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Topic Font : Proposals on Budget, 2021



MINISTRY OF CORPORATE AFFAIRS



Small Company

Amendment in threshold limit of Small Company

Previous limit	New limit
Paid up Capital-50 Lakhs	Paid up Capital-2 Cr.
and	and
Turnover- 2 Cr.	Turnover- 20 Cr.

Benefits of being Small Company

- No PCS certification required
- Number of Meeting
- Lesser penalties

One Person Company (OPC)

Who can set up an OPC (Earlier)	Who can set up an OPC (Now)
Stays in India for 182 days	Stays in India for 120 days
Compulsory Conversion of OPC to Pvt or Public: if limit exceed (50 lakhs and 2 cr.)	No threshold limit needs to be satisfied (voluntary conversion is available even if it exceeds the limit and vice a versa)

All the Benefits enjoyed by small company is also available to OPC

Ministry of Corporate Affairs

Ministry of Corporate Affairs Version 3.0

- Pre-scrutiny of e-forms randomly
- Resignation of Directors frequently in a Companies
- The turnover is very high in comparison with paid up share capital.

DIRECT TAXATION



TAX DEDUCTED AT SOURCE

TDS on Purchase of Goods

- New Section inserted 194Q – w.e.f 1st July, 2021
- Applicability = Total sales, gross receipts or turnover from the business carried on > Rs. 10 crores during preceding PY
- Payer = Buyer
- Payee = Person resident in India
- Transaction subject to TDS
 - ❖ Payment of sum
 - ❖ Purchase of goods
 - ❖ Aggregate value > Rs. 50 Lakhs in a year

TAX DEDUCTED AT SOURCE

- Timing of deduction = Credit or payment whichever is earlier
- Rate of TDS = 0.1%
- Amount subject to TDS = in excess to Rs. 50 Lakhs
- Threshold of Rs. 50 lakhs – Purchases from 1/4/2021 to be included
- Exemption from TDS
 - ❖ If TDS deductible on same transaction
 - ❖ If TCS collectible on same transaction
- TDS vs. TCS
 - ❖ Buyer is liable to TDS on accrual basis
 - ❖ Seller is liable to TCS on receipt basis

TAX DEDUCTED AT SOURCE

➤ GST to be included or excluded?

- ❖ TCS – to be included – Circular No. 17 of 2020

- ❖ Circular No. 23/2017 dated 19/7/2017 – no TDS on ‘GST on services’ component

- May be extended to ‘GST on goods’

➤ Goods to include securities?

- ❖ Exemption provided from TCS via circular no. 17 of 2020 if:

- Traded on Recognised stock exchange or
- Cleared or settled by the recognised clearing corporation

TAX DEDUCTED AT SOURCE

Non-filers vis-a-via TDS

- New section inserted Sec 206AB & 206CCA – w.e.f. 1st July, 2021
- Deductee / Collectee = ‘Specified Person’ is defined as –
 - ❖ Person not furnishing Income tax returns for preceding 2 PYs prior to the PY for which tax is deductible; and
 - ❖ Time limit for filing ITR under u/s 139(1) has expired; and
 - ❖ Aggregate of TDS & TCS in each of the 2 PYs \geq Rs. 50,000
- No clarity on which 2 specific PYs to be considered
- Non-resident not having a permanent establishment in India needs to be excluded from ‘Specified person’

TAX DEDUCTED AT SOURCE

- Excludes TDS u/s 192, 192A, 194B, 194BB, 194LBC, 194N
- If applicable –
 - ❖ TDS/TCS at higher of the following rates:
 - @ twice the applicable rate
 - @ 5%
- If higher rate is applicable due to non-submission of PAN (or aadhar) -
 - ❖ TDS/TCS at higher of the following rates:
 - @ rate applicable as per above calculation
 - @ rate applicable as per Sec 206AA

EQUALISATION LEVY

- Equalisation levy = 2% of the consideration received or receivable
- On e-commerce supplier of goods or services or both
- Provided by it to –
 - ❖ Resident person in India
 - ❖ Non-resident in specified circumstances
 - ❖ A person buying by Indian IP address
- Sec 10(50) - Exemption provided in FA 2016 from such income w.e.f. 01/04/2021
- Amendment –
 - ❖ Income from **royalty** and **fees for technical services** in India excluded from exemption
 - ❖ Exemption now available w.e.f. 01/04/2020

