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Direct Tax Amendments by Finance Bill 2022

- ✓ No change in Minimum threshold limits of Income Tax Exemptions under old Income Tax Regime;
- ✓ No changes in surcharge slabs as compared to earlier previous year.
- ✓ No changes in Marginal relief in the cases where surcharge is proposed to levied as compared to earlier previous years.
- ✓ No change in Health & Education Cess maintained at 4% for all categories of Tax payers;
- ✓ Standard deduction u/s 16 is maintained at Rs.50,000/- for all the salaried employees;
- ✓ Rebate u/s 87A is continued amounting to Rs.12500/- for all Assessee having taxable income up to Rs.5,00,000/- under old regime of taxation; (Refer to Table given below)
- ✓ No changes in Tax Rates for Companies, Firms and Co-operative Societies other than specified in specific sections (like section 115BAA or section 115BAB for domestic companies, 115BAC for individual/HUF and 115BAD for cooperative societies)

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**Updated Income Tax Return u/s 139 (8A) – Welcome Change**

**Updated Income Tax Return u/s 139 (8A) – A new dimension to  
avoid reassessment proceedings u/s 148A of the Income Tax Act  
1961-Scheme not in the interest of all (AY 2022/23)**

- ✓ No changes in time limits for filing of Original Income Tax Return by the assessee as specified u/s 139(1) of the Income Tax Act 1961.
- ✓ No changes in time limits for filing of Belated Income Tax Return by the assessee as specified u/s 139(4) of the Income Tax Act 1961.
- ✓ No changes in time limits for filing of Revised Income Tax Return by the assessee as specified u/s 139(5) of the Income Tax Act 1961.
- ✓ Assessee has been given an opportunity to file updated return u/s 139(8A) to declare such income due to Data/Information etc. which was not considered while filing original/belated/revised returns or Income Tax Return not filed by the assessee as per time limits specified u/s 139 of the Income Tax Act 1961. But in view of such updated return option opted, assessee would be **required to pay an amount equal to twenty-five percent or fifty percent as additional tax on the tax and interest due** on the additional

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**income furnished** would be required to be paid and return to be filed in the prescribed form.

- ✓ A new Section 140B has been proposed to provide for the tax required to be deposited/paid for opting to file a return under section 139(8A) **(Note: A proper care should be exercised while filing ITR under this scheme as well as paying challans appropriately.)**
- ✓ Updated return can't be filed in the following scenarios: **(Note A proper care should be taken to ensure that one is not covered under the following scenarios while filing ITR under this scheme and if Returns are filed such returns would be termed as invalid Income Tax Returns under the provisions of the Act thus if any taxes are paid under mistaken belief, then to claim refund would be uphill task in general)**

**Normal Scenarios where ITR is filed by the assessee**

- If the updated return, is a return of a loss
- If the updated return, has the effect of decreasing the total tax liability determined on the basis of return furnished either as Original, Belated and/or Revised Return

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**Search and Seizure Scenarios and Other scenarios**

- search has been initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A in the case of such person, or
- a survey has been conducted under section 133A, other than subsection (2A) of that section, in the case such person, or
- a notice has been issued to the effect that any money, bullion, jewellery or valuable article or thing, seized or requisitioned under section 132 or section 132A in the case of any other person belongs to such person, or
- a notice has been issued to the effect that any books of account or documents, seized or requisitioned under section 132 or section 132A in the case of any other person, pertain or pertains to, or any other information contained therein, relate to, such person.

*Note: This provision is for the assessment year relevant to the previous year in which such search is initiated or survey is conducted or requisition is made and two assessment years preceding such assessment year.*

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**Updated Returns filed Scenarios**

- an updated return has been furnished by him under the proposed subsection (8A) of section 139 of the Act for the relevant assessment year, or

**Assessment or Reassessment Proceedings**

- any proceeding for assessment or reassessment or recomputation or revision of income under the Act is pending or has been completed for the relevant assessment year in his case, or
- the Assessing Officer has information in respect of such person for the relevant assessment year in his possession under the Prevention of Money Laundering Act, 2002 or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 or the Prohibition of Benami Property Transactions Act, 1988 or The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 and the same has been communicated to him, prior to the date of his filing of return under the proposed subsection (8A) of section 139 of the Act, or
- information for the relevant assessment has been received under an agreement referred to in sections 90 or 90A of the

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Act in respect of such person and the same has been communicated to him, prior to the date of his filing of return under the proposed sub-section (8A) of section 139 of the Act, or

- any prosecution proceedings under Chapter XXII have been initiated for the relevant assessment year in respect of such person, prior to the date of his filing of return under the proposed sub-section(8A) of section 139 of the Act, or
- he is a person or belongs to a class of persons, as maybe notified by the Board in this regard.
- The tax payable shall be computed after taking into account the following: -
  - (i) the amount of relief or tax, referred to in sub-section (1) of section 140A, the credit for which has been taken in the earlier return;
  - (ii) tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing total income and which has not been claimed in the earlier return;

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- (iii) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India on such income which has not been claimed in the earlier return; **(Note: It is beneficial to opt for this updated return where Form 67 is not filed within the time limits specified subject to all validations. Normally if Form 67 is not filed within time limits, then such credit of withholding taxes is not permitted)**
- (iv) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been claimed in the earlier return;
- (v) any tax credit claimed, to be set off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return.
- The aforesaid tax shall be increased by the amount of refund, if any, issued in respect of such earlier return.
- The updated return, furnished under sub-section (8A) of section 139, shall be accompanied by proof of payment of such tax, additional tax, interest and fee.

