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The Chamber of Tax Consultants

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Pre-Budget Memorandum 2021

Suggested Amendments in respect of Direct Taxes for Finance Bill, 2021

Dated: 4th December, 2020

The Chamber's Journal

(A Monthly Journal of The Chamber of Tax Consultants)

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7th December, 2020

ShrI K. C. Varshney,
Joint Secretary,
Tax Policy and Legislation (TPL – I),
CBDT, Government of India,
Ministry of Finance, Department of Revenue,
New Delhi –110001

Respected Sir,

Subject: **Pre-Budget Memorandum 2021-2022–Suggestions on Direct Tax**

We are pleased to submit our suggestions on Direct Taxes for the Budget of 2021. We have concentrated on only few suggestions which, we are sure, will meet with your approval. Each of the suggestions has been necessitated on account of the serious hardship or inconsistency in the law.

Thanking you,

Yours Sincerely,

For THE CHAMBER OF TAX CONSULTANTS

Sd/-	Sd/-	Sd/-
ANISH M. THACKER	MAHENDRA SANGHVI	APURVA SHAH
PRESIDENT	CHAIRMAN	CO-CHAIRMAN
	LAW & REPRESENTATION	COMMITTEE

Summary of Representation by Chamber of Tax Consultants towards Pre Budget memorandum 2021

Para	Issue	Purpose
1.1	Increase Standard Deduction for Salaries to 25% of Salary subject to a cap of Rs. 300,000.	Relief to Smaller Tax Payers
2.1	Allow deduction of Interest of Housing Loan even prior to construction completion.	Encourage Housing / Real Estate
2.2	Taxing Income from Stock held by a Real Estate Developer on notional basis – relaxation needed	Encourage Housing / Real Estate
3.1	Allowing CSR spend as an expense	Relief to Business
3.2	Allowing certain non-depreciable capital expenditure as revenue or deferred revenue.	Encourage Capital Investment in Business
3.3	Depreciation at 100% for smaller items up to Rs. 50,000	Ease in compliance procedures
3.4	Presumptive Tax – to exclude transactions in Derivatives	Encourage Securities Market growth
3.5	Presumptive Tax – for professionals at 25% and allowing remuneration paid as a deduction	Relief to Smaller Tax Payers
3.7	Allowing Scientific Research and Development expenditure u/s 115BAA	Relief to Business and promoting research
4.1	Taxing Development Agreements – extend the system to persons other than Individuals also	Encourage Housing / Real Estate
4.2	54/54F – extend time for purchase / construction of houses	Encourage Housing / Real Estate
4.3	Taxing Long Term Capital Gains on Securities for individuals of up to Rs. 500,000 at 5% instead of 20%	Relief to Smaller Tax Payers
4.4	Taxing Demergers – extend to demerger schemes under Fast Track Route / approved otherwise than by the NCLT	Encourage restructuring of operations
4.5	Merger of LLPs – set off of losses be allowed	Encourage restructuring of operations
4.6	Conversion of Private Companies into LLPs – thresholds to be reduced to encourage such conversions	Encourage restructuring of operations
5.1	Interest u/s 201(1A) – TDS – from due date of payment	Removal of an unintentional hardship
5.2	Interest u/s 201(1A) – TDS – exempt where recipient has no tax liability	Removal of an unintentional hardship
6.1	Exempt Large sized companies and PSUs from having to subject their income to TDS in return for paying a	Ease in compliance procedures

	predetermined sum every month as advance tax	
6.2	Simplify system of allowing credit for TDS done – especially based on different system followed by payer and payee	Removal of an unintentional hardship
6.3	Prescribe a threshold for directors remuneration like in other cases	Removal of an unintentional hardship
6.4	Remove TCS on payments for purchases	Ease in compliance procedures
7.1	115JB – rationalise for IndAS dealing with Business Combinations	Removal of an unintentional hardship
7.2	115JB – to rationalise for IndAS115/ 116 dealing with revenue recognition and transitional provisions	Removal of an unintentional hardship
8.1	Provide for auto acceptance of a rectification application u/s 154 if not dealt within a finite time of 6 months	Tax friendly administration
8.2	CPC intimations – allow assesses to determine whether a particular adjustment is to be done by CPC or transfer to AO	Tax friendly administration
8.3	Extend time period for filing returns in cases under IBC	Encourage restructuring of operations
9	International Tax	Rationalisation and ease of doing business in India.
10.1	Mandate return filing even for persons with agricultural income beyond a threshold	Increase base of tax payers
10.2	Require government employees to disclose assets even if income is below 50 lakhs threshold	Encourage transparency
10.3	Provide relief to companies revived under IBC	Encourage restructuring
10.4	Orders u/s 171 on partition if HUF – dispense with or fix a time line	Tax payer friendly administration
10.5	Payment of advance tax – clarify that earning tax free business income by senior citizens does not attract advance taxprovisions	Removal of an unintentional hardship
10.6	Change thresholds for reassessment of income	Tax payer friendly administration
10.7	Extend time for revising a return till the due date of filing next year’s tax return	Removal of an unintentional hardship
11	Increasing various thresholds that were set earlier	Relief to Smaller Tax Payers

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1. SALARIES

Sr. No.	Existing provision under the Income- tax Act, 1961("the Act")	Difficulties Obstacles/ Hurdles either Interpretative, Administrative or otherwise	Suggestion or new clause Suggested 3
1.1	Standard deduction of Rs. 50,000/- is allowed.	There are various expenses that employees incur during the course of employment which they cannot claim as deduction and the present limit does not adequately capture the same.	Justification: Employees during the course of their employment incur various expenses, including for upgrading skill for rendering their services as employees, which are much more in the case of employees having higher salary – a higher deduction for such expenses should be allowed. For avoiding leakage of revenue, such deduction may be certain percentage of salary, say 25% of the salary, and maximum amount may be restricted to Rs. 3,00,000/-. This would ensure that an employee who gets a salary is not put to any disadvantage compared to someone who draws the same amount as a

			Freelancer professional. Similar deductions are available under House property (standard deduction) and capital gains (cost inflation index).

2. HOUSE PROPERTY

Sr. No.	Existing provision under the Income- tax Act, 1961("the Act")	Difficulties Obstacles/ Hurdles either Interpretative, Administrative or otherwise	Suggestion or new clause Suggested
2.1	Section 23- Explanation to Second Proviso: Interest on housing loan taken during construction period is allowed in five equal installments commencing from year of completion of construction.	Though the assesses have to pay Pre EMI interest to banks/ housing financial institution every year the deduction is postponed to future years putting more financial burden on borrower during construction period during which he may already be incurring rent	The deduction for interest payable during construction period may be allowed in the year of payment itself. Justification: This will ease financial burden of the assesses who may been staying in rented accommodation during construction period and also promote ease of compliance as no need to keep track of interest paid during construction period to claim the same during further five years.

2.2	Amendment was made to S. 23(5), to tax the notional annual value of inventory where in the developer is unable to sell within a period of 2 years from receipt of Occupation certificate.	The concept of deemed annual value is made applicable on house property which is held as stock in trade. This provision being a deeming fiction has lead to undue burden on the builders and developers. The builders and developersarebeing liable to pay tax on deemed annual value of flats held in stock beyond two years after the completion of construction. The builders / developers have tried to load the said cost into the price either directly or indirectly for recovering from the proposed flat buyers. The deemed provision is a counterproductive measure to provide affordable housing in metro cities.	Provision of house property income should not be made applicable to house property held as stock in trade. Alternatively. Appropriate relief must be granted in genuine cases where the developer can demonstrate that he has made sufficient efforts to dispose of unsold inventory. However due to market/ other conditions same are not getting sold. Justification: Considering the current slump in real estate market, this has resulted in undue hardship to developer who in spite of sufficient efforts to sell its inventory is required to discharge the tax on notional basis on unsold inventory. Alternatively, the period of 2 years needs to be extended to at least 5 years under current situation of real estate markets.

