HEAVEN BE OUR GUIDE
Estd. 1926
ज्ञानं परमं बलम्

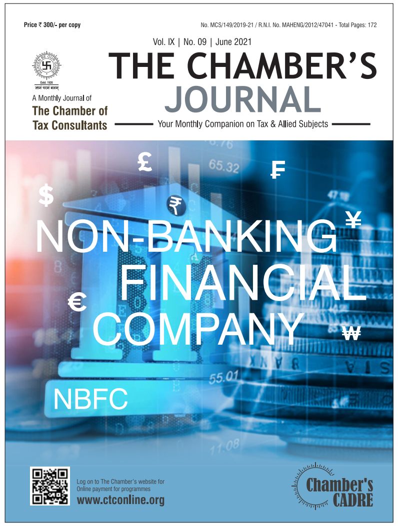
The Chamber of Tax Consultants

3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai - 400 020
Tel. : 2200 1787 / 2209 0423 / 2200 2455 | E-mail : office@ctconline.org
Visit us at : www.ctconline.org

Pre-Budget Memorandum 2022

Suggested Amendments in respect of Direct Taxes for Finance Bill, 2022

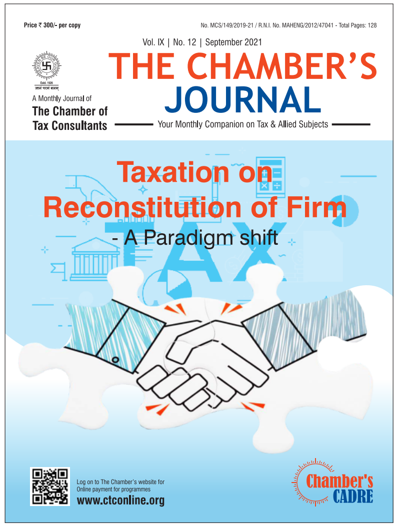
Dated: 1st December, 2021



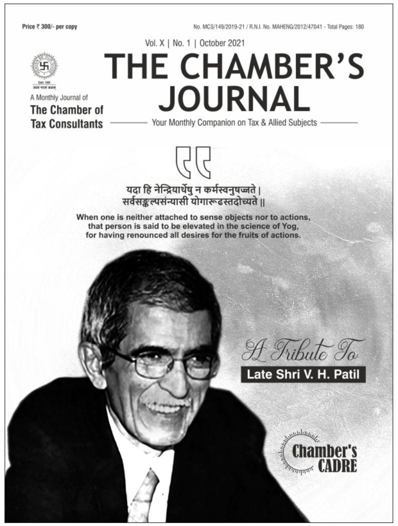
June 2021

July 2021

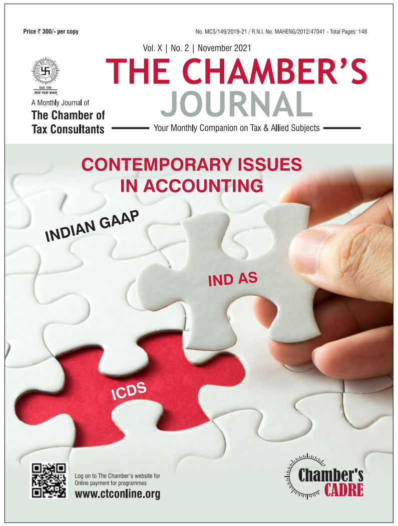
August 2021



September 2021



October 2021



November 2021

HEAVEN BE OUR GUIDE

Estd. 1926

ज्ञानं परमं बलम्

The Chamber's Journal

(A Monthly Journal of the Chamber of Tax Consultants)

MANAGING COUNCIL

President
Ketan L. Vajani

Vice-President
Parag S. Ved

Hon. Jt. Secretaries
Neha R. Gada
Mehul R. Sheth

Hon. Treasurer
Vijay U. Bhatt

Imm. Past President
Anish M. Thacker

Members
Atul Mehta
Bhavik Shah
Dharan Gandhi
Dinesh Poddar
Maitri Savla
Nishtha Pandya
Rahul Hakani
Rajesh P. Shah
Tejas Parikh
Vitang Shah

Co-Opted Members
Ashok Sharma
Hinesh Doshi
Jayant Gokhale
Kishor Vanjara
Mahendra Sanghvi
Nilesh Vikamsey
Paras K Savla
Paresh P Shah
Vipul Choksi

Editor
Vipul B Joshi

Special Invitee
K. Gopal • Hitesh R. Shah

LAW & REPRESENTATION COMMITTEE

Chairman
Mahendra Sanghvi

Co-Chairman
Apurva Shah

Vice Chairman
Vyomesh Pathak

Ex-Officio
Ketan Vajani
Parag S. Ved

Convenors
Deepak R Jain
Umang Talati

Past Presidents
Hitesh R. Shah
Yatin Desai

Advisor
Vipul Joshi

Office Bearer
Neha Gada

Mg. Council Members
Atul Mehta
Dinesh Poddar
Nishtha Pandya
Rajesh P. Shah

Members
Abhitan Mehta
Atul Suraiya
Avinash Rawani
Charmi G Shah
Dilip Nathani
Hemant Kadel
Makarand Joshi
Naresh Ajwani
Rahul C. Thakar
Rajen Gada
Rajiv Luthia
Ravi Sawana
Ronak Doshi

The Chamber of Tax Consultants
Estd. 1926
ज्ञानं परमं बलम्
Mumbai | Delhi

1st December, 2021

ShrI J. B. Mohapatra,
Chairman,
Central Board of Direct Taxes,
Government of India,
Ministry of Finance,
Department of Revenue,
New Delhi –110001

Respected Sir,

Subject: Pre-Budget Memorandum 2022-2023–Suggestions on Direct Tax

We are pleased to submit our suggestions on Direct Taxes for the Budget of 2022. 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/-
KETAN L. VAJANI	**MAHENDRA SANGHVI**	**APURVA SHAH**
PRESIDENT	CHAIRMAN	CO-CHAIRMAN
	LAW & REPRESENTATION COMMITTEE	

Summary of Representation by Chamber of Tax Consultants towards Pre Budget memorandum 2022