LEAVE TRAVEL CONCESSION

- AY 2021-22 ONLY
- Exemption for Cash Allowance in lieu of LTC
- Conditional exemption:
 - ❖ Allowance to be Spent on specified goods or services
 - ❖ Liable to GST @ 12% or more
 - ❖ By Assessee or his family on goods or services
 - ❖ Expenditure during 12.10.2020 to 31.03.2021
 - ❖ Payment as per Rule 6BBA by Banking channels
 - ❖ Tax Invoice mandatory
 - ❖ Exercise option in block period 2018-2021

LEAVE TRAVEL CONCESSION

- Exemption lower of Rs. 36,000 p.p or 1/3rd of expenditure
- Not applicable to assessee opting for S.115BAC

ULIP

- Maturity or surrender value from ULIP qualifies for exemption
 - ❖ Subject to 10% cap on premium
- HNIs claiming exemption by investing in ULIP with huge premium
- Amendments:
 - ❖ Sec 10(10D) – denying the exemption in certain cases
 - ❖ Providing for taxability under capital gains
- Applicable only to policies issued on or after 01/02/2021

ULIP

- Denial of exemption u/s 10(10D)
 - ❖ If annual premium > Rs. 2.5 Lakhs in any year
 - ❖ If multiple policies having premium <= Rs. 2.5 Lakhs
 - Exemption available only for policies of which aggregate annual premiums <= Rs. 2.5 Lakhs in any year
- Exemption continues to apply on sum received on DEATH
- Taxability:
 - ❖ Included in definition of 'capital asset'
 - ❖ Sec 45(IB) – deemed to be capital gain in year of receipt

ULIP

- Concessional rate of tax u/s 111A & 112A
 - ❖ ULIP on par with equity oriented fund subj to investment of minimum 65% in equity
- Issues -
 - ❖ STT applicable to all policies (even where 65% not invested in equity)
 - ❖ Sec 111A & 112A applicable subj to minimum 65% investment in equity

INTEREST ON PF

- AY 2022-23 onwards
- Interest on EPF & RPF
- Denial of exemption for interest
 - ❖ On annual contribution exceeding Rs. 2.5 lakhs
 - ❖ Only on contribution after 31/03/2021
- Taxability in the year of accrual or withdrawal/cessation

EDUCATIONAL INSTITUTION & HOSPITALS

- AY 2022-23 onwards
- Exemption from tax
 - ❖ Where aggregate annual receipts does not exceed Rs. 1 crore
- Limit of Annual Average Receipts increased to Rs. 5 crores
- Limit of Rs. 5 crores to apply entity wise on **aggregate** basis

CHARITABLE TRUSTS AND INSTITUTIONS

- AY 2022-23 onwards
- Amendments to avoid ‘double counting’
 - ❖ In ‘calculating’ Application or Accumulation
- Corpus donations to be invested as per s. 11(5)
 - ❖ new investment to be separately maintained
- Application out of corpus donation not an ‘Application’
- Applications from loans/borrowings not to be ‘Application’
- No set-off or deduction or allowance of excess Application
 - ❖ Not to be carried forward for future years

TAX AUDIT

- AY 2021-22 onwards
- Exemption from tax audit
 - ❖ Total sales, turnover or gross receipts \leq Rs. 5 crores
 - ❖ Business with \leq 5% Cash receipts and payments of total receipts and payments
- Threshold now increased from **Rs. 5 crores to Rs. 10 crores**

PRESUMPTIVE TAXATION – Sec 44ADA

- AY 2021-22 onwards
- Assessee engaged in specified profession
- Eligible Assessee to include:
 - ❖ Individual
 - ❖ HUF
 - ❖ Partnership Firm
- Clarification to **exclude LLP**
- Mandatory maintenance of books as per LLP Act, 2008

EMPLOYEE'S CONTRIBUTION

- AY 2021-22 onwards
- Denial deduction for delayed payment of employee's contribution by employer
- Late deposit of employee's contribution to any:
 - ❖ Provident Fund
 - ❖ Superannuation Fund
 - ❖ Gratuity Fund
 - ❖ Any other fund for the welfare of employees
- **Sec 43B shall not apply to determine due date**