3. **BUSINESS INCOME ANDEXPENDITURE**

Sr. No.	Existing provision under the Income- tax Act, 1961("the Act")	Difficulties Obstacles/ Hurdles either Interpretative, Administrative or otherwise	Suggestion or new clause Suggested
3.1	The Finance Act, 2014 has added new Explanation in sub- section (1) of section 37 providing that any expenditure incurred by an assessee on the activities relating to CSR Referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an Expenditure incurred by the assessee for the purposes of the business or profession and deduction shall not be allowed	As per the Companies Act, 2013, it is mandatory for specified companies (As per Section 135) to spend 2% of their average profits towards Corporate Social Responsibility. These expenses are all connected to social and charitable causes and not for any personal benefit or gain. It is therefore fair to allow the same as business expenditure. There is no bar on allow ability of CSR expenditure falling under other sections like 35, 35AC etc. These expenses are statutorily required to be incurred under the Companies Act 2013 and hence ought to be allowed as a deduction. These expenses are incurred towards CSR and go towards nation building.	There is a need to revisit this provision and the companies should be allowed 100 percent deduction of CSR under section37 with such safeguards as maybe needed.

3.2	Certain expenses being of revenue nature or of deferred revenue nature are considered as capital in nature and are Disallowed. They are not allowed even by way of amortization /depreciation. (1) Fees for increase in authorized capital after initial in corporation, (2) Amortization of Lease premium for Land & Building. (3) Factory shifting expenses (4) Expenditure for setting up separate & dependent unit	Presently, expenditure of the nature described in first column suffers permanent disallowance. Most of these are incurred during the process of expanding business and are in the nature of statutory expenses rather than discretionary and hence ought to be allowed at least to be amortized over a 5 year period. Though there are several decisions allowing depreciation on some of such expenses, but in the absence of a clear legislative framework, it leads to litigation. In order to simplify the computation of business income, such expenditure requires to be allowed either as revenue or in deferred manner or by way of depreciation	Expenditure which is incurred in the course of business may be allowed either as revenue or, if treated as capital, then, such expenditure is to be allowed in deferred manner or by way of depreciation. Hence, specific provision may be inserted.
3.3	Depreciation Allowance – Sec. 32Restoration of Depreciation Allowance in respect of cost of small items of assets.	In the past, with a view to avoid litigation on the point of nature of expenditure (i.e. capital or revenue) in respect of purchase of	The above provisions should be reintroduced, with a limit of cost of such asset being below Rs. 50,000/-

		small items of assets, provisions had been introduced to treat cost of such assets as depreciation allowance. Earlier, the limit on cost of such assets wasRs. 750/-. This was then increased by the Finance Act, 1983 to Rs. 5,000/- again for the same reasons. These provisions have been omitted w.e.f. Asst. Year 1996-97. The omission of the above provisions has created unnecessary hardship of keeping records in respect of purchases of such small items. This was a useful provision to maintain simplicity and to avoid possible litigation on such small items of assets, based on principles of materiality.	Justifications: Sucha provision will only ease the record keeping requirements for insignificant value items which are written off even in financial statements in the year of acquisition.

3.4	Section 44AD relating to presumptive taxation which also covers income of Speculation and derivatives business.(F&O)	Justification: Speculation and F&O income, by their very nature, cannot have a net profit ratio of 8% of the total turnover or gross receipts. In fact, the turnover in such business is taken as profit and loss figures added up together. Applying a profit rate of 8% on such figure is absurd. It would ease the process if F&O income was excluded from the requirements of Section 44AD.	Income or losses from speculation or futures & options business, as specified under section 43(5),should be excluded from the purview of section44AD.

<table>
<tr>
<td>3.5</td>
<td>Sub section (1) of Section 44ADA and section 44AD provides that the section(1),be Deemed to have been already given full effect to and no further deduction under those sections shall be allowed including the salary and interest paid to Partners in case of Firms.</td>
<td></td>
<td>
It is suggested to reduce the profit percentage to 25% for sec 44ADA.

And, interest and salary to the partner should be allowed to all partnership firms including firm of professionals out of the Presumptive NP of thefirm.

Justification:
Disallowance of salary and interest paid to partners would be unfair for partnership firms, where huge amount is a large sum is eligible to be drawn as salary by working partners in accordance with the partners’ remuneration limits as suggested u/s 40(b) which is shown in the below examples and is taxable in their hands:

<table>
<tr><td>Section44AD</td><td>Earlier Provision (UptoA Y 2016-17)</td><td>New Provision (From AY 2017-18 onwards)</td></tr>
<tr><td>Turnover</td><td>80,00,000</td><td>80,00,000</td></tr>
<tr><td>DeemedIncome@8%</td><td>6,40,000</td><td>6,40,000</td></tr>
<tr><td>AllowableRemuneration</td><td>4,74,000</td><td>-</td></tr>
<tr><td>Total IncomeofFirm</td><td>1,66,000</td><td>6,40,000</td></tr>
<tr><td>Tax Payablebyfirm@30%</td><td>49,800</td><td>1,92,000</td></tr>
<tr><td>Tax payable bytwopartner</td><td>NIL</td><td></td></tr>
</table>
</td>
</tr>
</table>

				NILSection44ADA	
				NO44ADA	Under 44ADA
			Gross Receipt of Firm	30,00,000	30,00,000
			DeemedIncome50%	-	15,00,000
			Regular Income(Say50%)	15,00,000	-
			Remuneration to partners	9,90,000	-
			Income of Firm	5,10,000	15,00,000
			Tax ofFirm@30%	1,53,000	4,50,000
			Tax by partners	49,000	-
			Total Tax Incidence	2,02,000	4,50,000

3.7	Taxation Laws (Amendment) Act, 2019 would inter alia introduce Section 115BAA which provides reduced effective tax rate of 25% to domestic companies on compliance with the specified conditions.	S. 115BAA vis-à-vis Expenditure dealt by S. 35(2AB), 35ADetc Section 115BAA(2) inter alia restricts deduction of expenditure incurred on scientific research under various different clauses of Section 35 and also deduction u/s 35AD. The primary reason of this restriction is to prohibit any weighted deduction (150% or 200% of the actual expenditure incurred) or upfront deduction of capital expenditure. S. 37(1) of the Act permits deduction of revenue expenditure incurred for the purpose of business other than expenditure of the nature described in sections	Explanation is inserted to S. 37(1) to provide that, For the removal of doubts, it is hereby declared that for a domestic company that has exercised option under sub-section 4 of Section 115BAA 'expenditure of the nature described in sections 30 to 36' will not include the expenditure specified in sub section 2 of Section 115BAA. Proviso is inserted to S. 35AD(4) to provide that, nothing contained in this sub-section shall apply to capital expenditure incurred by a domestic company that has exercised option under sub-section 4 of Section115BAA.

