

*Amendments in Direct Tax
Law applicable for A.Y. 2021-22
(related to Computation of
Total Income)*

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Reference Material

- Finance Act, 2020
- Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020
- Finance Act, 2021
- Other Circulars, Notifications, Press Releases & Rules

Rates of Tax

- No change in rates of tax as compared to assessment year 2020-21.
- Alternate tax regime for Individuals /HUF and Co Operative Societies.

Rates of Tax

➤ Rates of Surcharge (Same as assessment year 2020-21)

Adjusted Total Income/Book Profit Range	Individual /HUF/AOP /BOI/AJP	Firm/Co-operative Society(#)/Local Authority	Domestic Company (#)	Foreign Company
0 - Rs. 50 lakhs	Nil	Nil	Nil	Nil
Rs. 50 lakhs – 1 crore	10%	Nil	Nil	Nil
Rs. 1 crore – 2 crore	15%	12%	7%	2%
Rs. 2 crore – 5 crore	25%	12%	7%	2%
Rs. 5 crore – 10 crore	37%	12%	7%	2%
Above Rs. 10 crore	37%	12%	12%	5%

(# For Domestic Co. / Co-Operative Society, opting for Alternative Tax Regime u/s.115BAA/BAB/BAD, surcharge @ 10% irrespective of quantum of income)

- Where the total income includes dividend income and any income under section 111A and section 112A, the rate of surcharge on the amount of income-tax computed on that part of income shall not exceed 15%

Alternative Tax Regime (Ind/HUF) 115BAC

- Effective from Assessment year 2021-22, Individuals and HUF's - Option for concessional tax rates, provided certain conditions are satisfied.
- Rates of tax are as under:

Total Income	Rates of Tax
Up to Rs.2,50,000	NIL
Rs.2,50,001 to Rs.5,00,000	5 %
Rs.5,00,001 to Rs.7,50,000	10%
Rs.7,50,001 to Rs.10,00,000	15%
Rs.10,00,001 to Rs.12,50,000	20%
Rs.12,50,001 to Rs.15,00,000	25%
Above Rs. 15,00,000	30%

- Applicable to Individuals /HUF's (resident as well as non resident)
- Basic Slab rate of Rs.2,50,000 is same for Senior Citizens/Very Senior Citizens.

Alternative Tax Regime (Ind/HUF) 115BAC....

- Rebate u/s.87A is available for resident individuals (If TI < 5 lakhs, rebate of maximum of Rs.12,500)
- Income taxable at special rates continues to be taxed at special rates (Section 111A -15%, Section 112 - 10%/20%, section 112A - 10%, 115BB - 30%, 115BBE - 60%, 115BBF - 10%, 115BBG - 10%)
- Surcharge and education cess applicable at same rates as per existing tax regime, depending on total income
- Maximum tax benefit that will be available is Rs.75,000 (+ surcharge + education cess)

Alternative Tax Regime (Ind/HUF) 115BAC....

Total Income	Deductions /Benefits	Beneficial Scheme
Rs.15,00,000/-	Above Rs.2,50,000/-	Old Scheme
	Below Rs.2,50,000/-	New Scheme
Rs.12,50,000/-	Above Rs.2,08,300/-	Old Scheme
	Below Rs.2,08,300/-	New Scheme
Rs.10,00,000/-	Above Rs.1,87,500/-	Old Scheme
-	Below Rs.1,87,500/-	New Scheme
Rs.7,50,000/-	Above Rs.1,25,000/-	Old Scheme
	Below Rs.1,25,000/-	New Scheme

Alternative Tax Regime (Ind/HUF) 115BAC....

- Conditions to satisfy:
 - Certain Exemptions / deductions not allowed....
 - No set off of loss brought forward or depreciation brought forward if such loss or depreciation is attributable to any of the deductions which are not allowed as per clause (i) of sub-section 2 of section of 115BAC (adjustment can be made to WDV as 01/04/2020 for unabsorbed depreciation as on 31/03/2020, which has not been given full effect)
 - No additional depreciation allowed
 - Set off of loss under the head House Property not allowed, it can be carried forward for set off under same head

Alternative Tax Regime (Ind/HUF) 115BAC....

➤ Deductions/Exemptions not allowable

Section	Particular
10(5)	Exemption for leave travel concession
10(13A)	Exemption for house rent allowance
10(14)	Exemption for certain allowances (except for allowances as prescribed in Rule 2BB(3))
10(17)	Exemption for allowance to Members of Parliament/ State Legislature
10 (32)	Exemption for the income of minor
10AA	Exemption for SEZ unit
16	Standard deduction and employment/profession tax
24(b)	Deduction for interest in respect of self-occupied or vacant property referred to in section 23(2) of the Act

Alternative Tax Regime (Ind/HUF) 115BAC....