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**Normal Scenarios where ITR is not filed by the assessee**

- Assessee would be be liable
  - to pay the tax due together with interest and
  - fee payable under any provision of the Act for any delay in furnishing the return or
  - any default or delay in payment of advance tax,
  - along with the payment of additional tax.
- The tax payable shall be computed after taking into account the following: -
  - (i) the amount of tax, if any, already paid as advance tax;
  - (ii) any tax deducted or collected at source;
  - (iii) any relief of tax claimed under section 89;
  - (iv) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India;
  - (v) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section; and

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- (vi) any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD.
- Such updated return shall also be accompanied by proof of payment of such tax, additional tax, interest and fee.
- **Tax Payable under the updated scheme what it includes** The additional tax, payable at the time of furnishing the return under sub-section (8A) of section 139, shall be equal to twenty-five per cent of aggregate of tax and interest payable, as determined in subparagraphs I ( ITR filed ) or II ( ITR not filed ) above, if such return is furnished after expiry of the time available under sub-section (4) or sub-section (5) of section 139 and before completion of period of twelve months from the end of the relevant assessment year. However, if such return is furnished after the expiry of twelve months from the end of the relevant assessment year but before completion of the period of twenty-four months from the end of the relevant assessment year, the additional tax payable shall be fifty per cent of

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aggregate of tax and interest payable, as determined in sub- paragraphs I (ITR filed) or II (ITR not filed) above.

- It is also clarified that for the purposes of computation of “additional income-tax”, tax shall include surcharge and cess, by whatever name called, on such tax.
- Interest payable u/s 234B in connection with Updated Income Tax Return u/s 139(8A) where ITR is filed earlier by the assessee - It is further provided that notwithstanding anything contained in the Explanation 1 to section 234B, in the cases where an earlier return has been furnished, interest payable under section 234B shall be computed on an amount equal to the assessed tax or, as the case may be, on the amount by which the advance tax paid falls short of the assessed tax, where, "assessed tax" means the tax on the total income as declared in the return to be furnished under sub-section (8A) of section 139, after taking into account the following:

- (i) the amount of relief or tax, referred to in sub-section (1) of section 140A, the credit for which has been taken in the earlier return;

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- (ii) tax deducted or collected at source, in accordance with the provisions of Chapter XVII-B, on any income which is subject to such deduction or collection and which is taken into account in computing such total income and which has not been claimed in the earlier return;
- (iii) any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India on such income which has not been claimed in the earlier return;
- (iv) any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section on such income which has not been claimed in the earlier return;
- (v) any tax credit claimed, to be set off in accordance with the provisions of section 115JAA or section 115JD, which has not been claimed in the earlier return.

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- The aforesaid tax shall be increased by the amount of refund, if any, issued in respect of such earlier return.
- where no earlier return has been furnished, the interest payable under section 234A shall be computed on the amount of the tax on the total income as declared in the return under sub-section (8A) of section 139. Further, interest payable under section 234C, where an earlier return has not been furnished, shall be computed after taking into account the income furnished in the return under sub-section (8A) of section 139 as the returned income. At the same time, for the computation of additional tax above, the interest payable shall be interest chargeable under any provision of the Income-tax Act, on the income as per return furnished under sub-section (8A) of section 139, as reduced by interest paid in the earlier return, if any. However, the interest paid in the earlier

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return shall be considered to be nil if no earlier return has been furnished.

- In view of the proposed sub-section (8A) of section 139 and new section 140B, consequential amendments in section 144, section 153, section 234A and section 234B and 276CC have also been made

***Litigation Management - Appeal by revenue***

***Litigation Management - Appeal by revenue – Pending before HC or SC -***  
*Insertion of New section 158BA – Welcome move – Hopefully it will minimize the*  
*litigations????*

- ✓ ***To curb the tendency of filing appeal by the Revenue in identical cases and/or where question of law is already addressed by Jurisdictional HC and/or SC or matters pending before SC after admission.***
- ✓ ***Section 158AA of the Act provides that where the Commissioner or Principal Commissioner is of the opinion that any question of law arising in the case of an assessee (relevant case) is identical with a question of law arising in his case for another assessment year (other case) which is pending in appeal before the Supreme Court against an order of High Court which was in favour of***

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*assessee, he may direct the Assessing Officer to make an application to the Appellate Tribunal **stating that an appeal on the question of law in the relevant case may be filed when the decision on the question of law becomes final in the other case, subject to the acceptance of the same by the assessee.***