		30 to 36 of the Act (which includes S. 35(2AB) & S. 35AD). Further, S. 35AD(4) provides that, No deduction in respect of the expenditure referred to in sub-section (1) shall be allowed to the assessee under any other section in any previous year or under this section in any other previous year. The language uses the phrase ‘expenditure referred’ and not ‘expenditure allowed’. Generally, scientific research expense is incurred for the purpose of business. The prohibition u/s 115BAA(2) would not permit the claim of scientific research expense u/s 35(2AB). S. 37(1) applies to expenses not dealt by S.30	

		to 36. As scientific research expense is dealt by S. 35(2AB), S. 37(1) may not apply. Consequently, a genuine business expenditure won't be allowed (even at 100%) for computation of taxable income of domestic company. Similarly, a view is possible that, because of the language of S. 35AD(4) (reproduced above) depreciation will also not be allowed for capital expenditure covered u/s 35AD.	

4. CAPITAL GAINS

Sr. No.	Existing provision under the Income- tax Act, 1961(“the Act”)	Difficulties Obstacles/ Hurdles either Interpretative, Administrative or otherwise	Suggestion or new clause Suggested
4.1	Section45(5A) intends to provide special taxation regime for transfer of land or building or both by an Individual or HUF under a specified agreement and charges the capital gains in the year in which the completion certificate in respect of the project is received based on the stamp duty value on that day.		Provision should be extended to all assessee. For e.g. Section 50C and section 43CA are applicable to all assessee

4.2	S. 54 / 54F These sections provides for time limit of 3 years for investment of capital gain in new house, by way of construction. Further in case of purchase, even a property purchased within one year before the sale of the asset is allowed for the purpose of deduction. The same is not allowed for construction of a new house.		1. The time limit for construction of new house property should be increased from 3 years to 5years. Further a house the construction of which is completed within one year before the sale of the asset should also be given the benefit. Justification: Considering the current scenario, there arise situations where it takes more than 3 years to construct a house property because of high rise buildings being constructed, which requires more time to complete the construction. Ideally a person would either purchase or construct a new house before selling the old one. Therefore such a benefit should be given on construction of a new house also. 2) Amendments should be made in line with 2nd provision to section 24 of Finance Act 2017.

4.3	Sec. 112 provides scheme of concessional tax on long term capital gains. For an individual and HUF normal tax rate for income up to Rs 500,000 is five percent However,in case of such assessee who has long term capital gain and his total income is upto Rs 500,000 is required to pay tax on long term capital gains at the rate of 20 percent.		Rate of tax on long term capital gain should be five per cent in case of total income including long term capital gains is between maximum amount not chargeable to tax and Rupees Five lakhs. Justification: Scheme of taxation provides concessional rate of tax for long capital gains. However, as per the current provisions the rate of taxincaseofassesseewhohaslongterm capital gain is four times.

4.4	De-merger is defined u/s 2(19AA) of the Act – which stipulates the requirement for a de-merger to avail the statutory exemption under the Income Tax Act and for the acquirer to be entitled to the benefit of carry forward of loss the acquire company. Section 2(19AA) inter alia requires that the demerger should be pursuant to a scheme of arrangement under sections 391 to 394 of the Companies Act, 1956	When the Section 2(19AA) was introduced vide Finance Act, 1999 demerger was permissible only pursuant to a High Court approved Scheme u/s 391 to 394 of the Companies Act, 1956. Companies Act, 2013 in addition to permitting a de-merger pursuant a court (NCLT instead of High Court) approved scheme of arrangement permits a fast track de-merger u/s 233 of Companies Act, 2013, which would only require an approval of the Central Government (Regional Director under the Companies Act) and not NCLT. Similarly, Section 234 of the Companies Act, 2013 inter alia permits de-merger of a foreign company into an Indian Company, which was not permitted under the Companies Act, 1956. Further, a Resolution Plan to be	Section 2(19AA) should be amended to remove the requirement for a de-merger to be pursuant to a scheme of arrangement under sections 391 to 394 of the Companies Act, 1956i.e. to bring the definition of de-merger in line with definition of amalgamation u/s 2(1B) of the Act.

		approved by the NCLT under the Insolvency and Bankruptcy Code for revival of the Corporate Debtor can also provide for de-merger of the Corporate Debtor (the company under Insolvency) which would not require a separate approval of NCLT u/s 230 to 232 of the Companies Act, 2013. It would be unjust to restrict the benefits (statutory exemption, carry forward loss) of Section 2(19AA) compliant de-merger to only a de-merger approved u/s 230 to 232 of the Companies Act, 2013 and not to grant benefit to the new method for de-merger. The issue is peculiar in the context of de-merger and is not relevant for merger – as no similar restriction of the scheme being approved u/s 230to 232 of the Companies Act, 2013 is incorporated in the Sections dealing with merger.	

4.5	Merger of LLPs: Current set provisions does not provides for tax neutrality to LLPs in case there is any business restructuring amongst the LLPs		Provision similar to sections 47(vi), 47(vib), 47(vid), 47(vii), carry forward of losses may be introduced for business reorganization of LLPs Justification: a. Considering the importance of hybrid form of organization doing business in the form of LLP was introduced. b. LLP Act provided for business re-organization amongst the LLP similar to those Companies allowed under Companies Act 1956 & Companies Act2013. c. Various provisions under Income-tax Act has been introduced to provide for tax neutrality in case of merger, demerger etc.of Companies. d. However similar provisions are not available for LLPs Business entity in the form of LLPs provides greater easy of doing business in India.

4.6	Clause (xiiib) to section 47 excludes the conversion of private limited companies to LLP from the definition of transfer. However there are certain conditions prescribed to be complied for being excluded from the definition of ‘transfer’. One Of the conditions is that the total sales, turnover or gross receipts in the business of the company in any of the three preceding previous year should not exceed Rs. 60 Lakhs. Further a new condition is inserted wherein the total assets during the previous 3 years exceeds Rs. 5crores		The said limits should be removed or else increased substantially. Turnover limit may be increased to Rs. 10 crores and the total assets limit may be increased to Rs. 20 crores. Justification: Such a small limit is a big hindrance on the conversion of the Company into an LLP. Provisions of the Companies Act2013 have created various anomalies as well as complication for doing business FDI restrictions in LLPs have also been relaxed by Central Government. Continuing restriction of turnover is against the concept of ease of doing business in India. They should be exempted u/s 47 or the Share holders/partner’s should be exempted

5. INTEREST levy

Sr. No.	Existing provision under the Income- tax Act, 1961 ("the Act")	Difficulties Obstacles/ Hurdles either Interpretative, Administrative or otherwise	Suggestion or new clause Suggested
5.1	Calculation of the Interest u/s 201(1A) of the Act for the delay in deposit of TDS	• The current provision u/s 201(1A) states that interest is payable for the period of delay from the date of deduction to the date of payment. Even a part of the month is to be considered as a month. • Even in a situation where the delay is of 1 day (i.e. TDS deposited on 8th of the succeeding month instead of 7th). Under this situation the delay period will be calculated as 2 months, since the date of deduction is of preceding month.	Sec 201(1A) of the Act be amended to clarify that interest is leviable from the due date of payment and not from the date of deduction. Justification: Interest being compensatory in nature ought to be charged only for the period of delay and for the compensation for the period of delay. Levy of Interest is not penal provision.