➤ Deductions/Exemptions not allowable

Section	Particulars
32(1)(ia)	Additional depreciation
32AD	Investment in new plant or machinery in notified backward area in certain states
33AB	Tea development account, coffee development account, and rubber development account
33ABA	Site restoration Fund
35(1)(ii)/ (ia)/ (iii)	Deduction of the sum paid to a research association/ university/ college/ company for use in scientific research or to a research association for undertaking research in social science/ statistical Research
35(2AA)	Weighted deduction for payment to National Laboratory or university or Indian Institute of Technology for scientific research

Alternative Tax Regime (Ind/HUF) 115BAC....

➤ Deductions/Exemptions not allowable ...

Section	Particulars
35AD	Investment-linked deduction for expenditure on specified business
35CCC	Weighted deduction for expenditure on an agricultural extension project
57(iia)	Deduction from family pension
80C	Deduction for life insurance premium, contribution to provident funds, tuition fees, repayment of housing loan, etc.
80CCD(1B)	Additional deduction for employee's contribution to the National Pension Scheme (NPS) up to ` 50,000
80D	Deduction for health insurance premium
80DD	Deduction for maintenance including medical treatment of a dependent who is a person with a disability

Alternative Tax Regime (Ind/HUF) 115BAC....

➤ Deductions/Exemptions not allowable

Section	Particulars
80E	Deduction for interest on loan taken for higher education
80EEA	Deduction for interest on loan taken for affordable house property
80EEB	Deduction for interest on loan taken for purchasing an electric vehicle
80G	Deduction for donation made to certain funds, charitable institutions
80TTA	Deduction for interest on deposits in the savings bank account
80TTB	Deduction to senior citizens for interest on bank deposits
80U	Deduction in case of a person with a disability
Rule 3	Exemption for free food and non-alcoholic beverage provided by the employer through paid vouchers usable at eating joints [Second proviso to Rule 3(7)(iii)]

Alternative Tax Regime (Ind/HUF) 115BAC....

➤ Deductions/Exemptions allowable

Section	Particulars
10(10)	Exemption for gratuity
10(10A)	Exemption for pension
10(10AA)	Exemption for leave encashment
10(10B)	Exemption for retrenchment compensation
10(10D)	Exemption for sum received under the life insurance policy
10(11)	Exemption for payment received from statutory provident fund
10(12)	Exemption for payment received from recognized provident fund
10(12A)/ (12B)	Exemption for payment received from NPS

Alternative Tax Regime (Ind/HUF) 115BAC....

➤ Deductions/Exemptions allowable

Section	Particulars
10(14) r.w. Rule 2BB	<ul style="list-style-type: none">• Any allowance granted to meet the cost of travel on tour or on transfer [Rule 2BB(1)(a)]• Daily allowance to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty [Rule 2BB(1)(b)]• Conveyance allowance granted to meet the expenditure on conveyance in performance of office duties [Rule 2BB(1)(c)]• Transport allowance granted to a handicapped employee to meet his expenditure for commuting between the place of residence and place of duty [Sr. No. 11 of the table below Rule 2BB(2)]

Alternative Tax Regime (Ind/HUF) 115BAC....

➤ Deductions/Exemptions allowable

Section	Particulars
80CCD(2)	Deduction for employer's contribution to NPS
80JJAA	Deduction for the employment of new employees
80LA	Deduction with respect to IFSC units
Rule 3	Exemption for free food and non-alcoholic beverage provided by the employer during working hours at the office or business premises upto ` 50 per meal, tea or snacks provided during working hours or free food and non-alcoholic beverages during working hours provided in a remote area or offshore installation

How to Exercise the Option...115BAC??

- **For taxpayer -Ind/HUF - having business or professional income**
 - Option to be exercised by filing of **Form 10IE** on or before the due date for filing return of income - digitally or EVC as per Rule 21AG
 - Its not mandatory to exercise option in A.Y. 2021-22, it can be exercised in any subsequent A.Y.
 - Once option is exercised it is valid for all the subsequent years
 - Option exercised can be withdrawn only once in any subsequent year. And thereafter a person shall not be eligible unless the withdrawal is on account of no income from business or profession.
 - **ITR changes:** Assessee is required to mention the date of filing of Form 10-IE and acknowledgement number in case he has chosen the alternate tax regime of Section 115BAC.

- **For taxpayer -Ind/HUF- not having business or professional income**
 - Option to be exercised every year **alongwith the ROI to be furnished u/s.139(1)**
 - **ITR changes:** In Part-A (General Information) the assessee is required to choose whether he is opting for the alternative tax regime of Sections 115BAC or not.

- **Delay in filing of return of income????**

Alternative Tax Regime (Ind/HUF) 115BAC....

➤ Some Issues in 115BAC

- Speculation Income
- Applicable to Partners in Firm
- If only share of Profit??