DEPRECIATION ON GOODWILL

- AY 2021-22 onwards
- Goodwill of a business or profession
- Not an asset in Block of asset; Purchased or otherwise
- Depreciation denied from AY 2021-22
- If depreciation claimed on goodwill till AY 20-21 –
 - ❖ Capital gains on depreciable asset considered
- Impact on DTA/DTL
 - ❖ If goodwill is depreciated

CAPITAL GAINS

➤ PARTNERSHIP FIRMS RESTRUCTURING:

- Existing Provisions (Sec 45 (4)): When or dissolution or otherwise a partnership firm **transfers** any asset to the partner ,the Capital Gains was taxable in the hands of Firm in the PY in which the transfer takes place.
- Full Value of Consideration:- FMV as on the date of Transfer
- Cost of Acquisition: Cost of that asset
- Many assessee confused the above provision to a situation where assets are re-valued of self-generated assets are recorded in the books of accounts and Payment is made to partner or member which is in excess of his capital contribution.

CAPITAL GAINS

▪ *Amendments:-*

➤ Substitution of Sec 45(4) :- *Case where consideration (capital asset) is equal to Closing capital balance*

Full Value of Consideration:- FMV as on the date of Transfer

Cost of Acquisition: Cost of that asset

➤ Introduction of Sec 45(4A) :- *Case where consideration (money or any other asset) is excess than closing capital balance*

FVC = FMV as on the date of receipt by specified person
(Partner/Member)

COA = Balance in Capital account at the time of dissolution or reconstitution **excluding any amount due to revaluation or self generated assets**

This amendment is effective from 1st April 2021

CAPITAL GAINS

➤ **SLUMP SALE AND SLUMP EXCHANGE:**

Existing Provisions: Existing definition of slump sale defines that **sale** of an undertaking on an **lumpsum value** without assigning values to individual assets i.e monetary consideration.

Amended Provisions : The definition of slump sale shall include all transfers as stated in Sec 2 (47) which is the base for taxing capital gains. for e.g under Sec 2 (47) exchange, relinquishment, extinguishment is considered as transfer. Hence in case where a transaction of slump sale is done in exchange of another asset (Barter Trade) it would be considered as transfer and taxed u/s 50B.

CAPITAL GAINS

➤ **COST OF ACQUISITION /IMPROVEMENT OF CERTAIN INTANGIBLE ASSETS :**

- Sec 55 read with sec 49 :-
- Events: Transfer in case of succession , partition, gift, will, partition of HUF etc
- **Existing provision:** COA = Cost to previous owner or Nil
- **Amended provision :** COA = Cost to ultimate previous owner or previous owner or Nil

CHANGES IN RETURN FILING REQUIREMENTS

➤ ITR FILING FOR PARTNERS WHERE THE FIRM IS LIABLE TO TRANSFER PRICING AUDIT (Sec 139)

- **Due Date as per existing provisions :-** 30th September
- **Amended Due Dates :-** 30th November
(Same as the Transfer pricing audit due date)

➤ No FILING OF ROI FOR SENIOR CITIZENS (75 years or above)

Where the Senior citizen has **only pension income and interest income (in same bank)**, the bank will **deduct the TDS u/s 194P** and there is an option given to senior citizens to not file the ROI.

CHANGES IN RETURN FILING REQUIREMENTS

➤ BELATED RETURNS AND REVISED RETURNS (Sec 139 (4) AND SEC 139 (5))

- Existing Provisions : Till the end of Assessment year or before completion of assessment whichever is earlier
- Amendments: Time limit reduced by 3 Months i.e 31st December or before completion of assessment whichever is earlier

This amendment is effective from AY 2021-22.

CHANGES IN RETURN FILING REQUIREMENTS

➤ *Hence the due dates comes as under:*

Sr. No	Assesse	Due Dates
1	Filing of ITR (Non Audit)	31 st July
2	Furnishing Tax Audit Report	30 th September
3	Furnishing Transfer Pricing (TP)Report	30 th November
4	Filing of ITR (Audit Cases)	31 st October
5	Filing of ITR (TP Audit Cases)	30 th November
6	Belated/Revised Return	31 st December

CHANGES IN RETURN FILING REQUIREMENTS

➤ INTIMATION u/s 143(1):

- Intimation u/s 143 (1) is where all Income-tax returns are processed to correct arithmetical mistakes, internal inconsistencies, tax calculation and verification of tax payment computed through computerised techniques.
- Intimation under section 143(1) is sent to a taxpayer only in case any tax or interest is found payable or refundable or there is any increase / reduction in loss.
- **Existing Timeline:** Within **12** months from the end of FY in which Return is filed.
- **Amended Timeline:** Within **9** months from the end of FY in which Return is filed.

