

Budget Analysis

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Leave Travel Concession - existing

- As per the existing provisions of section 10(5) of IT Act, value of LTC or assistance received by or due to an employee from his employer or former employer for himself and his family, in connection with his proceeding on leave to any place in India is exempt from tax, subject to conditions specified in Rule 2B. The important condition is that a person must travel.
- On account of outbreak of COVID, many employees have not been able to travel.

Leave Travel Concession - revised

- Hence, it is proposed to insert second proviso to section 10(5) to provide that in lieu of applicable LTC, the exemption shall be available to the employee for deemed LTC , subject to certain conditions as follows:
- The employee exercises an option for the deemed LTC fare in lieu of applicable LTC in the block year 2018-21.
- **Incur expenditure in nature of specified expenditure during specified period.**
- The payment is made by account payee bank draft or account payee cheque or through ECS or such other electronic mode as specified in rule 6ABBA and tax invoice is obtained.
- Amount of exemption shall be lower of Rs. 36,000/- per person or 1/3 of the specified expenditure.

w.e.f. 01.04.2021 (for AY 2021-22)

- “Specified expenditure” means expenditure incurred by an individual or a member of his family during the Specified period on goods and services which are liable to tax at 12% or more, and goods and services are procured from GST registered vendors/service providers
- “Specified Period” means the period commencing from 12.10.2020 and ending on 31.03.2021
- It is also proposed to clarify by way of an Explanation that where an individual claims and is allowed exemption for the proposed expenditure, no exemption shall be allowed under this clause in respect of same Specified expenditure to any other individual. Hence, only one person can claim the exemption of such Specified expenditure

Extension of deduction u/s 80-IBA to Rental Housing Projects & Extension for Time Limit for approval

- As per the existing provisions of section 80-IBA of IT Act, any profit and gains arise from the **business of developing and building affordable housing project**, there shall be allowed a deduction of 100% of such profits or gains derived from such business, subject to certain conditions specified therein. One of such conditions is that projects under the scheme are approved by competent authority during the period 01.06.2016 to 31.03.2021.
 - Time limit to obtain approval from competent authority u/s 80-IBA for projects has also been extended from 31.03.2021 to 31.03.2022.
- It is further proposed to allow deduction u/s 80-IBA in respect of profits and gains from **rental housing project** which shall be notified by the Central Government in the Official Gazette and fulfil such conditions as specified in the said notification.
- *w.e.f. 01.04.2022 (for AY 2022-23)*

Extension of Date of Incorporation for Eligible Start-up

- Existing provision of Section 80IAC provides for 100% deduction of an amount equal to the profits or gains derived by an eligible start-up while carrying out an eligible business for three consecutive AY out of ten years at the option of the assessee, subject to the fulfilment of the following conditions –
 - Total turnover of its business does not exceed Rs. 100 crore.
 - Eligible start-up is incorporated on or after 01.04.2016 but before 01.04.2021.
- It has been proposed to extend the date of incorporation for eligible start-up from 01.04.2021 to **01.04.2022**.
- *w.e.f. 01.04.2021*

Extension of Capital Gain Exemption in Case of Investment in Start-up

- Existing provision of Section 54GB provides exemption from capital gain which arises from transfer of a long term capital asset being a residential property. To avail the benefit under this section, residential property shall be transferred on or before 31.03.2021 and assessee is required to invest the net consideration derived out of transfer of such capital asset in the equity shares of an eligible start-up before due date of furnishing of return u/s 139(1). Eligible start-up shall further utilise this amount for purchasing a new asset within 1 year from the date of subscription by the assessee.
- It has been proposed to amend the above section to extend the date of transfer of residential property to **31.03.2022**.
- *w.e.f. 01.04.2021*

Date of Sanction of Loan for Deduction u/s 80EEA for Residential House Property Extended

- Existing provisions of Section 80EEA of the IT Act provides for deduction up to Rs. 1,00,000/- in respect of interest on loan taken for a residential house property from any Financial Institution. This deduction is subject to the following conditions-
 - Loan should be sanctioned between 01.04.2019 and 31.03.2021.
 - Stamp Duty Value of property should not exceed Rs. 45,00,000/-.
 - Assessee does not own any residential House property on the date of sanction of loan.
- It is proposed to amend Section 80EEA(3) to allow deduction to home buyers in respect of interest paid on loan by extending the date of sanction of loan from 31.03.2021 to 31.03.2022.
- *w.e.f. 01.04.2022 (A.Y. 2022-23 onwards)*

VARIATION OF 20% ALLOWABLE FOR THE PURPOSES OF SECTION 43CA & 56(2)(x) – [A.Y. 2021-22]

While computing income under:

- Business Profits [Section 43CA],
- Other Sources [Section 56(2)(x)]

arising out of transactions of transfer of immovable property (Capital asset or SIT), the Sale Consideration or Stamp Duty Value, whichever is higher has to be offered for tax.