Para	Issue	Purpose
1.1	Donation received with specific direction that the same will form part of the Corpus Fund	Removal of an undue hardship
1.2	Carry forward and set off of Book Loss in case of a Trust / Charitable Institution	Relief to Trusts / Charitable Institution
1.3	Clarity on the Aggregate Annual Receipts and increase in the threshold limit as specified Section 10(23C),	Relief to Trusts / Charitable Institution and avoidance of future litigation
1.4	Exemption under section 10(23C) and Section 11	Relief to Trusts
1.5	Extension of time limit u/s. 11(2)	Relief to Trusts
1.6	Registration process u/s. 12AB	Ease in Compliance and Tax friendly administration
1.7	Time limit for making application u/s. 12A(1)(ac)	Removal of an unintentional hardship
2.1	Increase Standard Deduction for Salaries to 25% of Salary subject to a cap of Rs. 300,000.	Relief to Smaller Tax Payers
3.1	Allow deduction of Interest of Housing Loan even prior to construction completion.	Encourage Housing / Real Estate
3.2	Taxing Income from Stock held by a Real Estate Developeron notional basis – relaxation needed	Encourage Housing / Real Estate
4.1	Allowing CSR spend as an expense	Relief to Business
4.2	Allowing certain non-depreciable capital expenditure as revenue or deferred revenue.	Encourage Capital Investment in Business
4.3	Depreciation at 100% for smaller items up to Rs. 25,000	Ease in compliance procedures
4.4	Presumptive Tax – to exclude transactions in Derivatives	Encourage Securities Market growth
4.5	Presumptive Tax – for professionals at 25% and allowing Remuneration / interest paid as a deduction	Relief to Smaller Tax Payers
5.1	Taxing Development Agreements – extend the system topersons other than Individuals also	Encourage Housing / Real Estate
5.2	54/54F – extend time for purchase / construction of houses	Encourage Housing / Real Estate
5.3	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
5.4	Merger of LLPs – set off of losses be allowed	Encourage restructuring of operations

Para	Issue	Purpose
5.5	Conversion of Private Companies into LLPs – thresholds tobe reduced to encourage such conversions	Encourage restructuring of operations
6.1	Interest u/s 201(1A) – TDS – from due date of payment	Removal of an unintentional hardship
6.2	Interest u/s 201(1A) – TDS – exempt where recipient has notax liability	Removal of an unintentional hardship
7.1	Exempt Large sized companies and PSUs from having to subject their income to TDS in return for paying a predetermined sum every month as advance tax	Ease in compliance procedures
7.2	Simplify system of allowing credit for TDS done – especially based on different system followed by payer and payee	Removal of an unintentional hardship
7.3	Removal TCS on payments for purchases	Ease in compliance procedures, Removal of hardship and Avoidance of future litigation
7.4	Removal of TCS on Foreign Remittance under Liberalised Remittance Scheme and cash withdrawal	Ease in compliance procedures, Removal of hardship and Avoidance of future litigation
7.5	Special Provision of TDS for non-filers of Income Tax Return	Ease in compliance procedures, Removal of hardship and Avoidance of future litigation
8.1	115JB – rationalise for IndAS dealing with Business Combinations	Removal of an unintentional hardship
8.2	115JB – to rationalise for IndAS115/ 116 dealing with revenue recognition and transitional provisions	Removal of an unintentional hardship
9.1	Provide for auto acceptance of a rectification application u/s154 if not dealt within a finite time of 6 months	Tax friendly administration and avoidance of future litigation
9.2	CPC intimations – allow assesses to determine whether a particular adjustment is to be done by CPC or transfer to AO	Tax friendly administration and Removal of hardship
9.3	Extend time period for filing returns in cases under IBC	Encourage restructuring of operations
9.4	Time limit for Revised return	Tax friendly administration and avoidance of future litigation
10	To provide remedy for filing appeal for the order passed u/s. 139(9), treating the Return of Income as defective	Tax friendly administration, Removal of hardship and avoidance of future litigation

Para	Issue	Purpose
11	International Tax	Rationalisation, ease of doing business in India, removal of hardship and avoidance of future litigation
12	Deemed Dividend	Tax friendly administration and avoidance of future litigation
13.1	Mandate return filing even for persons with agricultural income beyond a threshold	Increase base of tax payers
13.2	Require government employees to disclose assets even if income is below 50 lakhs threshold	Encourage transparency
13.3	Provide relief to companies revived under IBC	Encourage restructuring
13.4	Orders u/s 171 on partition if HUF – dispense with or fix a time line	Tax payer friendly administration
14	Increasing various thresholds that were set earlier	Relief to Smaller Tax Payers

INDEX

1. TRUST

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
1.1	Section 11(1)(d) read with 11(5): Income in the form of voluntary contributions made with the specific direction that they shall form the part of the corpus of the Trust or institution and if invested in specified mode as specified in section 11(5), shall not be included in the Total Income	Many times, corpus donations are received for acquiring capital assets with the direction that it shall form part of the corpus of the trust such as equipment's / furniture / fixtures etc or it many, receives donation in kind of the above said capital assets, in this situation it is not possible for the trust to invest the donation amount in the modes specified u/s 11(5). Such donation amount cannot be invested if used for acquiring the capital assets or if invested in mode specified u/s 11(5) then cannot be used for acquiring the capital assets which is against the directions of the donor.	Section 11(5) needs to be amended to cover the investments in the movable capital assets. Alternatively Section 13(5) shall be amended to this extent.
1.2	Explanation 2 to section 10(23C) and Explanation 5 to section 11(1): clarifies that calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of any excess application, of any of the year preceding the previous year.	The trust or institutions have been registered for perusing the charitable or other specified objects and in many cases there is an excess application of income by the trust or institutions and in subsequent year such trust / institution may generate surplus, if one aggregates the total income and application still there may be deficit. So by not allowing the deficit or excess application over income (book losses), such trust / institution are put to hardship as they have scarcity of financial resources.	It is suggested that book losses of the trust representing excess expenditure incurred over its receipts / Income, for charitable and religious purposes in the earlier years, be considered as application of income against the income earned by the Trust in the subsequent year, considering the benevolent provisions of section 11 of the Act. The charitable trust has constraint of financial resources and such provision will help them to continue its charitable objects without restricting to any particular financial year. Further it is also in line of the commercial principles.
1.3	**Section 10(23C)** Under section 10(23C) (iiiad) and (iiiae) of Income-tax Act, it is provided that the	(a) What constitute "annual receipts" for educational / hospital institutions has not been specified which results into controversies;	(i) Only operation income of such institution be considered as "Annual receipts";

