or Trust or Commission, or a class thereof which—

(a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;

(b) is not engaged in any commercial activity; and

(c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

Supreme Court decision in the case of Ahmedabad Urban Development Authority

2. The restriction on undertaking commercial activities by anybody or authority or Board or Trust or Commission notified under clause (46) of section 10 has been a litigated issue.

3. Recently, Hon'ble Supreme Court of India in the case of Assistant Commissioner of Income-tax (Exemptions) vs Ahmedabad Urban Development Authority in Civil Appeal No 21762 of 2017 *vide* its order dated 19.10.2022 held that in sub-clause (b) of clause (46) of section 10 of the Act, "commercial" has the same meaning as "trade, commerce, business" in clause (15) of section 2 of the Act. Therefore, sums charged by such notified body, authority, Board, Trust or Commission (by whatever name called) will require similar consideration – i.e., whether it is at cost with a nominal mark-up or significantly higher, to determine if it falls within the mischief of "commercial activity".

4. However, the Hon'ble Court has also made a fine distinction in respect of statutory authorities, boards etc. which have been established by the State government or Central governments, for achieving essentially "public functions/services". In such cases, the court have held that the amounts or any money whatsoever charged for the public services are prima facie to be excluded from the mischief of business or commercial receipts as their objects are essential for advancement of public purposes/ functions.

5. In view of the above, it is proposed to amend the Act so as to exclude income of a body or authority or Board or Trust or Commission, not being a company, from the scope of clause (46) of section 10 of the Act and insert a new clause (46A) in section 10 of the Act for their income.

6. The new clause (46A) proposes to exempt any income arising to a body or authority or Board or Trust or Commission, not being a company, which has been established or constituted by or under a Central or State Act with one or more of the following purposes, namely: -

(i) dealing with and satisfying the need for housing accommodation;

(ii) planning, development or improvement of cities, towns and villages;

(iii) regulating, or regulating and developing, any activity for the benefit of the general public; or

(iv) regulating any matter, for the benefit of the general public, arising out of the object for which it has been created.

7. It is also required to be notified by the Central Government in the Official Gazette for the purposes of this clause.

8. Consequential amendment is also proposed in the *Explanation* to the nineteenth proviso of clause (23C) of section 10 of the Act. Similarly, consequential amendment is also proposed in sub-section (7) of section 11 of the Act.

9. These amendments will take effect from 1st April, 2024 and will accordingly apply to the assessment year 2024-25 and subsequent assessment years.

[clauses 5 & 7]

Facilitating certain strategic disinvestment

Section 72A of the Act relates to provisions on carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger. Sub-section (1) of section 72A provides that in specified cases, accumulated loss and unabsorbed depreciation of the amalgamating company shall be deemed to be the accumulated loss and unabsorbed depreciation of amalgamated company for the previous year in which the amalgamation was affected. Conditions have also been laid down in the said section to facilitate carry forward and set off of loss and unabsorbed depreciation in the case of strategic disinvestment. Strategic disinvestment has been defined as sale of shareholding by the Central Government or any State Government in a public sector company which results in reduction of its shareholding below fifty-one per cent along with transfer of control to the buyer.

2. Section 72AA of the Act relates to carry forward of accumulated losses and unabsorbed depreciation allowance in a scheme of amalgamation in certain cases, which, *inter-alia*, includes amalgamation of one or more banking company with any other banking institution.

3. To facilitate further strategic disinvestment, it is proposed to amend the definition of 'strategic disinvestment' in section 72A of the Act so as to provide that strategic disinvestment shall mean sale of shareholding by the Central Government, the State Government or Public Sector Company in a public sector company or a company which results in

(i) reduction of its shareholding below fifty-one per cent, and
(ii) transfer of control to the buyer.

4. The first condition shall apply in case the shareholding was above fifty one percent before such sale of shareholding. The requirement of transfer of control may be carried out by either the Central Government or State Government or Public Sector Company (or any two of them or all of them).

5. It is also proposed to amend section 72AA of the Act to allow carry forward of accumulated losses and unabsorbed depreciation allowance in the case of amalgamation of one or more banking company with any other banking institution or a company subsequent to a strategic disinvestment, if such amalgamation takes place within 5 years of strategic disinvestment.

6. This amendment will take effect from 1st April, 2023 and will accordingly apply to the assessment year 2023-24 and subsequent assessment years.

[clauses 33 & 34]

15% concessional tax to promote new manufacturing co-operative society

The Taxation Laws (Amendment) Act, 2019, inter-alia, inserted section 115BAB in the Act which provides that new manufacturing domestic companies set up on or after 01.10.2019, which commence manufacturing or production by 31.03.2023 and do not avail of any specified incentive or deductions, may opt to pay tax at a concessional rate of 15 per cent. The time for commencing manufacturing or production has been extended to 31.03.2024 by the Finance Act, 2022. However, the same provision has not been provided for new manufacturing co-operative societies.

2. Representation has been received for providing a level playing field between new manufacturing co-operative societies and new manufacturing companies by providing for the concessional tax regime of 15% to new manufacturing co-operative societies as well.

3. In view of the above, it is proposed to insert a new section 115BAE to the Act in which concessional tax regime is being provided for the new manufacturing cooperative societies as well. The conditions are materially similar to the conditions applicable to new manufacturing companies, which are as under:-

i. notwithstanding anything contained in the Act but subject to the provisions of Chapter XII, other than those mentioned under section 115BAD, the income-tax payable in respect of the total income of an assessee, being a co-operative society resident in India, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2024, shall, at the option of such assessee, be computed at the rate of fifteen per cent, on satisfaction of certain specified conditions;

ii. the condition for concessional rate shall be that the total income of the new manufacturing co-operative society is computed,—

a) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or under any of the provisions of Chapter VI-A other than the provisions of section 80JJAA;

b) without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in ii(a) above; and

c) by claiming the depreciation, if any, under section 32, other than clause (iia) of sub-section (1) of the said section, determined in such manner as may be prescribed;

iii. the loss and depreciation referred to in (ii)(b) above shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

iv. the concessional rate shall not apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (1) of section 139 for furnishing the first of the returns of income for any previous year relevant to the assessment year commencing on or after 1st day of April, 2024 and such option once exercised shall apply to subsequent assessment years;

v. the option so exercised cannot be withdrawn;

vi. if the income of the assessee, includes any income, which has neither been derived from nor is incidental to manufacturing or production of an article or thing and in respect of which no specific rate of tax has been provided separately under this Chapter, such income shall be taxed at the rate of

twenty-two per cent and no deduction or allowance in respect of any expenditure or allowance shall be made in computing such income;

vii. where it appears to the Assessing Officer that, owing to the close connection between the assessee to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the assessee more than the ordinary profits which might be expected to arise in such business, the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take the amount of profits as may be reasonably deemed to have been derived therefrom and such income shall be charged at the tax rate of thirty per cent.;

viii. in case the aforesaid arrangement involves a specified domestic transaction referred to in section 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (ii) of section 92F. The amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the assessee. The income-tax payable in respect of the income, in such case shall be computed at the rate of thirty per cent;

ix. the income-tax payable in respect of income, being short term capital gains derived from transfer of a capital asset on which no depreciation is allowable under the Act shall be computed at the rate of twenty-two per cent;

x. where the assessee fails to satisfy the specified conditions under the section in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply to the assessee as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

4. It is further proposed to provide that any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, on fulfilment of certain specified conditions.

5. It is also proposed that where any machinery or plant or any part thereof previously used for any purpose is put to use by the assessee and the total value of such machinery or plant or part thereof does not exceed twenty per cent of the total value of the machinery or plant used by the assessee, then, the concessional rate shall apply on fulfilment of the specified conditions.

6. It is proposed to provide that the assessee shall not be engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.

7. Further, it is proposed that the business of manufacture or production of any article or thing shall include the business of generation of electricity, but not include certain specified businesses.

8. Further, it is proposed to insert a new clause (vb) in the section 92BA of the Act to include the transaction between the Cooperative society and the other person with close connection within the purview of ‘specified domestic transaction’.

9. These amendments are proposed to take effect from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

[Clauses 45, 51 & 52]

C. Ease of Compliance

Ease in claiming deduction on amortization of preliminary expenditure

Section 35D of the Act provides for amortization of certain preliminary expenses which are incurred prior to the commencement of business or after commencement, in connection with extension of undertaking or setting up of a new unit. This includes expenditure in connection with preparation of feasibility report, project report etc.

2. The section *inter-alia* provides that the work in connection with the preparation of feasibility report or the project report or the conducting of market survey or of any other survey or the engineering services would need to be carried out either by the assessee himself or by a concern which is approved by the Board.

3. In order to ease the process of claiming amortization of these preliminary expenses it is proposed to amend section 35D of the Act to remove the condition of activity in connection with these expenses to be carried out by a concern approved by the Board. Instead, the assessee shall be required to furnish a statement containing the particulars of this expenditure within prescribed period to the prescribed income-tax authority in the prescribed form and manner.

4. This amendment will take effect from 1st April, 2024 and will accordingly apply to the assessment year 2024-2025 and subsequent assessment years.

[clause 12]

Increasing threshold limits for presumptive taxation schemes

The existing provisions of Section 44AD of the Act, *inter-alia*, provide for a presumptive income scheme for small businesses. This scheme applies to certain resident assessees (i.e., an individual, HUF or a partnership firm other than LLP) carrying on eligible business and having a turnover or gross receipt of two crore rupees or less. Under this scheme, a sum equal to 8% or 6% of the turnover or gross receipts is deemed to be the profits and gains from business subject to certain conditions. If assessee has claimed to have earned higher sum than 8% or 6%, then that higher sum is taxable.

2. Section 44ADA of the Act provides for a presumptive income scheme for small professionals. This scheme applies to certain resident assessees (i.e., an individual, partnership firm other than LLP) who are engaged in any profession referred to in sub-section (1) of section 44AA, and whose total gross receipts do not exceed fifty lakh rupees in a previous year. Under this scheme, a sum equal to 50% of the gross receipts is deemed to be the profits and gains from business. If assessee has claimed to have earned higher sum than 50%, then that higher sum is taxable.

3. Under section 44AB of the Act, every person carrying on business is required to get his accounts audited, if his total sales, turnover or gross receipts, in business exceeds one crore rupees in any previous year. The limit is raised to ten crore rupees where at least 95% of receipts/payments are in non-cash mode. In case of a person carrying on profession he is required to get his accounts audited, if his gross receipts in profession exceeds, fifty lakh rupees in any previous year. Those opting for and fulfilling the conditions laid in the presumptive scheme are exempt from audit under this section.

4. Representations have been received for increasing the thresholds for eligibility for availing benefit of the presumptive schemes for eligible business and professions in order to benefit more persons in the small and medium segment.

5. In order to ease compliance and to promote non-cash transactions, it is proposed to increase the threshold limits for presumptive scheme in section 44AD and section 44ADA of the Act on fulfilment of certain conditions.

6. It is proposed to provide that:

- under section 44AD of the Act, for eligible business, where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total turnover or gross receipts, a threshold limit of three crore rupees will apply.
- under section 44ADA of the Act, for professions referred to in sub-section (1) of section 44AA of the Act, where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total gross receipts, a threshold limit of seventy-five lakh rupees will apply.
- the receipt by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.
- provision of section 44AB of the Act shall not apply to the person, who declares profits and gains for the previous year in accordance with the provisions of sub-section (1) of section 44AD of the Act or sub-section (1) of section 44ADA of the Act, as the case may be.

7. These amendments will take effect from 1st April, 2024 and will accordingly apply to the assessment year 2024-2025 and subsequent assessment years.

[clauses 15, 16 & 17]

Extending the scope for deduction of tax at source to lower or nil rate

Section 197 of the Act relates to grant of a certificate of tax deduction at lower or nil rate. It provides for assessee to apply to the Assessing Officer for TDS at zero rate or lower rate, if the tax is required to be deducted under sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA, 194LBB, 194LBC, 194M, 194-O and 195 of the Act. If the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at any lower rates or zero rate, he is required to give an appropriate certificate to the assessee.

2. Section 194LBA of the Act, *inter-alia*, provides that business trust shall deduct and deposit tax at the rate of 5% on interest income of non-resident unit holders. Representations have been received that in some cases rate of deduction may be required to be reduced due to some exemption, for example exemption under section 10(23FE) of the Act allowed to notified Sovereign Wealth Funds and Pension Funds. However, since certificate for lower deduction under section 194LBA of the Act cannot be obtained under section 197 of the Act, benefit of exemption is not available at the time of tax deduction.

3. To remove this difficulty, it is proposed to amend sub-section (1) of section 197 of the Act to provide that the sums on which tax is required to be deducted under section 194LBA of the Act shall also be eligible for certificate for deduction at lower rate.
4. This amendment will take effect from 1st April, 2023.

[clause 88]

D. Widening and Deepening of Tax Base/ Anti Avoidance

Extending deeming provision under section 9 to gift to not-ordinarily resident

Under the Act, income which, *inter-alia*, is deemed to accrue or arise in India during a year is chargeable to tax. Sub-section (1) of section 9 of the Act is a deeming provision providing the types of income deemed to accrue or arise in India.

2. Finance (No. 2) Act, 2019 inserted clause (viiii) to sub-section (1) of section 9 of the Act to provide that the any sum of money exceeding fifty thousand rupees, received by a non-resident without consideration from a person resident in India, on or after the 5th day of July, 2019, shall be income deemed to accrue or arise in India. Sum of money is referred to in sub-clause (xviia) of clause (24) of section 2 of the Act.

3. The above amendment was introduced as an anti-abuse provision, as certain instances were observed where gifts were being made by persons residents in India to non-residents and were claimed to be non-taxable in India by such non-residents.

4. It has come to notice that certain persons being not ordinarily residents are receiving the gifts from persons resident in India and not paying tax on it.

5. In view of the above, it is proposed to amend clause (viii) of sub-section (1) of section 9 of the Act so as to extend this deeming provision to sum of money exceeding fifty thousand rupees, received by a not ordinarily resident, without consideration from a person resident in India.

6. This amendment will take effect from 1st April, 2024 and will accordingly apply to assessment year 2024-25 and subsequent assessment years.

[Clause 4]

Removal of exemption of news agency under clause (22B) of section 10

Clause (22B) of section 10 of the Act, *inter-alia*, provides exemption to any income of a notified news agency which is set up in India solely for collection and distribution of news. This is subject to condition that the news agency applies its income or accumulates it for application solely for collection and distribution of news and does not distribute its income in any manner to its members.

2. In accordance with the stated policy of the Government of phasing out of exemptions and deductions under the Act, the exemption available to news agencies under clause (22B) of section 10 of the Act is proposed to be withdrawn from the assessment year 2024-25.

3. In view of the above, it is proposed to insert fourth proviso to clause (22B) of section 10 of the Act so as to provide that nothing contained in clause (22B) of section 10 of the Act shall apply to any income of the news agency, of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2024.

4. This amendment will take effect from 1st April, 2024 and will accordingly apply to assessment year 2024-25 and subsequent assessment years.

[Clause 5]

Tax avoidance through distribution by business trusts to its unit holders

Finance (No.2) Act, 2014 introduced a special taxation regime for Real Estate Investment Trust (REIT) and Infrastructure Investment Trust (InVIT) [commonly referred to as business trusts]. The special regime was introduced in order to address the challenges of financing and investment in infrastructure. The business trusts invest in special purpose vehicles (SPV) through equity or debt instruments.

2. Keeping in mind the business structure, the special taxation regime under section 115UA of the Act, *inter-alia*, provides a pass-through status to business trusts in respect of interest income, dividend income received by the business trust from a special purpose vehicle in case of both REIT and InvIT and rental income in case of REIT. Such income is taxable in the hands of the unit holders unless specifically exempted.

3. Sub-section (1) of section 115UA of the Act, *inter-alia,* provides any income distributed by a business trust to its unit holders shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as it had been received by the business trust.

4. Further, Sub-section (3) of section 115UA of the Act, *inter-alia*, provides that if the "distributed income" received by a unit holder from the business trust is of the nature as referred to in clause (23FC) or clause (23FCA) of section 10 of the Act i.e., is either rental income of the REIT or interest or dividend received by the business trust from the SPV, then, such distributed income or part thereof shall be deemed to be income of such unit holder.

5. It has been noticed in certain cases that business trusts distribute sums to their unit holders which are categorised in the following four categories:

(a) Interest;
(b) Dividend;
(c) Rental income;
(d) Repayment of debt.

6. As has been stated above, interest, dividend and rental income have been accorded a pass-through status at the level of business trust and are taxable in the hands of the unit holder. However, in respect of the distributions made by the business trust to its unit holders which are shown as repayment of debt, it is actually an income of unit holder which does not suffer taxation either in the hands of business trust or in the hands of unit holder.

7. It may be noted that dual non-taxation of any distribution made by the business trust i.e. which is exempt in the hands of the business trust as well as the unit holder, is not the intent of the special taxation regime applicable to business trusts.

8. In view of the above, it is proposed to make such sum received by unit holder taxable in his hands. However, provision is also proposed for a situation when the sum received by unit holder represents redemption of unit held by him. Hence it is proposed to amend the Act by way of,-

(i) insertion of clause (xii) in sub-section (2) of section 56 of the Act to provide that income chargeable to income-tax under the head "income from other sources" shall also include any sum, received by a unit holder from a business trust, which-

  (a) is not in the nature of income as referred to in clause (23FC) or clause (23FCA) of section 10 of the Act; and

  (b) is not chargeable to tax under sub-section (2) of section 115UA of the Act;

(ii) insertion of a proviso to the said clause to provide that where the sum received by a unit holder from a business trust is for redemption of unit or units held by him, the sum received shall be reduced by the cost of acquisition of the unit or units to the extent such cost does not exceed the sum received;

(iii) insertion of sub-section (3A) in section 115UA of the Act to provide that the provisions of sub - sections (1), (2) and (3) of this section, shall not apply in respect of any sum, as referred to in clause (xii) of sub-section (2) of section 56 of the Act, received by a unit holder from a business trust;

(iv) insertion of sub-clause (xviic) in clause (24) of section 2 of the Act to provide that income shall include any sum referred to in clause (xii) of sub-section (2) of section 56 of the Act.

9. These amendments will take effect from 1st April, 2024 and will accordingly apply to assessment year 2024-25 and subsequent assessment years.

[Clauses 3, 32 & 58]

Removal of exemption from TDS on payment of interest on listed debentures to a resident

Section 193 of the Act provides for TDS on payment of any income to a resident by way of interest on securities.

2. The proviso to section 193 of the Act provides exemption from TDS in respect of payment of interest on certain securities. Clause (ix) of the proviso to the aforesaid section provides that no tax is to be deducted in the case of any interest payable on any security issued by a company, where such security is in dematerialized form and is listed on a recognized stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (32 of 1956) and the rules made thereunder.

3. It is seen that there is under reporting of interest income by the recipient due to above TDS exemption. Hence, it is proposed to omit clause (ix) of the proviso to section 193 of the Act.

4. This amendment will take effect from 1st April, 2023.

[clause 81]

Preventing misuse of presumptive schemes under section 44BB and section 44BBB

Section 44BB of the Act provides for presumptive scheme in the case of a non-resident assessee who is engaged in the business of providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils. Under the scheme, a sum equal to 10% of the aggregate of the amounts specified in sub-section (2) of the said section is deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

2. Section 44BBB of the Act provides for presumptive scheme in the case of a non-resident foreign company who is engaged in the business of civil construction or the business of erection of plant or machinery or testing or commissioning thereof, in connection with a turnkey power project approved by the Central Government. Under this scheme, a sum equal to ten per cent of the amount paid or payable (whether in or out of India) to the said assessee or to any person on his behalf on account of such civil construction, erection, testing or commissioning is deemed to be the profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession".

3. Both sections provide that an assessee may claim lower profits and gains than the profits and gains specified if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA of the Act and gets his accounts audited and furnishes a report of such audit as required under section 44AB of the Act.

4. It is seen that taxpayers opt in and opt out of presumptive scheme in order to avail benefit of both presumptive scheme income and non-presumptive income. In a year when they have loss, they claim actual loss as per the books of account and carry it forward. In a year when they have higher profits, they use presumptive scheme to restrict the profit to 10% and set off the brought forward losses from earlier years. Conceptually, if assessee is maintaining books of account and claiming losses as per such accounts, he should also disclose profits as per accounts. There is no justification for setting off of losses computed as per books of account with income computed on presumptive basis.

5. To avoid such misuse, it is proposed to insert a new sub-section to section 44BB and to section 44BBB of the Act to provide that notwithstanding anything contained in sub-section (2) of section 32 and sub-section (1) of section 72, where an assessee declares profits and gains of business for any previous year in accordance with the provisions of

presumptive taxation, no set off of unabsorbed depreciation and brought forward loss shall be allowed to the assessee for such previous year.

6. These amendments will take effect from 1st April, 2024 and will accordingly apply to the assessment year 2024-2025 and subsequent assessment years.

[clauses 18 & 19]

TDS and taxability on net winnings from online games

Section 194B of the Act provides that the person responsible for paying to any person any income by way of winnings from any lottery or crossword puzzle or card game and other game of any sort in an amount exceeding ten thousand rupees shall, at the time of payment thereof, deduct income-tax thereon at the rates in force.