➤ **ITR changes:** ITR forms for assessment year 2021-2022 has amended **Schedule DPM** (Depreciation on Plant and Machinery) to make one-time adjustment to the WDV of the respective block of asset. Further, **Schedule UD** [Unabsorbed Depreciation and allowance under Section 35(4)] has been amended to make the corresponding adjustment to the unabsorbed depreciation for the amount of depreciation already adjusted with the WDV of the respective block of asset. **Schedule CFL-** Details of Losses to be carried forward to future years is amended to make adjustment for such losses which are not allowed to be carried forward and set off.

Other Alternate Tax Regime...

- For Co-operative Societies: S.115BAD - option to pay tax at lower rate of 22% - provided certain deductions/exemptions foregone

Residential Status

➤ Section 6(1) – Existing provisions

Person is resident in India, if

a) Is in India for ≥ 182 days in relevant PY; or

b) Is in India for ≥ 60 days and ≥ 365 days in earlier 4 years preceding that PY

Indian Citizen – going out of India –

Leaving India for employment purposes or

Crew member of Indian ship

Instead of 60 days 182 days in clause (b) above

Indian citizen/PIO –Visit to India

Instead of 60 days 182 days in clause (b) above

➤ **Amendment:**

In above case, if TI other than FE > 15 lakhs, then 120 days instead of 182

days in clause (b) – then Resident but Not Ordinary Resident

Residential Status....

➤ Deemed Resident Status – Section 6(1A)

a) If Individual – Citizen of India,

b) Having Total Income (Other than Income from Foreign Sources) > 15 lakhs,

c) Not liable to tax in any other country or territory by reason of domicile or residence or any other criteria for similar nature.

Then Resident but Not Ordinary Resident

Explanation – This clause shall not apply in case Ind. is resident under clause 6(1).

- Section 2(29A) – Definition of “Liable to Tax” - in relation to person and with reference to a country means that there is income-tax liability on such person under the law of that country for a time being in force and shall include a person who has subsequently been exempted from such liability under the law of that country.

Contribution to RPF, Superannuation Fund, NPS

- Section 17(2)(vii) – aggregate amount of any contribution made by the employer towards following retirement benefit schemes > 7,50,000 per year, is taxable as perquisite.
 - a) recognised PF
 - b) NPS
 - c) approved superannuation fund

- Annual accretion –interest, dividend or other amount in similar nature on such amount is also taxable.

Business / Profession

➤ **Section 43CA - Full value of consideration for transfer of assets other than capital assets in certain cases:**

From A.Y. 2021-22, safe harbour limit of 105% increased to 110%, (Stamp duty value shall be taken as full value of consideration if stamp duty value is more than 110% of actual consideration).

- Safe harbour limit of 110% of sale consideration is increased to 120% if the following three conditions are satisfied :
- a) Transfer of residential unit takes place during 12/11/2020 to 30/06/2021
 - b) Its transfer by way of first time allotment of residential unit to any person
 - c) Consideration received / accruing for such a transfer is less than 2 crore
- “Residential unit” is as defined in explanation to section.
- Corresponding amendment is carried out in **Sec. 56(2)(x)**

Business/Profession...

➤ Section 44AB - Tax Audit Applicability -Relaxation

- Finance Act, 2020 - Threshold limit of 1 crore was increased to 5 crores, if assessee satisfies following conditions:
 - a) aggregate of all amounts received in cash during the previous year including amount received for sales, turnover or gross receipts, < 5% of the said receipts and
 - b) aggregate of all payments made in cash during the previous year including amount incurred for expenditure, < 5% of the said payment
- Finance Act, 2021 - Threshold limit is increased from 5 Crores to 10 Crores (subject to aforesaid two conditions)

If the cheque /bank draft received is not account payee, it to be treated as cash.
- Necessary changes have been brought in the ITR forms to enhance the limit.

Business/Profession...

➤ Section 44ADA - Presumptive Taxation - Professionals

For taxpayer being resident professional having receipts \leq 50 lakhs, option to pay tax under presumptive taxation. Income is presumed as higher of 50% of Gross receipts or actual income.

W.E.F. A.Y. 2021-22, said section shall apply only to resident individual, resident partnership firm (not being LLP)

Minimum Alternate Tax (MAT)

- Computation of book profit in cases where there is increase in book profit due to income of earlier years - **Section 92CC** (advance pricing agreement) or **Section 92CE** (secondary adjustment)
 - “A” shall apply for rectification u/s.154 or pursue where application is pending for re-computation of book profit
 - On receipt of application, AO shall calculate book profit and tax accordingly for earlier years
 - Time Limit - Section 154 - 4 years - shall be reckoned from end of the financial year in which application is made
 - This benefit can be availed only if MAT credit is not utilised in subsequent assessment years.
 - Application can be made for earlier years also – one can claim refund – but not eligible for interest.
- MAT not payable by foreign Co. on dividend income (if taxable under normal provisions below 15%)

