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UNION BUDGET 2020

SIGNIFICANT PROPOSALS IN BRIEF - GENERAL

INDEX

Sr. No.	Particulars	Page No.
	HIGHLIGHTS OF UNION BUDGET 2020	5-8
	DIRECT TAX	
A	Rates of Income Tax	9-16
B	Tax Incentives	17-22
C	Removing difficulties faced by taxpayers	23-27
D	Measures to provide tax certainty	28-30
E	Widening and deepening of tax base	31-34
F	Revenue mobilization measures	35-36
G	Improving effectiveness of tax administration	37-41
H	Preventing tax abuse	42-45
I	Rationalization of provisions of the Act	46-54
	INDIRECT TAX	
A	Goods and Service Tax	55-60
B	Excise	61-62
C	Customs	63-69
	REAL ESTATE	
A	Relief towards Real Estate Sector and Home Buyers	70

BUDGET COMMITTEE MEMBERS

DIRECT TAX

1. CA R.C. Jain
2. CA Gopal Agrawal
3. CA Meera Joisher
4. CA Manoj Pokharana
5. CA Sheetal Mankani
6. CA Roma Hingorani
7. CA Resham Mansukhani
8. CA Sonia Chatnani

INDIRECT TAX

9. CA Shraddha Vora
10. CA Priyanka Shah

In Association with:

DIRECT TAX

1. Vinaykumar Kora
2. Sailee Rawale
3. Payal Dubey
4. Praanav Vatani
5. Juhi Mansukhani
6. Kshitij Agarwal
7. Misba Shah
8. Saleha Sayyed
9. Gopika Nair
10. Raj Chaudhari
11. Janvi Unadket
12. Neha Agnihotri
13. Yashkumar Jain
14. Sanket Abhale
15. Shireen Dhawan
16. Arluv Almeida

INDIRECT TAX

1. Deepak Bamane
2. Naziya Sheikh
3. Kajal Jagiasi
4. Madhura Sabnis
5. Radhika Yadav
6. Moksha Maniyar
7. Sagar Mohite
8. Saloni Lund
9. Tushar Zore
10. Pranjali Kadam

HIGHLIGHTS

❖ **DIRECT TAX:**

- A new Optional Simplified Tax Scheme has been introduced with Reduced Tax Rates and new Tax slabs as follows:
 - Between Rs. 5 to 7.5 Lakhs at 10% from 20%
 - From Rs. 7.5 to 10 Lakhs at 15% from 20%
 - From Rs. 10 to 12.5 Lakhs at 20% from 30%
 - From Rs. 12.5 to 15 Lakhs at 25% from 30%
 - Above Rs. 15 Lakhs continued at 30%
- However to avail the above tax system and lower tax rates, around 70 of more than 100 income tax deductions and exemptions have been removed.
- For Assesses (Individual & HUF) having business income can avail the above system. But once they opt for the same, they cannot revert back to the old system in any later year. For other assesses the option can be decided every year.
- Dividend Distribution Tax has been removed and dividend would now be taxed in the hands of the receiver of such dividend. Withholding of taxes by the Companies comes back into picture.
- Tax Audit threshold for MSMEs has been raised to Rs. 5 Crores from Rs. 1 Crore.
- 15% concessional tax rate for New Power Generation companies in line with New Manufacturing companies.
- Option to Co-operative Societies to be taxed at 22% plus 10% surcharge and 4% Cess with no exemptions and no deductions. AMT will also not be applicable to them.
- Affordable housing: Deduction of additional Rs. 1.5 Lakhs announced last year has been

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extended by one more year.

- Also Affordable Housing projects to get a tax holiday for one more year, subject to getting clearance by March 2021.
- Bank depositors' insurance coverage has been raised to Rs. 5 Lakhs from Rs. 1 Lakh.
- Concessional rate of 5% on Interest on Govt. Securities and Bonds to FII u/s 194LD extended.
- Concessional 5 % withholding tax extended to municipal bonds
- NRI to be allowed to invest in Specified Govt. Securities.
- Tolerance limit for difference in Agreement value Vis a Vis Stamp duty value of the property u/s 43CA and 56(2) x transactions increased from 5 to 10%.
- ESOP taxation for employees of startup companies deferred.
- Tax benefits to Start-ups by way of deduction of 100 per cent of their profits are enhanced by increasing turnover limit and period of eligibility.
- Simplified GST return shall be implemented from 1st April 2020. Refund process to be fully automated.
- Launch of new direct tax dispute settlement scheme -- Vivaad se Vishwaas
Interest and penalty will be waived for those who wish to pay the disputed amount till March 31, 2020 and a reduced interest and penalty if paid between April to June 2020.
- Issuance of Unique Registration Number to all charity institutions for easy tax compliance.
- To amend Income Tax Act to allow faceless appeals.
- Health cesses to be imposed on imports of medical equipment, given these are made significantly in India.
- 100% tax concession to Sovereign wealth funds on investment in infrastructure projects
- FPI Limit for corporate bonds to be increased to 15%.

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- New Debt ETF proposed mainly for government securities.
- Eligibility limit for NBFCs for debt recovery under SARFAESI Act proposed to be reduced to asset size of Rs. 100 Crores or Loan size of Rs. 50 Lakhs.
- Proposal to sell balance holding of government in IDBI Bank.
- More than 20,000 empaneled hospitals under PM Jan Arogya Yojana.
- Separation of NPS Trust for government employees from PFRDAI.
- Provide 20 Lakh farmers to set up standalone solar pumps. Help another 15 Lakh farmers to solarize their power grid.
- Doubling of milk processing capacity by 2025.
- Chennai-Bengaluru Expressway to be started.
- 100 more airports will be developed by 2024 to support UDAN.
- IND SAT exam for students of Asia and Africa to promote “Study in India” program.
- Indian Railways to have refrigerated coaches capability in ‘Kisan trains’ to carry perishables and milk.
- Agricultural credit target of Rs. 15 Lakh Crores for 2020-21.
- About 150 higher educational institutions will start apprenticeship embedded courses.
- Internship opportunities to fresh engineers by urban local bodies.
- Special bridge courses to improve skill sets of those seeking employment abroad.
- Efforts to replace conventional energy meters by prepaid smart meters.

A. INDIRECT TAX:
Goods and Service Tax

- The time limit for revocation of cancellation of GST number is extended for another 60 days provided permission is received from GST authority.
- Harsh Penalty and prosecution on issuing, receiving and mediating fake invoice under GST is proposed.
- Customs **duty raised on footwear to 35% from 25%** and on **furniture goods to 25% from 20%**.
- **Excise duty** proposed to be **raised on Cigarettes** and other tobacco products, no change made in the duty rates of bidis
- Basic customs duty on imports of news print and light-weight coated paper reduced from 10% to 5%.
- Customs duty rates revised on electric vehicles and parts of mobiles.
- 5% health Cess to be imposed on the imports of medical devices, except those exempt from BCD.
- Lower customs duty on certain inputs and raw materials like fuse, chemicals, and plastics.
- Higher custom duties on certain goods like auto-parts, chemicals, etc. which are also being made domestic.

1. In-depth Analysis of Direct Taxes

A. Rates of income-tax

❖ **Individual/HUF/AOP/BOI/AJP not having any dividend income & capital gain from transfer of securities:**

<u>Total Income</u> <u>(including Capital Gains)</u>	<u>Surcharge %</u>
50 lakhs ≤ Total Income < 1 crore	10%
1 Crore ≤ Total Income < 2 crore	15%
2 Crore ≤ Total Income	15%

❖ **Individual/HUF/AOP/BOI/AJP not having any dividend income & capital gain from transfer of securities:**

<u>Total Income</u> <u>(excluding Capital Gains)</u>	<u>Surcharge %</u>
50 lakhs ≤ Total Income < 1 crore	10%
1 Crore ≤ Total Income < 2 crore	15%
2 Crore ≤ Total Income < 5 crore	25%
5 Crore ≤ Total Income	37%

- Total surcharge on income tax on capital gains income does not exceed 15%.
- Individual/HUF/AOP/BOI/AJP having any dividend income & capital gain from transfer of securities:

<u>Total Income</u> <u>[excluding Capital gains on transfer</u> <u>of Securities]</u>	<u>Surcharge %</u>
50 lakhs ≤ Total Income < 1 crore	10%
1 Crore ≤ Total Income < 2 crore	15%

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2 Crore ≤ Total Income < 5 crore	25%
5 Crore ≤ Total Income	37%

<u>Total Income</u> <u>[including Capital gains on transfer of Securities]</u>	<u>Surcharge %</u>
50 lakhs ≤ Total Income < 1 crore	10%
1 Crore ≤ Total Income < 2 crore	15%
2 Crore ≤ Total Income	15%

- Total surcharge on income by way of capital gain from transfer of securities of the Act does not exceed 15%.
- Co –operative society/ Firm/ Local Authority:
 - 1 crore ≤ Total Income : 12%
- Every Domestic Company except such domestic company whose income is chargeable MAT(Minimum Alternate Tax):

<u>Total Income</u>	<u>Surcharge %</u>
1 Crore ≤ Total Income < 10 crore	7%
10 Crore ≤ Total Income	12%

- Every Domestic Company whose income is chargeable to tax under MAT (Minimum Alternate Tax): 10%
- Every Company other than domestic company:

<u>Total Income</u>	<u>Surcharge %</u>
1 Crore ≤ Total Income < 10 crore	2%
10 Crore ≤ Total Income	5%

- In other cases (including income under transfer pricing, dividend distributed by listed & unlisted company, income distributed by UTI to Unit holder, Income distributed by securitization of trust to its investors, accreted income of charitable trust or institution): 12%

❖ **Marginal Relief:**

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

❖ **Health & Education Cess:**

- Health & Education Cess @ 4% of the Tax Amount is leviable in each case. No marginal relief shall be available in respect of such Cess.

❖ **Rates for deduction of income-tax at source during the financial year (FY) 2020-21 from certain incomes other than “Salaries”.**

- Two new sections 194K and 194-O have been inserted specifying the rates within the sections. Rate of section 194 has been modified from rate in force to ten per cent.
- The rates for all the categories of persons will remain the same as those specified in Part II of the First Schedule to the Finance (No 2) Act, 2019, for the purposes of deduction of income-tax at source during the FY 2019-20. 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.

➤ **Surcharge**

The amount of tax so deducted, in the case of a non-resident person (other than a company), shall be increased by a surcharge,

- Individual/HUF/AOP/BOI/AJP being a non-resident

<u>Income or aggregate of income</u>	<u>Surcharge%</u>
50 lakhs ≤ Total Income < 1 crore	10%
1 Crore ≤ Total Income < 2 crore	15%
2 Crore ≤ Total Income < 5 crore	25%
5 Crore ≤ Total Income	37%

- In the case of every co-operative society or firm, being a non-resident, calculated at the rate of twelve per cent. of such tax, where the income or the aggregate of

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such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees

- in the case of every company, other than a domestic company, calculated,—
 - (i) at the rate of two per cent. 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 five per cent. 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.

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

➤ **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.

❖ **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 2020-21.(Old Regime)**

A) Individual Tax Rates (includes HUF, AOP, BOI, Artificial Juridical Person)

<u>Income (Rs.)</u>	<u>Tax Rates (%)</u>
0 - 2,50,000	NIL
250,001 - 500,000	5
500,001 - 10,00,000	20
Above 10,00,000	30

- Basic Exemption is Rs 300,000 for Senior Citizens (being 60 years or above but less than 80 years)
- Basic Exemption is Rs 500,000 for Senior Citizens (being 80 years or more)

B) Co- Operative Society

<u>Income (Rs.)</u>	<u>Tax Rates (%)</u>
Upto Rs. 10,000	10
Rs. 10,000 – Rs. 20,000	20
Above Rs. 20,000	30

- Health & Education Cess @ 4% of the Tax Amount is leviable in each case.