2. Section 194BB of the Act provides for similar provisions for deduction of tax at source for horse racing in any race course or for arranging for wagering or betting in any race course.

3. Section 115BB of the Act provides for the rate of tax on winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling or betting of any form or nature.

4. It is seen that deductors are deducting tax under section 194B and 194BB of the Act by applying the threshold of Rs 10,000/- per transaction and avoiding tax deduction by splitting a winning into multiple transactions each below Rs 10,000/-. This is against the intention of legislature.

5. It is also seen that in recent times, there has been a rise in the users of online games. There is a need to bring in specific provisions regarding TDS and taxability of online games due to its different nature, being easily accessible *vide* the Internet and computer resources with a variety of playing options and payment options.

6. Accordingly, it is proposed to:—

(i) amend section 194B and 194BB of the Act to provide that deduction of tax under these sections shall be on the amount or aggregate of the amounts exceeding ten thousand rupees during the financial year;

(ii) amend section 194B of the Act to include "gambling or betting of any form or nature whatsoever" within its scope;

(iii) amend section 194B of the Act to exclude online games from the purview of the said section from the 1st day of July, 2023, since a new section 194BA is proposed to be introduced for deduction of tax at source on winnings from online games from that date;

(iv) insert a new section 194BA in the Act, with effect from 1st July 2023, to provide for deduction of tax at source on net winnings in the user account at the end of the financial year. In case there is withdrawal from user account during the financial year, the income-tax shall be deducted at the time of such withdrawal on net winnings comprised in such withdrawal. In addition, income-tax shall also be deducted on the remaining amount of net winnings in the user account at the end of the financial year. Net winnings shall be computed in the prescribed manner.

(v) to provide in the proposed section 194BA that in a case where the net winnings are wholly in kind or partly in cash and partly in kind but the part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of the net winnings, the person responsible for paying shall, before releasing the winnings, ensure that tax has been paid in respect of the net winnings;

(vi) to provide that if any difficulty arises in giving effect to the provisions of new section 194BA, the Board may, with the prior approval of the Central Government, issue

guidelines for the purpose of removing the difficulty. Every such guideline issued by the Board shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person responsible for deduction of income-tax on any income by way of winnings from online game;

(vii) to provide the definition of "computer resource", "internet", "online game", "online gaming intermediary", "user", "user account" in the proposed section 194BA;

(viii) to amend section 115BB of the Act to exclude income from winnings from online games from the purview of the said section from the assessment year 2024-25, since it is proposed to introduce section 115BBJ to tax winnings from online games from that assessment year;

(ix) to insert a new section 115BBJ in the Act with regard to tax on winnings from online games to provide that where the total income of an assessee includes any income by way of winnings from any online game, the income-tax payable shall be the aggregate of—

- the amount of income-tax calculated on net winnings from such online games during the previous year, computed in the prescribed manner, at the rate of thirty per cent; and
- the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the net winnings referred to above;

(x) to provide the definition of "computer resource", "internet", "online game" in the proposed section 115BBJ.

7. The amendments proposed for section 194B and section 194BB of the Act will take effect from 1st April, 2023. The proposed section 194BA of the Act will take effect from 1st July 2023. The amendment proposed for section 115BB of the Act and the proposed section 115BBJ in the Act will take effect from 1st April, 2024 and will accordingly be applicable for the assessment year 2024-25 and subsequent assessment years.

[clauses 53, 54, 82, 83 & 84]

Increasing rate of TCS of certain remittances

Section 206C of the Act provides for TCS on business of trading in alcohol, liquor, forest produce, scrap etc. Sub-section (1G) of the aforesaid section provides for TCS on foreign remittance through the Liberalised Remittance Scheme and on sale of overseas tour package.

2. In order to increase TCS on certain foreign remittances and on sale of overseas tour packages, amendment is proposed in sub-section (1G) of section 206C of the Act.

3. The current and proposed TCS rates are tabulated as under:

S.No	Type of remittance	Present rate*	Proposed rate*
(i)	For the purpose of any education, if the amount being remitted out is a loan obtained from any financial institution as defined in section 80E.	0.5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakh.	No change.
(ii)	For the purpose of education, other than (i) or for the purpose of medical treatment.	5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakh.	No change.

(iii)	Overseas tour package	5% without any threshold limit.	20% without any threshold limit.
(iv)	Any other case	5% of the amount or the aggregate of the amounts in excess of Rs. 7 lakh.	20% without any threshold limit.

* In the table above, the present rate and the proposed rate of TCS are on the amount or the aggregate of the amounts being remitted by the buyer in a financial year.

4. This amendment will take effect from 1st July, 2023.

[clause 90]

Limiting the roll over benefit claimed under section 54 and section 54F

The existing provisions of section 54 and section 54F of the Income-tax, 1961 (the Act) allows deduction on the Capital gains arising from the transfer of long-term capital asset if an assessee, within a period of one year before or two years after the date on which the transfer took place purchased any residential property in India, or within a period of three years after that date constructed any residential property in India. For section 54 of the Act, the deduction is available on the long-term capital gain arising from transfer of a residential house if the capital gain is reinvested in a residential house. In section 54F of the Act, the deduction is available on the long term capital gain arising from transfer of any long term capital asset except a residential house, if the net consideration is reinvested in a residential house.

2. The primary objective of the sections 54 and section 54F of the Act was to mitigate the acute shortage of housing, and to give impetus to house building activity. However, it has been observed that claims of huge deductions by high-net-worth assessees are being made under these provisions, by purchasing very expensive residential houses. It is defeating the very purpose of these sections.

3. In order to prevent this, it is proposed to impose a limit on the maximum deduction that can be claimed by the assessee under section 54 and 54F to rupees ten crore. It has been provided that if the cost of the new asset purchased is more than rupees ten crore, the cost of such asset shall be deemed to be ten crores. This will limit the deduction under the two sections to ten crore rupees.

4. Consequentially, the provisions of sub-section (2) of section 54 and sub-section (4) of section 54F that deals with the deposit in the Capital Gains Account Scheme have also been amended. It is proposed to insert a proviso to provide that the provisions of sub-section (2) of section 54 and sub-section (4) of section 54F, for the purpose of deposit in the Capital Gains Account Scheme, shall apply only to capital gains or net consideration, as the case may be, upto rupees 10 Crores.

5. These amendments will take effect from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

[Clauses 25 & 30]

Special provision for taxation of capital gains in case of Market Linked Debentures

It has been noticed that a variety of hybrid securities that combine features of plain vanilla debt securities and exchange traded derivatives are being issued through private placements and listed on stock exchanges. It is seen that such securities differ from plain vanilla debt securities.

2. 'Market Linked Debentures' are listed securities. They are currently being taxed as long-term capital gain at the rate of 10% without indexation. However, these securities are in the

nature of derivatives which are normally taxed at applicable rates. Further, they give variable interests as they are linked with the performance of the market.

3. In order to tax the capital gains arising from the transfer or redemption or maturity of these securities as short-term capital gains at the applicable rates, it is proposed to insert a new section 50AA in the Act to treat the full value of the consideration received or accruing as a result of the transfer or redemption or maturity of the "Market Linked Debentures" as reduced by the cost of acquisition of the debenture and the expenditure incurred wholly or exclusively in connection with transfer or redemption of such debenture, as capital gains arising from the transfer of a short term capital asset.

4. Further, it is also proposed to define the 'Market linked Debenture' as a security by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices and include any securities classified or regulated as a Market Linked Debenture by Securities and Exchange Board of India.

5. This amendment will take effect from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

[Clause 24]

Preventing permanent deferral of taxes through undervaluation of inventory

Assessees are required to maintain books of account for the purposes of the Act. The Central Government has notified the Income Computation and Disclosure Standards (ICDS) for the computation of income. ICDS-II relates to valuation of inventory. Section 148 of the Companies Act 2013 also mandates maintenance of cost records and its audit by cost accountant in some cases.

2. In order to ensure that the inventory is valued in accordance with various provisions of law, it is proposed to amend section 142 of the Act relating to Inquiry before assessment to ensure the following:-

(i) To enable the Assessing Officer to direct the assessee to get the inventory valued by a cost accountant, nominated by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in this behalf. Assessee is then required to furnish the report of inventory valuation in the prescribed form duly signed and verified by such cost accountant and setting forth such particulars as may be prescribed and such other particulars as the Assessing Officer may require.

(ii) To provide that the expenses of, and incidental to, such inventory valuation (including remuneration of the cost accountant) shall be determined by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner in accordance with the prescribed guidelines and that the expenses so determined shall be paid by the Central Government.

(iii) To provide that except where the assessment is made under section 144 of the Act, the assessee will be given an opportunity of being heard in respect of any material gathered on the basis of such inventory valuation which is proposed to be utilized for assessment.

(iv) To define "cost accountant" to mean a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) and who holds a valid certificate of practice under sub-section (1) of section 6 of that Act.

3. Further, the following consequential amendments are proposed:–

(i) To amend section 153 of the Act, so as to exclude the period for inventory valuation through the cost accountant for the purposes of computation of time limitation.

(ii) To amend section 295 of the Act, so as to include in the aforesaid section, the power to make rules for the form of prescription of report of inventory valuation and the particulars which such report shall contain.

4. The amendments in section 142 and 153 of the Act will take effect from 1st April, 2023 and will accordingly apply to the assessment year 2023-2024 and subsequent assessment years. The amendment in section 295 of the Act will take effect from 1st April, 2023.

[clauses 68, 72 & 122]

Rationalisation of exempt income under life insurance policies

Clause (10D) of section 10 of the Act provides for income-tax exemption on the sum received under a life insurance policy, including bonus on such policy. There is a condition that the premium payable for any of the years during the terms of the policy should not exceed ten per cent of the actual capital sum assured.

2. It may be pertinent to note that the legislative intent of providing exemption under clause (10D) of section 10 of the Act has been to further the welfare objective by subsidising the risk premium for an individual's life and providing benefit to small and genuine cases of life insurance coverage. However, over the years it has been observed that several high net worth individuals are misusing the exemption provided under clause (10D) of section 10 of the Act by investing in policies having large premium contributions (as it is acting as an investment policy) and claiming exemption on the sum received under such life insurance policies.

3. In order to prevent the misuse of exemption under the said clause, Finance Act, 2021, amended clause (10D) of section 10 of the Act to, *inter-alia*, provide that the sum received under a ULIP (barring the sum received on death of a person), issued on or after the 01.02.2021 shall not be exempt if the amount of premium payable for any of the previous years during the term of such policy exceeds Rs 2,50,000. It was also provided that if premium is payable for more than one ULIPs, issued on or after the 01.02.2021, the exemption under the said clause shall be available only with respect to such policies where the aggregate premium does not exceed Rs 2,50,000 for any of the previous years during the term of any of the policy. Circular no 02 of 2022 dated 19.01.2022 was issued to explain how the exemption is to be calculated when there are more than one policies.

4. After the enactment of the above amendment, while ULIPs having premium payable exceeding Rs 2, 50,000/- have been excluded from the purview of clause (10D) of section 10 of the Act, all other kinds of life insurance policies are still eligible for exemption irrespective of the amount of premium payable.

5. In order to curb such misuse, it is proposed to tax income from insurance policies (other than ULIP for which provisions already exists) having premium or aggregate of premium above Rs 5,00,000 in a year. Income is proposed to be exempt if received on the death of the insured person. This income shall be taxable under the head "income from other sources". Deduction shall be allowed for premium paid, if such premium has not been claimed as deduction earlier. The proposed provision shall apply for policies issued on or after 1st April, 2023. There will not be any change in taxation for polices issued before this date. Hence, it is proposed to amend the Act so as to-

(i) insert a new proviso (sixth proviso) to clause (10D) of the section 10 of the Act to provide that nothing contained in this clause shall apply with respect to any life insurance policy (other than a unit linked insurance policy) issued on or after the 1st April, 2023, if the amount of premium payable for any of the previous year during the term of such policy exceeds five lakh rupees;

(ii) insert a new proviso (seventh proviso) to clause (10D) of section 10 of the Act to provide that if the premium is payable by a person for more than one life insurance

policy (other than unit linked insurance policy), issued on or after the 1st April, 2023, the provisions of this clause shall apply only with respect to those life insurance policies (other than unit linked insurance policies), where the aggregate amount of premium does not exceed the amount referred to in the sixth proviso in any of the previous years during the term of any of those policies;

(iii) amend the existing sixth proviso (new proposed eighth proviso) to clause (10D) of section 10 of the Act to provide that the provisions of the fourth, fifth, sixth and seventh provisos shall not apply to any sum received on the death of a person;

(iv) insert clause (xiii) in sub-section (2) of section 56 of the Act to provide where any sum is received (including the amount allocated by way of bonus) at any time during a previous year, under a life insurance policy, which is not exempt under clause (10D) of section 10 of the Act, the sum so received as exceeds the aggregate of the premium paid during the term of such life insurance policy shall be chargeable to income-tax under the head "Income from other sources". If the premium paid had been claimed as deduction in any other provision of the Act such premium will not be reduced from sum so received. Computation mechanism shall be prescribed. This would not apply to ULIP or Keyman insurance policies whose taxation is governed by other existing provisions of the Act

(v) insert an *Explanation* to clause (xiii) in sub-section (2) of section 56 of the Act to provide that for the purposes of this clause, "unit linked insurance policy" shall have the same meaning as assigned to it in *Explanation 3* to clause (10D) of section 10 of the Act;

(vi) insert sub-clause (xviid) in clause (24) of section 2 of the Act to provide that income shall include any sum referred to in clause (xiii) of sub-section (2) of section 56 of the Act.

6. These amendments will take effect from 1st April, 2024 and will accordingly apply to the assessment year 2024-25 and subsequent assessment years.

[clauses 3, 5 & 32]

Alignment of provisions of section 45(5A) with the TDS provisions of section 194-IC

The existing provisions of the sub-section (5A) of section 45 of the Act, *inter alia*, provide that on the capital gain arising to an assessee (individual and HUF), from the transfer of a capital asset, being land or building or both, under a Joint Development agreement (JDA), the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority. Further, for computing the capital gains amount on this transaction, the full value of consideration shall be taken as the stamp duty value of his share, as increased by the consideration received in 'cash'.

2. It has been noticed that the taxpayers are inferring that any amount of consideration which is received in a mode other than cash, i.e., cheque or electronic payment modes would not be included in the consideration for the purpose of computing capital gains chargeable to tax under sub-section (5A) of section 45. This is not in accordance with the intention of law as is evident from the provisions of section 194-IC of the Act which, inter alia, provides that tax shall be deducted on any sum by way of consideration (other than in kind), under the agreement referred to in sub-section (5A) of section 45, paid to the deductee in cash or by way of issue of a cheque or draft or any other mode. Accordingly, it is proposed to amend the provisions of sub-section (5A) of section 45 so as to provide that the full value of consideration shall be taken as the stamp duty value of his share as increased by any consideration received in cash or by a cheque or draft or by any other mode.

3. This amendment will take effect from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

[Clauses 20]

Prevention of double deduction claimed on interest on borrowed capital for acquiring, renewing or reconstructing a property

Under the existing provisions of the Act, the amount of any interest payable on borrowed capital for acquiring, renewing or reconstructing a property is allowed as a deduction under the head "Income from house property" under section 24 of the Act.

2. Section 48 of the Act, inter alia, provides that the income chargeable under the head "Capital gains" shall be computed, by deducting the cost of acquisition of the asset and the cost of any improvement thereto from the full value of the consideration received or accruing as a result of the transfer of the capital asset.

3. It has been observed that some assessees have been claiming double deduction of interest paid on borrowed capital for acquiring, renewing or reconstructing a property. Firstly, it is claimed in the form of deduction from income from house property under section 24, and in some cases the deduction is also being claimed under other provisions of Chapter VIA of the Act. Secondly while computing capital gains on transfer of such property this same interest also forms a part of cost of acquisition or cost of improvement under section 48 of the Act.

4. In order to prevent this double deduction, it is proposed to insert a proviso after clause (ii) of the section 48 so as to provide that the cost of acquisition or the cost of improvement shall not include the amount of interest claimed under section 24 or Chapter VIA.

5. This amendment is proposed to take effect from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

[Clause 22]

Defining the cost of acquisition in case of certain assets for computing capital gains

The existing provisions of the section 55 of the Act, inter alia, defines the ‘cost of any improvement’ and ‘cost of acquisition’ for the purposes of computing capital gains. However, there are certain assets like intangible assets or any sort of right for which no consideration has been paid for acquisition. The cost of acquisition of such assets is not clearly defined as ‘nil’ in the present provision. This has led to many legal disputes and the courts have held that for taxability under capital gains there has to be a definite cost of acquisition or it should be deemed to be nil under the Act. Since there is no specific provision which states that the cost of such assets is nil, the chargeability of capital gains from transfer of such assets has not found favour with the Courts.

2. Therefore, to define the term ‘cost of acquisition’ and ‘cost of improvement’ of such assets, it is proposed to amend the provisions of sub-clause (1) of the Clause (b) of the sub-section (1) and clause (a) of sub-section (2) of section 55 so as to provide that the ‘cost of improvement’ or ‘cost of acquisition’ of a capital asset being any intangible asset or any other right (other than those mentioned in the said sub-clause or clause, as the case may be) shall be ‘Nil’.

3. This amendment is will take effect from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

[Clause 31]

E. Improving Compliance and Tax Administration

Extension of time for disposing pending rectification applications by Interim Board for Settlement

Section 245D of the Act lays down the procedure for Settlement Commission upon receiving an application for settlement by an assessee. The section also provides the timelines to be followed with respect to settlement or disposal of pending applications and also the procedures to be followed in this regard.

2. The Act was amended *vide* Finance Act, 2021 with retrospective effect from 01.02.2021, abolishing the Settlement Commission. Consequently, the Central Government was enabled to constitute one or more Interim Boards for Settlement (IBS), as an interim measure, for settlement of applications pending with Settlement Commission as on 31.01.2021. Sub-sections (9) to (13) were introduced in section 245D *vide* Finance Act, 2021 to make provisions for dealing with applications pending before the Settlement Commission.

3. Clause (*iv*) of sub-section (9) provides that where the time-limit for amending any order or filing of rectification application as per sub-section (6B) expires on or after 01.02.2021, then the period from 01.02.2021 till the constitution of IBS shall be excluded from computing the time-limit, and after such exclusion, if the time-limit available for amending the order or for making application is less than 60 days, such period shall be extended to 60 days. Therefore, as per the provisions of clause (*iv*) of sub-section (9) of section 245D, the period between 01.02.2021 till 10.08.2021 (when the order constituting IBS was issued) shall be excluded for computing the time-limit.

4. In this regard, grievances have been received from the stakeholders regarding extension of time available to the IBS under the Act, to pass rectification/ amendment orders. As the pending applications only relate to rectification or amendment of mistake apparent from the record, it is proposed that the time-limit available to IBS for passing such orders may be extended in order to dispose the pendency and to avoid any further litigation.

5. Accordingly, clause (*iv*) of sub-section (9) of section 245D is proposed to be substituted with a new clause to provide that where the time-limit for amending an order or for making an application under sub-section (6B) expires on or after 01.02.2021 but before 01.02.2022, such time-limit shall stand extended to 30.09.2023.

6. This amendment will take effect retrospectively from the lst day of February, 2021.

[Clause 95]

Introduction of the authority of Joint Commissioner (Appeals)

As per the current scheme for appeals under the Act, the first appellate authority for an assessee aggrieved by any order issued under the Act is the Commissioner (Appeals). Such Commissioner (Appeals) has the powers to confirm, reduce, enhance or annul/ cancel an order of assessment or an order of penalty, after providing an opportunity of being heard to the assessee and the AO. The order passed by the Commissioner (Appeals) are appealable before the Appellate Tribunal.

2. It has been noted that as the first authority for appeal, Commissioner (Appeals) are currently overburdened due to the huge number of appeals and the pendency being carried forward every year. In order to clear this bottleneck, a new authority for appeals is being proposed to be created at Joint Commissioner/ Additional Commissioner level to handle certain class of cases involving small amount of disputed demand. Such authority has all powers, responsibilities and accountability similar to that of Commissioner (Appeals) with respect to the procedure for disposal of appeals.

3. The earlier section 246 was providing for the appeal functions of Deputy Commissioner (Appeals). That institution was discontinued in the year 2000. Accordingly, it is proposed

to substitute section 246 of the Act to provide for appeals to be filed before Joint Commissioner (Appeals). Sub-section (1) of the proposed section seeks to provide that any assessee aggrieved by any of the following orders of an Assessing Officer (below the rank of Joint Commissioner) may appeal to the Joint Commissioner (Appeals) against—

(i) an order being an intimation under sub-section (1) of section 143, where the assessee objects to the making of adjustments, or any order of assessment under sub-section (3) of section 143 or section 144, where the assessee objects to the amount of income assessed, or to the amount of tax determined, or to the amount of loss computed, or to the status under which he is assessed;

(ii) an order of assessment, reassessment or recomputation under section 147;

(iii) an order being an intimation under sub-section (1) of section 200A;

(iv)an order under section 201;

(v) an order being an intimation under sub-section (6A) of section 206C;

(vi)an order under sub-section (1) of section of section 206CB;

(vii) an order imposing a penalty under Chapter XXI; and

(viii) an order under section 154 or section 155 amending any of the orders mentioned in (i) to (vii) above:

2. It is proposed to insert a proviso under sub-section (1) that an appeal cannot be filed before the Joint Commissioner (Appeals) where an order referred to under this sub-section is passed by or with the approval of an income-tax authority above the rank of Deputy Commissioner.