Exception:

Sale Consideration shall not be substituted with Stamp Duty Value if variation between the two is within the tolerance band*.

**** Existing Tolerance Band for above sections is 10%. However, it is proposed to be increased to 20% on fulfillment of the following conditions:***

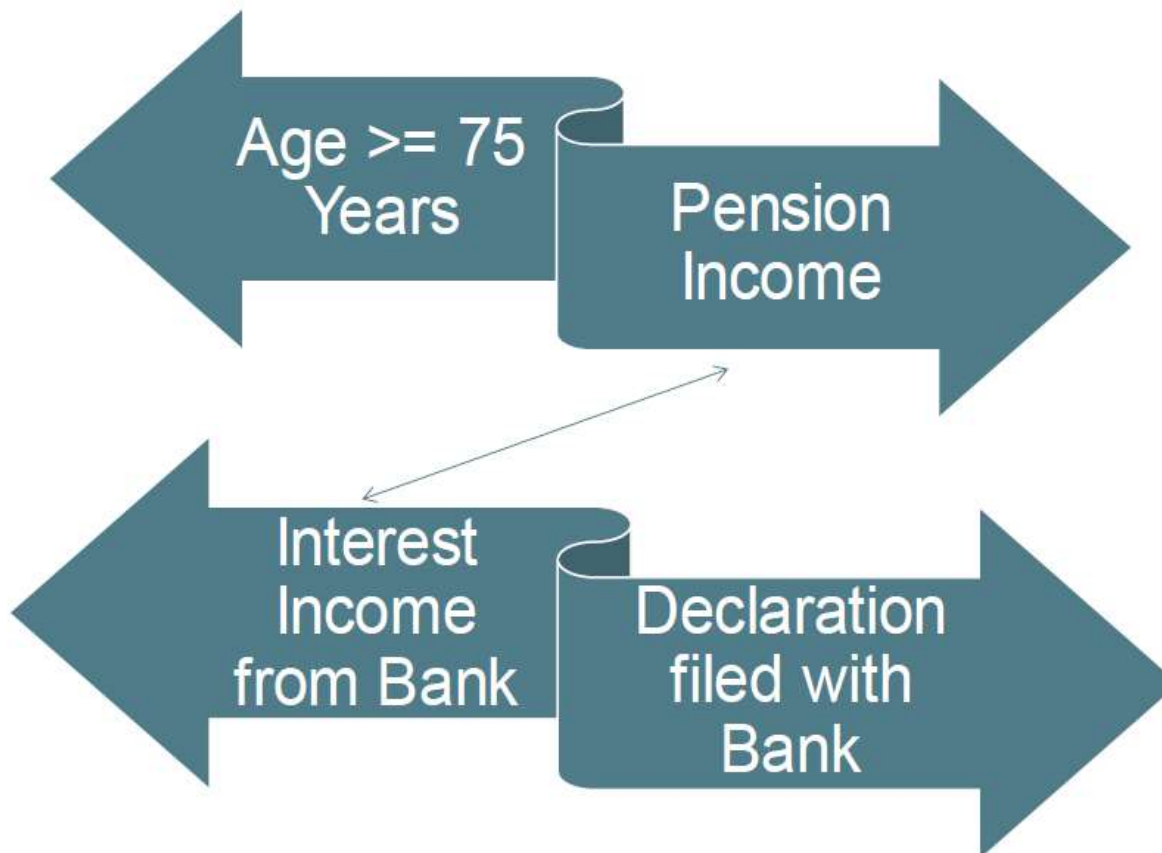
| Condition 1 | Condition 2 | Condition 3 |
|------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|
| The transfer of residential unit takes place during the period from 12 th November, 2020 to 30 th June, 2021 | The transfer is by way of first time allotment of the residential unit to any person | The consideration received or accruing as a result of such transfer does not exceed two crore rupees |

- The existing provisions of Section 43CA provides that the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty does not exceed 110% of the consideration received or accruing then such consideration received or accruing shall be deemed to be full value of consideration for the purpose of computing profits and gains from the transfer of such asset.
- It is further proposed to insert an Explanation after 43CA(4) to define the expression “**Residential Unit**” to mean an independent housing unit **with** separate facilities for living, cooking and sanitary requirement, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household.
- Further, Section 56(2)(x)(b) provides that where any person receives any immovable property for a consideration where stamp duty value of the property exceeds 10% of the consideration and excess amount is more than Rs. 50,000/- then it shall be chargeable under Income from other sources. Consequential amendments is proposed to insert a fourth proviso to the Section 56(2)(x)(b) by substituting 10% with 20%.