Depreciation on Goodwill

- S.2(11), s.32(1)(ii) and expln 3(b) to S.32(1) - intangible assets, being know-how, patents, copyrights, trade-marks, licences, franchises or any other business or commercial rights of similar nature
- CIT vs Smifs Securities Ltd 348 ITR 302 (SC) - 'goodwill' is an asset under Explanation 3(b) to section 32(1)
- SC - Goodwill acquired on amalgamation will fall under "Any other business or commercial right of similar nature - Capital assets - hence eligible for Depreciation
- Section- 2(11) and expln 3(b) to S.32(1) - "Block of assets" - amended- exclude Goodwill of business or profession from block of asset and definition of intangible assets. Goodwill of B&P not an asset for this clause, hence not eligible for deduction. Therefore, even if Goodwill is purchased for consideration no depreciation can be claimed
- Section 43(6), if block of asset as on 01/04/2020 includes any goodwill of B&P, same shall be excluded. The value to be excluded/ depreciated value is to be determined as if Goodwill was the only asset in block -reduction not to exceed the WDV
- Section 50- if goodwill forms part of a block, wdv and STCG to be determined in prescribed manner
- Section 55 - For Capital Gains - Cost of Acquisition -
 - a) If goodwill is purchased from any other person - Actual acquisition cost as reduced by depreciation, if any, claimed upto FY 2019-20
 - b) Where acquisition is pursuant to s. 49(1) - Actual cost of goodwill in hands of transferor/ previous owner as reduced by depreciation, if any, claimed upto FY 2019-20
 - c) In all other cases, it would be Nil which may include transfer of self-generated goodwill

Employees Contribution to PF/Superannuation Fund

- Section 2(24)(x) - definition of income - Employee's contribution to PF, Superannuation fund, ESIC or other funds for employee's welfare are income of employer
- Section - 36(1)(va)- allows deduction of aforesaid amounts, if same are credited to employee's account in relevant fund on or before the Due Date.
- Due Date?? - means due date as specified in relevant act.
Therefore, if employees contribution to PF is not deposited by employer before the due date under PF act, employer is not eligible for deduction
- Various HC have allowed said amount as deduction u/s.43B.
- Explanation 2 is inserted u/s.36(1)(va) - Section 43B shall not apply and deemed to be never have been applied for determination of "Due Date" u/s.36(1)(va)
- Explanation 5 is inserted to section 43B - provisions of S.43B shall not apply and deemed to be never have been applied for sum received by assessee from his employer u/s.2(24)(x)
- It is clarificatory amendment, applicable from which A.Y.? A.Y.2021-22?

Capital Gains

- Section 50C – Capital Gains in case of Land and Building - From A.Y. 2021-22, safe harbour limit of 105% increased to 110%, (Stamp duty value shall be taken as full value of consideration if stamp duty value is more than 110% of actual consideration).

- Section 55(2)- Cost of Acquisition
 - Section 55(2) gives option to assessee to take FMV as on 01/04/2001 or actual cost
 - **Amendment :** In case of Land and /or Building, if stamp duty value as on 01/04/2001 is available, FMV as on 01/04/2001 cannot exceed stamp duty value

Transfer of Capital assets to partner on dissolution or reconstitution Section 45(4) and 9B

- Section 45(4) - where partner/member receives any money or capital asset or both at the time of reconstitution shall be chargeable to tax in hands of Firm/AOP/BOI.
- FMV on the date of transfer shall be taken as full value of consideration
- Section 9B - Income on receipt of capital asset or stock by specified person from specified entity
- For Section 9B and 45(4)

Specified Entity - For section 45(4) and 9B - Firm/AOP/BOI(not being Company or Co- Op Soc)

Specified Person - Person who is partner of firm, member of AOP/BOI (not being Company or Co-Op Soc)

Section 9B....

➤ Section 9B is applicable if:

- a) A specified person receives during PY capital asset and/or stock from specified entity and
- b) Said capital assets and /or stock in trade is received in relation to dissolution/reconstitution of such specified entity

➤ Consequences

- a) Specified entity shall be deemed to have transferred such capital assets and /or stock in trade to specified person
- b) year of transfer - year in which such capital asset and/or stock in trade is received by specified person
- c) profits/gains arising from such transfer shall be deemed to be income of specified entity
- d) If asset transferred is capital asset then taxable under head capital gains u/s. 45(1) and if asset transferred is stock in trade – taxable as Business income u/s.28.

Section 9B....