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- Surcharge of 12% for taxable incomes (Including income chargeable U/s 115JC) exceeding Rs. 1 crore.

C) Partnership Firm Tax Rates (including LLP)

- Tax Rate: 30 %
- Health & Education Cess @ 4% of the Tax Amount is leviable in each case
- Surcharge of 12% for taxable income exceeding Rs. 1 Crore.

D) Local Authority Tax Rates

- Tax Rate: 30 %
- Health & Education Cess @ 4% of the Tax Amount is leviable in each case
- Surcharge of 12% for taxable income exceeding Rs. 1 crore.

E) Companies

1) Domestic company

- **Tax**

<u>Total Turnover or Gross Receipts</u>	<u>Tax Rates (%)</u>
Up to Rs. 400 crore in the Financial Year 2018-19	25
Other cases	30

- **Surcharge**

<u>Total Income</u>	<u>Surcharge %</u>
1 Crore ≤ Total Income < 10 crore	7%
10 Crore ≤ Total Income	12%

- **The tax rate is 15 per cent. In section 115BAB and 22 per cent. In section 115BAA. Surcharge is 10 per cent. In both cases.**

2) Tax Rates for Foreign Company

- Tax Rate 40%.
- Surcharge at 2% if incomes (including income as per sec 115JB) exceed Rs. 1 crore but does not exceed Rs. 10 Crore.
- Surcharge of 5% if Incomes (including income as per sec 115JB) exceed Rs. 10 Crore.

- Health & Education Cess of 4%.

❖ **Modification of concessional tax schemes for domestic companies under section 115BAA and 115BAB (New Regime)**

A) Incentives to Individual and HUF

On satisfaction of certain conditions, an individual or HUF shall, from assessment year 2021-22 onwards, have the option to pay tax in respect of the total income at following rates:

<u>Total Income (Rs)</u>	<u>Rate (%)</u>
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

- Option once exercised for a previous year shall be valid for that previous year and all subsequent years

Conditions for concessional rate:

- Individual or HUF has no Business income
- Concessional rate shall be that the total income of the individual or HUF is computed:
- Without any exemption or deductions of travelling allowance, rent allowance, special allowances or benefits not in the nature of perquisite, allowances to MPs/MLAs, allowances for income of minor, Exemption for SEZ, Standard deduction, deduction for entertainment allowance and employment/professional tax, deduction from income from house property, additional depreciation for plant machinery engaged in generation and transmission of electricity, investment in new plant or machinery in notified backward areas in certain States, Tea /Coffee/ Rubber Development account, Extraction of petroleum & natural gas, Specific expenditure on scientific expenditure, deduction in respect of expenditure on specified business, Expenditure on agricultural

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extension project, deduction for family pension or any provisions under Chapter VI-A except 80CCD or 80JJAA

- Without set off of any losses:
- Carried forward depreciation if such loss or depreciation is attributable to any deduction in 'a.' above.
- under the head house property with any other head of income
- by claiming depreciation under sec 32
- without any exemption or deduction for allowances or perquisite
- 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 or depreciation shall be allowed for any subsequent year so however, that where there is a depreciation allowance in respect of a block of asset which has not been given full effect to prior to the assessment year beginning on 1st April, 2021, corresponding adjustment shall be made to the written down value of such block of assets as on 1st April, 2020 in the prescribed manner, if the option is exercised for a previous year relevant to the assessment year beginning on 1st April, 2021;
- the concessional rate shall not apply unless option is exercised by the individual or HUF in the form and manner as may be prescribed,-
- where such individual or HUF has no business income, along with the return of income to be furnished under sub-section (1) of section 139 of the Act; and
- in any other case, on or before the due date specified under sub-section (1) of section 139 of the Act for furnishing the return of income for any previous year relevant to the assessment year commencing on or after 1st April, 2021 and such option once exercised shall apply to subsequent assessment years;
- if the individual or HUF has a Unit in the International Financial Services Centre deductions in respect of certain incomes of Offshore Banking Units and International Financial Services Centre shall be available
- the option can be withdrawn only once where it was exercised by the individual or HUF having business income for a previous year other than the year in which it was exercised and thereafter, the individual or HUF shall never be eligible to exercise option under this section, except where such individual or HUF ceases to have any business income in which case, option under Para (vi) (a) above shall be available.

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- Provisions of AMT(Alternate Minimum Tax) shall not apply as well as set off of such AMT credit
- It differs from person to person whether old regime or new regime would be beneficial.

❖ **Withdrawal of exemption on certain perquisites or allowances provided to Union Public Services Commission (UPSC) Chairman and members and Chief Election Commissioner and Election Commissioners**

It is proposed to remove these exemptions. Accordingly, it proposed to:

- (i) delete clause (45) of section 10 of the Act;
- (ii) amend section 8 of the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991, so as to delete the exemption from income-tax on value of rent-free residence, conveyance facilities, sumptuary allowance, medical facilities and other such conditions of service as are applicable to a Judge of the Supreme Court, paid to Chief Election Commissioner and other Election Commissioners.
- These amendments will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

B. TAX INCENTIVES

❖ **Incentives to Start-Ups.**

<u>Section</u>	<u>Existing Provision</u>	<u>Proposed Provision</u>
80-IAC	An eligible business by an eligible start-up is allowed a deduction of 100% of the profit and gains derived from its business for 3 consecutive years out of first 7 years from its incorporation.	Such start-ups will be provided with a deduction of 100% of the profit and gains derived from its business for 3 consecutive years out of first 10 years from its incorporation.
	The above deduction can only be claimed by these start-ups if their total turnover does not exceed Rs. 25 crores in any of the 7 years from its incorporation.	The above deduction can only be claimed by these start-ups if their total turnover does not exceed Rs. 100 crores in any of the 10 years from its incorporation. The above deduction is only available for start-ups incorporated on or after 1st April, 2016 but before 1st April, 2021.

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❖ **Incentives to Companies generating electricity.**

<u>Section</u>	<u>Existing Provision</u>	<u>Proposed Provision</u>
115BAB	<p>New manufacturing domestic companies set up after 10th of October 2019 that will start manufacturing / production by 31st March 2023 can chose to pay tax at the rate of 15%.</p> <p>Companies involved in the business of development of computer software, mining, conversion of marble blocks or similar items into slabs, bottling of gas into cylinder, printing of books or production of cinematographic film or any other business as may be notified by the Central Government are excluded.</p>	<p>Companies involved in the business of generating electricity are now included in this section and can chose to pay tax at the rate of 15%.</p>

❖ **Incentives to Affordable Housing Projects.**

<u>Section</u>	<u>Existing Provision</u>	<u>Proposed Provision</u>
80-EEA	<p>Deduction up to Rs. 150,000/- is allowed on interest on loan by any financial institution for acquisition of an affordable residential house property to first time buyers with stamp duty not exceeding Rs. 45,00,000/-.</p> <p>The loan sanction date to claim the above deduction was determined to be from 1st April 2019 to 31st March 2020</p>	<p>The date for loan sanctioning to claim this deduction is now extended to be from 1st April 2019 to 31st March 2021.</p>

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80-IBA	<p>Deduction of 100% is allowed on the profit and gains derived from the business of developing and building housing projects of an Assesse.</p> <p>The project should be approved by the competent authority during the period from 1st June 2016 and 31st March 2020.</p>	<p>The date for approval of the project by the competent authority is extended and is now during the period from 1st June 2016 and 31st March 2021.</p>
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❖ **Modifications in conditions of special taxation regime for offshore funds.**

<u>Section</u>	<u>Existing Provision</u>	<u>Proposed Provision</u>
9A	<p>Exemption is provided to an eligible investment fund created outside India which collects funds for investing in activities beneficial to its members if:</p> <ul style="list-style-type: none"> ➤ Total Participation or Contribution by persons Resident in India does not exceed 5% of the corpus of the fund. It was noted that the eligible fund manager find it difficult to restrict himself to not spend more than the limited amount to attract investors. ➤ Monthly average of the corpus of the fund shall not be less than one hundred crore rupees at the end of a period of six months from the last day of the month of its establishment or incorporation, or at the end of such 	<p>Exemption will be provided to an eligible investment fund created outside India if:</p> <ul style="list-style-type: none"> ➤ Total Participation or Contribution by persons Resident in India does not exceed 5% of the corpus of the fund not including the contribution by the eligible fund manager up to twenty five crore rupees during the first three years. ➤ Monthly average of the corpus of the fund shall not be less than one hundred crore rupees shall be fulfilled within twelve months from the last day of the month of its establishment

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	previous year, whichever is later.	or incorporation.
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❖ **Amendments of Concessional Rates.**

<u>Section</u>	<u>Existing Provision</u>	<u>Proposed Provision</u>
194LC	<p>The TDS deducted till 1st July 2020 on interest paid to Non- Residents by an Indian company or business trust on following borrowings is:</p> <ul style="list-style-type: none"> ➤ 5% on Loan agreements formed between 1st July 2012 and 1st July 2020. ➤ 5% on issue of Long Term Infrastructure Bonds between 1st July 2012 and 1st July 2014. ➤ 5% on issue of Long Term Bonds including Long Term Infrastructure bonds from 1st October 2014 to 1st July 2020. ➤ 5% on issue of only that Rupee Dominated Bonds (RDB) listed on recognized stock exchange in any IFSC before 1st July 2020 (To the extent of interest calculated by Central Government on RDB). 	<p>The TDS deducted till 1st July 2023 on interest paid to Non- Residents by an Indian company or business trust on following borrowings is:</p> <ul style="list-style-type: none"> ➤ 5% on Loan agreements from 1st July 2012 to 1st July 2020. ➤ 4% on Loan agreement from 1st July 2020 to 1st July 2023. ➤ 5% on issue of Long Term Bonds including Long Term Infrastructure. ➤ 4% on issue of Long Term Bonds including Long Term Infrastructure bonds from 1st July 2020 to 1st July 2023. ➤ 5% on issue of only that Rupee Dominated Bonds (RDB) listed on recognized stock exchange in any IFSC

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		<p>before 1st July 2020 (To the extent of interest calculated by Central Government on RDB).</p> <p>➤ 4% on issue of only that Rupee Dominated Bonds (RDB) listed on recognized stock exchange in any IFSC before 1st July 2023 (To the extent of interest calculated by Central Government on RDB).</p>
194LD	<p>5% TDS will be deducted till 1st July 2020 on interest paid to Foreign Institutional Investors (FII) and Qualified Foreign Investors (QFI) on their investments in Government Securities and Rupee Dominated Bonds (RDB) of an Indian Company (To the extent of interest calculated by Central Government on RDB)</p> <p>The Interest should be payable anytime from 1st June 2013 to 1st July 2020.</p>	<p>5% TDS will be deducted till 1st July 2023 on interest paid to FII and QFI on their investments in Government Securities and Rupee Dominated Bonds (RDB) of an Indian Company (To the extent of interest calculated by Central Government on RDB) and Municipal Debt Security.</p> <p>The Interest should be payable anytime from 1st April 2020 to 1st July 2023.</p>

❖ **Exemptions in respect of certain income of wholly owned subsidiary of Abu Dhabi Investment Authority and Sovereign Wealth Fund.**

<u>Section</u>	<u>Proposed Provision</u>
10	Any Income earned in the nature of dividend, interest or long term capital gain by an investment made in India by a Sovereign Wealth Fund (including in Subsidiary of Abu Dhabi Investment Authority) in such a company or enterprise carrying on a business of developing, and/or operating and/or maintaining, any infrastructure facility.