- ✓ *If such a principle could be applied to cases where a question of law is common and where a decision of the jurisdictional High Court, on the same question of law is available, the filing of appeal in such cases can be avoided to reduce the amount of litigation.*
- ✓ *Therefore, to provide a procedure when an appeal by revenue is pending on an identical question of law, it is proposed to insert a new section 158AB in the Act, to provide that where the collegium is of the opinion that any question of law arising in the case of an assessee for any assessment year (“relevant case”) is identical with a question of law already raised in his case or in the case of any other assessee for an assessment year, which is pending before the jurisdictional High Court under section 260A or the Supreme Court in an appeal under section 261 or in a special leave petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court, as the case may be, in favour of such assessee (“other case”), it may, decide and intimate*

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*the Commissioner or Principal Commissioner not to file any appeal, at this stage, to the Appellate Tribunal under sub-section (2) of section 253 or to the High Court under sub-section (2) of section 260A against the order of the Commissioner (appeals) or the Appellate Tribunal, as the case may be.*

- ✓ *Further, the Commissioner or Principal Commissioner shall, on receipt of a communication from the collegium, direct the Assessing Officer to make an application to the Appellate Tribunal or jurisdictional High Court, as the case may be, in the prescribed form within sixty days from the date of receipt of the order of the Commissioner (Appeals) or within one hundred and twenty days from the date of receipt of the order of the Appellate Tribunal, as the case may be, stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the other case. The Commissioner or Principal Commissioner shall direct the Assessing Officer to make such an application only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case, and in case no such acceptance is received, the Commissioner or Principal Commissioner shall proceed*

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*in accordance with the provisions contained in sub-section (2) of section 253 or in sub-section (2) of section 260A.*

- ✓ *Furthermore, where the order of the Commissioner (Appeals) or the order of the Appellate Tribunal, as the case may be, in the relevant case is not in conformity with the final decision on the question of law in the other case as and when such order is received, the Commissioner or Principal Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal or the jurisdictional High Court, as the case may be, against such order.*
- ✓ *It is also proposed that for the purposes of the proposed section, “collegium” shall comprise of two or more Chief Commissioners or Principal Commissioners or Commissioners of Income-tax, as specified by the Board in this regard.*
- ✓ *In order to illustrate the point, it may be supposed that a question of law (Q1)A1 has arisen in case of an assessee (A1) and the A1 has received a favourable decision on Q1A1 from the Commissioner (Appeals). Further, in case of another assessee (A2), where Department’s appeal on identical question of law (Q1) A2 is pending before the jurisdictional High Court or the Supreme Court and the collegium is of the opinion that Q1A1 and Q1A2 are identical questions of law. Then in this situation, provisions of proposed*

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*section 158AB can be invoked by Revenue to defer filing of appeal for decision on Q1A1 to the higher appellate authority in ITAT till a decision on Q1A2 is communicated to Assessing Officer having jurisdiction over the assessee, A1. Such a decision on deferment will be subject to acceptance by the assessee A1 that question of law in his case Q1A1 is identical to Q1A2 in the case of the assessee A2.*

- ✓ *With the introduction of section 158AB, a sunset clause is proposed to be inserted in sub-section (1) of section 158AA to provide that no direction shall be given under the said sub-section on or after 1st April, 2022 **(Note: When exploring alternative remedies under the provisions of the Income Tax Act 1961 such change needs to be kept in mind by examining the appeal documentation when filed by the Department because if not compiled then it can be taken as one of the grounds of appeals)***

**Changes in Appeal Provisions u/s 246A**

- ✓ *New Section 239A has been inserted to provide that such a person, who has made the deduction of tax under such an agreement or arrangement and borne the tax liability, when no tax deduction was required, may file an application for refund of such tax deducted before the Assessing Officer.*

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- ✓ *Such person can, if he is not satisfied with the order of the Assessing Officer, go into appeal against such order before the Commissioner (Appeals), under section 246A of the Act. Accordingly, the provisions of section 248 of the Act will not apply in cases where the date of tax payment, to the credit of Central Government is on or after 01.04.2022.*
- ✓ *Now CIT (Appeals) can levy Penalty u/s sections 271AAB, 271AAC, 271AAD penalize actions pertaining to undisclosed income, unexplained credits or expenditures, or deliberate falsification or omission in books of accounts.*

**Cash Credits u/s 68 (AY 23/24)**

*Source of source needs to be explained in the cases of transactions involving share application money, share capital, share premium or loans or borrowings or any such amount etc. with all supporting documentations. This provision is not applicable to VCF and VCC registered with SEBI.*

**Profits and Gains of Business or Profession**

**DRC Resolution effect changes – Welcome Change (AY 22/23)**

- ✓ *Section 245MA of the Income Tax Act 1961 has been amended to provide for a taxpayer friendly amendment where Taxpayer may opt for approaching either the Dispute Resolution Panel under section 144C of the Act or the DRC under section 245MA of the Act, and the*