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
	income of University / Educational institutions / hospitals / other institutions specified therein will be exempt provided they comply with the conditions stipulated therein. Also, it is provided that "aggregate annual receipts" of such institutions shall not exceed the amount of annual receipts as may be prescribed. Annual receipts have been prescribed at Rs. 5 crore (from AY 2022 – 2023).	(b) There is no clarity whether the casual receipts, other income received, voluntary contribution, donation in kind and capital gains etc which are not operational income will form part off of the annual receipts or not? (c) The amount of Rs. 1 crore has been specified in the rule 2BC of the Income tax Rules which creates confusion. (d) Considering the operations of university / hospital / other associations the limit of Rs. 5 crores as specified in clause 23(iiiad) and (iiiae) is still lower.	(ii) The income which has not been received or received subsequently shall not be considered for calculating the above receipts. (iii) The limit of Rs. 1 crore specified in Rule 2BC needs to be deleted. Considering the size / scale of operations of the university / hospital etc, the limit of Rs. 5 crores as specified in the explanation to the said clause needs to be increased to Rs. 10 crores.
1.4	Exemption Section 10(23C) and Section 11	Section 10 (23C) and section 11 to 13 specify provisions for claiming exemption from income subject to satisfaction of conditions laid therein. Section 10(23C) of the Act provides for exemption of income received by any person on behalf of different funds or institutions etc. specified in different subclauses. In other words, exemption to funds, institutions, trusts etc. carrying out religious or charitable activities is provided under section 10(23C) of the Act and sections 11 and 12 of the Act. Section 12A of the Act, inter alia, provides for procedure to make application for the registration of the trust or institution to claim exemption under section 11 and 12. Section 12AB is the new section which comes into effect from 01.04.2021. As per current provisions, both	It is suggested that necessary amendment be made allowing such trust to claim the exemption u/s. 11 of the Act.

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
		Section 11 and section 10(23C) are not simultaneously available for the same assessee. It creates difficulties and complexity for trust registered u/s. 10(23C). Eg. The annual receipts of the trust registered under section 10(23C) crosses the ceiling of Rs. 5 crores then it loses the exemption u/s. 10(23C) and then it will not get the benefit u/s. 11 also. There appears to be no reasonable and sound logic as the object of charity is already pursued. Such trusts object remains the same. This results into hardship.	
1.5	Extension of time limit for utilisation of amount accumulated u/s. 11(2) within a period of 5 years.	Time limit for expiring in FY 2020 – 2021 for utilisation of the income accumulated or set apart in earlier years and which could not be spent on account of COVID, needs to be extended.	Time limit should be further extended for a period of at least 2 years.
1.6	Section 12AB – Registration / renewal of registration	The Finance Act 2020 inserted a new section 12AB providing for procedure for fresh registration for charitable trust after every 5 years. The trusts are charitable in nature and does not have necessary wherewithal or infrastructure and object are always charitable in nature from the date it comes into existence. So, registration after every 5 years creates unnecessary burden on the charitable trust. Further the charitable trusts are also subject to income tax scrutiny year on year basis. So, this creates unnecessary burden on the charitable trust.	The period of renewal of registration should be made 10 years instead of 5 years. Alternatively, threshold limit should be kept based on the criteria such as net assets, Gross Income or corpus fund for renewal of registration of trust for a period of 10 years, for smaller trust.
1.7	Section 12A (1)(ac): The said section sets the time limit for a new charitable trust to file application for registration atleast one month prior to the commencement of previous year relevant to the assessment year from which	As per sub -clause (vi) of section 12A(ac) requires the trusts/ institutions wanting to register for the first time under section 12A of the Income Tax Act, needs to make an application at least one month prior to the commencement of the previous year relevant to assessment year for which the registration is	Necessary amendment to be made in the Act for the same.

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
	registration is sought	sought. Though it is welcome step, but it is difficult to comprehend why the condition of making application one-month prior to commencement of previous year relevant to previous year needs to make. Such condition has been diluted due to Covid for AY 2022-23, by bringing amendment in the sub rule (7) to rule 17A. However, it is not so for subsequent assessment years, in that case if the Trust in between the year makes an application, its applications shall be valid only for the subsequent previous year. On the contrary rather than facilitating the trusts/institutions by issuing provisional certificate, it will create more delays and hence the purpose will be lost	

2. 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
2.1	Standard deduction of Rs. 50,000/- is allowed.	There are various expenses that employeesincur 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).

3. 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
3.1	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 also be bearing the brunt of rent expenses. Many times, the projects are delayed, this adds further burden on the assessee.	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.
3.2	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 whichis held as stock in trade. This provision being a deeming fiction has lead to undue burden on the builders and developers. The builders and developers are being 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	Provision of house property income should not be made applicable to house property held as stock in trade. Alternatively, if the above suggestion is not acceptable then the period of 2 years be extended to at least 5 years considering the real estate industry and current situation of real estate markets. Justification: Considering the current slump in real estatemarket, this has resulted in undue hardship to developers who inspite of

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
		measure to provide affordable housing in metro cities.	sufficient efforts to sell its inventory is required to discharge the tax on notional basis on unsold inventory.

4. BUSINESS INCOME AND EXPENDITURE

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	The Finance Act, 2014 has added new Explanation in sub- section (1) of section 37 providing that any expenditure incurredby 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 forspecified 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 isno 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 ofCSR expenses under section 37 with such safeguards as maybe needed. **Since it is prescribed under the statute**.
4.2	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) Amortization of long term Lease premium on Land & Building. (2) Factory shifting or relocation expenses	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	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.

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
	Expenditure for setting up separate & dependent unit	as revenue or in deferred manner or by way of depreciation	
4.3	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 small items of assets, provisions had been introduced to treat cost of such assets as depreciation allowance. Earlier, the limit oncost of such assets was Rs. 750/-. This was then increased by the Finance Act, 1983 to Rs. 5,000/- again forthe same reasons. These provisions havebeen omitted w.e.f. Asst. Year 1996-97. The omission of the above provisions resulted in undue hardship and complexities. This was a useful provision to maintain simplicity and to avoid possible litigation on such small items of assets, based on principles of materiality.	The above provisions should be reintroduced, with a limit of cost of such asset being below Rs. 25,000/- Justifications: Such a provision will provide simplicity and avoid possible litigations.
4.4	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 purviewof section 44AD.
4.5	Sub section (1) of Section 44ADA and section 44ADprovides that the section		It is suggested to reduce the profit percentage to 25% for sec 44ADA.