3. Sub-section (2) of the proposed section seeks to provide that where any appeal filed against an order referred to in sub-section (1) is pending before the Commissioner (Appeals), the Board or an income-tax authority so authorised by the Board in this regard, may transfer such appeal and any matter arising out of or connected with such appeal and which is so pending, to the Joint Commissioner (Appeals) who may proceed with such appeal or matter, from the stage at which it was before it was so transferred. This will enable transfer of certain existing appeals filed before the Commissioner (Appeals) to the Joint Commissioner (Appeals).

4. Sub-section (3) of the proposed section seeks to provide that notwithstanding anything contained in sub-section (1) or sub-section (2), the Board or an income-tax authority so authorised by the Board in this regard, may transfer any appeal which is pending before a Joint Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals) who may proceed with such appeal or matter, from the stage at which it was before it was so transferred.

5. Sub-section (4) of the proposed section seeks to provide that where an appeal is transferred under the provisions of sub-section (2) or sub-section (3), the appellant shall be provided an opportunity of being reheard.

6. Sub-section (5) of the proposed section seeks to provide that for the purposes of disposal of appeal by the Joint Commissioner (Appeals), the Central Government may make a Scheme, by notification in the Official Gazette, so as to dispose appeals in an expedient manner with transparency and accountability by eliminating the interface between the Joint Commissioner (Appeals) and the appellant in the course of appellate proceedings to the extent technologically feasible and direct that any of the provisions of this Act relating to

jurisdiction and procedure for disposal of appeals by Joint Commissioner (Appeals) shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification.

7. Sub-section (6) of the proposed section seeks to provide that for the purposes of sub-section (1), the Board may specify that the provisions of that sub-section shall not apply to any case or any class of cases.

8. It is also proposed to insert an *Explanation* in this section to define "status" to mean the category under which the assessee is assessed as "individual", "Hindu undivided family" and so on.

9. It is also proposed to amend section 2 of the Act by inserting a definition for Joint Commissioner (Appeals) and to amend section 116 of the Act to make Joint Commissioner (Appeals) an income-tax authority under the Act.

10. Further, consequential amendments are proposed in relevant provisions of the Act in order to ensure that functioning of the Joint Commissioner (Appeals) is aligned with that of the Commissioner (Appeals).

11. These amendments will take effect from the lst day of April, 2023.

[Clauses 3, 60, 61, 62, 64, 65, 73, 75, 76, 78, 79, 98, 99, 100, 101, 102, 103, 104, 107, 109, 110, 111, 112, 115, 117, 120, 121 & 122]

Reducing the time provided for furnishing TP report

Section 92D of the Act, *inter-alia*, provides that every person who has entered into an international transaction or a specified domestic transaction shall keep and maintain the information and documents as provided under rule 10D of the Income-tax Rules, 1962 (the Rules).

2. As per sub-section (3) of section 92D of the Act, the Assessing Officer (AOs) or the Commissioner (Appeals) may during the course of any proceedings under the Act require such person to furnish any information or document, as provided under rule 10D of the Rules, within a period of 30 days from the date of receipt of a notice issued in this regard. It has been further provided that on an application made by the assessee the time period of 30 days may be extended by an additional period of 30 days.

3. It has been represented that in several instances due to limited time available for TP proceedings it may not be practically possible to provide minimum 30 days for producing these information or documents which in any case is already in possession of the assessee. Accordingly, the time period allowed for submission of information or documents in respect of international transactions or a specified domestic transaction is required to be rationalised so as to provide the AOs a reasonable amount of time to examine the information/documents submitted and complete the pending proceedings.

4. In view of the above, it is proposed to amend sub-section (3) of section 92D of the Act to provide that,-

(i) the Assessing Officer or the Commissioner (Appeals) may, in the course of any proceeding under the Act, require any person referred to in clause (i) of sub-section (1) of section 92D of the Act i.e., who has entered into an international transaction or specified domestic transaction, to furnish any information or document referred therein, within a period of ten days from the date of receipt of a notice issued in this regard; and

(ii) the Assessing Officer or the Commissioner (Appeals) may, on an application made by such person who has entered into an international transaction or specified domestic transaction, extend the period of ten days by a further period not exceeding thirty days.

5. This amendment will take effect from 1st April, 2023.

[Clause 46]

Rationalisation of Appeals to the Appellate Tribunal

Section 253 of the Act contains provisions relating to filing of appeals to the Appellate Tribunal. Sub-section (1) of the said section details the types of orders passed under various sections of the Act, against which an aggrieved assessee may appeal to the Appellate Tribunal. The said sub-section provides that any assessee aggrieved by any order passed by a Commissioner (Appeals) under section 154, section 250, section 270A, section 271, section 271A, section 271J or section 272A may appeal to the Appellate Tribunal. Therefore, the Appellate Tribunal is the first level of appeal for such orders of the Commissioner (Appeals).

2. Sections 271AAB, 271AAC and 271AAD are penalty provisions under Chapter XXI of the Act for imposition of penalty. Section 271AAB of the Act provides for imposition of penalty by the Assessing Officer in a case where search has been initiated under section 132 of the Act. Section 271AAC of the Act provides for imposition of penalty by the Assessing Officer in a case where income determined includes any income referred to in section 68, 69, 69A, 69B, 69C or 69D of the Act for any previous year. Section 271AAD of the Act contains provisions for imposition of penalty by the Assessing Officer if during any proceedings under the Act it is found that in the books of account maintained by any person there is a false entry or an omission of any entry which is relevant for computation of total income of such person to evade tax liability.

3. *Vide* Finance Act, 2022, sections 271AAB, 271AAC and 271AAD were amended to enable Commissioner (Appeals) also to pass an order imposing penalty under the said sections. However, as the reference to the same has not been inserted in sub-section (1) of section 253 of the Act, an aggrieved assessee cannot appeal against such penalty orders passed by Commissioner (Appeals) which may lead to taxpayer grievance. Therefore, it has been proposed to amend the provisions of section 253 of the Act to provide that appeal against penalty orders passed by Commissioner (Appeals) under the sections 271AAB, 271AAC and 271AAD shall be made to the Appellate Tribunal.

4. Further, *vide* Finance Act, 2021, section 263 of the Act was amended to enable Principal Chief Commissioner and Chief Commissioner to also pass an order of revision under the said section. However, in the absence of any reference to such orders passed under section 263 of the Act in sub-section (1) of the section 253 of the Act, an assessee aggrieved by any order under section 263 of the Act by a Principal Chief Commissioner and Chief Commissioner or an order under section 154 of the Act rectifying such order under section 263 of the Act cannot appeal against such orders to the Appellate Tribunal. Therefore, it has been proposed that section 253 of the Act may be amended so that appeal against an order passed under section 263 of the Act by Principal Chief Commissioner or Chief Commissioner or an order passed under section 154 of the Act in respect of any such order shall be made to the Appellate Tribunal.

5. Sub-section (4) of the section 253 of the Act allows the respondent in an appeal, against an order of Commissioner (Appeals), to file a memorandum of cross-objections before the Appellate Tribunal. However, it is pertinent to note here that appeal can be made to the Appellate Tribunal against orders of authorities other than Commissioner (Appeals) also, like Principal Commissioner or Commissioner or Principal Director or Director etc. As a result, the respondent, whether it is Revenue or the assessee, cannot file memorandum of cross-objections against an appeal before the Appellate Tribunal by virtue of the provisions of sub-section (4) of section 253 of the Act. This creates grievances as well as reduces the fair and equitable dispensation of judgement in such cases. Therefore, it is proposed that an

amendment may be made in sub-section (4) of section 253 to enable filing of memorandum of cross-objections in all classes of cases against which appeal can be made to the Appellate Tribunal. For example, where the assessee files an appeal to the appellate tribunal against an order passed by the Assessing Officer in consequence of an order of the Dispute Resolution Panel the Assessing Officer would be able to file a cross objection to such appeal which cannot be filed presently.

6. These amendments will take effect from the 1st day of April, 2023.

[Clause 102]

Assistance to authorised officer during search and seizure

Section 132 of the Act makes provisions related to search and seizure. The section makes detailed provisions for powers of income-tax authority during the search and seizure proceedings, procedure to be followed, requisition of services of other officers for assistance, examination of books of account or other documents, procedure for custody of evidence, provisional attachment etc. The section also provides the timelines to be followed by the income-tax authority during and post search proceedings.

2. The section provides that during the course of search, the authorised officer may requisition the services of any police officer or any officer of the Central Government, to assist him for any of the actions required to be performed during the course of such search, and it shall be the duty of such officer to comply. Similarly, there is also a provision that the authorised officer may make a reference to a valuation officer for estimating the fair market value of the property and such reference can be made during the search or within 60 days from the date of executing the last authorisation for search.

3. In the recent past, due to the increased use of technology and digitisation in every aspect including management and maintenance of accounts, digitisation of data, cloud storage etc., the procedure for search & seizure has become complex, requiring the use of data forensics, advanced technologies for decoding data etc., for complete and proper analysis of accounts. Similarly, there is an increasing trend of undisclosed income being held in a vast variety of forms of assets or investments in addition to immovable property. Valuation of such assets and decryption of information often require specific domain experts like digital forensic professionals, valuers, archive experts etc. In addition to this, services of other professionals like locksmiths, carpenters etc. are also required in most of the cases, due to typical nature of the operations.

4. Therefore, it is proposed to amend relevant provisions of the section to provide that during the course of search the authorised officer, may requisition the services of any other person or entity, as approved by the Principal Chief Commissioner or the Chief Commissioner, the Principal Director General or the Director General, in accordance with the procedure prescribed by the Board in this regard, to assist him for the purposes of the search. Similarly, in during and post search enquiries, the authorised officer may make reference to any person or entity or any valuer registered by or under any law for the time being in force, who shall estimate the fair market value of the property in the manner prescribed and submit a report of the estimate to the authorised officer or the Assessing Officer within sixty days from the receipt of such reference.

5. This amendment will take effect from the lst day of April, 2023.

6. Prior to the enactment of the Finance Act, 2021, the procedure for conducting such assessment in search cases was laid out in section 153A and the time limit for their completion was laid out in section 153B. Consequent to the changes in 2021, the assessment or reassessment in consequence to search is now performed under section 147 of the Act and provisions of sections 153A and 153B are no longer applicable.

7. The timelines for completing assessment or reassessment in search cases is linked to the execution of the last of the authorisations during such procedure, in order to establish the day of conclusion of search proceedings, and what constitutes as last authorisation is provided in section 153B. As the provisions of section 153B are no longer applicable, it is proposed to provide the meaning of execution of last authorisation under section 132 itself.

8. This amendment will take effect retrospectively from the lst day of April, 2022.

[Clause 63]

Provisions related to business reorganisation

Section 170A of the Act was inserted *vide* Finance Act, 2022 in order to make provisions for giving effect to the order of business reorganisation issued by tribunal or court or an Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016.

2. The section provides that in case of business reorganisation, where a return of income has been filed by the successor under section 139 of the Act, such successor shall furnish a modified return within six months from the end of the month in which such order of business reorganisation was issued, in accordance with and limited to the said order. Consequently, Rule 12AD has been notified prescribing the form and manner of furnishing such modified return by companies by the Board *vide* Notification No. 110/2022 dated 19.09.2022.

3. The provisions pertaining to business reorganisation and corporate restructuring are also available under other statutes like the Companies Act, 2013. Considering the multiplicity of provisions, certain issues have come to the fore since the insertion of section 170A in the Act last year. These pertain to the entities who have previously furnished the return for the relevant assessment year, obligation on the Assessing Officer (AO) for passing or modifying assessment or reassessment orders, the requirement of furnishing modified return etc. In order to avoid any unintended litigation, it is proposed to amend the law to clarify the same.

4. Accordingly, it is proposed to substitute section 170A, to provide that notwithstanding anything contained in section 139, in a case of business reorganisation, where prior to the date of order of the tribunal or the High Court or Adjudicating Authority as defined in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016, any return of income has been furnished for any assessment year relevant to a previous year, by an entity to which such order applies, the successor shall furnish, within a period of six months from the end of the month in which the said order was issued, a modified return in the form and manner, as may be prescribed, in accordance with and limited to the said order. This would also enable modification of the returns filed by the predecessor wherever required

5. There was no provision of the procedure to be followed by the Assessing Officer after the modified return is furnished by the successor entity. It is therefore being provided that, if proceedings of assessment or reassessment for the relevant assessment year have been completed on the date of furnishing of modified return under sub-section (1), the Assessing Officer shall pass an order modifying the total income of the relevant assessment year in accordance with the order of the business reorganisation and taking into account the modified return so furnished. Where proceedings of assessment or reassessment for the relevant assessment year are pending on the date of furnishing of modified return under sub-section (1), the Assessing Officer shall pass an order assessing or reassessing the total income of the relevant assessment year in accordance with the order of the business reorganisation and taking into account the modified return so furnished.

6. For the purposes of such assessment or reassessment, unless provided otherwise, all other provisions of the Act shall apply and the tax shall be chargeable at the rate applicable to such assessment year.

7. It is also proposed to define the following terms for the purposes of this section:

> “business reorganisation" means the reorganisation of business involving the amalgamation or demerger or merger of business of one or more persons;
>
> "successor" means all resulting companies in a business reorganisation, whether or not the company was in existence prior to such business reorganisation.

8. This amendment will take effect from the lst day of April, 2023.

[Clause 77]

Rationalization of the provisions of the Prohibition of Benami Property Transactions Act, 1988 (the PBPT Act)

Under the existing provisions of section 46 of the PBPT Act, any person, including the Initiating Officer (IO), aggrieved by the order of the Adjudicating Authority, may prefer an appeal to the Appellate Tribunal within a period of 45 days from the date of the order. The order often takes time to reach the office of the Initiating Officer or the approving authority and, it is difficult to file an appeal within the prescribed time limit and leads to delay in such filing.

2. Hence, it is proposed that the provisions of section 46 of the PBPT Act may be amended to allow the filing of appeal against the order of the Adjudicating authority within a period of 45 days from the date when such order is received in the office of the Initiating Officer or the aggrieved person as the case may be. Similar change is also proposed with reference to the order passed by an authority under section 54A of the PBPT Act.

3. Under the existing provisions of section 2(18) of the PBPT Act, the 'High Court', for the purpose of filing appeal against the order of the Adjudicating authority, have been defined as Jurisdiction of such High Court within which either the aggrieved party ordinarily resides or carries on business or personally works for gain, or if the aggrieved party is Government then, jurisdiction of the High Court within which the respondent, or any respondent in case of multiple respondents resides, or carries on business or works for gain. It has been observed that the non-residents against whom proceedings under PBPT Act have been initiated and who does not fall in the category of appellant or respondent mentioned in the definition, do not fall under the jurisdiction of any High Court.

4. Hence, to enable the determination of High Court jurisdiction for the non-resident appellants or respondents, it is proposed to amend section 2(18) of the PBPT Act to modify the definition of 'High Court' by inserting a proviso so as to provide that where the aggrieved party does not ordinarily reside or carry on business or personally work for gain in the jurisdiction of any High Court or where the Government is the aggrieved party and any of the respondents do not ordinarily reside or carry on business or personally work for gain in the jurisdiction of any High Court, then the High Court shall be such within whose jurisdiction the office of the Initiating Officer is located.

5. These amendments will take effect from the 1st day of April, 2023.

[Clause 152]

Alignment of timeline provisions under section 153 of the Act

Section 153 of the Act, as substituted *vide* Finance Act, 2016, provides for the time limit for completion of assessment, reassessment or recomputation. The sub-section (1) of the said section provides the time limit for order of assessment under section 143 or section 144 of the Act as 21 months from the end of the assessment year in which the income was first assessable. Thereafter, *vide* subsequent Finance Acts, this time period of 21 months was reduced to 9 months from the end of the assessment year in which the income was first assessable for assessment year 2021-22 and later assessment years. Further, *vide* Finance Act, 2022 sub-section (1A) was inserted in the section 153 of the Act providing that in a case where an updated return under sub-section (8A) of the section 139 of the Act has been furnished by an assessee, an order of assessment or reassessment under section 143 or section 144 of the Act may be made at any time before the expiry of 9 months from the end of the financial year in which such return was furnished.

2. Further, a notice under sub-section (2) of section 143 of the Act can be served on the assessee up to 3 months from the end of the relevant assessment year. This gives a time of 6 months to the Assessing Officer for making assessment which, *inter alia*, includes making investigations, giving assessees opportunities of hearing, bringing on record any material relevant to the case, analysing judicial positions of various legal matters etc. Further, with the Faceless Assessment, different aspects of the assessment are carried out by different units viz. Assessment Unit, Verification Unit, Technical Unit and Review

Unit, Therefore, a lot of co-ordination is required between the different units in every single scrutiny assessment and adequate time is essential for a rational and speaking order.

3. The period of six months is, however, short to complete the entire process of assessment. As a result, taxpayers' grievances of not being given enough time to explain themselves or provide evidences in their favour may arise. This may also compromise the dispensation of reasonableness of orders as well as natural justice to the assessees. Therefore, it has been proposed that the time available for completion of assessment relating to the assessment year commencing on or after the 1st day of April, 2022 shall be twelve months from the end of the assessment year in which the income was first assessable. Consistent with the above, the time available for completion of assessment proceedings in the case of an updated return is also proposed to be increased to 12 months from the end of the financial year in which such return is furnished.

4. Further, *vide* Finance Act, 2021 the section 263 of the Act was amended to enable Principal Chief Commissioner and Chief Commissioner to also pass an order of revision under the said section. However, the time line provided in section 153 of the Act under sub-sections (3), (5) and (6) to pass an order of assessment or reassessment or order under section 92CA by the Transfer Pricing Officer does not refer to the orders so passed by Principal Chief Commissioner or Chief Commissioner. Therefore, it is proposed that section 153 may be amended to provide that the provision of the said sub-section (3), (5) and (6) shall also be applicable to order under section 263 or section 264, passed by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be.

5. It may also be noted that prior to the Finance Act, 2021 in cases where search is initiated under section 132 of the Act or books of account, other documents or any assets are requisitioned under section 132A of the Act, assessment was made in the case of the assessee, or any other person, in accordance with the special provisions of sections 153A, 153B and 153C of the Act that deal specifically with such cases. The section 153A of the Act provided that an assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years, as given in section 153A of the Act, and for the relevant assessment year or years pending on the date of initiation of the search under section 132 of the Act or making of requisition under section 132A of the Act, as the case may be, shall abate. The scrutiny proceedings would later on be re-opened under the provisions of section 153A of the Act, so that correct assessment of income subsequent to a search operation can logically be concluded based on the information available as a result of the search.

6. *Vide* Finance Act, 2021 the provisions of sections 147 of the Act and others relating to re-assessment proceedings were amended providing that search assessments were to be carried out under the provisions of section 147 of the Act. However, the current provisions of the Act relating to reassessment do not provide for abatement or revival of any assessment or reassessment proceedings pending on the date of search under section 132 of the Act or requisition under section 132A of the Act. As a result, the information available in a search, which has a bearing on the pending scrutiny proceedings may not be effectively used due to the limitation of such proceedings.

7. Further, even if the last of the authorizations have been executed in the relevant search case, the seized material etc. are transferred to the Assessing Officer only after some time owing to the pre-assessment processing of such material and data. Further, the Assessing Officer also needs to carry out investigation and gather evidence to compute the income of the assessee as a result of the search or requisition proceedings. Therefore, there is a need to amend the provisions of the Act so as to allow the Assessing Officer to conduct proper scrutiny of the case on the basis of seized material and investigation made and align the dates of limitation for completion reassessment proceedings for all the assessment years under scrutiny consequent to a search under section 132 or requisition under section 132A of the Act.

8. In view of the above, it is proposed that a new sub-section (3A) may be inserted in section 153 of the Act to provide that where an assessment or reassessment is pending on

the date of initiation of search under section 132 or making of requisition under section 132A, the period available for completion of assessment or reassessment, as the case may be, under the said sub-sections (1), (1A), (2) and (3) of the said section shall be extended by twelve months in a case of an assessee where such search is initiated under section 132 or such requisition is made under section 132A or in the case of an assessee to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to or in the case of an assessee to whom any books of account or documents seized or requisitioned pertains or pertain to, or any information contained therein, relates to.

9. Furthermore, consequent to the introduction of sub-section (1A) of section 153 of the Act *vide* Finance Act, 2022, it is proposed to insert the reference to sub-section (1A) in sub-sections (3), (4), (6) as well as in the first proviso to *Explanation 1* of section 153.

10. These amendments will take effect from the 1st day of April, 2023.

[Clause 72]

Modification of directions related to faceless schemes and e-proceedings

The Central Government has undertaken a number of measures to make the processes under the Act, electronic, by eliminating person to person interface between the taxpayer and the Department to the extent technologically feasible, and provide for optimal utilisation of resources and a team-based assessment with dynamic jurisdiction.