- Explanation to Section 9B - Reconstitution of specified entity means where:
 - a) one or more of its partners / members of specified entity ceases to partner / member or
 - b) one or more new partner / member are admitted in specified entity and one or more partner / member who were partner / member of specified entity, before the change continue as partner / member after change
 - c) all the partners / members of specified entity continue with a change in their respective share or in the shares of some of them

Receipt of Money / Capital Asset by Partner from Firm – Section 45(4)

- Applicability - If specified person receives any money or capital asset from specified entity in connection with reconstitution of such specified entity
- Consequences – Profit or gains arising from receipt of such money or capital asset – taxable in hands of specified entity – capital gains

Receipt of Money / Capital Asset by Partner from Firm – Section 45(4)

- Computation of Capital Gains: $A = B + C - D$
- Income Chargeable to tax under this sub-section as Capital Gains (A) = Money received by partner from firm on date of such receipt (B) + FMV of capital asset received by partner from firm on date of such receipt (C) - Balance in capital account of partner in books of account of firm at time of reconstitution (D)
- If A is negative, value deemed to be Zero
- Balance in capital account represented in any manner –without taking into account increase due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset

Section 9(B) and Section 45(4)

- When capital asset received by partner in connection with reconstitution, provisions to operate in addition to provisions of s.9B – taxation to be worked out independently
- Corresponding adjustment for cost in hands of partners – deduction u/s.48(iii) for entity applicable only to s.45(4) situations and not Section 9(B) situation

Section 9(B) and Section 45(4)

Nature of Transaction	Settlement by way of	Section 9B Applicability	Section 45(4) Applicability
Retirement of partner	Money	No	Yes
Retirement of partner	Capital Assets	Yes	Yes
Retirement of partner	Stock-in-trade	Yes	No
Change in profit sharing ratio	Money	No	Yes
Change in profit sharing ratio	Capital Asset	Yes	Yes
Change in profit sharing ratio	Stock-in-trade	Yes	No
Dissolution of Firm	Money	No	No
Dissolution of Firm	Capital Asset	Yes	No
Dissolution of Firm	Stock-in-Trade	Yes	No

Section 9(B) and Section 45(4)

- Circular no. 14 of 2021 dated 02/07/2021 - Guidelines u/s.9B & u/s.45(4) of Income Tax Act, 1961
- Rule 8AA(5) - Determination of period of holding of capital asset
- Rule 8AB - Attribution of income taxable u/s. 45(4) to the remaining capital assets
- **Highlights of example 1 of Circular**
 - “A”, “B” and “C” are partners sharing profit/loss equally in firm “FR”
 - Each partner has capital balance of Rs.10 Lakhs
 - There are three pieces of Lands “S”, “T” & “U” - Costing Rs.10 Lakhs each
 - All three Lands are acquired more than two years ago
 - FMV of three Lands is “S” - 70 Lakhs, “T” - 70 Lakhs and “U” - 50 Lakhs
 - Partner “A” retires - get Rs. 11 Lakhs and Land “U” of FMV of Rs.50 Lakhs against capital balance of Rs.10 Lakhs. Aggregate Rs. 61 Lakhs.

Taxation u/s.9B

➤ Land U transferred to Partner A

Particulars		Amount
FMV of Land U		Rs.50 Lakhs
Less: Indexed Cost, say		Rs.15 Lakhs
Long Term Capital Gains u/s.9B		Rs.35 Lakhs
Book Gain (Rs. 50 Lakhs - Rs. 10 Lakhs)		Rs.40 Lakhs
Less: Tax @ 20% on LTCG (i.e. on 35 Lakhs)	I	Rs. 7 Lakhs
Amt transferred to Partners Capital	II	Rs. 33 Lakhs
Amt credited to capital a/c of each Partner (Rs.33 Lakhs /3)	III	Rs. 11 Lakhs
<u>New Capital Balance of Partner A</u>		
Balance before reconstitution		Rs.10 Lakhs
Add: Deemed Surplus (from III above)		Rs.11 Lakhs
New Capital Balance of Partner	IV	Rs.21 Lakhs

Section 9(B) and Section 45(4)

➤ Extension of example 1

- Assuming both Lands S and T are sold at same FMV i.e. Rs.70 lakhs each then

Particulars	Amount
Sales Consideration	Rs.140 Lakhs
Less: adjustment 48(iii)	Rs. 40 Lakhs
Net Sales Consideration	Rs.100 Lakhs
Less: Indexed Cost (same indexed value)	Rs. 30 Lakhs
Long Term Capital Gain	Rs. 70 Lakhs
Tax @ 20% on above	VIII Rs. 14 Lakhs
Total tax liability in hands of FR will be (VII + VIII) i.e Rs.15 Lakhs + Rs.14 Lakhs	Rs. 29 Lakhs

Section 9(B) and Section 45(4)



Particulars	Amount
Cost of Lands U, S & T (Rs.10 Lakhs each)	Rs. 30 Lakhs
Sale value of Lands U, S & T (Revalued) (U 50 Lakhs, S 70 Lakhs & T 70 Lakhs)	Rs.190 Lakhs
Less: Indexed Cost of Lands U, S & T (Rs.15 Lakhs each)	Rs. 45 Lakhs
Long Term Capital Gain	Rs.145 Lakhs
Tax on above @ 20%	Rs. 29 Lakhs

