

# Finance Act, 2024

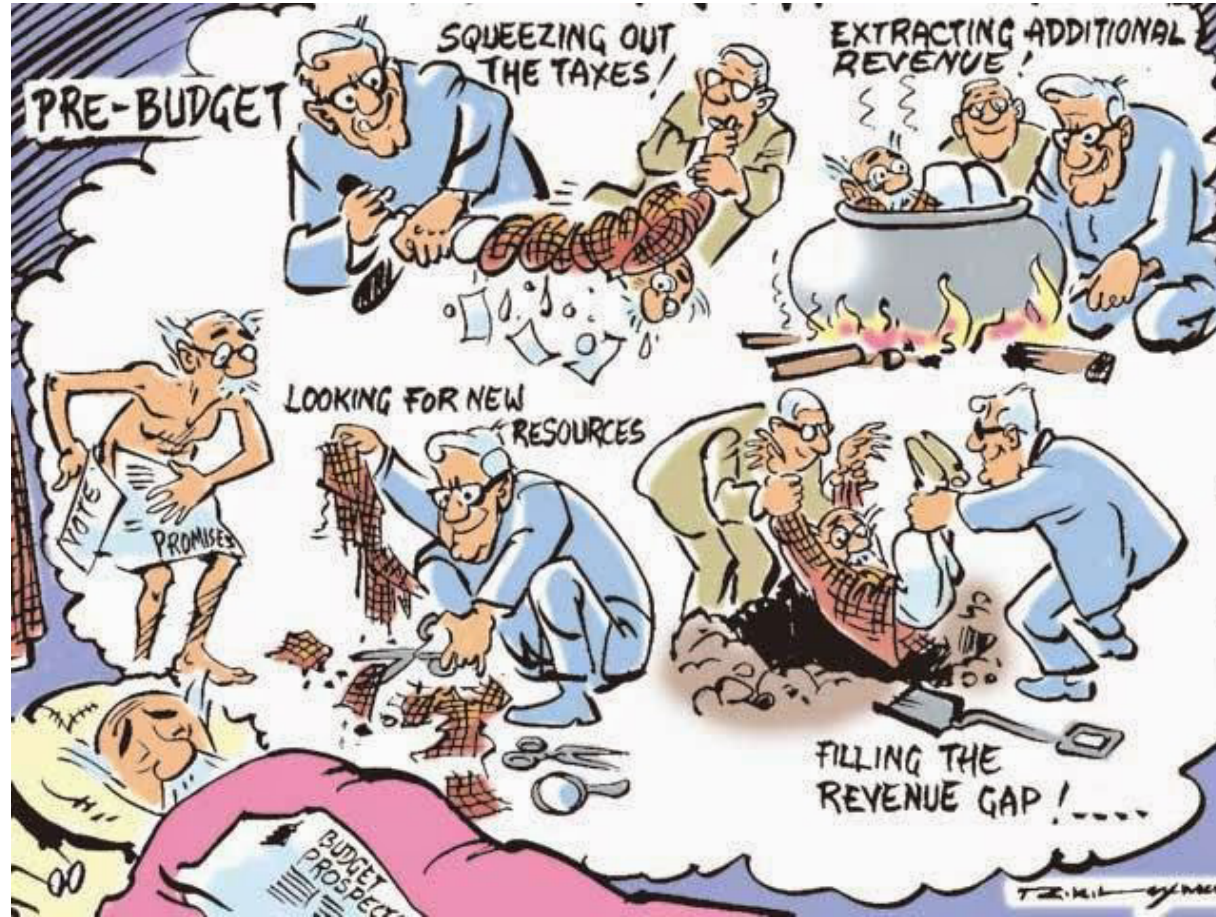
## Direct Taxes

by

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# Budget in a nutshell



# What changed?

## Finance Bill (FB No.2 of 2024) -> Finance Act 2024

- 1. Indexation benefit restored for the limited purpose of computing long term capital gains tax liability on sale of immovable property acquired before 23 July 2024 by resident individual or Hindu Undivided Family (HUF).**
- 2. Benefit of foreign exchange fluctuation for non-resident taxpayers on sale of unlisted shares and securities withdrawn** to maintain status quo with pre-amendment position.
- 3. Ambiguity on applicability of erstwhile reassessment procedure** for cases where search was undertaken prior to 1 September 2024 but reassessment proceedings are commenced on or after 1 September 2024 addressed.
- 4. Modification in tax deduction at source (TDS) on salary income (Salary TDS) provisions** to remove ambiguity in employer allowing complete credit of TDS/ tax collected at source (TCS) to employee while computing amount of tax on salary income to be deducted at source.
- 5. In block assessments pursuant to search proceedings, undisclosed income (UDI)** can now be determined on basis of any material or info available with/coming to notice of tax authority during block assessment.
- 6. Similar to incorrect claims of expenses, allowances and deductions, even incorrect claim of exemption will qualify as UDI** to be subject to tax of 60% (plus applicable surcharge\* and cess) in block assessment cases pursuant to search proceedings as introduced vide FB (No. 2) 2024.

# Change #1

## FA 2024: Indexation benefit limited rollback

- FB 2024 proposed to withdraw indexation benefit across all categories of long term assets including immovable properties.
- Correspondingly, the rate of LTCG tax on such assets was also proposed to be reduced from 20% to 12.5% (+surcharge, cess).
- To grant relief from such excess tax liability arising to resident Individual / HUF, FA has proposed to restore the benefit of indexation while **computing tax payable on long term capital gain** arising on transfer of land or building or both acquired before 23 July 2024. The tax payable by specified taxpayers would be lower of the following:
  - 12.5% of capital gains without giving effect to indexation; or
  - 20% of capital gains after considering the benefit of indexation
- **Points to ponder:**
  - **Not available for gold, bullion** etc. Only for land or building acquired before July 23 2024.
  - **Above relief is only for the purposes of capping of LTCG tax liability to 20% with indexation.** For all other purposes like aggregation, set-off, carry forward and roll over exemption, the LTCG needs to be computed without indexation benefit.
  - Furthermore, similar relief is **NOT available to non-resident individuals or HUFs** as also to resident or non-resident firm, LLP, companies, etc

# Change #1

## FA 2024: Indexation benefit limited rollback

S.112(1) new second Proviso after clauses (a), (b), (c) and (d):

*“Provided further that in the case of transfer of a long-term capital asset, **being land or building or both**, which is acquired before the 23rd day of July, 2024, where the income-tax computed under item (B) exceeds the income-tax computed in accordance with the provisions of this Act, as they stood immediately before their amendment by the Finance (No. 2) Act, 2024, such excess shall be ignored;”*

**Only in case of individual or HUF being a resident**

**Finance Bill (No 2) 2024 – S.112(1)**

a) in the case of an individual or a Hindu undivided family, being a resident,—

(i) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been his total income; and

(ii) the amount of income-tax calculated on such long-term capital gains,—

(A) at the rate of twenty per cent. for any transfer which takes place before the 23rd day of July, 2024; and

(B) at the rate of twelve and one-half per cent. for any transfer which takes place on or after the 23rd day of July, 2024:

Provided that where the total income as reduced by such long-term capital gains is below the maximum amount which is not chargeable to income-tax, then, such long-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax and the tax on the balance of such long-term capital gains shall be computed at the rate as applicable in sub-clause (ii);

**Finance Act 2024 - S.112(1)**

(a) in the case of an individual or a Hindu undivided family, being a resident,—

(i) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been his total income; and

(ii) the amount of income-tax calculated on such long-term capital gains,—

(A) at the rate of twenty per cent. for any transfer which takes place before the 23rd day of July, 2024; and

(B) at the rate of twelve and one-half per cent. for any transfer which takes place on or after the 23rd day of July, 2024:

Provided that where the total income as reduced by such long-term capital gains is below the maximum amount which is not chargeable to income-tax, then, such long-term capital gains shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax and the tax on the balance of such long-term capital gains shall be computed at the rate as applicable in sub-clause (ii):

***Provided further that in the case of transfer of a long-term capital asset, being land or building or both, which is acquired before the 23rd day of July, 2024, where the income-tax computed under item (B) exceeds the income-tax computed in accordance with the provisions of this Act, as they stood immediately before their amendment by the Finance (No. 2) Act, 2024, such excess shall be ignored;***

Title	INR
Sale Consideration	50L
Cost of acquisition	30L
Indexed cost of acquisition	60L
LTCG without indexation	20L
LTCG with indexation	(10L)
Tax @12.5 without indexation	3.75L
Tax @ 20% with indexation	NIL
<b>Tax liability as per new provisions</b>	<b>NIL (lesser of 3.75L &amp; NIL)</b>
<b>LTCG to be reported in tax return</b>	<b>3.75L</b>

### Capital Loss example:

The computation of long-term capital gains/loss which gets reported in an individual's income tax return will continue to be computed without the benefit of indexation .

The relief is only allowed to reduce the tax burden for such resident individuals/HUF whose ultimate tax liability as computed without the benefit of indexation (using the 12.5% tax rate) is higher as compared to the tax liability computed with indexation benefit using the 20% tax rate.

(Note: Depending on how the income tax return form is amended, the LTCG may need to be reported with and without the indexation benefit in the ITR form)

Title	Non-Resident	Resident
Sale Consideration	1cr	1cr
Cost of acquisition	1L	1L
FMV as of 1 <sup>st</sup> April 2001	20L	20L
Index cost of acquisition (3.63 multiplier)	NA	72.6L
LTCG without indexation	80L	80L
LTCG with indexation	NA	27.4L
Tax @12.5 without indexation	10L	10L
Tax @ 20% with indexation	NA	5.48L
<b>Tax liability as per new provisions</b>	<b>10L</b>	<b>5.48L (lesser of 10L and 5.48L only for resident)</b>

## NR vs Resident taxation on property acquired prior to 2001:

FMV not exceeding stamp duty value as on 1 April 2001 considered.

For resident, tax @ 12.5% without indexation vs. @ 20% with indexation considered.

No indexation for non-resident.



Details for a grandfather property acquired before 23.7.2024 by resident	With indexation	Without indexation
LTCG before 54 benefit	48L	65L
LTCG reinvested to claim 54 rollover	48L	48L
LTCG post rollover	NIL	17L
LTCG tax @ 20%/ @12.5%	NIL	2.125L
<b>LTCG payable</b>	<b>NIL (being lower of 2.125L/NIL)</b>	

### Rollover benefit example:

**There has been no change in the amount of LTCG to be reinvested to claim rollover benefit under S.54!**

The resident individual has to reinvest only an LTCG of 48L and still has a NIL capital gains tax liability because for grandfathered property, the individual can choose the beneficial regimes

But for property acquired on or after 23<sup>rd</sup> July 2024, amount required to be reinvested will be 65L instead of 48L to claim full rollover benefit (subject to respective provisions restrictions)

## Change #2

### No benefit of forex for non-resident on sale of unlisted shares and securities

- Prior to FB 2024, LTCG arising to a non-resident on transfer of unlisted shares and securities is taxable at a concessional rate of 10% (plus surcharge and cess) **WITHOUT** benefit of indexation and foreign exchange fluctuation.
- In order to rationalize the CG rates, FB restricted the applicability of above concessional tax rate only on transfers taking place before 23 July 2024. As a result, transfer of such specified assets by non-resident taxpayers on or after 23 July 2024 was subject to new tax rate of 12.5%. **But there was no specific restriction proposed on availing foreign exchange fluctuation benefit. Oops!**

## **Change #2**

### **No benefit of forex for non-resident on sale of unlisted shares and securities**

- The Amended Bill provides that LTCG arising to non-resident taxpayers on transfer of specified assets shall be taxable as under:
  - Where transfer takes place before 23 July 2024, 10% without benefit of indexation and foreign exchange fluctuation.
  - Where transfer takes place on or after 23 July 2024, 12.5% without benefit of indexation and foreign exchange fluctuation – thereby withdrawing foreign exchange benefit as proposed in FB 2024.
- Additionally, the Amended Bill also makes consequential amendments to TDS rates provisions.

