

Key Highlights  
of  
**INCOME TAX**  
(Finance Act, 2020)

The Union Budget 2020 was presented by Honorable Finance Minister Smt. Nirmala Sitharaman on 01.02.2020 and the Finance Bill, 2020 was laid down in the Parliament with amendments to proposed budget which was passed on 23.03.2020.

The Government proposes towards a defiant and resilient Indian economy frilled with its vision for the USD 5 trillion mark by the year 2025. The Budget 2020 has been presented in the backdrop of a slowdown in economic growth and employment. The objective of the Budget 2020 is to revive economic growth and investments with thrust on infrastructure, agriculture and reduce tax disputes.

Our note is not the entire finance bill and we have tried to cover all such relevant points of income tax which we believe needs your attention or action. All the amendments are applicable with effect from F.Y 2020-21 relevant to A.Y 2021-22 unless otherwise specified.

In case of any additional information is required, kindly write to us on [info@kdpaccountants.com](mailto:info@kdpaccountants.com)

**In this time of lock down, we at KDP have made arrangements to work remotely and we are working hard to ensure all compliances are met within the prescribed time lines. We appreciate your support.**

## Disclaimer:

*The above note is subject to further study and clarifications.*

*This note does not form an opinion from our end and before taking any decision based on above, it is recommended to consult our experts on the subject.*

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## TABLE OF CONTENTS

<b>Chapter</b>	<b>Particulars</b>	<b>Page No</b>
1	Corporate Taxation	4-6
2	Personal Taxation	7-9
3	Residential Status	10
4	Abolition of Dividend Distribution Tax and Re-insertion of Section 80M	11
5	Changes in TDS provisions	12-13
6	Changes in TCS provisions	14
7	Filing of Income Tax Returns and Audit Reports	15-16
8	Amendment in provisions related to Capital Gains	17
9	Insertion of new penalties	18
10	New Registration process for Trusts	19
11	E-assessment Procedures	20
12	Other Miscellaneous Provisions	21-23

## Chapter 1: Corporate Taxation

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The Finance Act, 2020 has not made any change in the benefit of concessional tax regime granted to the companies which was introduced on 30th September 2019 through Taxation Laws Amendment Act (TLAA), 2019.

### **Tax Rates for Companies:**

The rates of income tax for companies are as under:

<b>Particulars</b>	<b>Rate of tax</b>
Domestic companies opting for Section 115BAA	22%
Domestic companies opting for Section 115BAB	15%
Domestic companies having turnover upto Rs. 400 crores in F.Y 2018-19 and those domestic companies opting for Section 115BA	25%
Other Domestic companies	30%
Foreign Companies	40%

The rates of surcharge for companies are as under:

<b>Particulars</b>	<b>Total Income</b>	<b>Rate of surcharge (% of tax)</b>
Domestic companies opting for Section 115BAA / 115BAB	No limit	10%
Other Domestic companies	Upto Rs. 1 crore	NIL
	Above Rs. 1 crore to 10 crores	7%
	Above Rs. 10 crores	12%
Foreign Companies	Upto Rs. 1 crore	NIL
	Above Rs. 1 crore to Rs 10 crores	2%
	Above Rs. 10 crores	5%

Marginal relief shall be available wherever surcharge is imposed.

Health & Education Cess shall be levied @ 4% on total tax liability plus surcharge. There is no marginal relief available for cess.

The benefit of the reduced tax rate of 22% is available w.e.f A.Y. 2020-21 (i.e. financial year ended 31st March 2020) and only if the company foregoes the following deductions and exemptions:

Section	Particulars
10AA	Exemption for SEZ units
32(1)(ia)	Additional Depreciation on P&M (Normal depreciation is still allowed)
32AD	Investment allowance in respect of P&M
33AB	Deduction in respect of Tea / Coffee / Rubber Development
33ABA	Deduction in respect of Site Restoration Fund
35(1)(ii), (ia), (iii) 35(2AA), (2AB)	Deduction for Scientific Research
35AD	Deduction for capital expenditure on Specified Businesses
35CCC	Expenditure on Agriculture Extension Projects
35CCD	Expenditure on Skill Development Projects
Chapter VI-A	Deductions under the heading "C" i.e. Deductions in respect of certain incomes except <a href="#">Section 80M – Deduction in respect of certain inter-corporate dividends</a> and <a href="#">Section 80JJAA – Deduction in respect of employment of new employees</a>

Also, the total income of such company shall be computed without set off of any brought forward loss or unabsorbed depreciation from any earlier assessment years which is attributable to ANY of the above mentioned deductions. Such brought forward losses shall lapse.