Taxation of Unit Linked Insurance Plan

- Fourth and fifth proviso inserted so as to provide that exemption under this clause shall not apply with respect to any ULIP issued on or after 01/02/2021 if the annual premium during the term of the policy exceeds Rs.2,50,000
- The aforesaid proviso are not applicable for amount received on death of a person.
- If ULIP is taxable, it shall be taxable as CG u/s.45(1B)
- Rate of 10% without indexation for LTCG u/s 112A, rate of 15% for STCG u/s 111A
- Holding period – 12 months for equity oriented ULIPs, 36 months for others

Taxability of Dividend

➤ Existing provision : exempt u/s.10(34), taxable exceeding 10 lakhs – Section 115BBDA – 10% - no deduction

➤ Not first time – dividend taxed in hands of shareholder

Taxability in hands of Co. – for ease of collection

➤ Now with technology – not difficult to tax in hands of shareholder

➤ Amended provision beneficial for foreign investor, as they were not getting benefit of DDT under DTAA as paid by Co and not assessee

Dividend Taxability...

- S.56(2)(i) -Taxable in hands of shareholder – as per slab rates
- Deduction u/s.57 – interest to earn dividend (max 20% of dividend income) – no other expenses allowed as deduction - corresponding changes made in ITR to allow deduction of interest expenses
- No disallowance u/s.14A
- Good for payer – no DDT, higher amount available for distribution
- S. 194 - TDS applicable @ 10% (7.5% from 14.05.20-31.03.21) if aggregate dividend exceeds Rs.5000
- S. 195 – TDS for non resident – 20% or rate as per DTAA
- Deduction u/s.80M – If domestic Co. gets income by way of dividend (from domestic Co., foreign Co. or business trust) – eligible deduction is lower of a) all dividend received (receivable) or b) dividend distributed to own share holders, during the previous year upto date of one month prior to due date of submission of return. Sequence not important.
- **ITR-6** is amended to include Section 80M in schedule VI-A so as to enable the Co. to claim the said deduction.

Dividend Taxability

- Similar amendment – Income from units of Mutual Fund
- Existing provision – Income from Mutual Fund exempt u/s. 10(35) as Mutual Fund is paying tax u/s.115R
- Post amendment, taxable in hands of unit holder
- Eligible for deduction u/s.57 - interest expenses – max of 20% of dividend income – no other expenses allowed as deduction
- TDS u/s.194K (> Rs.5000), no TDS on CG on sale of units of Mutual Fund
- If trader in shares and securities receives dividend – taxable as business income or other sources – compulsory other sources as per 56(2)(i)- other expenses can't be claimed – only interest expenses i.e. max of 20% of dividend income

Dividend Taxability

- **Year of taxability of dividend** – Section 8 –basis of charge
 - Regular dividend – AGM in which it is declared
 - Interim dividend – Year in which dividend is unconditionally made available to shareholder
 - Deemed dividend – 2(22)- notional dividend – taxable in year of distribution or paid

- **To avoid double taxation** – For dividend received in April 2020 but DDT paid by Co. before 31/03/2020, dividend shall not be taxable in hands of shareholders

- **ITR changes:**
 - Since dividend is taxable, the reference of ‘Dividend income from domestic company (amount not exceeding Rs. 10 lakh)’ has been removed from Schedule EI (Exempt income)
 - Schedule OS is amended to allow deduction of interest expense.
 - Quarterly breakup of dividend income in ITR-1 –this is helpful for computing interest liability u/s.234C. Other ITR’s already asked for said bifurcation
 - Schedule DDT has been removed from the new ITR-6 Form.

Deductions from Total Income

- Section 80EEA- interest on housing loan – affordable housing – loan must be sanctioned by financial institution during 01/04/2019 to 31/03/2020... date extended to 31/03/2021
- Company opting for 115BAA /BAB had to forgo Chapter VI-A deduction except 80JJA, now 80M also added to exception
- 80G – The donee is required to file the statement of donations received within a prescribed time under newly inserted Section 80G(5).
- Assessee's claim of deduction is subject to return furnished by institution /fund.

Donation details will be pre-filled in taxpayer's return on the basis of information of donations furnished by the donee??

Will be reflected in Form 26AS ??