## FB (No. 2) 2024

(c) in the case of a non-resident (not being a company) or a foreign company,—

(i) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been its total income; and

(ii) the amount of income-tax calculated on such long-term capital gains, —

(A) at the rate of twenty per cent. for any transfer **[other than a transfer referred to in sub-clause (iii)]** which takes place before the 23rd day of July, 2024; and

(B) at the rate of twelve and one-half per cent for any transfer which takes place on or after the 23<sup>rd</sup> day of July, 2024;

(iii) the amount of income-tax on long-term capital gains arising from the transfer of a capital asset which takes place before the 23rd day of July, 2024, being unlisted securities or shares of a company not being a company in which the public are substantially interested, calculated at the rate of ten per cent. on the capital gains in respect of such asset as computed without giving effect to the first and second proviso to section 48;

## Finance Act 2024

(c) in the case of a non-resident (not being a company) or a foreign company,—

(i) the amount of income-tax payable on the total income as reduced by the amount of such long-term capital gains, had the total income as so reduced been its total income; and

(ii) the amount of income-tax calculated on long-term capital gains **[except where such gain arises from transfer of capital asset referred to in sub-clause (iii)],—**

(A) at the rate of twenty per cent. for any transfer which takes place before the 23rd day of July, 2024; and

(B) at the rate of twelve and one-half per cent. for any transfer which takes place on or after the 23rd day of July, 2024; and

(iii) the amount of income-tax on long-term capital gains arising from the transfer of a capital asset, being unlisted securities or shares of a company not being a company in which the public are substantially interested, as computed without giving effect to the first and second provisos to section 48, calculated on such long-term capital gains,—

(C) **at the rate of ten per cent. for any transfer which takes place before the 23rd day of July, 2024; and**

(D) **at the rate of twelve and one-half per cent. for any transfer which takes place on or after the 23rd day of July, 2024;**

# Change #2

## Example time!

- Suppose NRI bought 10,000 unlisted shares of Rs 20 each. At the time of investing, 1\$ = INR 50! So,
  - Cost of the total investment was INR 2,00,000 (10,000X20).
  - In USD terms, the cost is \$4,000.
- After three years, NRI sold the unlisted shares at Rs 30 each.
  - Total amount received from sale: INR 3,00,000 (Rs 30X 10,000).
  - will be required to pay tax on LTCG of Rs 1,00,000 (Rs 3L – Rs. 2L)
  - @ 12.5% as per new LTCG = INR 12,500
  - @ 10% under old LTCG = INR 10,000

# Change #3: Ambiguity on applicability of erstwhile reassessment procedure in certain cases.

- FB (No. 2) 2024 introduced a proposal to separate search assessments from the reassessment regime and reintroduced the block assessment mechanism (as was prevalent prior to 2003).
- The new block assessment scheme so proposed will apply in respect of searches conducted on or after 1 September 2024. Separately, the limitation period for reassessment was also reduced in high value cases involving escaped income of INR50L or above from 11 years to 6 years from end of the relevant financial year (FY) sought to be reassessed.
- In this backdrop, FB (No. 2) 2024 also provided for grandfathering of applicability of erstwhile reassessment regime (including the limitation period) as prevalent prior to such amendments vide FB (No. 2) 2024 to:
  - (a) cases where search action was initiated between 1 April 2021 and 31 August 2024; and
  - (b) cases where reassessment proceedings are commenced prior to 1 September 2024.
- However, the provisions as introduced vide FB (No. 2) 2024 were **ambiguous** on applicability of erstwhile reassessment regime in a case where search action was initiated prior to 1 September 2024 and proceedings under the erstwhile reassessment regime are commenced on or after 1 September 2024.
- The Amended Bill now proposes that such cases would specifically be covered by the erstwhile reassessment regime as prevalent prior to amendments vide FB (No. 2) 2024

# Change #3: Let's go to the source!

## FB (No. 2) 2024 - S.152(2)

(3) Where a search has been initiated under section 132 or requisition is made under section 132A, or a survey is conducted under section 133A [other than under subsection (2A) of the said section], on or after the 1st day of April, 2021 but before the 1st day of September, 2024, the provisions of sections 147 to 151 shall apply as they stood immediately before the commencement of the Finance (No. 2) Act, 2024.

(4) Where a notice under section 148 has been issued or an order under clause (d) of section 148A has been passed, prior to the 1st day of September, 2024, the assessment, reassessment or recomputation in such case shall be governed as per the provisions of sections 147 to 151, as they stood immediately before the commencement of the Finance (No. 2) Act, 2024.”.

## FA 2024 – S.152(2)

(3) Where a search has been initiated under section 132 or requisition is made under section 132A, or a survey is conducted under section 133A [other than under subsection (2A) of the said section], on or after the 1st day of April, 2021 but before the 1st day of September, 2024, the provisions of sections 147 to 151 shall apply as they stood immediately before the commencement of the Finance (No. 2) Act, 2024.

(4) Where, **in a case other than that covered under sub section (3)**, a notice under section 148 has been issued or an order under clause (d) of section 148A has been passed, prior to the 1st day of September, 2024, the assessment, reassessment or recomputation in such case shall be governed as per the provisions of sections 147 to 151, as they stood immediately before the commencement of the Finance (No. 2) Act, 2024.”.

# **Change #4: Employer to consider entire amount of TDS/ TCS while computing TDS on salary income:**

- Prior to FB 2024, employer was permitted to consider other income (including house property loss but not any other loss) and corresponding TDS reported to employer while deducting tax on salary income. There is also a limitation that the salary TDS cannot reduce below the amount which would have been deductible if the other income and corresponding TDS was not considered (except in case of house property loss).
- **However, existing provisions prior to FB 2024 did not specifically permit consideration of foreign tax credit (FTC), TDS unrelated to any source of income of employee (such as TDS on cash withdrawals), or TCS from employee.**
- Expansion of TCS provisions to cover payments under LRS as per foreign exchange laws, overseas tour package and purchase of high value motor cars (exceeding INR10L) resulted in many employees suffering TCS but not able to claim credit for purpose of salary TDS. Need subsequent claim of refunds
- **FB (No. 2) 2024 proposed to substitute existing salary TDS provisions in order to, inter alia, permit the employer to consider credit of TDS unrelated to any source of income of employee or TCS from employee at the time of computing amount of salary TDS.**



## **Change #4: Employer to consider entire amount of TDS/ TCS while computing TDS on salary income:**

- However, FB (No. 2) 2024 also placed a limit on the extent to which such credit could be considered requiring that the salary TDS cannot be lower than the amount which would have been withheld in absence of consideration of such other income, TDS and TCS.
  - This appeared to be contrary to the object of the amendment to facilitate the employer to consider other TDS/TCS to reduce salary TDS and thereby ease compliance and cash flow issues for the employees.
- **Due to further stakeholder representations, the Amended Bill proposes that the employer can consider the entire amount of the other TDS/TCS even if it has the effect of reducing the salary TDS, thereby making it consistent with intent of amending the provision.**

# Change #4: Let's go to the source!

FB (No. 2) 2024	FA 2024
<p>Provided that this sub-section shall not in any case have the effect of reducing the tax deductible except where the loss under the head "Income from house property" has been taken into account, from income under the head "Salaries" below the amount that would be so deductible if the other income and the tax deducted in accordance with other provisions of Part B and collected in accordance with the provisions of Part BB, of this Chapter, had not been taken into account.</p>	<p>Provided that this sub-section shall not in any case have the effect of reducing the tax deductible from income under the head "Salaries", except where the loss under the head "Income from house property" and the tax deducted in accordance with other provisions of Part B and collected in accordance with the provisions of Part BB, of this Chapter, had not been taken into account.</p>

# Change #5:

## Scope of UDI is extended to include incorrect

## claim of exemption for search assessments

- Under the new block assessment scheme, in searched person as also search connected third person in respect of whom documents/evidence of UDI is found in case of search), UDI for different years (6 prior years plus broken period up to date of search) are assessed together as a single block. Such UDI is taxable at the rate of 60% (plus applicable surcharge and cess).
- For this purpose, FB (No. 2) 2024 proposed to define UDI. Besides the evidence-based UDI found during search, such definition also proposed to include any expenses, deductions or allowances incorrectly claimed by a taxpayer.
- In this backdrop, Amended Bill proposes to enhance the scope of UDI definition to also specifically include incorrect claim of exemptions.

# Change #5: Let's go to the source!

FB (No. 2) 2024 - S.158B - Definitions	FA 2024 – S.158B - Definitions
<p>(b) “undisclosed income” includes any money, bullion, jewellery or other valuable article or thing or any expenditure or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act, or any expense, deduction or allowance claimed under this Act which is found to be incorrect, in respect of the block period</p>	<p>(b) “undisclosed income” includes any money, bullion, jewellery or other valuable article or thing or any expenditure or any income based on any entry in the books of account or other documents or transactions, where such money, bullion, jewellery, valuable article, thing, entry in the books of account or other document or transaction represents wholly or partly income or property which has not been or would not have been disclosed for the purposes of this Act, or any expense, <b>exemption</b>, deduction or allowance claimed under this Act which is found to be incorrect, in respect of the block period</p>

## **Change #6:**

**In new scheme, UDI can be assessed on basis of any material or info available or which comes to notice post search action as well**

- Under the proposed Block Assessment scheme, tax authority can assess UDI on the basis of any material or information available with the tax authority or which comes to its notice post search action as well
- Under the block assessment as proposed vide FB (No. 2) 2024, tax authority is to compute UDI basis evidence found as a result of search, survey or requisition of books of account or other documents. In addition, tax authority can also take into consideration 'such' other material or information as are available with the tax authority or which comes to tax authority's notice during block assessment proceedings.
- **The Amended Bill proposes to substitute the expression 'such' with 'any' and thereby clarifies that UDI can now be determined also basis any material or information available with or coming to the notice of the tax authority during block assessment proceedings.**

**FB (No. 2) 2024 - S.158BB(2)**

(2) The undisclosed income falling within the block period, forming part of the total income referred to in sub-section (1) of section 158BA, shall be computed in accordance with the provisions of this Act, on the basis of evidence found as a result of search or survey or requisition of books of account or other documents and **such other materials or informations** as are either available with the Assessing Officer or come to his notice during the course of proceedings under this Chapter.

(3) Where any evidence found as a result of search or requisition of books of account or other documents and **such other materials or informations** as are either available with the Assessing Officer or come to his notice during the course of proceedings under this Chapter, or determined on the basis of entries relating to such income or transactions as recorded in books of account and other documents maintained in the normal course on or before the date of the search or requisition, relates to any international transaction or specified domestic transaction referred to in section 92CA, pertaining to the period beginning from the 1st day of April of the previous year in which last of the authorisations was executed and ending with the date on which last of the authorisations was executed, such evidence shall not be considered for the purposes of determining the total income of the block period and such income shall be considered in the assessment made under the other provisions of this Act.

**FA 2024 – S.158BB(2)**

(2) The undisclosed income falling within the block period, forming part of the total income referred to in sub-section (1) of section 158BA, shall be computed in accordance with the provisions of this Act, on the basis of evidence found as a result of search or survey or requisition of books of account or other documents and **any other material or information** as are either available with the Assessing Officer or come to his notice during the course of proceedings under this Chapter.

(3) Where any evidence found as a result of search or requisition of books of account or other documents and **any other material or information** as are either available with the Assessing Officer or come to his notice during the course of proceedings under this Chapter, or determined on the basis of entries relating to such income or transactions as recorded in books of account and other documents maintained in the normal course on or before the date of the search or requisition, relates to any international transaction or specified domestic transaction referred to in section 92CA, pertaining to the period beginning from the 1st day of April of the previous year in which last of the authorisations was executed and ending with the date on which last of the authorisations was executed, such evidence shall not be considered for the purposes of determining the total income of the block period and such income shall be considered in the assessment made under the other provisions of this Act.