This amendment is effective from 1st April 2021.

THE ASSESSMENT SECTION

➤ **TIME LIMIT TO SEND NOTICES FOR SCRUTINY**

- Sec 143 (2) of the Income Tax Act covers the time limit for sending notices for scrutiny.
- **Existing Time for Sending Notice** : 6 months from the end of FY in which return is filed
- **Amended Time for Sending Notice** : 3 months from the end of FY in which return is filed

➤ **TIME LIMIT FOR ASSESSMENT ORDER (SEC 153):**

Completion of Assessment -

- Existing Time limit : 12 Months from the end of relevant AY

THE ASSESSMENT SECTION

- Amended Time Limit : 9 Months from the end of relevant AY
- Applicable only for order passed under sec 143 (3) and sec 144
- Extension of 12 months still continues in case of Transfer Pricing Audit Cases.

This amendment is effective from AY 2021-22

ASSESSMENT DUE DATES

For Assesse		For Department	
Action	Due Date	Action	Due Date
Filing of ITR (Non audit)	31 st July	Service of Notice u/s 143 (2)-Scrutiny Notice	30 th June
Furnishing of Tax Audit Report	30 th September		
Furnishing of Transfer Pricing Report	30 th October	Completion of Assessment	31 st December
Filing of ITR-Audit Cases	31 st October		
Filing of ITR-TP Audit Cases	30 th November	Processing of ITR & Sending Intimation	31 st December
Filing of Belated/Revised Returns	31 st December		

REASSESSMENT CASES

(Sec 147 and Sec 148 read with SEC 149):

- **Existing Sec 147:** Where the AO has *reason to believe* that any income chargeable to tax has escaped assessment for any AY then AO may assess, re-assess such income and also any other income that comes to his notice subsequently during the course of proceedings.
- A notice under sec 148 is issued to the assessee within prescribed time limits to the assessee

Amendments:

- **a) Change In Time-limit of issue of notice u/s 148:**
 - **Present Time limit:** Issue of notice within 4 yrs from the Relevant Assessment Year (RAY) (6Yrs where income escaped amounts to or likely to amount to Rs 1 Lakh or more)

REASSESSMENT CASES

(Sec 147 and Sec 148 read with SEC 149):

- **Amended Time Limit:** Issue of notice within 3yrs from the Relevant Assessment Year (RAY) (10Yrs where income escaped amounts to or likely to amount to Rs 50 Lakh or more individually for relevant year)

➤ **b) Introduction of Sec 148A (Inquiry before issue of notice) :-**

Proposes that the AO shall conduct enquiries and provide an opportunity of being heard to assesses by issuing such notice to show cause and based on his reply decide (by obtaining the prior approval of specified authority) to issue notice u/s 148.

The assesses needs to submit his reply on the above enquiry within not less than 7 days but within 30days of issuance of notice.

In case no reply is received form the assesses or AO is of the opinion that a notice has to be issued it can do so within 1 month from the end of the month in which reply is received or time to submit reply is completed.

REASSESSMENT CASES (Sec 147 and Sec 148 read with SEC 149):

▪ **Please note that the above sec 148A is not applicable in case of search and requisition.**

➤c) The words “*reason to believe*” has been removed :-

Now onwards the AO should have *information (as specified)* which suggests that income chargeable to tax has escaped assessment.

This amendment is effective from 1st April 2021.

➤ **Special Cases : Search Assessment**

Present Position

Reassessment (Sec 147)		Search Assessment (Sec 153A/153C)	
Type of Case	No of Years	Type of Case	No of Years
Any Case	4 Years	Any Case	6 Years
Escaped Income \geq Rs 1,00,000	6 Years	Escaped Income \geq Rs 50,00,000 (aggregate from 7 th to 10 th year)	10 Years
Escaped income relates to Foreign asset	16 Years		

AMENDED POSITION

Reassessment (Sec 147)

Type of Case	No of years
Any Case	3Years
Escaped income \geq Rs 50,00,000 (Individually for the relevant year)	10Years

OTHER AMENDMENTS

➤ ITAT Proceedings To be Electronic:

- To promote more transparency, since uptill now only the proceeding till CIT (Appeals) were conducted electronically, the current budget proposes to conduct ITAT proceedings electronically as well.