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Subject to the following conditions:

- If the person holds the investment for at least 3 years.
- The above exemption can only be claimed by subsidiary of ADIA and by a sovereign wealth fund wholly owned and controlled, directly or indirectly, by Government of a foreign country.

❖ **Exemption in respect of certain income of Indian Strategic Petroleum Reserves Limited.**

<u>Section</u>	<u>Existing Provision</u>	<u>Proposed Provision</u>
10	Exemption is provided to foreign companies on income accruing or arising due to storage and sale of crude oil and its leftovers in India.	Exemption is to be provided to any income accruing or arising to Indian Strategic Petroleum Reserves Limited (ISPRL) due to the crude oil being replenished again within 3 years from its removal from storage facility for the first time.

C. Removing difficulties faced by taxpayers

❖ **Facilitating deduction of Interest paid to PE of a Non-Resident Bank without applying the Interest Limitation Provisions of Section 94B.**

Section 94B of the Act limits the amount of Deduction Allowable under the head PGBP for the Interest on Debt paid to a Non-Resident Associate Enterprise (AE) up to 30% of the EBITDA.

However, as per the Amendment to Section 94B, in case, such Debt is issued in India by a Permanent Establishment (PE) of a Non-Resident, who is a person engaged in the business of Banking, and the Interest is paid to such Entity, the provisions of Section 94 would not be applicable.

Thus, the Interest paid to such PE would be **wholly allowed** as a Deduction while calculating Income under the head PGBP, without limiting the Interest Amount to 30% of EBITDA as per Section 94B.

The Amendment will be effective from 1st April 2021 i.e. from A.Y. 2021-22 and subsequent assessment years.

❖ **Increase in Safe Harbour Limit while calculating Full Value of Consideration on transfer of Land or Building or both**

The amendments introduced in this part are as under:

<i>Existing Provision</i>	<i>Proposed Provision</i>
<p>Section 43CA of the Act provides that where the Full Value of Consideration received on transfer of Land or building or both is less than the Stamp Duty Value, such Stamp Duty Value shall be deemed to be the Full Value of Consideration for computation of profits or gains from transfer of such assets.</p> <p>The section also provides that where the Stamp Duty value does not exceed 105% of</p>	<p>It is proposed to increase this safe harbour limit of 105% to 110%.</p> <p>Thus, where the Stamp Duty value does not exceed 110% of the consideration received, the consideration so received shall be deemed to be the Full Value of Consideration for computation of profits or gains from transfer</p>

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the consideration received, the consideration so received shall be deemed to be the Full Value of Consideration for computation of profits or gains from transfer of such assets.	of such assets.
<i>Existing Provision</i>	<i>Proposed Provision</i>
<p>Section 50C of the Act provides that where the Full Value of Consideration received on transfer of Land or building or both is less than the Stamp Duty Value, such Stamp Duty Value shall be deemed to be the Full Value of Consideration for computation of capital gains from transfer of such assets.</p> <p>The section also provides that where the Stamp Duty value does not exceed 105% of the consideration received, the consideration so received shall be deemed to be the Full Value of Consideration for computation of profits or gains from transfer of such assets.</p>	<p>It is proposed to increase this safe harbour limit of 105% to 110%.</p> <p>Thus, where the Stamp Duty value does not exceed 110% of the consideration received, the consideration so received shall be deemed to be the Full Value of Consideration for computation of profits or gains from transfer of such assets.</p>

<i>Existing Provision</i>	<i>Proposed Provision</i>
<p>Section 56 (2) (x) provides that where any person receives any immovable property for a consideration less than the Stamp Duty Value of the property by an amount exceeding Rs. 50,000, or 105% of the stamp duty value, whichever is higher, such amount as exceeding the stamp duty value shall be taxable under Income from Other Sources.</p>	<p>It is proposed to increase this safe harbour limit of 105% to 110%.</p>

❖ **Option to assess for not availing deduction under Section 35AD**

The amendments introduced in this part are tabulated as under:

<i>Existing Provision</i>	<i>Proposed Provision</i>
<p>As per Section 35AD (4), the assessee cannot claim deduction of Depreciation u/s. 32 if he claims 100% deduction in respect of Capital expenditure in Specified Business mentioned</p>	<p>If a Domestic Company opts for Concessional tax rate u/s. 115BAA or 115BAB of the Act, it cannot claim deduction u/s. 35AD and thus it will be allowed to claim deduction u/s. 32 i.e.</p>

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u/s. 35AD.	depreciation. This amendment will take effect from 1st April, 2020.
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❖ **Relief to Non-Residents from filing of Income Tax Return in certain conditions**

<i>Existing Provision</i>	<i>Proposed Provision</i>
Section 115A(5) of the Income Tax Act provides that non-resident is not required to furnish his or her return of income under section 139(1) of the Act if his or her total income consists only of: 1.Certain dividend or interest income and the TDS on such income has been deducted	Now section 115A(5) has been amended and it provides that non-resident is not required to furnish his or her return of income under section 139(1) of the Act if his or her total income consists only of: 1.Certain dividend or interest income 2.Royalty or Fees for Technical Services (FTS) received from the Government or any Indian concern and which is not effectively connected with a Permanent establishment of the non-resident in India, And the TDS on such income has been deducted.

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❖ **Deferring TDS or Tax Payment in respect of income pertaining to Employee Stock Option Plan (ESOP) of Start Ups.**

<i>Existing Provision</i>	<i>Proposed Provision</i>
Current taxation on exercising of ESOPs: 1. Tax on Perquisites as income from Salary at the time of Exercise, i.e. Employer will deduct TDS u/s. 192 on the said perquisites in the year in which the employee exercises the option.	Now, as per the newly inserted Section 192(1C), Taxation on Perquisites of employees' of start-ups will be at the earliest of the following: 1. After expiry of forty eight months from the end of the relevant assessment year. 2. From the date of sale of such specified Sweat Equity shares by such assessee. 3. From the date on which assessee ceases to be the employee of the person.

❖ **Allowing carry forward of losses or depreciation in certain amalgamations:**

Section 72AA of the Act provides for carry forward of accumulated losses and unabsorbed depreciation allowance in the case of amalgamation of banking company with any other banking institution under a scheme sanctioned and brought into force by the Central Government under sub-section (7) of section 45 of the Banking Regulation Act, 1949.

It is proposed to extend the benefit of this section to amalgamation of,-

- One or more corresponding new bank or banks with any other corresponding new bank under a scheme brought into force by the Central Government under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, or both, as the case may be, or

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- One or more Government Company or companies with any other Government company under a scheme sanctioned and brought into force by the Central Government under section 16 of the General Insurance Business (Nationalization) Act, 1972.

These amendments will take effect from the 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

❖ ***Private Infrastructure Investment Trust has gained the same status as Public Infrastructure Trust as per SEBI Notification***

Section 2(13A) has been now amended to include Private Infrastructure Investment Trust in the definition of Business Trusts so as to give effect of the SEBI notification which has done away with the mandatory listing requirement for such trusts. Therefore, taxation regime of Private Infrastructure Investment Trust will be now governed under section 115UA of the Income Tax Act.

D. MEASURES TO PROVIDE TAX CERTAINTY

❖ **Amendment for providing attribution of profit to Permanent Establishment in Safe Harbour Rules under section 92CB and in Advance Pricing Agreement under section 92CC :**

Sr. No.	Section	Existing Provision	Proposed Provision
1	92 CB	<p>Section 92CB of the Act empowers CBDT (Board) for making Safe Harbour Rules (SHR) to determine arm's length price (ALP) under section 92C or section 92CA of the Act. This section was inserted to reduce the number of transfer pricing disputes and to provide certainty as well.</p> <p>SHR provides tax certainty for relatively smaller cases for future years on general terms.</p>	<p>In order to provide certainty, the attribution of income in case of a non-resident person to the PE is also required to be clearly covered under the provisions of the SHR.</p> <p>Hence it is proposed to amend section 92CB to cover determination of attribution to PE within the scope of SHR.</p> <p>Amendment will accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.</p>
2	92 CC	<p>Section 92CC of the Act empowers the Board to enter into an advance pricing agreement (APA) with any person, determining the ALP or specifying the manner in which the ALP is to be determined, in relation to an international transaction. APA provides tax certainty on case to case basis not only for future years but also Rollback years.</p>	<p>In order to provide certainty, the attribution of income in case of a non-resident person to the PE is also required to be clearly covered under the provisions of the APA,</p> <p>Hence section is amended to provide that the Board, with the approval of the Central Government, may enter into an advance pricing agreement with any person,</p>

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			<p>To determine the income referred to in clause (i) of sub-section (1) of section 9 (income accruing or arising in India), or specifying the manner in which said income is to be determined as is attributable in India.</p> <p>To provide that the manner of determination of the income referred may include the methods referred to in sub-section (1) of section 92C or such methods provided by rules made under this Act with such adjustments as may be necessary.</p> <p>During any period not exceeding four previous years preceding the first of the previous years referred.</p> <p>Amendment will apply in relation to the assessment year 2020-21 and subsequent assessment years.</p>
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❖ **Allowing deduction for amount disallowed under section 43B, to insurance companies on payment basis :**

<i>Sr. No.</i>	<i>Section</i>	<i>Existing Provision</i>	<i>Proposed Provision</i>
1	43B	<p>Section 44 of the Act provides that computation of profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or a co-operative society shall be computed in accordance with the rules contained in the First Schedule to the Act.</p> <p>Section 43B of the Act provides for allowance of certain deductions,</p>	<p>Rule 5 of the said Schedule provides for computation of profits and gains of other insurance business subject to the condition that any expenditure debited to the profit and loss account which is not admissible under the provisions of sections 30 to 43B shall be added back, however there is no specific provision, in this rule to allow deduction for any</p>

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		<p>irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by the assessee, only in the previous year in which such sum is actually paid.</p>	<p>payment of certain expenses specified in section 43B if they are paid in subsequent previous year. There is a possibility that such sum may not be allowed as deduction in the previous year in which the payment is made but it is allowed as deduction when paid.</p> <p>Applicable w.e.f AY 2020-21 and subsequent assessment years.</p>
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❖ **Reducing the rate of TDS on fees for technical services (other than professional services) :**

Sr. No.	Section	Existing Provision	Proposed Provision
1	194C and 194J	<p>Person responsible to pay any resident any sum by way of fees for professional services, or fees for technical services, or any remuneration or fees or commission by whatever name called or royalty or any sum referred to in clause (va) of section 28, shall, at the time of payment or credit of such sum to the account of the payee, deduct an amount equal to 10% as income-tax.</p> <p>Person responsible to pay any resident any sum or carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract shall at the time of payment or credit of such sum deduct an amount equal to 1% in case payment is made to an individual or a HUF and 2% in other cases.</p>	<p>It is noticed that there are large number of litigations on the issue of short deduction of tax, treating assessee in default, where the assessee deducts tax under section 194C, while the tax officers claim that tax should have been deducted under section 194J of the Act. Therefore to reduce litigation, it is proposed to reduce rate for TDS in section 194J in case of fees for technical services (other than professional services) to 2% from existing 10%. The TDS rate in other cases under section 194J would remain same at 10%.</p> <p>This amendment will take effect from 1st April, 2020.</p>