# Budget 2024



Measures to  
promote investment  
and employment



Simplification and  
Rationalisation



Widening and  
deepening of tax  
base & anti-  
avoidance



Tax Administration



Rates of Income Tax

# Measures to promote investment and employment





# Overview

- **S.56(2)(viib) sunset!**
- Domestic cruise ships by non-residents
- IFSC Tax incentives

# Measures to promote investment and employment

## S.56(2)(viib)

- Vide Finance Act, 2012, S.56(2)(vii)(b) 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, if the consideration received for issue of shares exceeds the face value of such shares, the aggregate consideration received for such shares exceeding such fair market value shall be chargeable to income tax under the head “Income from other sources”*
- FA 2023 included non-residents
- Not apply to VCF or VCC. CBDT Notification 24 May 2023 provides a list of countries and entities exempt.
- But now, *poye pochu!* S.56(2)(viib) sunset from 1.4.2025 ie wef AY 2025-26

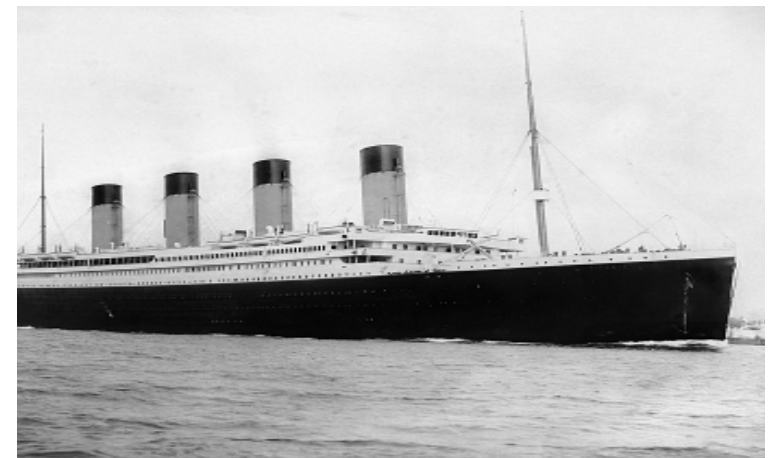
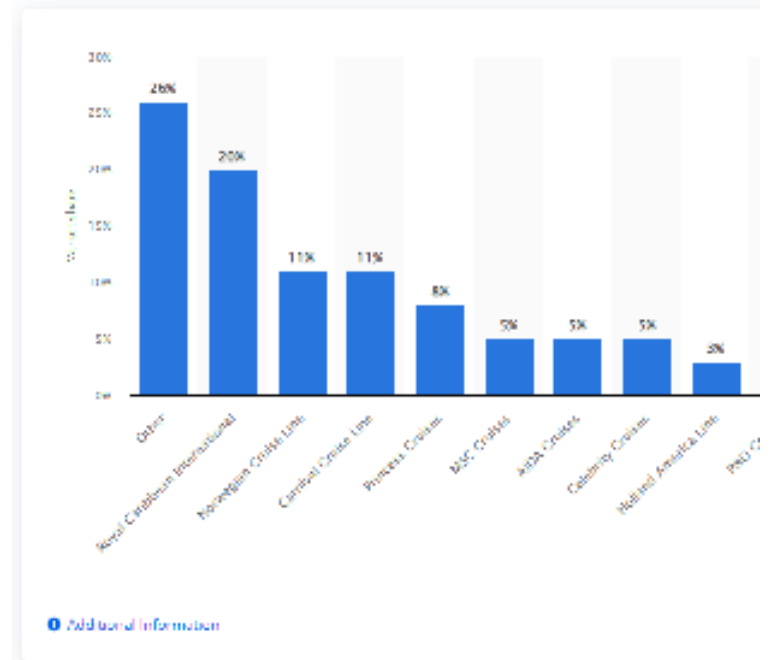


Measures to promote investment and employment

# Domestic Cruise Ship by NR

- Presumptive taxation regime **u/S 44BBC** for a non-resident, engaged in business of operation of cruise ships, along with exemption to income of foreign company from lease rentals, if such foreign co and NR cruise operator have same holding co:
  - 20% of aggregate amount received/ receivable/ paid/payable to, non-resident cruise-ship operator, on account of carriage of passengers, as profits & gains of such cruise-ship operator from business.
  - Further, lease rentals paid by company which opts for S.44BBC exempt in hands of recipient company, if such company is a foreign company and such recipient company and first co are subsidiaries of same holding co. Till AY 30-31?!
- WEF AY 2025-26

Worldwide market share of leading cruise comp



# Measures to promote investment and employment

## Tax incentives to IFSC

- **Retail funds and ETF's** can claim exemption u/S 10(4D) Explanation (c) (i)(1)
- **Specified income of Core Settlement Guarantee Funds set up by recognised clearing corporations in IFSC, is proposed to be exempted.** S.10(23EE) definitions amended
- **S.68 amendment not to apply to VCF's in IFSC!**
  - FA 2023 amendment: nature and source of any sum shall be treated as explained only if the source of funds is also explained in the hands of the creditor or entry provider. [Source of Source]
  - Except in case of Venture Capital Fund or Venture Capital Company registered with SEBI
  - Now expanded to VCF's regulated by IFSC! S.10(23FB) amended
- **S.94B “thin-capitalization” rules not applicable to finance cos in IFSC!**
  - Thin-cap: Interest deductible restricted to 30% of EBITDA.
- WEF AY 25-26 onwards



# Simplification and Rationalization



They are thinking of it now!—not only did I simplify it long ago but practically eliminated it from my business.

# Overview

- **Rationalisation of Assessment & Reassessment**
- **Block assessment for search u/S.132, requisition u/S. 132A**
- Set-off and withholding of refunds u/S 245
- **Rationalisation of Capital Gains**
- Amendment to S.50AA – Specified Mutual Fund
- Rationalisation of TDS rates
- Rationalisation of Exemption Regimes
- Other Amendments

# Simplification and Rationalisation

## Rationalisation of Assessment & Reassessment

1

S.148 and S.148A and S.149 substituted and tweaked.

2

Reassessment timelines rejigged:

- 3 years normally
- 5 years in case of income escapement  $\geq$  Rs.50L

3

S.151 provides specified authority for S.148, 148A shall be the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director.

4

Search u/s 132/132A divorced from reassessment!  
Back to block period!

5

S.152 amended in case:

- search, survey initiated  $\geq$  1-4-21 and  $<$  1-9-24
- Notice u/S 148 issued or Order u/S 148A(d) passed, prior to 1-9-24

WEF 1-9-2024

# Simplification and Rationalisation

## Rationalisation of Assessment & Reassessment

S.148A existing (FA 2021)	New S.148A (Finance Bill 2024)
<p>The Assessing Officer shall, before issuing any notice under section 148,—</p> <p>(a) conduct any enquiry, if required, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;</p>	<p>(1) Where the Assessing Officer has information which <b>suggests</b> that income chargeable to tax has escaped assessment in the case of an assessee for the relevant assessment year, he shall, before issuing any notice under section 148 provide an opportunity of being heard to such assessee by serving upon him a notice to show cause as to why a notice under section 148 should not be issued in his case and such notice to show cause shall be accompanied by the information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year.</p>
<p>(b) provide an opportunity of being heard to the assessee, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than seven days and but not exceeding thirty days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice under section 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);</p>	<p>(2) On receipt of the notice under sub-section (1), the assessee may furnish his reply <b>within such period, as may be specified in the notice.</b></p>
<p>(c) consider the reply of assessee furnished, if any, in response to the show-cause notice referred to in clause (b);</p>	<p>(3) The Assessing Officer shall, on the basis of material available on record and taking into account the reply of the assessee furnished under sub-section (2), if any, pass an order with the prior approval of the specified authority determining whether or not it is a fit case to issue notice under section 148.</p>
<p>(d) decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice under section 148, by passing an order, with the prior approval of specified authority, within one month from the end of the month in which the reply referred to in clause (c) is received by him, or where no such reply is furnished, within one month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires:</p>	<p>(4) The provisions of this section shall not apply to income chargeable to tax escaping assessment for any assessment year in the case of an assessee where the Assessing Officer has received information under the scheme notified under section 135A.</p>
<p>Explanation.—For the purposes of this section, specified authority means the specified</p>	<p>Explanation.—For the purposes of this section and section 148, “specified authority”</p>



# Simplification and Rationalisation

## Rationalisation of Assessment & Reassessment

S.148A	New S.148A
<p>Provided that the provisions of this section shall not apply in a case where,—</p> <p>(a) a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of the assessee on or after the 1st day of April, 2021; or</p> <p>(b) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any money, bullion, jewellery or other valuable article or thing, seized in a search under section 132 or requisitioned under section 132A, in the case of any other person on or after the 1st day of April, 2021, belongs to the assessee; or</p> <p>(c) the Assessing Officer is satisfied, with the prior approval of the Principal Commissioner or Commissioner that any books of account or documents, seized in a search under section 132 or requisitioned under section 132A, in case of any other person on or after the 1st day of April, 2021, pertains or pertain to, or any information contained therein, 24[relate to, the assessee; or</p> <p>(d) the Assessing Officer has received any information under the scheme notified under section 135A pertaining to income chargeable to tax escaping assessment for any assessment year in the case of the assessee.</p>	N/A

# Simplification and Rationalisation

## Rationalisation of Assessment & Reassessment

### S.148

Before making the assessment, reassessment or recomputation under section 147, and subject to the provisions of section 148A, the Assessing Officer shall serve on the assessee a notice, along with a copy of the order passed, if required, under clause (d) of section 148A, requiring him to furnish within a period of three months from the end of the month in which such notice is issued, or such further period as may be allowed by the Assessing Officer on the basis of an application made in this regard by the assessee, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:

Provided that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the Assessing Officer has obtained prior approval of the specified authority to issue such notice:

**Provided further that no such approval shall be required where the Assessing Officer, with the prior approval of the specified authority, has passed an order under clause (d) of section 148A to the effect that it is a fit case to issue a notice under this section:**

Provided also that any return of income, required to be furnished by an assessee under this section and furnished beyond the period allowed shall not be deemed to be a return under section 139.

### New S.148

(1) Before making the assessment, reassessment or recomputation under section 147, the Assessing Officer shall, subject to the provisions of section 148A, issue a notice to the assessee, along with a copy of the order passed under sub-section (3) of section 148A, requiring him to furnish, within such period as may be specified in the notice, not exceeding three months from the end of the month in which such notice is issued, a return of his income or income of any other person in respect of whom he is assessable under this Act during the previous year corresponding to the relevant assessment year:

Provided that no notice under this section shall be issued unless there is information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year:

Provided further that where the Assessing Officer has received information under section 135A, no notice under this section shall be issued without prior approval of the specified authority.

# Simplification and Rationalisation

## Rationalisation of Assessment & Reassessment

### S.148 Explanation 1

Explanation 1.—For the purposes of this section and section 148A, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means,—

- (i) any information in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;\*or
- (ii) any audit objection to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act; or
- (iii) any information received under an agreement referred to in section 90 or section 90A of the Act; or
- (iv) any information made available to the Assessing Officer under the scheme notified under section 135A; or
- (v) any information which requires action in consequence of the order of a Tribunal or a Court.

### New S.148 Explanation 1

(2) The return of income required under sub-section (1) shall be furnished in such form and verified in such manner and setting forth such other particulars, as may be prescribed, and the provisions of this Act shall, apply accordingly as if such return were a return required to be furnished under section 139:

Provided that any return of income required under subsection (1), furnished after the expiry of the period specified in the notice under the said sub-section, shall not be deemed to be a return under section 139.

