IMPORTANT AMENDMENTS TO INCOME-TAX ACT, 1961 – UNION BUDGET 2021

The Finance Minister, Smt. Nirmala Sitharaman, has First Union Budget of this decade amid the COVID-1- Pandemic. This budget has proposed many new measures in the Budget 2021 to prop up the flagging economy in the midst of pandemic and boost spending across sectors.

Our Focus here is on the various key amendments have been proposed in the Finance Bill, 2021 with regard to Direct Taxes:

Direct Taxes:

The key highlights of the various proposals concerning Direct taxes are listed below:

1. **No Change in Tax Rate:** No change in Personal taxation slab rate, Corporate, Non-Corporate Tax rates and Surcharge & Cess.

2. **No ITR for Pensioner:** Citizens of age 75 years and above who have only Pension and Interest income need not file Income Tax Returns provided they should have only one Bank account.

3. **Interest on PF is Taxable:** Interest income from recognised and statutory provident fund would now be taxable to the extent it relates to the contribution made by the employees in excess of Rs. 2,50,000 in a previous year. This amendment is applicable from Financial year 2021-22.

4. **No deduction for Employees' PF & ESI is not deposited on time:** The deduction under Section 36(va) for contribution received by the employers from their employees towards any welfare fund shall be allowed only if such sum is credited by the employer to the employee's account in the relevant fund on or before the due date prescribed under the relevant Act.

   This means, the employees contribution for EPF & ESI have to be deposited on or before the due date as specified under the respective Act and no claim for allowability of such payment before the due date of filing return under section 139(1) as per section 43B of Act, stands good.

5. **No MAT on dividend income of a foreign company**: Dividend received by a foreign company on its investment in India shall be excluded for calculation of book profit in case the tax payable on such dividend income is less than MAT liability on account of concessional tax rate provided under DTAA.

6. **Provision of section 44ADA is not applicable for LLP:** Section 44ADA allows specified professionals to calculate and pay tax on a presumptive basis. In order to clear the ambiguity, the amendment proposes to make it clear that the section 44ADA can now only be available for an Individual, HUF or a Partnership Firm only and not for a LLP.

7. **Increase in Tax audit Threshold Limited to 10crs: T**he threshold limit for the tax audit is proposed to be increased from Rs. 5 crores to Rs. 10 crores with effect from the assessment year 2021-22 if at least 95% of the business receipts and payments are made through electronic modes.

8. **No Depreciation on Goodwill:** No depreciation is allowable on goodwill be it acquired or self-generated. It has been proposed to amend section 2(11) to specifically provide that "block of assets shall not include goodwill". If the assessee has claimed depreciation on goodwill prior to the Assessment Year 2021-22, then the cost of purchase of such goodwill in his hands will be reduced by such amount of depreciation while computing capital gains.

IMPORTANT AMENDMENTS TO INCOME-TAX ACT, 1961 – UNION BUDGET 2021

9. **No Equilisation of Levy on Royalty and FTS:** Equalisation levy shall not be levied on consideration received or receivable for specified services or for e-commerce supply which is taxable as royalty or fees for technical services.

10. **Exchange of Asset is Covered under Slump Sale:** All kinds of transfer as envisaged under section 2(47) of the Act, to be covered under Slump Sale which means transfer of assets by way of exchange or relinquishment etc are now set to be covered under section 50B.

11. **Capital Gain on dissolution/Reconstitution of Firm:** A partner/member receives any money or other asset at the time of dissolution or reconstitution of the firm/AOP/BOI which is more than the balance appearing in the capital account (without considering revaluation), the profits or gains arising from such receipt shall be chargeable under the head 'capital gains' as income of such firm, AOP or BOI of the previous year in which such money or other asset was received by the specified person.

12. **Taxability of ULIP:** Any ULIP issued on or after the 01-02-2021, if the amount of premium payable during the term of the policy exceeds Rs. 2,50,000 per annum, no exemption under section 10(10D) is available. Further, ULIP is now considered as capital asset subject to capital gain on redemption/sale.