E. Widening and deepening of Tax Base

❖ **Enlarging the scope for tax deduction on interest income under section 194A of the Act :**

- This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent years

<u>Existing Provision</u>	<u>Proposed Provision</u>
<p>Section (3)(1) shall not apply— to such income credited or paid by a co-operative society (other than a co-operative bank) to a member thereof or co-operative society to any other co-operative society; &</p> <p>(a) deposits with a primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank;</p> <p>(b) deposits (other than time deposits made on or after the 1st day of July, 1995) with a co-operative society, other than a co-operative society or bank engaged in carrying on the business of banking;</p>	<p>To amend the section to provide that a co-operative society shall be liable to deduct income-tax if-</p> <p>(a) The total sales, gross receipts or turnover of the co-operative society exceeds Rs.50 crore during the financial year immediately preceding the financial year in which the interest is credited or paid</p> <p style="text-align: center;">And</p> <p>(b) The amount of interest, or the aggregate of the amount of such interest, credited or paid, during the financial year is more than Rs.50,000/- in case of payee being a senior citizen and Rs.40,000/-, in any other case.</p>

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❖ **Widening the scope of TDS on E-commerce transactions through insertion of a new section:**

- This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent years

<u>Section</u>	<u>Provision</u>
194-O	<ul style="list-style-type: none">• The TDS is to be paid by e-commerce operator for sale of goods or service facilitated by it through its digital or electronic facility or platform;• The tax to be deducted at the time of credit of amount of sale or service or both to the account of e-commerce participant or at the time of payment thereof to such participant by any mode, whichever is earlier.• Rate -1% on the gross amount of sales or service or both.• The sum credited to an e-commerce participant by the e-commerce operator shall not be applicable, if the gross amount of sales or services or both of such individual or HUF, through e-commerce operator, during the previous year does not exceed Rs 500,000/-and such e-commerce participant has furnished his PAN or Aadhaar number to the e-commerce operator.• This exemption will not apply to any amount received or receivable by an e-commerce operator for hosting advertisements or providing any other services which are not in connection with the sale of goods or services• “Services” is defined to include fees for technical services and fees for professional services, as defined in section 194J.• Consequential amendments are being proposed in section 197 (for lower TDS), in section 204 (to define person responsible for paying any sum) and

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	in section 206AA (to provide for tax deduction at 5% in non-PAN/ Aadhaar cases).
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❖ **Widening the scope of section 206C to include TCS on foreign remittance through Liberalized Remittance Scheme (LRS) and on selling of overseas tour package as well as TCS on sale of goods over a limit :**

- This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent years.

<u>Existing Provision</u>	<u>Proposed Provision</u>
<p>The section to levy TCS on overseas remittance and for sale of overseas tour package as under:</p> <p>If an authorized dealer receives an amount or aggregate of amounts of Rs.700,000/- or more from a buyer being a person remitting such amount out of India, shall be liable to collect TCS, at the rate of 5%. In non-PAN/Aadhaar cases the rate shall be 10%.</p> <p>A seller of an overseas tour program package, who receives any amount from any buyer, shall be liable to collect TCS at the rate of 5%. In non-PAN/Aadhaar cases the rate shall be 10%.</p>	<p>To amend the section to levy TCS on overseas remittance and for sale of overseas tour package as under:</p> <p>on consideration received from a buyer in a Previous year in excess of Rs.50,00,000/- A seller of goods is liable to collect TCS at the rate of 0.1 %.In non-PAN/ Aadhaar cases the rate shall be 1%.</p> <p>Only those seller whose total sales, gross receipts or turnover from the business carried on by it exceed Rs10 crore during the financial year immediately preceding the financial year, shall be liable to collect such TCS.</p> <p>No TCS is to be collected from the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate, the trade representation of a foreign State, a local</p>

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<p>This section shall not apply –</p> <ul style="list-style-type: none">• If the buyer is, liable to deduct tax at source under any other provision of the Act and he has deducted such amount.• The Central Government, a State Government , an embassy, a High Commission, legation, commission, consulate, the trade representation of a foreign State, a local authority as per section 10(20), or any other person notified by the Central Government subject to conditions as specified in that notification.	<p>authority as per section 10(20), or any other person as notification by the Central Government subject to conditions in such notification.</p> <p>No such TCS is to be collected, if the seller is liable to collect TCS under other provision of section 206C or the buyer is liable to deduct TDS under any provision of the Act and has deducted such amount.</p>
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F. Revenue Mobilisation Measures

❖ **Changes in tax treatment of employer's contribution to recognized funds, superannuation funds and national pension:**

- Contribution by the employer in a recognized fund up to 12 % of salary is exempt.
- Contribution by the employer in an approved annuation fund up to Rs 1,50,000/- is exempt and excess is treated as perquisites.
- Employee is allowed a deduction under National Pension Scheme for the 14% of Salary contribution by employer and 10% of Salary contributed by any employer.

<u>Existing Provision</u>	<u>Proposed Provision</u>
1. No Combined Upper limit for deduction claimed by employee for contribution made by employer for above specified funds.	1. Upper limit of Rs 7,50,000/- to be introduced for claiming deduction by employee for contribution made by employer for above specified funds. 2. Interest or dividend or any other amount of similar credited to above funds will be taxable as perquisites for employee.

❖ **Widening the scope of Commodity Transaction Tax(CTT):**

- Commodities Transaction Tax was introduced in Finance bill 2013 on sale of commodity derivatives based on non-agricultural commodities traded in recognized associations.
- Later on Finance Act 2018 expanded the scope of CTT by including the sale of options in commodity as taxable commodity transactions.
- Present Finance bill 2020 proposes to include below commodities transactions as taxable commodities transactions with rates:-

<u>Taxable Commodities transaction</u>	<u>Rate(%)</u>	<u>Payable by</u>	<u>Existing/Additions</u>
1. Sale of commodity derivative.	0.01	Seller	Existing
2. Sale of commodity derivatives based on prices or indices of price of commodity derivatives	0.01	Seller	Existing
3. Sale of option on commodity derivative.	0.05	Seller	Existing
4. Sale of option in goods.	0.05	Seller	Additions

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5. Sale of option on commodity derivative, where option is exercised.	0.000 1	Purchase r	Additions
6. Sale of option in goods, where option is exercised resulting in actual delivery goods.	0.000 1	Purchase r	Additions
7. Sale of option in goods where option is exercised resulting in a settlement otherwise than by the actual delivery of goods.	0.125	Purchase r	Additions

G. Improving effectiveness of tax administration:

❖ **Modification of e-Assessment Scheme :**

➤ **Earlier Provision:**

The Central Government may make a scheme by notification in the Official Gazette, for the purposes of making assessment of total income or loss of the assessee to enhance greater efficiency, transparency and accountability eliminating the interface between the Assessing Officer and the assessee, (i.e. by starting a faceless scrutiny assessment) to the extent technologically feasible, optimum utilization of resources through economies of scale and functional specialization, and by introducing team based assessment with dynamic jurisdiction.

➤ **Amended Provision:**

It has been proposed in the Finance Bill for to expand the scope of the above mentioned section and include the reference of Section 144 of the Act relating to Best Judgment Assessment and that Central Government may issue any direction under sub section (3B) of the Act up to 31st March, 2022.

➤ **Explanation:**

Earlier Section 144 was not covered under section 143 of the Act However, with the amended provision, Section 144 is now within the ambit of Section 143, i.e. the order can now be passed u/s 144 r.w.s 143(3) of the Act.

❖ **Amendment in Dispute Resolution Panel**

➤ **Earlier Provision:**

Section 144C of the Act provides that in case of certain eligible assesses, viz., foreign companies and any person in whose case transfer pricing adjustments have been made under sub-section (3) of section 92CA of the Act, the Assessing Officer (AO) is required to forward a draft assessment order to the eligible assessee, if he proposes to make any variation in the income or loss returned which is prejudicial to the interest of such assessee. Such eligible assessee with respect to such variation may file his objection to the DRP, a collegium of three Principal Commissioners or Commissioners of Income-tax. DRP has nine months to pass directions which are binding on the AO.

➤ **Amended Provision:**

It has been proposed in the Finance Bill that the provisions of Section 144C of the Act may be amended to include such cases, where the AO proposes to make any variation

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which is prejudicial to the interest of the assessee, within the scope of Section 144C.

Further, the word eligible assessee has been defined in the Finance Bill for the relevant section has been defined as non-resident not being a company or a foreign company.

➤ **Explanation:**

Earlier, only the assessee on receipt of the draft order u/s 144C could file the objections to the Dispute Resolution Panel. Now, with the amended provision, the Assessing Officer suo moto can make the variation or the amendments to such order which was sent to the assessee, which he considers to be prejudicial to the interest of the assessee.

❖ **Provision for e-appeal:**

In order to enhance the transparency, efficiency and accountability to the assessment process under the Act a new e-Assessment scheme has already been introduced. Further, with regards to the filing of an Appeal before the Commissioner of Income Tax (Appeals) has already been enabled in electronic mode. However, in the first appeal process before the first appellate authority the functions or the processes are not yet fully in the electronic mode and hence it was imperative for the Central Government to launch e-Appeal scheme to go hand in hand with the e-Assessment scheme.

➤ **Explanation:**

In the Finance Bill it has been proposed to introduce the e-Appeal scheme that will empower the Central Government to notify an e-Appeal scheme for disposal of Appeal so as to impart greater efficiency, transparency and accountability. To eliminate the face to face interaction between the Commissioner of Income Tax (Appeals) and the appellant during the course of appellate proceedings.

❖ **Providing check on Survey Operations u/s 133A(6) of the Act**

➤ **Earlier Provision:**

If a person under this section is required to afford facility to the income-tax authority to inspect books of account or other documents or to check or verify any cash, stock or other valuable article or thing or to furnish any information or to have his statement recorded either refuses or evades to do so, the income-tax authority shall have all the powers under sub-section (1) of [section 131](#) for enforcing compliance with the requirement made :

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Provided that no action under sub-section (1) shall be taken by an Assistant Director or a Deputy Director or an Assessing Officer or a Tax Recovery Officer or an Inspector of Income-tax without obtaining the approval of the Joint Director or the Joint Commissioner, as the case may be.

Explanation.—in this section,—

- (a) "income-tax authority" means a Principal Commissioner or Commissioner, a Joint Commissioner, a Principal Director or Director, a Joint Director, an Assistant Director or a Deputy Director or an Assessing Officer, or a Tax Recovery Officer, and for the purposes of clause (I) of sub-section (1), clause (i) of sub-section (3) and sub-section (5), includes an Inspector of Income-tax;
- (b) "proceeding" means any proceeding under this Act in respect of any year which may be pending on the date on which the powers under this section are exercised or which may have been completed on or before such date and includes also all proceedings under this Act which may be commenced after such date in respect of any year.

➤ **Amended Provision:**

It is proposed to substitute the proviso to sub-section (6) of section 133A to provide that,-
(A) in a case where the information has been received from the prescribed authority, no income-tax authority below the rank of Joint Director or Joint Commissioner, shall conduct any survey under the said section without prior approval of the Joint Director or the Joint Commissioner, as the case may be; and
(B) in any other case, no income-tax authority below the rank of Commissioner or Director, shall conduct any survey under the said section without prior approval of the Commissioner or the Director, as the case may be.