(3) For the purposes of this section and section 148A, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means,—

- (i) any information in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time; or
- (ii) any audit objection to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act; or
- (iii) any information received under an agreement referred to in section 90 or section 90A of the Act; or
- (iv) any information made available to the Assessing Officer under the scheme notified under section 135A; or
- (v) any information which requires action in consequence of the order of a Tribunal or a Court; or
- (vi) any information in the case of the assessee emanating from survey**

# Simplification and Rationalisation

## Rationalisation of Assessment & Reassessment

S.149	New S.149
<p>149. (1) No notice under section 148 shall be issued for the relevant assessment year,—</p> <p>(a) if <b>three years</b> have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);</p> <p>(b) if <b>three years, but not more than ten years</b>, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income chargeable to tax, represented in the form of—</p> <p>(i) an asset;</p> <p>(ii) expenditure in respect of a transaction or in relation to an event or occasion; or</p> <p>(iii) an entry or entries in the books of account,</p> <p>which has escaped assessment amounts to or is likely to amount to <b>fifty lakh rupees or more</b> :</p>	<p>(1) No notice under section 148 shall be issued for the relevant assessment year,—</p> <p>(a) if <b>three years and three months</b> have elapsed from the end of the relevant assessment year, unless the case falls under clause (b)</p> <p>(b) if <b>three years and three months, but not more than five years and three months</b>, have elapsed from the end of the relevant assessment year unless the Assessing Officer has in his possession <b><u>books of accounts or other documents or evidence related to any asset or expenditure or transaction or entries</u></b> which show that the income chargeable to tax, which has escaped assessment, amounts to or is likely to amount to <b>fifty lakh rupees or more</b>.</p>
<p><b>Provided also</b> that for the purposes of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued under clause (b) of section 148A or the period during which the proceeding under section 148A is stayed by an order or injunction of any court, shall be excluded:</p> <p><b>Provided also</b> that where immediately after the exclusion of the period referred to in the immediately preceding proviso, the period of limitation available to the Assessing Officer for passing an order under clause (d) of section 148A <i>does not exceed seven days</i>, such remaining period shall be extended to seven days and the period of limitation under this sub-section shall be deemed to be extended accordingly.</p> <p><i>Explanation.</i>—For the purposes of clause (b) of this sub-section, "asset" shall include immovable property, being land or building or both, shares and securities, loans and advances, deposits in bank account.</p> <p>(1A) Notwithstanding anything contained in sub-section (1), where the income chargeable to tax represented in the form of an asset or expenditure <b>in relation to an event or occasion</b> of the value referred to in clause (b) of sub-section (1), has escaped the assessment and the investment in such asset or expenditure in relation to such event or occasion has been made or incurred, in more than one previous years relevant to the assessment years within the period referred to in clause (b) of sub-section (1), a notice under section 148 shall be issued for every such assessment year for assessment, reassessment or recomputation, as the case may be ]</p>	<p>(2) No notice to show cause under section 148A shall be issued for the relevant assessment year,—</p> <p>(a) if <b>three years</b> have elapsed from the end of the relevant assessment year, unless the case falls under clause (b);</p> <p>(b) if <b>three years, but not more than five years</b>, have elapsed from the end of the relevant assessment year unless the income chargeable to tax which has escaped assessment, <b><u>as per the information with the Assessing Officer</u></b>, amounts to or is likely to amount to fifty lakh rupees or more.</p>

# Simplification and Rationalisation

## Rationalisation of Assessment & Reassessment

**To deal with period 1-4-2021 to 1-9-2024:**

**Insert S.152(3)** *“Where a search has been initiated under section 132 or requisition is made under section 132A, or a survey is conducted under section 133A [other than under sub-section (2A) of the said section], on or after the 1st day of April, 2021 but before the 1st day of September, 2024, the provisions of sections 147 to 151 shall apply as they stood immediately before the commencement of the Finance (No. 2) Act, 2024.*

**Insert S.152(4)** *“Where a notice under section 148 has been issued or an order under clause (d) of section 148A has been passed, prior to the 1st day of September, 2024, the assessment, reassessment or recomputation in such case shall be governed as per the provisions of sections 147 to 151, as they stood immediately before the commencement of the Finance (No. 2) Act, 2024.”*

Point to ponder: Only 148A(b) notice before 1-9-2024....?

## **Simplification and Rationalisation**

Block assessment provisions for search u/S.132 and requisition u/S. 132A

- **Vide Finance Act, 2021** : S. 153A and S.153C amended to provide that the said provision shall only apply to search and seizure proceedings under S.132 or requisition u/S 132A **initiated on or before 31.03.2021**. Separate regime for search assessments was abolished and such assessments **were subsumed into the reassessment provisions**.
- Further, S.147, 148, 149, 151 and 151A were also amended to provide that in case of search, survey or requisition initiated or conducted  $\geq$  1.4.2021, deemed that AO has information suggesting income escaped for 3 AY's immediately preceding AY relevant to PY in which the search is initiated.
- Further, if AO has info that suggests income escaping assessment, represented in the form of asset, amounts to or is likely to amount to  $\geq$  Rs.50L, notice under S.148 can be issued if ten years have not elapsed from the end of the relevant AY.

## **Simplification and Rationalisation**

Block assessment provisions for search u/S.132 and requisition u/S. 132A

- **Chapter XIV-B applies on or after 1st day of September, 2024**
  - If search initiated u/S.132, or books etc requisitioned u/S. 132A on or after 1-9-24, AO shall assess/reassess total income under this Chapter.
- **‘Block period’ 6 AY’s preceding previous year of search initiation**
  - Include period starting from 1<sup>st</sup> April of PY in which search was initiated and ending on date of execution of last authorizations for such search
- **Regular assessments for block period shall abate.**
  - One consolidated assessment for block period, till it is complete no further assessment/reassessment shall take place wrt block period

## **Simplification and Rationalisation**

Block assessment provisions for search u/S.132 and requisition u/S. 132A

- AO shall assess the '**total income**' of the assessee, including undisclosed income which shall include any money, bullion, jewellery etc. where such money, bullion, jewellery etc. represents *wholly or partly* income or property which has not been or would not have been disclosed, or any expense, deduction or allowance claimed which is found to be incorrect
- Undisclosed income falling within block period forming part of total income computed on basis of **evidence found in search or survey**.
- Assessment of any other person governed by **S.158BD** - AO satisfied any undisclosed income relates to any person, hand over to other person's jurisdictional AO and that AO shall proceed u/S 158BC
- Tax shall be charged at **60%** for block period as per S.113. No surcharge currently. No interest under S.234A, 234B or 234C or penalty u/S.270A shall be levied upon assessee for undisclosed income in block period.



## **Simplification and Rationalisation**

### **Block assessment provisions for search u/S.132 and requisition u/S. 132A**

- **Penalty** on undisclosed income of block period at **50%** of tax payable on such income. No penalty if assessee offers undisclosed income in Return furnished pursuant to search and pays tax along with Return.
- **Time-limit** for completion of block assessment is twelve months from end of month in which the last of the authorisations for search u/S 132, or requisition u/S 132A, was executed. Time-limit for completion of block assessment of any other person shall be 12 months from end of month in which notice u/S 158BC was issued to such other person. However, exclusion of nearly six months available from date of search to date of handing over of seized material to AO.
- **Where any evidence found in search/requisition relates to international transaction or SDT in S.92CA**, such evidence shall not be considered for the purposes of determining the total income of block period and such income shall be considered in the assessment made under the other provisions of this Act.
- Notice under 158BC(1)(a) requiring searched assessee to furnish return of income for block period, as well as the order of assessment for the block period shall be issued/ passed, with the previous approval of the Additional Commr. or Additional Director or JC or Joint Director.
- Provisions of S.144C shall not apply to any proceedings under said Chapter

# Simplification and Rationalisation

## 5.245 – Set off and withholding of refunds

(1) Where under any of the provisions of this Act, a refund becomes due or is found to be due to any person, the Assessing Officer or Commissioner or Principal Commissioner or Chief Commissioner or Principal Chief Commissioner, as the case may be, may, **in lieu of payment of the refund, set off the amount to be refunded** or any part of that amount, against the sum, if any, 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 sub-section.

(2) Where a part of the refund is set off under the provisions of sub-section (1), or where no such amount is set off, and refund becomes due to a person, and the Assessing Officer, **having regard to the fact that proceedings for assessment or reassessment are pending in the case of such person, is of the opinion that the grant of refund is likely to adversely affect the revenue**, he may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or the Commissioner, as the case may be, withhold the refund up to **sixty days from** the date on which such assessment or reassessment is made.



# Simplification and Rationalisation

## Rationalisation of provisions of Capital Gains

- **Firstly**, it is proposed that there will only be **two holding periods**, 12 months and 24 months, for determining whether the capital gains is short-term or long term.
- Proposes to amend **Section 2(42A)** by providing only two holding periods for determining short-term or long-term capital gains i.e., 12 months and 24 months respectively.
- Bottomline: For cg determination
  - **Holding period of all listed assets is 1 year.** So listed units of Business Trusts, REITs, InVITs holding period is reduced from 36 months to 12months!
  - Holding period of gold, unlisted securities (other than unlisted shares) is also reduced from 36 months to 24 months
  - Holding period of immovable property, unlisted shares remains at 24 months.
  - In short: for listed securities 1 year, for all others 2 years.

# Simplification and Rationalisation

## Rationalisation of provisions of Capital Gains

- **Secondly**, rate for **short-term capital gain** under provisions of section 111A of the Act on **STT paid equity shares, units of equity oriented mutual fund and unit of a business trust** is proposed to be **increased to 20%** from the present rate of 15% *as the present rate is too low and the benefit from such low rate is flowing largely to high net worth individuals.*
- Other short-term capital gains shall continue to be taxed at applicable rate.

# Simplification and Rationalisation

## Rationalisation of provisions of Capital Gains

- Rate of long-term capital gains under provisions of various sections of the Act is **proposed to be 12.5% in respect of all category of assets**. This rate earlier was 10% for STT paid listed equity shares, units of equity-oriented fund and business trust under section 112A and for other assets it was 20% with indexation under section 112.
- However, **an exemption of gains upto 1.25 lakh** (aggregate) is proposed for long-term capital gains under section 112A on STT paid equity shares, units of equity oriented fund and business trust, thus, increasing the previously available exemption which was upto 1 lakh.
- For bonds and debentures, rate for taxation of LTCG was 20% without indexation.
- **For listed bonds and debentures, the rate shall be 12.5%.**

# Simplification and Rationalisation

## Rationalisation of provisions of Capital Gains

- **Unlisted debentures and unlisted bonds are of the nature of debt instruments and therefore any capital gains on them should be taxed at applicable rate, whether short-term or long-term. It is proposed accordingly.**
- Thus, unlisted debentures and unlisted bonds are proposed to be brought to tax at applicable rates by including them under provisions of **section 50AA** of the Act. This amendment in section 50AA shall come into effect from the 23rd day of July, 2024.

# Simplification and Rationalisation

## Unlisted bonds & debentures: S.50AA amendment

*“Notwithstanding anything contained in clause (42A) of section 2 or section 48, where the capital asset—*

- (a) is a unit of a Specified Mutual Fund acquired on or after the 1st day of April, 2023 or a Market Linked Debenture; or*
- (b) is an unlisted bond or an unlisted debenture which is transferred or redeemed or matures on or after the 23rd day of July, 2024,*

*the full value of consideration received or accruing as a result of the transfer or redemption or maturity of such debenture or unit or bond as reduced by—*

- (i) the cost of acquisition of the debenture or unit or bond; and*
- (ii) the expenditure incurred wholly and exclusively in connection with such transfer or redemption or maturity, shall be deemed to be the capital gains arising from the transfer of a short-term capital asset:”*

# Simplification and Rationalisation

## Rationalisation of provisions of Capital Gains

- **Thirdly**, simultaneously with rationalisation of rate to 12.5%, **indexation available under second proviso to section 48 is proposed to be removed** for calculation of any long-term capital gains which is presently available for property, gold and other unlisted assets. *“This will ease computation of CG and the tax administration”*
  - In **section 48** of the Income-tax Act, in the second proviso, after the words *“where long-term capital gain arises from the transfer”*, the brackets, words, figures and letters *“(which takes place before the 23rd day of July, 2024)”* shall be inserted and shall be deemed to have been inserted with effect from the 23rd day of July, 2024.
- **Parity in taxation between resident and non-resident** : Corresponding amendments to section 115AD, 115AB, 115AC, 115ACA and 115E are being made to align the rates of taxation in respect of long-term capital gains proposed under section 112A and 112 and rates of short-term capital gains proposed under section 111A.
- Consequential amendments to align withholding tax provisions with substantive provisions are being made under S.196B and 196C.
- Please note that grandfathering provisions introduced in 2018 budget will continue. Grandfathering provisions provide in case the listed shares or units of equity-oriented schemes were acquired before Feb 1, 2018, the closing price in case of shares and NAV in case of units of equity-oriented schemes on Jan 31, 2018, could be taken as your cost of acquisition for computation of capital gains.



