

# **Practical Aspects of Union Budget 2021 (Income Tax Proposals)**



**CA. PRAMOD JAIN**

**FCA, FCS, FCMA, LL.B, MIMA, DISA, IP**

**Shared at**

**Webinar, Pusa Road CPE Study Circle of NIRC of ICAI**

**13<sup>th</sup> March 2021**

# UNION BUDGET 2021

- ❖ 79 Amendments in Direct Tax as compared to 105 in last year
- ❖ No Changes in the Tax Rates

# CORPORATE LAWS

- ❖ Small Co S. 2(85) definition changed w.e.f. 1.4.2021
  - ❖ Paid up Capital from 50 L to 2 Cr
  - ❖ Turnover from 2 Cr to 20 Cr
- ❖ OPC changes w.e.f. 1.4.2021
  - ❖ Indian Citizen even if NR can form
  - ❖ Resident – to be in India for 120 days (earlier 182 days)
  - ❖ No limits for forced conversion
  - ❖ No limits for conversion of Pvt. Ltd. Co. into OPC
- INC 6 amended for both way conversion

# SENIOR CITIZEN

- ❖ S. 194 P
- ❖ Age 75 years or above
- ❖ Should have only pension income and interest from **same** bank
- ❖ Banker to give 87A relief, on declaration, deduct tax on interest
- ❖ No ITR in such case

# S. 44AB / 44ADA

✦ Extensions !!!!

✦ S. 44AB (a), if 5% criteria met for receipts & payments

✦ 1 Cr to 5 Cr from AY 2020-21

✦ 5 Cr to 10 Cr from AY 2021-22

✦ Can we do audit even if not required?!!

✦ Way Ahead !!!

✦ S. 44ADA – LLP excluded

# ESI / PF

- ❖ S. 36(1)(va) / 43B
- ❖ Explanation added for employee contribution
- ❖ To clarify that the provision of s. 43B does not apply and deemed to never have been applied for the purposes of determining the —due date

# GOODWILL

- ❖ Now not a depreciable asset
- ❖ S. 2(11) – Block of asset
- ❖ S. 32(1)(ii) – Depreciation
- ❖ S. 50 – STCG
- ❖ S. 55 – Cost
- ❖ Deprecation claimed till AY 2020-21 to be reduced from cost of asset
- ❖ Take care of AS

# TDS – 194Q

- ❖ W.e.f. 1.7.2021. Similar to 206C(1H) !!
- ❖ Exception - Tax is collectible u/s. 206C other than a transaction to which s. 206C(1H) applies
- ❖ Memorandum - If on a transaction TCS u/s 206C(1H) is required as well as TDS u/s 194Q, then on that transaction only TDS shall be carried out.
- ❖ Cases, where 50L condition is met:
  - ❖ Seller Turnover – 25 Cr, Buyer 5 Cr
  - ❖ Seller Turnover - 5 Cr, Buyer 25 Cr
  - ❖ Seller Turnover - 25 Cr, Buyer 25 Cr



# TDS – 194Q

FY ending	Seller			Buyer			Bal.
	Sales	Receipts	TCS	Purchases	Payment	TDS	
2021	80	40	Nil	80	40	NA	40
2022	50	60	On 10	50	60	Nil	30
2023	80	50	Nil	80	50	On 30	60
2024	80	140	On 90?? 30?? 60??	80	140	On 30	Nil

# TDS / TCS ON NON-ITR FILERS

- ❖ S. 206AB (TDS) / 206CCA (TCS)
- ❖ Higher rate of TDS u/s 206AA / TCS u/s 206CC or new sections (except for non-residents not having a PE in India, and where TDS is u/ss 192, 192A, 194B, 194BB, 194LBC or 194N) for non-filers of ITR:
  - ❖ For 2 consecutive years **AND**
  - ❖ TDS & TCS exceeding Rs. 50000/- or more in **each** of the year.
  - ❖ TDS would be at higher of
    - ❖ Twice the rate specified in the relevant provisions of the Act
    - ❖ Twice the rate or rate in force or 5%

# ITR DATES

- ❖ Spouse (u/s 5A) of partner in firm which is audited – 31<sup>st</sup> October
- ❖ Partner of firm which is under TP – 30<sup>th</sup> November
- ❖ Revised Return – 31<sup>st</sup> December
- ❖ Belated Return – 31<sup>st</sup> December
- ❖ S. 234F late Fee??
- ❖ S. 139(9) – cases to be prescribed

# EXEMPTIONS

- ❖ 10 (23C)(iiiad) & (iii ae)
- ❖ Old limit Rs. 1 Cr each
- ❖ Proposed limit in aggregate Rs. 5 Cr from AY 2022-23
- ❖ Interest on contribution to PF exceeding Rs. 2.50 L in a year on or after 1.4.2021 not exempt u/s 10(11) / 10(12)

# CHARITABLE TRUSTS

- ❖ Corpus donation w.e.f. AY 2022-23
  - ❖ Exempt only if deposited in mode – S. 11(5)
  - ❖ Application from corpus, not to be treated as corpus, however when out of current income ..is deposited back to corpus to the extent of such deposit or investment allowed as application
- ❖ Application from loans and borrowing not allowed – repayment allowed as application
- ❖ Set off or deduction or allowance of any excess application, of previous years, shall not be allowed

# PARTNER - RETIREMENT / RE-CONSTITUTION

- ❖ 45(4) – where partner (other than Co. or Co-operative society) receives any capital asset on dissolution or re-constitution- CG in hands of firm
  - ❖ Asset to be valued at FMV
  - ❖ Cost to be balance in Capital A/c as reduced by revaluation and self generated goodwill/asset
- ❖ Money or other asset – S. 45(4A)
- ❖ Reduction from sale consideration u/s 48 where capital asset is transferred giving effect to s. 45(4A)