➤ **Explanation:**

In the earlier provision the conduct of the survey was even done by the Lower Authorities, i.e. by the Inspectors, Tax Recovery Officers and so on. Now with the amended provision, the same power has been taken from the lower rank officers and the power to conduct survey only lies with the authorities above the Joint Commissioner or the Joint Director with the prior approval of the Joint Commissioner or the Joint Director.

❖ **Clarity on Stay by Income Tax Appellate Tribunal (ITAT):**

➤ **Earlier Provision:**

The existing provisions of the first proviso to sub-section (2A) of section 254 of the Act, *inter-alia*, provides that the ITAT may, after considering the merits of the application made by the assessee pass an order of stay for a maximum period of 180 days in any proceedings against the order of the Commissioner of Income-tax (Appeal). Second proviso to the said sub-section prescribes that where the appeal is not so disposed of, the ITAT on being satisfied that the delay is not attributable to the assessee, extend the stay for a further period subject to the restriction that the aggregate

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of the periods originally allowed and the period so extended shall not, in any case, exceed 365 days and the Appellate Tribunal shall dispose of the appeal within the period or periods of stay so extended or allowed. The third proviso of the said sub-section also provides that if such appeal is not so disposed of within the period allowed under the first proviso or the period or periods extended or allowed under the second proviso, which shall not, in any case, exceed 365 days, the order of stay shall stand vacated after the expiry of such period or periods, even if the delay in disposing of the appeal is not attributable to the assessee.

➤ **Amended Provision:**

Further, it has been proposed in the Finance Bill that the ITAT may grant **stay under the first proviso subject to the condition that the assessee deposits not less than 20% of the amount of tax, interest, fee, penalty or any other sum payable under the provisions of the Income Tax Act, 1961 or furnish security of an equal amount.**

It is also proposed in the second proviso to sub section 2(A) of Section 254 **that no further extension of stay shall be granted by ITAT, where such appeal is not disposed of which said period of stay as specified in the order of stay unless the assessee makes an application and has complied with the conditions referred to in the first proviso and the ITAT is satisfied that the delay in disposing of appeal is not attributable to the assessee, so however, the aggregate period of stay originally allowed and the period of stay so extended shall not exceed 365 days and the ITAT shall dispose of the appeal within such period or periods of stay so extended or allowed.**

➤ **Explanation:**

It is now mandatory for the appellant to at least pay 20% of the amount of tax, interest, fee, penalty or any other sum in addition to the order of the stay for the balance amount.

Further, no stay shall be granted under second proviso wherein the assessee has not complied with the first proviso i.e. payment of at least 20% of the demand. Further, if the delay is not on account of the assessee, the ITAT may grant further stay in addition to the original stay which shall not exceed 365 days.

❖ **Provision for e-penalty:**

To impose the penalty the Assessing Officer has to issue a show cause notice and to response the same assessee or the authorized representative of the assessee is still required to visit the Income Tax Department. In order to eliminate human interference in the same and with the already implemented e-Assessment Scheme, it was imperative for the Central Government to launce e-penalty scheme to go hand in hand

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with the e-Assessment scheme of 2019.

In the Finance Bill, it has been proposed to add a new sub section 2(A) to Section 274 of the Act so as to provide the Central Government may notify an e-scheme for the purposes of imposing penalty so as to enhance efficiency, transparency and accountability.

H. Preventing Tax Abuse: All the following amendments will be effective from 1st April 2020.

❖ **Modifications of Residency Provisions**

➤ **Cause of Modification:**

Many Instances have come across that the Tax Payers were misusing the provisions of section 6(1) (describes the residential status of an Individual in India) to not pay Tax to the government.

An Individual can Misuse the provisions of section 6(1) by managing their period of stay in India, so as to remain a non- resident in perpetuity and not be required to declare their global income in India.

Also the issue of stateless persons has been bothering the Tax world for quite some time. It is entirely possible for an Individual to arrange his affairs in such a manner that he is not liable to tax in any country or jurisdiction during a year. This arrangement is typically employed by HNWI i.e. High Net worth Individuals to avoid paying taxes to any Country/ Jurisdiction on the income they earn.

➤ **To avoid above situations there is modification in section 6(1) i.e.**

conditions of being resident in India.

Sr. No.	Section	Existing Provision	Proposed Provision
1	6(1)	<p><u>to be a resident in India in Previous year,</u> An Assesse has to satisfy, one of the following conditions:</p> <p>a. His stay in India during previous F.Y. should be 182 days or more, in all or in aggregate</p> <p style="text-align: center;">OR</p> <p>b. His stay in India during previous F.Y. should be 60 days or more, in all or in aggregate</p> <p style="text-align: center;">AND</p> <p>His stay in should be 365 days or more in all during the previous Four Financial Years, immediately preceding the relevant previous F.Y.</p>	<p><u>to be a resident in India in Previous year,</u> An Assesse has to satisfy, one of the following conditions:</p> <p>a. His stay in India during previous F.Y. should be 120 days or more, in all or in aggregate</p> <p style="text-align: center;">OR</p> <p>b. His stay in India during previous F.Y. should be 60 days or more, in all or in aggregate</p> <p style="text-align: center;">AND</p> <p>His stay in should be 365 days or more in all during the previous Four Financial Years, immediately preceding the relevant previous F.Y.</p>

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2	6(6)	<p>After fulfilling one of the above two tests, an individual becomes resident of India.</p> <p><u>To be an Ordinary resident (ROR) in India in Previous year,</u></p> <p>An Assesse has to satisfy all of the following conditions:</p> <p style="padding-left: 40px;">a. He should a resident in India in at least Two Previous Financial years out of Ten Previous Financial years immediately proceeding the previous financial year.</p> <p style="text-align: center;">AND</p> <p style="padding-left: 40px;">b. His stay in India should be 730 days or more in seven Previous Financial years immediately preceding the previous financial year</p>	<p>After fulfilling one of the above two tests, an individual becomes resident of India.</p> <p><u>to be an Ordinary resident (ROR) in India in Previous year,</u></p> <p>An Assesse has to satisfy the following condition:</p> <p>He should a resident in India in at least Four Previous Financial years out of Ten Previous Financial years immediately preceding the previous financial year.</p> <p>The above new condition has replaced the existing conditions in clauses (a) and (b) of sub-section (6) of section 6.</p>
3		No Such provision	An Indian citizen who is not liable to tax in any other country or territory shall be deemed to be resident in India.

This amendment will take effect from 1st April, 2021 and will, accordingly, apply in relation to the assessment year 2021-22 and subsequent assessment years.

❖ **Amendment in definition of “work” in section 194C of the Act :**

➤ **Section 194C:**

Section 194C of the Act provides for the deduction of Tax payments made to Contractors. This section provides that any person responsible for paying any sum to a resident for carrying out any work including supply of labour, in pursuance of contract should deduct an amount equal to,

- 1%, if payment is made to an individual or HUF and,
- 2%, if payment is made to any person other than individual and HUF

➤ **Section 194C(iv) :**

Clause (iv) of section 194C defines “work” i.e. what is work and what all it includes under section 194C.

➤ **Section 194C(iv) sub clause (e):**

This clause includes manufacturing or supplying a product, according to customer requirement and specification by using a material purchased from such customer within the definition.

If material used for manufacturing is purchased from any person other than customer then this section will not be applicable.

It has been noted that many assesses are misusing this clause to escape from paying tax by purchasing the raw material to be used for such contracts from its related parties.

Therefore section 194(iv) (e) has been modified i.e. the scope of work has been increased as follows:

“In a contract of manufacturing, whether the raw materials are provided by the assessee or its associate, it will fall under the definition of ‘work’” i.e. if raw materials are provided by the associate or any related party of assessee it will be treated as if materials are provided by the assessee only and it will be liable for tax under section 194C.

❖ **Penalty for fake Invoice:**

➤ **Cause of enactment of new provision of levy of penalty:**

In the recent years after the launch of GST, several cases of fraudulent/ Invalid Input Tax Credit (ITC) claims have been found by GST authorities. In these cases, fake invoices are obtained by suppliers registered under GST to fraudulently claim ITC and reduce their GST liability. These invoices are issued by **racketeer** (a person who engages in dishonest and fraudulent business dealings) who do not actually carry on any business or profession. They only issue invoices without actually supplying any goods or services.

➤ **To avoid the above situation the following provision of penalty is enacted.**

If in the any proceedings it is found that in the books of accounts maintained by assessee, there is a,

(i) false entry or,

(ii) any entry relevant for computation of total income of such person has been omitted,

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➤ **The penalty payable by such person.**

will be equal to the aggregate amount of false entries or omitted entries.

➤ **The false entries is proposed to: include use or intention to use –**

- a. Forged or falsified documents i.e. fake invoice or a fake document; or,
- b. Invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both; or,
- c. Invoice in respect of supply or receipt of goods or services or both to or from a person who do not exist.

I. Rationalization of Provisions of the Act

❖ Double Taxation Avoidance Agreements & Multilateral Instrument

➤ Proposed Amendments in Section 90 & 90A

- India has signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (commonly referred to as MLI) along with representatives of many countries, which has since been ratified. MLI has entered into force for India on 1st October, 2019 and its provisions will be applicable on India's DTAA's from Financial Year 2020-21 onwards.
- It is proposed to amend section 90 (1) (b) of the Act so as to provide that the Central Government may enter into an agreement with the Government of any country outside India or specified territory outside India to avoid double taxation of income under the Act and under the corresponding law in force in that country without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance.
- Similar amendment is proposed to be made in Section 90A (1) (b) of the Act.

❖ Deferring Significant Economic Presence (SEP) Proposal

- Section 9 of the Act provides that all income accruing or arising, whether directly or indirectly, through or from any **business connection** in India, or any property in India, or any asset or source of income in India or transfer of a capital asset situated in India shall be deemed to be Income accruing or arising in India.
- Finance Act, 2018 provided that **Significant Economic Presence (SEP) of a non-resident in India shall constitute "business connection" in India.**
- SEP shall mean –
 - Transaction in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the previous year exceeds such amount as may be prescribed; or
 - Systematic and continuous soliciting of business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means.
- Since these numbers have not yet been notified, it is proposed to defer the applicability of SEP to starting from next assessment year i.e. 2022-23.

- Current SEP provisions shall be omitted from assessment year 2021-22.

❖ **Advertisement Income- Extending Source Rule**

- As per the discussion going on in International forum, countries generally agree that income from advertisement that targets Indian customers or income from sale of data collected from India or Income from sale of goods and services using such data collected from India, needs to be accounted for in Indian revenue. Hence, it is proposed to amend the source rule to clarify this position.
- This amendment will take effect from 1st April, 2021 and will accordingly apply to Assessment year 2022-23 and subsequent years.

❖ **Aligning Exemption from Taxability of Foreign Portfolio Investors(FPIs) on account of Indirect Transfer of Assets with amended scheme of SEBI**

- As per Finance Act, 2017, an asset or capital asset, which is held by a non-resident by way of investment, directly or indirectly, in Category-I or Category-II foreign portfolio investor under the Securities and Exchange Board of India shall not be deemed to be situated in India.
- With the introduction of SEBI (FPI) Regulations, 2019, the SEBI has done away with the broad basing criteria for the purposes of categorization of portfolios and has reduced the categories from three to two. In view of the same, necessary modification needs to be made in the proviso so inserted.
- It is proposed that the exception to a an asset or capital asset, which is held by a non-resident by way of investment in erstwhile Category I and II FPIs may be grandfathered.
- Similar exception may be provided in respect of investment in Category – I FPI under the SEBI (FPI) Regulations, 2019.