# TAX



## ALL LISTED ASSETS

	Earlier STCG	Now STCG	Holding Period	Holding Changed?	Earlier LTCG	Now LTCG
Stocks	15%	20%	12 months	No	10%	12.50%
Equity Mutual Funds	15%	20%	12 months	No	10%	12.50%
Debt and non-Equity MFs	Slab rate	Slab rate	N/A	Yes, earlier same for STCG & LTCG	Slab rate	Slab rate
Bonds (Listed)	Slab rate	20%	12 months	No	10%	12.50%
REITs/InvITs	15%	20%	12 months*	Yes, earlier 36	10%	12.50%
Equity FoFs*	Slab rate	20%	N/A	Yes, earlier same for STCG & LTCG	Slab rate	12.50%
Gold/Silver ETF	Slab rate	20%	12 months	Yes, earlier same for STCG & LTCG	Slab rate*	12.50%
Overseas FoFs	Slab rate	Slab rate	24 months	Yes, earlier same for STCG & LTCG	Slab rate	12.50%
Gold Funds	Slab rate	Slab rate	12 months	Yes, earlier same for STCG & LTCG	Slab rate	12.50%

Note: Annual LTCG exempt amount hiked from ₹1 lakh to ₹1.25 lakh for stocks and equity MFs

## ALL UNLISTED ASSETS

	Earlier STCG	Now STCG	Holding Period	Holding Changed?	Earlier LTCG	Now LTCG
Real Estate (Physical)	Slab rate	Slab rate	24 months	No	20%**	12.50%
Bonds (Unlisted)	Slab rate	Slab rate	24 months	Yes, earlier same for STCG & LTCG	Slab rate	Slab rate
Physical Gold	Slab rate	Slab rate	24 months	Yes, earlier 36	20%**	12.50%
Stocks (Unlisted)	Slab rate	Slab rate	24 months	No	20%**	12.50%
Foreign equities/debt	Slab rate	Slab rate	24 months	No	20%**	12.50%

\*Other than those investing 90% in equity ETFs

\*\* With indexation

Those investing in funds with at least 65% equity

All changes effective for assets sold after 23rd July 2024

## **FAQs – New Capital gains Taxation regime**

**Q1.** What are the major changes brought about in the taxation of capital gains by the Finance (No.2) Bill, 2024?

**Ans.** The taxation of capital gains has been rationalised and simplified. There are 5 broad parameters to this rationalisation and simplification, namely:-

- (i) Holding period has been simplified. There are only two holding periods now, viz. 1 year and 2 year.
- (ii) Rates have been rationalised and made uniform for majority of assets.
- (iii) Indexation has been done away with for ease of computation with simultaneous reduction of rate from 20% to 12.5%.
- (iv) Parity between Resident and Non-resident.
- (v) No change in roll over benefits.

**Q2.** What is the date when the new taxation provisions comes into force?

**Ans.** The new provisions for taxation of capital gains come into force from 23.7.2024 and shall apply to any transfer made on or after 23.7.2024.

**Q3.** How has the holding period been simplified?

**Ans.** Earlier there were three holding period for considering an asset to be a long-term capital asset. Now the holding period has been simplified. There are only two holding periods,- for listed securities, it is one year, for all other assets, it is two years.

**Q4.** Who will benefit from the change in holding period?

**Ans.** The holding period of all listed assets will be now one year. Therefore, for listed units of business trusts (ReITs, InVITs) holding period is reduced from 36 months to 12 months. The holding period of gold, unlisted securities (other than unlisted shares) is also reduced from 36 months to 24 months.

**Q5.** What about the holding period of immovable property and unlisted shares?

**Ans.** The holding period of immovable property and unlisted shares remains the same as earlier i.e. 24 months.

**Q6.** Please elaborate on change in the rate structure for STT paid capital assets?

**Ans.** Rate for short-term STT paid listed equity, Equity oriented mutual fund and units of business trust (Section 111A) has increased from 15 to 20%. Similarly the rate for these assets for long-term (S. 112A) has increased from 10 to 12.5%.

**Q7.** Is there any change in the exemption limit for long-term capital gains under section 112A which was earlier one lakh Rs.?

**Ans.** Yes. The exemption limit of 1 lakh for LTCG on these assets has also increased to 1.25 lakh Rs. This increased exemption limit will apply for FY 2024-25 and subsequent years.

**Q8.** Please elaborate on change in the rate structure for other long-term capital gains?

**Ans.** The rate for other long-term capital gains on all assets has been rationalized to 12.5% without indexation (Section 112). This rate was earlier 20% with indexation. This will ease in simplifying the taxation of capital gains and their easy computation.

**Q9.** Who will benefit by change in rate from 20% (with indexation) to 12.5% (without indexation)?

**Ans.** The reduction in the rate will benefit all category of assets. In most of the cases, the taxpayers will benefit substantially. But where the gain is limited vis-a vis inflation, the benefit will also be limited or absent in a few cases.

**Q10.** Can the taxpayer continue to avail the roll over benefits on capital gains?

**Ans.** Yes. The roll over benefits remain the same as earlier. There is no change in roll over benefits already available under the IT Act. Therefore, taxpayers who want to save on LTCG tax even with low rates, can continue to avail the roll over benefits on fulfillment of conditions as applicable.

**Q11.** In which assets, can the long-term capital gains be invested for roll over benefits?

**Ans.** For roll over benefits, taxpayers can invest their gains in house under section 54 or section 54F or in certain bonds under section 54EC. For complete details of all roll over benefits, please refer section 54, 54B, 54D, 54EC 54F, 54G of the IT Act.

# Simplification and Rationalisation

## **Rationalisation of provisions of Capital Gains**

### **Points to Ponder**

- **Indexation benefits for immovable property sale gone! What will the effect be for old property sales?!**
- **Significant increase in tax outflows on CCDs held by foreign cos from 10% to 35%?**
  - CCD's often used as capital instruments for FDI investments now exposed to higher tax on transfer
  - Amended S.50AA brings into ambit transfer or redemption of unlisted debentures taxed as STCG regardless of holding period. So, what could have been long-term capital gains at 10% is now STCG at slab rate (35%) for foreign cos.
  - Taking positions on taxability of CCD capital gains under the tax treaties will now need to be considered
- **Share buyback impact on foreign investor:**
  - Assume foreign investor invests ₹100 in the shares of an Indian company. The company does a buyback of these shares and pays ₹200 to the investor.
  - Earlier company would deduct 20% on extra ₹100 paid out to the investor. Now the entire ₹200 will be treated as dividend and taxed at the maximum marginal rate in the hands of the shareholder.
  - Investment cost will only be available as a capital loss for the investors which can be offset against other capital gains income
  - Any beneficial rate on dividends under a tax treaty (such as a 5 per cent tax under the India-Mauritius treaty), should be available.

# Simplification and Rationalisation

## Amendment to S.50AA – Specified Mutual Funds

- S.50AA via FA 2023 Special provision for deemed short term capital gains taxation for market linked debentures and specified mutual funds
- Gains in such cases were to be taxed as Short-term Capital Gain irrespective of period of holding.
- S.50AA Explanation (ii) currently reads *"Specified Mutual Fund" means 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"*
- Definition of "Specified Mutual Fund" shall now mean
  - a) Mutual Fund by whatever name called, which invests more than sixty five per cent of its total proceeds in debt and money market instruments; or
  - b) a fund which invests sixty five per cent or more of its total proceeds in units of a fund referred to in sub-clause (a).
- Hence, this change now **excludes** exchange traded funds, gold funds and overseas equity funds from the ambit of the stringent taxation provisions.

WEF 1-4-2026 (AY 2026-27 onwards)

# Simplification and Rationalisation

## Rationalisation of TDS

Section	Present TDS Rate	Proposed TDS Rate	With effect from
Section 194D - Payment of insurance commission (in case of person other than company)	5%	2%	1.4.2025
Section 194DA - Payment in respect of life insurance policy	5%	2%	1.10.2024
Section 194G – Commission etc on sale of lottery tickets	5%	2%	1.10.2024
Section 194H - Payment of commission or brokerage	5%	2%	1.10.2024
Section 194-IB - Payment of rent by certain individuals or HUF	5%	2%	1.10.2024
Section 194M - Payment of certain sums by certain individuals or Hindu undivided family	5%	2%	1.10.2024
Section 194-O - Payment of certain sums by e-commerce operator to e-commerce participant	1%	0.1%	1.10.2024
Section 194F relating to payments on account of repurchase of units by Mutual Fund or Unit Trust of India	Proposed to be omitted		1.10.2024

**WEF 1-10-2024**

**But! No change in TDS**

- on salary,
- on virtual digital assets,
- on winnings from lottery,
- on winnings from race horses,
- on payment on transfer of immovable property,
- on payments to non-residents,
- on contracts etc

# **Simplification and Rationalisation**

## Rationalisation of provisions of Charitable Trusts and Institutions

### **OVERVIEW**

- Merger of 1023(C) regime with S.11-13.
- Condonation of delay in application for registration.
- Timelines for application approval and disposal rationalized
- Merger of trusts under exemption regime with other trusts

# **Simplification and Rationalisation**

## **Rationalisation of provisions of Charitable Trusts and Institutions**

### **I. Merger of 1023(C) regime with S.11-13.**

- **S.10(23C)(iv)/(v)/(vi)/(via) to be sunset . Institutions to be transited to S.11-13**
- Applications u/S.10(23C)(iv)/(v)/(vi)/(via) filed on or after 1-10-24 NOT considered
- Applications filed under these sub-clauses before 1st October, 2024, and pending processing would be processed under the extant provisions of first regime itself.
- Approved trusts, funds or institutions would continue to get benefit of exemption, as per the provisions of said 10(23C) sub-clauses till validity of the said approval.
- Subsequently apply for registration under second regime. S.12A amended.
- Certain eligible modes of investment, under first regime (viz. those specified in clause (b) of third proviso to 10(23C) shall be protected in the second regime, by way of amendment in section 13.

# Simplification and Rationalisation

## **Rationalisation of provisions of Charitable Trusts and Institutions**

### **II. Condonation of delay in application for registration.**

- A trust or institution desirous of seeking registration under S.12AB is inter alia required to apply within timelines specified in clause (ac) of sub-section (1) of section 12A.
- Principal Commissioner/ Commissioner may be enabled to condone the delay in filing application and treat such application as filed within time. The delay may be condoned if he considers that there is a **reasonable cause** for the same.
- WEF 1-10-24



# **Simplification and Rationalisation**

## Rationalisation of provisions of Charitable Trusts and Institutions

### **III & IV Timelines for application approval and disposal**

- First & second provisos of S.80G(5) proposed to be amended to rationalise the timelines for filing applications
- For registration/approval u/S 12AB or S.80G, the order granting registration/ rejecting application shall be passed before expiry of the **period of six months from the end of the quarter** in which the application was received (not end of month)

WEF 1-10-24

# **Simplification and Rationalisation**

## Rationalisation of provisions of Charitable Trusts and Institutions

### **V. Merger of trusts under exemption regime with other trusts**

- First regime (S.10(23C)) merges with approved entity under second regime (S.11-13), it may attract the provisions of Chapter XII-EB, relating to **tax on accreted income** in certain circumstances.
- Proposed to insert S.12AC under which said merger shall not attract provisions of Chapter XII-EB
- It is proposed to amend 11(7) to include reference of clause (23EA), (23ED) and (46B) of S.10, to enable trusts under second regime to claim exemption under above-noted clauses of S.10.

