CIRCULAR NO. 1/2024

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Government of India
Ministry of Finance
Department of Revenue
(Central Board of Direct Taxes)

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Dated the 23rd of January, 2024

EXPLANATORY CIRCULAR

CIRCULAR EXPLAINING THE PROVISIONS OF

THE FINANCE ACT, 2023

CIRCULAR

INCOME-TAX ACT

Finance Act, 2023 – Explanatory Notes to the Provisions of the Finance Act, 2023

CIRCULAR NO. 1/2024, DATED the 23rd of January, 2024

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1. Introduction

1.1 The Finance Act, 2023 (hereafter referred to as 'the FA 2023') as passed by the Parliament, received the assent of the President on 31st March, 2023 and has been enacted as Act No. 8 of 2023.

1.2 This circular explains substance of the provisions of the FA 2023 relating to direct taxes.

2. Changes made by the FA 2023

2.1 The FA 2023 has,-

(i) specified the existing rates of income-tax for the assessment year 2023-24 and the rates of income-tax on the basis of which tax has to be deducted at source and advance tax has to be paid during financial year 2023-24; and

(ii) amended certain sections of the Income-tax Act, 1961 ('the Act').

3. Rate structure

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

3.1.1 Part I of First Schedule to the FA 2023 specifies the rates of income-tax in respect of incomes of all categories of assessees liable to tax for the assessment year 2023-24. These rates are the same as those laid down in Part III of the First Schedule to the Finance Act, 2022 for the purposes of computation of "advance tax", deduction of tax at source from "Salaries" and charging of tax payable in certain cases during the financial year 2022-23. Main features of the rates specified in the said Part I are as follows:

3.1.2 Individual, Hindu undivided family, association of persons, body of individuals or artificial juridical person.

Paragraph A of Part I of the First Schedule specifies the rates of income-tax in the case of every individual, Hindu undivided family, association of persons, body of individuals or artificial juridical person (other than a co-operative society, firm, local authority and company) as under:

Income chargeable to tax	Rate of income-tax for AY 2023-24		
	Individual (other than senior and very senior citizen), HUF, association of	Individual, resident in India who is of the age of sixty years or	Individual, resident in India who is of the age of eighty years or

	persons, body of individuals and artificial juridical person.	more but less than eighty years. (senior citizen)	more (very senior citizen)
Up to Rs. 2,50,000	Nil	Nil	Nil
Rs. 2,50,001 - Rs. 3,00,000	5%		
Rs. 3,00,001 - Rs. 5,00,000		5%	
Rs. 5,00,001 - Rs. 10,00,000	20%	20%	20%
Exceeding Rs. 10,00,000	30%	30%	30%

For individuals or HUFs opting for the concessional taxation regime under section 115BAC of the Act, the rates as specified in the said section are as under:

Total Income (Rs)	Rate of income- tax for AY 2023-24
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%

The amount of income-tax so computed, including in the case of an individual or an HUF exercising option under section 115BAC, or as computed under the provisions of section 111A or section 112 or section 112A of the Act but not having any income under section 115AD of the Act, shall be increased by a surcharge,-

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

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

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

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

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

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

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

In the case of individual or Hindu undivided family or every association of persons (except in a case of an association of persons consisting of only companies as its members) or body of individuals (whether incorporated or not) or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act having income under section 115AD of the Act, the amount of income-tax so computed, shall be increased by a surcharge,-

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

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

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

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

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

Where the total income includes any income by way of dividend or income chargeable under clause (b) of sub-section (1) of section 115AD of the Act, the rate of surcharge on the income-tax calculated on that part of income shall not exceed fifteen per cent.

In the case of an association of persons consisting of only companies as its members, the surcharge shall be calculated –

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

It may be further mentioned that marginal relief shall be available so the total amount payable as income-tax and surcharge on total income exceeding-

(i) fifty lakh rupees but not exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of fifty lakh rupees by more than the amount of income that exceeds fifty lakh rupees.

(ii) one crore rupees but not exceeding two crore rupees shall not exceed the total amount payable as income-tax and surcharge on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

(iii) two crore rupees but not exceeding five crore rupees shall not exceed the total amount

payable as income-tax and surcharge on a total income of two crore rupees by more than the amount of income that exceeds two crore rupees.

(iv) five crore rupees shall not exceed the total amount payable as income-tax and surcharge on a total income of five crore rupees by more than the amount of income that exceeds five crore rupees.

The Health and Education Cess on income-tax shall be levied at the rate of four per cent on the amount of tax computed inclusive of surcharge.

No marginal relief shall be available in respect of Health and Education Cess.

3.1.3 Co-operative Societies.

Paragraph B of Part I of the First Schedule to the FA 2023 specifies the rates of income-tax in the case of every co-operative society as under:-

Income chargeable to tax	Rate
Up to Rs. 10,000	10%
Rs. 10,001 – Rs. 20,000	20%
Exceeding Rs. 20,000	30%

The amount of income-tax so computed or as computed under the provisions of section 111A or section 112 or section 112A of the Act shall be increased by a surcharge at the rate of seven per cent of such income-tax in case the total income of a co-operative society exceeds one crore rupees but does not exceed ten crore rupees. Surcharge at the rate of twelve per cent of such income-tax shall continue to be levied in case of a co-operative society having a total income exceeding ten crore rupees.

Further, on satisfaction of certain conditions, a co-operative society resident in India have the option to pay income-tax at the rate of 22 per cent as per the provisions of section 115BAD. Surcharge would be at 10% on such income-tax.

It may be mentioned that marginal relief shall be available in the case of every cooperative society, other than those opting for taxation under section 115BAD of the Act, so the total amount payable as income-tax and surcharge on total income exceeding-

(i) one crore but not exceeding ten crore rupees, shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

(ii) ten crore rupees shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

The Health and Education Cess on income-tax shall be levied at the rate of four per cent on the amount of tax computed inclusive of surcharge.

No marginal relief shall be available in respect of Health and Education Cess.

3.1.4 Firms.

Paragraph C of Part I of the First Schedule to the FA 2023 specifies the rate of income-tax as thirty per cent in the case of every firm.

The amount of income-tax so computed or as computed under the provisions of section 111A or section 112 or section 112A of the Act shall be increased by a surcharge at the rate of twelve per cent of such income-tax in case of a firm having a total income exceeding one crore rupees. However, marginal relief shall be available so that the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

The Health and Education Cess on income-tax shall be levied at the rate of four per cent on the amount of tax computed inclusive of surcharge.

No marginal relief shall be available in respect of Health and Education Cess.

3.1.5 Local Authorities.

Paragraph D of Part I of the First Schedule to the FA 2023 specifies the rate of income-tax as thirty per cent in the case of every local authority.

The amount of income-tax so computed or as computed under the provisions of section 111A or section 112 or section 112A of the Act shall be increased by a surcharge at the rate of twelve per cent of such income-tax in case of a local authority having a total income exceeding one crore rupees. However, marginal relief shall be available so that the total

amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

The Health and Education Cess on income-tax shall be levied at the rate of four per cent on the amount of tax computed inclusive of surcharge.

No marginal relief shall be available in respect of Health and Education Cess.

3.1.6 Companies.

Paragraph E of Part I of the First Schedule to the FA 2023 specifies the rates of income-tax in the case of a company.

(i) In case of a domestic company, the rate of income-tax is-
a) twenty-five per cent of the total income, if the total turnover or gross receipts of the company in the previous year 2020-21 does not exceed four hundred crore rupees;
b) twenty-five per cent of the total income at the option of the company, if it opts for taxation under section 115BA of the Act;
c) twenty-two per cent of the total income, at the option of the company, if it opts for taxation under section 115BAA of the Act;
d) fifteen per cent of the total income, at the option of the company, if it opts for taxation under section 115BAB of the Act;
e) thirty per cent of the total income, in all other cases.

The tax so computed or as computed under the provisions of section 111A or section 112 or section 112A of the Act shall be enhanced by a surcharge of seven per cent where such domestic company has total income exceeding one crore rupees but not exceeding ten crore rupees. Surcharge at the rate of twelve per cent shall be levied if the total income of the company exceeds ten crore rupees.

However, where the domestic company exercises the option under section 115BAA or section 115BAB, the tax computed shall be enhanced by a surcharge of ten percent, for all levels of income.

(ii) In the case of a company other than a domestic company, the rate of tax is forty per cent.

However, the tax rate shall be fifty percent, on so much of total income of the company, as consists of:

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976, and where such agreement has, in either case, been approved by the Central Government.

The tax so computed shall be enhanced by a surcharge of two per cent where such company has total income exceeding one crore rupees but not exceeding ten crore rupees. Surcharge at the rate of five per cent shall be levied if the total income of such company exceeds ten crore rupees.

However, marginal relief shall be allowed in the case of every company, other than companies opting for taxation under section 115BAA or 115BAB of the Act, to ensure that,-

(i) the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees,

(ii) the total amount payable as income-tax and surcharge on total income exceeding ten crore rupees shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees, by more than the amount of income that exceeds ten crore rupees.

Health and Education Cess on income-tax shall be levied at the rate of four per cent on the amount of tax computed, inclusive of surcharge in the case of every company.

No marginal relief shall be available in respect of Health and Education Cess.

3.2 In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a

surcharge, for the purposes of the Union, calculated at the rates provided in sub-section (8) of section 2 of FA 2023.

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

3.3.1 In every case in which tax is to be deducted at the rates in force under the provisions of sections 193, 194A, 194B, 194BB, 194D, 194LBA, 194LBB, 194LBC and 195 of the Act, the rates for deduction of income-tax at source during the financial year 2023-24 have been specified in Part II of the First Schedule to the FA 2023. The rates for deduction of income-tax at source during the financial year 2023 -24 continue to be the same as those specified in Part II of the First Schedule to the Finance Act, 2022 except the following:

(i) deduction of income-tax at source on income by way of winnings from online game under the newly inserted section 194BA shall be at the rate of 30%, being the rate in force;

(ii) deduction of income-tax at source on the income by way of dividend received from a unit in an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, shall be at the rate of 10%, being the rate in force;

(iii) deduction of income-tax at source on payments made to a non-resident (other than a company) or to a foreign company, in the nature of income by way of royalty or fees for technical services shall be at the rate of 20%, being the rate in force.

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

3.3.2 Surcharge.

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

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

(i) at the rate of ten per cent of such tax, where the income or aggregate of income (including the income by way of dividend or income under the

provisions of sections 111A, 112 and 112A of the Act) paid or likely to be paid and subject to the deduction exceeds fifty lakh rupees but does not exceed one crore rupees;

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

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

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

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

In case where the total income includes any income by way of dividend or income under the provisions of sections 111A, 112 and 112A of the Act, the rate of surcharge on the amount of income-tax deducted in respect of that part of income shall not exceed fifteen per cent.

Further, where the income of a person is chargeable to tax under sub-section (1A) of section 115BAC of the Act, the rate of surcharge shall not exceed twenty five per cent.

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

(i) at the rate of ten 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 fifty lakh rupees but does not exceed one crore rupees;

(ii) at the rate of fifteen 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.

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

(i) at the rate of seven 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 twelve 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.

(d) in the case of every firm, being a non-resident at the rate of twelve 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;

(e) 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.

(f) No surcharge on tax deducted at source shall be levied in the case of an individual, Hindu undivided family, association of persons, body of individuals, artificial juridical person, co-operative society, local authority, firm, being a resident or a domestic company.

3.3.3 Health and Education Cess.

Health and Education Cess on income-tax shall continue to be levied for the purposes of the Union at the rate of four per cent of income-tax including tax deducted and surcharge, if any.

For instance, if the amount of income of a foreign company is Rs. 1,20,00,000/- and tax to be deducted from such foreign company is Rs. 12,00,000/- at the rate of 10 per cent, then the surcharge at the rate of two per cent on such tax deducted shall be Rs. 24,000/-. Health and Education cess on such amount of tax deducted and surcharge (i.e. Rs. 12,00,000/- + Rs. 24,000/- = Rs. 12,24,000/-) shall be Rs. 48,960/-.

3.4 Rates for deduction of income-tax at source from "Salaries", computation of "advance tax" and charging of income-tax in certain cases during the financial year 2023-24 (assessment year 2024-25)

3.4.1 Part III of the First Schedule to the FA 2023 specifies the rates for deduction of income-tax at source from "Salaries" or under section 194P of the Act during the FY 2023-24 and also for computation of "advance tax" payable during the said year in the case of all categories of assessees have been specified in the said Part of the First Schedule to the FA 2023. These rates are also applicable for charging income-tax during the financial year 2023-24 on current incomes in cases where accelerated assessments have to be made, e.g., provisional assessment of shipping profits arising in India to non-residents, assessment of persons leaving India for good during that financial year, assessment of persons who are likely to transfer property to avoid tax, assessment of bodies formed for short duration, etc. The rates are provided in following paragraphs.

3.4.2 Individual, Hindu undivided family, association of persons, body of individuals or artificial juridical person.

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

Sl. No.	***Total income***	***Rate of tax***
(1)	***(2)***	***(3)***
1.	Upto Rs. 3,00,000	Nil
2.	From Rs. 3,00,001 to Rs. 6,00,000	5 %
3.	From Rs. 6,00,001 to Rs.9,00,000	10 %

4.	From Rs. 9,00,001 to Rs. 12,00,000	15 %
5.	From Rs. 12,00,001 to Rs. 15,00,000	20 %
6.	Above Rs. 15,00,000	30 %

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

Vide **Notification no. 43/2023 (G.S.R. 452[E])** dated 21.06.2023, rule 21AGA has been inserted in the Income-tax Rules, 1962 ('the Rules') to provide the manner of exercising option under sub-section (6) of section 115BAC of the Act, prescribing Form No. 10-IEA. Further, consequential amendments have also been carried out in rules 2BB, 3 and 5 of the Rules.

Paragraph A of Part III of the First Schedule specifies the rates of income-tax in the case of every individual, Hindu undivided family, association of persons, body of individuals or artificial juridical person (other than a co-operative society, firm, local authority and company) whose income is not chargeable to tax under sub-section (1A) of section 115BAC. The basic exemption limits, rates of tax and slabs of income for various categories in such cases remain the same as was in financial year 2022-23.

The same are as follows:

<table>
<tr><td>Income chargeable to tax</td><td colspan="3">Rate of income- tax</td></tr>
<tr><td></td><td>Individual (other than senior and very senior citizen), HUF, association of persons, body of individuals and artificial juridical person.</td><td>Individual, resident in India who is of the age of sixty years or more but less than eighty years. (senior citizen)</td><td>Individual, resident in India who is of the age of eighty years or more (very senior citizen)</td></tr>
<tr><td>Up to Rs. 2,50,000</td><td>Nil</td><td rowspan="2">Nil</td><td rowspan="3">Nil</td></tr>
<tr><td>Rs. 2,50,001 - Rs. 3,00,000</td><td rowspan="2">5%</td></tr>
<tr><td>Rs. 3,00,001 - Rs. 5,00,000</td><td>5%</td></tr>
<tr><td>Rs. 5,00,001 - Rs. 10,00,000</td><td>20%</td><td>20%</td><td>20%</td></tr>
<tr><td>Exceeding Rs. 10,00,000</td><td>30%</td><td>30%</td><td>30%</td></tr>
</table>

Surcharge

The amount of income-tax so computed or computed under section 115BAC or as computed under the provisions of section 111A or section 112 or section 112A of the Act shall be increased by a surcharge,-

(a) at the rate of ten per cent of such income-tax, in case of a person having a total income (including any income by way of dividend or income under sections 111A, 112 and 112A) exceeding fifty lakh rupees but not exceeding one crore rupees;

(b) at the rate of fifteen per cent of such income-tax, in case of a person having a total income (including any income by way of dividend or income under sections 111A, 112 and 112A) exceeding one crore rupees but not exceeding two crore rupees;

(c) at the rate of twenty five per cent of such income-tax, in case of a person having a total income (excluding any income by way of dividend or income under sections 111A, 112 and 112A) exceeding two crore rupees but not exceeding five crore rupees;

(d) at the rate of thirty-seven per cent of such income-tax, in case of a person having a total income (excluding any income by way of dividend or income under sections 111A, 112 and 112A) exceeding five crore rupees;

(e) at the rate of fifteen per cent of such income-tax, in case of a person having a total income (including any income by way of dividend or income under sections 111A, 112 and 112A) exceeding two crore rupees but which is not included in (c) or (d) above;

It may be noted that in case where the total income includes any income by way of dividend or income chargeable under sections 111A, section 112 and section 112A of the Act, the rate of surcharge on the amount of income-tax computed in respect of that part of income shall not exceed fifteen per cent.

Further, in case of an association of persons consisting of only companies as its members, the surcharge shall be calculated,–

(a) at the rate of ten per cent of such income-tax, where the total income exceeds fifty lakh rupees but does not exceed one crore rupees;
(b) at the rate of fifteen per cent of such income-tax, where the total income exceeds one crore rupees.