<table>
<tr><th>Sr. No.</th><th>Existing provision under the Income-tax Act, 1961 ("the Act")</th><th>Difficulties Obstacles / Hurdles either Interpretative, Administrative or otherwise</th><th>Suggestion or new clause Suggested</th></tr>
<tr><td></td><td>(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>And, interest and salary to the partner should be allowed to all partnership firms including firm of professionals out of the Presumptive NP of the firm.

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>Particulars</td><td rowspan="2">Earlier Provision (Upto AY 2016 – 2017)</td><td rowspan="2">New Provision (From AY 2017 – 2018)</td></tr>
<tr><td>Section 44AD</td></tr>
<tr><td>Turnover</td><td>80,00,000</td><td>80,00,000</td></tr>
<tr><td>Deemed Income @ 8%</td><td>6,40,000</td><td>6,40,000</td></tr>
</table>
</td></tr>
</table>

<table>
<tr><th>Sr. No.</th><th>Existing provision under the Income-tax Act, 1961 (“the Act”)</th><th>Difficulties Obstacles / Hurdles either Interpretative, Administrative or otherwise</th><th>Suggestion or new clause Suggested</th></tr>
<tr><td></td><td></td><td></td><td>
<table>
<tr><td>Allowable Remuneration</td><td>4,74,000</td><td>Nil</td></tr>
<tr><td>Total Income of Firm</td><td>1,66,000</td><td>6,40,000</td></tr>
<tr><td>Tax Payable by the Firm @ 30%</td><td>49,800</td><td>1,92,000</td></tr>
<tr><td>Tax Payable by two partners</td><td>NIL</td><td>NIL</td></tr>
<tr><td colspan="3"></td></tr>
<tr><td>Particulars
Section 44ADA</td><td>Normal Provision</td><td>Under 44ADA</td></tr>
<tr><td>Gross Receipt of Firm</td><td>30,00,000</td><td>30,00,000</td></tr>
<tr><td>Deemed Income @ 50%</td><td>NIL</td><td>15,00,000</td></tr>
</table>
</td></tr>
</table>

<table>
<tr><th>Sr. No.</th><th>Existing provision under the Income-tax Act, 1961 (“the Act”)</th><th>Difficulties Obstacles / Hurdles either Interpretative, Administrative or otherwise</th><th>Suggestion or new clause Suggested</th></tr>
<tr><td></td><td></td><td></td><td>
<table>
<tr><td>Regular Income (Say50%)</td><td>15,00,000</td><td>NIL</td></tr>
<tr><td>Allowable Remuneration</td><td>9,90,000</td><td>Nil</td></tr>
<tr><td>Total Income of Firm</td><td>5,10,000</td><td>15,00,000</td></tr>
<tr><td>Tax Payable by the Firm @ 30%</td><td>1,53,000</td><td>4,50,000</td></tr>
<tr><td>Tax Payable by two partners</td><td>49,000</td><td>NIL</td></tr>
<tr><td>Total Tax Incidence</td><td>2,02,000</td><td>4,50,000</td></tr>
</table>
</td></tr>
</table>

5. 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
5.1	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
5.2	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 where construction of a house is completed one year prior to the transfer of the asset should also be given the benefit. Justification: Considering the current scenario, therearise 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. 2) the benefit of purchase of 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
			under construction one year prior to the transfer of asset be given to the assessee. As under construction assets are acquired earlier before the transfer of existing assets. 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. 3) Amendments should be made in line with 2nd provision to section 24 ofFinance Act 2017.
5.3	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 Nil after considering the rebate u/s. 87A 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 charged at 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 tax in case of assessee who has long term capital gain is four times.

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
5.4	Merger of LLPs: Current set provisions does not provide 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 ofLLPs 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 Act 2013. 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 providesgreater easy of doing business in India.
5.5	Clause (xiiib) to section 47 excludes the conversion of private limited companies to LLP from the definition		The conversion of private limited company is nothing but a succession and if it is done at the book value, then the

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
	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 exceedsRs. 5 crores		question of capital gains does not arise. **Without prejudice to what is stated above** The said limits should be removed or else increased substantially. Turnover limit may be increased to Rs. 25 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 Act 2013 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 shareholders /partner's should be Exempted

6. 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
6.1	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 ofdeduction 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 situationthe 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.
6.2	Provision to section 201(1A): Calculation of the Interest u/s201(1A) of the Act in case of assessee in default for the non-deduction or delay in deposit of TDS where the recipient has paid the tax	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.

7. 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
7.1	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 theircustomers, 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)
7.2	Credit for Tax Deducted at Source : a) As per the current scenario, the credit fortax 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. These results in mismatch of credit for TDS, requiring rectification and submissions of various details by the assessee. The reasons for	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

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
	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 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 notallowed to the deductee there by causingundue hardship to the deductee.		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 futurerefunds should not be adjusted against demands 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

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
			on account of non-deposit of TDS by the deductor and the same are incorrectly adjusted against subsequentrefunds 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.
7.3	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 were already covered under different sub-sections of Section 206C, however, all the remaining goods, which we're 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 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 thereby increase in cost of such Compliance	The compliance burden under TDS and TCS has been substantially increased and any default results into interest / penal consequence etc. Further section 194Q has been introduced for deduction of tax at source on purchases made by the buyer. This creates confusion, complexity and unnecessary burden on the deductor as well as deductee.	This section needs to be deleted for the reasons stated as under: 1) 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. It is to be noted that 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

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
			the construct of GST Number is such that sales data can be easily collated for each PAN. It is to be noted that 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. 2) Further section 194Q has been introduced where the buyer who is responsible for paying any sum to the resident for purchase of goods of the value or aggregate of such value exceeding Rs. 50 lakhs is required to deduct TDS. As a result of which the purpose of the government is achieved for capturing relevant data of purchase and sales of buyer and seller. 3) In view of the above explanations provision of section 206C (1H) should be deleted.
7.4	Section 206C(1G) (a) – TCS on remittance out of India: Section mandates an authorised dealer,		(a) As per the basic tenet of Income Tax Law, income tax shall be levied on the