2. Consequent to these amendments introduced in the Act, various schemes have been notified and directions issued for implementation of e-proceedings and faceless schemes, as follows:

Sl. No.	Section	Scheme
1.	135A	e-Verification Scheme, 2021
2.	245MA	e-Dispute Resolution Scheme, 2022
3.	245R	e-advance rulings Scheme, 2022
4.	250	Faceless Appeal Scheme, 2021
5.	275	Faceless Penalty Scheme, 2022

3. While introducing these amendments in the relevant provisions, time limitations were also incorporated into the statute for issuing directions, with an intent to implement these reforms in a timely manner. These time limits in case of each provision are as below:

Sl. No.	Section	Scheme
1.	135A	31.03.2022
2.	245MA	31.03.2023
3.	245R	31.03.2023
4.	250	31.03.2022
5.	274	31.03.2022

4. Adjustments may be required to be made to the directions issued under these provisions, in order to overcome any issues arising in their implementation of these schemes and also to ensure that the schemes can operate according to the changing times. However, as per the present provisions, an express power to amend or modify the directions, upon expiry of the relevant time period is not available.

5. Therefore, it is proposed to amend the relevant provisions to provide that where any direction has been issued for the purposes of giving effect to the scheme under that section before the expiry of limitation, i.e., 31st March, 2022 or 31st March, 2023, as the case may be, the Central Government may, amend such direction at any time by notification in the Official Gazette.

6. These amendments will take effect from the l[st] day of April, 2022 for sections 135A, 250 and 274, and for sections 245MA and 245R, these amendments will take effect from the 1[st] day of April, 2023.

[Clauses 66, 96, 97, 100 & 116]

Provisions relating to reassessment proceedings

The Finance Act, 2021 amended the procedure for assessment or reassessment of income in the Act with effect from the 1st April, 2021. The said amendment modified, *inter alia*, sections 147, section 148, section 149 and also introduced a new section 148A in the Act. In cases where search is initiated under section 132 of the Act or books of account, other documents or any assets are requisitioned under section 132A of the Act, assessment or reassessment is now made under section 147 of the Act for all the relevant years prior to the year in which the search was conducted or requisition was made after the Finance Act, 2021. Further, the provisions of re-assessment proceedings were rationalized by amendments made *vide* Finance Act, 2022.

2. Amendments have been proposed in the provisions relating to conduct of reassessment proceedings under the Act to further streamline them and facilitate their conduct and completion in a seamless manner. It has been proposed that the section 148 of the Act may be amended to provide that a return in response to a notice under section 148 of the Act shall be furnished within three months from the end of the month in which such notice is issued, or within such further time as may be allowed by the Assessing Officer on a request made in this behalf by the assessee. However, any return which is furnished beyond the period allowed in the section 148 to furnish such return of income shall not be deemed to be a return under section 139 of the Act. As a result, the consequential requirements viz. notice under sub-section (2) of section 143 etc. would not be mandatory for such returns.

3. Further, section 149 of the Act provides the period of limitation for issuance of notice under section 148 of the Act for commencement of proceedings under section 147 of the Act. It is imperative to note here that in case of a search action under section 132 of the Act, requisition under section 132A of the Act and cases for which information emanates from the above proceedings are deemed to be information under section 149 of the Act and there is no requirement for proceedings under section 148A of the Act to be conducted prior to re-opening the cases in these cases.

4. In cases where survey under section 133A of the Act is conducted, the Assessing Officer is deemed to have information for the purposes of section 148 of the Act but proceedings under section 148A of the Act need to be conducted prior to issuance of notice under section 148 of the Act. It has been seen that in the cases where the aforementioned search, requisition or survey proceedings are conducted after 15th March of a financial year, there is extremely little time to collate this information and issue a notice under section 148 or show cause notice under section 148A(b) of the Act. Moreover, the search is conducted by the Investigation Wing and the notice is required to be issued by the Assessing Officers.

5. However, evidence of tax evasion may be reflected in the statements recorded or documents seized or impounded etc. during such action before 31[st] March, but issuance of notice related to such information or search may go beyond the time limitation provided due to the procedure involved. Therefore, important information related to revenue leakage cannot be proceeded on due to the paucity of time for searched conducted and information obtained as a consequence of these searches in the last few days of any financial year. Accordingly, it has been proposed to insert a proviso in the said section to provide that in cases where a search under section 132 is initiated or a search for which the last of the authorization is executed or requisition is made under section 132A, after the 15[th] March of any financial year a period of fifteen days shall be excluded for the purpose of computing the period of limitation for issuance of notice under section 148 and the notice so issued shall be deemed to have been issued on the 31st day of March of such financial year.

6. It is also proposed to insert another proviso in the section 149 of the Act to provide that in cases where the information deemed to be with the Assessing Officer emanates from a statement recorded or documents impounded under summons or survey, as the case may be, on or before the 31st day of March of a financial year, in consequence of, a search

initiated or last of the authorization executed under section 132 or a requisition made under section 132A, after the 15th day of March of such financial year, a period of fifteen days shall be excluded for the purpose of computing the period of limitation for issuance of notice under section 148 and the show cause notice issued under clause (b) of section 148A in such case shall be deemed to have been issued on the 31st day of March of such financial year. It has also been provided that the impounding or the recording of the statement in consequence of the search or the search itself should be before the 31st March only. Only extension has been provided for the time consumed in the procedure for issuance of notice under section 148 or 148A, as the case may be.

7. Section 151 of the Act contains provisions relating to the specified authority who can grant approval for the purposes of sections 148 and 148A of the Act. The said section provided that the authority would be the Principal Chief Commissioner and where there is no Principal Chief Commissioner, the Chief Commissioner shall give approvals beyond a period of three years.

8. It was seen that the clause (ii) of the said section was resulting in misinterpretation as well as confusion with regards to the specified authority for the cases where re-opening was being done after three years from the relevant assessment year. Therefore, to clarify the position of law in this regard, an amendment has been proposed to provide that the specified authority under clause (ii) of section 151 of the Act shall be Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General.

9. At the same time, to give further clarity with regards to the specified authority a proviso is proposed to be inserted in the section 151 to provide that while computing the period of three years for the purposes of determining the specified authority the period which has been excluded or extended as per the provisos in section 149 of the Act from the time limit for issuance of notice under section 148 of the Act shall be taken into account.

10. These amendments will take effect from the 1st day of April, 2023.

[Clauses 69, 70 & 71]

Penalty for furnishing inaccurate statement of financial transaction or reportable account

Section 285BA of the Act makes it mandatory for a person responsible for registering, or, maintaining books of account or other document containing a record of any specified financial transaction or any reportable account as may be prescribed, under any law for the time being in force, to furnish a statement in respect of such specified financial transaction or such reportable account to the prescribed income-tax authority. Further, *vide* Finance (No. 2) Act, 2014, section 271FAA was inserted in the Act in Chapter XXI to provide for penalty for furnishing inaccurate statement of financial transaction or reportable account.

2. Self-certifications by reportable persons and the account holders are mandated under the Rule 114H of the Income-tax Rules, 1962 for different purposes. This includes, *inter alia*, cases where new accounts are opened (to certify the country of tax residence), cases involving curing of indicia for pre-existing accounts (to certify the country of tax residence) and cases of entities to certify whether they are Passive Non-Reporting Financial Entities. While the requirement of having a valid self-certification has been specified in Rule 114H of the Income–tax Rules, 1962, however, there is no penal provision for the submission of a false self-certification which in turn leads to furnishing of an incorrect statement under section 285BA. Therefore, there is a need to introduce a provision for penalizing false self-certification in the Act.

3. It is therefore, also proposed to insert a new sub-section (2) in the said section which shall provide that if there is any inaccuracy in the statement of financial transactions submitted by a prescribed reporting financial institution and such inaccuracy is due to false or inaccurate information submitted by the account holder, a penalty of five thousand rupees shall be imposable on such institution, in addition to the penalty leviable on such financial institution in the said section, if any. This penalty shall be levied by the income tax authority prescribed under sub-section (1) of section 285BA of the Act. Further, the

reporting financial institution may recover the amount so paid on behalf of the account holder or retain out of any moneys that may be in its possession or may come to it from every such reportable account holder.

4. It is also proposed to clarify that the reference to the income-tax authority prescribed which shall levy the said penalty in the section 271FAA is the prescribed authority under sub-section (1) of section 285BA.

5. These amendments will take effect from the 1st day of April, 2023.

[Clause 114]

Amendments in consequence to new provisions of TDS

Section 271C of the Act has provisions for penalty for failure to deduct tax at source. Under this section, a person who has failed to deduct whole or part of tax as required under provisions of Chapter XVII-B (Tax Deduction at Source - TDS) or pay the whole or part of tax as required under section 115-O (Tax on distributed profits) or under proviso to section 194B (tax on winnings from crossword, lottery, puzzles etc) is liable to pay penalty of sum equal to the amount of tax he failed to deduct or pay. Section 276B of the Act makes provisions for prosecution for failure to pay tax to the credit of Central Government under Chapter XII-D (as required under section 115-O) or under XVII-B (deduction at source).

2. Two new provisions – section 194R and section 194S were introduced in the Act *vide* Finance Act, 2022. Section 194R makes provisions for deduction of tax on benefit or perquisite in respect of business or profession. In addition, section 194BA is proposed to be inserted in the Act *vide* the Bill to provide for TDS on net winnings from online games.

3. Section 194S makes provisions for deduction of tax on payment on transfer of virtual digital asset (VDA) owing to their very nature, payments related to benefit or perquisite or VDA may also be wholly in kind or partly in cash and partly in kind. Accordingly, the first proviso to section 194R provides that in case the benefit or perquisite or VDA has a "in kind" component, then the person responsible shall ensure that required amount of tax has been paid, before releasing the benefit or perquisite.

4. In the case of VDA, since the consideration for transfer could be in exchange of another VDA (fully "in kind") or partly in kind, the first proviso to section 194S provides that the person responsible for paying the consideration shall ensure that the required amount of tax has been paid, before releasing the consideration.

5. Similarly, in the case of winnings from online games, sub-section (2) of the proposed section provides that where the net winnings are wholly in kind or partly in cash and partly in kind, the person responsible for paying the net winnings shall ensure that tax has been paid in respect of the net winnings, before releasing the winnings.

6. Presently, the provisions for penalty and prosecution do not clearly mandate a penalty or prosecution for a person who does not pay or fails to ensure that tax has been paid in a situation where the benefit or perquisite is passed in kind. Therefore, to enable such penalty and prosecution, it is proposed to amend section 271C inserting two new sub-clauses under clause (*b*) in sub-section (1) providing reference to the first proviso to section 194R and the first proviso to section 194S. Similar amendments are also proposed in section 276B. Drafting changes are also proposed in the section to align the language with the parent provisions.

7. These amendments will take effect from the lst day of April, 2023.

8. Further, in consequence to the proposal to insert section 194BA in the Act, it is proposed to insert a new sub-clause under section 271C and section 276B providing reference to sub-section (2) of section 194BA.

9. This amendment will take effect from the 1st day of July, 2023.

[Clauses 113 & 119]

F. Rationalisation of Provisions

Excluding non-banking financial companies (NBFC) from restriction on interest deductibility

Section 94B of the Act provides restriction on deduction of interest expense in respect of any debt issued by a non-resident, being an associated enterprise of the borrower. It applies to an Indian company, or a permanent establishment of a foreign company in India, who is a borrower. If such person incurs any expenditure by way of interest or of similar nature exceeding one crore rupees 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 30% of its earnings before interest, taxes, depreciation and amortisation (EBITDA). Proviso to this section brings within its scope certain debt issued by a lender who may not be an associated enterprise of the borrower.

2. This section was inserted in the Act *vide* Finance Act, 2017 in order to implement the measures recommended in final report on Action Plan 4 of the Base Erosion and Profit Shifting (BEPS) project under the aegis of G-20 - OECD countries to address the issue of base erosion and profit shifting by way of excess interest deductions.

3. Sub-section (3) of this section excludes certain companies that are engaged in the business of banking or insurance from its scope.

4. Representations have been received stating that certain Non- Banking Financial Companies [NBFCs] which are engaged in the business of financing should also be excluded from the scope of this section as they are undertaking the similar functions and are now being subject to similar regulations and compliances in respect of those functions.

5. In view of the above, it is proposed to amend sub-section (3) of section 94B of the Act to provide a carve out to certain class of NBFCs and to provide that nothing contained in sub-section (1) of section 94B of the Act shall apply to,-

(i) an Indian company or a permanent establishment of a foreign company which is engaged in the business of banking or insurance; or

(ii) such class of non-banking financial companies as may be notified by the Central Government in the Official Gazette in this behalf;

6. It is also proposed to provide that for the purposes of this section, "non-banking financial company" shall have the same meaning as assigned to it in clause (vii) of the *Explanation* to clause (viia) of sub-section (1) of section 36 of the Act.

7. This amendment will take effect from 1st April, 2024 and will accordingly apply to assessment year 2024-25 and subsequent assessment years.

[Clause 47]

Tax treaty relief at the time of TDS under section 196A of the Act

Section 196A of the Act provides for TDS on payment of certain income to a non-resident (not being a company) or to a foreign company, at the rate of 20%. The income is required to be in respect of units of a Mutual Fund specified under clause (23D) of section 10 of the Act or from the specified company referred to in the *Explanation* to clause (35) of section 10 of the Act.

2. Representations have been received requesting that the benefit of tax treaty may be considered at the time of TDS so that if the treaty provides a rate lower than 20%, TDS is made at that lower rate.

3. In order to provide the relief requested by taxpayers, it is proposed to insert a proviso to sub-section (1) of section 196A of the Act. This proviso seeks to provide that the TDS would be at the rate which is lower of the rate of 20% and the rate or rates provided in agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A of the Act, in case of a payee to whom such agreement applies and such payee has furnished the tax residency certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A of the Act.

4. This amendment will take effect from 1st April, 2023.

[clause 87]

TDS on payment of accumulated balance due to an employee

Section 192A of the Act provides for TDS on payment of accumulated balance due to an employee under the Employees' Provident Fund Scheme, 1952. The existing provisions of section 192A of the Act, *inter-alia*, provide for deduction of tax at the rate of 10% of the taxable component of the lump sum payment due to an employee. Further, no deduction of tax is to be made where the amount of such payment or the aggregate amount of such payment to the payee is less than fifty thousand rupees.

2. The second proviso to section 192A of the Act provides that any person entitled to receive any amount on which tax is deductible shall furnish his Permanent Account Number (PAN) to the person responsible for deducting such tax, failing which tax shall be deducted at the maximum marginal rate.
3. It was observed that many low-paid employees do not have PAN and thereby TDS is being deducted at the maximum marginal rate in their cases under section 192A. Hence, it is proposed to omit the second proviso to section 192A of the Act, so that in case of failure to furnishing of PAN by the person relating to payment of accumulated balance due to him, tax will be deducted at the rate of 20% as in other non-PAN cases in accordance with section 206AA of the Act, instead of at the maximum marginal rate.

4. This amendment will take effect from 1st April, 2023.

[clause 80]

Facilitating TDS credit for income already disclosed in the return of income of past year

Representations have been received that in many instances, tax is deducted by the deductor in the year in which the income is actually paid to the assessee. However, following accrual method, the assessee may have already disclosed this income in earlier years in their return of income. This results in TDS mismatch, since the corresponding income has already been offered to tax by the assessee in earlier years, however, TDS is only being deducted much later when actual payment is being made. The assessee cannot claim the credit of TDS in the year in which tax is deducted since income is not offered to tax in that year. It may also not be possible to revise the return of past year in which the corresponding income was included since time to revise the return of income for that year may have lapsed. This results in difficulty to the assessee in claiming credit of TDS.

2. In order to remove this difficulty, it is proposed to insert a new sub-section (20) in section 155 of the Act. This new sub-section applies where any income has been included in the return of income furnished by an assessee under section 139 of the Act for any assessment year (hereinafter referred to as the "relevant assessment year") and tax has been deducted at source on such income and paid to the credit of the Central Government in accordance with the provisions of Chapter XVII-B in a subsequent financial year. In such a case the assessee can make application in the prescribed form to the Assessing Officer within two years from the end of the financial year in which such tax was deducted at source. Then Assessing Officer shall amend the order of assessment or any intimation allowing credit of such tax deducted at source in the relevant assessment year. It has been further provided that the provisions of section 154 of the Act shall, so far as may be, apply thereto, and the period of four years specified in sub-section (7) of that section shall be reckoned from the end of the financial year in which such tax has been deducted. Further, credit of such tax deducted at source shall not be allowed in any other assessment year.

3. Amendment has also been proposed in section 244A of the Act to provide that the interest on refund arising out of above rectification shall be for the period from the date of the application to the date on which the refund is granted.

4. These amendments will take effect from 1st October, 2023.

[clauses 74 & 93]

Relief from special provision for higher rate of TDS/TCS for non-filers of income-tax returns

Section 206AB of the Act provides for special provision for higher TDS for non-filers of income-tax returns. Similarly, section 206CCA of the Act provides for special provision for higher TCS for non-filers of income-tax returns. These non-filers in these sections are referred to as "specified person".

2. These sections define "specified person" to mean a person who has not furnished 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 or collected (as the case may be)-

(i) for which the time limit for furnishing the return of income under sub-section (1) of section 139 has expired; and

(ii) 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.

3. The provisos to these definitions exclude a non-resident from the definition of specified person, if the non-resident does not have a permanent establishment in India.

4. There may be certain persons who are not required to furnish the return of income. It is not the intention to include such persons in the category of non-filers. Hence, in order to provide relief in such cases, it is proposed to amend the definition of the "specified person" in sections 206AB and 206CCA of the Act so as to exclude a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and who is notified by the Central Government in the Official Gazette in this behalf.

This amendment will take effect from 1st April, 2023.

[clauses 89 & 91]

Clarification regarding advance tax while filing Updated Return

The Finance Act, 2022 inserted sub-section (8A) in section 139 of the Act enabling the furnishing of an updated return by taxpayers up to two years from the end of the relevant assessment year subject to fulfilment of certain conditions as well as payment of additional tax. For the determination of the amount of additional tax on such updated return section 140B was inserted in the Act.

2. The sub-section (4) of the section 140B of the Act provides for the computation of interest under section 234B of the Act on the tax on updated return. The said sub-section (4) provides that interest payable under section 234B of the Act shall be computed on an amount equal to the assessed tax or the amount by which the advance tax paid falls short of the assessed tax. This implied that interest was payable only on the difference of the assessed tax and advance tax. Further, the sub-clause (i) of the clause (a) of the said sub-section also provides advance tax which has been claimed in earlier return of income shall be taken into account for computing the amount on which the interest was to be paid.

3. Therefore, in order to clarify the provisions of the sub-section (4) of section 140B of the Act, an amendment has been proposed in the said sub-section that interest payable under section 234B shall be computed on an amount equal to the assessed tax as reduced by the amount of advance tax, the credit for which has been claimed in the earlier return, if any.

4. This amendment will take effect retrospectively from the 1st day of April, 2022.

[Clause 67]

Bringing the non-resident investors within the ambit of section 56(2)(viib) to eliminate the possibility of tax avoidance

Section 56(2)(viib) of the Act, *inter alia*, provides that where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be chargeable to income-tax under the head 'Income from other sources'. Rule 11UA of the Income-tax Rules provides the formula for computation of the fair market value of unquoted equity shares for the purposes of the Section 56(2) (viib) of the Act.

2. Clause (viib) of sub section (2) of section 56 of the Act was inserted *vide* Finance Act, 2012 to prevent generation and circulation of unaccounted money through share premium received from resident investors in a closely held company in excess of its fair market value. However, the said section is not applicable for consideration (share application money/ share premium) received from non-resident investors.

3. Accordingly, it is proposed to include the consideration received from a non- resident also under the ambit of clause (viib) by removing the phrase 'being a resident' from the said clause. This will make the provision applicable for receipt of consideration for issue of shares from any person irrespective of his residency status.

4. These amendments will be effective from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

[Clause 32]

Rationalization of provisions related to the valuation of residential accommodation provided to employees

As per clause (2) of section 17 of the Act, "perquisite" inter alia includes value of rent-free accommodation or value of any concession in the matters of rent provided to employees by the employer. The employer may be either Central/State Government or other than that, with different methodologies of valuation of perquisites for the two categories of employers.

2. However, the methodology to compute the value of rent-free accommodation is prescribed in Rule 3 of the Income-tax Rules, 1962 (the Rules), while the methodology to compute the value of any concession in the matters of rent provided to employees by the employer is prescribed in the *Explanations* to the clause (2) of section 17.

3. In order to rationalize this provision by prescribing a uniform methodology in the Rules for computing the value of perquisite and to clearly classify the two categories of perquisites with respect to accommodation provided by the employers, it is proposed to amend sub-clauses (i) and (ii) of clause (2) of section 17 of the Act. It is proposed to take the power of prescription of the method for computation of the value of rent-free accommodation provided to the assessee by his employer and the value of any accommodation provided to the assessee by his employer at a concessional rate.

4. Further, it is proposed to amend the *Explanation 1* to sub-clause (ii) of clause (2) of section 17 of the Act so as to provide that accommodation shall be deemed to have been provided at a concessional rate if the value of the accommodation computed in the prescribed manner exceeds the rent recoverable from, or payable by, the assessee.