# ULIP

- ❖ ULIP defined u/s 10(10D) – Expl. 3
- ❖ Premium paid exceeding 2.5L in PY either single ULIP or multiple – No 10(10D) benefit except death case
- ❖ To be treated as capital asset u/s 2(14) and CG applicable u/s 45(1B)
- ❖ To be treated as Equity oriented fund u/s 111A and 112A
- ❖ STT to be applicable on such sale / redemption

# FACELESS EFFECT

- ❖ Faceless ITAT- S. 255
- ❖ Time limit for assessment u/s 153 reduced from 12 months to 9 months
- ❖ S. 142(1) notice – prescribed IT Authority



# ASSESSMENT

- ❖ S. 143(1) intimation sending period reduced from 1 year to 9 months.
- ❖ S. 143(1) adjustments:
  - ❖ Expenditure disallowed as per audit report - included income too
  - ❖ No benefit of S. 10AA or Chapter VIA Part C deduction if belated return
- ❖ S. 143(2) notice period reduced from 6 months to 3 months from end of FY in which ITR filed

# **RE-ASSESSMENT & SEARCH**

- ❖ **No cases u/s 153A / 153C for search after 31.3.2021**
- ❖ **For S. 148 - Any information which suggests that the income chargeable to tax has escaped assessment:**
  - ❖ **In accordance with the risk management strategy formulated by Board**
  - ❖ **Final objection raised by CAG**
  - ❖ **Search, survey or requisition cases – 3 yrs**

# **RE-ASSESSMENT & SEARCH**

- ❖ **New S. 148A – Other than search and requisition cases:**
  - ❖ **AO to conduct enquiry**
  - ❖ **Opportunity of being heard to be given**
  - ❖ **Approval of specified authority required**
- ❖ **Normal period reduced from 6 yrs to 3 yrs**
- ❖ **AO has evidence in the form of asset, amounts to or is likely to amount to Rs. 50L or more, - 10 Yrs**
- ❖ **In case proceedings u/s 147 started, can decide on any issue even if 148A not complied**

# DISPUTE RESOLUTION COMMITTEE

- ❖ S. 245MA
- ❖ Assessee would have an option to opt for or not opt for the dispute resolution through the DRC
- ❖ Returned Income is not exceeding Rs. 50 L and dispute is not exceeding Rs. 10L
- ❖ Not covered:
  - ❖ Search cases u/s 132 / 132A or information cases u/s 90 / 90A not covered
  - ❖ Detention, prosecution or conviction under various laws
- ❖ Shall have power to reduce or waive penalty

# **TIME TO GO....**

- ❖ **Income Tax Settlement Commission not to operate after 1.2.2021 – pending applications to be settled by interim Board**
- ❖ **Board of Advance Ruling in place of Authority for advance rulings (AAR)**

# CSR COMPLIANCE

- Co. to constitute CSR Committee consisting of 3 or more directors, out of which at least one director shall be independent director & spend at least 2% of average net profits of company made during 3 immediately preceding FYs, if during immediately preceding FY:
  - Net worth of Rs. 500 Cr. or more, or
  - Turnover of Rs. 1000 Cr. or more, or
  - Net profit of rupees Rs. 5 Cr or more
- If not spent:
  - Ongoing Project – trf within 30 days to special A/c – spend within 3 years. If not trf to Sch. VII fund in 30 days
  - Not a ongoing project - trf to Sch. VII fund in 6 months

# CSR COMPLIANCE

- If not complied, penalty On:
  - Company - twice the amount required to be transferred by company to the Fund specified in Schedule VII or Unspent CSR Account, as the case may be, or Rs. 1 Cr, whichever is less
  - Officer in default -  $\frac{1}{10}$ th of the amount required to be transferred by company to such Fund specified in Schedule VII, or Unspent CSR Account, as the case may be, or Rs. 2 L, whichever is less

# A one stop place where all your Queries can be answered by various Experts throughout the Country

[www.expertspanel.in](http://www.expertspanel.in)

ExpertsPanel.in

Questions



Questions Categories Experts Ask a Question Sign Up Login

## A Place to Share Knowledge

for and by Professionals in Law, Tax, Accounts, Finance

Recent Questions

Articles

Presentations

Videos

Notifications

### All Categories

Goods and Services  
Tax (GST)

(3,106)

Income Tax

(2,368)

Corporate  
Matters/LLP

(565)

Audit & Assurance and  
Accounting Standards

(208)

Bank / Insurance /  
Stock / Debtors Audit

(60)

### Recent Questions

Question added **1 hour** ago **Goods and Services Tax (GST)** By **Kaustubh Ram Karandikar**, Other Professional, Thane

1

answer

**Q. Eligibility of input tax credit of CESS on Coal**

Answered By **CA Raman Khatuwala**

8 views

Question added **1 hour** ago **Income Tax** By **Vijay Kumar**, CA, New delhi

0

answers

**Q. How I file income tax return**

11 views

Ask a question:

Next

Concept by  
**CA Pramod Jain**





**This Presentation would be available  
on**

**[www.lunawat.com](http://www.lunawat.com)**



**Also may download free mobile app  
“LUNAWAT”**

**For all updates & Ready to use Charts  
since year 2007**



# THANKS



CA. Pramod Jain

[pramodjain@lunawat.com](mailto:pramodjain@lunawat.com)

+91 9811073867



© 2021 CA. Pramod Jain, Lunawat & Co.