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*AO shall pass the final order in conformity with the order by the DRC even in the case of an eligible assessee.*

**Cess and Surcharge not deductible u/s 28.**

- ✓ *Cess and Surcharge can't be claimed as deductible expenditure u/s 28. Such amendment is provided by way of explanation applicable w.e.f AY 2005/06 to overcome the judgements of Bombay High Court (Sesa Goa Ltd Vs. JCIT (2020) 117 Taxmann.com), Rajasthan HC (Chambal Fertilizers and Chemicals Ltd Vs. JCIT) and going against ITAT Kolkatta (Kanoria Chemicals and Industries Ltd) which had held it to be cess as surcharge by taking support from SC judgement in the case of CIT Vs. K Srinivasan (1972) 83 ITR 346. (Similar amendment was introduced by providing for retrospective amendments – famous Vodafone Litigation known to all- *how such retrospective judgement can be introduced from 2005?*)*

**Business Reorganization Assessment Proceedings – Welcome Move**

- ✓ *It is proposed to insert a sub-section (2A) to section 170, to provide that the assessment or other proceedings pending or completed on the predecessor in the event of a business reorganization, shall be deemed to have been made on the successor.*

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- ✓ *Consequentially, Hence, in order to remove this anomaly, it is proposed to insert a new section 170A to the Act, to enable for the entities going through such business reorganization, for filing of modified returns for the period between the date of effectivity of the order and the date of issuance of final order of the competent authority.*
- ✓ *Consequentially, it is proposed to insert a new section 156A to the Act to give effect to the orders of the competent authority and to modify such demands in accordance with such directions in the cases of business reorganization, instances have been found where the Court or Tribunal or an Adjudicating Authority, as defined in clause (1) of section (5) of the Insolvency and Bankruptcy Code, 2016.*
- ✓ *Proviso has been inserted to Section 79 of the Act (carry forward and set-off of losses) to provide that the provisions of sub-section (1) of section 79 shall not apply to an erstwhile public sector company subject to the condition that the ultimate holding company of such erstwhile public sector company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at*

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***least fifty one per cent of the voting power of the erstwhile public sector company in aggregate.***

- ✓ The terms “erstwhile public sector company” and “strategic disinvestment” shall have the meaning assigned to in clause (ii) and (iii) of the Explanation to clause (d) of sub-section (1) of Section 72A respectively.

**Clarification u/s 37 – Adverse explanations added**

***– fundamentally violates the decision of doing any activity in furtherance of business & reversing judicial pronouncements***

- ✓ It is proposed to insert another Explanation to sub-section (1) of section 37 to further clarify that the expression “expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law”, under Explanation 1, **shall include and shall be deemed to have always included the expenditure incurred by an assessee, —**

*i. for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India **or outside India; or***

*ii. to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guidelines, as the case may be, for the time being in force, governing the conduct of such person; or*

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iii. to compound an offence under any law for the time being in force, in India **or outside India.**

**Comments – expenditure incurred outside India is also covered now which was not the case earlier. All compounding fees now would be disallowed and it needs to be reported in Tax Audit Report by the auditor also.**

**Clarification u/s 43B –**

**deduction on payment of interest only on actual payment**

- ✓ It is proposed to amend Explanation 3C, Explanation 3CA and Explanation 3D of section 43B to provide that conversion of interest payable under clause (d), clause (da), and clause (e) of section 43B, into debenture or any other instrument by which liability to pay is deferred to a future date, shall also not be deemed to have been actually paid (AY 23/24) – **most unfair explanation added to overcome Apex Court Judgment.**
- ✓ Bonus Stripping and Dividend Stripping to be made applicable to Securities and Units of InvIT, REIT and AIF also w.e.f 1/4/23.

**Virtual Digital Assets (Section 115BBH)- AY 22/23.**

- ✓ Section 2(47A) - A virtual digital asset is proposed to mean any information or code or number or token (not being Indian currency or

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*any foreign currency), generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value which is exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account and includes its use in any financial transaction or investment, but not limited to, investment schemes and can be transferred, stored or traded electronically. Non fungible token and; any other token of similar nature is included in the definition.*

- ✓ *Central Government may notify any other virtual digital asset as virtual digital asset by way of notification in the Official Gazette. The Non-fungible tokens mean such digital assets as notified by the Central Government. Further, Central Government can notify such assets which shall not be considered as virtual digital assets for the purposes of the proposed section.*
- ✓ *Income earned from Virtual Digital Assets; income tax calculated at the rate of 30%.*
- ✓ *Only Purchase cost of such Virtual Digital Assets is allowed as deductible and no other expenses are allowed to be claimed.*