TDS/TCS provisions

- 194 - TDS on dividend > 5000, @ 10% (7.5%)
- 194C- Amendment in definition of “Work” -
 - Prior to amendment wherein manufacturing as per requirements of customer by using material purchased from such customer was included in work.
 - Now, material supplied by associate of customer will also be included in Work.
 - Associate - person as per 40A(2)(b)
- Section 194A, 194C, 194H, 194I and 194J - For individual /HUF, applicability now linked with turnover and not with audit u/s.44AB or monetary limit prescribed u/s.44AB(a)/(b).
- If turnover of business of immediately preceding year > 1 Cr or if turnover of profession of immediately preceding year > 50 lakhs, TDS applicable

TDS/TCS provisions

- Section 194J - Fees for technical services other than professional services - earlier 10% - now 2%(1.5%)
- Section 194K - TDS in respect of income from Units of Mutual Fund > 5,000 - 10% (7.5%)

No TDS on income being Capital Gains

TDS/TCS provisions

- Section 194N- w.e.f. 01/09/2019 cash withdrawal from bank attracts TDS @2%,
- Withdrawals from same account or different accounts of same bank are aggregated for determination of threshold limit
- Increased the scope of Section 194N w.e.f. 01/07/2020-
- In case cash is withdrawn by person who has not filed the ITR for all the 3 AY's relevant to the 3 PY's for which time limit for filing return u/s.139(1) has expired
 - a) In such a case TDS limit will be 20 lakhs
 - b) Where cash withdrawal between 20 lakhs to 1 Crore TDS @ 2%
 - c) If withdrawals > 1 crore, TDS @ 5%

TDS/TCS provisions

- Section 194O: TDS on payment by E-commerce operator to E-commerce participant
- TDS @ 1% (0.75%) - (TDS @ 5% if no PAN furnished)
- For E-commerce participant being Ind. /HUF, no TDS if
 - a) aggregate sale during the previous year does not exceed 5 lakhs and
 - b) E-commerce participant furnishes PAN

TCS-206(1H)-Sale of Goods

- Section 206(1H) - applicable w.e.f. 01/10/2020
- Every person, being a seller **whose total sales, gross receipts or turnover from the business carried on by him exceed Rupees Ten Crore during the financial year immediately preceding the financial year in which the sale of goods is carried out**, who receives any amount as consideration for sale of any **“goods”** of the value or aggregate of such value **exceeding rupees fifty lakh** in any financial year, other than the goods being exported out of India, shall at the time of receipt of such amount, collect from the buyer, a sum equal to **0.1 per cent** (0.075%) of the sale consideration **exceeding** fifty lakh rupees as income-tax.
- In case the buyer does not furnish their PAN / AADHAR number to the seller, TCS shall be collected @ 1%.

TCS-206(1H)-Sale of Goods....

- The above said provision shall not apply:
If the buyer is liable to deduct tax at source under any other provision of the Income Tax Act, 1961 Act on the goods purchased by him from the seller and has deducted such amount.
- The collectability of TCS on Sale of Goods arises at the time of RECEIPT of consideration from the buyer of Goods.
- Whether TCS is required to be collected on trade receivable of goods standing in books as on 30th September, 2020?
- Whether TCS shall be collected at the time of billing in case of Advance from Customer standing in books as on 30th September, 2020?
- Whether TCS on Sales value including GST or excluding GST.

Due Date for filing Revised/ Belated Return

- Revised return / Belated return - from A.Y. 2021-22 and onwards income tax return can be filed only upto 31st January, 2022 of relevant assessment year or completion of assessment whichever is earlier
- Since return can not be filed after 31st January, late fee u/s.234F of 10,000/- for filing after 31st December automatically restricts to Rs.5000/.
- Therefore late fees shall be as under:
 - a) Total Income upto 5 lakhs Rs.1000
 - b) Total Income > 5 lakhs Rs.5000

Interest u/s.234C

- Interest u/s.234C for short payment/non payment of advance tax is not applicable on dividend income (other than dividend u/s.2(22)(e)) in case assessee has paid full tax in subsequent tax instalment after receipt / accrual of dividend
- Dividend income is included in list of exclusion for calculation of interest u/s.234C (such as long term /short term capital gain)

Penalty -271AAD – for false entry... in books

- Penalty may be levied if there is a finding in the course of any proceedings under the Act that there is
 - a) **A false entry; or**
 - b) **An omission of any entry which is relevant for computation of total income to evade tax.**
- **Quantum of penalty** - “a sum equal to the aggregate of such false or omitted entry”
- Said penalty is “**without prejudice**” to other provisions of the Act;
- penalty can be levied also on another person who causes such person to make false entries or omit an entry
- Explanation to section : defines “False Entry” **includes** use or intention to use
 - a) Forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence;
 - b) Invoice in respect of supply or receipt of goods or services or both issued without actual supply or receipt;
 - c) Invoice in respect of supply or receipt of goods or services or both to or from a person who does not exist.