5. Further, it is proposed to delete the *Explanation 2*, *Explanation 3* and *Explanation 4* of sub-clause (ii) of clause (2) of section 17 of the Act to rationalize the section and specify the method of computation for the value the accommodation provided to employee by his employer through proper prescription of the Rules.

6. This amendment is proposed to take effect from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

[Clause 10]

Specifying time limit for bringing consideration against export proceeds into India

The existing provisions of the section 10AA of the Act, *inter alia*, provides 15-year tax benefit to a unit established in a SEZ which begins to manufacture or produce articles or things or provide any services on or after 01.04.2005. The deduction is available for units that begin operations before 01.04.2020, which has been extended to 30.09.2020 through the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and is allowed in the specified manner therein.

2. However, the said section does not provide for the condition to file return before due date provided under sub-section (1) of section 139 of the Act for claiming deduction as is provided for similar deductions. Section 143(1) however provides that the deduction under section 10AA shall be eligible if such return is filed before the due date. Hence, it is proposed to align the two provisions by inserting a proviso to sub-section (1) of section 10AA of the Act to provide that no deduction under the said section shall be allowed to an assessee who does not furnish a return of income on or before the due date specified under sub-section (1) of section 139.

3. Further, it has been observed that there is no time- limit prescribed in the Act for timely remittance of the export proceeds from sale of goods or provision of services by SEZ Units for claiming deduction under the said section as is provided under other similar export related deductions in the Act. Hence, it is proposed to insert a new sub-section to provide that the deduction under section 10AA of the Act shall be available for such unit, if the proceeds from sale of goods or provision of services is received in, or brought into, India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

4. For the purpose of this newly inserted sub-section, the expression "competent authority" shall mean the Reserve Bank of India or such authority as is authorized under any law for the time being in force for regulating payments and dealings in foreign exchange.

5. Also, it is proposed that if the export proceeds from sale of goods or provision of services shall be deemed to have been received in India where such proceeds from sale of goods or provision of services are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

6. Further, it is proposed to substitute clause (i) of *Explanation 1* of the said section to define the term "convertible foreign exchange" and give reference to new sub section (4A) in the definition of "Export Turnover".

7. Further, it is also proposed to make consequential amendment in sub-section (11A) of section 155 of the Act, to insert section 10AA to allow the Assessing Officer to amend the assessment order later where the export earning is realized in India after the permitted period.

8. These amendments will be effective from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

[Clauses 6 & 74]

Non-Banking Financial Company (NBFC) categorization

Section 43B of the Act provides, *inter-alia*, that any sum payable by the assessee as interest on any loan or borrowing from a Deposit taking Non-Banking Financial Company and Systemically Important Non-Deposit taking Non-Banking Financial Company shall be allowed as deduction on payment basis. It can be allowed on accrual basis if it is actually paid on or before the due date of furnishing the return of income of the relevant previous year.

2. Section 43D of the Act provides, *inter-alia*, for special provision in case of income of deposit-taking Non-Banking Financial Company and Systemically Important Non-Deposit taking Non-Banking Financial Company. Interest income in relation to certain categories of bad or doubtful debts received by such deposit-taking Non-Banking Financial Company and Systemically Important Non-Deposit taking Non-Banking Financial Company, shall be chargeable to tax in the previous year in which it is credited to its profit and loss account for that year or actually received, whichever is earlier.

3. Section 43B and section 43D of the Act currently use two erstwhile categories of NBFC namely, Deposit taking Non-Banking Financial Company and Systemically Important Non-Deposit taking Non-Banking Financial Company. Such classification for non-banking financial companies is no longer followed by the Reserve Bank of India for the purposes of asset classification.

4. In view of the above, it is proposed to amend section 43B and section 43D of the Act, to substitute the words, "a deposit taking non-banking financial company or systemically important non-deposit taking non-banking financial company", for the words "such class of non-banking financial companies as may be notified by the Central Government in the Official Gazette in this behalf".

5. These amendments will take effect from 1st April, 2024 and will accordingly apply to the assessment year 2024-2025 and subsequent assessment years.

[clauses 13 & 14]

Providing clarity on benefits and perquisites in cash

Section 28 of the Act provides for income that shall be chargeable to income-tax under the head "Profits and gains of business or profession". Clause (iv) of this section brings to chargeability the value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession. This provision was inserted through the Finance Act 1964 and the Circular no 20D dated 7th July 1964 issued to explain the provisions of this Act stated clearly that the benefit could be in cash or in kind. Therefore, the intention of the legislation while introducing this provision was also to include benefit or perquisite whether in cash or in kind. However, Courts have interpreted that if the benefit or perquisite are in cash, it is not covered within the scope of this clause of section 28 of the Act.

2. In order to align the provision with the intention of legislature, it is proposed to amend clause (iv) of section 28 of the Act to clarify that provisions of said clause also applies to cases where benefit or perquisite provided is in cash or in kind or partly in cash and partly in kind.

3. This amendment will take effect from 1st April, 2024 and will accordingly apply to the assessment year 2024-2025 and subsequent assessment years.

[clause 11]

4. Section 194R of the Act inserted by the Finance Act 2022 provides for deduction of tax on benefit or perquisite provided to a resident arising from business or exercise of a profession.

5. Sub-section (1) of said section provides for tax deduction at source at the rate of 10% of the value or aggregate of value of such benefit or perquisite. The responsibility of tax deduction at source has been fixed on a person who is responsible for providing to a resident any benefit or perquisite, whether convertible into money or not, arising from a business or the exercise of a profession by such resident.

6. First proviso to sub-section (1) provides that in a case where the benefit or perquisite, as the case may be, is wholly in kind or partly in cash and partly in kind but such part in cash is not sufficient to meet the liability of deduction of tax in respect of whole of such benefit or perquisite, the person responsible for providing such benefit or perquisite shall,

before releasing the benefit or perquisite, ensure that tax required to be deducted has been paid in respect of the benefit or perquisite.

7. Sub-section (2) provides for issuance of guidelines by CBDT (with the approval of the Central Government) for the purpose of removing difficulties. Accordingly Circular No 12 dated 16th June, 2022 was issued. This circular, *inter-alia,* provides that tax under section 194R is required to be deducted whether the benefit or perquisite is in cash or in kind.

8. Accordingly, it is proposed to clarify by way of insertion of an *Explanation* to section 194R of the Act to provide that provisions of sub-section (1) apply to benefit or perquisite whether in cash or in kind or partly in cash and partly in kind.

This amendment will take effect from 1st April, 2023.

[clause 86]

Rationalisation of the provisions of Charitable Trust and Institutions

1. Background

1.1 Income of any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Act or any trust or institution registered u/s 12AA or 12AB of the Act is exempt subject to the fulfilment of the conditions provided under various sections. The exemption to these trusts or institutions is available under the two regimes-

(i) Regime for any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Act (hereinafter referred to as trust or institution under first regime); and

(ii) Regime for the trusts registered under section 12AA/12AB of the Act (hereinafter referred to as trust or institution under the second regime).

1.2 Section 12A of the Act, *inter alia,* provides for procedure to make application for the registration of the trust or institution to claim exemption under section 11 and 12 of the Act. Section 12AB of the Act is the new section which comes into effect from the 1st April, 2021.

2. Depositing back of corpus and repayment of loans or borrowings

2.1 Under the existing provisions of the Act, corpus donations received by trusts and institutions under both regimes are exempt as follows:

a) *Explanation* 1 to the third proviso to clause (23C) of section 10 of the Act provides that income of the funds or trust or institution or any university or other educational institution or any hospital or other medical institution, shall not include income in the form of voluntary contributions made with a specific direction that they shall form part of the corpus subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) of section 11 of the Act maintained specifically for such corpus.

b) Clause (d) of sub-section (1) of Section 11 of the Act provides that voluntary contributions made with a specific direction that they shall form part of the corpus of the trust or institution shall not be included in the total income of the trust or institution subject to the condition that such voluntary contributions are invested or deposited in one or more of the forms or modes specified in sub-section (5) of section 11 of the Act maintained specifically for such corpus.

c) Application out of corpus shall not be considered as application for charitable or religious purposes for the purposes of third proviso of clause (23C) of section 10 of the Act and clauses (a) and (b) of section 11 of the Act. However, when it is invested or deposited back, into one or more of the forms or modes specified

in sub-section (5) of section 11 of the Act maintained specifically for such corpus, from the income of the previous year, such amount shall be allowed as application in the previous year in which it is deposited back to corpus to the extent of such deposit or investment.

d) Application from loans and borrowings shall not be considered as application for charitable or religious purposes for the purposes of third proviso of clause (23C) of section 10 of the Act and clauses (a) and (b) of section 11 of the Act. 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.

2.2 While implementing the recent changes *vide* the Finance Act, 2021 to the provisions related to corpus and loan or borrowing, it has come to the notice that application from corpus or loan or borrowings have already been claimed as application prior to 01.04.2021. Hence, allowing such amount to be application again as investment or reposting back in corpus or repayment of loan or borrowing will amount to double deduction.

2.3 It was also noted that, a trust may invest or deposit back the amount in to corpus or repay the loan after many years of application from the corpus or loan and claim such repayment of loan or investment/depositing back in to corpus as application for charitable or religious purposes. Availability of indefinite period for the investment or depositing back to the corpus or repayment of loan will make the implementation of the provisions quite difficult.

2.4 Further, it was noted that conditions that are required to be satisfied in the case of application for charitable or religious purposes must also be satisfied while making the application from the corpus or loan or borrowing. These conditions are as follows:

(i) Such application should not be in the form of corpus donation to another trust [twelfth proviso to clause (23C) of section 10 of the Act for the trust or institution under first regime and *Explanation 2* to sub-section (1) of section 11 of the Act for the trust or institution under second regime];

(ii) TDS, if applicable, should be deducted on such application [thirteenth proviso to clause (23C) of section 10 of the Act for the trust or institution under first regime and *Explanation 3* to sub-section (1) of section 11 of the Act for the trust or institution under second regime];

(iii) Application whereby payment or aggregate of payments made to a person in a day exceeds Rs 10,000 in other than specified modes (such as cash) is not allowed (thirteenth proviso to clause (23C) of section 10 of the Act for the trust or institution under first regime and *Explanation 3* to sub-section (1) of section 11 of the Act for the trust or institution under second regime);

(iv) Carry forward and set off of excess application is not allowed [*Explanation 2* to clause (23C) of section 10 of the Act for the trust or institution under first regime and Explanation 5 to sub-section (1) of section 11 of the Act for the trust or institution under second regime];

(v) Application is allowed in the year in which it is actually paid [*Explanation 3* to clause (23C) of section 10 of the Act for the trust or institution under first regime and *Explanation* to section 11 of the Act for the trust or institution under second regime];

(vi) Application should not directly or indirectly benefit any person referred to in sub-section (1) of section 13 of the Act and the income of the trust or institution should not enure any benefit to such person [twenty-first proviso to clause (23C) of section 10 of the Act for the trust or institution under first regime and clause (c) of sub-section (1) of section 13 of the Act for the trust or institution under second regime];

(vii) Application should be in India except with the approval of the Board in accordance with the provisions of clause (c) of sub-section (1) of section 11 of the Act.

2.5 In order to ensure proper implementation of both the exemption regimes, it is proposed to provide that application out of corpus or loans or borrowings before 01.04.2021 should not be allowed as application for charitable or religious purposes when such amount is deposited back or invested in to corpus or when the loan or borrowing is repaid. It is further proposed to provide that if the trust or institution invests or deposits back the amount in to corpus or repays the loan within 5 years of application from the corpus or loan, then such investment/depositing back in to corpus or repayment of loan will be allowed as application for charitable or religious purposes. It is also proposed to provide that where the application from corpus or loan did not satisfy the conditions as stated in paragraph 2.4, the repayment of loan or investment/depositing back in to corpus of such amount will not be treated as application.

2.6 In view of the above, the following amendments are proposed:

(i) insert a second proviso to clause (i) of *Explanation 2* to the third proviso of clause (23C) of section 10 of the Act so as to provide that the provisions of the first proviso shall apply only if there was no violation of the conditions specified in the twelfth, thirteenth and twenty- first proviso to, and *Explanation 2* and *Explanation 3* of, clause (23C) of section 10 of the Act, at the time the application was made from the corpus;

(ii) insert third proviso to clause (i) of *Explanation 2* to the third proviso of clause (23C) of section 10 of the Act so as to provide that the amount invested or deposited back shall not be treated as application for charitable or religious purposes under the first proviso unless such investment or deposit is made within a period of five years from the end of the previous year in which such application was made from corpus;

(iii) insert a fourth proviso to clause (i) of *Explanation 2* to the third proviso of clause (23C) of section 10 of the Act to provide that so as to provide that nothing contained in the first proviso shall apply where application from corpus is made on or before the 31st day of March, 2021;

(iv) insert a second proviso to clause (ii) of *Explanation 2* to the third proviso of clause (23C) of section 10 of the Act so as to provide that the provisions of the first proviso shall apply only if there was no violation of the conditions specified in the twelfth, thirteenth and twenty- first proviso to, and *Explanation 2* and *Explanation* 3 of, clause (23C) of section 10 of the Act, at the time the application was made from loan or borrowing;

(v) insert a third proviso to clause (ii) of *Explanation 2* to the third proviso of clause (23C) of section 10 of the Act to provide that the amount repaid shall not be treated as application for charitable or religious purposes under the first proviso, unless such repayment is made within a period of five years from the end of the previous year in which such application was made from loan or borrowing;

(vi) insert a fourth proviso to clause (ii) of *Explanation 2* to the third proviso of clause (23C) of section 10 of the Act to provide that nothing contained in the first proviso shall apply where application, from any loan or borrowing is made on or before the thirty first day of March, 2021;

(vii) insert a second proviso to clause (i) of *Explanation 4* to sub-section (1) of section 11 of the Act so as to provide that the provisions of the first proviso shall apply only if there was no violation of the conditions, specified in clause (c) of, and *Explanations* 2, 3 and 5 of, sub-section (1) and *Explanation* to section 11 of the Act and clause (c) of sub-section (1) of section 13 of the Act, at the time the application was made from the corpus;

(viii) insert a third proviso to clause (i) of *Explanation 4* to sub-section (1) of section 11 of the Act so as to provide that the amount invested or deposited back shall not be treated as application for charitable or religious purposes under the first proviso unless such investment or deposit is made within a period

of five years from the end of the previous year in which such application was made from corpus;

(ix) insert a fourth proviso to clause (i) of *Explanation 4* to sub-section (1) of section 11 of the Act so as to provide that nothing contained in the first proviso shall apply where application from corpus is made on or before the 31st day of March, 2021;

(x) insert a second proviso to clause (ii) of *Explanation 4* to sub-section (1) of section 11 of the Act so as to provide that the provisions of the first proviso shall apply only if there was no violation of the conditions, specified in clause (c) of, and *Explanations 2, 3* and *5* of, sub-section (1) and *Explanation* to section 11 of the Act or clause (c) of sub-section (1) of section 13 of the Act, at the time the application was made from loan or borrowing;

(xi) insert a third proviso to clause (ii) of *Explanation 4* to sub-section (1) of section 11 of the Act so as to provide that the amount repaid shall not be treated as application for charitable or religious purposes under the first proviso unless such repayment is made within a period of five years from the end of the previous year during which such application was made form loan or borrowing;

(xii) insert a fourth proviso to clause (ii) of *Explanation 4* to sub-section (1) of section 11 of the Act so as to provide that nothing contained in the first proviso shall apply where application from any loan or borrowing is made on or before the thirty first day of March, 2021.

2.7 These amendments will take effect from 1st April, 2023 and will accordingly apply to the assessment year 2023-24 and subsequent assessment years.

[clauses 5 & 7]

3. Treatment of donation to other trusts:

3.1 The income of the trusts and institutions under both regimes is exempt subject to the fulfilment of certain conditions. Some of such conditions are as follows:

a) at least 85% of income of the trust or institution should be applied during the year for the charitable or religious purposes to ensure bare minimum application for charitable or religious purposes.
b) Trusts or institutions are allowed to either apply mandatory 85% of their income either themselves or by making donations to the trusts with similar objectives.
c) If donated to other trusts or institutions, the donation should not be towards corpus to ensure that the donations are applied by the donee trust or institutions.
d) Thus, every trust or institution under both the regimes is allowed to accumulate 15% of its income each year.

3.2 Instances have come to the notice that certain trusts or institutions are trying to defeat the intention of the legislature by forming multiple trusts and accumulating 15% at each layer. By forming multiple trusts and accumulating 15% at each stage, the effective application towards the charitable or religious activities is reduced significantly to a lesser percentage compared to the mandatory requirement of 85%.

3.3 In order to ensure intended application toward charitable or religious purpose, it is proposed that only 85% of the eligible donations made by a trust or institution under the first or the second regime to another trust under the first or second regime shall be treated as application only to the extent of 85% of such donation. Accordingly, the following amendments are proposed:

a) insert clause (iii) in *Explanation 2* to the third proviso of clause (23C) of section 10 of the Act to provide that any amount credited or paid out of income of any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Act, other than the amount referred to in the twelfth proviso, to any other fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause

(iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Act or trust or institution registered under section 12AB of the Act, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent. of such amount credited or paid;

b) insert clause (iii) in *Explanation 4* to sub-section (1) of section 11 of the Act to provide that any amount credited or paid, other than the amount referred to in *Explanation 2* to the said sub-section, to any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Act or other trust or institution registered under section 12AB of the Act, as the case may be, shall be treated as application for charitable or religious purposes only to the extent of eighty-five per cent. of such amount credited or paid.

3.4 These amendments will take effect from 1st April, 2024 and will accordingly apply in relation to the assessment year 2024-25 and subsequent assessment years.

[clauses 5 & 7]

4. Omission of redundant provisions related to roll back of exemption

4.1 There are roll back provisions for the trust or institutions under the second regime. Sub-section (2) of section 12A of the Act provides that where an application for registration under section 12AB of the Act has been made, the exemption shall be available with respect to the assessment year relevant to the financial year in which the application is made and subsequent assessment years.

4.2 Second proviso to sub-section (2) of section 12A of the Act provides that where registration has been granted to the trust or institution under section 12AA or section 12AB of the Act, then, the provisions of sections 11 and 12 of the Act shall apply in respect of any income derived from property held under trust of any assessment year preceding the aforesaid assessment year, for which assessment proceedings are pending before the Assessing Officer as on the date of such registration if the objects and activities of such trust or institution remain the same for such preceding assessment year.

4.3 Third proviso to sub-section (2) of section 12A of the Act provides that that no action under section 147 of the Act shall be taken by the Assessing Officer in case of such trust or institution for any assessment year preceding the aforesaid assessment year only for non-registration of such trust or institution for the said assessment year.

4.4 Fourth proviso to sub-section (2) of section 12A of the Act provides that provisions contained in the second and third proviso to sub-section (2) of section 12A of the Act shall not apply in case of any trust or institution which was refused registration or the registration granted to it was cancelled at any time under section 12AA of the Act or section 12AB of the Act.

4.5 Second, third and fourth proviso to sub-section (2) of section 12A of the Act discussed above have become redundant after the amendment of section 12A of the Act by the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. Now the trusts and institutions under the second regime are required to apply for provisional registration before the commencement of their activities and therefore there is no need of roll back provisions provided in second and third proviso to sub-section (2) of section 12A of the Act.

4.6 With a view to rationalise the provisions, it is proposed to omit the second, third and fourth proviso to sub-section (2) of section 12A of the Act.

4.7 These amendments will take effect from 1st April, 2023.

[clause 8]

5. Combining provisional and regular registration in some cases

5.1 Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 amended the provisions related to application for registration by amending the first and second proviso to clause (23C) of section 10 of the Act, clause (ac) of sub-section (1) of section 12A of the Act and first and second proviso to sub-section 5 of section 80G of the Act. The amended provisions, inter-alia, provide the following:

a) New trusts or institutions under both regimes as well under section 80G regime need to apply for the provisional registration/approval at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration/approval is sought. Such provisional registration/ approval shall be valid for a period of 3 years.

b) Provisionally registered/approved trusts or institutions under both regimes and section 80G regime will again need to apply for regular registration/approval at least six months prior to expiry of period of the provisional registration/ approval or within six months of the commencement of activities, whichever is earlier. Regular registration/approval shall be valid for a period of 5 years.

c) The trusts and institutions under both regimes and section 80G regime will need to apply at least six months prior to the expiry of regular registration/approval.

5.2 It has also been brought to the notice that trusts and institutions under both the regimes are facing the following difficulties:

a) Trusts or institutions formed or incorporated during the previous year are not able to get the exemption for that year in which they are formed or incorporated since they need to apply one month before the previous year for which exemption is sought.

b) Besides trusts or institutions, where activities have already commenced, are required to apply for two registrations (provisional and regular) simultaneously.