13. **Increase in Safe Harbour Limit under section 50CA:** To boost the demand in the real-estate sector and to enable the real-estate developers to liquidate their unsold inventory at a lower rate to home buyers, safe harbour limited increased from 10% to 20% subject to:

    a. The transfer of residential unit takes place during the period from 12th November, 2020 to 30th June, 2021
    b. The transfer is by way of first time allotment of the residential unit to any person
    c. The consideration received or accruing as a result of such transfer does not exceed two crore rupee

14. **Extension of Time limit for Investment under section 54GB:** Exemption under Section 54GB which was available for the capital gain arising from the transfer of a residential property on or before 31-03-2021, is now extended for one more year up to 31-03-2022.

15. **Time limit for Filing Revise or Belated Return reduced by 3 months:** The time limit for filing of belated return or revised return is proposed to be reduced by 3 months i.e it can be filed on or before December 31 of the assessment year or before the completion of the assessment, whichever is earlier.

16. **Time Limit for Processing of Return and Scrutiny Notice reduced by 3 months:** For Processing tax return, the time-limit has been proposed to be reduced from 1 year to 9 months from the end of the financial year in which the return is filed.

    For issuing scrutiny notice, the time limit has been reduced to 3 months from 6 months from the end of the financial year in which the return is filed.

17. **Reopening of assessment time limit reduced:** In normal cases, the time limit has been reduced to 3 years from 6 years. However, in serious tax evasion cases, it can be reopened till 10 years, only when concealment of income is more than Rs. 50 lakh in a financial year.

IMPORTANT AMENDMENTS TO INCOME-TAX ACT, 1961 – UNION BUDGET 2021

18. **Time Limit to Complete Scrutiny Assessment reduced by 3 months:** The time for completion of scrutiny or best judgement assessment shall be 9 months instead of 12 month from the end of the assessment year in which the income was first assessable.

19. **Faceless ITAT:** Faceless ITAT appeal scheme to be notified by the Central Government to eliminate the interface between the ITAT and parties to the appeal to the extent technologically feasible. All communication between the Tribunal and the Appellant shall be electronic. Where a personal hearing is needed, it shall be done through video-conferencing.

20. **Discontinuation Settlement Commission and Forming DRC for Small Taxpayers:** A new committee known as the 'Faceless dispute resolution committee and mechanism' is set up to reduce litigations of small taxpayers. Any taxpayer with taxable income upto Rs. 50 lakhs and disputed income upto Rs.10 lakhs can approach the committee.

21. **Discontinuation of Settlement Commission and Constitution of Board of Advance Ruling:** Income-tax Settlement Commission is proposed to be discontinued with effect from 01-02-2021. A Board of Advance Ruling is proposed to be constituted to provide an alternative method for providing advance ruling which can give rulings to taxpayers promptly.

22. **TDS on purchase of Goods @.1%:** Section 194Q is proposed to be inserted for deduction of TDS by a person (whose turnover exceeds Rs. 10 crores) who is paying any sum to any resident for purchase of any goods of the value exceeding Rs. 50 lakhs in any previous year. The tax shall be deducted at the rate of 0.1%, which shall be increased to 5% if the seller does not provide his PAN.

23. **Rate of TDS is higher for Non-filers of Tax return:** Rate of TDS or TCS shall be double of the specified rate or 5% whichever is higher for non- -filers of the income tax return. These provisions shall not be applicable where the tax is required to be deducted under sections 192, 192A, 194B, 194BB, 194LBC or 194N of the Act.

24. **No TDS on dividend distributed by SPV to the business Trust:** Business Trusts (REITs or InVITs) have been provided with the status of a pass-through entity whereby they are allowed to pass certain income to their unit holders without paying tax at their end. One of such income is the dividend received from special purpose vehicle (SPV). As business trust can freely pass the dividend received from SPV to its unit-holders, it is proposed to provide that no tax shall be deducted on payment of dividend by the SPV to the business trust.