Penalty -271AAD – for false entry... in books

- The penalty u/s.271AAD can be levied alongwith other penalties –
 - a) Section 270A underreporting and misreporting of income;
 - b) Section 271A failure to maintain/retain - books of account, documents
 - c) Section 271AA Maintaining or furnishing incorrect information or document in respect of international transaction or specified domestic transaction;
 - d) Section 271AAA undisclosed income - Search;
 - e) Section 271AAC unexplained cash credits, unexplained investments, unexplained money..
- **Existing provisions for prosecution that may also be pursued**

Extended Due Dates

Type of return or form	Original Due Date	Extended Due Date
TDS Returns (Quarter 4)	31 st May, 2021	15 th July, 2021
TDS certificate (Form 16, 16A) to be issued	15 th June, 2021	31 st July, 2021
Income Tax Returns (Non Audit)	31 st July, 2021	30 th September, 2021
Tax Audit u/s.44AB	30 th September, 2021	31 st October, 2021
Transfer Pricing Audit Report u/s.92E	31 st October, 2021	30 th November, 2021
Income Tax Return (Audit Cases)	31 st October, 2021	30 th November, 2021
Income Tax Return-Assessee who is required to furnish Report u/s.92E	30 th November, 2021	31 st December, 2021
Belated / Revised Income Tax Return	31 st December, 2021	31 st January, 2022

Tax Benefits due to covid

➤ Press Release dated 25/06/2021

Particulars	Received from	Exemption amount
Financial help for meeting expenses incurred for treatment of Covid -19	Employer or any other person	Any amount
Ex-gratia payment received by family members of person who has lost life due to Covid-19	Employer	Any amount
Ex-gratia payment received by family members of person who has lost life due to Covid-19	Any other person	Rs.10,00,000/- in aggregate for amount received from any other persons

This exemption is applicable for FY 2019-20 and subsequent years. Necessary legislative amendments will be made in due course.

Other Key Changes in ITR

- ITR-1 can not be filed in case of assessee whose TDS is deducted u/s.194N – Cash withdrawals
- ITR-1, ITR-4 can not be filed if the tax has been deferred in respect of ESOPs allotted by an eligible start-up
- ITR-2, ITR-3 requires disclosure of tax amount which has been deferred related to ESOPs allotted by an eligible start-up
- ITR 2,3,5- where assessee is claiming marginal relief of Surcharge, Surcharge computed before marginal relief and Surcharge computed after marginal relief to be provided in ITR (Part B-TTI)
- ITR 5 & 6 - ITR forms notified for the assessment year 2020-2021 required a separate reporting of income from the life insurance business in Schedule BP, detailed as under.
 - (a) Net profit or loss from insurance business referred to in Section 115B;
 - (b) Additions in accordance with Section 30 to Section 43B;
 - (c) Deductions in accordance with Section 30 to Section 43B; and
 - (d) Income from life insurance business under Section 115B.

The ITR forms notified for Assessment Year 2021-2022 has removed such separate reporting requirements in respect of income from the life insurance business in Schedule BP.

Updates as on 15/07/21

- Software based income tax return filing is not yet enabled i.e Income Tax Department is not accepting any returns prepared through software's
- ITR 1, 2 and 4 can be uploaded using offline utility of Income Tax Department (java utility) or can be filled in & submitted online directly by login into income tax account
- Form 3CA-3CD and 3CB -3CD can not be uploaded as on date. Form 3CA-3CD and 3CB-3CD are not activated and can not be assigned to CA on income tax portal.

Changes in Form 3CD

- **Notification No. 28/2021-Income Tax Dated: 1st April, 2021**
- **Following clauses are substituted:**
 - Clause no 8a: Whether the assessee has opted for taxation under section 115BA/115BAA/115BAB/ **115BAC/115BAD**?
 - Clause no 17: Where any land or building or both is transferred during the previous year for a consideration less than value adopted or assessed or assessable by any authority of a State Government referred to in section 43CA or 50C, please furnish:

Details of property	Consideration received or accrued	Value adopted or assessed or assessable	<i>Whether provisions of second proviso to sub-section (1) of section 43CA or fourth proviso to clause (x) of sub-section (2) of section 56 applicable? [Yes/No]</i>
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Changes in Form 3CD...

- Clause no 18:
 - (ca) Adjustment made to the written down value under section 115BAC/115BAD (for assessment year 2021-2022 only).....
 - (cb) Adjustment made to written down value of Intangible asset due to excluding value of goodwill of a business or profession
 - (cc) Adjusted written down value.....

- Clause no 32: sub-clause (a), the following sub-clause shall be substituted, namely:-
 - (a) Details of brought forward loss or depreciation allowance, in the following manner, to the extent available:

(5)	(6)
All losses/allowances not allowed under section 115BAA/ 115BAC/115BAD	Amount as adjusted by withdrawal of additional depreciation on account of opting for taxation under section 115BAC/115BAD [^]

[^]To be filled in for assessment year 2021-2022 only."

Changes in Form 3CD

➤ Omitted clause no 36:

In the case of a domestic company, details of tax on distributed profits under section 115O

Questions/Doubts



Thank You

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