5.2	Calculation of the Interest u/s 201(1A) of the Act for the delay in deposit of TDS	Proviso to section 201(1A) provides that if a person is not to be treated as an assessee in default under first proviso to section 201(1), then interest is to be paid from the date on which tax was deductible till the date of furnishing return of income by the recipient. If the recipient of the sum is having Nil or negative income or if the recipients income is exempt, then there is no question of levy of any tax on such person, in which case, no interest should be levied on the deductor. However, there is no such provision in this regard.	Sec 201(1A) of the Act be amended to clarify that interest cannot be levied if the recipient has nil tax liability for the concerned year. Justification: Interest being compensatory in nature ought to be charged only where tax was otherwise recoverable from the recipient of the sum. Levy of Interest is not penal provision.

6. TDS / TCS

Sr. No.	Existing provision under the Income- tax Act, 1961 ("the Act")	Difficulties Obstacles/ Hurdles either Interpretative, Administrative or otherwise	Suggestion or new clause Suggested
6.1	Fresh scheme of tax collection instead of TDS	Reducing compliance burden and reducing rectification applications.	Large size Companies including PSU, may be allowed to pay the taxes quarterly/monthly in lieu of TDS from their customers, on granting of no tax to be deducted u/s 197. These Companies may be given an option. The taxes to be deposited quarterly/monthly will be based on TDS claimed in the return of Income in last two A.Y's. this will reduce avoidable and unnecessary hardship caused to the deductor and the deductee (for taking credit)

6.2	Credit for Tax Deducted at Source a) As per the current scenario, the credit for tax deducted at source is allowed on the basis of TDS reflected in Form 26AS, whereas, the assessee claims the TDS on the basis of the income offered to tax by him. These results to mismatch of credit for TDS, requiring rectification and submissions of various details by the assessee. The reasons for mismatch are many, e.g, the deductor following mercantile system of accounting, therefore TDS is deducted at the time of credit and on the other hand deductee following cash system of accounting and claiming credit for TDS in the year in which the income is actually received by him and vice- versa. As per the Finance Act,1987,effective from 01/06/1987, the requirement for giving credit for TDS in the assessment year in which the income is assessable was introduced and has been applicable since then.Sec.199 r.w. rule 37BA(3) states that credit for tax	In respect of mismatch in year or other reasons, Assessee is unable to get credit of tax deducted and larger infructuous demands are raised	a) It is suggested that rule 37BA(3) should be amended, to provide that the credit for tax deducted at source should be allowed in the assessment year immediately following the financial year in which the tax has been deducted at source. In other words, it also means that the credit to the deductee should not be denied on account of mistake in data uploaded by the deductor or non- payment of TDS with the Treasury of the Government by the deductor as the deductee has no control over b) Rule 37BA(3) of the Income Tax Rules should be amended to the extent that in case of default on the part of the deductor for non-deposit of tax deducted at source, the deductee should not be denied the credit of such tax deducted and future refunds should not be adjusted against demands

	deducted and paid to the Central Government shall be given for the assessment year in which the income is assessable. b) In case deductor does not upload the details of tax deducted of the payee correctly, credit of the tax deducted is not allowed to the deductee there by causing undue hardship to the deductee.		Arising out of non- payment by deductor. Justification: a) The assessee should not be denied credit for tax deducted at source merely because of different methods of accounting followed by the deductor and the deductee. Or because of mistake of the deductor. This will reduce unproductive and unnecessary work of the department as well as the assessee In many cases, the demand remains outstanding in the department's records on account of non deposit of TDS by the deductor and the same are incorrectly adjusted against subsequent refunds due to the deductee, resulting in unnecessary hardship to the assessee from whom the tax is wrongly recovered. There are sufficient provisions in the law to recover the amount not deposited by

			The deductor who is an assessee in default.
6.3	Section 194 J Subsection (1) clause (ba) newly inserted Any remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 192, to a director of a company	The other payments like professional fees etc. on which TDS is required to be deducted u/s. 194J has threshold limit of Rs. 30,000/-. However, no such threshold limit is provided in case where TDS is required to be deducted from payments to Directors under new proposed provision.	Threshold limit of Rs. 30,000 should be made applicable which is applicable to all other payments covered insec.194J.
6.4	Sub-section (1H) has been inserted in Section 206C by Finance Act, 2020 for collection of TCS by the seller on sale of any goods. Though collection of TCS on sale of certain goods was already covered under different sub-sections of Section 206C, however all the remaining goods, which were not so covered under other provisions of section 206C, have now been brought under the ambit of TCS by inserting sub-section (1H) in Section 206C.The new TCS levy is going to result in a significant compliance burden. We believe that TCS @ 0.1% is not likely to result in significant		Considering the high threshold of Rs 50 lakhs sales per buyer, the relevant sales data is already reflected in the GST return filed by the seller, in fact the exemption threshold is lower i.e. Rs 40 lakhs in aggregate in case of Goods and Service Act. Thus, the data relating to the sale of goods is already available with the Government through the GST administration and the construct of GST Number is such that sales data can be easily collated for each PAN. As gathered from the media reports1, we understand that

	increase in revenue base (offset by lower payment of advance tax) but would only result in increasing compliance burden by reporting of sale of goods above Rs. 50 lakhs and there by increase in cost of such compliance		recently CBDT and CBIC have signed a Memorandum of Understanding (MOU) for the data exchange including the data from GSTN. Accordingly, the objective of the newly introduced provision of TCS which is to "widen and deepen the tax net"is already achieved by the Government.

7. MAT

Sr. No.	Existing provision under the Income-tax Act, 1961 ("the Act")	Difficulties Obstacles/ Hurdles either Interpretative, Administrative or otherwise	Suggestion or new clause Suggested
7.1	Section 115JB levies MAT on the 'book profit' of the Company. Book profit is derived from adjusting the Profit as per Statement of Profit and Loss with the specified additions and deletions stated in the Explanation 1 to Section 115JB, S. 115JB(2A),S. 11JB(2B) and S. 115JB(2C).	Common Control Business Combination For a specified class of companies the books of accounts are to be maintained as per Ind-AS. Accounting for common control business combination is governed by Ind-AS 103 (Appendix C). Example a holding company has sold one of its business undertaking pursuant to a slump sale to its subsidiary company on October 1, 2018. Though the subsidiary has legally, beneficially & contractually acquired the business undertaking from the holding company from October 1, 2018 – Ind-AS 103 would require the subsidiary to account for the profits of the business undertaking from April 1, 2017 (i.e. 1st day of earlier period). Consequently, for the Financial Year of the business combination – FY 2018-	Section 115JB(2A) deals with a similar issue in the context of Ind AS accounting for demerger and mandates to ignore notional profit to be recorded in the Statement of Profit and Loss of the Transferor Company. Therefore, the suggestion to amend Section 115JB(2A) to also provide for adjusting the profit as per Statement of Profit and Loss to ignore the profit/loss recorded in the Statement of Profit and Loss recorded by the transferee company (acquirer company) pursuant a common control business combination prior to the date of business combination.