➤ Dispute Resolution Scheme (New Section 245MA):

- **Applicants:** a) Persons as specified by CBDT
 - b) Not eligible if there is detention, prosecution or conviction under various laws
 - c) For Resolution of Dispute arising in specified order.

OTHER AMENDMENTS

- **Specified Order:** Any order having having:
 - a) Variances \leq Rs 10,00,000
 - b) Returned Income \leq Rs 50,00,000
 - c) Not based on Survey, Search or requisition or any information received under DTAA
- **Committees Powers:**
 - a) To reduce or waive of penalty
 - b) To grant immunity from prosecution

The above scheme will be available in faceless mode

OTHER AMENDMENTS

➤ *Income Tax Settlement Commission Discontinued (Sec 245):*

W.e.f 1/2/2021, the ITSC stands discontinued and an Interim Board is constituted for pending applications

➤ *Authority for Advance Ruling to be replaced:*

With effect from notified date, the AAR is to be replaced by Board of Advance Ruling (not consisting officer below the rank of Chief Commissioner)

➤ *Vivaad se Vishwas scheme :*

Last date of filing extended to 28th February 2021

REAL ESTATE

➤ INCREASE IN SAFE HARBOUR LIMIT (SEC 43CA)

- **Existing Provision:** Where Stamp duty value exceeds the agreement value the difference between both was taxed in the hands of builder in sec 43CA and in the hands of buyer in Sec 56 (2) (x)
- **Amended :** The difference (Tolerance band) between SDV and Agreement value can be up-to 20% , i.e if the SDV is or less than 120% of the agreement value then then the Agreement value will be considered as Sale Consideration.
- No Taxability in the hands of Buyer.
- **Conditions:** a) Period of transfer : 12/11/20 to 30/6/2021
 - b) First time allotment
 - c) Consideration \leq Rs 2 Crore

REAL ESTATE

➤ **DEDUCTIONS BOOSTING REAL ESTATE:**

SEC 80-IBA : Tax Holiday for Affordable Housing Project and Affordable Rental Housing Project

- Approval period for Housing Project extended to 31/3/2022 which was earlier 31/3/2021

SEC 80-EEA Deduction For Interest On Housing Loan

- Interest deduction up to Rs 150000 was additional given on Interest on Housing loan subject to certain conditions
- Period of getting Loan sanctioned extended to 31/3/2022

OTHER AMENDMENTS

▪ RELAXATIONS FOR STARTUPS :

➤ **Sec 80-IAC:** (Eligible businesses)

➤ Benefit of deduction of 100% of profit derived for any 3 consecutive Ays out of 7 years beginning from the date of incorporation of start-up.

a) Tax Holiday period extended by 1 Year to 1/4/2022

b) Required to be incorporated before 1/4/2021

➤ **Sec 54GB – Capital Gain Exemption**

Transfer of one **RESIDENTIAL** Property and invest those proceeds in shares of start-ups (investing in plant and machinery within 1 year of subscription of shares)

Amendments:

a) Residential Property Transferred before 1/4/2021

b) Extended by 1 year i.e 1/4/2022

INDIRECT TAX



AVAILMENT OF INPUT TAX CREDIT

- ITC can now be availed if the same is reflected in GSTR-2A of the recipient.
- The buffer which was 5% earlier, will be discontinued.
- With such discontinuation, Tax payer will have to make the payment in cash which will have major impact on working capital.
- Monthly reconciliation and follow up will play a very important role.
- The recipient could withhold the payment of GST, if the transaction not appearing in GSTR-2A
- Advisable to in-corporate an indemnification clause

CONSOLIDATION OF ANNUAL COMPLIANCES

- GST audit report i.e. the reconciliation statement is now merged with annual return.
- The reconciliation statement shall now be self-certified instead of certification by a chartered accountant or Cost accountant
- Shift in responsibility from joint to sole
- Therefore, the responsibility is on Tax Payer to ensure appropriate reconciliations and disclosure.
- Similar to central levies (Excise, Service Tax, etc.) in the pre-GST regime, GST will now be on self assessment

RETROSPECTIVE AMENDMENT

Definition of Supply Extended

- Supply by societies, clubs or Association to members or vice versa covered under supply
- Existence of consideration is a pre-requisite

Interest on delayed payment of Tax

- Interest payable on Net liability, in case of delayed return
- The benefit is available only for outward supply and not for ITC reversal and RCM.