Section 194P


NON-FILING OF ROI FOR SENIOR CITIZENS

➤ SUBJECT TO FULFILMENT OF BELOW CONDITIONS



Which
bank ?

Revised Threshold limits

| Section No. | Particulars | Existing Limit | Revised Limits |
|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------------------------------------------------------------------------------------|
| 10(23C) | Exemption for the income received by any person on behalf of university or educational institutional institution | 1 Crore | 5 Crore |
| 44AB | Tax Audit (whose aggregate of all the amount received (incl. sales /turnover /gross receipts) and aggregate of all the payment made (incl. expenditure), in cash in PY, does not exceeds 5% of such payments) | 5 Crore | 10 Crore  |

In order to promote digital economy, it has been proposed to increase the threshold of Rs. 5 Crore to Rs. 10 Crore

Relief from Payment of Interest u/s 234C in case of Dividend Income

- Section 234C of the IT Act provides for payment of interest @1% p.m. for a period of 3 months on the amount of shortfall w.r.t. due dates for advance tax instalments as per Section 208 of the IT Act. However, the said interest does not apply in certain cases which are laid down in proviso to Section 234C(1).
- It has been proposed to include dividend income within the scope of the aforesaid proviso to provide relief to taxpayers from payment of interest as determination of advance tax liability is not possible due to intrinsic nature of dividend income. Hence, interest u/s 234C shall not be applicable to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of under-estimate or failure to estimate dividend.
- However, deemed dividend u/s 2(22)(e) has not been excluded from interest liability on advance tax. Further, it is proposed to insert Explanation 2 for defining the term "dividend".
- *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*

Section 45(4)

- In a case where a partner receives a capital asset from the firm on dissolution or reconstitution of the said firm and the capital asset represents the balance in the capital account of the partner in books of accounts of the firm then, any profits or gains arising from such receipt in the hands of the partner shall be chargeable under the head 'capital gains' in the hands of the firm on the date of such transfer.
- For the purpose of computation of capital gains u/s 48, sale consideration shall be the FMV of the capital asset on the date of receipt of capital asset in the hands of the partner.
- In computing the balance of the capital account of the Partner, amount increased in the capital account of the Partner due to revaluation of any asset or due to self generated goodwill or any other self-generated asset shall be ignored.

Section 45(4)

- It is also proposed to provide that the cost of acquisition of the capital asset shall be determined in accordance with the provisions of Chapter IV-E (Capital Gains).
- New Section 45(4A): In a case where a firm transfers money or other assets on its dissolution or reconstitution to its Partner, the value of which exceeds the balance in the capital account of the Partner, then such excess shall be charged as capital gains in the hands of the firm in the previous year wherein the money or other assets are received by the partner.
- For the purpose of computation of Capital gains u/s 48, the sale consideration shall be the value of money or FMV of the other asset on the date of receipt.

- It is also proposed to provide that balance of the capital account of the Partner in the books of the firm at the time of dissolution/reconstitution shall be treated as the cost of acquisition in this regard. Further, in computing the said capital balance of the partner, amount increased in the capital account due to revaluation of any asset or due to self generated goodwill or any other self-generated asset shall be ignored.
- **Consequential amendment u/s 48 of the IT Act:** In a situation where an asset which was revalued and for which income under the proposed Section 45(4A) of the IT Act was brought to tax is subsequently transferred by the Firm, then it would lead to double taxation. To mitigate the same, consequential amendment is proposed u/s 48 to provide that in case of Firm, the amount included in the total income of such firm u/s 45(4A) which is attributable to the capital asset being transferred, shall be reduced from the full value of consideration when such subsequent transfer takes place.
- *w.e.f. 01.04.2021 (A.Y. 2021-22 onwards)*

