

## **KEY BUDGET 2022 HIGHLIGHTS ON DIRECT TAX:**

### **30 Key take aways on Income tax proposals:**

#### **1. Belated Return Term Re-introduced As Updated Tax Return:**

A new sub-section (8A) in section 139 is proposed to be introduced to provide for furnishing of updated return under the new provisions.

an updated return of his income or the income of any other person in respect of which he is assessable under the Act, for the previous year relevant to such assessment year, within twenty four months from the end of the assessment year. Such return shall be furnished in the prescribed form and manner and shall contain prescribed particulars

Updated return cannot be filed,

1. If the updated return, is a return of a loss or has the effect of decreasing the total tax liability determined on the basis of return furnished under sub-section (1), subsection (4) or sub-section (5) or results in refund or increases the refund due on the basis of return furnished under sub-section (1), sub-section (4) or subsection (5), of such person.
2. search has been initiated under section 132 or books of account
3. a survey has been conducted under section 133A
4. a notice has been issued to the effect that any money, bullion, jewellery or valuable article or thing, seized or requisitioned under section 132 or section 132A
5. a notice has been issued to the effect that any books of account or documents, seized or requisitioned under section 132 or section 132A in the case of any other person, pertain or pertains to, or any other information contained therein, relate to, such person.
6. an updated return has been furnished by him under the proposed subsection (8A) of section 139 of the Act.
7. any proceeding for assessment or reassessment or recomputation or revision of income under the Act is pending or has been completed for the relevant assessment year in his case.
8. the Assessing Officer has information in respect of such person for the relevant assessment year in his possession under the Prevention of Money Laundering Act, 2002 or the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 or the Prohibition of Benami Property Transactions Act, 1988 or The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 and the same has been

communicated to him, prior to the date of his filing of return under the proposed sub-section (8A) of section 139 of the Act.

## **2. New Section 140B Tax to be paid on Updated Tax Return**

A new section 140B has been proposed to provide for the tax required to be paid for opting to file a return under the proposed provisions i.e. sub-section (8A) of section 139 of the Act.

an amount equal to twenty five percent or fifty percent as additional tax on the tax and interest due on the additional income furnished would be required to be paid

1. The additional tax shall be equal to twenty-five per cent of aggregate of tax and interest payable, if return furnished after the due date under Section 139(4) and (5) and before completion of 12 months from end of relevant asstt year.
2. additional tax payable shall be fifty per cent of aggregate of tax and interest payable if such return is furnished between 12 months and 24 months from end of relevant asstt year.

For Section 234A, 234B, 234C calculations, "assessed tax" means the tax on the total income as declared in the return to be furnished under sub-section (8A) of section 139.

## **3. New Section 158AB- Litigation management when in an appeal by revenue an identical question of law is pending before jurisdictional High Court or Supreme Court.**

A new section 158AB in the Act, to provide that where the collegium is of the opinion that any question of law arising in the case of an assessee for any assessment year ("relevant case") is identical with a question of law already raised in his case or in the case of any other assessee for an assessment year, which is pending before the jurisdictional High Court under section 260A or the Supreme Court in an appeal under section 261 or in a special leave petition under article 136 of the Constitution, against the order of the Appellate Tribunal or the jurisdictional High Court, as the case may be, in favour of such assessee ("other case"), it may, decide and intimate the Commissioner or Principal Commissioner not to file any appeal, at this stage, to the Appellate Tribunal under sub-section (2) of section 253 or to the High Court under sub-section (2) of section 260A against the order of the Commissioner (appeals) or the Appellate Tribunal, as the case may be.

## **4. Clarification regarding treatment of cess and surcharge**

An Explanation retrospectively in the Act itself to clarify that for the purposes of this sub-clause, the term “tax” includes and shall be deemed to have always included any surcharge or cess, by whatever name called, on such tax. This amendment will take effect retrospectively from 1st April, 2005 and will accordingly apply in relation to the assessment year 2005-06 and subsequent assessment years.