		19 – the profits business undertaking transferred from holding company to the subsidiary company would be accounted as follows – - Holding Company – April 1, 2018 to September 30, 2018 - Subsidiary Company – April 1, 2018 to March 31, 2019 Therefore, the profits of the business undertaking for the period April 1, 2018 to September 30, 2018 are accounted by both the holding company and the subsidiary company. Consequently, on strict interpretation of Section 115JB – along with Holding Company, the subsidiary company is also liable to pay MAT for the profit of the business undertaking for the period April 1, 2018 to September 30, 2018 – the profit for the said period is neither earned nor belongs to the subsidiarycompany. The profit of the business undertaking so transferred for the period April 1, 2018 to September 30, 2018 would be reduced in the Notes to Balance Sheet – from the balance of Retained Earnings of the subsidiary company. Therefore, the said profits are not captured	

		in the balance sheet of subsidiary company and consequently are not available for declaration of dividend to the subsidiary company. The accounting of earlier period profit in the Profit and Loss Statement of the subsidiary company is solely to make the Statement of Profit and Loss of both the years (current year and earlier year) presented in the financial statement comparable. The Ind AS accounting of recognizing earlier period is same for a common control business combination – whether pursuant to a slump sale, merger, de- merger etc.	
7.2	Section 115JB levies MAT on the 'book profit' of the Company. Book profit is derived from adjusting the Profit as per Statement of Profit and Loss with the specified additions and deletions stated in the Explanation 1 to Section 115JB, S. 115JB(2A),S.	Adoption of Ind AS 115 and Ind AS 116 Ind AS 115 is the new Ind AS on revenue recognition – earlier Ind AS 11 and Ind AS 18. On adoption of Ind AS 115 from April 1, 2018 – a company is required to adopt Ind-AS 115 retrospectively i.e. as if Ind AS 115 has been adopted since the inception of the Company and adjust the difference in Revenue recognised as per earlier Ind AS (Ind AS 11 and Ind AS 18) and the revenue ought to be recognized if Ind AS 115 was applicable since the inception of the Company in the	Section 115JB(2C) already deals with adjustment in Other Equity (Reserves and Surplus) on transition to Ind AS. The scope of Section 115JB(2C) to be expanded to also deal with adjustment done directly to Other Equity on adoption of new Ind AS – like Ind AS 115 and Ind AS 116. Alternatively, the definition of book profit provided under Explanation 1 to Section

	11JB(2B) and S. 115JB(2C).	opening balance of Retained Earnings. The accounting is similar to the accounting mandated on adoption of Ind AS from earlier accounting standard – i.e. to adopt Ind AS retrospectively and adjust the difference in the opening balance of retained earnings. The accounting on adoption of Ind AS 115 would result is recognizing the same profit/loss for the second time in the Statement of Profit and Loss. For example – earlier Ind AS permitted a real estate developer to follow percentage completion method – whereas it is likely that a developer would be required to follow project completion method under IndAS 115. Therefore, if a project is completed 70% and the attributable profit to the 70% of the project is recognized in the Statement of Profit and Loss – on adoption of Ind AS 115 – the 70% profit would be reversed in the opening balance of retained earnings and 100% profit of the project would be recognized on completion of the project. Therefore, the same profits/loss (70% profit) would be recognized for the second time in the Statement of	115JB can incorporate adjustments to ignore the profit/loss recognized for second time in the Statement of Profit and Loss on adoption of a new Ind AS.

		Profit and Loss would be taxed/allowed as deduction in computation of Book Profit.	

8. RECTIFICATION OF ORDERS:

Sr. No.	Existing provision under the Income- tax Act, 1961("the Act")	Difficulties Obstacles/ Hurdles either Interpretative, Administrative or otherwise	Suggestion or new clause Suggested
8.1	Section 154 – Rectification of Mistakes Sub-section (8)of section 154provides that where an application is made by an assessee or a deductor, the authority shall pass an order within a period of six months from the end of the month in which the application is made by either (a) making the amendment or (b) refusing to allow the claim.	Inspite of the specific provisions of subsection (8), it is observed that the authorities take unusually long time in deciding the rectification application either way. Many a times in fact the rectification orders are never passed for years and in the mean time the department keeps on the recovery proceedings and also adjusts the subsequent refunds against the demand for which the rectification applications are pending disposal. This results in tremendous hardship to genuine taxpayer.	It is humbly suggested that the sub-section (8) shall be modified so as to provide that if the authority concerned do not decide the rectification application of the assessee or the deductor within the prescribed period of six months, then the application should be deemed to have been allowed and the tax liability will be deemed to have been reduced in accordance with the rectification application of the assessee. Justification: Such provision will result in easing the hardship caused by the assessee. It will also bring in the sense of responsibilities amongst the authorities to adhere to the statutory time limit provided by the legislation and will ultimately result in better and efficient administration of the provisions of the Act.

8.2	Rectification of Intimations processed at CPC	Intimations u/s. 143(1) of the Act is now processed at the CPC, Bangalore. Further as per the current procedure all the intimations which are processed at CPC are also subject to rectification at CPC only. The initial rectification application is to be made electronically to CPC. The rectification powers are transferred to the jurisdictional assessing officer if and only if the CPC transfers the same by an internal order and allows the jurisdictional assessing officer to rectify the order. Some of the errors are of such a nature that they cannot be explained by way of an electronic rectification request put in the system. The errors can be easily explained	It is suggested that once the intimation is processed at CPC, the assessee shall be given an option to decide whether he wants to get the rectification processed at CPC or at the level of jurisdictional assessing officer. The assessee shall be allowed to select the option on the website of the department and if the assessee opts for rectification at the level of jurisdictional assessing officer, the powers shall be immediately available to the assessing officer to take up such rectification proceedings further. Justification: This will result in better tax friendly administration and the assessee will be able to get his wrong demands deleted sooner. The same will also result in avoiding the issue of adjustment of wrong demands against future refunds which is a big problem in the system of processing of returns atCPC

		to the jurisdictional assessing officers and can also be supported by production of relevant supporting documents for the same. Say for Example: Non-granting of Credit of TDS in a case where the credit is claimed in a latter year than the year of deduction by the deductor.	
8.3	A tax payer is permitted to carry forward loss only if the Income tax return is filed before the due date of filing of return u/s 139(1) of theAct. Further, Section 139 permits filing of belated return only by end of the assessment year.	Return filing of a Corporate Debtor (Insolvent Company) under Insolvency and Bankruptcy Code Once a company is admitted for resolution process under IBC the board of the company is suspended and the management and administration of the company is transferred to the interim resolution professional appointed by NCLT. After that, in the first meeting of the committee of creditors, the committee would appoint a resolution profession and the management and administration of the company would be transferred from the interim resolution professional to the	Both the requirements – - Filing return within the time prescribed u/s 139(1) for claiming tax loss; and - Restriction of filing belated return by the end of the assessment year, Should be relaxed for a company under IBC and the successful bidder should be given six months from the date of taking control and management of the company to file income tax return and consequently, be entitled to carry forward of losses.

		resolution professional. Subsequently, bids are invited for takeover of the corporate debtor and the successful bidder after receiving the approval of NCLT of its proposed resolution plan would get the control over management and administration of the corporate debtor. The time line fixed for the entire process by the IBC Code is 330 days. In other words in a span of 330 days the control of a company changes hands from– Original management to interim resolution professional From interim resolution profession to resolution professional From resolution profession to the successful bidder In all probabilities the erstwhile management of the company would not share complete date with the resolution	

		professionals which would enable them to file income tax return on time. Further, with incomplete date, the resolution professionals are not in the position to get the accounts audited and obtain a tax audit report. Consequently, there is a delay in filing of the income tax return or the income tax return is not filed within the stipulated time. In turn the successful bidder is not entitled to set-off earlier year loss and also provide complete information to the tax department relating to income & expense of earlier periods.	