# Simplification and Rationalisation

## Other amendments....

- S.158BFA of the Act is an interest and penalty provision under Chapter XIV-B for imposition of penalty on undisclosed income for block period. Reference to same inserted in **S.253(1)(a)** to include reference to S.158BFA to allow aggrieved assessee to appeal against such penalty orders passed by CIT(A)
- **S.253(3)** *Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on “two months from the end of the month in which the order sought to be appealed against is communicated to the assessee or to the Principal Commissioner or Commissioner, as the case may be :*
- **S.275** omits receipt by the Principal Chief Commissioner or Chief Commissioner

# Simplification and Rationalisation

## Other amendments....

- **Increase in limit of remuneration to working partner allowed as deduction:** S.40(b)(v) disallows any payment of remuneration to any partner who is working partner which is authorized by and in accordance with partnership deed as follows [WEF 1-1-2011]

(a)	on the first Rs. 3,00,000 of the book-profit or in case of a loss	Rs. 1,50,000 or at the rate of 90 per cent of the book-profit, whichever is more;
(b)	on the balance of the book-profit	at the rate of 60 per cent :



(a)	on the first Rs. 6,00,000 of the book-profit or in case of a loss	Rs. 3,00,000 or at the rate of 90 per cent of the book-profit, whichever is more;
(b)	on the balance of the book-profit	at the rate of 60 per cent :

# Simplification and Rationalisation

## Other amendments....

- **Credit of TDS deducted/TCS collected by salaried employees:** Proposed that S.192(2B) amended to expand the scope of the said sub-section to include **any tax deducted or collected** under the provisions of Chapter XVII-B or XVII-BB, to be taken into account for the purposes of making deduction u/S 192(1) . WEF 1-10-24
- **206C(7)** late payment of TCS increased from 1 to 1.5% (S.201(1A)). WEF 1-4-2025
- **LRS remitted in name of minor, TCS u/S 206C(1G) but no provision for parent to claim in their tax return.** S.206C provision to be introduced only for allowing credit of TCS of minor where it is clubbed with income of parent u/S 64(1A) . WEF 1-1-2025

Widening and deepening of tax base & anti-avoidance



# Overview

- **Tax on distributed income of domestic co for buy-back of shares**
- Revision of STT Rates
- Amendment of S.47
- TDS on payment of salary, remuneration etc by firm to partners
- Amendment to TDS on immovable property (S.194-IA)
- Inclusion of taxes withheld outside India for total income
- Disallowance of settlement amounts paid to settle contraventions
- Amendment of S.55
- Excluding sums paid under S.194J from S.19C 'work'
- Income from house property
- Preventing misuse of deductions claimed by life insurance business
- Other amendments: S.206C(1F) and TDS on FRSB 2020

# Widening and deepening of tax base & anti-avoidance

## Tax on distributed income of domestic co for buy-back of shares

*“Both dividend as well as buy-back are methods for the company to distribute accumulated reserves and thus ought to be treated similarly. In addition, there is extinguishment of rights for the shareholders who are tendering their shares in the buy-back by domestic company, to the extent of shares bought back by such company from shareholders. The cost of acquisition of such shares also needs to be accounted for in some manner.”*

- **Proposed to**

- (i) deeming value of consideration of shares under buy-back (for purposes of computing capital loss) as nil;
- (ii) allowing capital loss on buy-back, computed as value of consideration (nil) less cost of acquisition;
- (iii) allowing the carry forward of this as capital loss, which may subsequently be set-off against consideration received on sale and thereby reduce the capital gains to this extent.

WEF 1-10-24 : apply to any buy-back of shares that takes place on or after this date



# Widening and deepening of tax base & anti-avoidance

## Tax on distributed income of domestic co for buy-back of shares

Example :

100 shares bought in 2020	@Rs. 40/- per share
Total cost of acquisition	Rs. 4000/-
20 shares bought back in 2024	@Rs. 60/- per share
Income taxable as deemed dividend	Rs. 1200/-
Capital loss on such buyback (Rs. 40 *20)	Rs. 800/-
50 Shares sold in 2025	@Rs. 70 per share
Capital Gain (3500 – 2000)	Rs. 1500
Chargeable capital gain after set off	Rs. 700

# Widening and deepening of tax base & anti-avoidance

## Tax on distributed income of domestic co for buy-back of shares

**S.2(22)(f)** *“any payment by a company on purchase of its own shares from a shareholder in accordance with the provisions of section 68 of the Companies Act, 2013;”*

**S.2(46A)** *“Provided that where the shareholder receives any consideration of the nature referred to in sub-clause (f) of clause (22) of section 2 from any company, in respect of any buy-back of shares, that takes place on or after the 1st day of October, 2024, then for the purposes of this section, the value of consideration received by the shareholder shall be deemed to be nil.”*

**S.46A** *“Provided that where the shareholder receives any consideration of the nature referred to in sub-clause (f) of clause (22) of section 2 from any company, in respect of any buy-back of shares, that takes place on or after the 1st day of October, 2024, then for the purposes of this section, the value of consideration received by the shareholder shall be deemed to be nil.”*

**S.57 no deduction** (i) *“in the case of dividends,”*, the words, brackets, letter and figures *“other than that referred in sub-clause (f) of clause (22) of section 2”*

*“Provided further that no deduction shall be allowed in case of dividend income of the nature referred to in sub-clause (f) of clause (22) of section 2.”*;

**S.115QA bye-bye:** *“Provided further that the provisions of this sub-section shall not apply in respect of any buy-back of shares, that takes place on or after the 1st day of October, 2024.”*

**S.194 inclusion** of S.2(22)(f) for tds.

# Widening and deepening of tax base & anti-avoidance

## Revision of STT rates in certain cases

- Recognized stock exchanges, mutual funds (having equity oriented scheme), insurance company or lead merchant banker appointed by company in respect of an IPO are liable to collect the tax on specified securities and pay the same to Govt as **STT**

*“In view of this exponential growth of the derivative markets, it is proposed to increase the said rates of securities transaction tax on **sale of an option in securities from 0.0625 per cent to 0.1 per cent of the option premium, and on sale of a futures in securities from 0.0125 per cent to 0.02 per cent of the price at which such “futures” are traded.**”*

WEF 1-10-24

# Widening and deepening of tax base & anti-avoidance

## Amendment of S.47

**Rationale:** *“However, in multiple cases, taxpayers have argued before judicial fora that transaction of gift of shares by company is still not liable to capital gains tax, in view of the provisions of section 47(iii) of the Act.”*

- S.47(iii) reads:

***“(iii) any transfer of a capital asset under a gift or will or an irrevocable trust :***

*Provided that this clause shall not apply to transfer under a gift or an irrevocable trust of a capital asset being shares, debentures or warrants allotted by a company directly or indirectly to its employees under any Employees' Stock Option Plan or Scheme of the company offered to such employees in accordance with the guidelines issued by the Central Government in this behalf;”*

- S.47(iii) substituted to be:

***“(iii) any transfer of a capital asset by an individual or a Hindu undivided family, under a gift or will or an irrevocable trust;”***

**WEF 1-4-2025**

## **Widening and deepening of tax base & anti-avoidance**

TDS on salary, remuneration, commission etc paid by firm to partners

- New TDS section 194T may be inserted to bring payments such as **salary, remuneration, commission, bonus and interest to any account (including capital account) of the partner of the firm** under the purview of TDS for aggregate amounts more than Rs 20,000 in the financial year. Applicable TDS rate will be 10%.

WEF 1-4-25

## **Widening and deepening of tax base & anti-avoidance**

Amendment to S.194-IA : TDS on immovable property

**TDS on immovable property:** *“It has been observed that some taxpayers are interpreting that the consideration being paid or credited refers to each individual buyer’s payment rather than the total consideration paid for the immovable property.*

*Hence if the buyer is paying less than Rs. 50 lakh, no tax is being deducted, even if the value of the immovable property and stamp duty value exceeds Rs. 50 lakh. This is against the intention of legislature. “*

### **S.194-IA to be amended:**

*“Provided that where there is more than one transferor or transferee in respect of any immovable property, then the consideration shall be the aggregate of the amounts paid or payable by all the transferees to the transferor or all the transferors for transfer of such immovable property.*

WEF 1-10-24

## **Widening and deepening of tax base & anti-avoidance**

Inclusion of taxes withheld outside India for total income

- S.198 amended to provide that all sums deducted in accordance with the provisions of Chapter XVII-B **and income tax paid outside India by way of deduction, in respect of which an assessee is allowed a credit against the tax payable under the Act**, are for the purpose of computing the income of the assessee, **deemed to be income received.**

WEF 1-4-25

## **Widening and deepening of tax base & anti-avoidance**

Disallowance of settlement amounts paid to settle contraventions

- **S.37 Explanation 3 new clause (iv)** added to disallow settlement amounts which are incurred due to an infraction of law and relate to contraventions etc and, therefore, should not be allowed as business expenses.

*“(iv) to settle proceedings initiated in relation to contravention under such law as may be notified by the Central Government in the Official Gazette in this behalf.”*

WEF 1-4-2025



# Widening and deepening of tax base & anti-avoidance

## Amendment of S.55

- As provided by sub-section (4) of Section 112A of the Act, the Central Government notified some cases of acquisitions to be given the benefits of section 112A where STT could not have been paid at the time of acquisition. Due to the notification, the condition of payment of STT was relaxed for transactions of acquisition which are not chargeable to STT other than some exceptional situations defined. **As a consequence, the payment of STT at the acquisition is not required for unlisted equity shares.**
- Lacuna arisen in case of Cost of acquisition under 55(2)(ac) in the case of equity shares transferred under **Offer-For-Sale (OFS) as part of Initial Public Offering (IPO)** process where STT is paid at the time of transfer.
- Since condition of STT payment at time of acquisition is relaxed due to Notification, it becomes an asset u/S 112A. Hence computation of FMV as per 31 January 2018 is required.
- However, equity shares at time of OFS are unlisted on date of transfer, since listing happens few days after transfer and therefore some taxpayers take the plea that computation of FMV is not covered in literal reading of S.55(2)(ac); so no CG paid on transfer of shares acquired through OFS route citing absence of express FMV provision.

## **Widening and deepening of tax base & anti-avoidance**

### **Amendment of S.55**

- Explanation to clause (ac) of sub-section (2) of section 55 of the Act, to specifically provide that **in a case where the capital asset is an equity share in a company which is not listed on a recognised stock exchange as on the 31st day of January, 2018**, or which became the property of the assessee in consideration of share which is not listed on such exchange as on the 31st day of January, 2018 by way of transaction not regarded as transfer under section 47, **but listed on such exchange subsequent to the date of transfer, where such transfer is in respect of sale of unlisted equity shares under an offer for sale to the public included in an initial public offer, “fair market value”** would mean an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the financial year 2017-18 bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the first day of April, 2001, whichever is later

**Retrospectively applicable from AY 2018-19 onwards!**

## Widening and deepening of tax base & anti-avoidance

Excluding sums paid under S.194J from S.19C 'work'

- Clause (iv) of Explanation S.194C defines “work”. Some deductors deducting tax under section 194C when they should be under S.194J, as there is no specific exclusion under “work” definition. *In view of the above, it is proposed to explicitly state that **any sum referred to in sub-section (1) of section 194J does not constitute “work” for the purposes of TDS under section 194C***
- S.194C Explanation in clause (iv) to be amended to specifically *“but does not include—*
  - (A) *manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer or associate of such customer; or*
  - (B) *any sum referred to in sub-section (1) of section 194J.”.*

## **Widening and deepening of tax base & anti-avoidance**

### Income from house property

- Amend section 28 of the Act so as to clarify that any income from letting out of a residential house or a part of the house by the owner shall not be chargeable under the head “Profits and gains of business or profession” and shall be chargeable under the head “Income from house property”.