Further, for a person whose income is chargeable to tax under sub-section (1A) of section 115BAC of the Act, the surcharge at the rate of 37 per cent on the income or aggregate of income of such person (excluding the income by way of dividend or income under the provisions of sections 111A, 112 and 112A of the Act) exceeding five crore rupees shall not be applicable. In such cases the surcharge shall be restricted to 25 per cent instead of 37 per cent.

However, marginal relief shall be available so that the total amount payable as income-tax and surcharge on total income exceeding-

(i) fifty lakh rupees but not exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of fifty lakh rupees by more than the amount of income that exceeds fifty lakh rupees.

(ii) one crore rupees but not exceeding two crore rupees shall not exceed the total amount payable as income-tax and surcharge on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

(iii) two crore rupees but not exceeding five crore rupees shall not exceed the total amount payable as income-tax and surcharge on a total income of two crore rupees by more than the amount of income that exceeds two crore rupees.

(iv) five crore rupees shall not exceed the total amount payable as income-tax and surcharge on a total income of five crore rupees by more than the amount of income that exceeds five crore rupees.

Rebate under section 87A

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

Marginal relief shall also be provided to those who have income marginally above Rs 7 lakh.

Thus, where the total income is chargeable to tax under sub-section (1A) of section 115BAC, and the total income—

(a) does not exceed seven hundred thousand rupees, the assessee shall be entitled to a deduction from the amount of income-tax (as computed before allowing for the deductions

under Chapter VIII of the Act) on his total income with which he is chargeable for any assessment year, of an amount equal to one hundred per cent of such income-tax or an amount of twenty-five thousand rupees, whichever is less;

(b) exceeds seven hundred thousand rupees and the income-tax payable on such total income exceeds the amount by which the total income is in excess of seven hundred thousand rupees, the assessee shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under Chapter VIII of the Act) on his total income, of an amount equal to the amount by which the income-tax payable on such total income is in excess of the amount by which the total income exceeds seven hundred thousand rupees.

Rebate under section 87A to a resident individual who has opted out of taxation under sub-section (1A) of section 115BAC is available only if his total income does not exceed rupees five lakh. No marginal relief is available in such cases.

The Health and Education Cess on income-tax shall be levied at the rate of four per cent on the amount of tax computed inclusive of surcharge.

No marginal relief shall be available in respect of Health and Education Cess.

Further where the total income of a person, being a specified fund referred to in clause (c) of the Explanation to clause (4D) of section 10 of the Act, whose income is chargeable to tax under sub-section (1A) of section 115BAC and where such income includes any income under clause (a) of sub-section (1) of section 115AD of the Act, tax computed on that part of income shall not be increased by any surcharge. Further, no Health and Education Cess on such income-tax shall be levied in such cases.

3.4.3 Co-operative Societies.

Paragraph B of Part III of the First Schedule to the FA 2023 specifies the rates of income-tax in the case of every co-operative society. The rates are as follows: -

Income chargeable to tax	**Rate**
Up to Rs. 10,000	10%
Rs. 10,001 – Rs. 20,000	20%
Exceeding Rs. 20,000	30%

The amount of income-tax so computed or as computed under the provisions of section 111A or section 112 or section 112A of the Act shall be increased by a surcharge at the rate of seven per cent of such income-tax in case the total income of a co-operative society exceeds one crore rupees but does not exceed ten crore rupees. Surcharge at the rate of twelve per cent of such income-tax shall continue to be levied in case of a co-operative society having a total income exceeding ten crore rupees.

On satisfaction of certain conditions, a co-operative society resident in India has the option to pay tax at the rate of twenty-two per cent as per the provisions of section 115BAD. Surcharge would be at the rate of ten per cent on such tax.

Further, under new section 115BAE of the Act, a new manufacturing co-operative society set up on or after the 1st of April 2023, which commences manufacturing or production on or before 31st March 2024 and does not avail of any specified incentive or deductions, may opt to pay tax at a concessional rate of fifteen per cent for assessment year 2024-25 onwards. Surcharge would be at the rate of ten per cent on such tax.

Marginal relief shall be allowed in the case of co-operative society (other than a co-operative society which claims the benefit of section 115BAD and 115BAE) to ensure that:
(i) the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees,
(ii) the total amount payable as income-tax and surcharge on total income exceeding ten crore rupees shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees, by more than the amount of income that exceeds ten crore rupees.

Health and Education Cess on income-tax shall be levied at the rate of four per cent of the amount of income-tax computed inclusive of surcharge.

No marginal relief shall be available in respect of Health and Education Cess.

3.4.4 Firms.

Paragraph C of Part III of the First Schedule to the FA 2023 specifies the rate of income-tax as thirty per cent in the case of every firm.

The amount of income-tax so computed or as computed under the provisions of section 111A or section 112 or section 112A of the Act shall continue to be increased by a surcharge at the rate of twelve per cent of such income-tax in case of a firm having a total income exceeding one crore rupees. However, marginal relief shall be available so that the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

The Health and Education Cess on income-tax shall be levied at the rate of four per cent on the amount of tax computed inclusive of surcharge.

No marginal relief shall be available in respect of Health and Education Cess.

3.4.5 Local Authorities.

Paragraph D of Part III of the First Schedule to the FA 2023 specifies the rate of income-tax as thirty per cent in the case of every local authority.

The amount of income-tax so computed or as computed under the provisions of section 111A or section 112 or section 112A of the Act shall continue to be increased by a surcharge at the rate of twelve per cent of such income-tax in case of a local authority having a total income exceeding one crore rupees. However, marginal relief shall be available so that the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

Health and Education Cess on income-tax shall be levied at the rate of four per cent of the amount of income-tax and surcharge.

No marginal relief shall be available in respect of Health and Education Cess.

3.4.6 Companies.

Paragraph E of Part III of the First Schedule to the FA 2023 specifies the rate of income-tax in the case of a company.

(i) In case of a domestic company, the rate of income-tax is,-

a) twenty-five per cent of the total income, if the total turnover or gross receipts of the company in the previous year 2021-22 does not exceed four hundred crore rupees;

b) twenty-five per cent of the total income, at the option of the company, if it opts for taxation under section 115BA of the Act;

c) twenty-two per cent of the total income, at the option of the company, if it opts for taxation under section 115BAA of the Act;

d) fifteen per cent of the total income, at the option of the company, if it opts for taxation under section 115BAB of the Act;

e) thirty per cent of the total income, in all other cases.

The tax so computed or as computed under the provisions of section 111A or section 112 or section 112A of the Act shall continue to be enhanced by a surcharge of seven per cent where such domestic company has total income exceeding one crore rupees but not exceeding ten crore rupees. Surcharge at the rate of twelve per cent shall continue to be levied if the total income of the company exceeds ten crore rupees.

However, where the domestic company exercises the option under section 115BAA or section 115BAB, the tax computed shall be enhanced by a surcharge of ten per cent for all levels of income.

(ii) In the case of a company other than a domestic company, the tax rate is forty per cent.

However, the tax rate shall be fifty percent, on so much of total income of the company, as consists of:

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976, and where such agreement has, in either case, been approved by the Central Government.

The tax so computed, shall continue to be enhanced by a surcharge of two per cent where such company has total income exceeding one crore rupees but not exceeding ten crore rupees. Surcharge at the rate of five per cent shall continue to be levied if the total income of such company exceeds ten crore rupees.

However, marginal relief shall be allowed in the case of every company other than a company opting for taxation under section 115BAA or 115BAB of the Act to ensure that:

(i) the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees,

(ii) the total amount payable as income-tax and surcharge on total income exceeding ten crore rupees shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees, by more than the amount of income that exceeds ten crore rupees.

Health and Education Cess on income-tax shall be levied at the rate of four per cent of the amount of income-tax computed including surcharge.

No marginal relief shall be available in respect of Health and Education Cess.

3.5 Surcharge on Additional Income-tax.

Where additional income-tax has to be paid under section 92CE, or section 115-QA or section 115TD of the Act, that is to say, on secondary adjustment, or distribution of income by a company on buy-back of shares from shareholders or on accreted income of certain trusts and institutions, the additional tax so payable shall be increased by a surcharge of twelve per cent of such income-tax.

Health and Education Cess on income-tax shall be levied at the rate of four per cent of the amount of income-tax computed including surcharge.

3.6 Surcharge in case of newly introduced sections

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

Health and Education Cess on income-tax shall be levied at the rate of four per cent of the amount of income-tax computed including surcharge.

4. Extending deeming provision under section 9 to gift received by not-ordinarily resident–

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

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

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

4.4. It had further been noticed that certain persons being not ordinarily resident were receiving the gifts from persons resident in India and not paying tax on it.

4.5. In view of the above, FA 2023 has amended clause (viii) of sub-section (1) of section 9 of the Act to extend this deeming provision to sum of money exceeding fifty thousand rupees, received by a person not ordinarily resident in India within the meaning of clause (6) of section 6 of the Act, without consideration from a person resident in India.

Applicability: This amendment is effective from 1st April, 2024 and accordingly applies to assessment year 2024-25 and subsequent assessment years.

5. Tax Incentives to International Financial Services Centre (IFSC)

5.1 Clarification with respect to taxation on transfer of Offshore Derivative Instruments (ODI)

5.1.1 Prior to the FA 2023, income of non-residents on transfer of Offshore Derivative Instruments (ODI) entered into with IFSC Banking unit was exempt under section 10 (4E) of the Act. Under the ODI contract, the IFSC Banking Unit (IBU) makes investments in permissible Indian Securities. Income earned by the IBU on such investments is taxed as capital gains, interest, dividend under section 115AD of the Act. After the payment of tax, the IBU passes such income to the ODI holders. The exemption was provided only on the transfer of ODIs and not on the distribution of income to the non-resident ODI holders, hence this distributed income was taxed twice in India, i.e first when received by the IBU and second, when the same income was distributed to non-resident ODI holders. In order to remove the double taxation, the exemption has been extended also to distribution of income on offshore derivative instruments also, entered into with an offshore banking unit of an International Financial Services Centre as referred to in sub-section (1A) of section 80LA, which fulfils such conditions as may be prescribed.

Applicability: The amendment is effective from 1st April 2024, and accordingly applies to the assessment year 2024-25 and subsequent assessment years**.**

5.1.2 In accordance with this amendment, vide **Notification No. 50/2023 dated 17.7.2023 (GSR 514[E]),** Rule 21 AK of the Rules has also been suitably amended to prescribe the conditions to be fulfilled.

5.2 Amendments to clause (4G) of section 10

5.2.1 Clause (4G) of section 10 provides exemption to the income of a non-resident in respect of any income received by a non-resident from portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of such non-resident in an account maintained with an Offshore Banking Unit in any International Financial Services Centre to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.

5.2.2 It was represented that certain incomes of non-resident arising from various financial products are received in an account(s) maintained with Banking Units located in IFSC which become taxable on receipt basis. However, both the financial products are issued outside India and also income therefrom accrues or arises to non-residents situated in foreign jurisdictions.

5.2.3 In view of the above, on the lines of the exemption provided to income from portfolio management services, FA 2023 amended clause (4G) of section 10 of the Act to enable Central Government to notify in the Official Gazette, activity carried out by notified person, such that income received by a non-resident from such activity, in an account maintained with Offshore Banking Unit of IFSC would not be taxable if such income accrues or arises outside India and is not deemed to accrue or arise in India.

Applicability: This amendment is effective from 1st April 2024, and accordingly applies to the assessment year 2024-25 and subsequent assessment years.

5.3 Providing exemption to income of a non-resident or a Unit of an IFSC engaged primarily in the business of leasing of an aircraft

5.3.1 Over the years several tax incentives have been provided to the IFSC in order to make IFSC a global financial hub. In this endeavor in order to make IFSC a prominent global centre for aircraft leasing activities the following tax incentives have already been provided:

(i) exemption on royalty and interest income of a non-resident on lease of an aircraft if it is paid by a unit of an IFSC which commences its operations on or before the 31st day of March, 2024 [Clause (4F) of section 10];

(ii) exemption to the income arising from the transfer of an aircraft leased by a unit of an IFSC which commences operation on or before the 31st day of March, 2024 [Section 80LA].

5.3.2 In order to further incentivise leasing of aircraft from IFSC, FA 2023 has inserted a new clause (4H) in section 10 of the Act to provide exemption to capital gains income of a non-resident or a unit of an IFSC engaged primarily in the business of leasing of aircraft, arising from transfer of equity share of a domestic company (being a unit in IFSC) engaged primarily in the business of

leasing of an aircraft if such unit has commenced operation on or before 31st March 2026. This exemption will apply during a period of ten assessment years starting from the assessment year relevant to the previous year in which there is commencement of operation by the domestic company or assessment years 2024-25 to assessment year 2033-34, whichever period ends later.

5.3.3 Further, clause (34B) has been inserted in section 10 to exempt income of a unit of any IFSC primarily engaged in the business of leasing of an aircraft, by way of dividends from a company being a unit of any IFSC primarily engaged in the business of leasing of an aircraft.

5.3.4 FA 2023 has also amended section 115A of the Act in order to provide for taxation of income of a non-resident not being a company or a foreign company, by way of dividend from a unit of IFSC at the rate of 10%.

Applicability: This amendment is effective from 1st April, 2024 and applies to the assessment year 2024-25 and subsequent assessment years.

5.4 Extension of date for transfer of assets

Clause (viiad) of section 47 of the Act does not regard as transfer for the purposes of capital gains any transfer of a capital asset, being a share or unit or interest held in the original fund by a shareholder or unit holder or interest holder in consideration for the share or unit or interest in resultant fund, in a relocation from original fund to resultant fund.

In order to provide further time for such relocation, clause (b) of the *Explanation* to clause (viiad) of section 47 of the Act has been amended to extend the date for transfer of assets of the original fund, or of its wholly owned special purpose vehicle, to a resultant fund in case of relocation to 31st March, 2025 from current limitation of 31st March, 2023.

Applicability: The amendment is effective from 1st April 2023, and applies to the assessment year 2023-24 and subsequent assessment years.

5.5 Tax Holiday for IFSC units who have obtained license from RBI before 1st April 2020.

5.5.1 Section 80LA provides specified deduction to an assessee, being a scheduled bank or a foreign bank, on the income earned from its Offshore Banking Unit in the IFSC. The deduction is allowed for one hundred per cent of such income for five consecutive assessment years beginning with the assessment year relevant to the previous year in which the permission, under clause (a) of sub-section (1) of section 23 of the Banking Regulation Act, 1949 or permission or registration under the Securities and Exchange Board of India Act, 1992 or any other relevant law was obtained, and fifty per cent of such income for next five consecutive assessment years.

5.5.2 The Finance (No.2) Act, 2019 inserted sub-section (1A) to section 80LA to provide that where the gross total income of an assessee, being a Unit of an IFSC, includes certain specified income, there shall be allowed, in accordance with and subject to the provisions of the said section, a deduction from such income, of an amount equal to one hundred per cent of such income for any ten consecutive assessment years, at the option of the assessee, out of fifteen years, beginning with the assessment year relevant to the previous year in which the permission, under clause (a) of sub-section (1) of section 23 of the Banking Regulation Act, 1949 or permission or registration under the Securities and Exchange Board of India Act, 1992 or permission or registration under the International Financial Services Centres Authority Act, 2019 was obtained.

5.5.3 In this regard, it was noticed that the units set up in IFSC before 1.4.2020 are eligible for a deduction of only 50% in the year 6-10 of its operations in IFSC. In this regard, representations were received from IFSC to provide a deduction of 100% of its income, to the units set up in IFSC before 1.4.2020 for any assessment year commencing on or after assessment year 2023-24.

5.5.4 Therefore, section 80LA of the Act has been amended in order to provide that a scheduled bank, or, any bank incorporated by or under the laws of a country outside India, and having an Offshore Banking Unit in a Special Economic Zone (including units set up in IFSC) eligible for deduction under sub-section (1) of section 80LA of the Act shall be eligible for 100% deduction from specified

income for any assessment year commencing on or after assessment year 2023-24 which was earlier eligible for a 50% deduction, for the remaining period.

Applicability: This amendment has come into effect from 1st day of April, 2023 and shall accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

5.6 IFSCA (Fund Management) Regulations, 2022 came into force from May 19, 2022. To bring the reference of the said regulation in the provisions of the Act, the definition of "Specified Fund", "Resultant Fund" and "Investment Fund" have been amended in clause (c) of the *Explanation* to clause (4D) of section 10, clause (c) of the *Explanation* to clause (viiad) of section 47, and clause (aa) of the *Explanation* to clause (viib) of subsection (2) of section 56 of the Act to include the reference of IFSCA (Fund Management) Regulations,2022 in the Act.

Applicability: The amendment will take effect from 1st April, 2023 and accordingly apply to assessment year 2023-24 and subsequent assessment years

5.7 Relief for Unit of an IFSC claiming deduction under section 80LA of the Act opting for tonnage tax scheme

5.7.1 Under sub-section (2) of section 115VP of the Act, a qualifying company may opt for the tonnage tax scheme by making an application within three months of the date of its incorporation or the date on which it became a qualifying company, as the case may be.