5.3 In order to ensure rationalisation of the provisions, it is proposed to allow for direct final registration/approval in such cases. To achieve this, following amendments are proposed:

a) The trusts and institutions under the first regime shall be allowed to make application for the provisional approval only before the commencement of activities under proposed sub-clause (A) of clause (iv) of the first proviso to clause (23C) of section 10 of the Act.

b) Similarly trusts and institutions under the second regime shall be allowed to make application for the provisional registration only before the commencement of activities under proposed item (A) of sub-clause (vi) of clause (ac) of sub-section (1) of section 12A of the Act.

c) Similarly trusts and institutions under section 80G regime shall be allowed to make application for the provisional approval only before the commencement of activities under proposed sub-clause (A) of clause (iv) of the first proviso to sub-section (5) of section 80G of the Act.

d) The trusts and institutions under first regime, which have already commenced their activities, shall make application for a regular approval under sub-clause (B) of clause (iv) of the first proviso to clause (23C) of section 10 of the Act.

e) The trusts and institutions under second regime, which have already commenced their activities, shall make application for a regular registration under item (B) of sub-clause (vi) of clause (ac) of sub-section (1) of section 12A of the Act.

f) The trusts and institutions under section 80G regime, which have already commenced their activities, shall make application for a regular approval under the proposed sub-clause (B) of clause (iv) of the first proviso to sub-section (5) of section 80G of the Act.

g) Such application shall be examined by the Principal Commissioner or Commissioner as per the procedure provided under clause (ii) of the second proviso to clause (23C) of section 10 of the Act for the trusts and institutions under the first regime, under clause (b) of sub-section (1) of section 12AB of the Act for the trusts and institutions under the second regime and under clause (ii) of the second proviso to sub-section (5) of section 80G of the Act.

h) Where the Principal Commissioner or Commissioner is satisfied about the objects and genuineness of the activities and compliance of other requirements provided in law, registration or approval in such cases shall be granted for 5 years.

i) The Principal Commissioner or the Commissioner shall pass and order granting or rejecting such applications within 6 months calculated from the end of the month in which such application was received.

5.4 These amendments will take effect from 1st October, 2023.

[clauses 5, 8, 9 & 40]

6. Specified violations under section 12AB and fifteenth proviso to clause (23C) of section 10

6.1 Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 amended the provisions related to application for registration by amending the first and second proviso to clause (23C) of section 10 of the Act, and clause (ac) of sub-section (1) of section 12A of the Act. Now the new trusts are required to apply for the provisional registration/approval which is valid for a period of 3 years or till six months from the commencement of activities whichever is earlier. The trusts and institutions under both regimes, already registered or approved, were required to furnish the application in form 10A for re-registration/approval. The process of granting the provisional approval/ registration for the new trusts and re-registration/approval for the trusts already registered is automated. Application is filed by the trust or institution on e-filing portal and provisional approval/registration or the approval/registration in such cases is granted in an automated manner without verification.

6.2 It has come to the notice that in some cases the form furnished by the trusts for provisional approval/registration and for re-registration/approval are defective and since the process of registration/approval/provisional registration/approval is automated, registration has been granted by the CPC. At present the approval/registration and the provisional approval/registration of the trusts can be cancelled by the PCIT/CIT for certain specified violations.

6.2 In order to rationalise the provisions, it is proposed to,

a) insert clause (g) in *Explanation 2* to the fifteenth proviso of clause (23C) of section 10 of the Act to provide that the "specified violation" shall also include the case where the application referred to in the first proviso is not complete or it contains false or incorrect information.

b) similarly, it is proposed to insert clause (g) in *Explanation* to sub-section (4) of section 12AB of the Act to provide that "specified violation" shall also include the case where the application referred to in clause (ac) of sub-section (1) of section 12A of the Act is not complete or it contains false or incorrect information.

6.3 These amendments will take effect from 1st April, 2023.

[clauses 5 & 9]

7. Trusts or institutions not filing the application in certain cases

7.1 Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 amended the provisions related to application for registration by amending the first

and second proviso to clause (23C) of section 10 of the Act, clause (ac) of sub-section (1) of section 12A of the Act. The amended provisions provide the following:

a) All the existing trusts and institutions under the first and second regime are required to apply for re-registration/approval on or before 31.03.2021. The due date for re-registration/approval has been extended by the Central Board of Direct Taxes till 25.11.2022 *vide* Circular No. 22 of 2022 dated 01.11.2022. Such re-registration/approval shall be valid for a period of 5 years.

b) New trusts and institutions under the first and second regime are required to apply for the provisional registration/approval at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration/approval is sought. Such provisional registration/approval shall be valid for a period of 3 years.

c) Provisionally registered/approved trusts and institutions under the first and second regime will again need to apply for regular registration/approval at least six months prior to expiry of the period of the provisional registration/approval or within six months of the commencement of activities, whichever is earlier.

d) The trusts and institutions under the first and second regime are required to apply at least six months prior to the expiry of re-registration/approval.

7.2 Instances have come to the notice where certain trusts and institutions under the first and second regime have not applied for the regular registration after taking the provisional registration. Further some trusts and institutions under the first and second regime have not applied for the re-registration/approval. Further, there may be possible instances where the trusts and institutions under the first or second regime will not apply for re-registration after the expiry of 5 years/3 years. This will result in the following unintended consequences:

a) Once a trust or institution under the first or second regime enters in-to exemption regime, it is allowed to exit on payment of tax at the rate of maximum marginal rate on its accreted income (difference between the fair market value of assets and liabilities). This is because of the reason that the income of the trust or institution has been exempted from tax and the accreted income of the trust represents the income on which tax has not been paid and appreciation thereof.

b) By not applying for re-registration/approval or registration/approval, the trust gets an easy route to exit without payment of the tax on accreted income.

7.3 A trust or institution under the first or second regime may voluntarily wind up its activities and dissolve or may also merge with any other non-charitable institution, or it may convert into a non-charitable organization. In order to ensure that the benefit conferred over the years by way of exemption is not misused and to plug the gap in law that allowed the trusts and institutions having built up corpus/wealth through exemptions being converted into non-charitable organisation with no tax consequences, a new Chapter XII-EB consisting of Sections 115TD, 115TE and 115TF was inserted in the Act by the Finance Act, 2016.

7.4 This chapter seeks to impose a levy in the nature of an exit tax which is attracted when the organisation is converted into a non-charitable organisation or gets merged with a non-charitable organisation or a charitable organisation with dissimilar objects or does not transfer the assets to another charitable organisation.

7.5 The main elements of these provisions are:

(i) The accretion in income (accreted income) of the trust or institution is taxable on conversion of trust or institution into a form not eligible for registration under section 12 AA or section 12AB of the Act or on merger into an entity not having similar objects and registered under Section 12AA or section 12AB of the Act or on non-distribution of assets on dissolution to any charitable institution registered under section 12AA of the Act or approved

under clause (23C) of section 1023C of the Act within a period of twelve months from the end of the month of dissolution.

(ii) Accreted income is the amount of aggregate of Fair Market Value (FMV) of total assets as reduced by the liability as on the specified date. The method of valuation has been prescribed in rules.

(iii) The taxation of accreted income is at the maximum marginal rate.

(iv) This levy is in addition to any income chargeable to tax in the hands of the entity.

7.6 *Vide* Finance Act, 2022, the provisions of section 115TD, 115TE and 115TF of the Act have been amended to make them applicable to any trust or institution under the first regime as well.

7.7 It is proposed to amend the provisions of section 115TD of the Act by inserting clause (iii) in sub-section (3) of section 115TD of the Act to provide that the provisions of Chapter XII-EB shall be applicable if any trust or institution under the first or second regime fails to make an application in accordance with the provisions of clause (i) or clause (ii) or clause (iii) of the first proviso to clause (23C) of section 10 of the Act or in accordance with sub-clause (i) or sub-clause (ii) or sub-clause (iii) of clause (ac) of sub-section (1) of section 12A of the Act, within the period specified in the said clauses or sub-clauses. Upon violation of these, it shall be deemed to have been converted into any form not eligible for registration or approval in the previous year in which such period expires.

7.8 It is further proposed to amend clause (ii) of sub-section (5) of section 115TD of the Act to provide that principal officer or the trustee of the specified person, as the case may be, and the specified person shall also be liable to pay the tax on accreted income to the credit of the Central Government within fourteen days from the end of the previous year in a case referred to in clause (iii) of sub-section (3) of section 115TD of the Act;

7.9 It is also proposed to insert sub-clause (c) in clause (i) to the *Explanation* to section 115TD of the Act to provide that date of conversion shall also mean the last date for making an application for registration under sub-clause (i) or sub-clause (ii) or sub-clause (iii) of clause (ac) of sub-section (1) of section 12A or for making an application for approval under clause (i) or clause (ii) or clause (iii) of the first proviso to clause (23C) of section 10, as the case may be, in a case referred to in clause (iii) of sub-section (3) of section 115TD of the Act.

7.10 These amendments will take effect from 1st April, 2023 and will accordingly apply to the assessment year 2023-24 and subsequent assessment years.

[clause 57]

8. <u>Alignment of the time limit for furnishing the form for accumulation of income and tax audit report</u>

8.1 The trusts and institutions under the first regime are required to get their accounts audited as per the provisions of clause (b) of the tenth proviso to clause (23C) of section 10 of the Act. The trusts and institutions under second regime are required to get their accounts audited as per the provisions of sub-clause (ii) of clause (b) of sub-section (1) of section 12A of the Act. The audit report under both the regimes is required to be furnished at least one month before the due date for furnishing the return of income.

8.2 *Explanation 3* to the third proviso of clause (23C) of the section 10 of the Act provides that where the trust or institution under the first regime accumulates or sets apart its income, such trust or institution is required to furnish a statement in the prescribed form (Form 10) on or before the due date specified under sub-section (1) of section 139 of the Act for furnishing the return of income for the previous year.

8.3 Clause (c) of sub-section (2) of section 11 of the Act provides that where the trust or institution under the second regime accumulates or sets apart its income, such trust or

institution is required to furnish a statement in the prescribed form (Form 10) on or before the due date specified under sub-section (1) of section 139 of the Act for furnishing the return of income for the previous year.

8.4 Clause (2) of *Explanation 1* to sub-section (1) of section 11 of the Act provides that where the trust or institution under the second regime deems certain income to be applied, such trust or institution is required to furnish a statement in the prescribed form (Form 9A) on or before the due date specified under sub-section (1) of section 139 of the Act for furnishing the return of income for the previous year.

8.5 The due date for furnishing form 9A and form 10 is same as the due date of furnishing the return of income. The trusts are also required to furnish audit report in form 10B/10BB one month before the due date for furnishing return of income. The auditors are required to report the details of form 10/9A in the audit report. Since the due date for furnishing form 9A/10 is one month before the due date of furnishing the ITR, auditors find it difficult to report.

8.6 In order to rationalise the provisions, it is proposed to provide for filing of Form No. 10A/9A at least two months prior to the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year. Necessary amendments in this regard are proposed in,

a) clause (c) of *Explanation 3* to third proviso of clause (23C) of section 10 of the Act;

b) clause (2) of *Explanation 1* sub-section (1) of section 11 of the Act;

c) clause (c) of sub-section (2) of the said section 11 of the Act.

8.7 These amendments will take effect from 1st April, 2023 and will accordingly apply to the assessment year 2023-24 and subsequent assessment years.

[clauses 5 & 7]

9. Denial of exemption where return of income is not furnished within time

9.1 As per the provisions of twentieth proviso to clause (23C) of section 10 of the Act, if the return of income is not furnished by a trust or institution under first regime within the time under section 139 of the Act, exemption under sub-clause (iv)/(v)/(vi)/(via) of clause (23C) of section 10 of the Act shall not be available to such trust or institution.

a. Similarly, as per the provisions of clause (ba) of sub-section (1) of section 12A of the Act, if the return of income is not furnished by a trust or institution under the second regime within the time under section 139 of the Act, exemption under section 11, 12 of the Act shall not be available to such trust or institution.

b. Section 139 of the Act was amended by the Finance Act, 2022 providing for an option to the taxpayers to furnish updated return of income up to 2 years from the end of assessment year.

c. This resulted in unintended consequences of allowing exemption under section 11, 12 of the Act and sub-clause (iv)/(v)/(vi)/(via) of clause (23C) of section 10 of the Act will be available to the trusts where they furnish updated return of income. Accordingly, it is proposed to clarify that the exemption under section 11, 12 and sub-clause (iv)/(v)/(vi)/(via) of clause (23C) of section 10 of the Act will be available only if the return of income has been furnished within the time allowed under sub-section (1) or sub-section (4) of section 139 of the Act.

d. Hence, it is proposed to,

a) amend the twentieth proviso of clause (23C) section 10 of the Act to provide that the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) shall furnish the return of income for the previous

year in accordance with the provisions of sub-section (4C) of section 139 of the Act, within the time allowed under sub-section (1) or sub-section (4) of that section.

b) amend clause (ba) of sub-section (1) of section 12A of the Act to provide that the person in receipt of the income shall furnish the return of income for the previous year in accordance with the provisions of sub-section (4A) of section 139 of the Act, within the time allowed under sub-section (1) or sub-section (4) of that section.

e. These amendments will take effect from 1st April, 2023 and will accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

[clauses 5 & 8]

Removal of certain funds from section 80G

Section 80G of the Act, *inter alia*, provides for the procedure for granting approval to certain institutions and funds receiving donation and the allowable deductions in respect of such donations to the assessee making such donations.

2. Sub-section (2) of section 80G of the Act, *inter alia,* provides the list of these funds to which any sum paid by the assessee in the previous year as donations is allowed as a deduction to an extent of 50 per cent/100% of the amount so donated.

3. It has been observed that there are only three funds based on names of the persons in the said section. In order to remove such funds, it is proposed to omit sub-clauses (ii), (iiic) and (iiid) of clause (a) of sub-section (2) of section 80G of the Act.

4. This amendment will take effect from the 1st day of April, 2024 and shall accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

[Clause 40]

Set off and withholding of refunds in certain cases

Section 241A of the Act deals with withholding of refund in certain cases. As per the section, where a refund becomes due to an assessee under sub-section (1) of section 143 and notice for assessment is issued to him under sub-section (2) of section 143, the Assessing Officer (AO) may withhold such refund till the date of such assessment being made, if he is of the opinion that the grant of refund is likely to adversely affect the revenue. Such withholding can be done after recording the reasons for doing so and with the prior approval of the Principal Commissioner or Commissioner, and applicable to assessment years on or after 2017-18.

2. Section 245 of the Act deals with set off of refunds against tax remaining payable. It provides that where refund is found to be due to any person under any provisions of the Act, the AO or other income-tax authorities mentioned in the section, may, in lieu of payment, set off part or whole of the refund against any sum remaining payable by such person, after giving him an intimation in writing regarding the proposed action.

3. There is an overlap between the two provisions. Therefore, it is proposed to integrate the two sections by substituting section 245, so as to provide that where under any of the provisions of this Act, a refund is due to any person, the Assessing Officer or Commissioner or Principal Commissioner or Chief Commissioner or Principal Chief Commissioner, may, in lieu of payment of the refund, set off the amount to be refunded or any part of that amount, against any sum remaining payable under this Act by the person to whom the refund is due, after giving an intimation in writing to such person of the action proposed to be taken under this section.

4. It is also proposed to provide that where a part of the refund has been set off under sub-section (1) or where no amount is set off, and refund becomes due to a person, then, the Assessing Officer, having regard to the fact that proceedings of assessment or reassessment are pending in such case and grant of refund is likely to adversely affect the revenue, and for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or Commissioner, may withhold the refund till the date on which such assessment or reassessment is made.

5. It is also proposed to amend section 241A of the Act to make the provisions of that section inapplicable from 1st April, 2023.

6. Further, as the amendments proposed under section 245 would have an impact on cases referred to in sub-section (1A) of section 244A, i.e., where refund due to the assessee is required to be withheld by the AO under sub-section (2) of the proposed section till the date of the making assessment or reassessment, it is proposed to amend sub-section (1A) of section 244A by inserting a proviso that in case of an assessee where proceedings for assessment or reassessment are pending, the additional interest shall not be payable to the assessee under this sub-section, for the period beginning from the date on which such refund is withheld by the Assessing Officer, in accordance with and subject to provisions of sub-section (2) of section 245, till the date on which the assessment or reassessment pending in such case, is made.

7. However, the proposed amendment shall not impact the existing position with regard to all other types of interest, except additional interest under sub-section (1A) of section 244A, payable to the assessee as required under the Act.

8. These amendments will take effect from the l[st] day of April, 2023.

[Clauses 92, 93 & 94]

G. Others

Omission of certain redundant provisions of the Act

The existing provisions of the section 88 of the Act relates to rebate on life insurance premia, contribution to provident fund, etc.

2. The said section has no relevance at present as it was sunset by the Finance Act, 2005 and section 80C was introduced for allowing deduction on various instruments listed therein.

3. In order to remove the redundant provisions from the Act, it is proposed to omit section 88 from the Act.

4. Section 10 of the Act provides for incomes which are not included in total income. Clauses (23BBF), (23EB), (26A), (41) and (49) of this have already been sunset

5. Hence, it is proposed to omit clauses (23BBF), (23EB), (26A), (41) and (49) of section 10 of the Act.

6. This amendment will take effect from the 1st day of April, 2023.

[**Clauses 5, 26, 27, 28, 29, 36, 37, 38, 42, 44, 48 & 49**]

Extension of exemption to Specified Undertaking of Unit Trust of India (SUUTI) and providing for alternative mechanism for vacation of office of the Administrator.

SUUTI was created by the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 [UTI Repeal Act, 2002]. It is the successor of the erstwhile Unit Trust of India (UTI) and is mandated to liquidate the Government liabilities on account of erstwhile UTI.

2. As per sub-section (1) of section 13 of the UTI Repeal Act, 2002, SUUTI has been exempted from payment of income-tax up to 31.03.2023. Further, sub-section (1) of section 8 of the UTI Repeal Act, 2002 provides that the Administrator, SUUTI shall vacate its office only on the redemption of all the schemes.

3. It has been represented that SUUTI has been continuously working for payment of investors' dues through redemption of various schemes since its formation. However, at the current pace, the redemption of all the schemes and payment of entire amount to remaining investors may take indefinite time. Further, the work of SUUTI pertaining to the redemption of schemes, payments of entire amounts, pending litigation etc. is expected to

extend beyond 31.03.2023, i.e., beyond the time limit till which the income-tax exemption has been provided.

4. In view of the above, it is proposed amend the UTI Repeal Act, 2002, by way of amendment of ,-

(i) Sub-section (1) of section 8, so as to provide that the Administrator, SUUTI shall immediately on redemption of all the schemes of the specified undertaking and the payment of entire amount to investors or from the date as may be notified by the Central Government in the Official Gazette, whichever is earlier, vacate his office;

(ii) Sub –section (1) of section 13, so as to provide that notwithstanding anything contained in the Income-tax Act, 1961 (43 of 1961) or any other enactment for the time being in force relating to tax or income, profits or gains, no income-tax or any other tax shall be payable by the Administrator in relation to the specified undertaking till the period ending on the 30th day of September, 2023 in respect of any income, profits or gains derived, or any amount received in relation to the specified undertaking.

5. This amendment will take effect from 1st April, 2023.

[Clause 154]

Decriminalisation of section 276A of the Act

Section 276A of the Act makes provision for prosecution with rigorous imprisonment up to two years in the case of a person, being a liquidator who fails to give notice in accordance with sub-section (1) of section 178, or fails to set aside the amount as required by sub-section (3) of the said section or parts with any of the assets of the company or the properties in contravention of the provisions of the said section.

2. It has been the stated policy of the Government to decriminalise minor offences as a step towards improving ease of business. In this regard, the provisions of the Act have been examined. Section 276A provides for prosecution of liquidator for non-compliance with section 178. Section also imposes personal liability on such liquidator for the same non-compliance. Further, with the operationalisation of the Insolvency and Bankruptcy Code, 2016 (IBC), waterfall mechanism for payment of dues is now in place for companies under liquidation and sub-section (6) of section 178 (the parent section) provides that this section shall not have effect when provisions of the IBC are in contrary. Moreover, the liquidator is now working under the oversight of this specific law.

3. In view of this, it is proposed to amend section 276A by providing a sunset clause on the section with effect from 31.03.2023. Hence, it is proposed that no fresh prosecution shall be launched under this section on or after 1st April, 2023. The earlier prosecutions will however continue.

4. This amendment will take effect from 1st April, 2023.

[Clause 118]

CUSTOMS

Note:

(a) "Basic Customs Duty (BCD)" means the customs duty levied under the Customs Act, 1962.

(b) "Agriculture Infrastructure and Development Cess (AIDC)" means a duty of customs that is levied under Section 124 of the Finance Act, 2021.

(c) "Social Welfare Surcharge (SWS)" means a duty of customs that is levied under Section 110 of the Finance Act, 2018.

(d) Clause Nos. in square brackets [ ] indicate the relevant clause of the Finance Bill, 2023.

(e) Amendments carried out through the Finance Bill, 2023, will come into effect on the date of its enactment, unless otherwise specified.