## **5. New Section 170A -Amendments related to successor entity subsequent to business reorganization**

new section 170A to the Act, to enable for the entities going through such business reorganization, for filing of modified returns for the period between the date of effectivity of the order and the date of issuance of final order of the competent authority.

## **6. Clarification in respect of disallowance under section 14A in absence of any exempt income during an assessment year**

An Explanation to section 14A of the Act to clarify that notwithstanding anything to the contrary contained in this Act, the provisions of this section shall apply and shall be deemed to have always applied in a case where exempt income has not accrued or arisen or has not been received during the previous year relevant to an assessment year and the expenditure has been incurred during the said previous year in relation to such exempt income. These amendments will take effect from 1 st April, 2022.

## **7. Clarifications on allowability of expenditure under section 37**

Explanation to sub-section (1) of section 37 to further clarify that the expression “expenditure incurred by an assessee for any purpose which is an offence or which is prohibited by law”, under Explanation 1, shall include and shall be deemed to have always included the expenditure incurred by an assessee, —

- i. for any purpose which is an offence under, or which is prohibited by, any law for the time being in force, in India or outside India; or
- ii. to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guidelines, as the case may be, for the time being in force, governing the conduct of such person; or
- iii. to compound an offence under any law for the time being in force, in India or outside India.

To give clarification on expenses where certain taxpayers are claiming deductions on expenditure incurred in offering certain benefits or perquisite to a person which are not intended to be allowed under this section, like meeting his expenditure related to travel, hospitality, conference etc. In these cases acceptance of such benefit or perquisite by such person is in violation of a law or rule or regulation or guidelines, as the case may be, governing the conduct of such person.

#### **8. Section 43B Clarification regarding deduction on payment of interest only on actual payment**

Certain taxpayers are claiming deduction under section 43B on account of conversion of interest payable on an existing loan into a debenture on the ground that such conversion is a constructive discharge of interest liability and, therefore, amounted to actual payment which has been upheld by several Courts.

The conversion of interest payable under clause (d), clause (da), and clause (e) of section 43B, into debenture or any other instrument by which liability to pay is deferred to a future date, shall also not be deemed to have been actually paid.

#### **9. Section 201 Consequence for failure to deduct/collect or payment of tax – Computation of interest**

Where any order is made by the Assessing Officer for the default under section 201(1) or 206C(7) of the said section, the interest shall be paid by the person in accordance with the order made by the Assessing Officer in this regard.

#### **10.Extension of the last date for commencement of manufacturing or production, under section 115BAB, from 31.03.2023 to 31.03.2024**

#### **11.Section 80IAC Extension of date of incorporation for eligible start up for exemption**

To extend the period of incorporation of eligible start-ups to 31st March, 2023.

## **12. Section 115JC Rationalization of provisions of the Act to promote the growth of co-operative societies**

To reduce the AMT rate at which co-operative societies are liable to pay income-tax to 15% wef 01.04.2023

## **13. Section 80CCD Incentives to National Pension System (NPS) subscribers for state government employees**

To increase the limit of deduction under section 80CCD of the Act from the existing ten per cent to fourteen per cent in respect of contribution made by the State Government to the account of its employees. To be applied retrospectively from 01.04.2020

## **14. Section 80DD Condition of releasing of annuity to a disabled person**

To allow the deduction under the said section also during the lifetime, i.e., upon attaining age of sixty years or more of the individual or the member of the HUF in whose name subscription to the scheme has been made and where payment or deposit has been discontinued. Further, it is proposed that the provisions of sub-section (3) shall not apply to the amount received by the dependant, before his death, by way of annuity or lump sum by application of the condition referred to in the proposed amendment. Wef 01.04.2023

## **15. Section 56(2)(x) Exemption of amount received for medical treatment and on account of death due to COVID-19**

Few benefits provided as below:

1. any sum paid by the employer in respect of any expenditure actually incurred by the employee on his medical treatment or treatment of any member of his family in respect of any illness relating to COVID-19 subject to such conditions, as may be notified by the Central Government, shall not be forming part of "perquisite.
2. any sum of money received by an individual, from any person, in respect of any expenditure actually incurred by him on his medical treatment or treatment of any member of his family, in respect of any illness related to COVID-19 subject to such conditions, as may be notified by the Central Government in this behalf, shall not be the income of such person.
3. any sum of money received by a member of the family of a deceased person, from the employer of the deceased person (without limit), or from any other person or persons to

the extent that such sum or aggregate of such sums does not exceed ten lakh rupees, where the cause of death of such person is illness relating to COVID-19 and the payment is, received within twelve months from the date of death of such person shall not be the income of such person.

Wef 01.04.2020

## **16. Section 79 Facilitating strategic disinvestment of public sector companies**

The provisions of sub-section (1) of section 79 shall not apply to an erstwhile public sector company subject to the condition that the ultimate holding company of such erstwhile public sector company, immediately after the completion of strategic disinvestment, continues to hold, directly or through its subsidiary or subsidiaries, at least fifty one per cent of the voting power of the erstwhile public sector company in aggregate.

## **17. Section 206AB and 206CCA Widening and deepening of tax base- two year clause reduced to one year for non-filers of ITR**

To reduce two years requirement to one year by amending sections 206AB and 206CCA of the Act to provide that “specified person” to mean as a person who has not filed its return of income for the assessment year relevant to the previous year immediately preceding the financial year in which tax is to be deducted or collected, as the case may be, and the amount of tax collected and deducted at source is Rs. 50,000 or more in the said previous year

## **18. Section 194IA Rationalization of provisions of TDS on sale of immovable property- introduction of stamp duty value for deduction of 1% TDS**

TDS is to be deducted at the rate of one per cent. of such sum paid or credited to the resident or the stamp duty value of such property, whichever is higher. In case the consideration paid for the transfer of immovable property and the stamp duty value of such property are both less than fifty lakh rupees, then no tax is to be deducted under section 194-IA.

## **19. New Section 194R TDS on benefit or perquisite of a business or profession**

The person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from carrying out of a business or exercising of a profession by such resident, shall, before providing such benefit or perquisite, as the case may be, to such resident, ensure that tax has been deducted in respect of such benefit or perquisite at the rate of ten per

cent of the value or aggregate of value of such benefit or perquisite. For the purpose of this section, the expression 'person responsible for providing' has been proposed to mean a person providing such benefit or perquisite or in case of a company, the company itself including the principal officer thereof.

No tax is to be deducted if the value or aggregate value of the benefit or perquisite paid or likely to be paid to a resident does not exceed twenty thousand rupees during the financial year.

It shall not apply to an individual or a Hindu undivided family, whose total sales, gross receipts or turnover does not exceed one crore rupees in case of business or fifty lakh rupees in case of profession during the financial year immediately preceding the financial year in which such benefit or perquisite, as the case may be, is provided.

Wef 01.07.2022

## **20. Section 285B Widening the scope of reporting by producers of cinematograph films or persons engaged in specified activities.**

Specified Activities" would mean event management, documentary production, production of programs for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Wef 01.04.2022

## **21. Section 94 Provisions pertaining to bonus stripping and dividend stripping**

To be made applicable to securities and units, to include units of business trusts such as InvIT, REIT and AIF, within the definition of units.

Wef 01.04.2023

## **22. New Section 115BBH -flat rate of 30%**

1. The income-tax calculated on income of transfer of any virtual digital asset at the rate of 30%
2. no deduction in respect of any expenditure (other than cost of acquisition) or allowance or set off of any loss shall be allowed.
3. no set off of any loss arising from transfer of virtual digital asset shall be allowed against any income computed.
4. such loss shall not be allowed to be carried forward to subsequent assessment years.