5.7.2 Representations were received that for a Unit of an IFSC which has availed of deduction under section 80LA of the Act, the time period of three months under sub-section (2) of section 115VP of the Act be calculated from the date on which such deduction under section 80LA of the Act ends. Accordingly, vide FA 2023, a proviso has been inserted in sub-section (2) of section 115VP of the Act so as to provide that a Unit of an IFSC which has availed of deduction under section 80LA of the Act, may make an application to opt for the tonnage tax scheme within three months from the date on which the deduction under section 80LA ends.

Applicability: This amendment has taken effect from 1st April, 2023.

6. Agnipath Scheme, 2022 –

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

6.2. In the Scheme, the Agniveer Corpus Fund is defined as a Fund in which consolidated contributions of all the Agniveers and matching contributions of the Government along with interest on these contributions would be held in their respective accounts. The scheme will be administered and the Fund will be maintained under the aegis of Ministry of Defence (MoD) with the following features–

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

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

6.3. In order to allow deduction from the computation of total income of Agniveer for any contribution made by him or the Central Government to his Agniveer Corpus Fund account and to exempt from tax any payment received by Agniveer or his nominee, from the Agniveer Corpus Fund, the following amendments were made by FA 2023:

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

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

iii. For the purposes of clause (12C) of section 10 and section 80CCH, the 'Agnipath scheme' has been defined as a scheme for the enrolment of Agniveers in Indian Armed Forces introduced by the Central Government, and 'Agniveer Corpus Fund' as a fund in which consolidated contributions of all Agniveers and matching contributions of the Central Government along with interest on both these contributions are held.

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

v. Further, it is also provided that in the new tax regime as per sub-section (1A) of section 115BAC an individual enrolled in the Agnipath Scheme and subscribing to the Agniveer Corpus Fund shall get a deduction of the government contribution to his Seva Nidhi [sub-section(2) of section 80CCH].

Applicability: These amendments take effect from 1st April, 2023 and apply in relation to assessment year 2023-24 and subsequent assessment years.

7. Exemption to development authorities etc.

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

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

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

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

Supreme Court decision in the case of Ahmedabad Urban Development Authority

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

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

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

7.5. In view of the above, FA 2023 has amended the Act so as to exclude income of a body or authority or Board or Trust or Commission, not being a company, from the scope of clause (46) of section 10 of the Act and inserted a new clause (46A) in section 10 of the Act for their income.

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

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

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

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

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

7.7. Further, for the purposes of this clause, the body or authority or Board or Trust or Commission, not being a company, as referred above is also required to be notified by the Central Government in the Official Gazette.

FA 2023 has also made consequential amendments in the *Explanation* to the nineteenth proviso of clause (23C) of section 10 of the Act and in sub-section (7) of section 11 of the Act so as to ensure that the trust or institution does not get exemption under more than one provision.

Applicability: These amendments are effective from 1st April, 2024 and accordingly apply to the assessment year 2024-25 and subsequent assessment years.

8. Rationalisation of exempt income under life insurance policies

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

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

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

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

8.5. In order to curb such misuse, FA 2023 has provided for the taxation of sums received under a life insurance policy (other than ULIP for which provisions already exist) having premium or aggregate of premium above Rs 5,00,000 in a year. This sum shall be taxable under the head "income from other sources". Deduction shall be allowed for premium paid, if such premium has not been claimed as deduction earlier. This provision shall apply for policies issued on or after 1st April, 2023. There is no change in taxation for polices issued before this date. It has also been provided that the sum received on the death of the insured person shall be exempt. Accordingly, the following amendments have been made to the Act:

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

(ii) insertion of a new proviso (seventh proviso) to clause (10D) of section 10 of the Act to provide that if the premium is payable by a person for more than one life insurance policy (other than unit linked insurance policy), issued on or after the 1st April, 2023, the

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

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

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

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

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

Applicability: These amendments are effective from 1st April, 2024 and accordingly apply to the assessment year 2024-25 and subsequent assessment years.

Vide **Circular no. 15/2023 dated 16.08.2023**, the Board has issued guidelines for removal of difficulties, in terms of the ninth proviso to clause (10D) of section 10 of the Act.

Computation mechanism has been prescribed vide **Notification No. 51/2023 dated 18.7.2023 (GSR 519[E])** through which rule 11UACA has been inserted to prescribe the

manner of computation of income chargeable to tax under clause (xiii) of sub-section (2) of section 56 of the Act.

9. Removal of exemption of news agency under clause (22B) of section 10 of the Act

9.1. Prior to the amendments made vide FA 2023, Clause (22B) of section 10 of the Act, *inter-alia*, provided exemption to any income of a notified news agency which is set up in India solely for collection and distribution of news. This was subject to the condition that the news agency applies its income or accumulates it for application solely for collection and distribution of news and does not distribute its income in any manner to its members.

9.2. In accordance with the stated policy of the Government of phasing out of exemptions and deductions under the Act, the exemption available to news agencies under clause (22B) of section 10 of the Act has been withdrawn from the assessment year 2024-25 vide FA 2023.

9.3. In view of above, FA 2023 has inserted fourth proviso to clause (22B) of section 10 of the Act so as to provide that nothing contained in clause (22B) of section 10 of the Act shall apply to any income of the news agency, of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2024.

Applicability : This amendment is effective from 1st April, 2024 and accordingly applies to assessment year 2024-25 and subsequent assessment years

10. Inclusion of reference of clause (23EC) and clause (46A) of section 10 in section 11(7) of the Act

10.1. Sub-section (7) of section 11 of the Act provides that registration u/s 12AA or 12AB shall become inoperative, if the trust or institution is approved under clause (23C) or (46) of section 10. Such trust or institution has one time option to come back to section 12AA or 12AB regime. Thus, at any particular time, such trust or institution has option to claim the benefit of only one of these provisions. FA 2023 has provided reference to clause (46A) of section 10 in section 11(7) of the Act.

10.2. In addition to the above, in order to allow the investor protection funds set up by the commodity exchanges in India, which are registered under section 12AB of the Act, to apply for notification under clause (23EC) of section 10, FA 2023 has

amended sub-section (7) of section 11 of the Act so as to include the reference of clause (23EC) of section 10 in the said sub-section.

Applicability: This amendment is effective from 1st April, 2024 and applies to the assessment year 2024-25 and subsequent assessment years.

11. Extending exemption under clause (26AAA) of section 10 of the Act to an Indian citizen, domiciled in Sikkim on or before 26th April, 1975

11.1. Clause (26AAA) of section 10 of the Act provides exemption to any income of a "Sikkimese" from any source in Sikkim as well as exemption to any dividend income and interest on securities. Prior to amendment by the FA 2023, the said clause (26AAA) provided that in case of an individual, being a Sikkimese, any income which accrues or arises to him from any source in the State of Sikkim; or by way of dividend or interest on securities, would be exempt.

Further, this exemption would not be applicable to a Sikkimese woman who, on or after 1st April, 2008, married an individual who is not a Sikkimese.

For this purposes, "Sikkimese" meant:

(i) an individual, whose name is recorded in the register maintained under the Sikkim Subjects Regulation, 1961 read with the Sikkim Subject Rules, 1961 (referred to as the "Register of Sikkim Subjects"), immediately before the 26th day of April, 1975; or

(ii) an individual, whose name is included in the Register of Sikkim Subjects by virtue of the Government of India Order No. 26030/36/90-I.C.I., dated the 7th August, 1990 and Order of even number dated the 8th April, 1991; or

(iii) any other individual, whose name does not appear in the Register of Sikkim Subjects, but it is established beyond doubt that the name of such individual's father or husband or paternal grand-father or brother from the same father has been recorded in that register.

11.2. In Writ Petition (C) No. 59 of 2013, the Association of Old Settlers of Sikkim & Ors. Vs. Union of India & Others, the constitutional validity of clause (26AAA) of section 10 of the Act was challenged contending that it violated Article 14, 15 and 21 of the Indian Constitution. The Hon'ble Supreme Court decided the above Writ

Petition, directing that the said clause be amended so as to extend the tax exemption to all Indian citizens domiciled in Sikkim on or before 26th April, 1975 with retrospective effect.

11.3. In order to implement the above decision of the Hon'ble Supreme Court, FA 2023 has amended clause (26AAA) of section 10 of the Act. The amended clause (26AAA) of section 10 of the Act now provides that in case of an individual, being a Sikkimese, any income which accrues or arises to him—

(a) from any source in the State of Sikkim; or

(b) by way of dividend or interest on securities.

For this purposes, "Sikkimese" meant:

(i) an individual, whose name is recorded in the register maintained under the Sikkim Subjects Regulation, 1961 read with the Sikkim Subject Rules, 1961 (referred to as the "Register of Sikkim Subjects"), immediately before the 26th day of April, 1975; or

(ii) an individual, whose name is included in the Register of Sikkim Subjects by virtue of the Government of India Order No. 26030/36/90-I.C.I., dated the 7th August, 1990 and Order of even number dated the 8th April, 1991; or

(iii) any other individual, whose name does not appear in the Register of Sikkim Subjects, but it is established beyond doubt that the name of such individual's father or husband or paternal grand-father or brother from the same father has been recorded in that register; or

(iv) any other individual, whose name does not appear in the Register of Sikkim Subjects but it is established that such individual was domiciled in Sikkim on or before the 26th day of April, 1975; or

(v) any other individual, who was not domiciled in Sikkim on or before the 26th day of April, 1975, but it is established beyond doubt that such individual's father or husband or paternal grand-father or brother from the same father was domiciled in Sikkim on or before the 26th day of April, 1975.

11.4. The term "Sikkimese" defined for the purposes of the clause (26AAA) of section 10, is only for the purposes of the Income-tax Act, 1961, and not for any other purpose.

Applicability: This amendment is effective from 1st April, 1990 and applies to assessment year 1990-91 and subsequent assessment years.

12. Providing exemption to any income of National Credit Guarantee Trustee Company Limited (NCGTC), subsidiaries of NCGTC and Credit Guarantee Fund Trust for Micro and Small Enterprises

12.1. National Credit Guarantee Trustee Company Ltd (NCGTC) is a company incorporated under the Companies Act, 1956 established by the Department of Financial Services, as a wholly financed company of the Government of India, to act as a common trustee company for multiple credit guarantee funds. It shares the lending risk of the lenders and in turn, facilitates access to finance for the prospective borrower as part of a larger financial inclusion programme of the government covering different cross-sections and segments of the economy like students, micro entrepreneurs, women entrepreneurs, SMEs, skill and vocational training needs, etc.

12.2. Presently, there are ten dedicated credit guarantee Trusts under the Management of NCGTC viz. Credit Guarantee Fund Scheme for Educational Loans (CGFEL), Credit Guarantee Fund Scheme for Skill Development (CGFSD), Credit Guarantee Fund Scheme for Factoring (CGFF), Credit Guarantee Fund for Micro Units (CGFMU) and Credit Guarantee Fund for Stand Up India (CGFSI), Emergency Credit Line Guarantee Scheme (ECLGS), Credit Guarantee Scheme for MFIs (CGSMFI), Loan Guarantee Scheme for COVID Affected Sectors (LGSCAS) and Loan Guarantee Scheme for COVID Affected Tourism Service Sector.

12.3. Further, Credit Guarantee Fund Trust for Micro and Small Enterprises has been set up by the Ministry of Small and Medium Enterprises in collaboration with Small Industries Development Bank of India (SIDBI) to provide collateral and bank guarantees to Small and Medium Enterprises (SMEs).

12.4. Prior to the amendments made vide FA 2023 while the corpus contribution to these trusts by the Central Government was exempt from tax under sub-clause (xviii)

of clause (24) of section 2 of the Act, however such trust funds had to pay tax on the income earned from investment of the corpus and guarantee fees earned.

12.5. In view of the above, FA 2023 has inserted a new sub-clause (46B) in section 10 of the Act to provide exemption to income of-

(a) National Credit Guarantee Trustee Company Limited, being a company established and wholly financed by the Central Government for the purposes of operating credit guarantee funds established and wholly financed by the Central Government; or;

(b) a credit guarantee fund established and wholly financed by the Central Government and managed by the National Credit Guarantee Trustee Company Limited; or

(c) Credit Guarantee Fund Trust for Micro and Small Enterprises, being a trust created by the Government of India and the SIDBI established under sub-section (1) of section 3 of the SIDBI Act, 1989 (39 of 1989).

Applicability: This amendment is effective from 1st April, 2024 and applies to the assessment year 2024-25 and subsequent assessment years.

13. Omission of certain redundant provisions of Section 10 of the Act

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

13.2. Hence, Finance Act 2023 has omitted clauses (23BBF), (23EB), (26A), (41) and (49) of section 10 of the Act.

Applicability: This amendment has taken effect from 1st April, 2023.

14. Specifying time limit for bringing consideration against export proceeds into India

14.1. Prior to FA 2023, the provisions of the section 10AA of the Act, *inter-alia*, provided 15-year tax benefit to a unit established in a SEZ which begins to manufacture or produce articles or things or provide any services on or after 01.04.2005. The deduction is available for units that begin operations before 01.04.2020, which has been extended to 30.09.2020 through the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 and is

allowed in the specified manner therein.

14.2. However, the said section did not provide for the condition to file return before due date provided under sub-section (1) of section 139 of the Act for claiming deduction as is provided for similar other deductions. Section 143(1) of the Act, however, provided that the deduction under section 10AA shall be eligible if such return is filed before the due date. Hence, FA 2023 has aligned the two provisions by inserting a proviso to sub-section (1) of section 10AA of the Act to provide that no deduction under the said section shall be allowed to an assessee who does not furnish a return of income on or before the due date specified under sub-section (1) of section 139.

14.3. Further, it was observed that there was no time limit prescribed in the Act for timely remittance of the export proceeds from sale of goods or provision of services by SEZ Units for claiming deduction under the said section as is provided under other similar export related deductions in the Act. Hence, FA 2023 has inserted a new sub-section (4A) to provide that the deduction under section 10AA of the Act shall be available for such unit, if the proceeds from sale of goods or provision of services is received in, or brought into India by the assessee in convertible foreign exchange, within a period of six months from the end of the previous year or, within such further period as the competent authority may allow in this behalf.

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

14.5. Also, FA 2023 has provided that the export proceeds from sale of goods or provision of services shall be deemed to have been received in India where such proceeds from sale of goods or provision of services are credited to a separate account maintained for the purpose by the assessee with any bank outside India with the approval of the Reserve Bank of India.

14.6. Further, FA 2023 has substituted clause (i) of *Explanation* 1 of section 10AA to define the term "convertible foreign exchange" and give reference to new sub section (4A) in the definition of "Export Turnover" in clause (ia) of the said

Explanation.

14.7. Further, FA 2023 has made consequential amendment in sub-section (11A) of section 155 of the Act to insert section 10AA to allow the Assessing Officer to amend the assessment order later where the export earning is realized in India after the permitted period.

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

15. Rationalisation of the provisions of Charitable Trust and Institutions

15.1. Background

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

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

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

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

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

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

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

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

c) Application out of corpus shall not be considered as application for charitable or religious purposes for the purposes of third proviso of clause (23C) of section 10 of the Act and clauses (a) and (b) of section 11 of the Act. However, when it is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) of section 11 of the Act maintained specifically for such corpus, from the income of the previous year, such amount shall be allowed as application in the previous year in which it is deposited back to corpus to the extent of such deposit or investment.

d) Application from loans and borrowings shall not be considered as application for charitable or religious purposes for the purposes of third proviso of clause (23C) of section 10 of the Act and clauses (a) and (b) of section 11 of the Act. However, when loan or borrowing is repaid from the income of the previous year, such repayment shall be allowed as application in the previous year in which it is repaid to the extent of such repayment.

15.2.2. While implementing the recent changes vide the Finance Act, 2021 to the provisions related to corpus and loan or borrowing, it was noticed that

application from corpus or loan or borrowings have already been claimed as application prior to 01.04.2021. Hence, allowing such amount to be application again as investment or depositing back in corpus or repayment of loan or borrowing will amount to double deduction.

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

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

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

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

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

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

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

(vi) Application should not directly or indirectly benefit any person referred to in sub-section (3) of section 13 of the Act and the income of the trust or institution should not enure any benefit to such person [twenty-first proviso to clause (23C) of section 10 of the Act for the trust or institution under first regime and clause (c) of sub-section (1) of section 13 of the Act for the trust or institution under second regime];

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

15.2.5. In order to ensure proper implementation of both the exemption regimes, FA 2023, has provided that application out of corpus or loans or borrowings before 01.04.2021 shall not be allowed as application for charitable or religious purposes when such amount is deposited back or invested in to corpus or when the loan or borrowing is repaid. It has further been provided that if the trust or institution invests or deposits back the amount in to corpus or repays the loan within 5 years of application from the corpus or loan, then such investment/depositing back in to corpus or repayment of loan will be allowed as application for charitable or religious purposes. It is also provided that where the application from corpus or loan did not satisfy the conditions as stated in paragraph 15.2.4, the repayment of loan or investment/depositing back in to corpus of such amount will not be treated as application.