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
	who receives an amount, for remittance out of India from a buyer of foreign exchange, being a person remitting such amount out of India under the Liberalised Remittance Scheme of the Reserve Bank of India, to TCS @ 5% if such amount exceeds Rs. 7.50 lakhs in a financial year. Sec.194N: Tax at Source to be deducted by Bank or Co-operative Society and post office @ 2% on the withdrawal of cash exceeding Rs.1 crore ………...		Income of a person. TDS and TCS provisions are mechanism to collect income Tax in advance from a person and it does not travel beyond section 4 of the Income Tax Act. It means if there is no income there is no Income tax and therefore there is no question of TDS and TCS. Thus the provisions of section 206C(1G) (a) is against the basic principle of Income Tax Act , TDS and TCS as well. The TDS and TCS provision are applicable only when there is any income element is involved. The person remitting money outside India from his taxable income (his own money) should not be subject to TCS as there is no element of income involved. By any stretch of imagination such remittances made by person under LRS can be brought within the purview of TCS. (b) Secondly the person sending the remittance outside India under LRS needs to file necessary forms (A2) with the authorised dealers where he makes necessary disclosures and provide his PAN number etc. and such informationcan be submitted to the Income Tax Department through the AIR reporting. One should not resort to the TDS provisions on transactions which are otherwise not taxable for the

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
			sake of capturing the data. There are other means are available for capturing the data/information Section 194N: Similarly, if a person withdraws cash from his own account out of his taxable income, there is no question of income element involved. When there is no income, there no question of payment of income tax or deduction of Tax at Source as stated above. Hence provisions of Sec.194N requires to be deleted. The intention of the legislature is to capture such transaction. However, the said information can be submitted by the concerned person under AIR reporting to the Income Tax department
7.5	Section 206AB: Special provision for deduction of tax at source for non-filers of income-tax return. Subsection 3: As per the provisions of this subsection, tax at source is required to be deducted by a person to a specified person on income paid, payable or credited at a higher rate prescribed in subsection 2 if the specified person has not filed the	Subsection 3 poses a difficulty in following situation: In case of company or a partnership firm or LLP or trust which has not completed two years from the date of its incorporation or agreement and whose TDS for the two years is Rs. 50000 or more. In both the situations the deductor will deduct the TDS at a higher rate to comply with the onerous provisions of TDS which will unnecessarily put hardship to the above mentioned assesses.	The appropriate exclusions be carved out for such categories of persons

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
	return of income of two relevant assessment year prior to the assessment year in which tax at source has been deducted and whose aggregate TDS for the above two years is Rs.50000 or more		

8. 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
8.1	Section 115JB levies MAT on the 'book profit' of the Company. Book profit is derived from adjusting the Profit as per Statement of Profitand 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 2018-19 – the profits business undertaking transferred from holding company to the subsidiary company would beaccounted as follows – - Holding Company – April 1, 2018 to September 30,2018 - Subsidiary Company – April 1, 2018 to	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) toalso 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 combinationprior to the date of business combination.

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
		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 subsidiary company. 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	

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
		period is same for a common control business combination – whether pursuant to a slump sale, merger, de- merger etc.	
8.2	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 Explanation 1 to Section 115JB, S. 115JB(2A),S. 11JB(2B) and S. 115JB(2C).	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 AS115 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 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 in 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 Ind AS 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	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 Section115JB 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.

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

9. 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
9.1	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 provisionsof 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 meantime the department keeps on the recovery proceedings and also adjusts the subsequent refunds against the demand for which the rectification applications are pending disposal. As a result the provisions of Sec.154(8), providing the time limit of six months for carrying out rectification has become redundant. 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. And all rectification applications shall be made online and pending status of the such application can be tracked online and it should show the period of delay. Justification: Such provision will result in easing the hardship caused by the assessee and will create transparency. 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

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
			administration of the provisions of the Act.
9.2	Rectification of Intimations processedat 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 isto 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 jurisdictionalassessing officer to rectify the order. Someof 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 to the jurisdictional assessing officers and can also be supported by production ofrelevant supporting documents for the same. Say for Example: Non-granting ofCredit of TDS in a case where the credit is claimed in a latter year than the year of deduction by the deductor. Many times the refunds are generated u/s 143(1) of the Act, and the said refunds are adjusted against: i) past demands which are pending in appeal and for which the stay has been granted. Many times the	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 assessingofficer 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

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
		refunds are adjusted more than the 100% of the demands ii) The erroneous demands are raised u/s 143(1) and rectification orders u/s 154 are passed without making any correction as proposed in the rectification application made by the assessee. As a result the refund if any due as claimed by the assessee has been adjusted against such erroneous demand.	of processing of returns at CPC
9.3	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 the Act. 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 Subsequently, bids are invited for takeover of the corporate debtor and the successful bidder after	Both the requirements – - Filing return within the time prescribed u/s139(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.

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
		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 ina 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 auditreport. Consequently, there is a delay in filing of the income tax return or the income tax return is not filed	

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
		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.	
9.4	Revised Return Time Limit	The old provision needs to be restored.	Many times, errors in the original return of income already filed are noticed subsequently at the time of filing of return of income of the subsequent year. As a result, such errors could not be corrected by filing the revised return of income for that assessment year since the time limit for filing the revised return now has been reduced and has been kept at the end of the relevant assessment year. Practically there is not much time gap involved between the filing of original return and filing the revised return. Hence, time limit for filing of revised return should be kept at one year from the end of the relevant assessment year.

10. APPEALS

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
10.1	Section 246A: Appeal before the CIT (A) And Section 139(9): Defective return	At times CPC issue notices to cure the defects in the return of income. Assessee has to carry out the changes or modifications on the said communication issued by the CPC. Many times it does not have necessary fields to rectify the defects observed or does not provide sufficient field to explain that there are no defects. As a result return of income is considered as defective u/s 139(9) of the Income Tax Act and many times returns are considered as defective by CPC in a mechanical manner, despite the defects being cured by the assessee or having explained that there are no defects in the return and assessee has not been given any opportunity of being heard before treating the return as defective. Further, such orders are no appealable.	In such cases, the option be given to the assessee to explain the case to the jurisdictional assessing officer, which satisfies the criteria of principle of natural justice. Further this order should be made appealable and necessary amendment to this section shall be made.