Wef 01.04.2023

### **23.New Section 194S - TDS on payment for transfer of virtual digital asset to a resident at the rate of one per cent of such sum.**

1. Tds to be deducted in respect of total consideration whether wholly in kind or in exchange of another virtual digital asset where there is no part in cash.
2. no tax is to be deducted in case the payer is the specified person and the value or the aggregate of such value of consideration to a resident is less than Rs. 50,000 during the financial year.
3. In any other case, the said limit is proposed to be Rs. 10,000 during the financial year.
4. no tax is to be collected or deducted in respect of the said transaction under any other provision of Chapter XVII of the Act.
5. where tax is deductible under section 194-O along with the proposed section 194S, then the tax shall be deducted under section 194S and not section 194-O.
6. In case of specified persons, the provisions of section 203A and 206AB will not be applicable.
7. specified person' means a person:—
  - (i) being an individual or Hindu undivided family whose total sales, gross receipts or turnover from the business carried on by him or profession exercised by him does not exceed one crore rupees in case of business or fifty lakh rupees in case of profession, during the financial year immediately preceding the financial year in which such virtual digital asset is transferred;
  - (ii) being an individual or Hindu undivided family having income under any head other than the head 'Profits and gains of business or profession'.

Wef 01.07.2022

8. For taxing the gifting of virtual digital assets, property include virtual digital asset vide Explanation to clause (x) of sub-section (2) of section 56.
9. Tax in the hands of the recipient.

Wef 01.04.2023

### **24.New section 2(47A) defining virtual digital asset.**

a virtual digital asset is proposed to mean any information or code or number or token (not being Indian currency or any foreign currency), generated through cryptographic means or



otherwise, by whatever name called, providing a digital representation of value which is exchanged with or without consideration, with the promise or representation of having inherent value, or functions as a store of value or a unit of account and includes its use in any financial transaction or investment, but not limited to, investment schemes and can be transferred, stored or traded electronically. Non fungible token and; any other token of similar nature are included in the definition.

Wef 01.04.2022

## **25.New section 239A and Amendment in the provisions of section 248 of Income-tax Act**

a person, who has made the deduction of tax under such an agreement or arrangement and borne the tax liability, when no tax deduction was required, may file an application for refund of such tax deducted before the Assessing Officer.

Wef 01.04.2022

## **26. Section 68 covering credits thru loans or borrowings**

1. the nature and source of any sum, whether in form of loan or borrowing, or any other liability credited in the books of an assessee shall be treated as explained only if the source of funds is also explained in the hands of the creditor or entry provider.
2. However, this additional onus of proof of satisfactorily explaining the source in the hands of the creditor, would not apply if the creditor is a well regulated entity, i.e., it is a Venture Capital Fund, Venture Capital Company registered with SEBI.

Wef 01.04.2023

## **27. New Section 79A**

No set off, against such undisclosed income, of any loss, whether brought forward or otherwise, or unabsorbed depreciation under sub-section (2) of section 32 shall be allowed to the assessee where consequent to a search initiated under section 132 or a requisition made under section 132A or a survey conducted under section 133A, other than under sub-section (2A) of section 133A.

## **28. Section 50 Reduction of Goodwill from block of assets to be considered as 'transfer'**

Reduction of the amount of goodwill of a business or profession, from the block of asset in accordance with sub item (B) of item (ii) of sub-clause (c) of clause (6) of section 43, shall be deemed to be transfer.

Wef 01.04.2021

### **29.Section 234F now expressly mentioned in Section 119(2)(a)**

To remove genuine hardships faced by certain classes of persons in filing return of income and not to impose a fee for a default which is beyond their control for non-filing ITR and not imposing fee of Rs.5000.00

Wef 01.04.2022

### **30.Section 133A – Income tax authority defined**

Income tax authority shall be sub-ordinate to Principal Director General or Director General or Principal Chief Commissioner or Chief Commissioner, as the case may be, specified by the Board.

Wef 01.04.2022

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