Sec 139

- **Sec 139(4) Existing**
 - Any person who has not furnished a return within the time allowed to him under sub-section (1), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.
- Any person who has not furnished a return within the time allowed to him under sub-section (1), may furnish the return for any previous year at any time within three months prior to the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

Sec 139

- Sec 139(5) Existing

- If any person, having furnished a return under sub-section (1) or sub-section (4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.
- If any person, having furnished a return under sub-section (1) or sub-section (4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time within three months before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

Revised Time Limits

| Section No. | Particulars | Existing Time Limits | Revised Time Limits |
|-------------------------|----------------------------------------------------------------------------------------------------|--------------------------------------------------------------|-----------------------------------------------------------------|
| 54GB | Investment in Eligible Start Up | 31st March 2021 | 31st March 2022 |
| 80EEA | Sanction of loan for affordable residential house property | 31st March 2021 | 31st March 2022 |
| 80-IAC | Incorporation of eligible start up | 31st March 2021 | 31st March 2022 |
| 139 | Due date for filing return of income of a partner of firm who are getting audit under section 92CE | 31st July / 31st October | 30th November |
| *139(4) / 139(5) | Belated Return / Revised Return | earlier of 31st March or completion of the assessment | earlier of 31st December or completion of the assessment |

Although amendment is made to Sec 139(4) or 139(5), but no simultaneous amendment is made to Sec 234F

Revised Time Limits

| Section No. | Particulars | Existing Time Limits | Revised Time Limits |
|-------------|--------------------------------------------------|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| 143(1) | Processing of Income Tax Return | 1 Year from end of FY in which return filed | 9 Months from end of FY in which return filed |
| 143(2) | Issuance of notice of assessment | 6 Months from end of FY in which return filed | 3 Months from end of FY in which return filed |
| 148 | Reopening of Assessment | 6 Years / 4 Years from end of AY | 3 Years from end of AY, 10 Years from end of AY if Income escaping assessment exceeds Rs. 50 Lakhs |
| 153 | Time limit for completion of original assessment | 12 Months from end of AY | 9 Months from end of FY |

Changes in Sec 147 / 148



Facelessness

(now even ITAT)



Amendments in GST

Supply

- After Section 7(1)(a): New clause to be inserted
(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice versa, for cash, deferred payment or other valuable consideration.
- Explanation.—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another”

Supply

- Seeks to insert a new clause (aa) to Section 7(1) of the CGST Act to expand the scope of supply to include activities or transactions of supply of goods or services or both by any person, other than an individual, to its members or constituents or vice-versa.
- Comments: This clause wants to include supply of goods or services by clubs or associations to its members and that too **retrospectively** from July 1, 2017, for cash, deferred payment or other valuable consideration.
- Therefore, this inclusion wants to done away the effect of Hon'ble Supreme Court Judgment in State of West Bengal & Ors. v Calcutta Club Limited [2019 (29) G.S.T.L. 545 (S.C.)] for erstwhile Service tax regime wherein it was held that there cannot be the sale of goods or provision of services between the unincorporated private clubs/associations and its members owing to the principle of mutuality which treats such clubs/associations and its members as the same person. (unsettling the settled jurisprudence)

- After clause (a), in sub-section (2) of Section 16, the following clause shall be inserted:
- “(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37.”
- Comments: Thus, one more condition is added for determining the eligibility of ITC. ITC would not be available to the recipient if the details of such invoice or debit note has been not furnished by the supplier in GSTR-1 or using IFF.

GST Audit

Seeks to omit Section 35(5) of the CGST Act so as to remove the mandatory requirement of getting annual accounts audited by a chartered accountant or a cost accountant and reconciliation statement (GSTR-9C) to be submitted for registered person whose turnover during a financial year exceeds the prescribed limit, which is 2 Crore but for FY 2018-19 & 2019-20, notified as Rs. 5 Crore.

**Change in provisions of Annual Return
(Sec 44)**

Interest

For the proviso to Section 50(1), the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July 2017

Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger.

OTHER AMENDMENTS

- Retrospective Deletion of Paragraph 7 of Schedule II – Activities or Transactions to be Treated as Supply of Goods or Supply of Services
- Section 129 - Detention, seizure and release of goods and conveyances in transit
- Section 130 - Confiscation of goods or conveyances and levy of penalty
- Section 83 - Provisional attachment to protect revenue
- Section 74 - Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any willful-misstatement or suppression of facts
- Section 107(6) - Appeals to Appellate Authority

Q & A

Session

THANK YOU

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