15.2.6. In view of the above, FA 2023 has made the following amendments:

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

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

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

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

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

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

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

(viii) inserted a third proviso to clause (i) of *Explanation* 4 to sub-section (1) of section 11 of the Act so as to provide that the amount invested or deposited back shall not be treated as application for charitable or religious purposes under the first proviso unless such investment or deposit is made within a period of five years from the end of the previous year in which such application was made from corpus;

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

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

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

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

Applicability: These amendments are effective from 1st April, 2023 and accordingly apply to the assessment year 2023-24 and subsequent assessment years.

15.3. Treatment of donation to other trusts:

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

a) at least 85% of income of the trust or institution should be applied during the year for the charitable or religious purposes to ensure bare minimum application for non-charitable or non-religious purposes.

b) Trusts or institutions are allowed to apply mandatory 85% of their income either themselves or by making donations to the trusts with similar objectives.

c) If donated to other trusts or institutions, the donation should not be towards corpus to ensure that the donations are applied by the donee trust or institutions.

d) Thus, every trust or institution under both the regimes is allowed to accumulate 15% of its income each year.

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

15.3.3. In order to ensure intended application toward charitable or religious purpose, FA 2023 has provided that only 85% of the eligible donations made by a trust or institution under the first or the second regime to another trust under the first or second regime shall be treated as application only to the extent of 85% of such donation. Accordingly, FA 2023 has made the following amendments:

a) inserted clause (iii) in *Explanation* 2 to the third proviso of clause (23C) of section 10 of the Act to provide that any amount credited or paid out of income of any fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Act, other than the amount referred to in the twelfth proviso, to any other fund or trust or institution or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 of the Act or trust or institution registered under section 12AB of the Act, as the case may be, shall be treated as application for

charitable or religious purposes only to the extent of eighty-five per cent of such amount credited or paid;

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

Applicability : These amendments are effective from 1st April, 2024 and accordingly apply in relation to the assessment year 2024-25 and subsequent assessment years

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

15.4.1. Prior to the amendments made vide FA 2023, there were roll back provisions for the trust or institutions under the second regime. Sub- section (2) of section 12A of the Act provides that where an application for registration under section 12AB of the Act has been made, the exemption shall be available with respect to the assessment year relevant to the financial year in which the application is made and subsequent assessment years.1

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

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

assessment year only for non- registration of such trust or institution for the said assessment year.

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

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

15.4.6. With a view to rationalise the provisions, FA, 2023 has omitted the second, third and fourth proviso to sub-section (2) of section 12A of the Act.

Applicability : These amendments are effective from 1st April, 2023.

15.5. Combining provisional and regular registration in some cases

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

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

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

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

15.5.2. It has also been brought to the notice that trusts and institutions under both the regimes were facing the following difficulties:

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

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

15.5.3. In order to ensure rationalisation of the provisions, FA 2023 has allowed for direct final registration/approval in such cases. To achieve this, FA 2023 has made the following amendments:

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

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

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

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

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

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

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

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

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

Applicability : These amendments are effective from 1st October, 2023.

Vide **Notification No. 45/2023 dated 23.6.2023 (GSR 457[E])** , amendments have been made in rules 2C, 11AA and 17A of the Rules effective from 01.10.2023. Consequential amendments have also been made in Form No. 10A and Form No. 10AB.

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

15.6.1. Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 amended the provisions related to application for registration by amending the first and second proviso to clause (23C) of section 10 of the Act, and clause (ac) of sub-section(1) of section 12A of the Act. Now the new trusts are required to apply for the provisional registration/approval which is valid for a period of 3 years or till six months from the commencement of activities whichever is earlier. The trusts and institutions under both regimes, already registered or approved, were required to furnish the application in Form No. 10A for re-registration/approval. The process of granting the provisional approval/ registration for the new trusts and re-registration/approval for the trusts already registered is automated. Application is filed by the trust or institution on e-filing portal and provisional approval/registration or the approval/registration in such cases is granted in an automated manner without verification.

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

15.6.3. In order to rationalise the provisions, FA 2023 has made the following amendments,

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

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

Applicability: These amendments are effective from 1st April, 2023.

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

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

a) All the existing trusts and institutions under the first and second regime were required to apply for re-registration/approval on or before the specified due date.

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

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

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

15.7.2. Instances were noticed where certain trusts and institutions under the first and second regime did not apply for the regular registration after taking the provisional registration. Further some trusts and institutions under the first and second regime did not apply for the re-registration/approval. Further, there may be possible instances where the trusts and institutions under the first or second regime will not apply for re-registration after the expiry of 5 years/3 years. This would have resulted in the following unintended consequences:

a) Once a trust or institution under the first or second regime enters in-to exemption regime and thereafter desires to exit from it, it is allowed to exit on payment of tax at the rate of maximum marginal rate on its accreted income

(difference between the fair market value of assets and liabilities). This is because of the reason that the income of the trust or institution has been exempted from tax and the accreted income of the trust represents the income on which tax has not been paid and appreciation thereof.

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

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

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

15.7.5. The main elements of these provisions are:

(i) The accretion in income (accreted income) of the trust or institution is taxable on conversion of trust or institution into a form not eligible for registration under section 12AA or section 12AB of the Act or on merger into an entity not having similar objects and registered under Section 12AA or section 12AB of the Act or on non-distribution of assets on dissolution to any charitable institution registered under section 12AA of the Act or approved under clause (23C) of section 10 of the Act within a period of twelve months from the end of the month of dissolution.

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

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

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

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

15.7.7. FA 2023 has made the following amendments to the provisions of section 115TD of the Act:-

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

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

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

Applicability: These amendments are effective from 1st April, 2023 and accordingly apply to the assessment year 2023-24 and subsequent assessment years.

15.8. Alignment of the time limit for furnishing the form for accumulation of income and tax audit report

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

15.8.2. *Explanation* 3 to the third proviso of clause (23C) of the section 10 of the Act provides that where the trust or institution under the first regime accumulates or sets apart its income, such trust or institution is required to furnish a statement in the prescribed form (Form No. 10) on or before the due date specified under sub-section (1) of section 139 of the Act for furnishing the return of income for the previous year.

15.8.3. Clause (c) of sub-section (2) of section 11 of the Act provides that where the trust or institution under the second regime accumulates or sets apart its income, such trust or institution is required to furnish a statement in the prescribed form (Form No. 10) on or before the due date specified under sub-section (1) of section 139 of the Act for furnishing the return of income for the previous year.

15.8.4. Clause (2) of *Explanation* 1 to sub-section (1) of section 11 of the Act provides that where the trust or institution under the second regime deems certain income to be applied, such trust or institution is required to furnish a statement in the prescribed form (Form No. 9A) on or before the due date specified under sub-section (1) of section 139 of the Act for furnishing the return of income for the previous year.

15.8.5. The due date for furnishing Form No. 9A and Form No. 10 is same as the due date of furnishing the return of income. The trusts are also required to furnish audit report in Form No. 10B/10BB one month before the due date for furnishing return of income. The auditors are required to report the details of Form No. 9A/10 in the audit report. Since the due date for furnishing Form No. 10B/10BB

is one month before the due date of furnishing the ITR, auditors find it difficult to report.

15.8.6. In order to rationalise the provisions, FA 2023 has provided for filing of Form No. 10/9A at least two months prior to the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year. Necessary amendments in this regard have been made in,

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

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

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

Applicability: These amendments are effective from 1st April, 2023 and accordingly apply to the assessment year 2023-24 and subsequent assessment years.

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

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

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

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

c. The above amendment had resulted in unintended consequences of allowing exemption under section 11, 12 of the Act and sub-clause (iv)/(v)/(vi)/(via) of clause (23C) of section 10 of the Act to the trusts/institutions where they furnish updated return of income. Accordingly, FA 2023 has clarified that the exemption under

section 11, 12 and sub-clause (iv)/(v)/(vi)/(via) of clause (23C) of section 10 of the Act shall be available only if the return of income has been furnished within the time allowed under sub-section (1) or sub- section (4) of section 139 of the Act.

d. Hence, FA 2023 has,

a) amended the twentieth proviso of clause (23C) section 10 of the Act to provide that the fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) is required to furnish the return of income for the previous year in accordance with the provisions of sub-section (4C) of section 139 of the Act, within the time allowed under sub-section (1) or sub-section (4) of that section.

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

Applicability: These amendments are effective from 1st April, 2023 and accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

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

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

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

16.3. In order to rationalize this provision by prescribing a uniform methodology in

the Rules for computing the value of perquisite and to clearly classify the two categories of perquisites with respect to accommodation provided by the employers, FA 2023 has amended sub-clauses (i) and (ii) of clause (2) of section 17 of the Act. The method for computation of the value of rent-free accommodation provided to the assessee by his employer and the value of any accommodation provided to the assessee by his employer at a concessional rate has been provided to be prescribed by way of rules.

16.4. Accordingly,—

(i) FA 2023 has amended the *Explanation* 1 to sub-clause (ii) of clause (2) of section 17 of the Act to provide that accommodation shall be deemed to have been provided at a concessional rate if the value of the accommodation computed in the prescribed manner exceeds the rent recoverable from, or payable by, the assessee.

(ii) FA 2023 has deleted the *Explanation* 2, *Explanation* 3 and *Explanation* 4 of sub-clause (ii) of clause(2) of section 17 of the Act to rationalize the section and specify the method of computation for the value the accommodation provided to employee by his employer through Rules.

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

16.5. Vide **Notification No. 65/2023 dated 18.8.2023 GSR 615(E)**, effective from 01.09.2023, the methodology for computing the value of perquisites for the purpose of sub-clause (i) and (ii) of sub-section (2) of section 17 of the Income-tax Act has been prescribed.

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

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

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

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

17.4. In order to prevent this double deduction, FA 2023 has inserted a proviso after clause (ii) of the section 48 to provide that the cost of acquisition or the cost of improvement shall not include the amount of interest claimed under clause (b) of section 24 or Chapter VIA.

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

18. Providing clarity on benefits and perquisites in cash

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

18.2 In order to align the provision with the intention of legislature, vide FA 2023, clause (iv) of section 28 of the Act was amended to clarify that provisions of said clause

also applies to cases where benefit or perquisite provided is either in cash or in kind or partly in cash and partly in kind.

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

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

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

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

18.6 Sub-section (2) provides for issuance of guidelines by CBDT (with the approval of the Central Government) for the purpose of removing difficulties. Accordingly Circular No 12 dated 16th June, 2022 was issued. This circular, *inter-alia*, provides that tax under section 194R is required to be deducted whether the benefit or perquisite is in cash or in kind. Accordingly, vide FA 2023 it has been clarified by way of insertion of an *Explanation* to section 194R of the Act that provisions of sub-section (1) apply to benefit or perquisite whether in cash or in kind or partly in cash and partly in kind.

Applicability: This amendment has taken effect from 1st April, 2023.

19. Ease in claiming deduction on amortization of preliminary expenditure

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

19.2 Prior to FA 2023, the section *inter-alia* provided that the work in connection with the preparation of feasibility report or the project report or the conducting of market survey or of any other survey or the engineering services would need to be carried out either by the assessee himself or by a concern which is approved by the CBDT.

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

Applicability: This amendment will be effective from 1st April, 2024 and accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

19.4 Vide **Notification No. 54/2023 dated 1.8.2023 (G.S.R. 579[E])** issued by the Central Board of Direct Taxes, a new rule 6ABBB has been inserted in the Rules and new Form No. 3AF has been notified to capture the details of preliminary expenses incurred which are required to be furnished under proviso to clause (a) of sub-section (2) of section 35D of the Act. Further, Form No. 3AE (Audit report under section 35D(4)/35E(6)) has also been modified to capture details of whether Form No. 3AF has been filed or not.

20. Non-Banking Financial Company (NBFC) categorization

20.1 Section 43B of the Act provided, *inter-alia*, that any sum payable by the assessee as interest on any loan or borrowing from a deposit taking non-banking financial company and systemically important non-deposit taking non-banking financial company shall be allowed as deduction on payment basis. It can be allowed on

accrual basis if it is actually paid on or before the due date of furnishing the return of income of the relevant previous year.

20.2 Section 43D of the Act provided, *inter-alia*, for special provision in case of income of deposit-taking non-banking financial company and systemically important non-deposit taking non-banking financial company. Interest income in relation to certain categories of bad or doubtful debts received by such entities, shall be chargeable to tax in the previous year in which it is credited to its profit and loss account for that year or actually received, whichever is earlier.

20.3 Prior to FA 2023, Section 43B and section 43D of the Act used two erstwhile categories of NBFC namely, deposit taking non-banking financial company and systemically important non-deposit taking non-banking financial company. Such classification for non-banking financial companies is no longer followed by the Reserve Bank of India for the purposes of asset classification.

20.4 In view of the above, vide FA 2023, section 43B and section 43D of the Act were amended, to substitute for the words, "a deposit taking non-banking financial company or systemically important non-deposit taking non-banking financial company", the words "such class of non-banking financial companies as may be notified by the Central Government in the Official Gazette in this behalf".

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

20.5 Vide **Notification No. 80/2023 dated 22.9.2023 (S.O. 4193[E])** , certain classes of NBFCs have been notified for section 43B and vide **Notification No. 79/2023 dated 22.9.2023 (S.O. 4192 [E]),** certain classes of NBFCs have been notified for section 43D. By these Notifications the following classes of NBFCs have been notified, namely:–

(a) all NBFCs classified in the Top Layer;

(b) all NBFCs classified in the Upper Layer;

(c) all NBFCs classified in the Middle Layer.

It has also been clarified that this classification of NBFCs in the Top Layer, Upper Layer and Middle Layer shall be according to the Reserve Bank of India's guidelines contained in Circular DOR.CRE.REC.No.60/03.10.001/2021-22 dated October 22, 2021.

21. Promoting timely payments to Micro and Small Enterprises

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

21.2 In order to promote timely payments to micro and small enterprises, payments made to such enterprises have been included within the ambit of section 43B of the Act vide FA 2023. A new clause (h) has been inserted in section 43B of the Act to provide that any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development (MSMED) Act 2006 shall be allowed as deduction only on actual payment. However, it has also been provided that the proviso to section 43B of the Act shall not apply to such payments.

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

Applicability: This amendment takes effect from 1st April, 2024 and will accordingly apply in relation to the assessment year 2024-25 and subsequent assessment years.

22. Increasing threshold limits for presumptive taxation schemes

22.1 The provisions of Section 44AD of the Act, *inter-alia*, provide for a presumptive income scheme for small businesses. Prior to FA 2023, this scheme applied to certain resident assessees (i.e., an individual, HUF or a partnership firm other than LLP) carrying on eligible business and having a turnover or gross receipt of two crore rupees or less. Under this scheme, a sum equal to 8% or 6% of the turnover or gross receipts is deemed to be the profits and gains from business subject to certain

conditions. If assessee has claimed to have earned higher sum than 8% or 6%, then that higher sum is taxable.

22.2 Section 44ADA of the Act provides for a presumptive income scheme for small professionals. Prior to FA 2023, this scheme applied to certain resident assessees (i.e., an individual, partnership firm other than LLP) who are engaged in any profession referred to in subsection (1) of section 44AA, and whose total gross receipts do not exceed fifty lakh rupees in a previous year. Under this scheme, a sum equal to 50% of the gross receipts is deemed to be the profits and gains from business. If assessee has claimed to have earned a sum higher than 50%, then that higher sum is taxable.

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

22.4 Representations were received for increasing the thresholds for eligibility for availing benefit of the presumptive schemes for eligible business and professions in order to benefit more persons in the small and medium segment. Hence, vide FA 2023, the threshold limits for presumptive scheme in section 44AD and section 44ADA of the Act have been increased on fulfilment of certain conditions as follows:–

- under section 44AD of the Act, for eligible business, where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total turnover or gross receipts, a threshold limit of three crore rupees will apply.

- under section 44ADA of the Act, for professions referred to in sub-section (1) of section 44AA of the Act, where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total gross receipts, a threshold limit of seventy-five lakh rupees will apply.

- the receipt by a cheque drawn on a bank or by a bank draft, which is not account payee, shall be deemed to be the receipt in cash.

- provision of section 44AB of the Act shall not apply to the person, who declares profits and gains for the previous year in accordance with the provisions of sub-section (1) of section 44AD of the Act or sub-section (1) of section 44ADA of the Act, as the case may be.

Applicability: These amendments take effect from 1st April, 2024 and accordingly apply in relation to the assessment year 2024-2025 and subsequent assessment years.

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

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

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

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

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

23.5 To avoid such misuse, vide FA 2023 a new sub-section to section 44BB and to section 44BBB of the Act has been inserted to provide that notwithstanding anything contained in sub-section (2) of section 32 and sub-section (1) of section 72, where an assessee declares profits and gains of business for any previous year in accordance with the provisions of presumptive taxation, no set off of unabsorbed depreciation and brought forward loss shall be allowed to the assessee for such previous year.

Applicability: These amendments take effect from 1st April, 2024 and accordingly apply in relation to the assessment year 2024-2025 and subsequent assessment years.