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- ✓ *Set off of loss from transfer of Virtual Digital Assets is not permissible against any other income and such loss is not allowed to be carry forward also.*
- ✓ *New Section 194S is introduced to provide for deduction of tax on payment for transfer of Virtual Digital Assets to a resident at the rate of 1% which means all individuals to whom Tax Audit is applicable or their turnover exceeds specified limits whereby they need to deduct TDS for claim of expenses and any other assessee also needs to apply for TAN Number and do the compliance of TDS invariably?*
- ✓ *If TDS is deducted u/s 194S then TDS u/s 194O is not applicable.*
- ✓ *In case of specified persons, the provisions of section 203A and 206AB will not be applicable*
- ✓ *For the purposes of this section, it is proposed to provide that 'specified person' means a person: —*
- ✓ *(i) being an individual or Hindu undivided family whose total sales, gross receipts or turnover from the business carried on by him or profession exercised by him does not exceed one crore rupees in case of business or fifty lakh rupees in case of profession, during the financial year immediately preceding the financial year in which such virtual digital asset is transferred;*

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- ✓ (ii) being an individual or Hindu undivided family having income under any head other than the head 'Profits and gains of business or profession'.
- ✓ Further, in order to provide for taxing the gifting of virtual digital assets, it is also proposed to amend Explanation to **clause (x) of sub-section (2) of section 56 of the Act** to inter-alia, provide that for the purpose of the said clause, the **expression "property" shall have the meaning** assigned to it in **Explanation to clause (vii) and shall include virtual digital asset.**
- ✓ **Food for thought – if Purchase Incentive Cards/Loyalty Cards/Credit Card Points are given by Amazon or Phone Pe or Paytm etc. – whether such card would be termed as Virtual Digital Asset and one needs to do the compliance as provided above? – what tax compliances would be triggered? Whether GST compliances would trigger by treating transaction as supply u/s 7 of CGST Act 2017?**

**TDS Changes**

**Consequence for failure to deduct/collect or payment of tax –**

**Computation of interest u/s 201**

- ✓ In order to make the intention of the legislation clear and to make it free from any misinterpretation, it is proposed to:

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- *(i) amend sub-section (1A) of section 201 to provide that where any order is made by the Assessing Officer for the default under sub-section (1) of the said section, the interest shall be paid by the person in accordance with the order made by the Assessing Officer in this regard;*
- *(ii) amend sub-section (7) of section 206C to provide that where any order is made by the Assessing Officer for the default under sub-section (6A) of the said section, the interest shall be paid by the person in accordance with the order made by the Assessing Officer in this regard.*
- *Comment – Interest determined by Assessing Officer in case of TDS and TCS default is payable by the Assessee.*
- ✓ ***TDS u/s 206AB & 206CCA will not be applicable for 194-IA, 194-IB & 194-M for individual & HUFs as such compliance is not possible by Individuals & HUFs due to simplified scheme of TDS through PAN Number.***
- ✓ ***TDS u/s 194IA read with sections 43CA/50C/56 of the Income Tax Act 1961 needs to be deducted @ 1% on Agreement value or Ready Reckoner value whichever is higher.***

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- ✓ ***Alignment of Offences and Prosecution under Chapter XXII of the Act by removing redundant sections and adding/clubbing certain sections of the Act.***
- ✓ New section 194R to the Act to provide that the person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from carrying out of a business or exercising of a profession by such resident, shall, before providing such benefit or perquisite, as the case may be, to such resident, ensure that tax has been deducted in respect of such benefit or perquisite at the rate of ten per cent of the value or aggregate of value of such benefit or perquisite. For the purpose of this section, the expression 'person responsible for providing' has been proposed to mean a person providing such benefit or perquisite or in case of a company, the company itself including the principal officer thereof. Payer is responsible for paying TDS under section 194R. **This section shall not apply to an individual or a Hindu undivided family, whose total sales, gross receipts or turnover does not exceed one crore rupees in case of business or fifty lakh rupees in case of profession during the financial year immediately preceding the financial**

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**year in which such benefit or perquisite, as the case may be, is provided. (W e f 1<sup>st</sup> July 2022)**

**Widening of Scope u/s 285B –  
Event Management, Sports Management Entity and  
Advertising Industry & Others**

- ✓ Section 285B scope has been widened to provide to include persons engaged in specified activities to expand the reporting requirements in Form 52A. “Specified Activities” would mean event management, documentary production, production of programs for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may, by notification in the Official Gazette, specify in this behalf.
- ✓ Extension of the last date for commencement of manufacturing or production, under section 115BAB, from 31.03.2023 to 31.03.2024
- ✓ Extension of date of incorporation for eligible start up for exemption u/s 80IAC is extended from 31.03.2022 to 31.03.2023.
- ✓ AMT rate for co-operative societies is reduced from 18.5% to 15% u/s 115JC of the Income Tax Act 1961. Consequentially,

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- amendment in Section 115JF to define the Alternative Minimum Tax accordingly.
- ✓ ***Tax Incentives to International Financial Services Centre (IFSC) are extended to 31<sup>st</sup> March 2024.***
  - ✓ It is proposed to amend clause (4E) of section 10 of the Act to extend the exemption under the said clause to the income accrued or arisen to or received by a non-resident as a result of transfer of offshore derivative instruments or over-the-counter derivatives entered into with an Offshore Banking Unit of an International Financial Services Centre, referred to in subsection (1A) of section 80LA.
  - ✓ It is proposed to amend clause (4F) of section 10 to extend the exemption under the said clause to the income of a non-resident by way of royalty or interest, on account of lease of a ship in a previous year, paid by a unit of an International Financial Services Centre, as referred to in sub-section (1A) of section 80LA, if the unit has commenced its operations on or before the 31<sup>st</sup> March, 2024.
  - ✓ It is also proposed to define “ship” to mean a ship or an ocean vessel, an engine of a ship or an ocean vessel, or any part thereof.