It is pertinent to note here that losses other than the losses attributable to the aforementioned deductions would be allowed to be carried forward and set off in the future years.

Further, to claim the benefit of Section 115BAB i.e. 15% tax rate, the domestic company will have to fulfill the following additional conditions:

- i. *The company should be engaged only in the business of manufacturing or production of an article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.*
- ii. *The company should be incorporated on or after 01.10.2019 & should have commenced its manufacturing operations on or before 31.03.2023*

- iii. *The business of the company is not formed by splitting up, or the reconstruction, of a business already in existence*
- iv. *Such company does not use any machinery or plant previously used for any purpose.*
- v. *Such company does not use any building previously used as a hotel or a convention centre, as the case may be, in respect of which deduction under section 80-ID has been claimed and allowed.*

The Explanation to clause (b) of Section 115BAB(2) clearly clarifies that the following businesses shall not be treated as manufacturing business:

- i. *development of computer software in any form or in any media*
- ii. *mining*
- iii. *conversion of marble blocks or similar items into slabs*
- iv. *bottling of gas into cylinder*
- v. *printing of books or production of cinematograph film or*
- vi. *any other business as may be notified by the Central Government in this behalf*

The Finance Act, 2020 has extended the benefit of concessional tax rate under section 115BAB of the Income Tax Act to companies engaged in the business of generation of electricity.

The provisions of MAT shall not be applicable to companies opting for the lower tax regime under section 115BAA / 115BAB.

Whilst MAT provisions were not applicable to companies opting for lower tax regime, there was anomaly regarding allowability of carry forward of losses on account of additional depreciation and MAT credit of earlier years for set-off against the corporate tax liability in subsequent years. In this regard, the CBDT vide its Circular No. 29/2019 dated 2nd October, 2019 clarified that companies opting for lower tax regime shall not be allowed to claim set off of any brought forward loss on account of additional depreciation and MAT credit shall also lapse.

Rate of MAT for all other companies shall be at 15% (w.e.f A.Y 2020-21 i.e. financial year ended 31st March 2020)

Once the company has opted for reduced tax rates as mentioned u/s 115BAA / 115BAB, then it shall apply for all the subsequent years. In other words, once any company has opted for section 115BAA / 115BAB then it can never opt out of the concessional tax scheme.

### **Tax Rates for Partnership Firms, LLP & Local Authority:**

The income tax rate for Partnership Firms, LLP & Local Authority continues to be at 30%.

Surcharge if the total income of Partnership Firms, LLP & Local Authority exceeds Rs. 1 crore shall be levied @ 12%.

Marginal relief shall be available wherever surcharge is imposed.

Health & Education Cess shall be levied @ 4% on total tax liability plus surcharge. There is no marginal relief available for cess.

## Chapter 2: Personal Taxation

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The Finance Act, 2020 has given that Individuals / HUFs can opt for a new tax regime with new income tax slabs and lower tax rates, subject to fulfillment of certain conditions.

### **Tax Rates for Individuals/HUF:**

The current tax regime for **Individual/HUF/AOP/BOI/Artificial Juridical Person** is as follows:

<b>Total income</b>	<b>Rate of tax</b>
Upto Rs. 250,000	NIL
Rs. 250,001 to 500,000	5%
Rs. 500,001 to 10,00,000	20%
Above Rs. 10 lacs	30%

The basic exemption limit shall be –

Rs. 300,000 if the assessee is Resident Senior Citizen (Age from 60 to 79 years)

Rs. 500,000 if the assessee is Resident Super Senior Citizen (Age 80 years & above)

A new section 115BAC has been introduced which provides for **new tax regime for Individuals and HUF**. It is to be noted here that this new tax regime is **optional in nature**.

The new slab rates are as under:

<b>Total income</b>	<b>Rate of tax</b>
Upto Rs. 250,000	NIL
Rs. 250,001 to 500,000	5%
Rs. 500,001 to 750,000	10%
Rs. 750,001 to 10,00,000	15%
Rs. 10,00,001 to 12,50,000	20%
Rs. 12,50,001 to 15,00,000	25%
Above Rs. 15 lacs	30%

The benefit of the above mentioned new slab rates can be taken only if the individual / HUF foregoes the following deductions and exemptions:

<b>Section</b>	<b>Particulars</b>
16	Standard Deduction of Rs 50,000 and Professional Tax of Rs 2,500