B	**Equalization Levy (EL) as expanded by the Finance Act (No. 2) of 2020 as Chapter VIII thereof.**	The scope of EL was expanded by the Finance Act (No. 2) of 2020 from 1 April 2020 under Chapter VIII thereof. There are several aspects of EL which create issues and challenges as outlined below: (i) Section 10(50) of the Act exempts from income-tax, any income which is subject to EL but is operative from 1 April 2021 (AY 2021-22) as against EL which is operative from 1 April 2020 (AY 2020-21). (ii) The definition of 'e-commerce operator' is wide enough to inadvertently cover traditional brick and mortar and many other business which are not e-commerce in nature e.g. service providers such as banking or insurance companies, payment processing / payment facilitation companies, telecom, online education, healthcare and such other companies who are providing their services through a website or portal or even a cloud service provider ('CSPs') which	(i) The anomaly of levy of EL from 1 April 2020 and tax exemption under the Act from 1 April 2021 be suitably corrected and aligned. (ii) In the 21st Century there is no business/ industry which does not use any form of online facilities or digital medium to operate its business. For e.g. almost every business including brick and mortar businesses have their website, online enquiry / booking, electronic communications and electronic/ digital form of payment receipt modules, etc. It should be clarified that these businesses are not e-commerce operators and the ambit of EL should be restricted to pure e-commerce marketplace operators and similar trading platforms. (iii) It is requested to clarify that EL shall not be applicable where only a part of the sale process involving placing of orders or exchange of information or receipt of payment is done through an online mechanism, but goods are sold

		acts as an infrastructure service provider. All internet intermediaries and digital companies are not necessarily e-Commerce operators. Similarly, several inter-group transactions of multinational entities may also get inadvertently covered under EL. (iii) The definition of e-commerce supply or services has been defined to mean online sale of goods or online provision of services or both and its ambit is very wide. (iv) There are various terms in which have not been defined in the EL provisions, such as 'digital facility' or 'electronic facility' or 'platform', 'data', service, etc. (v) The term 'online' is defined to mean means a facility or service or right or benefit or access that is obtained through the internet or any other form of digital or telecommunication network. (vi) Several activities such as downloading and use of IPR,	physically from outside India. A similar clarification should also be issued for services as well. An exemption from levy of EL should also be provided for inter-group transactions between multinational entities. (iv.a) It is suggested that the term platform for EL should be clarified to mean a highly customized electronic or digital platform or facility for online sale of goods or online provision of services or both as deployed by e-commerce marketplace operators and similar trading platforms. (iv.b) It is suggested to issue a circular explaining various other terms such as 'digital facility' or 'electronic facility' or, 'data', Service, etc. The meaning of services for levy of EL should be restricted to "Automated digital services" as outlined in the draft Article 12B proposed to the UN Model Convention. (v) It should be clarified that standard and general use of emails, telecommunications, digital conferences, website and all of forms electronic

		providing technical services online can be covered in the definitions of royalty and / or fees for technical services (FTS) under the Act. This may create an ambiguity.	communication with basic and need based customization should not be considered as "online" for applicability of EL. (vi) It is suggested to clarify a clear hierarchy for taxation of income of Non-Residents as Royalty / FTS or EL.

C) Residence under section 6			
1	**Residence under Section 6(2) of the Act** For persons other than companies and other than individuals (i.e. for partnership firm, etc.), even if part of their Control and Management is in India then it is considered as an Indian tax resident.	This provision is quite harsh and is not in accordance with global principles surrounding tax residency.	We suggest that residence test for partnership firm / other entities be placed on similar lines as in case of companies. i.e. tax residence only If Place of Effective Management is in India. This change will also be in line with the provisions of existing India DTAAs.

2	Individuals – There is a controversy on the meaning of "visit" to India under explanation 1(b) to section 6(1).	As the term "visit" is not explained, it leads to unwarranted litigation.	We suggest that term "visit" be deleted to eliminate any controversy and making the applicable criteria only of physical presence in India.

E) Transfer Pricing			
1	Transfer pricing provisions under Chapter X of the Act apply to all international transactions without any threshold.	Transfer pricing provisions do not stipulate any threshold above which they become applicable. Thus, even if there is one or few transactions of a small amount, the compliance stands attracted, and it becomes burdensome. For small and new companies and businessman, the underlying transfer pricing compliance is an expensive exercise.	We suggest that there should be a minimum threshold and the provisions of Chapter X of the Act should apply only when it is exceeded. This will eliminate challenges and difficulties faced by small and new businesses with relatively smaller value of international transactions. We accordingly suggest that Chapter X of the Act to apply only if the aggregate international transactions exceed Rs. 5 crores in any financial year. In other words, if aggregate international transactions are below this threshold, they should not be covered within transfer pricing documentation, certificate and reporting rules.

2	Under the second provisotosection92C(4) of the Act, if any adjustment is made to the income of an Associated Enterprise (AE) in respect of payment to another AE on which tax has been deducted or was deductible, there is an embargo on corresponding recomputing of the recipient's AE's income.	We believe that the restriction by the second proviso to Section 92C(4) of the Act is unfair and results in taxing the same income twice. If an AE's expenditure is disallowed due to Transfer pricing adjustment, the other recipient AE's (recipient's) taxable income needs to be correspondingly reduced.	We suggest that the second proviso to Section 92C(4) of the Act be deleted and, in a case, where an AE's expenditure is disallowed due to transfer pricing adjustments, the re-computation of the other AE's (recipient) income be permitted.
3	Secondary Adjustments: Section 92CE of the Act stipulates secondary adjustment when a primary adjustment has been under the transfer pricing provisions.	Sub-section (2) of Section 92CE of the Act stipulates repatriation into India of the excess money as stipulated or levy of interest as deemed advance in the manner prescribed. Further sub-section (2A) provides an alternative to pay additional tax at the rate of eighteen percent on such excess money if not repatriated to India	It is suggested that when transfer pricing adjustments are made in cases of Non-Residents, especially those having no legal presence in India, they should be exempted from the obligation to repatriate the excess money under 92CE(2) of the Act as well as from the rigors of paying additional tax under Section 92CE(2A) of the Act. This is also keeping in mind that the provisions of the Foreign Exchange Management Act 1999 and its applicable Rules/ Regulations may

			not support such repatriation to India and subsequent remittance back of such sum outside India by the Non-Resident.
4	Limitation of interest deduction: Section 94B of the Act stipulates limitation with respect to interest deduction in respect of interest paid / payable on any debt issued by a Non-Resident AE or any debt issued by any Lender who is not an AE but where such debt is guaranteed by or supported by a deposit by Non-Resident AE. These limitations apply if the borrower incurs interest or similar expenditure exceeding	The provisions of Section 94B of the Act are applicable in all scenarios (except banks /insurance companies as stipulated) and do not consider situations such as large gestation period in case of capital-intensive projects or infrastructure projects, initial years of set-up / operations, etc. Thus, they operate irrespective of underlying business conditions and even the carried forward period is subject to an eight years limitation. Sub-section 2 of Section 94B of the Act for the purpose of computing limitation of interest refers to computation of excess interest which is stipulated to mean (a) total interest paid or payable in excess of thirty percent of the earnings before interest,	It is suggested that Section 94B of the Act be made applicable only after completion of gestation period in case of capital intensive and infrastructure project (i.e. five to ten years) and in other cases post initial years of set-up / commencement of business operations say 3 to 5 years. Further, the carried forward of excess interest needs to be allowed indefinitely on par with unabsorbed tax depreciation. If the interest paid is at arm's-length or is paid to a third party (though under guarantee / deposit of Non-Resident AE) than there is no case to subject it to limitation period of eight years for carry forward. The formula for computing excess interest considers total interest paid by the borrower including interest paid to non-

	one crore on such debts/ borrowings.	taxes, depreciation and amortization as stipulated; or (b) interest paid or payable to AE for that previous year whichever is less.	AEs and even on borrowing not guaranteed or supported by Non-Resident AEs. This creates a situation of interest paid to or guaranteed or supported by Non-Resident AE being disallowed first. This rigor is requested to be relaxed and only the proportionate interest with respect to AE and Non-AE borrowing in excess of 30 percent should be subject to interest limitation provisions.