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- ✓ It is proposed to insert clause (4G) in section 10 to provide exemption to any income received by a non-resident from portfolio of securities or financial products or funds, managed or administered by any portfolio manager on behalf of such non-resident, in an account maintained with an Offshore Banking Unit, in any International Financial Services Centre, referred to in subsection (1A) of section 80LA, to the extent such income accrues or arises outside India and is not deemed to accrue or arise in India.
- ✓ It is also proposed to provide that “portfolio manager” shall have the same meaning as assigned to it in clause (z) of sub-regulation (1) of regulation (2) of International Financial Services Centres Authority (Capital Market Intermediaries) Regulations, 2021 made under the International Financial Services Centres Authority Act, 2019;
- ✓ It is proposed to amend the Explanation to clause (viib) of section 56 of the Act to provide that specified fund shall also include Category I or a Category II Alternative Investment Fund which is regulated under the International Financial Services Centres Authority Act, 2019.

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- ✓ (v) It is proposed to amend clause (d) of sub-section (2) of section 80LA of the Act to provide that in addition to the income arising from the transfer of an asset being an aircraft, the income arising from the transfer of an asset, being a ship, which was leased by a unit of the International Financial Services Centre to any person shall also be eligible for deduction under section (1A) of the said section, subject to the condition that the unit has commenced operation on or before the 31st day of March, 2024.
- ✓ It is also proposed to provide that ship shall have the same meaning as provided under clause (4F) of section 10. (AY 23/24)

**Clarification u/s 14A – Exempt Income – IOS**

- ✓ *It is proposed to insert an Explanation to section 14A of the Act to clarify that notwithstanding anything to the contrary contained in this Act, the provisions of this section shall apply and shall be deemed to have always applied in a case where exempt income has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such exempt income. (Comment – no expenditure is allowable to be claimed as deductible irrespective of the fact whether exempt income is received or deemed to received or not)*

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- ✓ *Section 14A has been amended by inserting “**a non-obstante clause in respect of other provisions of the Income-tax Act and provide that no deduction shall be allowed in relation to exempt income, notwithstanding anything to the contrary contained in this Act.**”*
- ✓ *Incentives to National Pension System (NPS) subscribers for state government employees increased from 10% to 14% u/s 80CCD from 1.4.20.*
- ✓ *Exemption of amount received for medical treatment and on account of death due to COVID-19 u/s 17 as well as u/s 56 of the Income Tax Act 1961 by the employee from the employer and if received from any other person then limit is Rs.10 Lakhs. (AY 20/21)*
- ✓ *Withdrawal of concessional rate of taxation on dividend income under section 115BBD to provide that the provisions of this section shall not apply to any assessment year beginning on or after the 1st day of April, 2023.*
- ✓ *Withdrawal of exemption under clauses (8), (8A), (8B) and (9) of section 10 of the Income-tax Act, 1961 w.e.f from 1.4.2013 in respect remuneration, fee or income of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2023.*

*Assessment Proceedings Changes*

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- ✓ *Faceless Assessment Schemes deferred u/s 92CA (Transfer Pricing), 144C (Dispute Resolution Panel), 253 (Faceless appeal to Appellate Tribunal) & 255 (Faceless Procedure of Appellate Tribunal) till 31.03.2014;*
- ✓ *Section 144B (9) is proposed to be deleted pertaining to Faceless Assessments.*
- ✓ *New Section 79A has been inserted to provide notwithstanding anything contained in the Act, where consequent to a search initiated under section 132 or a requisition made under section 132A or a survey conducted under section 133A, other than under sub-section (2A) of section 133A, the total income of any previous year of an assessee includes any undisclosed income, no set off, against such undisclosed income, of any loss, whether brought forward or otherwise, or unabsorbed depreciation under sub-section (2) of section 32 shall be allowed to the assessee under any provision of this Act in computing his total income for such previous year.*
- ✓ **Assessment and Reassessment proceedings**
  - *(i) A New Proviso is inserted to the effect that requirement for approval to issue notice under section 148 **shall not be required to be taken** by the Assessing Officer **if he has***

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*passed an order under 148A(d) with prior approval in that case stating that the **income is escaping assessment.***

- *(ii) to omit the requirement of approval of specified authority in clause (b) of section 148A.*
- ✓ **Important change:** *to provide that the **provisions of the section 148A shall not apply** in cases where the **Assessing Officer has received any information regarding the scheme notified under section 135A, pertaining to income chargeable to tax escaping assessment for any assessment year** in the case of the assessee*
- ✓ Penalty u/s 272A is increased from Rs.100/-per day to Rs.500/- per day for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections etc
- ✓ Section 179 title has been changed to “Liability of directors of private company” and Explanation to the section clarifies that the expression “tax due” in the section includes penalty, interest of any other sum payable under the Act and now Tax dues includes fees also.
- ✓ TPO order can be revised by PCIT or Chief Commissioner u/s 263.