***‘Explanation 3.—It is hereby clarified that any income from letting out of a residential house or a part of the house by the owner shall not be chargeable under the head “Profits and gains of business or profession” and shall be chargeable under the head “Income from house property’***

WEF 1-4-2025

## **Widening and deepening of tax base & anti-avoidance**

Preventing misuse of deductions claimed by life insurance business

- S.44 provides for computing of profits and gains of any business of insurance, including any such business carried on by a mutual insurance company or by a co-operative society, to be in accordance with **First Schedule of the Act**,
- It has been noticed that there have been instances **where non-business expenses have been claimed by life insurance companies and there is no provision to add back these to the income of such companies.** In order to ensure that provisions are not misused to claim deduction for expenses which are otherwise not admissible under the provisions of section 37 of the Act, proposed to amend **Rule 2 of the First Schedule** of the Act to provide

*“Provided that any expenditure which is not admissible under section 37 in computing the profits and gains of a business, shall be included to the profits and gains of life insurance business.”.*

WEF 1-4-2025

## **Widening and deepening of tax base & anti-avoidance**

### Other Amendments

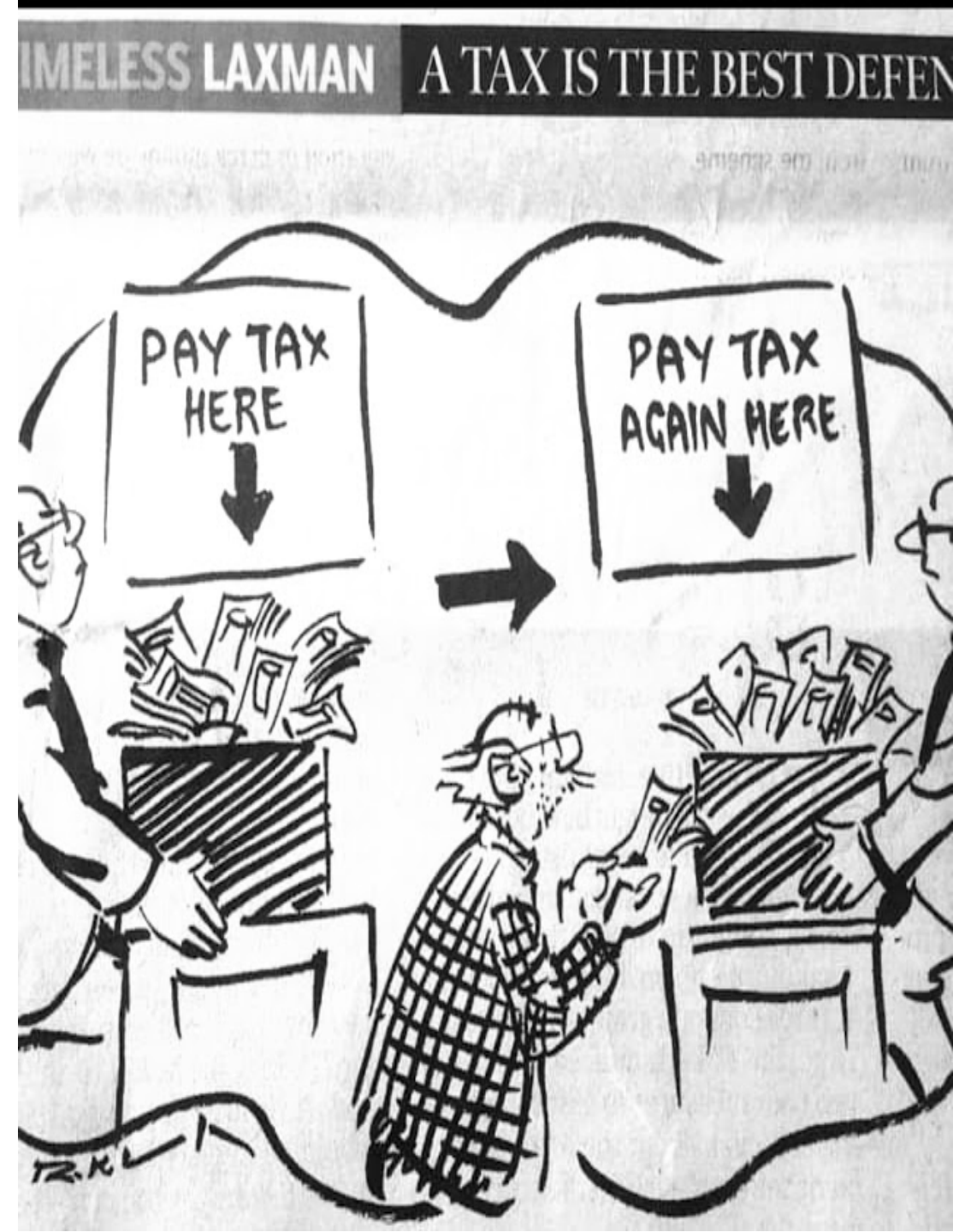
- **S.206C(1F)** on any other goods of value exceeding Rs.10L (such goods would be luxury goods) . Changes to be notified.

WEF 1-1-25

- **TDS on Floating Rate Savings (Taxable) Bonds** , TDS at time of payment of interest exceeding Rs.10,000/- on FRSB 2020

WEF 1-10-24

# Tax Administration



# Overview

- **Direct Tax VSV 2024**
- **Equalisation Levy sunset**
- Power of CIT(A)
- Timeline Amendment to S.276B
- Time limit for orders deeming any person to be assessee in default
- Determination of ALP in respect of SDT by TPO
- Rationalisation of time limit for completion of assessment, reassessment and recomputation
- Reference to BMA for tax clearance certificate
- Adjusting liability under Black Money Act against seized assets
- Amendments in S.245Q and S.245R related to Advance Rulings
- TDS/TCS Correction statements time limit
- Lower deduction / collection certificate of tax at source
- Penalty for failure to furnish statements
- Threshold for penalty under BMA
- Submission of statement by liaison office of non-resident in India
- Notification of persons exempt from TCS
- Widening ambit of section 200A of the Act
- Amendments to 80G and 43D
- Discontinuation of Aadhar Enrolment ID
- Amendment to S.271FAA to comply with AEOI framework



# Tax Administration

## Direct Tax VsV 2024

- **Direct Tax Vivad se Vishwas Scheme, 2024** is proposed with the objective of providing a mechanism of settlement of disputed issues, thereby reducing litigation without much cost to the exchequer.
- It is proposed that this Scheme shall come into force from the date to be notified by the Central Government. The last date for the Scheme is also proposed to be notified



# Tax Administration

## Direct Tax VsV 2024

- VSV-2024 is on lines similar to the 2020 scheme
- Taxpayer has to pay disputed tax where he is in appeal and 50% of disputed tax where Dept is in appeal
- Amount payable is 10% higher if appeal was filed before Jan 31, 2020 or if settlement amount is paid after Dec 31, 2024.
- Scheme likely to commence last quarter of 2024?
- *Huge pendency at cit(a) will reduce?*

Nature of tax arrears	Appeal filing period	If scheme availed on or before Dec 31, 2024	If scheme availed on or after Jan 1, 2025
Tax, interest and penalty	After Jan 31, 2020 but on or before July 22, 2024	Disputed tax	Disputed tax + 10% of disputed tax
Tax, interest and penalty	On or before Jan 31, 2020	Disputed tax + 10% of disputed tax	Disputed tax + 20% of disputed tax
Interest or penalty	After Jan 31, 2020 but on or before July 22, 2024	25% of disputed interest or penalty	30% of disputed interest or penalty
Interest or penalty	On or before Jan 31, 2020	30% of disputed interest or penalty	35% of disputed interest or penalty
<p>Settlement amounts payable to be reduced to 50% in following cases:</p> <p>a) Where appeal/ writ/ Special Leave Petition is filed by tax authorities</p> <p>b) Where the issue is covered by a favourable ITAT/ High Court decision in taxpayer's own case</p>			

Certain categories of cases will not be eligible for settlement under VVS-2024. These include cases where the assessment was carried out based on a search; where prosecution was instituted on or before filing a declaration; tax disputes involving undisclosed foreign income and/or foreign assets; cases where assessment or reassessment had been made based on information received from foreign jurisdictions. Even cases where the taxpayer is convicted under various Acts such as the Money Laundering Act, or Benami Property Transactions Act, on or before the date of declaration, will not be eligible.

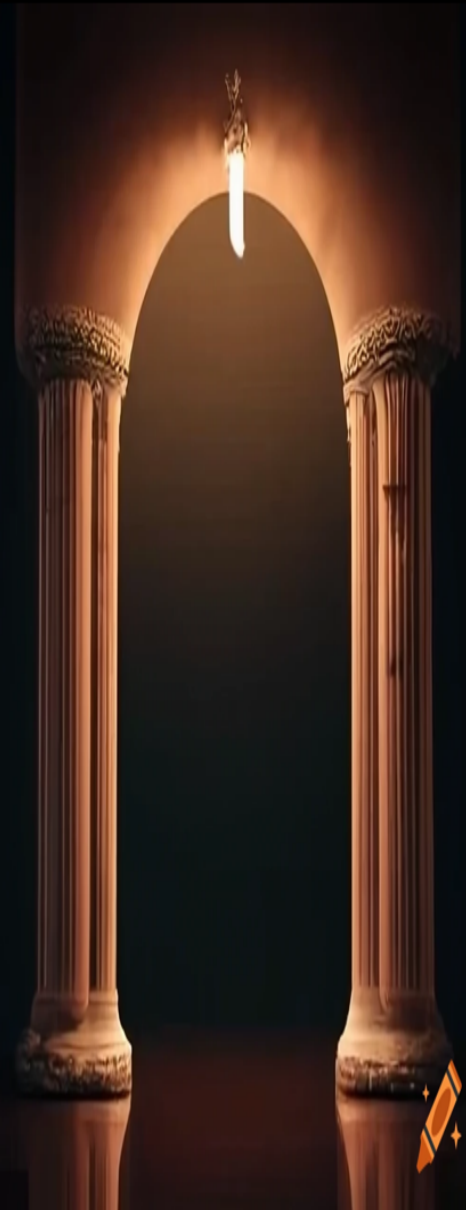
# Tax Administration Equalisation Levy

- It is proposed that this equalisation levy at the rate of 2% shall not be applicable to consideration received or receivable for e-commerce supply or services, on or after the 1st day of August, 2024!
- India signing on to OECD Two-Pillar approach....?!

WEF 1-8-2024

## PILLAR ONE

Large MNEs (turnover > Euro 20billion) and profitability > 10% would allocate 25% of excess profits ("residual profits") to countries where they sell their products irrespective of the physical presence.



## PILLAR TWO

Global Anti-Base Erosion (GLOBE) Rules provides that all countries will impose a **minimum tax of 15%** on corporates.

While countries may still choose to not impose a 15% tax, P2 provides where profits are in places where tax < 15%, source country can tax those profits by way of application of following rules:

Income Inclusion Rule ('IIR')	Parent company pays <b>top-up tax<sup>2</sup></b> on its proportionate share of income of its group entity located in low-tax jurisdiction
Switch-Over Rule ('SOR')	Compliments the IIR by providing an enabling mechanism to overturn tax treaty obligations.
Undertaxed Payments Rule ('UTPR')	This rule kicks in especially in cases where IIR is inapplicable. As per UTPR, the MNE Group will allocate top-up tax to group entities in the ratio of deductible payments made by such companies to the entity located in low-tax jurisdiction. IIR has priority over UTPR.
Subject to tax Rule ('STTR')	This Rule triggers when the covered payment is subject to nominal rate of tax in payee jurisdiction. For example, if the payment is taxable at 5% in payee jurisdiction, as per STTR, additional withholding tax of 4% will apply in the payer jurisdiction (irrespective of the tax treaty rate).

# Tax Administration

## Power of CIT(A)

- Considering the huge pendency of appeals and disputed tax demands at the Commissioner (Appeals) stage, it is proposed that **the cases where assessment order was passed as best judgement case under section 144 of the Act, Commissioner (Appeals) shall be empowered to set aside the assessment and refer the case back to the Assessing Officer for making a fresh assessment**
- Further, it is proposed to make consequential amendment in section 153(3) of the Act in order to provide the time limit for disposal of cases which are set aside by the Commissioner (Appeals).

WEF 1-10-24. It will be applicable to appellate orders passed by the Commissioner (Appeals) on or after 01.10.2024.

# Tax Administration

## Amendment to S.276B

- Proposed to amend S.276B of the Act to provide for **exemption from prosecution** to a person covered under clause (a) of the said section, **if the payment of tax deducted** in respect of a quarter has been made to the credit of the Central Government at any time **on or before the time prescribed for filing the statement of such quarter under sub-section (3) of section 200** of the Act.

WEF 1-10-2024

# Tax Administration

## Time limit for orders deeming **any person** to be assessee in default

- 201(3) time limit of seven years for order made under sub-section 201(1) deeming a person to be an assessee in default for failure to deduct the whole or any part of the tax where payee is a person resident in India. **However, there is no time limit when there has been a failure to deduct the whole or any part of the tax from a nonresident.**
- Similarly, for TCS, 206C(6A) provides the consequences when a person does not collect the whole or part of the tax or after collecting fails to pay the tax as required by or under this Act, he shall be deemed to be an assessee in default.

**S.201(3)** for the words “a person resident in India, at any time after the expiry of seven years”, the words “any person, at any time after the expiry of six years” shall be substituted;

**New S.206C(7A)** “No order shall be made under sub-section (6A) deeming a person to be an assessee in default for failure to collect the whole or any part of the tax from any person, at any time after the expiry of six years from the end of the financial year in which tax was collectible or two years from the end of the financial year in which the correction statement is delivered under sub-section (3B), whichever is later”

## Tax Administration

### Determination of ALP in respect of SDT by TPO

- S.92CA(2A) / (2B) at present, do not extend to SDTs. It is proposed to amend sub-sections (2A) and (2B) of section 92CA to enable the TPO to deal with SDTs **which have not been referred to him** by the AO and/or in whose respect audit report under section 92CE has not been filed.