24. Conversion of Gold to Electronic Gold Receipt and vice versa

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

24.2 In order to promote the concept of Electronic Gold, FA 2023 has excluded the conversion of physical form of gold into EGR and vice versa by a SEBI registered Vault Manager from the purview of ‘transfer’ for the purposes of Capital gains.

24.3 Furthermore, the cost of acquisition of the EGR for the purpose of computing capital gains shall be deemed to be the cost of gold in the hands of the person in whose name Electronic Gold Receipt is issued, and the holding period for the

purpose of capital gains, would include the period for which gold was held by the assessee prior to its conversion into EGR.

24.4 For the above changes, FA 2023 has made the following amendments

i. Clause (viid) has been inserted in Section 47 of the Act providing that any transfer of a capital asset, being physical gold to the Electronic Gold Receipt issued by a Vault Manager or such Electronic Gold Receipt to physical gold shall not be considered as 'transfer'.

ii. For the purposes of this clause, the expressions 'Electronic Gold Receipt' and 'Vault Manager' shall have the meanings respectively assigned to them in clauses (h) and (l) of sub-regulation (1) of regulation 2 of Securities and Exchange Board of India (Vault Managers) Regulations, 2021.

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

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

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

25. Alignment of provisions of section 45(5A) with the tax deducted at source provisions of section 194-IC

25.1. Prior to FA, 2023, the provisions of sub-section (5A) of section 45 of the Act, *inter-alia*, provided that on the capital gain arising to an assessee (individual and HUF), from the transfer of a capital asset, being land or building or both, under a Joint Development agreement (JDA),the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority. Further, for computing the capital gains amount on this transaction, the full value of consideration shall be taken as the stamp duty value of his share, as increased by the consideration received in 'cash'.

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

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

26. Definition of 'original fund' for the purposes of exemption under section 47

26.1 Clause (viiac) of section 47 of the Act exempts any transfer, in a relocation, of a capital asset by the original fund to the resulting fund, while clause (viiad) of section 47 of the Act exempts any transfer by a shareholder or unit holder or interest holder, in a relocation, of a capital asset being a share or unit or interest held by him in the original fund in consideration for the share or unit or interest in

the resultant fund.

26.2 Prior to the amendment by the FA 2023, for the purposes of these clauses, clause (a) of the *Explanation* to clause (viiac) and (viiad) of section 47 of the Act defined an 'original fund' as a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions, namely:—

(a) the fund is not a person resident in India;

(b) the fund is a resident of a country or a specified territory with which an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A has been entered into; or is established or incorporated or registered in a country or a specified territory notified by the Central Government in this behalf;

(c) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident; and

(d) fulfils such other conditions as prescribed

26.3 Abu Dhabi Investment Authority (ADIA) is intending to relocate to the IFSC, investment vehicles, in which ADIA is the direct or indirect sole shareholder or unit holder or beneficiary or interest holder and such investment vehicle is wholly owned and controlled, directly or indirectly, by the Abu Dhabi Investment Authority or the Government of Abu Dhabi.

26.4 In view of the above, Finance Act 2023 has amended clause (a) of the *Explanation* to clause (viiac) and clause (viiad) of section 47 of the Act to provide that the definition of original fund shall also include-

(i) an investment vehicle, in which Abu Dhabi Investment Authority is the direct or indirect sole shareholder or unit holder or beneficiary or interest holder and such investment vehicle is wholly owned and controlled, directly or indirectly, by the Abu Dhabi Investment Authority or the Government of Abu Dhabi, or

(ii) fund notified by the Central Government in the Official Gazette in this behalf subject to such conditions as may be specified;

Applicability: These amendments have come into effect from 1st April, 2023 and shall apply to the assessment year 2023-24 and subsequent assessment years.

27. Transfer of a capital asset, being interest in a joint venture in exchange of shares of a company, incorporated outside India by foreign government, in accordance with the laws of a foreign state

27.1 Finance Act 2023 has inserted a new clause (xx) after clause (xix) of section 47 of the Act, to provide that any transfer of a capital asset, therein, being interest in a joint venture as notified by the Board, held by a public sector company, in exchange of shares of a company, incorporated outside India by a foreign government, in accordance with the laws of that foreign state shall not be considered as a transfer.

27.2 Further, Finance Act 2023 has inserted a new sub-section (2AI) after sub-section (2AH) of section 49 of the Act, to provide that where the capital asset, being shares as referred to in clause (xx) of section 47, became the property of the assessee, the cost of acquisition of such asset shall be deemed to be the cost of acquisition to it of the interest in the joint venture referred to in the said clause.

Applicability: This amendment has come into effect from 1st April, 2023 and shall accordingly apply in relation to the assessment year 2023-24 and subsequent assessment years.

28. Special provision for taxation of capital gains in case of Market Linked Debentures and certain Specified Mutual Funds

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

28.2 'Market Linked Debentures' are listed securities. Long term capital gains arising therefrom were being taxed at the rate of 10% without indexation. However, these securities are in the nature of derivatives which are normally taxed at applicable rates. Further, they give variable interests as they are linked with the performance of the market.

28.3 On similar lines, it has been observed that there are various Mutual Funds schemes of SEBI which are classified as Equity Oriented Scheme, Debt Oriented Scheme and Balanced Funds. Out of them, the Balanced Funds are kind of hybrid funds that involve investment both in equities and fixed income securities. These funds have a higher investment in debt instruments. These funds are also affected because of fluctuations in share prices in the stock markets, however, the value of such funds is likely to be less volatile compared to pure equity funds and therefore have stable flow of income through interest and involve lesser risk.

28.4 In order to tax the capital gains arising from the transfer or redemption or maturity of these securities as short-term capital gains at the applicable rates, FA 2023 has inserted a new section 50AA in the Act to treat the full value of the consideration received or accruing as a result of the transfer or redemption or maturity of "Market Linked Debentures" or a unit of a "Specified Mutual Fund" acquired on or after the 1st day of April 2023, as reduced by the cost of acquisition of the debenture or unit and the expenditure incurred wholly or exclusively in connection with transfer or redemption, as capital gains arising from the transfer of a short term capital asset.

28.5 Further, FA 2023 has defined the 'Market linked Debenture' as a security by whatever name called, which has an underlying principal component in the form of a debt security and where the returns are linked to market returns on other underlying securities or indices and include any securities classified or regulated as a Market Linked Debenture by Securities and Exchange Board of India. The term "Specified Mutual Fund" has also been defined to mean a Mutual Fund by whatever name called, where not more than thirty five per cent of its total proceeds is invested in the equity shares of domestic companies. It is further provided that the percentage of equity shareholding held in respect of the fund shall be computed with reference to the annual average of the daily closing figures.

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

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

29.1. Prior to the FA, 2023, the provisions of section 54 and section 54F of the Act allowed deduction on the Capital gains arising from the transfer of long-term capital asset if an assessee, within a period of one year before or two years after the date on which the transfer took place purchased any residential property in India, or within a period of three years after that date constructed any residential property in India. For section 54 of the Act, the deduction was available on the long-term capital gain arising from transfer of a residential house if the capital gain is reinvested in a residential house. In section 54F of the Act, the deduction is available on the long term capital gain arising from transfer of any long term capital asset except a residential house, if the net consideration was reinvested in a residential house. These deductions are available subject to certain conditions specified in these sections.

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

29.3. In line with the Government's policy of limiting deductions, FA 2023 has imposed a limit on the maximum deduction that can be claimed by the assessee under section 54 and 54F of the Act. It has been provided that if the cost of the new asset purchased is more than rupees ten crore, the amount exceeding rupees ten crore shall not be taken into account for computing deduction under the said sections.

29.4. Consequentially, the provisions of sub-section (2) of section 54 and sub-section (4) of section 54F that deals with the deposit in the Capital Gains Account Scheme have also been amended. FA 2023 has inserted a proviso to provide that the provisions of sub-section (2) of section 54 and sub-section (4) of section 54F, for the purpose of deposit in the Capital Gains Account Scheme, shall apply only to capital gains or net consideration, as the case may be, up to rupees 10 Crores

Applicability: These amendments will take effect from 1st April, 2024 and shall

accordingly, apply in relation to the assessment year 2024-25 and subsequent assessment years.

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

30.1. Prior to FA, 2023, the provisions of the section 55 of the Act, *inter-alia*, defined the 'cost of any improvement' and 'cost of acquisition' for the purposes of computing capital gains. However, there were certain assets like intangible assets or any sort of right for which no consideration has been paid for acquisition. The cost of acquisition of such assets was not clearly defined as 'nil' in the present provision. This led to many legal disputes and the courts have held that for taxability under capital gains there has to be a definite cost of acquisition or it should be deemed to be nil under the Act. Since there was no specific provision which states that the cost of such assets is nil, the chargeability of capital gains from transfer of such assets had not found favour with the Courts.

30.2. Therefore, to define the term 'cost of acquisition' and 'cost of improvement' of such assets, FA 2023 has amended the provisions of sub-clause (1) of the clause (b) of the sub-section (1) to provide that the cost of improvement of an intangible asset or any other right shall be taken to be nil. Also clause (a) of sub-section (2) of section 55 has been amended to provide that the 'cost of acquisition' of a capital asset being any intangible asset or any other right shall be 'Nil' where it falls in sub-clause (iii) of clause (a) of sub-section (2) of section 55 of the Act..

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

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

31.1. Prior to FA, 2023, section 56(2)(viib) of the Act, *inter-alia*, provided that where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be chargeable to income-tax under the head 'Income from other

sources'. Rule 11UA of the Rules provides the formula for computation of the fair market value of unquoted equity shares for the purposes of the Section 56(2) (viib) of the Act.

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

31.3. Accordingly, FA 2023 has included the consideration received from a non-resident also under the ambit of clause (viib) by removing the phrase 'being a resident' from the said clause. This will make the provision applicable for receipt of consideration for issue of shares from any person irrespective of his residency status.

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

31.4. In this context, in order to promote ease of doing business and encourage foreign investment, Vide **Notification No.29/2023 dated 24.5.2023 (S.O. 2274[E]),** certain class or classes of persons, being non-resident investors to whom clause (viib) of sub-section (2) of section 56 of the Act shall not be applicable, have been notified.

31.5. Further, **Notification No. 30/2023 dated 24.5.2023 (S.O 2275[E]),** 2023 has been issued, modifying Notification No. S.O 1131(E) dated 5th March, 2019 providing that the provisions of section 56(2)(viib) of the Act shall not apply to consideration received from any person by start-ups covered in para 4 & 5 of Notification dated 19.2.2019 issued by the Ministry of Commerce and Industry in the Department for Promotion of Industry and Internal Trade (DPIIT).

31.6. Furthermore, Draft Notification amending Rule 11UA of the Rules, providing the manner of computation of valuation of fair market value of unquoted equity shares for the purposes of the Section 56(2) (viib) of the Act was put in the

public domain for comments. Taking into consideration the suggestions received in this regard and detailed interactions held with stakeholders, Rule 11UA has been amended vide **Notification No. 81/2023 dated 25.9.2023 (GSR 685 [E])**. The notified Rule provides for expansion of the valuation methodologies to include globally accepted methodology.

32. Facilitating strategic disinvestment of public sector companies

32.1. Section 72A of the Act relates to provisions on carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger. Sub-section (1) of section 72A provides that in specified cases, accumulated loss and unabsorbed depreciation of the amalgamating company shall be deemed to be the accumulated loss and unabsorbed depreciation of amalgamated company for the previous year in which the amalgamation was affected. Conditions have also been laid down in the said section to facilitate carry forward and set off of loss and unabsorbed depreciation in the case of strategic disinvestment. Prior to FA 2023, strategic disinvestment had been defined as sale of shareholding by the Central Government or any State Government in a public sector company which resulted in reduction of its shareholding below fifty-one per cent along with transfer of control to the buyer.

32.2. Section 72AA of the Act relates to carry forward of accumulated losses and unabsorbed depreciation allowance in a scheme of amalgamation in certain cases, which, *inter-alia*, prior to FA 2023, included amalgamation of one or more banking company with any other banking institution.

32.3. To facilitate further strategic disinvestment, the definition of 'strategic disinvestment' in section 72A of the Act has been amended vide FA 2023 to provide that strategic disinvestment means sale of shareholding by the Central Government, the State Government or public sector company in a public sector company or a company which results in

(i) reduction of its shareholding below fifty-one per cent, and

(ii) transfer of control to the buyer.

32.4. The first condition applies in case the shareholding of the Central Government or the State Government or the public sector company was above fifty one percent before such sale of shareholding. The requirement of transfer of control may be carried out by either the Central Government or State Government or public sector company (or any two of them or all of them).

32.5. Vide FA 2023, section 72AA of the Act has also been amended to allow carry forward of accumulated losses and unabsorbed depreciation allowance in the case of amalgamation of one or more banking company with any other banking institution or a company subsequent to a strategic disinvestment, if such amalgamation takes place within 5 years of strategic disinvestment.

Applicability: These amendments have taken effect from 1st April, 2023 and accordingly apply to the assessment year 2023-24 and subsequent assessment years.

32.6. To incorporate the changes made in the definition of strategic disinvestment in section 72A of the Act, vide **Notification No. 35/2023 dated 31.5.2023 (G.S.R. 403[E]),** sub-rule (4) of rule 11UAC has been amended to provide that the provision of clause (x) of sub-section (2) of section 56 of the Act shall not apply to any movable property, being equity shares, of a public sector company or a company, received by a person from a public sector company or the Central Government or any State Government under strategic disinvestment.

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

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

33.2. However, some relaxation has been provided in case of an eligible start-up as referred to in section 80-IAC of the Act. The condition of continuity of at least 51% shareholding is not applicable to the eligible start-up, if all the shareholders of the company as on the last day of the year, in which the loss was incurred, continue to hold those shares on the last day of the previous year in which the loss is set off.

There was an additional condition that the loss is allowed to be set off, under this relaxation, only if it has been incurred during the period of seven years beginning from the year in which such company is incorporated.

33.3. In order to align this period of seven years with the period of ten years contained in sub-section (2) of section 80-IAC of the Act, vide FA 2023 the time period for loss of eligible start-ups to be considered for relaxation under section 79 of the Act has been increased from seven years to ten years from the date of incorporation.

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

Applicability: This amendment has taken effect from 1st April, 2023 and accordingly applies in relation to the assessment year 2023-2024 and subsequent assessment years.

34. Removal of certain funds from section 80G of the Act

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

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

34.3. It has been observed that there are only three funds based on names of the persons in the said section. In order to remove such funds, FA 2023 has omitted sub-clauses (ii), (iiic) and (iiid) of clause (a) of sub-section (2) of section 80G of the Act.

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

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

35.1. Prior to the FA, 2023, the provisions of the section 80-IAC of the Act, *inter-alia*, provides for a deduction of an amount equal to hundred percent of the profits and gains derived from an eligible business by an eligible start-up for three consecutive assessment years out of ten years, beginning from the year of incorporation, at the option of the assessees subject to the condition that,—

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

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

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

35.2. In order to further promote the development of start-ups in India and to provide them with a competitive platform, FA 2023 has amended the provisions of section 80-IAC of the Act and extended the period of incorporation of eligible start-ups to 1st day of April 2024.

Applicability: This amendment has taken effect from 1st April, 2023 and shall accordingly; apply in relation to the assessment year 2023-24 and subsequent assessment years.

36. Omission of certain redundant provisions of the Act

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

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

36.3. In order to remove the redundant provisions from the Act, Finance Act 2023 has omitted section 88 from the Act. In consequence of the omission of section 88, FA 2023 has also omitted certain other provisions which carried reference to section 88, listed as under:

(i) Reference to "or the Explanation to sub-section (2A) of section 88" in the second proviso of clause (10D) of section 10,

(ii) sub-section (3) of section 54EA,

(iii) sub-section (3) of section 54EB, clause (a) of sub-section (3) of section 54EC,

(iv) clause (a) of sub-section (3) of section 54ED,

(v) sub-section (7) of section 80C,

(vi) clause (a) of sub-section (3) of section 80CCC,

(vii) clause (a) of sub-section (4) of section 80CCD,

(viii) sub-section (3) of section 111A,

(ix) Sub-section (3) of section 112.

Similarly, in sub-sections (1) and (2) of section 87, reference of section 88 along with other redundant sections has been substituted by reference of existing section 87A.

Applicability: This amendment has taken effect from 1st April, 2023

37. Reducing the time provided for furnishing Transfer Pricing (TP) report

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

37.2. Sub-section (3) of section 92D of the Act prior to its amendment by the FA 2023 provides that the Assessing Officer (AO) or the Commissioner (Appeals) may during the course of any proceedings under the Act require such person (referred in para 37.1 above) to furnish any information or document, as provided under rule 10D of the Rules, within a period of 30 days from the date of receipt of a notice issued in this regard. It was further provided that on an application made by the assessee, the time period of 30 days may be extended by an additional period of 30 days.