11. INTERNATIONAL TAXATION

Sr. No.	Existing provision	Difficulties Obstacles/ Hurdles either Interpretative, Administrative or otherwise	Recommendations
A.	**Equalization Levy operational from FY 2020-21**		
1.	EL to apply only to pure E-commerce Marketplace activities and digital trading platforms	Section 164(ca) of the Finance Act 2020 defines "e-commerce operator" means a Non-Resident who owns, operates or manages digital or electronic facility or platform for online sale of goods or online provision of services or both;	The Government is requested that the term 'ecommerce operator' should be defined and aligned with pure e-commerce marketplace as is understood in normal parlance. The Government is requested to consider that traditional brick and mortar businesses, banking and financial services, payment platforms, cloud service providers and inter-group entity transactions should be excluded from ambit / levy of EL and its applicability should be restricted to pure e-commerce marketplace operators and digital products trading platforms (e.g. downloading of computer software, etc.) In all scenarios, all inter-group entity transaction especially with respect to supply of goods to India are requested to be kept outside the ambit of EL as such traditional activities were never intended to be covered within the ambit

		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. Further, it can also be construed to include standard transaction through standard software / platform such as ERP which is completely unwarranted. 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 further also includes inter-group entity transaction within the ambit of EL which is unwarranted. The definition of 'e-commerce operator' is wide enough to inadvertently cover traditional brick and mortar businesses 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 acts as an infrastructure service provider. All internet intermediaries and digital	of such consumption based taxation and the current provisions of tax treaties are adequate to deal with the same.

		companies are not necessarily e-Commerce operators.	
2.	Rationalization of the definitions for the purposes of EL	For the purpose of levy of EL, there are various terms which have not been defined in the provisions, such as ‘digital facility’ or ‘electronic facility’ or ‘platform’, ‘data’ 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. • The Government is requested 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. • The Government is requested to consider that various internal and mutli-purposes close ended platforms (e.g. ERP) especially in the context of inter-group transactions should not be construed as digital or electronic facility or platform for the purpose of levy of EL.

			• The Government is requested to issue a circular explaining various other terms such as 'digital facility' or 'electronic facility' or, 'data', Service, etc. The Government is requested to clarify that standard and general use of emails, telecommunications, digital conferences, website and all of forms electronic communication with basic and need based customization should not be considered as "online" for applicability of EL.
3.	**Preparatory activities not to be treated as online sale of goods and online provisions of services for purposes of EL**	The Explanation to 164(cb) of the Finance Act 2020 added by the Finance Act 2021 as reproduced below has expanded the ambit of online sale of goods and online provision of services significantly. Explanation.—*For the purposes of this clause, "online sale of goods" and "online provision of services" shall include one or more of the following online activities, namely:—* *(a) acceptance of offer for sale; or* *(b) placing of purchase order; or*	The Government is requested that the said Explanation to Section 164(cb) be deleted. This will result in only the proper and actual online sale of goods and online provisions of services provided / facilitated by the Non-Resident e-commerce operator through its online platform liable to EL

		(c) *acceptance of the purchase order; or* (d) *payment of consideration; or* (e) *supply of goods or provision of services, partly or wholly;*] All the activities covered by the Explanation to Section 164(cb) especially relating to mere placing of purchase order or acceptance of offer of sale can in no circumstances be treated on par with online sale of goods and services. This is because the goods may not even have been manufactured or ready at that stage and their title and risk passes only with delivery. The said Explanation artificially expands the ambit of E-commerce supply by treating above types of certain preparatory / auxiliary activities as online sale of goods or online provision of services which is unreasonable and unwarranted. Even under the Tax Treaties, and even the MLI scenario, the principle of not taxing preparatory and auxiliary activities even when carried out in the source country as	

		permanent establishment continues. This is the global commitment of all countries signing tax treaties.	
4.	Expanding benefits to all Non-Residents under EL	On 24 November 2021, the Ministry of Finance of India has issued a press release stating that India and USA have agreed that terms of Joint Statement issued on 21 October 2021 shall apply charge of 2 per cent EL on e-commerce supply of services and the USA trade action regarding the said EL. The interim period in case of India will be from 1 April 2022 till implementation of Pillar one or 31 March 2024, whichever is earlier.	The Government is requested to clarify the benefits of the agreement reached with the US Government authorities especially with respect to EL only on e-commerce supply of services. The Government is requested to extend and incorporate all the beneficial terms agreed with US Government authorities for EL to all other Non-Residents.

5.	Adjustment of taxes between income-tax and EL	There is a possibility of disputes on whether a payment is liable to EL or to income-tax as royalty or FTS. The payers generally deduct tax on payments to Non-Residents as Royalty / FTS on conservative basis. Thereafter, the Non-Resident file their income-tax return in India and claim refund. In such cases, EL may be attracted or asserted in tax assessment. There is currently no mechanism for adjustment of taxes on income of Non-Resident withheld / paid as Royalty/FTS to be adjusted against EL applicable or asserted to be applicable at assessment stage. This anomaly creates double outflow of taxes in India for a Non-Resident on the same income.	The Government is requested that the taxpayer be allowed to offset the EL liability against any taxes withheld / paid on the same income as Royalty / FTS. No interest should be charged on EL till the amount is so adjusted against subsequent tax demand. Further, interest should be granted till the refund of EL from such taxes withheld / paid as Royalty / FTS.
6.	Appeal/ grievance mechanism with respect to grievances emanating from EL provisions	While the right to appeal before the Commissioner of Income-tax (Appeals) against penalty order issued under the EL provisions is provided under Section 174 of Finance Act, 2016, there is no mechanism provided under the existing EL provisions for the Non-Resident e-commerce operator to file an appeal against any other grievance arising under these provisions.	It is suggested that an appeal/ grievance mechanism be provided for Non-Resident e-commerce operator with respect to assessment and other issues emanating from the EL provisions, including the applicability and charge of EL. These provisions of appeal, rectification, revisions, etc., to be on the same line sas currently existing in the Income-tax Act.

B	**Liable to tax under Section 2(29A)**		
1.	Anomaly surrounding the definition of liable to tax	Section 2(29A) defines liable to tax" – "*liable to tax" in relation to a person and with reference to a country, means that there is an income-tax liability on such person under the law of that country for the time being in force and shall include a person who has subsequently been exempted from such liability under the law of that country;]* The current definition of 'liable to tax' talks about income-tax liability only on such person under the law of that country. It is submitted that in several countries such as US, UK and Germany, partnership firms and other form of corporate are pass through entities. In such cases, the income is liable to tax in the resident country but not on such entity but its shareholders / partners. There is therefore a need to look at taxation of all income of such person in the country of residence irrespective of the mechanism followed.	It is suggested that apart from person, the criteria for liable to tax be expanded to include cases where there is an income-tax liability on all income of such person under the income-tax law of the resident country and in the context of person, it should include all forms and mechanism provided to achieve that objective. Further tax residency certificate issued by the Income Tax Authorities of that jurisdiction be notified as satisfying the 'liable to tax' definition in all scenario.
C	**Residence under Section 6**		

1.	Control and Management for persons other than companies	Under Section 6(2) of the Act, for persons other than companies and 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 Indian DTAAs.
2.	Meaning of the term 'visit' for individuals	With respect too 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 may and is likely to leads to unwarranted litigation.	We suggest that the term "visit" be deleted to eliminate any controversy and making the applicable criteria only of physical presence in India. Further the term visit should exclude days where the individual is forced to stay back in India in certain circumstances such as Covid19. Currently, these cases are being evaluated by the CBDT on case by case. We submit that guidelines in this respect be incorporated in the Rules and a mechanism be provided for the individual to place his case to the CDBT even prior to such events.