WEF 1-4-2025



# Tax Administration

## Rationalisation of time limit for completion of assessment, reassessment and recomputation

- It is proposed to insert a new **S.153(1B)** so that order of assessment of cases where return of income is furnished in consequence of an order under section 119(2)(b) may be completed within twelve months from the end of the financial year in which such return is furnished.
- **153(3) amended** to insert the reference of S.250 in order to provide the time-limit for disposal of cases which are proposed to be set aside by Commissioner (Appeals)
- **153(8) amended** section to provide the timeline for passing of order in the case of revived assessment or reassessment proceedings as a consequence of annulment of block assessments under Chapter XIV-B of the Act.
- **Amend provision of Explanation 1(xii) of S.153** by inserting a 6th proviso so as to provide that the date of limitation in such cases falls at the end of the month, after taking into account the exclusion provided in the Explanation.
- Consequential amendment proposed in said section to provide that where any return of income is furnished in pursuance of an order under clause (b) of sub-section (2) of section 119, the provisions of this section 139 shall apply.

## **Tax Administration**

### Reference of Black Money Act for tax clearance certificate

- It is proposed to insert the reference of liabilities under **Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015** in the sub-section (1A) of the section 230 of the Act, for the purposes of **obtaining a tax clearance certificate.**

WEF 1-10-2024

# Tax Administration

## Adjusting liability under Black Money Act against seized assets

- Section 132B in its existing form provides that any existing liability under the Income-tax Act, 1961, the Wealth-tax Act, 1957(27 of 1957), the Expenditure-tax Act, 1987 (35 of 1987), the Gift-tax Act, 1958 (18 of 1958) and the Interest-tax Act, 1974 (45 of 1974), and the amount of liability determined on completion of the assessment or reassessment in consequence of search or requisition, may be recovered from the taxpayer out of the seized assets under section 132 or requisitioned under section 132.
- It is proposed to insert the reference of Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 in the section 132B of the Income-tax Act, 1961 **so as to recover the existing liabilities under Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, out of seized assets.**

WEF 1-10-2024

# Tax Administration

## Amendments in S.245Q and 245R related to Advance Rulings

- Proposed amend section 245Q to allow application for withdrawal by the 31st of October, 2024 for the transferred applications before BAR (from AAR) in cases where order under sub-section (2) of section 245R has not been passed.
- It is further proposed to provide that on receipt of an application under the proviso to sub-section (4) of section 245Q, the Board for Advance Rulings may, by an order, reject the application referred to in sub-section (1) thereof as withdrawn on or before the 31st day of December, 2024.

WEF 1-10-2024

# Tax Administration

## TDS/TCS Correction statements time limit

- No time limit for furnishing correction statements possible under Proviso to S.200.
- It is proposed to amend S.200 and sub-section (3B) of section 206C to provide that **no correction statement shall be delivered after the expiry of six years from the end of the financial year** in which the statement referred to in sub-section (3) of section 200 and statement referred to in the proviso to sub-section (3) of section 206C are respectively delivered.

WEF 1-4-2025

# **Tax Administration**

Lower deduction / collection certificate of tax at source

- To amend sub-section (1) of section 197 to bring section 194Q in its ambit
- To amend sub-section (9) of the section 206C to bring sub-section (1H) of section 206C in its ambit.

WEF 1-10-2024

# **Tax Administration**

## **Penalty for failure to furnish statements**

- It is proposed to amend sub-section (3) of section 271H to provide that no penalty shall be levied if the person proves that after paying TDS/ TCS along with fees and interest to the credit of the Central Government, he has filed the TDS/TCS statement before the expiry of period of one month from the time prescribed for furnishing such statement.

WEF 1-4-25

# Tax Administration

## Threshold for penalty under BMA

- Section 42 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (**the Black Money Act**) provides for **penalty for failure to furnish details of foreign income and assets in the return of income.**
- Similarly, section 43 of the Black Money Act provides for penalty for failure to furnish in return of income, an information or **furnish inaccurate particulars** about an asset (including financial interest in any entity) located outside India.
- S.42/43 shall not apply in respect of an asset, being one or more bank accounts having an aggregate balance which does not exceed a value equivalent to **five hundred thousand rupees** at any time during the previous year.
- It is proposed to amend the provisos to sections 42 and 43 of the Black Money Act to provide that the provisions of the said sections shall not apply in respect of an asset or assets (other than immovable property) where the aggregate value of such asset or assets **does not exceed twenty lakh rupees.**

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# Tax Administration

## India Liaison office statement

- A non-resident having a liaison office in India, is required to prepare and deliver a statement in respect of its activities in a financial year to the Assessing Officer within sixty days from the end of such financial year under section 285 of the Act.
- It is proposed that the period within which such statement is to be filed, be henceforth prescribed under the Rules.
- Further. S.271GC penalty on failure to furnish statement may attract a penalty of **one thousand rupees for every day** for which the failure continues, if the period of failure does not exceed three months; and **one lakh rupees in any other case**. Not leviable if reasonable cause proved.

WEF 1-4-25

# **Tax Administration**

## Notification of certain persons or class of persons as exempt from TCS

- Representations have been received that there can be entities whose income is exempt from taxation and are not required to furnish returns of income. However, they face difficulty as tax is being collected on transactions carried out by them. They state that there is no provision in the Act for them to be exempted from the TCS provisions.
- It is therefore proposed to provide that no collection of tax shall be made or that collection of tax shall be made at such lower rate in respect of specified transaction, from such person or class of persons, including institution, association or body or class of institutions, associations or bodies, as may be notified by the Central Government in the Official Gazette, in this behalf.

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# Tax Administration

## Widening ambit of section 200A of the Act

- S.200A provides for manner in which statement of tds or correction statement made by person deducting sum under S.200 may be processed.
- Form 26QF filed by exchange wherein deductee files details of the tax. So it is proposed to widen the ambit of **section 200A** of the Act to state that in respect of statements which have been made by any other person, not being a deductor, the Board may make a scheme for processing of such statements

## Tax Administration

### Amendments to 80G and 43D

- Amend sub-clause (iiihg) of clause (a) of sub-section (2) of Section 80G of the Act to provide that in computing the total income of an assessee, there shall be deducted, in accordance with and subject to the provisions of this section, any sums paid by the assessee in the previous year as donations to the **National Sports Development Fund** set up by the Central Government.

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- **Section 43D of the Act** provides for special provision in case of income of public financial institutions, public companies involved in housing finance, scheduled banks, co-operative banks other than primary agricultural credit societies, primary co-operative agricultural and rural development banks, State financial corporations, State industrial investment corporations and notified non-banking financial companies
- Removal of reference to National Housing Bank by omitting clause (b) of section 43D of the Act and clause (a) and (b) of Explanation to section 43D of the Act.

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# **Tax Administration**

## Amendment to S.271FAA to comply with AEOI framework

- Following amendments in S.271FAA to clarify that penalty under the said section shall be attracted in any of the following circumstances—

(i) furnishing inaccurate information in the statement shall be liable;

(ii) failure to comply with due diligence requirement in the statement;

Reasonable cause can be proven to avoid this penalty

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# **Tax Administration**

## **Discontinuation of Aadhar Enrolment ID**

- It is proposed that proviso to S.139AA(1) shall not apply from the 1st day of October, 2024. It is further proposed that every person who has been allotted permanent account number on the basis of Enrolment ID of Aadhaar application form, shall intimate his Aadhaar number on or before a notified date.

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## Amendments to Prohibition of Benami Property Transactions Act

- Proposed to insert sub-section (2A) to provide a maximum time limit of **three months** from the end of the month in which notice is issued under sub-section (1) **for the benamidar** or the beneficial owner to file their explanations or submissions.
- **Timeline for Initiating officer to provisionally attach:** Proposed to amend the said sub-section (3) and sub-section (4) of section of the PBPT Act to increase the said period to **four months** from the end of the month in which notice under sub-section (1) of the said section is issued.
- **S.24(5) time period of fifteen days** for Initiating Officer to draw up a statement of the case and refer it to the Adjudicating Authority **increased to one month from end of month in which Order** under S.24(a)(i) or S.24(4)(b)(i) is passed.

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## **Amendments to Prohibition of Benami Property Transactions Act**

- S.55A inserted that the Initiating Officer may, with a view to obtaining the evidence of the benamidar or any other person as referred to in S.53, other than the beneficial owner, **tender to such person immunity from penalty for any offence under section 53, with the previous sanction of the competent authority as referred to in section 55, on condition of his making a full and true disclosure of the whole circumstances relating to the benami transaction [!!].**
- A tender of immunity made to, and accepted by, the person concerned, shall, to the extent to which the immunity extends, render him immune from prosecution for any offence in respect of which the tender was made and from the imposition of any penalty under section 53 of the Act.
- If this section has not complied or is wilfully concealing anything or is giving false evidence, the Initiating Officer may record a finding to that effect, and with the previous sanction of the competent authority, the immunity shall be deemed to have been withdrawn, and any such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter and shall also become liable to the imposition of any penalty under this Act to which he would have otherwise been liable.



# Rates of Tax



Source: TIMES OF INDIA, 1980

# Overview

- Foreign company tax rates reduction
- Changes in New Tax Regime
- Pension Scheme u/S 80CCD employer contribution

# Rates of Tax

## Foreign cos tax rate reduction

- It is proposed that for deduction of income-tax at source on other income in case of company which is not a domestic company, rates shall be reduced from **40% to 35%**.

# Rates of Tax

## Changes in the New Tax Regime

*“I have two announcements to make for those opting for the new tax regime. First, the standard deduction for salaried employees is proposed to be increased from Rs 50,000 to Rs 75,000. Similarly, deduction on family pension for pensioners is proposed to be enhanced from Rs 15,000 to Rs 25,000. This will provide relief to about four crore salaried individuals and pensioners.”*

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- New tax slabs the New Tax Regime

Rs 0-3 lakh: Nil (unchanged)

Rs 3-7 lakh: 5% (vs 5% for Rs 3-6 lakh before)

Rs 7-10 lakh: 10% (vs 10% for Rs 6-9 lakh before)

Rs 10-12 lakh: 15% (vs 15% for Rs 9-12 lakh before)

Rs 12-15 lakh: 20% (unchanged)

Above Rs 15 lakh: 30% (unchanged)

## Rates of Tax

Increase in amount of deduction to non-government employers for employer contribution to Pension Scheme u/S. 80CCD

- Finance Bill, 2024 proposes to increase the **amount of employer contribution allowed as deduction to the employer** (to be made while computing income under the head Profits and Gains of Business or Profession), from 10% to 14% of the salary of the employee in the previous year, by amending Section 36(1)(iva).
- Further proposes that where **contribution to pension fund made by any other employer** (not being Central Government or State Government), the deduction shall be allowed on amount not exceeding 14% (previously 10%) of the employee's salary, where employee's salary is chargeable to tax under Section 115BAC(1A), by amending Section 80CCD(2).

# Budget 2024 announcements

- FM announced that a **comprehensive review** of the Income-tax Act, 1961 will be completed in six months. *"The purpose is to make the Act concise, lucid, easy to read and understand. This will reduce disputes and litigation, thereby providing tax certainty to the taxpayers. It will also bring down the demand embroiled in litigation,"*
  - First draft of a **new simplified income tax law** will be prepared by an internal committee of tax department and will undertake stakeholder consultation before finalising the legislation, Revenue Secretary Sanjay Malhotra said on Thursday.
  - Malhotra said that the exercise is not linked to bringing a new direct taxes code, but comprehensive review of income tax law.
- FM said that the government plans to **deploy more officers** to decide pending appeals, particularly those with large tax effects.
- Govt. has raised **monetary limits for filing appeals** related to direct taxes, excise and service tax in Tax Tribunal, High Courts and SC to ₹60 lakh, ₹2 crore and ₹5 crore, respectively.



*Sorry, the papers are not yet ready, sir! After the simplification of procedures it has become complicated!*

# Thanks!

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What's the matter with these people? I give them all the good news...The Sensex is soaring, and we've won against Australia. But he's still grumbling & complaining  
— R K Laxman (Dec 19, 2003)