10(5)	Leave Travel Concession
10(13A)	House Rent Allowance
10(14)	Allowances to the extent of expenditure incurred (except Conveyance & Daily Allowance)
10(17)	Allowances to MPs/MLAs
10(32)	Allowance for income of minor
10AA	Exemption for SEZ units
24(b)	Interest on Housing Loan
32(1)(ia)	Additional Depreciation on P&M (Normal depreciation is still allowed)
32AD	Investment allowance in respect of P&M
33AB	Deduction in respect of Tea Coffee Rubber Development
33ABA	Deduction in respect of Site Restoration Fund
35(1)(ii), (ia), (iii) 35(2AA)	Deduction for Scientific Research
35AD	Deduction for capital expenditure on Specified Businesses
35CCC	Expenditure on Agriculture extension
57(ia)	Deduction from family pension
Chapter VI-A	Deductions under sections 80C, 80D, 80DD, 80E, 80EEA, 80EEB, 80G, 80TTA, 80TTB, 80-I series, etc <a href="#">except Section 80CCD(2) – Deduction in respect of employer contribution to NPS and Section 80JJAA – Deduction in respect of employment of new employees.</a>

Also, the total income of Individual / HUF is to be computed:

- i. Without set off of any brought forward loss or unabsorbed depreciation from any earlier assessment years which is attributable to ANY of the above mentioned deductions. Such brought forward losses shall lapse.
- ii. Without set off of loss under the head Income from House Property with any other head of income.
- iii. Without any exemption or deduction for allowances or perquisite, by whatever name called, provided under any other law for the time being in force.

If an individual or HUF fails to satisfy the conditions mentioned in any previous year, the option to pay tax as per above slab rates shall become invalid in respect of the assessment year relevant to that previous year and other normal provisions (old tax regime) of this Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year.

*The option shall be exercised for every financial year where the individual or HUF has no business income and in other cases, the option once exercised shall be valid for that financial year and all subsequent years.*

*The option can be withdrawn only once where it was exercised by the individual or HUF having business income and thereafter, the individual or HUF shall never be eligible to exercise option under this new tax regime, except where such individual or HUF ceases to have any business income.*

The provisions of AMT shall not be applicable to Individual or HUF exercising such concessional tax rate option. Brought forward AMT credit shall not allowed to be carried forward and the same will lapse.

Surcharge shall be levied as under:

<b>Total income</b>	<b>Rate of surcharge (% of tax)</b>
Upto Rs. 50,00,000	NIL
Above Rs. 50 lacs to 1 crore	10%
Above Rs. 1 crore to 2 crores	15%
Above Rs. 2 crores to 5 crores	25%
Above Rs. 5 crores	37%

Surcharge on incomes specified u/s 111A & 112A (i.e. capital gains income from listed equity shares, units of equity oriented fund or units of business trust) shall be restricted to 15%.

Marginal relief shall be available wherever surcharge is imposed.

Health & Education Cess shall be levied @ 4% on total tax liability plus surcharge. There is no marginal relief available for cess.

### **Rebate u/s 87A**

The benefit of rebate u/s 87A is available if BOTH the following conditions are satisfied:

- i. Assessee is a Resident Individual
- ii. Total Income of the assessee does not exceed Rs. 5,00,000/-

Rebate shall be lower of the following:

- i. 100% of tax liability (before including cess)
- ii. Rs. 12,500/-

Rebate u/s 87A is available under both current as well as new tax regime. However, rebate u/s 87A is not available on income earned which is specified u/s 112A. (LTCG on listed equity shares and units of equity oriented funds)

In simple words, if any resident individual is having net taxable income (other than 112A i.e LTCG on sale of listed equity shares / equity mutual funds) upto Rs. 5 lacs, then he is not required to pay any income tax.

## Chapter 3: Residential Status

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The Finance Act, 2020 has certain changes to the provisions which deal with the determination of residential status of individuals. The same are mentioned as under:

### Amendments to determine Residential Status for Individuals:

A new provision of Deemed Residency by way of insertion of Explanation (1A) to Section 6(1) has been introduced.

The conditions are as under:

- ❖ Citizen of India
- ❖ Total Indian Income + Income of those Businesses which are controlled in India exceeds Rs. 15 lakhs
- ❖ Such person is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature;

If all the above conditions are fulfilled, then such Individual shall be treated as Resident but Not Ordinarily Resident (RNOR) in India.

Further, as per Section 6(1)(c), citizen of India, or a person of Indian origin who being outside India comes on a visit to India have been given a relaxation whereby they shall treated as Resident of India only if their stay in India is 182 days or more instead of 60 days in that year. In order to avoid misuse of such extended period of 182 days, the exception provided to persons visiting India **has been reduced to 120 days** (income above Rs. 15 lakhs) from existing 182 days.