F) Direct and Indirect transfers

1	Sections 47(via), 47(viab), 47(vic) and 47(vicc) of the Act which provides for exemption from capital gains tax in the context of foreign merger/demerger – direct transfer as well as indirect transfer.	These Sections inter alia requires that the shareholders of the amalgamating company / de-merged company should continue as the shareholder of the amalgamated company / resulting company (as the case maybe) for constituting transactions not regarded as transfer to qualify for exemption from taxation as capital gains. Section 2(1B) of the Act dealing with domestic amalgamation while stipulating similar requirements carves out an exception that the said condition would not apply to the shares of	The Sections 47(via), 47(viab), 47(vic) and 47(vicc) of the Act be amended to provide that the requirement of continuity of shareholders will not apply to the shares of the amalgamating company / demerged company that are held by the amalgamated company (or its subsidiary) in the case of amalgamation and resulting company in the

		the amalgamating company that are held by the amalgamated/resulting company or its subsidiary. This is a logical carve out - for example if a subsidiary company is merged into a holding company – the holding company cannot allot shares to itself on merger – therefore, it cannot satisfy the requirement of continuity of shareholders post amalgamation. Similarly, Section 2(19AA) of the Act provides for an exception from this condition where the resulting company itself is the shareholder of the demerged company. Such carve out do not exist for aforesaid exemptions relating to merger/de-merger of foreign companies – direct transfer as well as indirect transfer cases.	case of demerger.

G) Return of income of Non-Residents			
1	Sub-section 5 of Section 115A of the Act was amended by the Finance Act 2020 w.e.f. 1 April 2020 to provide relief to Non-Residents from filing income-tax return in India if their income in India consists of items covered therein (interest, royalty, fees for technical services, etc.) and tax has been deducted in accordance with the provisions of Part B of Chapter XVII of the Act	Under Section 90 of the Act, a taxpayer is governed by the provisions of the Act or the applicable tax treaty, whichever is more beneficial. Many of the Indian tax treaties provide for the withholding tax rate in respect of income earned by way of royalty or FTS (i.e. not effectively connected to a permanent establishment) at 10%. The difference between Treaty rate in such cases and those stipulated under provisions of the Act is the surcharge and additional surcharge in the form of education cess(considered subsumed / included in the tax treaty rate). This by itself should not disentitle the Non-Residents from the benefit of non-filing return of income under Section 115A(5) of the Act but makes such position ambiguous and litigative. Further, there seems to be an inadvertent error in clause (a) of sub-section 5 of section 115A as it grants relief from filing return of income only to cases falling in clause (a) or clause (b) of sub-section (1) of section 115A. In other words, if a non-resident has income under both sub-clause (a) and (b) of Section	It is suggested that the relief from filing of income-tax return to non-resident under Section 115A(5) of the Act be extended to cases where taxes have been deducted at the Tax Treaty rate if they are same as the basic rate stipulated in Section 115A / Part B of Chapter XVII of the Act (basic rate is the rate excluding the surcharge / education cess). It is suggested that the relief from filing of income-tax return should be extended to cases of Non-Residents having income taxable under both clause (a) and (b) of sub-section 1 of Section 115A of the Act and not only to cases having income either under clause (a) or (b) of Section 115A(1) of the Act as currently stipulated.

		115A(1) of the Act then this relief from filing of income-tax return is not available.	

1. OTHER PROVISIONS AND PROCEDURALISSUES

Sr. No.	Existing provision under the Income-tax Act, 1961 (“the Act”)	Difficulties Obstacles/ Hurdles either Interpretative, Administrative or otherwise	Suggestion or new clause Suggested
11.1	Currently person, having only exempt income, is not required to file return of income	Persons earning huge tax exempt income and not filing return of income are not subject to verification whether income is exempt or not and it leads to abuse of law.	Every person earning income which is not chargeable to tax e.g. agricultural income, exceeding Rs 10,00,000 should be mandatorily required to file return of income. As of now this applies only to capital gains.
11.2	Only a person having total income of more than Rs 50 lacs is required to disclose assets held by him. There is no provision that requires government employees if he earning less than Rs 50 lacs to disclose his total assets.	• It is difficult to implement benami transaction law with its full rigor. • Reduce corruption, black money in the Indian System and transparency in the system.	It is proposed that, a government employee having taxable income should be mandatorily be required to disclose assets by him and his immediate relative. The clerical staff generally does not have taxable income so the lowest income group would automatically be excluded from application of a foresaid disclosure requirement.

11.3	There is no specific provision providing relief / benefit to the Companies which are being revived pursuant to a resolution plan passed by NCLT under the Insolvency and Bankruptcy Code.	Taxing a company which otherwise would be liquidated on waiver of loans/due by the creditors is unfair	Reference of Resolution Plan under the Insolvency and Bankruptcy Code should be added where relief has been provided in the erstwhile regime of Board for Industrial and Financial Reconstruction (BIFR). Section 35AD(7C), 47(xii) and 115JB refer to the BIFR regime. In addition to that Section 41(1) (cessation of liability) should be amended to provide that the section will not apply to the aforesaid companies.
11.4	Section 171 Section 171(3) requires Assessing officer to pass order recording partition of HUF. However, there is no time limit under the Act for the same.	It should provide for time limit of say six months otherwise it should be presumed that the application is accepted as submitted.	Assessees cannot be expected to chase Assessing officer for such order.

11.5	Section 207 to 211 It Deals with payment of advance tax. Exemption u/s. 207 is available to senior citizen if he does not have any taxable income under the head "Income for Business"	It should be clarified that the senior citizen having exempt income like share of profit from partnership firm/LLP will be treated as an assessee who does not have any taxable income under the head "Income for Business and will not be required to pay advance tax.	At present, CPC is charging interest u/s 234B and 234C for non-payment of advance tax in case of senior citizen having exempt income of share in profit in partnership firm.
11.6	Section 149 It deals with time limit for re-opening of assessment u/s.147.	At present there is no monetary limit for issue of notice u/s 148 for income escaping assessment in a case where four years have not elapsed from the relevant assessment year. It has been observed that at times notice u/s 148 is issued for very small amounts. No tax payer will intentionally evade tax on small sums of income. Issue of notice for such small amounts not only causes undue hardship to the tax payer but also involves administrative time and cost which is not warranted for such small amounts of income.	Threshold limit should be set of Rs.100,000 or more for income escaping assessment for issue of notice u/s 148 in a case where four years have not elapsed from the relevant assessment year. Further it is recommended that the threshold limit for income escaping assessment for issue of notice u/s 148 where four years have elapsed but not more than 6 years from the relevant assessment year should be revised to Rs. 500,000 or more.