37.3. It was represented that in several instances due to limited time available for TP proceedings it may not be practically possible to provide minimum 30 days for producing these information or documents which in any case is already in possession of the assessee. Accordingly, the time period allowed for submission of information or documents in respect of international transactions or a specified domestic transaction has been rationalised vide FA 2023 so as to provide the AOs a reasonable amount of time to examine the information/documents submitted and complete the pending proceedings.

37.4. In view of the above, FA 2023 has amended sub-section (3) of section 92D of the Act to provide that,-

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

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

Applicability: This amendment is effective from 1st April, 2023.

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

38.1. Section 94B of the Act provides restriction on deduction of interest expense in respect of any debt issued by a non-resident, being an associated enterprise of the borrower. It applies to an Indian company, or a permanent establishment of a foreign company in India, who is a borrower. If such person incurs any expenditure by way of interest or of similar nature exceeding one crore rupees which is deductible in computing income chargeable under the head "Profits and gains of business or profession", the interest deductible shall be restricted to the extent of 30% of its earnings before interest, taxes, depreciation and amortisation (EBITDA).

Proviso to this section brings within its scope certain debt issued by a lender who may not be an associated enterprise of the borrower.

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

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

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

38.5. In view of the above, FA 2023 has amended sub-section (3) of section 94B of the Act to provide a carve-out to certain class of NBFCs and to provide that nothing contained in sub-section (1) of section 94B of the Act shall apply to,-

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

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

38.6. FA 2023 has further provided that for the purposes of section 94B, "non-banking financial company" shall have the same meaning as assigned to it in clause (vii) of the Explanation to clause (viia) of sub-section (1) of section 36 of the Act.

Applicability: This amendment is effective from 1st April, 2024 and will accordingly apply to assessment year 2024-25 and subsequent assessment years.

39. Modification of directions related to faceless schemes and e-proceedings

39.1. The Central Government has undertaken a number of measures to make the processes under the Act, electronic, by eliminating person to person interface

between the taxpayer and the Department to the extent technologically feasible, and provide for optimal utilisation of resources and a team-based assessment with dynamic jurisdiction.

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

Sl. No.	**Section**	**Scheme**
1.	135A	e-Verification Scheme, 2021
2.	245MA	e-Dispute Resolution Scheme, 2022
3.	245R	e-advance rulings Scheme, 2022
4.	250	Faceless Appeal Scheme, 2021
5.	274	Faceless Penalty Scheme, 2022

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

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

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

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

Applicability: These amendments are effective retrospectively from 1st April, 2022 for sections 135A, 250 and 274. Further, for sections 245MA and 245R, these amendments are effective from 1st April, 2023.

40. Parity in respect of taxation of Royalty/FTS

40.1. Prior to the amendments made vide FA 2023, income of non-residents in the nature of royalty and fees for technical services (FTS) were provided concessional rate of taxation at the rate of 10% under section 115A of the Act. However, it was noted that some Double Taxation Avoidance Agreements provide taxation of such incomes at a higher rate of 15% or 20% or 25%.

40.2. As the taxpayer can opt for the more beneficial provision i.e. either the rates provided under the domestic Act or DTAA, there was a possibility of revenue leakage as the non-resident always opts for taxation at the reduced rate of 10% and India was unable to tax such incomes at a rate higher than 10% whereas the other treaty partner was able to tax royalty/FTS paid from their country to an Indian resident at a higher rate as per their domestic law.

40.3. It may further be noted that income in the nature of royalty and FTS of non-resident from non-treaty countries is also taxed at a lower rate of 10%

40.4. In view of the above FA 2023 has amended section 115A of the Act in order to provide for increase in the rate of taxation of royalty and fees for technical services from 10% to 20%.

Applicability : These amendments are effective from 1st April, 2024 and apply to the assessment year 2024-25 and subsequent assessment years.

41. 15% concessional tax to promote new manufacturing co-operative society

41.1. The Taxation Laws (Amendment) Act, 2019, inter-alia, inserted section 115BAB in the Act which provides that new manufacturing domestic companies set up on or after 01.10.2019, which commence manufacturing or production by 31.03.2023 and do not avail of any specified incentive or deductions, may opt to pay tax at a concessional rate of 15 per cent. The time for commencing manufacturing or production has been extended to 31.03.2024 by the Finance Act, 2022. To provide a level playing field between new manufacturing co-operative societies and new manufacturing companies by providing for a similar concessional tax regime of 15% to new manufacturing co-operative societies as well, Finance Act 2023 has inserted a new section 115BAE in the Act in which concessional tax regime is being provided for the new manufacturing cooperative societies as well. The conditions are materially similar to the conditions applicable to new manufacturing companies, which are as under:-

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

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

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

b) without set off of any loss carried forward or depreciation from any earlier

assessment year, if such loss or depreciation is attributable to any of the deductions referred to in the para ii(a) above; and

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

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

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

v. the option so exercised cannot be withdrawn;

vi. if the income of the assessee, includes any income, which has neither been derived from nor is incidental to manufacturing or production of an article or thing and in respect of which no specific rate of tax has been provided separately under Chapter-XII, such income shall be taxed at the rate of twenty-two percent thereof and no deduction or allowance in respect of any expenditure or allowance shall be made in computing such income;

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

viii. in case the aforesaid arrangement involves a specified domestic transaction referred to in section 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (ii) of section

92F. The amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the assessee. The income-tax payable in respect of the income, in such case shall be computed at the rate of thirty per cent;

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

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

41.2. FA 2023 has provided that any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, on fulfilment of certain specified conditions.

41.3. FA 2023 has provided that where any machinery or plant or any part thereof previously used for any purpose is put to use by the assessee and the total value of such machinery or plant or part thereof does not exceed twenty per cent of the total value of the machinery or plant used by the assessee, then, the concessional rate shall apply on fulfilment of the specified conditions.

41.4. FA 2023 has provided that the assessee shall not be engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.

41.5. Further, FA 2023 has provided that the business of manufacture or production of any article or thing shall include the business of generation of electricity, but not include certain specified businesses.

41.6. Further, FA 2023 has inserted a new clause (vb) in the section 92BA of the Act to include the transaction between the Cooperative society and the other person with close connection within the purview of ‘specified domestic transaction’.

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

41.7. Vide **Notification No. 83/2023 dated 29.9.2023 (GSR 702[E]),** Rule 21AHA has been inserted in the Rules in order to allow the exercise of the option to be taxed as per the provisions of section 115BAE of the Income-tax Act. Further, Form 10-IFA has also been issued to enable exercise of option under sub-section (5) of section 115BAE of the Act for new manufacturing co-operative societies.

42. Tax avoidance through distribution by business trusts to its unit holders

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

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

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

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

or receivable by the business trust from the SPV, then, such distributed income or part thereof shall be deemed to be income of such unit holder.

42.5 It had been noticed in certain cases that business trusts distribute sums to their unit holders which are categorized in the following four categories:

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

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

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

42.8 In view of the above, FA 2023 has made such sum received by unit holder taxable in his hands.

FA 2023 has therefore–

(i) provided for taxation of sum received by unit holders from a business trust with respect to a unit, which is not in the nature of interest, dividend or rent, and which is in excess of the amount for which such unit was issued by the business trust. The specified sum that shall be taxable under clause (xii) of sub-section (2) of section 56 of the Act shall be computed as under:–

Specified sum = A-B-C (which shall be deemed to be zero if sum of B and C is greater than A), where—

A = aggregate of sum distributed by the business trust with respect to such unit, during the previous year or during any earlier previous year or years, to such unit holder, who holds such unit on the date of distribution of sum or to any other unit holder who held such unit at any time prior to the date of such distribution, which is,—

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

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

B = amount at which such unit was issued by the business trust; and

C = amount charged to tax under clause (xii) of section 56(2) in any earlier previous year;

(ii) inserted *Explanation* 1 to clause (ii) of section 48 to clarify that the cost of acquisition of a unit of a business trust shall be reduced and shall be deemed to have always been reduced by any sum received by a unit holder from the business trust with respect to such unit, which is not in the nature of income as referred to in clause (23FC) or clause (23FCA) of section 10 and which is not chargeable to tax under clause (xii) of sub-section (2) of section 56 and under sub-section (2) of section 115UA.

(iii) inserted *Explanation* 2 to clause (ii) of section 48 to clarify that for the purposes of *Explanation* 1, where transaction of transfer of a unit is not considered as transfer under section 47 and cost of acquisition of such unit is determined under section 49, sum received with respect to such unit before such transaction as well as after such transaction shall be reduced from the cost of acquisition under the said *Explanation*;

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

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

42.9 Clause (23FE) of section 10 of the Act provides exemption on the income of the nature of interest, dividend and capital gains of a sovereign wealth fund or pension fund from investment in business trust. Accordingly, consequential amendments have also been made in clause (23FE) of section 10 of the Act to extend the exemption to notified Sovereign Wealth Funds/Pension Funds for income of the nature referred to in clause (xii) of sub-section (2) of section 56 of the Act as well.

Applicability: These amendments are effective from 1st April, 2024 and accordingly apply to assessment year 2024-25 and subsequent assessment years.

43. Assistance to authorised officer during search and seizure

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

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

43.3 In the recent past, due to the increased use of technology and digitisation in every aspect including management and maintenance of accounts, digitisation of data, cloud storage etc., the procedure for search & seizure has become complex, requiring the use of data forensics, advanced technologies for decoding data etc., for complete and proper analysis of accounts. Similarly, there is an increasing trend of undisclosed income being held in a vast variety

of forms of assets or investments in addition to immovable property. Valuation of such assets and decryption of information often require specific domain experts like digital forensic professionals, valuers, archive experts etc. In addition to this, services of other professionals like locksmiths, carpenters etc. are also required in most of the cases, due to typical nature of the operations.

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

43.5 This amendment is effective from 1st April, 2023. Subsequently, the procedure to be followed in pursuance of amendments in sub-section (2) and sub-section (9D) of section 132 of the Act, has been prescribed in rule 13 and rule 13A of the Rules, both introduced vide **Notification No. 70/2023 dated 28.8.2023, (GSR 630[E]).**

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

43.7 The timelines for completing assessment or reassessment in search cases is linked to the execution of the last of the authorisations during such procedure, in order to establish the day of conclusion of search proceedings, and what

constitutes as last authorisation is provided in section 153B of the Act. As the provisions of section 153B of the Act are no longer applicable, the meaning of last authorisation and its execution has now been provided under section 132 of the Act itself.

Applicability: The amendments made in sub-section (2) and (9D) of section 132 by Finance Act, 2023 are applicable from 1st April, 2023. Moreover, the aforementioned Notification No. 70/2023 by which procedure has been prescribed to requisition services of various persons during the search is applicable from 28th August, 2023.

Further, the amendment providing the meaning of last authorization and its execution in *Explanation* 1 of section 132, is effective retrospectively from the 1st April, 2022.

44. Clarification regarding advance tax while filing Updated Return

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

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

44.3 Therefore, in order to clarify the provisions of sub-section (4) of section 140B of the Act, an amendment has been made in the said sub-section that interest payable under section 234B of the Act shall be computed on an amount equal

to the assessed tax as reduced by the amount of advance tax, the credit for which has been claimed in the earlier return, if any.

Applicability: This amendment has taken effect retrospectively from 1st April, 2022.

45. Preventing permanent deferral of taxes through undervaluation of inventory

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

45.2 In order to ensure that the inventory is valued in accordance with various provisions of law, vide FA 2023, section 142 of the Act relating to inquiry before assessment has been amended to ensure the following:–

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

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

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

(iv) To define "cost accountant" to mean a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of

1959) and who holds a valid certificate of practice under sub-section (1) of section 6 of that Act.

45.3 Further, vide the FA 2023, the following consequential amendments were also made:–

(i) amendment to the *Explanation* 1 to section 153 of the Act, so as to exclude the period for inventory valuation through the cost accountant for the purposes of computation of time limitation.

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

Applicability: The amendments in section 142 and 153 of the Act have taken effect from 1st April, 2023 and accordingly apply in relation to the assessment year 2023-2024 and subsequent assessment years. The amendment in section 295 of the Act is effective from 1st April, 2023.

45.4 Through the communication issued **vide F. No. 370142/29/2023-TPL dated 16th August 2023** of the Central Board of Direct Taxes, comments had been invited from the public on the draft Form containing the Inventory Valuation Report under clause (ii) of section 142(2A) of the Income-tax Act, 1961. Vide **Notification No. 82/2023 dated 27.9.2023 (GSR 697[E])** Rule 14A and 14B of the rules have been amended and Form No. 6D has been notified as the Inventory Valuation report under clause (ii) of section 142(2A) of the Act**.**

46. Provisions relating to reassessment proceedings

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

proceedings were rationalized by amendments made vide the Finance Act, 2022.

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

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

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

46.5 However, evidence of tax evasion may be reflected in the statements recorded or documents seized or impounded etc. during such action before 31st March, but issuance of notice related to such information or search may go beyond the time limitation provided due to the procedure involved. Therefore, important information related to revenue leakage cannot be proceeded with, due to the paucity of time for search conducted and information obtained as a consequence of these searches in the last few days of any financial year. Accordingly, a proviso has been inserted in the section 149 to provide that in cases where a search under section 132 is initiated or a search for which the last of the authorization is executed or requisition is made under section 132A, after the 15th March of any financial year, a period of fifteen days shall be excluded for the purpose of computing the period of limitation for issuance of notice under section 148 and the notice so issued shall be deemed to have been issued on the 31st day of March of such financial year.

46.6 Another proviso has been inserted in the section 149 of the Act to provide that in cases where the information deemed to be with the Assessing Officer emanates from a statement recorded or documents impounded under summons or survey, as the case may be, on or before the 31st day of March of a financial year, in consequence of, a search initiated or last of the authorization executed under section 132 of the Act or a requisition made under section 132A of the Act, after the 15th day of March of such financial year, a period of fifteen days shall be excluded for the purpose of computing the period of limitation for issuance of notice under section 148 of the Act and the show cause notice issued under clause (b) of section 148A of the Act in such case shall be deemed to have been issued on the 31st day of March of such financial year. It has also been provided that the impounding or the recording of the statement in consequence of the search or the search itself should be before the 31st March only. Only extension has been provided for the time consumed in the procedure for issuance of notice under section 148 or 148A of the Act, as the case may be.

46.7 Section 151 of the Act contains provisions relating to the specified authority who can grant approval for the purposes of sections 148 and 148A of the Act. The said section provided that the authority would be the Principal Chief

Commissioner and where there is no Principal Chief Commissioner, the Chief Commissioner shall give approvals beyond a period of three years.

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

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

Applicability : These amendments are effective from 1st April, 2023.

47. Alignment of timeline provisions under section 153 of the Act

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

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

47.3 The period of six months is, however, short to complete the entire process of assessment. As a result, taxpayers' grievances of not being given enough time to explain themselves or provide evidences in their favour may arise. This may also compromise the dispensation of reasonableness of orders as well as natural justice to the assessees. Therefore, amendment has been made in section 153 of the Act by the FA 2023 to provide that the time available for completion of assessment relating to the assessment year commencing on or after the 1st day of April, 2022 shall be twelve months from the end of the assessment year in which the income was first assessable. Consistent with the above, the time available for completion of assessment proceedings in the case of an updated return has also been increased to 12 months from the end of the financial year in which such return is furnished.

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

Act, passed by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, as the case may be.

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

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

47.7 Further, even if the last of the authorizations have been executed in the relevant search case, the seized material etc. are transferred to the Assessing Officer only after some time owing to the pre-assessment processing of such material and data. Further, the Assessing Officer also needs to carry out investigation and gather evidence to compute the income of the assessee as a result of the search or requisition proceedings. Therefore, there was a need to amend the provisions of the Act so as to allow the Assessing Officer to conduct proper

scrutiny of the case on the basis of seized material and investigation made and align the dates of limitation for completion of reassessment proceedings for all the assessment years under scrutiny consequent to a search under section 132 of the Act or requisition under section 132A of the Act.

47.8 Therefore, a new sub-section (3A) has been inserted in section 153 of the Act to provide that where an assessment or reassessment is pending on the date of initiation of search under section 132 of the Act or making of requisition under section 132A of the Act, the period available for completion of assessment or reassessment, as the case may be, under the said sub-sections (1), (1A), (2) and (3) of the said section shall be extended by twelve months in a case of an assessee where such search is initiated under section 132 of the Act or such requisition is made under section 132A of the Act or in the case of an assessee to whom any money, bullion, jewellery or other valuable article or thing seized or requisitioned belongs to or in the case of an assessee to whom any books of account or documents seized or requisitioned pertains or pertain to, or any information contained therein, relates to.

47.9 Furthermore, consequent to the introduction of sub-section (1A) of section 153 of the Act vide Finance Act, 2022, the reference to sub-section (1A) has been inserted in sub-sections (3), (4), (6) as well as in the first proviso to *Explanation* 1 of section 153.

Applicability : These amendments are effective from 1st April, 2023

48. Relief to sugar co-operatives from past demand

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

48.2 The payment of FCP by the co-operative sugar factories over and above the SMP for purchase of sugarcane had resulted into tax litigation. The co-operative sugar factories were claiming this excess payment as business

expenditure whereas the same has been disallowed in the assessment on the ground that the excess price paid for purchase of sugar cane over and above SMP is in the nature of appropriation/distribution of profit and hence not allowable as deduction.