The provisions of Not Ordinarily Resident have also been changed by way of inserting new clause (c) to Section 6(6) with following conditions:

The conditions are as under:

- ❖ Citizen of India or a person of Indian origin who being outside India comes on a visit to India
- ❖ Stay in India of such person during the Financial Year is 120 days or more but less than 182 days
- ❖ Total Indian Income + Income of those Businesses which are controlled in India exceeds Rs 15 lakhs

If all the above conditions are fulfilled, then such Individual shall be treated as Resident but Not Ordinarily Resident (RNOR) in India.

## Chapter 4: Abolition of Dividend Distribution Tax and Re-insertion of Section 80M

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### **Abolition of Dividend Distribution Tax (DDT):**

DDT is abolished. Accordingly, the companies do not have to pay any tax on dividend distribution.

Taxation of dividend income is restored to the classical system of taxing dividend income in the hands of shareholders / unit holders. Thus, the recipient of the dividend will have to pay tax on the same as per applicable slab rates.

Deduction under section 57 for interest expenditure which is incurred for earning dividend income shall be allowed but it will be restricted to 20% of dividend income. No other expense shall be allowed.

However, it has been clarified that dividend received after 1st April, 2020 relating to the period upto 31.03.2020 there will be no tax liability in respect of such income received by a shareholder provided that DDT has been paid by the company while distributing such dividend.

TDS u/s 194 (dividend on shares) and 194K (dividend on units) shall be deducted by the companies @ 10% for Residents and u/s 195 @ 20% for Non-Residents.

Consequently, section 115BBDA as well as exemption u/s 10(34) & 10(35) stands to be withdrawn.

### **Introduction of new Section 80M – Deduction for certain inter-corporate dividends:**

New Section 80M has been introduced relating to deduction in respect of certain Inter corporate dividends which states as under:

*Where the gross total income of a domestic company in any previous year includes any income by way of dividends from any other domestic company or a foreign company or a business trust, there shall be allowed in computing the total income of such domestic company, a deduction of an amount equal to so much of the amount of income by way of dividends received from such other domestic company or foreign company or business trust as does not exceed the amount of dividend distributed by it on or before the due date.*

In simple words, if any domestic company has dividend income from other domestic company or foreign company or business trust, then the recipient company shall get a deduction u/s 80M of such dividend income while computing its taxable income to the extend dividend distributed by it.

MAT provisions shall apply on such dividend income.

## Chapter 5: Changes in TDS provisions

Certain changes have been made by the Finance Act, 2020 in the provisions related to deduction of TDS. The same are tabulated below:

Section	Particulars	Threshold Limit	Rate of Deduction	Comments
194	Payment of Dividend	5,000	10%	(Refer Note 2)
194J	Payment of Fees for Technical Services	30,000	2%	(Refer Note 1)
194K	Payment of income in respect of units of Mutual Funds	5,000	10%	(Refer Note 2)
194N	Withdrawal of Cash from any bank or post office	1,00,00,000	2%	w.e.f 01.07.2020 (Refer Note 3)
194-O	Sale of goods or provision of services of an e-commerce participant is facilitated by e-commerce operator through its digital or electronic facility or platform	No threshold	1%	w.e.f 01.10.2020 (Refer Note 4 & 5)

### Notes:

1. It is worth noting that the TDS rate has been reduced from 10% to 2% only for Fees for Technical Services (other than Professional services) and not for any other payment mentioned u/s 194J.
2. It has clarified that 10% TDS will be applicable only on dividend payment by mutual funds and not on gains arising out of redemption of Units. **TDS to be deducted @ 20% for payment of dividends to Non-Residents or Foreign Companies.**
3. It has clarified that if any person has not filed his ITR for preceding 3 years, then 2% TDS for cash withdrawal exceeding Rs. 20 lacs and 5% TDS for cash withdrawal exceeding Rs. 1 crore.
4. TDS u/s 194-O shall not be deducted if the payment is made to an Individual or HUF if the gross amount of sales or services or both of such individual or HUF, through e-commerce operator, during the financial year does not exceed Rs. 5,00,000 and such e-commerce participant has furnished his PAN or Aadhaar number to the e-commerce operator.

5. Any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant shall be deemed to be amount credited or paid by the e-commerce operator to the e-commerce participant and shall be included in the gross amount of such sales or services for the purpose of deduction of income-tax.
6. Under Section 194A (Payment of Interest), 194C (Payment to Contractors / Sub Contractors), 194H (Payment of Commission), 194-I (Payment of Rent) & 194J (Payment of Professional / Technical Fees or Royalty), individuals & HUF are required to deduct TDS only if they are covered under tax audit in the immediately previous year.