❖ **Rationalizing the definition of Royalty**

- It is proposed to amend the definition of royalty so as not to exclude consideration for the sale, distribution or exhibition of cinematographic films from its meaning.

❖ **Removing Dividend Distribution Tax and moving to Classical System of Taxing Dividends**

- It is proposed to carry out amendments so that dividend or income from units are **taxable in the hands of shareholders or unit holders at the applicable rate** and the domestic company or specified company or mutual funds are not required to pay any DDT.
- It is also proposed to provide that the deduction for expense under section 57 of the Act shall be maximum 20 per cent of the dividend or income from units.
- Therefore, it is proposed to amend the following
 - **Payment of DDT under Section 115-O:** Applicable only to dividend declared, distributed or paid after 1st April 2003 but on or before 31st March 2020
 - **Exemption of Section 10 (34) to Shareholders:** Shall not apply to any income by way of dividend received on or after 1st April, 2020
 - **Payment of DDT under Section 115-R:** Applicable only to dividend declared, distributed or paid after 1st April 2003 but on or before 31st March 2020
 - **Exemption of Section 10 (35) to Unitholders:** Shall not apply to any income by way of dividend received on or after 1st April, 2020
 - **Taxability of Dividend Income in excess of 10 Lakhs under Section 115BBDA:** Applicable only to dividend declared, distributed or paid by a domestic company on or before 31st March 2020
 - **Deduction of Expense under Section 57:** Deduction of only Interest income shall be allowed from the dividend income or income in respect of units of mutual funds which shall not exceed 20% of the Dividend Income.
 - **Tax Deduction on Dividend Income under section 194:** It is proposed that a TDS at the rate of ten percent shall be deducted on dividend paid, Threshold is proposed to be increased from Rs. 2,500 to Rs. 5,000 for dividend paid other than cash. Mode of Payment is proposed to be changed to any mode.
 - **Tax Deduction on sums paid to Non-Resident under Section 195:** Deletion of exemption provided to dividend paid.

❖ **Rationalizing Cost of Acquisition under Section 55:**

- The Assesse is allowed an option to either take the Fair Market Value (FMV) of the Asset on 1st April 2001 or the actual cost of the asset as Cost of Acquisition for computation of Capital Gains. In case of a Capital Asset, being Land or Building or both, the FMV of such asset on 1st April, 2001 shall not exceed the stamp duty value of such asset as on 1st April, 2001, where it is available.

❖ **Rationalizing of Provisions relating to Trust, Institution and Funds:**

- It is proposed to exclude exemption under Section 10 (46) if the Trust, Institution or Funds are holding registration under section 12A / 12AA. Accordingly, while request for exclusion of clause (46) may be acceded to for exemption thereunder even in those cases where registration under section 12AA or 12A remains in force, there should be only one mode of exemption available and also, that the switching may be allowed only once so that such switching is not done routinely and also it remains efficient to be administered.

❖ **Rationalizing the process of Registration of Trusts, Institutions, Funds, Hospital etc. and Approval in the case of association, University, College, Institution or Company etc.**

- Approval of association, university, college, institution or company etc. needs improvement with the advent of technology and keeping in mind the practical issue of difficulty in obtaining registration / approval / notification before actually starting the activities.
- It is also proposed that the approval or registration or notification for exemption should also be for a limited period, say for a period **not exceeding five years** at one time, which would act as check to ensure that the conditions of approval or registration or notification are adhered to for want of continuance of exemption. This new process shall be applicable for both existing and new exempt entities.

❖ **Filing of Statement of Donation by Donee to Cross-Check Claim of Donation by Donee**

- At present, there is no reporting obligation by the exempt entity receiving donation / any sum in respect of such donation/ sum. With the advancement in technology, it is now feasible to standardize the process through which one-to-one matching between what is received by the exempt entity and what is claimed as deduction by the assessee.
- This standardization may be similar to the provisions relating to the tax collection/ deduction at source, which already exist in the Act.

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- Therefore, the entities receiving donation / sum may be made to furnish a statement in respect thereof, and to issue a certificate to the donor / payer and the claim for deduction to the donor/ payer may be allowed on that basis only. In order to ensure proper filing of the statement, levy of a fee and penalty may also be provided in cases where there is failure to furnish the statement.
- An entity already approved under section 80G shall also be required to apply for approval and on doing so, the approval, registration or notification in respect of the entity shall be valid for a period **not exceeding five years** at one time.
- Application for approval under section 80G shall be made to Principal Commissioner or Commissioner.
- An entity making fresh application for approval under clause (23C) of section 10, for registration under section 12AA, for approval under section 80G shall be provisionally approved or registered for three years on the basis of application without detailed enquiry even in the cases where activities of the entity are yet to begin and then it has to apply again for approval or registration which, if granted, shall be valid from the date of such provisional registration.
- The application of registration subsequent to provisional registration should be at least six months prior to expiry of provisional registration or within six months of start of activities, whichever is earlier.
- The application pending for approval, registration, as the case may be, shall be treated as application in accordance with the new provisions, wherever they are being provided for.
- Deduction under section 80G/ 80GGA to a donor shall be allowed only if a statement is furnished by the donee who shall be required to furnish a statement in respect of donations received and in the event of failure to do so, fee and penalty shall be levied.
- Similar to section 80G of the Act, deduction of cash donation under section 80GGA shall be restricted to Rs 2,000/- only.
- **These amendments will take effect from 1st June, 2020**

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❖ **Expanding the eligibility criteria for appointment of member of Adjudicating Authority under the Prohibition of Benami Property Transaction Act, 1988**

Existing Provision	Proposed Amendment
The existing provisions of section 9 of the PBPT Act, provide that, a member of the Indian Revenue Service who has held the post of Commissioner of Income-tax or equivalent post in that Service; or a member of the Indian Legal Service who has held the post of Joint Secretary or equivalent post in that Service is qualified for appointment as a Member of the Adjudicating Authority.	It is proposed to amend the said section so as to provide that a person who is qualified for appointment as District Judge shall also be eligible for the appointment as a member of the Adjudicating Authority.

This amendment will take effect from 1st April, 2020

❖ **Rationalization of Provisions relating to tax audit in certain cases.**

- Tax audit u/s 44AB will be applicable only when turnover or gross receipt exceeds Rs 5 Crore as against Rs 1 Crore for normal Businesses and Rs 50 lakh for Profession.
- Above increase in turnover in threshold will be applicable only if:
 - Aggregate of all receipts/payments in cash during the previous year are not more than 5% of such receipt/payments.
- To reduce burden on tax payer by enabling pre-filing of returns for business or profession, it is required to upload tax audit report at least one month before due date of filing of return of income or by due date of filing of return of income.
- Relief is also provided by amending due date of filing of income tax return to 31st October as against 30th September of assessment year.
- Also no segregation for working and nonworking partner of firm liable for audit for due date of filing partner's income tax return.
- TDS deductions liability under section 194A, 194C, 194H, 194I, 194J & 206C for individual and HUF will be applicable for business having turnover of Rs 1 Crore or for profession having turnover of Rs 50 lakhs.
- Turnover has been specified as to provide clarity in regards to the change in turnover for small and medium enterprises.

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❖ **Rationalization of Provisions relating to 26AS:**

- 26AS will be replaced with an annual financial statement having various information apart from information about tax deducted.
- Information which the tax authorities are in possession of will be uploaded in the registered account of taxpayer.
- Above changes will come into effect from 1st June 2020.

❖ **Rationalization of the provisions of section 49 and clause (42A) of section 2 of the Act in respect of segregated portfolios :**

Sr. No.	Section	Existing Provision	Proposed Provision
1	49	Section 49 of the Act provides for cost of acquisition for the capital asset which became the property of the assessee under certain situations.	SEBI has, vide circular SEBI/HO/IMD/DF2/CIR/P/2018/160 dated December 28, 2018, permitted creation of segregated portfolio of debt and money market instruments by Mutual Fund schemes. As per the SEBI circular, all the existing unit holders in the affected scheme shall be allotted equal number of units in the segregated portfolio as held in the main portfolio resulting unit holders holding same number of units in two schemes—the main scheme and segregated scheme. A new sub-section (2AG) is proposed to be inserted in section 49 of the Act to provide that the cost of acquisition of a unit or units in the segregated portfolio shall be the amount in the same proportion as the net asset value of the asset transferred to the segregated portfolio bears to the net asset value of the total portfolio immediately before the segregation of portfolios. It is also proposed to insert another sub-section (2AH) in the said section to provide that the cost of the acquisition of the original units held by the unit holder in the main portfolio shall be deemed to have been reduced by the amount arrived at under sub-section (2AG).
	2(42A)	Clause (42A) of section 2	It is proposed to amend sub-section (42A) of

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2	of the Act provides the definition of the term “short-term capital asset”. It also provides for determination of period of holding of the capital asset held by the assessee.	<p>section 2 of the Act to provide that in the case of a capital asset, being a unit or units in a segregated portfolio, there shall be included the period for which the original unit or units in the main portfolio were held by the assessee.</p> <p>Expressions “main portfolio”, “segregated portfolio” and “total portfolio” shall have the meaning respectively assigned to them in the said circular dated 28th December, 2018 issued by SEBI.</p> <p>Applicable from AY 2020-21 and subsequent assessment years.</p>
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❖ **Amendment in the provisions of Act relating to verification of the return of income and appearance of authorized representative :**

Sr. No.	Section	Existing Provision	Proposed Provision
1	140	Section 140 of the Act provides that in case of company the return is required to be verified by the managing director (MD or where there is no MD, any director of the company can verify the return. It is also provided that in case of a company in whose case application for insolvency resolution process has been admitted by the Adjudicating Authority (AA) the return has to be verified by the insolvency professional. Similarly, in case of an LLP, the return has to be verified by the designated partner of the LLP or by any partner, in case there is no such designated partner.	It is proposed to amend clause (c) and (cd) of section 140 of the Act so as to enable any other person, as may be prescribed by the Board to verify the return of income in the cases of a company and LLP.
2	288	Section 288 of the Act provides for the persons entitled to appear before any Income-tax Authority	It has been reported that lack of explicit reference in section 288 of the Act for an Insolvency Professional to

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		<p>or the Appellate Tribunal, on behalf of assessee, as its “authorized representative”, in connection with any proceedings under that Act while the IBC empowers the Insolvency Professional or the Administrator</p>	<p>act as an authorized representative of the corporate debtor has been raising certain practical difficulties. It is proposed to amend sub-section (2) of section 288 to enable any other person, as may be prescribed by the Board, to appear as an authorized representative.</p> <p>These amendments will take effect from 1st April, 2020.</p>
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2.INDIRECT TAXES

❖ GOODS AND SERVICES TAX

➤ THE AMENDMENT SHALL TAKE PLACE THROUGH NOTIFICATION ISSUED ON LATER DATE:

Sr. No.	Section	Existing Provision	Proposed Provision
1.	Sec 2(114) of CGST Act Union Territory	Union Territory includes: <ul style="list-style-type: none"> ❖ Andaman and Nicobar Islands ❖ Lakshadweep ❖ Dadra and Nagar Haveli ❖ Daman and Diu ❖ Chandigarh 	Definition of Union territory shall now include “Ladakh”
2.	Sec 10 (2) of CGST Act Eligibility of Composition Levy	Supply of goods other than <ul style="list-style-type: none"> ❖ not covered under GST ❖ Supply of goods under inter-state supply ❖ supply of goods through E-Commerce Operator required to collect TCS ❖ Manufacturer of goods 	Supply of goods and services other than i.e. of works contract and supply of food which shall be available for composition levy needs to satisfy following condition <ul style="list-style-type: none"> ➤ No inter-state transaction of Goods and Services. ➤ Supply of goods and services through E-Commerce Operator required to collect TCS ➤ Previously it was only for Goods.
3.	Sec 16 (4) of CGST Act Ineligibility of ITC	Invoices and debit notes regarding the invoices of particular financial year can avail credit up to due date of September following the financial year or annual return whichever is earlier	Invoices and any debit note of particular financial year can avail credit up to due date of September following the financial year or annual return whichever is earlier. It is just clarification amendment.