**Changes in Trust Compliances**

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- ✓ Books of account to be maintained by the trusts or institutions under both the regimes viz. u/s 12AA or 12AB of the Act
- ✓ Penalty for passing on unreasonable benefits to trustee or specified persons u/s 13 viz.
  - i) a sum equal to the aggregate amount of income applied, directly or indirectly, by such person, for the benefit of any person referred to in sub-section (3) of section 13 where the violation is noticed for the first time during any previous year; and
  - ii) a sum equal to two hundred percent of the aggregate amount of income of such person applied, directly or indirectly, by such person, for the benefit of any person referred to in sub-section (3) of section 13, where violation is noticed again in any subsequent previous year.
- ✓ Reference to the Principal Commissioner or Commissioner (PCIT/CIT) for the cancellation of registration/approval:
- ✓ Conditions u/s 11 (2) as well as 10(23C) are aligned to bring out consistency.
- ✓ Filing of return by person claiming exemption under clause (23C) of section 10 of the Act

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Other Misc. Changes

- ✓ 234F is now included u/s 119 (2)(a) of the Income Tax Act 1961.
- ✓ Income Tax Authorities definition is amended u/s 139 to any the income tax authority who is subordinate to the Principal Director General of Income-tax (Investigation) or the Director General of Income-tax (Investigation) or the Principal Chief Commissioner of Income-tax (TDS) or the Chief Commissioner of Income-tax (TDS), as the case may be shall only be considered as Income-tax authorities for the purposes of section 133A.
- ✓ Further explanation is amended income tax authority shall be subordinate to Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner, as the case may be, specified by the Board.
- ✓ Section 2(42C) defines the term Slum sale- in the definition word “transfer “is substituted for “sales”.

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**Tax Slabs (old schema)- Individuals – Taxable Income up to Rs.5 Lakhs**

New Income Limits	Tax Rate	Tax	Old Income Limits	Tax Rate	Tax
Up to Rs.250000/-	NIL	NIL	Up to Rs.250000/-	NIL	NIL
Rs.250001/- to Rs.500000/-	NIL	NIL	Rs.250001/- to Rs.500000/-	5%	Rs.12500/-
Rs.500001/- to Rs.1000000/-	20%	20% in excess of Rs.5 Lakhs	Rs.500001/- to Rs.1000000/-	20%	Rs.12500/- plus 20% in excess of Rs.5 Lakhs
Above Rs.1000000/-	30%	Rs.100000/- plus 30% in excess of Rs.10 Lakhs	Above Rs.1000000/-	30%	Rs.112500/- plus 30% in excess of Rs.10 Lakhs

**Tax Slabs (old Schema) – Individuals – Taxable Income above Rs.5 Lakhs**

New Income Limits	Tax Rate	Tax	Old Income Limits	Tax Rate	Tax
Upto Rs.250000/-	NIL	NIL	Upto Rs.250000/-	NIL	NIL
Rs.250001/- to Rs.500000/-	5%	Rs.12500/-	Rs.250001/- to Rs.500000/-	5%	Rs.12500/-
Rs.500001/- to Rs.1000000/-	20%	Rs.12500/- plus 20% in excess of Rs.5 Lakhs	Rs.500001/- to Rs.1000000/-	20%	Rs.12500/- plus 20% in excess of Rs.5 Lakhs
Above Rs.1000000/-	30%	Rs.112500/- plus 30% in excess of Rs.10 Lakhs	Above Rs.1000000/-	30%	Rs.112500/- plus 30% in excess of Rs.10 Lakhs

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**Tax Slabs (old schema) – Women Assessee below 60 years**

New Income Limits	Tax Rate	Tax	Old Income Limits	Tax Rate	Tax
Up to Rs.250000/-	NIL	NIL	Up to Rs.250000/-	NIL	NIL
Rs.250001/- to Rs.500000/-	5%	Rs.12500/-	Rs.250001/- to Rs.500000/-	5%	Rs.12500/-
Rs.500001/- to Rs.1000000/-	20%	Rs.12500/- plus 20% in excess of Rs.5 Lakhs	Rs.500001/- to Rs.1000000/-	20%	Rs.12500/- plus 20% in excess of Rs.5 Lakhs
Above Rs.1000000/-	30%	Rs.112500/- plus 30% in excess of Rs.10 Lakhs	Above Rs.1000000/-	30%	Rs.112500/- plus 30% in excess of Rs.10 Lakhs