11.7	Section 139(5) permits filing of revised return before the end of the Assessment Year.	Time limit to file revised return Practically once a return of income is filed, the tax payer would re-look at the return of income at the time of filing the income tax return for the next year. If any error/mistake is noticed on subsequent scrutiny of the return of income, the tax payer would not be in the position to file revised return as the time limit to file revised return would have expired. This limitation of filing revised return only by the end of the year would cause genuine hardship to the small taxpayers and may also result in certain income being untaxed.	The time limit to file revised return should be extended till the time limit of filing next year's return u/s 139(1).

2. Threshold Limits

Sr. No.	PRESENT PROVISION/PRACTICE			SUGGESTED MODIFICATION	RATIONALE FOR CHANGE
	Section / Rule	Provision	Present Limit		
I	Monetary limits				
	GENERAL				
1	10(32)	Exemption limit for clubbing of minor's income	1,500	10,000	Since 1993
	SALARIED EMPLOYEES				
2	10(10B)	Exemption limit for retrenchment compensation	500,000	1,000,000	Since 1997
3	10(10C)	Exemption for amount received on voluntary retirement or termination in accordance with a scheme of voluntary separation	500,000	1,000,000	Since 2001
4	10(14)(ii) Rule 2BB	Children Education Allowance	100 p.m.	2,000 p.m.	Since 1997. It is so miniscule that if relief is intended then it should be increased OR removed altogether.
5	10 (14) (ii) r.w. Rule 2BB	Children Hostel Expenditure Allowance	300 p.m.	2000 p.m.	Since 1997. It is so miniscule that if relief is intended then it should be increased OR removed

					altogether.
6	17(2)(vi)	Medical Treatment outside India is subject to condition that gross total income does not exceed Rs 2,00,000	2,00,000	500,000	Since 1993
7	17 (2)(viii) r.w. Rule 3	Perquisite in respect of the following a) perquisite for interest free loan in excessof b) lunch /refreshment c) Value of any gift etc. on ceremonial occasions or otherwise	20,000 50 5,000	1,00,000 200 25,000	} Since 2001
	TAX DEDUCTION AT SOURCE				
8	193	TDS on Interest on Securities	5,000	20,000	Since 1989. Will reduce hardship to many.
9	194-J	TDS on Professional Fees etc.	30,000 and there is no separate aggregate limit	30,000 per contract and aggregate limit of Rs.1,00,000	To align with limits u/s. 194C

II.	Monetary Ceilings				
10	208	Applicability of payment of advance tax when tax payable exceeds	10,000	20,000	Since 2009
11	285 BA	Second Proviso of sub-section (2) states that the value of aggregate transactions to be furnished shall not be less than Rs.50,000/-	50,000	500,000	since 1-4-2004

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The Chamber of Tax Consultants (The Chamber) shall be a powerhouse of knowledge in the field of fiscal laws in the global economy.

The Chamber shall contribute to the development of law and the profession through research, analysis and dissemination of knowledge.

The Chamber shall be a voice which is heard and recognised by all Government and Regulatory agencies through effective representations.

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Unveiled by **Shri S. E. Dastur**, *Senior Advocate* on 30th January, 2008

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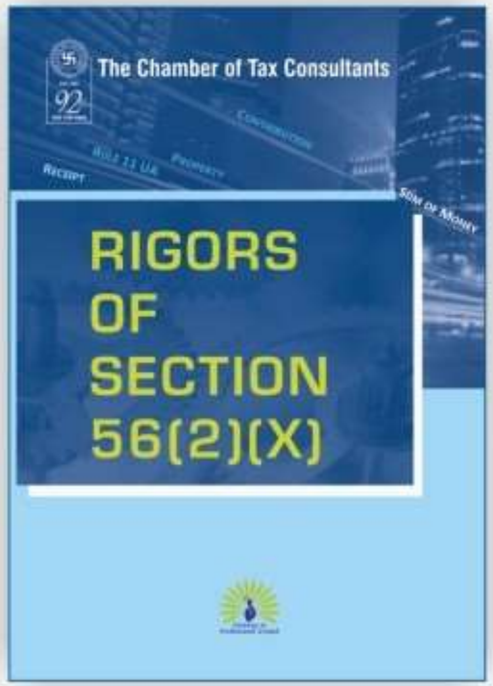

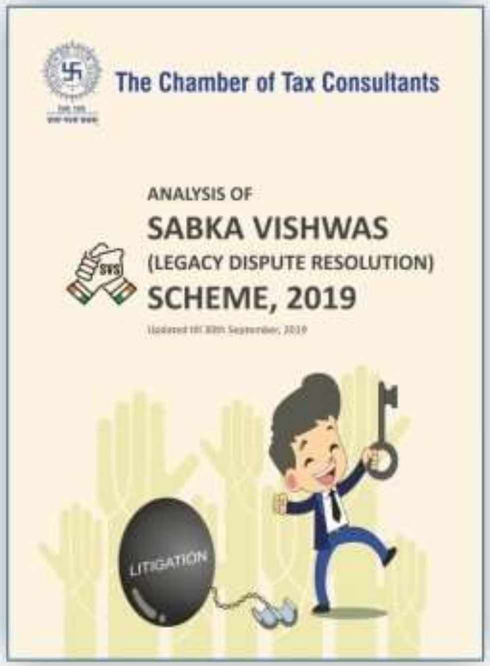

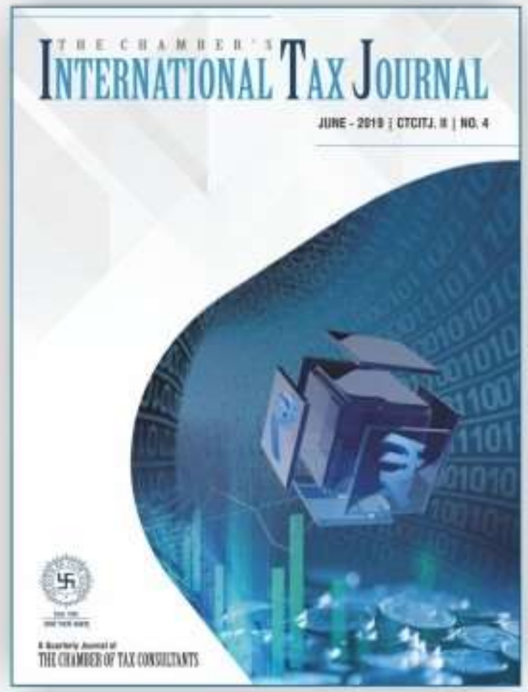

THE CHAMBER OF TAX CONSULTANTS

ABOUT THE CHAMBER OF TAX CONSULTANTS

The Chamber of Tax Consultants (CTC) was set up in 1926 and is one of the oldest voluntary non- profit making professional organisations. It is the voice of more than 4000 professionals on PAN India basis which comprises of Advocates, Chartered Accountants, Company Secretary, Cost Accountants, Corporates, Tax Consultants and Students.

The Chamber is in its 91st year and is a young dynamic organisation which has a glorious past and undisputedly ambitious future. The Chamber is a great institution with a tradition of high integrity, independence and professionalism.

The Chamber acts as power house of knowledge in the field of fiscal law, always proactive in contributing to the development of law and profession through research, analysis and dissemination of knowledge and by tendering suggestions to authorities. The Chamber provides networking platforms to professionals through interactive meetings and seminars

Someoftherenownedpersonalitieslike ShriSoliDastur,ShriY.P.Trivedi,ShriV.H.Patil,ShriS.N.Inamdarhave led the Chamber as President.

The Chamber shall preeminent in upholding among the professional, tradition of excellence in service, principal conduct and social responsibility.