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4.	<p>Sec 29 (1) for clause (c) of CGST Act</p> <p>Cancellation of Registration</p>	<p>A taxable person who is voluntarily registered under the GST Act cannot opt for the cancellation of Registration nor can the officer cancel the registration by suo moto.</p>	<p>Amendment to the existing provision that any taxable person who is voluntarily registered under the GST Act may opt for the voluntarily cancellation of registration by officer as suo moto or by Assesse.</p>
5.	<p>Sec 30 (1) of CGST Act</p> <p>Revocation of Cancellation of Registration</p>	<p>❖ Revocation of cancellation of registration can be done within 30 days from the date of cancellation of order</p>	<p>Revocation can be done</p> <ul style="list-style-type: none"> ❖ Within 30 days and can further extend by <ul style="list-style-type: none"> ➤ Additional Commissioner or Joint Commissioner for further extension of 30 days ➤ Commissioner by further extension of 30 days post application to additional Commissioner <p>Subject to sufficient reasons in writing.</p> <p>Example:-</p> <p>Date of cancellation order:15/04/2020</p> <p>Revocation of cancellation of registration as per existing clause:14/05/2020</p> <p>Further Revocation extension by Additional commissioner or Joint Commissioner: 12/06/2020</p> <p>Further Revocation extension by Commissioner:11/07/2020</p>
6.	<p>Sec31(2) of CGST Act</p> <p>Government Authority</p>	<p>Government may by notification shall prescribe the manner of invoice or deemed invoice to be issued.</p>	<p>Government shall along with the manner of invoice or deemed invoice now shall also prescribed the category of services specific invoicing or documents required.</p>

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7.	Sec 51(3)(4) of CGST Act TDS Certificate	Sec 51(3) Certificate issued by deductor may include:- ❖ 1.Contract Value ❖ 2.Amount deducted ❖ 3. Amount paid to Govt. Sec 51(4) Late fees for furnishing the certificate	Sec 51(3) Certificate issued by deductor and may include the details as per notification issued later Sec 51(4) No late fees for furnishing the certificate
8.	Sec 109(6) of CGST Act GST Appellate Tribunal	❖ States notified by government for Bench of Appellate tribunal does not include state Jammu & Kashmir. ❖ Further as per proviso on request from State Government, Govt. can constitute 'N' no. of area benches in that state	❖ States notified by government for Bench of Appellate tribunal does include state Jammu & Kashmir. ❖ Point 2. Has been omitted and further area bench shall be as per a Judicial Member, one technical Member (State and Centre each).
9.	Section 122 of the CGST Act Penalty	New sub-section added.	Any person who retains benefits of the transactions mentioned below AND the person who has ordered/requested to conduct those transactions shall be liable to a penalty of an amount equivalent to the tax evaded or Input Tax Credit availed or passed on. Transactions:- ❖ Supply of goods without issue of invoice or by issuing false/incorrect invoice ❖ Issuing bill without supply of goods ❖ Utilizes Input Tax Credit in contravention of general rules of Input Tax Credit Utilization Takes or distributes Input Tax Credit in contravention of

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			<p>provisions pertaining to Input Service Distributor.</p> <p>For Example:</p> <p>Any person taking credit of false invoice or issuing false invoice or utilizing wrong input tax credit or even facilitating fraud transaction shall be liable to penalty equal to tax evaded or Input tax credit availed.</p>
10.	Sub-section (1) of Sec. 132 of the CGST Act Prosecution	As per Section 132 of the CGST act which states about offences was restricted only to persons committing the offences	It is now proposed that the scope of this section has increased and also cover the persons who cause to commit as well as persons who are retaining the benefits of the offences. It also consider as an offence of fraudulent availment of Input Tax Credit without invoice/bill is a cognizable and non-bailable offence
11.	Clause (C) of Sub-section (1) of Sec 132 Prosecution	As per clause (C) of Sub-section (1) of Section 132, availing Input Tax Credit of invoice issued without supply of Goods/Service is an offence.	It is proposed that the clause be amended and it shall in addition to the current provision cover that fraudulent availment of Input Tax Credit without any Invoice or bill as an offence.
12.	Sec 140 of CGST Act Transitional Provisions	As per Sec 140 taxpayers had a chance to bring forward the credit from previous Acts into GST. The provision covered a time frame of existing laws.	It is proposed that the time limit to claim the transitional credit as per section 140 be amended. The amendment to the transitional provisions shall take place through the notifications and in the said notification, the manner shall be prescribed. Till date there is no clarification, one should wait till it is notified.

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13.	<p>Sub-Section (1) of Section 172</p> <p>Removal of Difficulty</p>	<p>If any difficulty arises in giving effect to any provisions of this Act, the Government may, on the recommendations of the Council, by a general or a special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act or the rules or regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty:</p> <p>Provided that no such order shall be made after the expiry of a period of “three years” from the date of commencement of this Act.</p> <p>Similar amendment is made in IGST Act.</p>	<p>It is proposed to extend the time limit from “Three Years to Five years” to pass the necessary orders in respect of removal of difficulty in the provision of this Act.</p>
14.	<p>Schedule II of the CGST Act</p> <p>Transfer of Business Assets</p>	<p>As per this Section if any business assets are being transfer or being disposed of for a “consideration as well as without consideration” the same be treated as supply and GST would be leviable on the same.</p>	<p>The amendment states that transfer of business assets or goods transferred or used for non-business purpose shall be treated as supply only if there is consideration.</p>

❖ **Retrospective Amendments of GST rate Notifications**

HSN	Existing provision	Proposed Amendment
<p>HS 2301: Flours, meals and pellets, of meat or meat offal, of aquatic invertebrates, unfit for human consumption;</p>	<p>There is levy of : 5% Integrated Tax, 2.5% Central Tax and 2.5% Union Territory Tax.</p>	<p>Exemption is granted of Integrated Tax, Central Tax and Union Territory Tax for the period 01.07.2017 to 30.09.2019. However, If tax has already been paid, no refund shall be granted.</p>

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greaves		* No exemption shall be available w.e.f 01.10.2019
HS 8483: Pulleys, wheels and other parts; those which are used in agricultural machinery falling under HSN 8432, 8433, 8436	There is Levy of: 18% Integrated Tax, 9% Central tax and 9% Union Territory tax.	Integrated Tax at 12%, Central Tax at 6% and Union Territory tax at 6% will be payable for the period 01.07.2017 to 31.12.2018. In case tax has already been paid at 18% for above mentioned period, no refund will be granted. *Tax shall be 18 % w.e.f 01.01.2019
Refund of Inverted Duty Structure in case of Tobacco and manufactured tobacco substitutes (i.e. when input tax rates are higher than output tax, resulting in building up of unutilized credits)	No refund of unutilized input tax credit will be available on account of inverted duty structure w.e.f 01.10.2019 [Notification dated 01.10.2019 of Compensation Cess(rate)] (i.e. refund was eligible for the period 01.07.2017 to 30.03.2019 as per earlier notification)	Now, the notification will be applicable retrospectively from 01.07.2017 I.e. from the date of commencement of this Act, instead of 01.10.2019. Therefore, no refund will be available for the accumulated credit in case of tobacco.

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❖ **EXCISE:**

➤ **RATE CHANGES IN EXCISE:**

S. No.	Tariff Item	Description of goods	Unit	Existing Rate	Proposed Rate
1.	2402 20 10	Other than filter cigarettes, of length not exceeding 65 millimeters	Tu	Rs. 90 per thousand	Rs. 200 per thousand
2.	2402 20 20	Other than filter cigarettes, of length exceeding 65 millimeters but not exceeding 70 millimeters	Tu	Rs. 145 per thousand	Rs. 250 per thousand
3.	2402 20 30	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimeters or its actual length, whichever is more) not exceeding 65 millimeters	Tu	Rs. 90 per thousand	Rs. 440 per thousand
4.	2402 20 40	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimeters or its actual length, whichever is more) exceeding 65 millimeters but not exceeding 70 millimeters	Tu	Rs. 90 per thousand	Rs. 440 per thousand
5.	2402 20 50	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimeters or its actual length, whichever is more) exceeding 70 millimeters but not exceeding 75 millimeters	Tu	Rs. 145 per thousand	Rs. 545 per thousand
6.	2402 20 90	Other (Cigarettes containing tobacco)	Tu	Rs. 235 per thousand	Rs. 735 per thousand
7.	2402 90 10	Cigarettes of tobacco substitutes	Tu	Rs. 150 per thousand	Rs. 600 per thousand

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8.	2403 11 10	Hookah or gudakha tobacco	Kg.	10%	25%
9.	2403 19 10	Smoking mixtures for pipes and cigarettes	Kg.	45%	60%
10.	2403 19 90	Other smoking tobacco	Kg.	10%	25%
11.	2403 91 00	“Homogenized” or “reconstituted” tobacco	Kg.	10%	25%
12.	2403 99 10	Chewing tobacco	Kg.	10%	25%
13.	2403 99 20	Preparations containing chewing tobacco	Kg.	10%	25%
14.	2403 99 30	Jarda scented tobacco	Kg.	10%	25%
15.	2403 99 40	Snuff	Kg.	10%	25%
16.	2403 99 50	Preparations containing snuff	Kg.	10%	25%
17.	2403 99 60	Tobacco extracts and essence	Kg.	10%	25%
18.	2403 99 90	Other (manufactured tobacco and substitutes)	Kg.	10%	25%

The above provisions will come into force after the declaration under the Provisional Collection of Taxes Act, 1931.