D	**Significant Economic Presence provisions under Section 9(1) of the Act**		
1	Attribution of profits to SEP in India of Non-Resident not specified	The SEP provisions are applicable for FY 2021-22 and are still pending enactment of Rules on how profits/incomes are to be attributed to an SEP of Non-Resident in India. In the absence of clear detailed rules, divergent approach can be adopted by different tax officers and taxpayers alike, which would lead to unwarranted uncertainty and litigation.	The Government is requested that the rules for attribution of profits to SEP of NR in India be notified at the earliest.
2	Increasing SEP threshold	The revenue thresholds for triggering SEP are currently set at INR 2 crores.	Considering that the threshold under the Pillar 1 consensus is set at EUR 1 million, the Government could consider increasing the threshold under domestic law to mirror the EUR 1 million threshold under Pillar 1.

3.	Relaxation of Deduction of tax at source under Section 195	In case of a Non-Resident, where SEP provisions are triggered, there is an obligation to withhold tax thereon under Section 195 of the Act even if the income computation rules are not specified. The rules of taxation and deduction in this regard will also need to factor that the payer in India may not have any ability to obtain the required data from the NR at the transaction stage or it is likely that the threshold for the NR are met after the transaction of the resident with the Non-Resident. Further, many of the customers of the Non-Residents may be consumers (B2C) and not businesses (B2B) and would not be in position to obtain details / information for withholding tax purposes.	In the context of SEP, the Government is requested to consider relaxing the withholding tax obligation under Section 195 of the Act for consumers paying to Non-Resident under B2C type of transactions and in such cases, the income-tax liability should be discharged directly by the Non-Resident. For B2B cases, it is submitted that till the necessary rules are enacted to compute income of the Non-Residents with respect to its SEP in India, the payer should not be made liable to withhold tax thereon under Section 195 of the Act. Further, for any ongoing financial year, the Non-Resident be liable to declare the SEP thresholds basis a cut-off date of be stipulated in this regard and withholding tax obligation on B2B transaction to arise only after the threshold have been crossed as per such declarations.

E	**Transfer Pricing**		
1	Absence of minimum threshold for applicability	Transfer pricing provisions do not stipulate any threshold above which they become applicable and thereby the underlying compliances are burdensome and expensive especially for small and new companies and businessmen. Similarly, the documentation obligation threshold at Rs. 1 crore is too low	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. 10 to 15 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 rule**s.** **Similarly or separately, the maintenance of TP documentation obligation at Rs. 1 crore is too low and needs to be revised to minimum Rs. 5 crore.**

2	Correlative adjustment to be allowed for other Associated Enterprises (AE)	Under second proviso to section92C(4) of the Act, if any adjustment is made to the income of AE for payment to another AE on which tax has been deducted / deductible, no corresponding recomputing of recipient's AE's income is permitted.	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 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 in case of Non-Residents	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	No exemption / relaxation of Limitation of interest deduction under Section 94B of the Act in bonafide cases :	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 one crore on such debts/ borrowings. Sub-section 2 of Section 94B of the Act for the	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

		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, taxes, depreciation and amortization as stipulated; or (b) interest paid or payable to AE for that previous year whichever is less.	subject to an eight years limitation. 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-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.
5	Secondary adjustments obligation to make adjustment in the books of account of the AE	The Section 92CE(3)(v) of the Act with respect to secondary adjustment under transfer pricing refers as under:: *Section 92CE(3)(v) - "secondary adjustment" means an adjustment in the books of account of the assessee and its associated enterprise to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined because of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee. An adjustment in the books of accounts of the assessee would not be made in case the assessee does not repatriate the excess money into India from its associate enterprise."*	The said Section 92CE(3)(v) of the Act in a case where taxpayer brings the funds into India then the taxpayer and its Associated Enterprise (AE) are required to make an entry in their books of accounts to reflect the actual allocation of profits. It is suggested that the obligation with respect to the accounting entry in the books of the AE is unwarranted. The accounting norms in the other jurisdiction may request such payments / entry to be reflected in different shape and forms as per local transfer pricing and accounting rules / standards prevalent therein and would be beyond the control of the taxpayer in India. In view of same, it is requested that the obligation of the taxpayer to ensure the accounting by the AE is in particular manner be done away with

			and the taxpayer in India having accounted for it in particular should be construed as satisfaction of the relevant criteria.
6	Transfer Pricing Report under Section 92CE of the Act where income-tax return filing is not obliged for Non-residents	Section 115A of the Act has been amended to provide that Non-Resident are not required to file income-tax return in India if their income comprises of specified category (interest, dividend, royalty, fees for technical services) and taxes have been deducted as stipulated therein. However, for such Non-Residents there is no relaxation from filing of transfer pricing reports.	It is submitted that Non-Resident who are not obliged to file their income-tax returns be granted the relaxation to not file the transfer pricing report under Section 92E of the Act. In such cases, a declaration may be obliged from them of transfer pricing report under Section 92E of the Act filed by the Indian AE with respect to the transaction with Non-Resident AE.

F	**Overseas Mergers / Demerger – Direct and Indirect Transfer**		
1	Absence of carve out with respect to exemption from capital gains tax in the context of foreign merger/demerger – direct transfer as well as indirect transfer.	Sections 47(via), 47(viab), 47(vic) and 47(vicc) 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	Section 2(1B) of the Act dealing with domestic amalgamation carves out an exception for shareholding continuation condition which does not apply to the shares of the amalgamating company that are held by the amalgamated/resulting

		taxation as capital gains. There are however no carve out for amalgamated / resulting company is the shareholder of amalgamating / demerged company.	company or its subsidiary. This is because when the subsidiary is merged into the Holding company, the Holding company cannot allot shares to itself under the merger. 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 logical carve out do not exist in the exemptions relating to merger/de-merger of foreign companies – direct transfer as well as indirect transfer cases. The Government is requested that 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 case of demerger.