**Tax Slabs (old schema) – Senior Individual Citizens above 60 years**

New Income Limits	Tax Rate	Tax	Old Income Limits	Tax Rate	Tax
Up to Rs.300000/-	NIL	NIL	Up to Rs.300000/-	NIL	NIL
Rs.300001/- to Rs.500000/-	5%	Rs.10000/-	Rs.300001/- to Rs.500000/-	5%	Rs.10000/-
Rs.500001/- to Rs.1000000/-	20%	Rs.10000/- plus 20% in excess of Rs.5 Lakhs	Rs.500001/- to Rs.1000000/-	20%	Rs.10000/- plus 20% in excess of Rs.5 Lakhs
Above Rs.1000000/-	30%	Rs.110000/- plus 30% in excess of Rs.10Lakhs	Above Rs.1000000/-	30%	Rs.110000/- plus 30% in excess of Rs.10Lakhs

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**Tax Slabs (old schema) – Senior Individual Citizens above 80 years**

New Income Limits	Tax Rate	Tax	Old Income Limits	Tax Rate	Tax
Up to Rs.500000/-	NIL	NIL	Up to Rs.500000/-	NIL	NIL
Rs.500001/- to Rs.1000000/-	20%	20% in excess of Rs.5 Lakhs	Rs.500001/- to Rs.1000000/-	20%	20% in excess of Rs.5 Lakhs
Above Rs.1000000/-	30%	Rs.100000/- plus 30% in excess of Rs.10 Lakhs	Above Rs.1000000/-	30%	Rs.100000/- plus 30% in excess of Rs.10 Lakhs

**Note:**

**When Income exceeds Rs. 50 Lakhs but less than One Crore additional surcharge @ 10% is payable on Total Tax Payable by all the category of the Assessee**

**When Income exceeds Rs. 1 (One) Crore but less than Rs.2 crores then additional surcharge @ 15% of such tax payable by all the category of the Assessee**

**When Income exceeds Rs. 2 Crore but less than Rs.5 crores then additional surcharge @ 25% of such tax payable by all the category of the Assessee**

**When Income exceeds Rs. 5 Crore then additional surcharge @ 37% of such tax payable by all the category of the Assessee**

**Note: Additional 4% cess payable in respect of all categories.**

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**New Schema Income Tax for Individuals and HUF**

**New Tax Slabs (New schema)- Individuals – Taxable Income above  
Rs.5 Lakhs**

New Income Limits	Tax Rate	Tax
Up to Rs.250000/-	NIL	NIL
Rs.250001/- to Rs.500000/-	5%	Rs.12500/-
Rs.500001/- to Rs.750000/-	10%	Rs.12500 plus 10% in excess of Rs.5 Lakhs
Rs.750001/- to Rs.1000000/-	15%	Rs.37500 plus 15% in excess of Rs.7.5 Lakhs
Rs.1000001/- to Rs.1250000/-	20%	Rs.62500 plus 20% in excess of Rs.10 Lakhs
Rs.1250001/- to Rs.1500000/-	25%	Rs.112500 plus 25% in excess of Rs.12.5 Lakhs
Above Rs.15 Lakhs	30%	Rs.175000 plus 30% in excess of Rs.15 Lakhs

**Note:**

**When Income exceeds Rs. 50 Lakhs but less than One Crore additional surcharge @ 10% is payable on Total Tax Payable by all the category of the Assessee**

**When Income exceeds Rs. 1 (One) Crore but less than Rs.2 crores then additional surcharge @ 15% of such tax payable by all the category of the Assessee**

**When Income exceeds Rs. 2 Crore but less than Rs.5 crores then additional surcharge @ 25% of such tax payable by all the category of the Assessee**

**When Income exceeds Rs. 5 Crore then additional surcharge @ 37% of such tax payable by all the category of the Assessee**

**Note: Additional 4% cess payable in respect of all categories.**

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**Disadvantages of opting for new schema of Taxation**

1. All Exemptions eligible u/s Chapter XVII-B viz. 80C, 80D, 80G, 80TTA etc. All should be given up.
2. For Salaried employee, benefits of Standard deduction, House Rent Allowance, LTA, Education allowance etc. all has to be given up completely.
3. For Pensioners, deduction available u/s 56 amounting to Rs.15000/- has to be given up.
4. In respect of House Property Income, benefit of interest on monies borrowed for purchase of such property has to be given up.
5. In case of business enterprises or professionals or entrepreneurs, Deduction available u/s section 32, 32AB, 35AB etc. has to be given up.

Thus, considering above whether to go for new schema of taxation or not has to be computed to decide whether it is beneficial or not.

**New Schema Income Tax for a co-operative society resident in India**

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

**Note:** All readers are requested to read the provisions on their before relying on this compilation. We have tried to compile the information to the best of our ability and understanding. This information has been shared only for Education purposes of all in general.

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