I. AMENDMENTS TO THE CUSTOMS ACT, 1962

S. No.	Amendment	Clause of the Finance Bill, 2023
1.	Section 25(4A) of the Customs Act is being amended to insert a Proviso to the effect that the validity period of two years shall not apply to exemption notifications issued in relation to multilateral or bilateral trade agreements; obligations under international agreements, treaties, conventions including with respect to UN agencies, diplomats, international organizations; privileges of constitutional authorities; schemes under Foreign Trade Policy; Central Government schemes having a validity of more than two years; re-imports, temporary imports, goods imported as gifts or personal baggage; any duty of customs under any law for the time being in force including integrated tax leviable under sub-section (7) of Section 3 of the Customs Tariff Act, 1975, other than duty of customs leviable under section 12.	[123]
2	A new sub section (8A) to section 127 C is being inserted so as to specify a time limit of 9 months from the date of application, for disposal of the application filed before the Settlement Commission.	[124]

II. AMENDMENTS TO THE CUSTOMS TARIFF ACT, 1975

S. No.	Amendment	Clause of the Finance Bill, 2023
A.	**Retrospective Amendments (w.e.f. 01.01.1995)**	[125]
1.	Sub-section (6) and sub-section (7) of section 9 of the Customs Tariff Act, 1975 is being amended to remove ambiguity and clarify	[125]

	that determination and review for countervailing duty refers to determination and review of countervailing duty in a manner prescribed by rules under the Act.	
2.	Sub-section (5) and sub-section (6) of section 9A of the Customs Tariff Act, 1975 is being amended to remove ambiguity and clarify that determination and review for anti-dumping duty refers to determination and review in a manner prescribed by rules under the Act.	[125]
3.	Section 9 C of the Customs Tariff Act, 1975 is being amended to remove ambiguity and clarify that appeals under this section lie against the determination or review thereof made by an authority in a manner as specified by rules notified under Sections 8 B, 9, 9A and 9B of the Act. It also seeks to insert an explanation to provide the meaning of determination or review thereof.	[125]
B.	**Prospective Amendment**	
4.	The First Schedule to the Customs Tariff Act, 1975 is being amended to increase the tariff rates on certain tariff items with effect from 2.2.2023.	[126 (a)] read with Second Schedule
5.	The First Schedule to the Customs Tariff Act, 1975 is being amended to modify the tariff rates on certain tariff items as part of rationalization of customs duty rate structure with effect from the date of assent.	[126 (b)] Read with Third Schedule
6.	The heading 9801 of the first schedule of Customs Tariff Act, 1975 is being amended to exclude solar power plant/solar power project from the purview of Project Imports with effect from the date of assent.	
7.	The First Schedule to the Customs Tariff Act, 1975 is also being amended to modify the tariff entries with effect from 1st May,2023	[126(c)] read with Fourth Schedule

III. AMENDMENTS TO THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975

(i) The First Schedule to the Customs Tariff Act, 1975 is being amended to introduce new tariff lines or modify existing tariff lines. The proposed changes are in chapter 3, chapter 4, chapter 9, chapter 10, chapter 12, chapter 13, chapter 19, chapter 27, chapter 29, chapter 31, chapter 38, chapter 39, chapter 48, chapter 52, chapter 54, chapter 57, chapter 61, chapter 62, chapter 63, chapter 69, chapter 71, chapter 84, chapter 85, and chapter 87.

(ii) The General explanatory note to the General Rules for interpretation of the Schedule is being amended to carry out some changes which inter alia, include changes to align the abbreviations and the tariff with complementary amendments to the HS 22.

(iii) The First Schedule to the Customs Tariff Act, 1975 is also being amended to modify the tariff rates on certain tariff items as part of rationalization of customs duty rate structure.

(iv) The Second Schedule is being amended to align the entries under heading 1202 with that of the First Schedule with effect from 1st May,2023. [clause 127 read with Fifth Schedule of the Finance Bill 2023]

AMENDMENTS				
Tariff Rate Changes				
A.	**Increase in Tariff rate (to be effective from 02.02.2023) * [Clause 126(a)] of the Finance Bill, 2023]** ***Will come into effect immediately through a declaration under Provisional Collection of Taxes Act,1931*		**Rate of Duty**	
S. No.	**Heading, sub-heading tariff item**	**Commodity**	**From**	**To**
		Chemicals		
1.	2902 50 00	Styrene	2%	2.5%
2.	2903 21 00	Vinyl Chloride Monomer	2%	2.5%
		Rubber		
3.	4005	Compounded Rubber	10%	25% or Rs. 30 per kg., whichever is lower
		Gems and Jewellery Sector		
4.	7113, 7114	Articles of precious metals	20%	25%
5.	7117	Imitation Jewellery	20% or Rs. 400 per kg., whichever is higher	25% or Rs. 600 per kg., whichever is higher
		Electrical Goods		
6.	8414 60 00	Electric Kitchen Chimney	7.5%	15%
		Automobiles and Toys		
7.	8712 00 10	Bicycles	30%	35%
8.	9503	Toys and parts of toys (other than parts of electronic toys)	60%	70%
B.	**Tariff rate changes (without any changes to the effective rate of Customs Duty) [Clause 126(b)] of the Finance Bill, 2023]** **Note**: In order to simplify the tax structure, number of BCD rates are being reduced. This rationalization of BCD rate structure is being carried out in a manner so as to maintain the existing incidence of duty in certain items. These changes need to be read with appropriate changes in AIDC/SWS rates		**Rate of Duty**	

S. No.	Heading, sub-heading tariff item	Commodity	From	To
1.	4011 30 00	New or retreaded pneumatic tyres, of rubber , of a kind used on aircraft of heading 8802	3%	2.5%
2.	7107 00 00	Base metals clad with silver, not further worked than semi-manufactured	12.5%	10%
3.	7108	Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form	12.5%	10%
4.	7109 00 00	Base metals or silver, clad with gold, not further worked than semi-manufactured	12.5%	10%
5.	7110 11 10 7110 11 20 7110 19 00 7110 21 00 7110 29 00 7110 41 00 7110 49 00	Platinum, unwrought or in semi-manufactured form, or in powder form	12.5%	10%
6.	7111 00 00	Base metals, silver or gold, clad with platinum, not further worked than semi- manufactured	12.5%	10%
7.	7112	Waste and scrap of precious metal or of metal clad with precious metal; other waste and scrap containing precious metal or precious metal compounds, of a kind used principally for the recovery of precious metal other than goods of heading 8549	12.5%	10%
8.	7118	Coin	12.5%	10%
9.	8802 20 00 8802 30 00 8802 40 00	Aero planes and other aircrafts	3%	2.5%
C.	**Tariff rate changes (with changes to the effective rate of Customs Duty) [Clause 126(b)] of the Finance Bill, 2023]**		**Rate of duty**	
1.	7106	Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured forms, or in powder form	12.5%	10%

IV OTHER PROPOSALS INVOLVING CHANGES IN BASIC CUSTOMS DUTY RATES IN NOTIFICATIONS

A.	Changes in Basic Customs Duty (to be effective from 02.02.2023)		Rates of Duty	
S. No	**Chapter, Heading, sub-heading, tariff item**	**Commodity**	**From**	**To**
		Agricultural Products and By Products		
1.	0802 99 00	Pecan nuts	100%	30%
2.	1504 20	Fish lipid oil for use in manufacture of aquatic feed	30%	15%
3.	1520 00 00	Crude glycerin for use in manufacture of Epichlorohydrin	7.5%	2.5%
4.	2102 20 00	Algal Prime (flour) for use in manufacture of aquatic feed	30%	15%
5.	2207 20 00	Denatured ethyl alcohol for use in manufacture of industrial chemicals	5%	Nil
6.	2301 20	Fish meal for use in manufacture of aquatic feed	15%	5%
7.	2301 20	Krill meal for use in manufacture of aquatic feed	15%	5%
8.	2309 90 90	Mineral and Vitamin Premixes for use in manufacture of aquatic feed	15%	5%
		Minerals		
9.	2529 22 00	Acid grade fluorspar (containing by weight more than 97% of calcium fluoride)	5%	2.5%
		Petrochemicals		
10.	2710 12 21, 2710 12 22, 2710 12 29	Naphtha	1%	2.5%
		Gems and Jewellery Sector		
11.	7102, 7104	Seeds for use in manufacturing of rough lab-grown diamonds	5%	Nil
12.	7106	Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured forms, or in powder form	7.5%	10%
13.	7106	Silver Dore	6.1%	10%

		IT, Electronics		
14.	25, 28, 32, 39, 40, 69, 73, 85	Specified chemicals/items for manufacture of Pre-calcined Ferrite Powder	7.5%	Nil
15.	3824 99 00	Palladium Tetra Amine Sulphate for manufacture of parts of connectors	7.5%	Nil
16.	Any Chapter	Camera lens and its inputs/parts for use in manufacture of camera module of cellular mobile phone	2.5%	Nil
17.	8529	Specified parts for manufacture of open cell of TV panel	5%	2.5%
		Electronic appliances		
18.	8516 80 00	Heat Coil for use in the manufacture of Electric Kitchen Chimneys	20%	15%
		Automobiles		
19.	8703	Vehicle (including electric vehicles) in Semi-Knocked Down (SKD) form .	30%	35%
20.	8703	Vehicle in Completely Built Unit (CBU) form , other than with CIF more than USD 40,000 or with engine capacity more than 3000 cc for petrol-run vehicle and more than 2500 cc for diesel-run vehicles, or with both	60%	70%
21.	8703	Electrically operated Vehicle in Completely Built Unit (CBU) form, other than with CIF value more than USD 40,000	60%	70%
22.	39,40,58,70, 72 73,83,84,85, 87,90	Vehicles, specified automobile parts/components, sub-systems and tyres when imported by notified testing agencies for the purpose of testing and/ or certification , subject to conditions	As applicable	Nil
		Capital goods		
23.	84, 85	Specific capital goods/machinery for manufacture of Lithium ion cell for use in battery of electrically operated vehicle (EVs)	As applicable	Nil
B.	**Changes in Basic Customs Duty (without any change in the effective rate of Customs Duties i.e., BCD+AIDC+SWS)** **Note:** In order to simplify the tax structure, number of BCD rates are being reduced. This rationalization of BCD rate structure is being carried out in a manner so as to		**Rate of Duty**	

	maintain the existing incidence of duty on certain items. These changes need to be read with appropriate changes in AIDC/SWS rates			
S. No	**Chapter, Heading, sub-heading, tariff item**	**Commodity**	**From**	**To**
1.	2701, 2702, 2703	Coal, peat, lignite	1%	2.5%
2.	7108	Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form	12.5%	10%
3.	7108	Gold Dore	11.85%	10%
4.	7110 11 10 7110 11 20 7110 19 00 7110 21 00 7110 29 00 7110 41 00 7110 49 00	Platinum, unwrought or in semi-manufactured form, or in powder form other than those used in manufacture of noble metal compounds, noble metal solutions and catalytic converters	12.5%	10%
C.		**Change in end date of exemption (No change in effective rate of duty).**	**Rate of duty**	
S. No	**S. No in Notification no 50/2017-Customs**	**Commodity**	**From**	**To**
1	368	Ferrous waste and scrap	Nil	Nil (up to 31.03.2024)
2	374, 375	Raw materials for use in manufacture of CRGO steel	Nil	Nil (up to 31.03.2024)
3	527A	Lithium-ion cell for use in the manufacture of battery or battery pack of cellular mobile phone	5%	5% (up to 31.03.2024)
4	527B	Lithium-ion cell for use in the manufacture of battery or battery pack of electrically operated vehicle (EVs) or hybrid motor vehicle	5%	5% (up to 31.03.2024)
5	168	Specified inputs and sub-parts for use	Nil	Nil

		in manufacture of telecommunication grade optical fibre or optical fibre cables		(up to 31.03.2025)
6	341	Preform of silica for use in the manufacture of telecommunication grade optical fibres or optical fibre cables	5%	5% (up to 31.03.2025)
7	341A	Inputs for manufacture of Preform of silica	Nil	Nil (up to 31.03.2025)
8	237	Specified inputs for use in the manufacture of EVA sheet or back sheets which are used in the manufacture of solar cell or modules	Nil	Nil (up to 31.03.2024)
9	340	Solar tempered glass for use in the manufacture of solar cell or solar module	Nil	Nil (up to 31.03.2024)
10	405, 406	Raw materials and parts for manufacture of wind operated electricity generators, including permanent magnets for manufacture of PM synchronous generators above 500KW for use in wind operated electricity operators	5%	5% (up to 31.03.2025)
11.	559	Raw material and parts (including Dredger) for use in the manufacture of ships/vessels	Nil	Nil (up to 31.03.2025)
12	166	Specified Drugs, medicines, diagnostics kits or equipment, bulk drugs used in manufacture of drugs or medicines	5%	5% (up to 31.03.2025)
13	167	Lifesaving drugs/ medicines and diagnostic test kits, bulk drugs used in manufacture of life-saving drugs or medicines	Nil	Nil (up to 31.03.2025)

V. <u>Review of customs duty concessions/ exemptions:</u>

A. Review of conditional exemption rates of BCD prescribed in notification No. 50/2017 – customs dated 30.6.2017:

(a). The BCD exemption for the goods covered under following serial numbers of the notification are being extended for a period of one year i.e. upto 31st March 2024, unless specified otherwise.

S. No.	S. No. of Notfn	Description
Extension up to 31. 03. 2024		

S. No.	S. No. of Notfn	Description
1.	90	Lactose for use in the manufacture of homeopathic medicine
2.	133	Gold ores and concentrates for use in manufacture of Gold
3.	139	Specified bunker Fuel for use in ships or vessels
4.	150	Goods of Heading 2710 or 271490 for manufacture of Fertilisers
5.	155	Excess Liquefied petroleum gases (LPG) returned by DTA unit to SEZ unit
6.	164	Electrical energy supplied to DTA by power plants of 1000MW or above
7.	165	Electrical energy supplied to DTA by power plant less than 1000MW
8.	183	Medical use fission Molybdenum-99 (Mo-99) for use in manufacture of radio pharmaceutical
9.	184	Pharmaceutical Reference Standard
10.	188	Specified goods for manufacture of ELISA Kits
11.	204	Anthraquinone or 2-Ethyl Anthraquinone, for use in manufacture of Hydrogen Peroxide
12.	212A	Medicines/drugs/vaccines supplied free by United Nations International Children's Emergency Fund (UNICEF), Red Cross or an International Organization
13.	213	Drugs and materials
14.	238	Organic or inorganic coating material for manufacture of electrical steel
15.	253	Goods for manufacture of Brushless Direct Current (BLDC) motors
16.	254	Catalyst for manufacture of cast components of Wind Operated Electricity Generator
17.	255	Resin for manufacture of cast components of Wind Operated Electricity Generator
18.	258	Security fibre, security threads, Paper based taggant including M-feature for manufacture of security paper by Security Paper Mill, Hoshangabad and Bank Note Paper Mill India Pvt Ltd, Mysore.
19.	259	Raw materials for manufacture of security fibre and security thread for supply to Security Paper Mill, Hoshangabad and Bank Note Paper Mill India Pvt. Ltd, Mysore for use in manufacture of security paper
20.	260	Goods for the manufacture of orthopaedic implants falling under 902110
21.	261	Alatheon and copper wire
22.	269	Super absorbent polymer for manufacture adult diapers, tampons, sanitary pads etc (9619)
23.	271	Polytetrametylene ether glycol, (PT MEG) for use in manufacture of spandex yarn
24.	276	Ethylene – propylene – non-conjugated diene rubber (EPDM) for manufacture of insulated wires and cables
25.	277A	Calendared plastic sheet for manufacturing of Smart Card (8523)

S. No.	S. No. of Notfn	Description
26.	279	Pneumatic tyres of rubber for MRO of aircraft used in scheduled air service
27.	280	Pneumatic tyres of rubber for MRO of aircraft used by training, aeroclub etc.
28.	333	Moulds, tools and dies for manufacture of parts of electronic components/equipment
29.	334	Graphite Felt or graphite pack for growing silicon ingots; Thin steel wire used in wire saw for slicing of silicon wafers
30.	339	Toughened glass for solar thermal collectors or heaters
31.	353	Foreign currency coins when imported into India by a Scheduled Bank
32.	364A	Spent catalyst or ash containing precious metals
33.	378	Metal parts for manufacture of electrical insulators falling under heading 8546
34.	379	Pipes and tubes for use in manufacture of boilers
35.	380	Forged steel rings for manufacture of special bearings for use in wind operated electricity generator
36.	381	Flat copper wire for use in the manufacture of photo voltaic ribbon for solar cell/modules
37.	387	Zinc metal recovered by toll smelting or toll processing from zinc concentrates exported from India for such processes
38.	392	Dies for drawing metal, when imported after repairs in exchange of similar worn out dies exported out for repairs
39.	415	Parts/inputs for manufacture of catalytic convertors or its parts
40.	415A	Platinum or Palladium for manufacture of all goods including Noble Metal Compounds & Noble Metal Solutions falling under 2843 and goods of heading 381512
41.	416	Ceria zirconia compounds for use in the manufacture of washcoat for catalytic converters
42.	417	Cerium compounds for use in the manufacture of washcoat for catalytic converters
43.	418	Zeolite for use in the manufacture of washcoat for catalytic converters
44.	419	Aluminium Oxide for use in the manufacture of washcoat for catalytic converters
45.	420	Clay 2 Powder (Alumax) for use in ceramic substrate for catalytic convertors
46.	421	Goods required for basic telephone /internet service and their parts
47.	426	Specified goods for the manufacture of goods falling under 8523 5200, 8541, 8542, 8543 9000 or 8548 00 00
48.	428	Specified goods imported by accredited press cameraman
49.	429	Specified goods, imported by accredited journalist

S. No.	S. No. of Notfn	Description
50.	435	Capital goods/ Machinery for printing industry
51.	441	Spinnerettes made *interalia* of Gold, Platinum and Rhodium or any one or more of these metals, when imported in exchange of worn out or damaged spinnerettes exported out of India
52.	462	Ball screws for use in the manufacture of CNC Lathes, Machining Centres or all type of CNC machine tools falling under 8456 to 8463
53.	463	Linear Motion Guides for use in the manufacture of CNC Lathes, Machining Centres or all type of CNC machine tools falling under 8456 to 8463
54.	464	CNC Systems for use in the manufacture of CNC Lathes, Machining Centres or all type of CNC machine tools falling under 8456 to 8463
55.	467	Cash dispenser and parts thereof
56.	468	Micro ATM; fingerprint reader/scanner other than for use in manufacturing cellular mobile phones; miniaturized POS card reader for mPOS (other than Mobile phone or Tablet Computer); parts and components for manufacture of the above items
57.	471	All parts for use in the manufacture of LED lights or fixtures including LED lamps
58.	472	All inputs for use in the manufacture of LED driver or MCPCB for LED lights and fixtures or LED lamps
59.	475	Specified goods including scramblers, descramblers, encoders, jammers, network firewall, SMS monitoring system etc
60.	476	Television equipment, cameras and other equipment for taking films, imported by a foreign film unit or television team
61.	477	Photographic, filming, sound recording and radio equipment, raw films, video tapes and sound recording tapes of foreign origin if imported into India after having been exported therefrom.
62.	478	The wireless apparatus, parts imported by a licensed amateur radio operator
63.	480	Goods imported for being tested in specified test centers
64.	482	Newspaper page, transmission and reception facsimile system or equipment; telephoto transmission and reception system or equipment
65.	489B	Specified goods for manufacturing of microphones
66.	495	Batteries for electrically operated vehicles, including two and three wheeled electric motor vehicles
67.	497	Active Energy Controller (AEC) for use in manufacture of Renewable Power System (RPS) inverters
68.	504	Parts and Components of Digital Still Image Video Cameras
69.	509	Parts, components and accessories for manufacture of Digital Video Recorder /Network Video Recorder (NVR) falling under 85219090 and sub-parts for manufacture of these items

S. No.	S. No. of Notfn	Description
70.	510	Parts, components and accessories for use in manufacture of reception apparatus for television and sub-parts for manufacture of these items
71.	511	Parts, components and accessories for manufacture of CCTV Camera /IP camera and sub-parts for manufacture of these items
72.	512	Specified Parts, components and subparts for use in manufacture of Lithium-ion battery and battery pack
73.	512A	Inputs ,parts or subparts for manufacture of PCBA of Lithium ion battery and battery pack
74.	515A	Open cell for use in manufacture of LCD and LED TV panels of heading 8524
75.	516	Specified goods for use in the manufacture of Liquid Crystal Display (LCD) and LED TV panel
76.	519	Raw materials or parts for use in manufacture of e-Readers
77.	523A	Parts, sub-parts, inputs or raw material for use in manufacture of Lithium ion cells
78.	527	Lithium ion cell used in manufacture of battery or battery pack of items other than cellular mobile phone, electrically operated vehicle or hybrid motor vehicle
79.	534	Parts of gliders or simulators of aircrafts (excluding rubber tyres and tubes of gliders)
80.	535	Raw materials for manufacture of aircraft (except unmanned aircraft used as television camera, digital camera or video camera recorder) or its parts
81.	535A	Components or parts of aircraft for manufacture of aircraft (except unmanned aircraft used as television camera, digital camera or video camera recorder) or for manufacture of parts of aircraft imported by PSUs under Ministry of Defence
82.	536	Parts, testing equipment, tools and tool-kits for maintenance, repair, and overhauling of aircraft (except unmanned aircraft used as television camera, digital camera or video camera recorder) or its parts
83.	537	All goods of Heading 8802 (except 88026000-spacecraft)
84.	538	Components or parts, including engines, of aircraft of heading 8802
85.	539	(a) Satellites and payloads; (b) Ground equipments brought for testing of (a)
86.	539A	Scientific and technical instruments, apparatus etc required for launch vehicles and satellites and payloads
87.	540	Specified goods under heading 8802 imported by scheduled air transporter
88.	542	Specified goods imported by Aero Club, Flying Training Institutes
89.	543	Specified goods imported by non-scheduled air transporter
90.	544	Parts (other than rubber tubes) of aircraft of heading 8802 for operating scheduled air transport/air cargo services

S. No.	S. No. of Notfn	Description
91.	546	Parts (other than rubber tubes) of aircraft of heading 8802 for non-scheduled passenger/charter services, aero club, training purpose etc
92.	548	Barges or pontoons imported along with ships
93.	549	Capital goods and spares, raw materials, parts, material handling equipment and consumables for repairs of ocean-going vessels by a ship repair unit
94.	550	Spare parts and consumables for repairs of ocean-going vessels registered in India.
95.	551	Cruise ships, excursion ships (excluding vessels and floating structures imported for breaking up)
96.	553	Fishing vessels, Tugs and Pusher crafts, light vessels (excluding vessels and floating structures imported for breaking up)
97.	555	Vessels such as warships, lifeboats (excluding vessels and floating structures imported for breaking up)
98.	565	Specified goods for use in the manufacture of Flexible Medical Video Endoscope
99.	566	Polypropylene, Stainless-steel Strip and stainless steel capillary tube for manufacture of syringes, needles, catheters and cannulae
100.	567	Stainless steel tube and wire, cobalt chromium tube, Hayness alloy-25 and polypropylene mesh required for manufacture of coronary stents / coronary stent system and artificial heart valve
101.	568	Parts and components required for manufacture of Blood Pressure Monitors and blood glucose monitoring system (Glucometers)
102.	569	Ostomy products, its accessories and parts required for manufacture of such medical equipment
103.	570	Medical and surgical instruments, apparatus and appliances including spare parts and accessories thereof
104.	575	Hospital Equipment (excluding consumables) for use in specified hospitals
105.	577	Lifesaving medical equipment including accessories or spare parts or both of such equipment for personal use
106.	578A	Raw materials, parts or accessories for manufacture of Cochlear Implants
107.	579	Survey (DGPS) instruments, 3D modeling software cum equipment for surveying and prospecting of minerals
108.	580	X-Ray Baggage Inspection Systems and parts thereof
109.	581	Portable X-ray machine / system
110.	583	Parts and cases of braille watches, for the manufacture of Braille watches
111.	593	Parts of video games for the manufacture of video games
112.	607	Specified Life Saving drugs/medicines including medicines for Spinal Muscular Atrophy or Duchenne Muscular Dystrophy, for personal use

S. No.	S. No. of Notfn	Description
113.	607A	Lifesaving drugs/medicines for personal use supplied free of cost by overseas supplier
114.	611	Archaeological specimens, photographs, plaster casts or antiquities for exhibition for public benefit in a museum managed by ASI or by State Govt.
115.	612	Specified raw material for sports goods

Note: Description of entries is indicative. Notification may be referred to for complete description.