25. Deduction under section 80EEA is to be extended to loans taken upto 31st March 2022.

26. **Changes in Charitable or Religious Trust:** Some of the important changes proposed in the context of Charitable & Religious Trust are as follows:

    a. The charitable trusts shall not be permitted to claim any carry forward of losses. Therefore, no set-off/deduction/allowance of any excess application of any preceding year shall be allowed while computing income required to be applied or accumulated during the previous year by such institutions.
    b. Relief for charitable trusts running hospitals and educational institutions is provided wherein their annual receipts increased from Rs 1 crore to 5 crore.
    c. Utilization of borrowed money shall not be considered as an application of income for charitable or religious purposes. However, when loan or borrowing is repaid from the

income of the previous year, such repayment shall be allowed as an application in the previous year in which it is repaid.

d. Voluntary contributions made with a specific direction that it shall form part of the corpus shall be eligible for exemption only if it is invested/deposited in modes specified under Section 11(5) maintained specifically for such corpus. Amount spent from this corpus shall not be considered as application of money towards mandatory application of 85% of the Non-Corpus income.

27. **Extension of due date of incorporation of Start-Ups by One year:** One of the conditions provide that it should be incorporated between 01-04-2016 and 31-03-2021. The Finance Bill 2021 proposes to extend the outer date of incorporation to 31-03-2022.

28. **Advance tax on Dividend Income is applicable only prospectively:** No Interest under section 234C of the Act, on failure to pay advance tax on account of dividend income if the full tax is paid subsequently. The advance tax liability on dividend income shall rise only after declaration or payment of dividend.

29. **Extension of VSVS Scheme to Feb 2021:** Deadline to avail the Vivad Se Vikas Scheme has now been extended from Jan 31, 2021 to Feb 28, 2021.

30. **Prefilled ITR:** In addition to Salary, Tax payments and TDS**,** details of Capital Gains on listed shares/mutual funds, Dividend Income and Interest income will also be pre-filled in the returns.

<<<<<<<<<<<<<<this place is intentionally left blank >>>>>>>>>>>>

Appendix

1. **Individual or HUF** has been given an option to pay tax under this new scheme as per section 115BAC as per the following slab:

Total Income in Rs	New Tax Rate	Existing Rate
Below 2,50,000	Nil	Nil
2,50,001 to 5,00,000	5 %	5 %
From 5,00,001 to 7,50,000	10 %	20 %
From 7,50,001 to 10,00,000	15 %	20 %
From 10,00,001 to 12,50,000	20 %	30 %
From 12,50,001 to 15,00,000	25 %	30 %
Above 15,00,000	30 %	30 %

2. **Corporates:** With the introduction of this new tax structure, the following types of the tax rates prevailed for corporates:

Provisions	Tax Rate	Available to	Optional/ Mandatory
First Schedule to Finance Act	25%	All domestic cos. subject to turnover threshold limit	Mandatory
First Schedule to Finance Act	30%	All other domestic companies	Mandatory
S. 115 BA	25%	Old* Manufacturing Domestic Cos	Optional
S. 115 BAA	22%	All Domestic Companies	Optional
S.115 BAB	15%	New^ Manufacturing Domestic Cos	Optional

** Old = Manufacturing company incorporated between 01-03-2016 to 30-09-2019*

^ New = Manufacturing company incorporated on or after 01-10-2019

Different tax rates under two different tax regimes for Corporates who are currently paying tax @25%, is provided below:

Taxable Income	Effective Tax Rate (inclusive of surcharge & cess)	
	Co. opts for section 115BAA	Co. doesn't opt for section 115BAA
Upto Rs 1 crs	25.17%	26%
Between >1 < 10crs	25.17%	27.82%
>10crs	25.17%	29.12%

3. Tax Rate of Firm & LLP remains at 30%.

4. Surcharge & Education Cess rate for individual and Other Assessees remains unchanged.

IMPORTANT AMENDMENTS TO INCOME-TAX ACT, 1961 – UNION BUDGET 2021