G) Return of income of Non-Residents			
1	**Relaxation from filing of income-tax return for Non-Residents taxable in India**	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. No such relief seems to be directly available if tax is withheld in accordance with the provision of the Tax Treaty. 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 or should not be construed to disentitle the Non-Residents from the benefit of non-filing return of	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).

		income under Section 115A(5) of the Act but makes such position ambiguous and litigative.	
2	**Relaxation to Non-Resident from income-tax return filing not available for basket of incomes**	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 115A(1) of the Act then this relief from filing of income-tax return is not available. This seems to be an anomaly and clearly unintentional.	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.

12. DEEMED DIVIDEND

Sr. No.	Existing provisionunder the Income- taxAct, 1961("the Act")	Difficulties Obstacles/ Hurdles either Interpretative, Administrative or otherwise	Suggestion or new clause Suggested
12.1	Deemed Dividend-Sec. 2(22)(e)-Loans and Advances given to a person having more than 10% of voting rights or having a substantial interest (interested person) shall be considered as deemed dividend in the hands of the recipient.	The intention of the section is to prohibit company to distribute dividend in the guise of granting loans and advances. However, there are other relevant laws which are applicable to the companies (Such as provisions of Companies Act, 2013 - Sec.185, 186 and 188, etc. SEBI Act, etc) which specifically prohibits granting of loans and advances to the interested person having 10% of the voting rights or having substantial interest (interested person). Noncompliance of such provisions results into penal consequences. This section has resulted in lot of litigation	We propose that the provisions of Sec.2(22)(e) relating to deemed dividend should be deleted. This will help in reducing the litigation. Alternatively, it is suggested that in case above suggestion is not accepted, then such loans and advances granted to interested person, if repaid within a period of one year shall not be considered as deemed dividend

13. OTHER PROVISIONS AND PROCEDURAL ISSUES

Sr. No.	Existing provision under the Income-tax Act, 1961 ("the Act")	Difficulties Obstacles/ Hurdles either Interpretative, Administrativeor otherwise	Suggestion or new clause Suggested
13.1	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.
13.2	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 inthe 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.

Sr. No.	Existing provision under the Income-tax Act, 1961 ("the Act")	Difficulties Obstacles/ Hurdles either Interpretative, Administrativeor otherwise	Suggestion or new clause Suggested
13.3	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.
13.4	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 sixmonths otherwise it should be presumed that the application is accepted as submitted.	Assessees cannot be expected to chase Assessing officer for such order.

14. 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

NOTES

The Chamber of Tax Consultants

Estd. 1926

Vision Statement

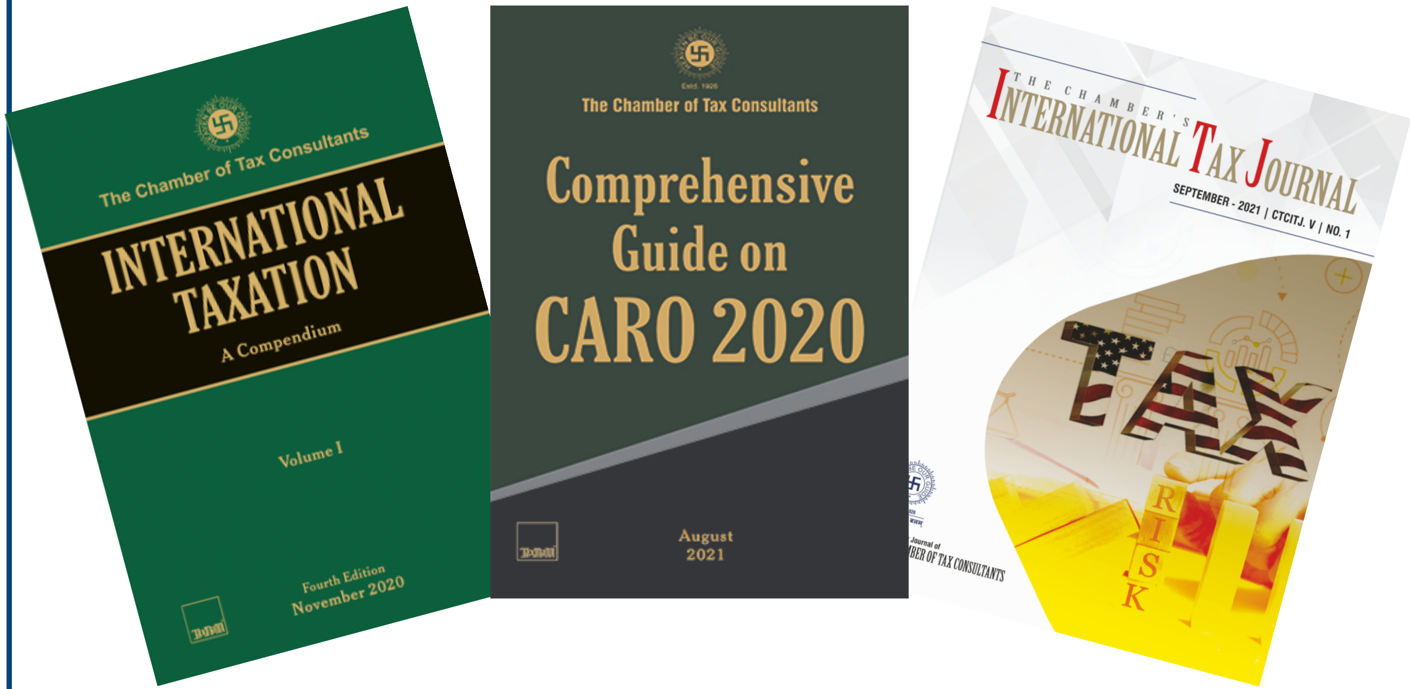
The Chamber of Tax Consultants (The Chamber) shall be a powerhouse of knowledge in the field of fiscal laws in the global economy.

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.

The Chamber shall be pre-eminent in laying down and upholding, among the professionals, the tradition of excellence in service, principled conduct and social responsibility.

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



Estd. 1926

ज्ञानं परमं बलम्

CTC Publications

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

Some of the renowned personalities like Shri Soli Dastur, Shri Y. P. Trivedi, Late Shri V. H. Patil, Shri S. N. Inamdar have led the Chamber as President.

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