(b). The BCD exemption for the goods covered under following serial number of the notification no 50/2017-Customs is being extended for a period of five years i.e. **upto 31st March 2028**.

S. No.	S. No. of Notfn.	Subject
1.	609	Used bonafide personal and household effects of a deceased person

B. Review of exemptions prescribed by other notifications:

(a). The BCD exemptions for the goods covered under following notifications are being extended for a period of one year i.e. upto 31st March 2024.

S. No.	Notification No.	Subject
1	16-Customs dated 23.1.65	Exemption to goods exported to foreign countries for display in show-rooms of Govt of India
2.	80/1970-Customs	Exemption to articles supplied free under warranty as replacement for defective ones
3.	46-Customs (1974)	Pedagogic material for educational or vocational training courses
4.	248/76-Customs	Exemption to precious stones imported by posts on 'approval or return' basis
5.	207/89-Customs	Exemption to foodstuff and provisions, imported by foreigners
6.	134/94-Customs	Exemption to goods for carrying out repairs, reconditions , testing calibration or maintenance
7.	147/94-Customs	Exemptions to firearms & ammunition by renowned shot
8.	148/94-Customs	Exemptions to specified free gifts, donations, relief and rehabilitation material imported by charitable trusts, Red Cross, CARE and Govt of India
9.	151/94-Customs	Exemption to aircraft equipment, tanks, fuel and lubricating oils by Indian Airlines, United Arab Airlines, Indian Air Force
10.	152/94-Customs	Exemption to imports for handicapped person, charitable or social

S. No.	Notification No.	Subject
		welfare purposes and research and education programme
11.	153/94-Customs	Exemption to goods for foreign origin imported for repair and return
12.	39/96-Customs	Imports relating to defence, internal security forces& air forces
13.	50/96-Customs	Exemption to specified equipment, instruments, raw material etc imported for R&D projects
14.	51/96-Customs	Exemption to research equipment by publicly funded and research institutions, Govt. Dept., laboratory, IIT etc
15.	25/98- Customs	Effective rate of duty for goods of Chapter 70,84,85 or 90
16.	97/99- Customs	Exemption to Gold bars under Gold Deposit Scheme of RBI
17.	113/2003-Customs	Exemption to castor oil cake and castor de-oiled cake manufactured from indigenous castor oil seeds on indigenous plant and machinery by unit in SEZ and brought to DTA
18.	30/2004-Customs	Exemptions to second-hand computers/accessories received as donation by schools, charitable institutions
19.	45/2005-Customs	Exemption from Special Additional duty of Customs to goods cleared from SEZ and brought to any other place in India
20.	81/2005-Customs	Exemption to machinery/components for initial setting up of non-conventional power generation plants
21.	102/2007-Customs	Exemption from Special CVD to all goods imported for subsequent sale when IGST, CGST, SGST or UTGST paid by importers.
22.	26/2011-Customs	Exemption to work of art, antiques in museum or art gallery imported for public exhibition
23.	23/2016-Customs	Effective rates for parts of aircraft imported under the Standard Exchange Scheme
24.	05/2017-Customs	Exemption to machinery, components for setting up fuel cell based power generation plant.
25.	16/2017-Customs	Exemption to specified drugs & medicines supplied free of cost to patients under Patient Assistanceprogram of Pharma Companies
26.	29/2017-Customs	Exemption to specimen, models, wall pictures and diagrams for instructional purposes
27.	30/2017-Customs	Exemption to motion picture, music, gaming software for use in gaming console printed or recorded on media
28.	32/2017-Customs	Exemption to art work created abroad by Indian artist, sculptor, antiques books more than 100 years
29.	37/2017-Customs	Imports relating to defence & internal security forces
30.	49/2017-Customs	Exemption to special Additional Duty on specified goods of fourth schedule to Central Excise Act
31.	52/2017-Customs	Effective rate of Additional duty for goods under Chapter 27

(b). The BCD exemptions for the goods covered under following notifications are being extended for a period of five years i.e. upto 31st March 2028.

1	41/2017-Customs	Exemption to import of cups, trophies to be awarded to winning teams in international tournament /world cup to be held in India.
2	33/2017-Customs	Exemption to import of challenge cups and trophies won by a unit of Defence Force or its members.
3	146/94-Customs	Exemption to imports by specified sports goods imported by National Sports Federation or by a Sports person of outstanding eminence for training.
4	90/2009-Customs	Exemption to imports from Antarctica of goods used for or related to Indian Antarctic Expedition or Indian Polar Science Programme.

VI. Other Notification changes

S. No.	Notification No.	Subject
1.	Notification No. 22/2022-Customs, dated 30.04.2022	The India-UAE CEPA Tariff notification is being amended as a consequential change to rationalization of basic customs duty rate structure.
2.	Notification No. 57/2000-Customs, dated 08.05.2000	This notification relating to jewellery export promotion is being amended consequent to changes in import duty structure on Gold and increase in duty rate of Silver.
3.	Notification No. 146/94-Customs, dated 13.07.1994	Benefit of the existing exemption notification No. 146/94-Customs, dated 13.07.1994, is being extended w.e.f. 02.02.2023 to imports of 'Warm Blood horse' when imported by Sportsperson of eminence for training.

VII. Customs duty exemptions /concessions being discontinued

Certain BCD exemptions under notification No. 50/2017-Customs dated 30.6.2017 and other notification are being discontinued with effect from 31.03.2023.

The following are being discontinued as they are redundant :

S. No.	S. No. of Notfn	Description
1.	S. No. 16 of 50/2017-Customs	This exemption entry pertaining to 'Human Embryo' is being withdrawn as it is redundant on account of prohibition of import of Human Embryo under the Assisted Reproductive Technology (Regulation) Act, 2021 and The Surrogacy (Regulation) Act, 2021. [notification No. 22/2015-20 dated 20th July, 2022 of DGFT refers]
2.	S. No. 325 of 50/2017-Customs	This exemption entry pertaining to 'Monofilament Yarn' is being withdrawn as tariff rate is also at 5% and hence redundant

3.	48/2017-Customs	Exemption to catering cabin equipment, food and drinks on re-importation by aircrafts of the *Indian Airlines Corporation* from foreign flights is being withdrawn.

VIII. SOCIAL WELFARE SURCHARGE (SWS)

A.	**AMENDMENT TO NOTIFICATION NO. 11/2018 – CUSTOMS, DATED 02.02.2018 (w.e.f. 02.02.2023)**
S. No.	**Description**
	Following goods are being exempted from levy of Social Welfare Surcharge in order to maintain the total effective duty owing to rationalization of basic customs duty rate structure:
1.	Silver (HSN 7106), Gold (HSN 7108) & Imitation Jewellery (HSN 7117).
2.	Platinum (HSN 7110) other than rhodium and goods covered under S. Nos. 415(a) and 415A of the Table in notification No. 50/2017-Customs, dated the 30th June, 2017, published in the Gazette of India vide number G.S.R. 785(E), dated the 30th June, 2017.
3.	All goods falling under HSN 7113, other than the goods covered under S. Nos. 356, 357 and 364C of the Table in notification No. 50/2017-Customs, dated the 30th June, 2017, published in the Gazette of India vide number G.S.R. 785(E), dated the 30th June, 2017.
4.	All goods falling under HSN 7114, other than the goods covered under S. Nos. 356 and 357 of the Table in notification No. 50/2017-Customs, dated the 30th June, 2017, published in the Gazette of India vide number G.S.R. 785(E), dated the 30th June, 2017.
5.	Bicycles (HSN 8712 00 10)
6.	Motor vehicle including electrically operated vehicles falling under HSN 8703 covered under S. No. 526 (1)(b), 526 (2)(b), 526A(1)(b) and 526A(2)(b) of the Table in Notification No. 50/2017-Customs dated the 30th June, 2017, published in the Gazette of India *vide* no G.S.R. 785(E) dated the 30th June, 2017
7.	Aeroplane and other aircrafts falling under tariff items 8802 2000, 8802 3000 and 8802 4000 covered under S. No. 543 A of the Table in Notification No. 50/2017-Customs dated the 30th June, 2017, published in the Gazette of India *vide* no G.S.R. 785(E) dated the 30th June, 2017.
8.	Toys and parts of toys (HSN 9503) other than goods covered under S. No. 591of the Table in Notification No. 50/2017-Customs dated the 30th June,2017
B.	**RESCINDING OF NOTIFICATION RELATING TO SWS** These notifications are being rescinded on account of being redundant due to basic customs duty rate structure rationalization:
1	No. 13/2021-Customs, dated the 1st February, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 71(E), dated the 1st February, 2021
2	No. 34/2022-Customs, dated the 30thJune, 2022, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 487(E), dated the 30thJune, 2022

IX. AGRICULTURE INFRASTRUCTURE AND DEVELOPMENT CESS (AIDC)

Notification No. 11/2021 – Customs, dated 01.02.2021 is being amended to revise the AIDC rates on the following goods (w.e.f. 02.02.2023):				
A.	**AIDC rate changes (with changes to the effective rate of Customs Duty)**		**Rate of Duty**	
S. No	**Chapter, Heading, sub-heading, tariff item**	**Commodity**	**From**	**To**
1.	7106,98	Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured forms, or in powder form	2.5%	5%
2.	71	Silver Dore	2.5%	4.35%
B.	**Changes to AIDC (without any change to the effective rate of Customs Duty)**		**Rate of Duty**	
S. No	**Chapter, Heading, sub-heading, tariff item**	**Commodity**	**From**	**To**
1.	2701, 2702, 2703	Coal, peat, lignite	1.5%	Nil
2.	40113000	New pneumatic tyres, of rubber , of a kind used on aircraft as mentioned in Entry 280 A of Notification No. 50/2017-Cus	Nil	0.5%
3.	7108 or 98	Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form	2.5%	5%
4.	71	Gold Dore	2.5%	4.35%
5.	7110	Platinum other than rhodium and goods covered under S. Nos. 415(a) and 415A of the Table in notification No. 50/2017-Customs, dated the 30th June, 2017.	1.5%	5.4%
6.	8802 20 00 8802 30 00 8802 40 00	Aero planes and other aircraft covered under S.No. 543A of Notification No. 50/2017-Cus	Nil	0.5%

EXCISE

Note: (a) "Basic Excise Duty" means the excise duty set forth in the Fourth Schedule to the Central Excise Act, 1944.

(b) "NCCD" means National Calamity Contingent Duty levied under Finance Act, 2001, as a duty of excise on specified goods at rates specified in Seventh Schedule to Finance Act, 2001

(c) Clause Nos. in square brackets [ ] indicate the relevant clause of the Finance Bill, 2023.

(d) Amendments carried out through the Finance Bill, 2023 come into effect on the date of its enactment, unless otherwise specified.

I. AMENDMENT TO SEVENTH SCHEDULE TO THE FINANCE ACT, 2001

The Seventh Schedule to the Finance Act, 2001 is being amended w.e.f. 02.02.2023* to revise the NCCD rates on specified cigarettes under HS 2402 as detailed below:[Clause 153 read with Sixth Schedule of the Finance Bill, 2023]

Tariff item	Description	Unit	NCCD Rates (in Rs. per thousand)	
			From	To
(1)	(2)	(3)	(4)	(5)
2402 20 10	Other than filter cigarettes, of length not exceeding 65 millimetres	Tu	200	230
2402 20 20	Other than filter cigarettes, of length exceeding 65 millimetres but not exceeding 70 millimetres	Tu	250	290
2402 20 30	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 65 millimetres	Tu	440	510
2402 20 40	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 65 millimetres but not exceeding 70 millimetres	Tu	440	510
2402 20 50	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres	Tu	545	630

2402 20 90	Other	Tu	735	850
2402 90 10	Cigarettes of tobacco substitutes	Tu	600	690

*Will come into effect immediately through a declaration under the Provisional Collection of Taxes Act, 1931.

II. NOTIFICATION NO. 05/2023-Central Excise, DATED 01.02.2023 w.e.f 2nd February, 2023

Amendment
Notification No. 05/2023-Central Excise dated 01.02.2023 is being issued to exempt excise duty on blended Compressed Natural Gas (CNG) from so much of the amount as is equal to GST paid on biogas /compressed bio gas contained in such blended CNG subject to the specified conditions.

GOODS AND SERVICES TAX

Note: (a) CGST Act means Central Goods And Services Tax Act, 2017
(b) IGST Act means Integrated Goods and Services Tax Act, 2017
(c) Amendments carried out through the Finance Bill, 2023 come into effect on the date of its enactment, unless otherwise specified.

Amendments carried out in the Finance Bill, 2023 except those in clause 142 will come into effect from the date when the same will be notified concurrently, as far as possible, with the corresponding amendments to the similar Acts passed by the States & Union territories with legislature. Amendments carried out in the Finance Bill, 2023, vide clause 142 will come into effect retrospectively from 1st July, 2017.

I. AMENDMENTS IN THE CGST ACT, 2017:

S. No.	Amendment	Clause of the Finance Bill, 2023
1.	Clause (d) of sub-section (2) and Clause (c) of sub-section (2A) in section 10 of the CGST Act is being amended so as to remove the restriction imposed on registered persons engaged in supplying goods through electronic commerce operators from opting to pay tax under the Composition Levy.	[128]
2.	Second and third provisos to sub-section (2) of section 16 of the CGST Act are being amended to align the said sub-section with the return filing system provided in the said Act.	[129]
3.	Explanation to sub-section (3) of section 17 of the CGST Act is being amended so as to restrict availment of input tax credit in respect of certain transactions specified in para 8(a) of Schedule III of the said Act, as may be prescribed, by including the value of such transactions in the value of exempt supply. Further, sub-section (5) of said section is also being amended so as to provide that input tax credit shall not be available in respect of goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013.	[130]
4.	Sub-section (1) and sub-section (2) of section 23 of the CGST Act are being amended, with retrospective effect from 01st July, 2017, so as to provide that persons for compulsory registration in terms of sub section (1) of section and section 22 of the Act need not register if exempt under sub section (1) of section 23.	[131]

5.	A new sub-section (5) in section 37 of the CGST Act is being inserted so as to provide a time limit upto which the details of outward supplies under sub-section (1) of the said section for a tax period can be furnished by a registered person. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.	[132]
6.	A new sub-section (11) in section 39 of the CGST Act is being inserted so as to provide a time limit upto which the return for a tax period can be furnished by a registered person. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.	[133]
7.	A new sub-section (2) in section 44 of the CGST Act is being inserted so as to provide a time limit upto which the annual return under sub-section (1) of the said section for a financial year can be furnished by a registered person. Further, it also seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for a registered person or a class of registered persons.	[134]
8.	A new sub-section (15) in section 52 of the CGST Act is being inserted so as to provide a time limit upto which the statement under sub-section (4) of the said section for a month can be furnished by an electronic commerce operator. Further, it seeks to provide an enabling provision for extension of the said time limit, subject to certain conditions and restrictions, for an electronic commerce operator or a class of electronic commerce operators.	[135]
9.	Sub-section (6) of section 54 of the CGST Act is being amended so as to remove the reference to the provisionally accepted input tax credit to align the same with the present scheme of availment of self-assessed input tax credit as per sub-section (1) of section 41 of the said Act.	[136]
10.	Section 56 of the CGST Act is being amended so as to provide for an enabling provision to prescribe manner of computation of period of delay for calculation of interest on delayed refunds.	[137]
11.	A new sub-section (1B) in section 122 of the CGST Act is being inserted so as to provide for penal provisions applicable to Electronic Commerce Operators in case of contravention of provisions relating to supplies of goods made through them by unregistered persons or composition taxpayers.	[138]
12.	Sub-section (1) of section 132 of the CGST Act is being amended so as to decriminalize offences specified in clause (g), (j) and (k) of the said sub-section and to increase the monetary threshold for launching prosecution for the offences under the said Act from one hundred lakh rupees to two hundred lakh rupees, except for the offences related to issuance of invoices without supply of goods or services or both.	[139]

13.	First proviso to sub-section (1) of section 138 of the CGST Act is being amended so as to simplify the language of clause (a), to omit clause (b) and to substitute the clause (c) of said proviso so as to exclude the persons involved in offences relating to issuance of invoices without supply of goods or services or both from the option of compounding of the offences under the said Act. It further seeks to amend sub-section (2) so as to rationalize the amount for compounding of various offences by reducing the minimum as well as maximum amount for compounding.	[140]
14.	A new section 158A in the CGST Act is being inserted so as to provide for prescribing manner and conditions for sharing of the information furnished by the registered person in his return or in his application of registration or in his statement of outward supplies, or the details uploaded by him for generation of electronic invoice or E-way bill or any other details, as may be prescribed, on the common portal with such other systems, as may be notified.	[141]
15.	Schedule III of the CGST Act is being amended to give retrospective applicability to Para 7, 8 (a) and 8 (b) of the said Schedule, with effect from 01st July, 2017, so as to treat the activities/ transactions mentioned in the said paragraphs as neither supply of goods nor supply of services. It is also being clarified that where the tax has already been paid in respect of such transactions/ activities during the period from 01st July, 2017 to 31st January, 2019, no refund of such tax paid shall be available.	[142]

II. AMENDMENTS IN THE IGST ACT, 2017:

S. No.	Amendment	Clause of the Finance Bill, 2023
1.	Clause (16) of section 2 of the IGST Act is being amended so as to revise the definition of "non-taxable online recipient" by removing the condition of receipt of online information and database access or retrieval services (OIDAR) for purposes other than commerce, industry or any other business or profession so as to provide for taxability of OIDAR service provided by any person located in non-taxable territory to an unregistered person receiving the said services and located in the taxable territory. Further, it also seeks to clarify that the persons registered solely in terms of clause (vi) of Section 24 of CGST Act shall be treated as unregistered person for the purpose of the said clause. Also, clause (17) of the said section is being amended to revise the definition of "online information and database access or retrieval services" to remove the condition of rendering of the said supply being essentially automated and involving minimal human intervention.	[143]
2.	Proviso to sub-section (8) of section 12 of the IGST Act is being omitted so as to specify the place of supply, irrespective of destination of the goods, in cases where the supplier of services and recipient of services are located in India.	[144]