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

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

Applicability: This amendment is effective from 1st April, 2023.

48.5 Subsequently, in order to standardize the manner of filing application to the Jurisdictional Assessing Officer under section 155(19) of the Act and its disposal by the Jurisdictional Assessing Officer under the said section, a

Standard Operating Procedure (SOP) has been issued vide **CBDT Circular 14/2023 dated 27.07.2023 (F. No.370133/8/2023-TPL).**

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

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

49.2. In order to remove this difficulty, vide FA 2023, a new sub-section (20) has been inserted in section 155 of the Act. This new sub-section applies where any income has been included in the return of income furnished by an assessee under section 139 of the Act for any assessment year (hereinafter referred to as the "relevant assessment year") and tax has been deducted at source on such income and paid to the credit of the Central Government in accordance with the provisions of Chapter XVII-B in a subsequent financial year. In such a case the assessee can make application in the prescribed form to the Assessing Officer within two years from the end of the financial year in which such tax was deducted at source. Then Assessing Officer shall amend the order of assessment or any intimation allowing credit of such tax deducted at source in the relevant assessment year. It has been further provided that the provisions of section 154 of the Act shall, so far as may be, apply thereto, and the period of four years specified in sub-section (7) of that section shall be reckoned from the end of the financial year in which such tax has been deducted. Further, credit of such tax deducted at source shall not be allowed in any other assessment year.

49.3. Amendment has also been carried out in section 244A of the Act to provide

that the interest on refund arising out of above rectification shall be for the period from the date of the application to the date on which the refund is granted.

Applicability: These amendments have taken effect from 1st October, 2023

49.4. Vide **Notification 73/2023 dated 30.8.2023 (GSR 637[E]),** Rule 134 has been inserted in the Rules and Form No. 71 has been prescribed for application under sub-section (20) of section 155 of the Act regarding credit of tax deduction at source.

50. Provisions related to business reorganisation

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

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

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

50.4. Accordingly, section 170A of the Act has been amended and substituted to provide that notwithstanding anything contained in section 139 of the Act, in a case of business reorganisation, where prior to the date of order of the tribunal or the High Court or Adjudicating Authority as defined in clause (1) of section 5 of the

Insolvency and Bankruptcy Code, 2016, any return of income has been furnished for any assessment year relevant to a previous year, by an entity to which such order applies, the successor shall furnish, within a period of six months from the end of the month in which the said order was issued, a modified return in the form and manner, as may be prescribed, in accordance with and limited to the said order. This would also enable modification of the returns filed by the predecessor wherever required.

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

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

50.7. The following terms have also been defined for the purposes of this section:

(i) “business reorganisation" means the reorganisation of business involving the amalgamation or demerger or merger of business of one or more persons;

(ii) "successor" means all resulting companies in a business reorganisation, whether or not the company was in existence prior to such business reorganisation.

Applicability : This amendment is effective from 1st April, 2023.

51. TDS on payment of accumulated balance due to an employee

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

51.2. Prior to FA 2023, the second proviso to section 192A of the Act provided that any person entitled to receive any amount on which tax is deductible shall furnish his permanent account number (PAN) to the person responsible for deducting such tax, failing which tax shall be deducted at the maximum marginal rate.

51.3. It was observed that many low-paid employees do not have PAN and thereby TDS is being deducted at the maximum marginal rate in their cases under section 192A. Hence, vide FA 2023 the second proviso to section 192A of the Act has been omitted, so that in case of failure to furnishing of PAN by the person relating to payment of accumulated balance due to him, tax will be deducted at the rate of 20% as in other non-PAN cases in accordance with section 206AA of the Act, instead of at the maximum marginal rate.

Applicability: This amendment has taken effect from 1st April, 2023.

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

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

52.2. The proviso to section 193 of the Act provides exemption from TDS in respect of payment of interest on certain securities. Prior to FA 2023, clause (ix) of the proviso to the aforesaid section provided that no tax was to be deducted in the case of any interest payable on any security issued by a company, where such security was in dematerialized form and was listed on a recognized stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (32 of 1956) and the rules made there under.

52.3. It was seen that there was under reporting of interest income by the recipient due to above TDS exemption. Hence there was a need to remove this exemption.

52.4. Further, it was also necessary to exempt deduction of tax at source on any interest payable to a business trust, in respect of any securities, by a special purpose vehicle (SPV), which otherwise is not taxable in the hands of the business trust.

52.5. Accordingly vide FA 2023, clause (ix) of the proviso to section 193 of the Act was substituted to remove exemption for interest on listed debentures and provide exemption from TDS in respect of any interest payable to a "business trust", in respect of any securities paid by a special purpose vehicle referred to in the *Explanation* to clause (23FC) of section 10 of the Act.

Applicability: This amendment has taken effect from 1st April, 2023.

53. TDS and taxability on net winnings from online games

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

53.2. Section 194BB of the Act provides for similar provisions for deduction of tax at source for horse racing in any race course or for arranging for wagering or betting in any race course. Section 115BB of the Act provides for the rate of tax on winnings from lotteries, crossword puzzles, races including horse races, card games and other games of any sort or gambling or betting of any form or nature.

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

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

53.5. Accordingly, the FA 2023:—

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

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

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

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

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

(vi) provided that if any difficulty arises in giving effect to the provisions of new section 194BA, the Board may, with the prior approval of the Central Government, issue guidelines for the purpose of removing the difficulty. Every such guideline issued by the Board shall be laid before each House of Parliament, and shall be binding on the income-tax authorities and on the person responsible for deduction of income-tax on any income by way of winnings from online game. Accordingly, the Central Board of Direct Taxes has issued **Circular No. 5 of 2023 dated 22nd May 2023** which provides clarity on various issues relating to deduction of tax at source on "net winnings";

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

(viii) amended section 115BB of the Act to exclude income from winnings from online games from the purview of the said section from the assessment year 2024-25, since section 115BBJ was introduced to tax winnings from online games from that assessment year;

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

- the amount of income-tax calculated on net winnings from such online games during the previous year, computed in the prescribed manner, at the rate of thirty per cent; and

- the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the net winnings referred to above;

(x) provided the definition of "computer resource", "internet" and "online game" in section 115BBJ.

(xi) amended sub-clause (ii) of clause (37A) of section 2 of the Act to provide that for the purposes of deduction of tax under section 194BA, "rate or rates in force" or "rates in force" in relation to an assessment year or financial year means the rates of income-tax specified in this behalf in the Finance Act of the relevant year.

Applicability: The amendments for section 194B, section 194BB and insertion of section 194BA of the Act have taken effect from 1st April, 2023. The amendment in sub-clause (ii) of clause (37A) of section 2 of the Act has taken effect from 1st day of April, 2023. The amendment for section 115BB of the Act and insertion of section 115BBJ in the Act will take effect from 1st April, 2024 and accordingly will apply in relation to the assessment year 2024-25 and subsequent assessment years.

53.6. The Central Government has also prescribed Rule 133 in the Rules vide **Notification No. 28/2023 dated 22.5.2023 (GSR 379[E])**, which lays down the

formula for calculating "net winnings" under section 194BA of the Act. **Circular No. 5 of 2023 dated 22nd May 2023** has also been issued for removal of difficulty being faced by the taxpayers for the purposes of section 194BA of the Act.

54. Concessional rate of taxation of interest under section 194LC of the Act

54.1. Section 194LC of the Act provides for a concessional rate of withholding tax @ 5 % on the interest income paid to a non-resident from a specified company or a business trust, on money borrowed from a source outside India by way of,

(i) an loan agreement (borrowing) at any time on or after 01.07.2012 but before 01.07.2023;

(ii) issue of long-term infrastructure bonds (in foreign currency) at any time on or after 01.07.2012 but before 01.10.2014;

(iii) issue of long-term bond including long-term infrastructure bond (in foreign currency) at any time on or after 01.10.2014 but before 01.07.2023;

(iv) issue of rupee denominated bonds before 01.07.2023.

54.2. Further, where money is borrowed from a source outside India by way of issue of any long-term bond or rupee denominated bonds at any time on or after 01.04.2020 but before 01.07.2023, listed only on a recognised stock exchange located in an IFSC, the concessional rate of tax on the interest income paid to a non-resident is 4%.

54.3. FA 2023 has amended section 194LC of the Act to provide that the withholding tax in respect of interest income paid to a non-resident on money borrowed by, a specified company or a business trust from a source outside India by way of issuance of any long-term bond or rupee denominated bond on or after the 1st day of July, 2023, which is listed only on a recognised stock exchange located in an International Financial Services Centre shall be at the concessional rate of 9%.

Applicability: This amendment is effective from 1st July, 2023.

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

55.1. Section 194N of the Act provides that a banking company or a co-operative society engaged in carrying on the business of banking or a post office, which is responsible for paying any sum to any person (referred to as the recipient) shall, at the time of payment of such sum in cash, deduct an amount equal to two per cent of such sum, as income-tax. Prior to FA 2023, the requirement to deduct tax applied only when the payment of amount or aggregate of amount in cash during the year exceeded one crore rupees, including for co-operative societies.

55.2. Separate provisions are in place for non-filers, where in case of a recipient who is a non-filer, tax was to be deducted at the rate of 2% on any sum exceeding Rs. 20 lakh but not exceeding Rs. 1 crore in aggregate during the financial year and, at the rate of 5% on sum exceeding Rs. 1 crore in aggregate during the financial year.

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

55.4. In FA 2023, section 194N of the Act has been amended to provide that where the recipient is a co-operative society, the provisions of this section shall have effect, as if for the words "one crore rupees", the words "three crore rupees" had been substituted.

Applicability: This amendment has taken effect from 1st April, 2023.

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

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

56.2. Section 194LBA of the Act, *inter-alia*, provides that business trust shall deduct and deposit tax at the rate of 5% on interest income of non-resident unit

holders. Representations have been received that in some cases rate of deduction may be required to be reduced due to some exemption, for example exemption under section 10(23FE) of the Act allowed to notified Sovereign Wealth Funds and Pension Funds. However, since certificate for lower deduction under section 194LBA of the Act cannot be obtained under section 197 of the Act, benefit of exemption is not available at the time of tax deduction.

56.3. To remove this difficulty, vide FA 2023 sub-section (1) of section 197 of the Act has been amended to provide that the sums on which tax is required to be deducted under section 194LBA of the Act shall also be eligible for certificate for deduction at lower rate.

Applicability: This amendment has taken effect from 1st April, 2023.

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

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

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

57.3. In order to provide the relief requested by taxpayers, vide FA 2023, a proviso to sub-section (1) of section 196A of the Act has been inserted to provide that the TDS would be at the rate which is lower of the rate of 20% and the rate or rates provided in agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A of the Act, in case of a payee to whom such agreement applies and such payee has furnished the tax residency certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A of the Act.

Applicability: This amendment has taken effect from 1st April, 2023.

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

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

58.2. These sections define "specified person" to mean a person who has not furnished the return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is required to be deducted or collected (as the case may be)- (i) for which the time limit for furnishing the return of income under sub-section (1) of section 139 has expired; and (ii) the aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in the said previous year.

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

58.4. There may be certain persons who are not required to furnish the return of income. It is not the intention to include such persons in the category of non-filers. Hence, in order to provide relief in such cases, vide FA 2023, the definition of the "specified person" in sections 206AB and 206CCA of the Act was amended so as to exclude a person who is not required to furnish the return of income for the assessment year relevant to the said previous year and who is notified by the Central Government in the Official Gazette in this behalf.

58.5. Further, section 194BA of the Act (TDS on winnings from online games) has been excluded from the scope of the provisions of section 206AB of the Act, as keeping the deduction of tax under section 194BA within the scope of section 206AB would lead to the rate of deduction of tax (under section 194BA) to jump to 60% in the case of specified persons thereby causing hardship to the taxpayers.

Applicability: These amendments have taken effect from 1st April, 2023.

59. Increasing rate of TCS of certain remittances

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

59.2. FA 2023 has, with effect from 1st July 2023, amended sub-section (1G) of section 206C of the Act to, *inter-alia*,

(i) increase the rate of Tax Collection at Source (TCS) from 5% to 20% for remittance under LRS as well as for purchase of overseas tour program package;

(ii) remove the threshold of Rs 7 lakh for triggering TCS on LRS.

59.3. These two changes did not apply when the remittance is for education and medical purpose. Prior to amendment vide FA 2023, TCS under LRS was applicable only when the remittance was being made out of India. The condition of "remittance outside India" has been removed vide FA 2023.

59.4. Vide **Press Release dated 28th June 2023** issued by Ministry of Finance it has been announced that:-

a. Threshold of Rs. 7 lakh per financial year per individual in clause (a) of sub-section (1G) of section 206C of the Act shall be restored for TCS on all categories of LRS payments, through all modes of payment, regardless of the purpose: Thus, for first Rs 7 lakh remittance under LRS there shall be no TCS. Beyond this Rs 7 lakh threshold, TCS shall be

a) 0.5% (if remittance for education is financed by education loan from a financial institution as defined in section 80E of the Act);

b) 5% (in case of remittance for education/medical treatment);

c) 20% for others.

b. For purchase of overseas tour program package under Clause (b) of sub-section (1G) of section 206C of the Act, the TCS shall continue to apply at the rate of 5% for the first Rs

7 lakh per individual per annum; the 20% rate will only apply for expenditure above this limit.

59.5. Further**,** **Circular No. 10 of 2023 dated 30th June, 2023** (Corrigenda issued vide **Circular No. 11 of 2023 dated 6th July, 2023)**, has been issued by the Central Board of Direct Taxes to remove difficulty in implementation of changes relating to TCS on LRS and on purchase of overseas tour program package

Effectivity: It was also announced vide the aforesaid press release that the increase in TCS rates; which were to come into effect from 1st July, 2023 shall come into effect from 1st October, 2023 with the modifications as discussed above. Till 30th September, 2023, earlier rates (prior to amendment by the FA 2023) shall continue to apply. The earlier and new TCS rates are summarized as under:–

Nature of payment (1)	**Earlier rate before FA 2023 (2)**	**New rate w.e.f 1st October 2023 (3)**
LRS for education financed by loan from a financial institution as defined in section 80E of the Act	Nil up to Rs 7 lakh 0.5% above Rs 7 Lakh	Nil upto Rs 7 lakh 0.5% above Rs 7 Lakh
LRS for Medical treatment/ education (other than financed by loan)	Nil upto Rs 7 lakh 5% above Rs 7 Lakh	Nil upto Rs 7 lakh 5% above Rs 7 Lakh
LRS for other purposes	Nil upto Rs 7 lakh 5% above Rs 7 Lakh	Nil upto Rs 7 lakh 20% above Rs 7 Lakh
Purchase of Overseas tour program package	5% (without threshold)	5% till Rs 7 Lakh 20% thereafter

Note: (i) TCS rate in column two shall continue to apply till 30th September, 2023.
(ii) There shall be no TCS on expenditures under LRS under clause (a) of sub-section (1G) for the first Rs. 7 lakh, irrespective of purpose.

60. Relief from special provision for higher rate TCS for failure to furnish PAN by the collectee

60.1. Section 206CC of the Act provides for the higher of the following rates for tax collection at source in the case of failure to furnish PAN by the collectee:

a) Twice the rate as specified in the relevant provision of the Act; or

b) 5 percent.

60.2. Sub-section (1G) of section 206C of the Act was amended vide FA 2023, thereby increasing the highest rate of collection of tax at source to twenty per cent on certain foreign remittances and on sale of overseas tour packages. Since the scope of section 206CC of the Act includes the payments made under sub-section (1G) of section 206C of the Act, the rate of TCS would double to 40% under section 206CC of the Act in the case of failure to furnish PAN by the collectee, thereby causing hardship to the taxpayers.

Accordingly, vide FA 2023, section 206CC was amended to provide that the rate of TCS under the said section shall not exceed twenty per cent.

60.3. Section 206CCA of the Act provides for higher of the following rates for tax collection at source for non-filers of income-tax return:

(a) twice the rate as specified in the relevant provision of the Act, or

(b) 5 percent.

60.4. Sub-section (1G) of section 206C of the Act was amended vide FA 2023, thereby increasing the highest rate of collection of tax at source to twenty per cent on certain foreign remittances and on sale of overseas tour packages. Since the scope of section 206CCA of the Act includes the payments made under sub-section (1G) of section 206C of the Act, the rate of TCS would double to 40% under section 206CCA of the Act in the case of specified persons, thereby causing hardship to the taxpayers. Accordingly, vide FA 2023, section 206CCA was amended to provide that the rate of TCS under the said section shall not exceed twenty per cent.

Applicability: This amendment has taken effect from 1st July, 2023.

61. Set off and withholding of refunds in certain cases

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

and with the prior approval of the Principal Commissioner or Commissioner, and is applicable to assessment years on or after 2017-18.