❖ **CUSTOMS**

➤ **Withdrawal of Exemption on certain goods specified in the Notification No. 50/2017 – Customs dated 30.06.2017.**

- Earlier, as per Notification No. 50/2017-Customs, exemption was made available in excess of the standard rate specified in column 4 of the notification.
- For E.g., if the BCD is say 12% for a particular good and standard rate as per notification is say 5%, then exemption was available to the extent of 7% (i.e. in excess of standard rate)
- In the Finance Bill, 2020, the above exemption has being withdrawn on certain goods by omitting the entries. Some of them are mentioned below:

S. No	S.No. of Notification No 50/2017-Customs	Description	Standard rate which is Proposed to be withdrawn
1	8	Butter Ghee, Butter Oil [0405]	30%
2	18	Bulbs or tubers, other live plants [0601 or 0602]	5%
3	160	Electrical energy [2716 00 00]	Nil
4	388	Zinc tubes, pipes and tube or pipe fittings [7907]	7.5%
5	484	Audio cassettes, if recorded with material from books, newspaper or magazines, for the blind [85]	Nil
6	515	Colour television picture tubes for use in the manufacture of cathode ray televisions [8540 11]	Nil

➤ **Exemption granted through below notifications are being withdrawn:**

S.No	Notification No.	Notification subject
1	205/1992-Customs dated 19.5.1992	Exemption to imports under Advance Customs Clearance Permit
2	56/2006-Customs dated 7.6.2006	Exemption from Special additional duty to specified goods produced in Nepal
3	14/2004-Customs dated 8.1.2004	Water supply projects for industrial use exempted under Project Imports. This exemption will now be available through notification No. 50/2017 – Customs dated 30.6.2017

➤ **Imposition of Health Cess on Import of certain items:**

- In the case of goods specified in the Fourth Schedule being goods imported into India, there *shall be levied and collected* for the purposes of the Union, a duty of customs, to be called the *Health Cess*, at the rates specified in the said Schedule, *for the purposes of financing the health infrastructure and services*.
- The Health Cess chargeable on the goods specified in the Fourth Schedule shall be in addition to any other duties of customs chargeable on such goods under the Customs Act or any other law for the time being in force.
- All the provisions, rules and regulations of the Customs Act including those relating to refunds and exemptions from duties, offences and imposition of penalty, shall apply in relation to the levy and collection of the Health Cess.

➤ **Other changes (including certain clarifications/ technical changes)**

1	Import of Bamboo for use in the manufacture of Agarbatti attracts concessional rate of 10% under Entry at S.No. 28 of notification No. 50/2017-Customs dated 30.6.2017. This concession shall henceforth be subject to actual user condition.
2	S.No. 57 of notification No. 50/2017-Customs dated 30.6.2017 (prescribing effective rate on certain edible oils) is redundant as these goods are covered in certain other entries with lower applicable rates. Hence S. No 57 is being omitted.
3	Goods falling under heading 2801, 2802, 2803, 2804, 2805 and 2814 attract 5% BCD by Tariff. However, S.No. 169 of notification No. 50/2017-Customs dated 30.6.2017 prescribes a BCD rate of 7.5%. Entry 169 is being amended to remove this inconsistency.

➤ **Social Welfare Surcharge (SWS) in case of Import**

- SWS, on Imported Goods, are charged to provide for Social Welfare Schemes. Certain specified goods will attract the proposed surcharge at the rate of 3% of the aggregate duties of customs.
- Below are some items on which SWS is being exempted

S.No	HS Code	Description
1	0601,0602	Bulbs or tubers, other live plants
2	0802 12 00	Almonds, Shelled
3	2515 12 20	Marble and travertine slabs

4	6802 21 10	Marble blocks/tiles
5	8702 or 8704	All commercial vehicles (including electric vehicles), if imported or completely built unit (CBU).

* S. No. 5 above will be exempt from levy of SWS on or from 01.04.2020.

❖ **Other Miscellaneous changes pertaining to Anti-Dumping Duty/Countervailing Duty**

➤ **Anti-Dumping Rules**

- It provides for manner and procedure for investigation into dumping of goods that cause injury to domestic industry.
- Changes are being made in the Rules to strengthen the anticircumvention measures by making them more comprehensive and wider in scope to take care of all types of circumventions of antidumping duty in line with best international practice.

❖ **Countervailing Duty Rules**

- It provide for manner and procedure for causing investigation into the cases of imports of subsidized goods that cause injury to domestic industry
- Currently, the Rules do not have any mechanism for imposition of countervailing duty
- A provision is being incorporated in the countervailing Duty Rules to enable investigation into the case of circumvention of countervailing duty for enabling imposition of such duty.

❖ **Revocation of Anti-dumping duty on import of Purified Terephthalic Acid originating in or exported from:**

- South Korea and Thailand imposed vide notification No. 28/2019-Customs (ADD) dated 24.7.2019
- China, Iran, Indonesia, Malaysia and Taiwan imposed vide notification No. 28/2016-Customs (ADD) dated 5.7.2016.

❖ **Amendments in the Customs Act, 1962:**

Section	Existing Provision	Post Amendment
Section 11 : Prevention of injury to the economy of the country by the uncontrolled	Section 11(2)(f) Prevention of injury to the economy of the country by the uncontrolled <i>import or export of gold or silver</i>	Section 11(2)(f) Prevention of injury to the economy of the country by the uncontrolled <i>import or export of gold, silver or any other goods</i>

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<p>Section 28 : Recovery of 62[duties not levied or not paid or short-levied or short-paid] or erroneously refunded</p>	<p>Section 28 Explanation 4 The removal of doubts, <i>it is hereby declared that in cases where notice has been issued for non-levy, not paid, short-levy or short-paid or erroneous refund after the 14th day of May, 2015, but before the date on which the Finance Bill, 2018 receives the assent of the President,</i> they shall continue to be governed by the provisions of section 28 as it stood immediately before the date on which such assent is received.</p>	<p>Section 28 Explanation 4 It is clarified that the date of assent to Finance bill would be 29th day of March, 2018, being the date of commencement of the Finance Act, 2018</p>
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❖ **Insertion of New Chapter**

CHAPTER VAA – Section 28DA

➤ **Procedure regarding claiming of preferential rate of duty.**

- Preferential Rates of Duty means reduced tariff rates levied on the basis of trade agreements between two or more countries. These rates are usually substantially lower than the normal tariff rates and in many cases the customs duties are waived entirely.
- The Procedure for claiming preferential rate of duty is provided in the above newly inserted chapter.
- Corresponding New Sub-sections have been inserted
 - In **Section 111(q)** any goods imported on a claim of preferential rate of duty which contravenes any provision of Chapter VAA or any rule made thereunder.
 - In **Section 156(i)** the form, time limit, manner, circumstances, conditions, restrictions and such other matters for carrying out the provisions of Chapter VAA.

❖ **Insertion of New Section:**

Section 51B

➤ **Ledger for Duty Credit**

(1) The Central Government may, by notification in the Official Gazette, specify the manner, in which it shall issue duty credit,—

(a) In lieu of remission of any duty or tax or levy, chargeable on any material used in the

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manufacture or processing of goods or for carrying out any operation on such goods in India that are exported; or

(b) In lieu of such other financial benefit subject to such conditions and restrictions as may be specified therein.

(2) The duty credit issued under sub-section (1) shall be maintained in the customs automated system in the form of an electronic duty credit ledger of the person who is the recipient of such duty credit, in such manner as may be prescribed.

(3) The duty credit available in the electronic duty credit ledger may be used by the person to whom it is issued or the person to whom it is transferred, towards making payment of duties payable under this Act or under the Customs Tariff Act, 1975 in such manner and subject to such conditions and restrictions and within such time as may be prescribed.

➤ Corresponding New Sub-sections have been inserted:

- In **section 157(ja)** the manner of maintaining electronic duty credit ledger, making payment from such ledger, transfer of duty credit from ledger of one person to the ledger of another and the conditions, restrictions and time limit relating thereto.

❖ **Rate Changes under Customs**

➤ **Below are some items on which Customs duty rate is proposed to be changed from 02nd February, 2020**

<i>Sr. No</i>	<i>Heading, sub-heading tariff item</i>	<i>Commodity</i>	<i>Existing Rate</i>	<i>Amended rate</i>
A.				
1	0802 32 00	Walnuts, shelled	30%	100%
2	7013, 8301, 9603,	Household Items: Like, Glassware of a kind used for kitchen, toilet, decoration table, Padlocks & Locks, Brooms, brushes, hand operated mechanical floor sweepers, Combs & hair-slides.	10%	20%
3	8414 51 10, 8414 51 20, 8516 31 00, 8516 71 00, 8516 72 00	Household appliances: Table Fans, Ceiling Fans, Hair Dryers, Coffee and Tea Makers, Toasters	10%	20%
4	7118	Precious Metals- Coin (of precious metal)	10%	12.5%

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5	8414 30 00, 8414 80 11	Compressor of Refrigerator and Air conditioner	10%	12.5%
6	8418 69 30	Vending machine, other than automatic	10%	15%
7	8515 (except 8515 90 00)	Welding and Plasma cutting machines	7.5%	10%
8	8421 39 20, 8421 39 90	Automobile and automobile parts: Catalytic Convertor	10%	15%
9	9403, 9405	Furniture Goods: Other Furniture and parts, Lamps and lighting fittings	20%	25%
10	8304 00 00, 8305, 8310	Stationary items: Filing, cabinets, office-stamp stands and similar office or desk equipment, of base metal, Fittings for loose-leaf binders, Sign-plates, name-plates, address-plates	10%	20%
B. New entries added				
1.	8541 40 12	Solar cells assembled in modules or made up in panels	20%	0%

➤ **Other proposals involving changes in basic customs duty rates in respective notifications**

Sr. No	Heading, sub-heading tariff item	Commodity	Existing Rate	Amended rate
1	48	Newsprint , Uncoated paper used for printing newspaper, Lightweight coated used for printing magazines	10%	5%
2	7103, 7104	Precious Stones and Metals: Like, Rubies, emeralds, sapphires, Pre-forms of precious and semi-precious stones & Rough semi-precious stones, coloured gemstones, synthetic gemstones, cubic zirconia	Nil	0.5%
3	8517 70 10	PCBA of Cellular mobile phones (w.e.f 01 st April, 2020)	10%	20%
4	8517 70 90	Fingerprint readers for use in Cellular mobile phones	Nil	15%
5	8517 70 90	Vibrator/Ringer of Cellular mobile phones (w.e.f. 01 st April, 2020)	Nil	10%

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6	8702, 8704	Completely Built Units (CBUs) of commercial vehicles (w.e.f. 01 st April, 2020)	30%	40%
7	8702, 8704	Completely Built Units (CBUs) of commercial electric vehicles (w.e.f. 01 st April, 2020)	25%	40%
8	8703	Semi Knocked Down (SKD) forms of electric passenger vehicles (w.e.f. 01 st April, 2020)	15%	30%
9	8702, 8703, 8704, 8711	Completely Knocked Down (CKD) forms of electric vehicles - Passenger vehicles, Three wheelers, Two wheelers, Bus and Trucks (w.e.f. 01 st April, 2020)	10%	15%

For rate changes of basic custom duty of other than above items, kindly refer the Finance Bill, 2020.

3. Relief towards Real Estate Sectors and Homebuyers

❖ Affordable Housing Scheme

➤ For Developers

- Relief under affordable housing scheme increased by one year i.e. the projects approved after 31st March, 2020, but on or before 31st March, 2021 will also be eligible for deduction u/s 80-IBA.

➤ For Homebuyers

- The conditions u/s 80EEA which prescribes a deduction in respect of interest up to one lakh fifty thousand rupees on loan taken for certain house property are as follows:
 - The loan has been sanctioned by the financial institution during the period beginning on the 1st day of April, 2019 and ending on the 31st day of March, 2020 now this period has been extended to 31st day of March 2021 i.e. loan sanctioned in financial year 2020-2021 is also eligible for deduction u/s. 80EEA.
 - The stamp duty value of house property does not exceed Forty Five Lakh rupees.
 - Assessee does not own any residential house property on the date of sanction of loan.

❖ Relief to Homebuyers

➤ Increase in Safe harbour limit u/s 43CA, 50C and 56(2)(x)(b)

- The Safe Harbour limit as prescribed u/s 43CA, 50C and 56(2)(x)(b) have been increased to 10% from 5%.

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This document has been prepared as a service to the clients. We recommend you seek professional advice before taking decision on specific issues. The Finance Bill as introduced in the Parliament may undergo changes before its enactment.



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