GSTR-3B v/s GSTR-1

- If there is any mismatch between GSTR-1 & GSTR-3B , officer is authorised to issue notice and recover taxes along with Interest.
- So henceforth, once the liability is declared in GSTR-1 the same will have to be paid in GSTR-3B also.

PROVISIONAL ATTACHMENT

- The Commissioner has the power to provisionally attach properties of a person on whom proceedings have been initiated.
- The power has been extended to also attach property of the person, with whom the above person has transacted

APPEAL TO APPELLATE TRIBUNAL

- In case of detaining or seizing of goods, earlier for filing appeal against the order, 10% of the disputed amount was to be paid as pre-deposit.
- Now, in addition to above 10%, 25% of Penalty mentioned in the order is to be paid as pre-deposit before filing of appeal.

PENALTY FOR RELEASE OF GOODS

In case where owner comes forward for payment of Tax		In case where owner does not come forward for payment of Tax	
Taxable	Exempted	Taxable	Exempted
From 100% to 200% of tax payable on such goods	2% of the value of goods OR 25000/- whichever is less.	50% of Value of Goods or 200% of tax payable whichever is higher. Earlier it was 50% of value of goods reduced by tax paid on such goods.	From 5% of value of goods OR 25000/- whichever is less.
For e.g.: Value of Goods = Rs. 10,000/-, Tax Payable Rs. 1800/- , Penalty shall be:			
Pre: Rs. 1800	Pre & Post: Rs. 200/- or 25000/- whichever is less	Pre: Rs. 5000-1800= Rs. 3200	Pre & Post: Rs. 500/- or 25000/- whichever is less
Post: Rs. 3600		Post: 5000 or 3600 whichever is higher	

DETENTION OF GOODS

Issuance of Notice in case of Detention of Goods or Conveyance:

- Earlier there was no time limit to issue notice and order for release of goods or conveyance.
- Post budget, officer needs to issue a notice within 7 days of detention.
- They shall specify tax and penalty payable.
- Order shall be pass within 7 days of serving notice for making payment of penalty.

DETENTION OF GOODS

Opportunity of being heard in case of detention

- Earlier opportunity of being heard was given before deriving “Tax, Interest & Penalty”
- It is proposed that opportunity of being heard will be given only while deriving Penalty.

Failure to make payment of Tax & Penalty

- On failure to make payment within 15 days of receipt of order, goods or conveyance shall be liable to be disposed of.

AMENDMENT IN ZERO RATED SUPPLIES

SEZ Supplies

- SEZ supplies shall be treated as zero-rated only if it is for the authorised operation of the recipient.
- So, it is advisable to take endorsement from the specified officer of SEZ unit for each Invoice.
- The supplier could have to pay tax in absence of such endorsement.
- It shall affect the working capital of the Tax Payer.

AMENDMENT IN ZERO RATED SUPPLIES

Non realisation of Export Proceeds

- When the proceeds for Export of Goods is not received within the prescribed timeframe, tax payable along with Interest
- The same should be paid within 30 days of completion of timeframe.

Restriction on Export rebate

- Earlier each exporter was allowed to file refund claim on payment of IGST
- Post budget, the rebate/refund option will be available only to notified class of person or notified goods/service.

OTHER INDIRECT TAX UPDATES

- Proceedings under Customs Act are to be completed within 2 years from the date of initiation (extendable by one year)
- Where any person has obtained any invoice by fraud to utilize input tax credit for discharging tax on export of goods under claim of refund, such person shall be liable for *penalty not exceeding five times the refund claimed.*
- New common portal to be introduced for facilitating registration, filing bill of entry, shipping bill, payment of duty etc.
- Introduction of Agriculture Infrastructure and Development Cess (AIDC) such as on coal, vegetables etc.

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Open House Discussions

*Thank
you*