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

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

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

61.5. Section 241A of the Act has also been amended to make the provisions of that section inapplicable from 1st April, 2023.

61.6. Further, as the amendments made under section 245 of the Act would have an impact on cases referred to in sub-section (1A) of section 244A, i.e., where refund due to the assessee is required to be withheld by the AO under sub-section (2) of section 245 till the date of the making assessment or reassessment, sub-section (1A) of section 244A has also been amended by inserting a proviso that in case of an assessee where proceedings for assessment or reassessment are pending, the

additional interest shall not be payable to the assessee under this sub-section, for the period beginning from the date on which such refund is withheld by the Assessing Officer, in accordance with and subject to provisions of sub-section (2) of section 245, till the date on which the assessment or reassessment pending in such case, is made.

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

Applicability : These amendments are effective from lst April, 2023.

62. Extension of time for disposing rectification applications by Interim Board for Settlement

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

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

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

62.4. In this regard, grievances were received from the stakeholders regarding extension of time available to the IBS under the Act, to pass rectification/ amendment orders. As the request only related to rectification or amendment of mistake apparent from the record, the time-limit available to IBS for passing such orders was reconsidered and extended in order to enable disposal of the pendency and to avoid any further litigation.

62.5. Accordingly, clause (iv) of sub-section (9) of section 245D has been amended by the FA 2023 and substituted with a new clause to provide that where the time-limit for amending an order or for filing of rectification application under sub-section (6B) expires on or after 01.02.2021 but before 01.02.2022, such time-limit shall stand extended to 30.09.2023.

Applicability: This amendment is effective retrospectively from 1st February, 2021.

63. Introduction of the authority of Joint Commissioner (Appeals)

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

63.2. It has been noted that as the first authority for appeal, Commissioner (Appeals) are currently overburdened due to the huge number of appeals and the pendency being carried forward every year. In order to clear this bottleneck, a new authority for appeals was created vide Finance Act,2023 at Joint Commissioner/ Additional Commissioner level to handle certain class of cases involving small amount of disputed demand. Such authority has all powers, responsibilities and accountability similar to that of Commissioner (Appeals) with respect to the procedure for disposal of appeals.

63.3. The earlier section 246 of the Act provided for an institution of Deputy Commissioner (Appeals) for the appeal functions. That institution was discontinued in the year 2000. With a view to provide for an appellate level to handle certain class of cases involving small amount of disputed demand, section 246 of the Act was

substituted by the FA 2023 to provide for appeals to be filed before Joint Commissioner (Appeals). Sub-section (1) of the said section provides that any assessee aggrieved by any of the following orders of an Assessing Officer (below the rank of Joint Commissioner) may appeal to the Joint Commissioner (Appeals) against—

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

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

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

(iv) an order under section 201 of the Act;

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

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

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

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

63.4. A proviso under sub-section (1) of section 246 of the Act has also been inserted stating that an appeal cannot be filed before the Joint Commissioner (Appeals) where an order referred to under this sub-section is passed by or with the approval of an income-tax authority above the rank of Deputy Commissioner.

63.5. Sub-section (2) of the section 246 of the Act provides that where any appeal filed against an order referred to in sub-section (1) is pending before the Commissioner (Appeals), the Board or an income-tax authority so authorised by the Board in this regard, may transfer such appeal and any matter arising out of or connected with such appeal and which is so pending, to the Joint Commissioner

(Appeals) who may proceed with such appeal or matter, from the stage at which it was, before it was so transferred. This will enable transfer of certain existing appeals filed before the Commissioner (Appeals) to the Joint Commissioner (Appeals).

63.6. Sub-section (3) of section 246 of the Act provides that notwithstanding anything contained in sub-section (1) or sub-section (2), the Board or an income-tax authority so authorised by the Board in this regard, may transfer any appeal which is pending before a Joint Commissioner (Appeals) and any matter arising out of or connected with such appeal and which is so pending, to the Commissioner (Appeals) who may proceed with such appeal or matter, from the stage at which it was, before it was so transferred.

63.7. Sub-section (4) of section 246 of the Act provides that where an appeal is transferred under the provisions of sub-section (2) or sub-section (3), the appellant shall be provided an opportunity of being reheard.

63.8. Sub-section (5) of section 246 of the Act provides that for the purposes of disposal of appeal by the Joint Commissioner (Appeals), the Central Government may make a Scheme, by notification in the Official Gazette, so as to dispose appeals in an expedient manner with transparency and accountability by eliminating the interface between the Joint Commissioner (Appeals) and the appellant in the course of appellate proceedings to the extent technologically feasible and direct that any of the provisions of this Act relating to jurisdiction and procedure for disposal of appeals by Joint Commissioner (Appeals) shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification. Accordingly, the e-Appeal Scheme,2023 has been notified vide **Notification No. 33/2023 dated 29.5.2023 (S.O. No. 2352[E])** which has provided the basic procedures for the disposal of appeals by the Joint Commissioner (Appeals). The e-Appeal Scheme, 2023 is applicable from 29.05.2023.

63.9. Sub-section (6) of section 246 of the Act provides that for the purposes of sub-section (1), the Board may specify that the provisions of that sub-section shall not apply to any case or any class of cases. Accordingly, specified order under sub-section (6) of the said section has been issued vide **F. No. 370149/97/2023-TPL dated 16.06.2023**.

63.10. An *Explanation* has also been inserted in this section to define “status” to mean the category under which the assessee is assessed as "individual", "Hindu undivided family" and so on.

63.11. Section 2 of the Act has been amended by inserting a definition for Joint Commissioner (Appeals) and section 116 of the Act has also been amended to make Joint Commissioner (Appeals) an income-tax authority under the Act.

63.12. Further, consequential amendments have been made in other relevant sections of the Act, rules of the Rules and relevant forms in order to ensure that functioning of the Joint Commissioner (Appeals) is aligned with that of the Commissioner (Appeals).

Applicability: These amendments made by FA 2023 are effective from 1st April, 2023.

64. Rationalisation of Appeals to the Appellate Tribunal

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

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

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

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

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

Assessing Officer in consequence of an order of the Dispute Resolution Panel the Assessing Officer would be able to file a cross objection to such appeal which cannot be filed presently.

Applicability: These amendments are effective from 1st April, 2023.

65. Penalty for cash loan/ transactions against primary co-operatives

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

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

65.3. To provide relief to the low-income groups and facilitate easier conduct of business operations in such areas, section 269SS of the Act has been amended by raising the limit of Rs. 20,000 to Rs. 2 lakh for PACS and PCARDs. This will imply where

a) a deposit is accepted by a PACS or a PCARD bank from its member; or

b) a loan is taken from a PACS or a PCARD bank by its member;

the penalty would be leviable only if the amount of a loan or deposit is Rs. 2 lakh or more.

65.4. In continuation of the above, the provisions of section 269T of the Act have also been amended and the limit of Rs. 20,000 has been increased to Rs. 2 lakh in the case of PACS and PCARDs. As a result, in a case where a deposit is paid by a PACS or a PCARD to its member or a loan is repaid to a PACS or a PCARD by its member, payment shall be made by an account payee cheque or account payee bank draft or online transfer through a bank account if the amount of such deposit or repayment is more than Rs. 2 lakh. As a result penalty shall be imposable if the amount of such repayment of loan or deposit is Rs. 2 lakh or more.

Applicability: These amendments are effective from 1st April, 2023.

66. Amendments in consequence to new provisions of TDS

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

66.2. Two new provisions – section 194R and section 194S were introduced in the Act vide Finance Act, 2022. Section 194R makes provisions for deduction of tax on benefit or perquisite in respect of business or profession. In addition, section 194BA has been inserted in the Act vide FA, 2023 to provide for TDS on net winnings from online games.

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

ensure that required amount of tax has been paid, before releasing the benefit or perquisite.

66.4. Prior to FA 2023, the provisions for penalty and prosecution did not clearly mandate a penalty or prosecution for a person who does not pay or fails to ensure that tax has been paid in a situation where the benefit or perquisite is passed in kind. Therefore, to enable such penalty and prosecution, section 271C has been amended vide FA 2023 by inserting two new sub-clauses viz. sub-clause (iii) & sub-clause (iv) under clause (b) in sub-section (1) providing references to the first proviso to section sub-section (1) of 194R and proviso to sub-section (1) to section 194S. Further, vide FA 2023, similar amendments have also been made in section 276B of the Act.

Applicability: These amendments have been effective from 1st April, 2023.

66.5. Further, in consequence to the insertion of section 194BA in the Act, vide FA 2023, a new sub-clause has been inserted under clause (b) of sub-section (1) of section 271C and clause (b) of section 276B providing reference to sub-section (2) of section 194BA.

Applicability: This amendment has been made effective from 1st July, 2023.

67. Penalty for furnishing inaccurate statement of financial transaction or reportable account

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

67.2. Self-certifications by reportable persons and the account holders are mandated under the Rule 114H of the Rules for different purposes. This includes, *inter-alia*, cases where new accounts are opened (to certify the country of tax residence), cases involving curing of indicia for pre-existing accounts (to certify the country of tax residence) and cases of entities to certify whether they are Passive Non-Reporting

Financial Entities. While the requirement of having a valid self-certification has been specified in Rule 114H of the Rules, however, there is no penal provision for the submission of a false self-certification which in turn leads to furnishing of an incorrect statement under section 285BA. Therefore, there is a need to introduce a provision for penalizing false self-certification in the Act

67.3. Therefore, new sub-section (2) has been inserted in 271FAA which provides that if there is any inaccuracy in the statement of financial transactions submitted by a prescribed reporting financial institution and such inaccuracy is due to false or inaccurate information submitted by the account holder, a penalty of five thousand rupees shall be imposable on such institution, in addition to the penalty leviable on such financial institution in the said section, if any. This penalty shall be levied by the income tax authority prescribed under sub-section (1) of section 285BA of the Act. Further, the reporting financial institution may recover the amount so paid on behalf of the account holder or retain out of any moneys that may be in its possession or may come to it from every such reportable account holder an amount equal to the sum of penalty so paid.

67.4. It has also been clarified that the reference to the income-tax authority prescribed which shall levy the said penalty in the section 271FAA of the Act is the prescribed authority under sub-section (1) of section 285BA of the Act.

Applicability: These amendments are effective from 1st April, 2023.

68. Decriminalisation of section 276A of the Act

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

68.2. It has been the stated policy of the Government to decriminalise minor offences as a step towards improving ease of business. In this regard, the provisions of the Act have been examined. Section 276A of the Act provides for prosecution of liquidator for non-compliance with section 178 of the Act. Section also imposes

personal liability on such liquidator for the same non-compliance. Further, with the operationalisation of the Insolvency and Bankruptcy Code, 2016 (IBC), waterfall mechanism for payment of dues is now in place for companies under liquidation and sub-section (6) of section 178 of the Act (the parent section) provides that this section shall not have effect when provisions of the IBC are contrary. Moreover, the liquidator is now working under the oversight of this specific law.

68.3. In view of this, section 276A of the Act was amended by providing a sunset clause on the section with effect from 01.04.2023. Hence, no fresh prosecution shall be launched under this section on or after 1st April, 2023. The earlier prosecutions will however continue.

Applicability: This amendment is effective from 1st April, 2023.

69. Revision of rates of Securities Transaction Tax by amendments in Finance (No. 2) Act, 2004

69.1. Levy of Securities Transaction Tax ("STT") on transactions in specified securities was introduced vide Finance (No.2) Act, 2004. As per the provisions of the STT Act, recognised stock exchanges, mutual funds (having equity-oriented scheme) and lead merchant banker appointed by a company in respect of an initial public offer or by a business trust in respect of an initial offer are liable to collect STT on specified transactions from every purchaser or seller and pay the same to the credit of the Central Government within seven days from the end of the month in which STT is collected. The rates of STT are revised from time to time.

69.2. The percentage market share of futures and options contracts in overall turnover of commodity markets stood at 39.7 per cent and 60.3 per cent, respectively in India. As per SEBI reports, this percentage has been steadily rising. A high percentage of market share of futures and options has the potential to add volatility to the capital markets on the one hand and increase speculation on the other.

69.3. Highly volatile markets are more prone to crashes in which investors might lose a lot of money. At the same time, this could be a trigger for a potential recession in the markets. At the same time, volatile markets contribute to higher inflation as well. Accordingly, the rates of STT have been increased on such transactions to

discourage investment in these speculative instruments. Accordingly, the rate of securities transaction tax payable by seller have been amended as follows-

(a) for sale of an option in securities, from 0.05 per cent to 0.0625 per cent; and

(b) for sale of a future in securities, from 0.01 per cent to 0.0125 per cent.

Applicability: The above amendments to Chapter-VII of the Finance (No.2) Act, 2004 are effective from 1st April, 2023.

70. Rationalization of the provisions of the Prohibition of Benami Property TransactionsAct,1988 (the PBPT Act)

70.1. Prior to FA, 2023, as per the provisions of section 46 of the PBPT Act, any person, including the Initiating Officer (IO), aggrieved by the order of the Adjudicating Authority, may prefer an appeal to the Appellate Tribunal within a period of 45 days from the date of the order. The order often takes time to reach the office of the Initiating Officer or the approving authority and, it is difficult to file an appeal within the prescribed time limit and leads to delay in such filing.

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

70.3. Further, prior to FA, 2023, under the provisions of section 2(18) of the PBPT Act, the 'High Court', for the purpose of filing appeal against the order of the Adjudicating authority, had been defined as the High Court within the jurisdiction of which either the aggrieved party ordinarily resides or carries on business or personally works for gain, or if the aggrieved party is Government then, the High Court within the jurisdiction of which the respondent, or any respondent in case of multiple respondents resides, or carries on business or works for gain. It was observed that the non-residents against whom proceedings under PBPT Act have been initiated and who does not fall in the category of appellant or respondent mentioned in the definition, do not fall under the jurisdiction of any High Court.

70.4. Hence, to enable the determination of High Court jurisdiction for the non-resident appellants or respondents, FA 2023 has amended section 2(18) of the PBPT Act to modify the definition of 'High Court' by inserting a proviso so as to provide that where the aggrieved party does not ordinarily reside or carry on business or personally work for gain in the jurisdiction of any High Court or where the Government is the aggrieved party and any of the respondents do not ordinarily reside or carry on business or personally work for gain in the jurisdiction of any High Court, then the High Court shall be such within whose jurisdiction the office of the Initiating Officer is located.

Applicability: These amendments have taken effect from 1st April, 2023.

71. Extension of Income- tax exemption to Specified Undertaking of Unit Trust of India (SUUTI) till 31.03.2025

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

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

71.3. It was represented that SUUTI has been continuously working for payment of investors' dues through redemption of various schemes since its formation. However, at the current pace, the redemption of all the schemes and payment of entire amount to remaining investors may take time. Further, the work of SUUTI pertaining to the redemption of schemes, payments of entire amounts, pending litigation etc. is expected to extend beyond 31.03.2023, i.e., beyond the time limit till which the income-tax exemption has been provided.

71.4. In view of the above, FA 2023 amended the UTI Repeal Act, 2002, by way of amendment of,-

(i) sub-section (1) of section 8, to provide that the Administrator, SUUTI shall immediately on redemption of all the schemes of the specified undertaking and the payment

of entire amount to investors or from such date as may be notified by the Central Government in the Official Gazette, whichever is earlier, vacate his office;

(ii) sub–section (1) of section 13, to provide that notwithstanding anything contained in the Act or any other enactment for the time being in force relating to tax or income, profits or gains, no income-tax or any other tax shall be payable by the Administrator in relation to the specified undertaking till the period ending on the 31st day of March, 2025 in respect of any income, profits or gains derived, or any amount received in relation to the specified undertaking.

Applicability: This amendment is effective from 1st April, 2023.

Hindi version will follow.

Khushboo 23.1.2024

Khushboo Lather
Under Secretary to Government of India
Dated 23 .01.2024
[F.No. 370142/38/2023]

Copy to:-

1. PS to FM/OSD to FM/ OSD to MoS (R).
2. PS to Secretary (Revenue)/ OSD to Advisor to FM.
3. The Chairperson, Members and all other officers in CBDT of the rank of Under Secretary and above.
4. All Chief Commissioners/ Director General of Income-tax – with a request to circulate amongst all officers in their regions/ charges.
5. Pr.CCIT (International Taxation)/ DGIT (Systems)/ DGIT (Vigilance)/ DGIT (Admn.)/ DGIT (NADT)/ DGIT (L&R)
6. Media Co-ordinator and official spokesperson of CBDT.
7. DIT (IT)/ DIT (RS&PR)/ DIT (Audit)/ DIT (Vig.)/ DIT (Systems)/ DIT (O&MS)/ DIT (Spl. Inv.).
8. The Comptroller and Auditor General of India (30 copies).
9. Joint Secretary and Legal Advisor, Ministry of Law and Justice, New Delhi.
10. The Institute of Chartered Accountants of India, IP Estate, New Delhi.
11. All Chambers of Commerce as per usual mailing list.

Khushboo 23.1.2024

Khushboo Lather
Under Secretary to Government of India