Due to increase in the threshold limit of turnover business under section 44AB of the Income Tax Act has been increased from Rs. 1 crore to Rs. 5 crores, all the above mentioned sections have been amended to mention the amount of Rs 1 crore.

In simple words, if the turnover of any Individual / HUF exceeds Rs 1 crore but does not exceed Rs 5 crore and is accordingly not subjected to tax audit in a particular year, still he needs to deduct TDS under those sections.

## Chapter 6: Changes in TCS provisions

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Certain changes have been made by the Finance Act, 2020 in the provisions related to collection of TCS. The same are tabulated below:

Section	Particulars	Threshold Limit	Rate of Collection	Comments
206C(1G)(a)	Remittance out of India under the LRS issued by RBI	7,00,000	5%	w.e.f 01.10.2020
206C(1G)(b)	Sale of overseas tour program package	Any amount	5%	w.e.f 01.10.2020
206C(1H)	Sale of goods by any person having turnover of more than Rs. 10 crores	50,00,000	0.1%	w.e.f 01.10.2020 (Refer Note 1)

### **Notes:**

1. It has been clarified that no TCS needs to be collected u/s 206C(1H) for sale of those goods which are exported out of India.
2. If PAN / Aadhar number is not furnished by the buyer, then TCS should be collected @ 10% for transactions covered under section 206C(1G)(a) / 206C(1G)(b) and @ 1% for transactions covered under section 206C(1H).

## Chapter 7: Filing of Income Tax Returns and Audit Reports

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### **Increase in turnover limit for tax audit:**

In order to promote cashless economy, the threshold limit for tax audit of business under section 44AB of the Income Tax Act has been increased from Rs. 1 crore to Rs. 5 crores subject to fulfillment of BOTH the following conditions:

- i. Aggregate cash receipts during the year do not exceed 5% of the total receipts.
- ii. Aggregate cash payments during the year do not exceed 5% of the total payments.

### **Changes in due date of filing income tax return:**

The due date of filing return of income has been extended to 31st October for those persons who were required to file their Returns (ITR) by 30th September. However, it is to be noted here that tax audit report (TAR) is required to be filed by 30th September only and there is no extension for filing TAR.

For those persons to whom transfer pricing provisions are applicable, the due date for filing tax audit report and Form 3CEB i.e. transfer pricing report is preponed to 31st October and the due date of filing ITR continues to be 30th November.

Distinction between a working and a non-working partner of a firm for the purpose of determining the due date of filing returns has been removed. It means that now ALL the partners can furnish his return upto 31st October if its firm is under audit.

For the sake of simplicity, the due dates of filing return of income and audit reports are tabulated below:

<b>Particulars</b>	<b>Due Date of filing ITR</b>	<b>Due date of filing Audit Reports</b>
Assessees covered under tax audit (other than those to whom Transfer Pricing provisions are not applicable)	31st October	30th September
Assessees to whom Transfer Pricing provisions are applicable	30th November	31st October
All other persons (other than companies)	31st July	N.A
Companies to whom tax audit is not applicable	31st October	N.A

**No more filing of income tax return by Non Resident or Foreign Company earning fees for technical services and royalties:**

Section 115A provides relief to Non Residents & Foreign companies from filing of income tax return in India if they do not have any income other than interest & dividends and tax has been deducted at source on the same.

This relief is further extended to Non Residents & Foreign companies having income on account of fees for technical services and royalties.

## Chapter 8: Amendment in provisions related to Capital Gains

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### Tolerance limit increased for difference between actual sale consideration and stamp duty value for immovable property:

Currently under section 50C, 43CA and 56, if there is a variation upto 5% in actual sale consideration of any immovable property and its stamp duty value, then such variation is allowed and capital gain on transfer of such property is computed taking into account the amount of actual sale consideration.

This variance limit of 5% has been increased to 10%.

### Amendment to determine cost of acquisition for immovable property acquired prior to 01.04.2001:

Currently, Section 55(2)(b) states that the cost of acquisition of any immovable property acquired by any person before 01.04.2001 shall be higher of the following:

- i. Actual Cost of acquisition
- ii. FMV as on 01.04.2001

It is amended that the FMV as on 01.04.2001 shall not exceed the Stamp Duty Value wherever available of such property as on 01.04.2001.

## Chapter 9: Insertion of new penalties

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### **Imposition of penalty for false entries:**

A new section 271AAD has been introduced to impose and levy penalty on a person, if it is found during any proceeding under the Act that in the books of accounts maintained by him there is a

- i. False entry
- ii. Any entry relevant for computation of total income of such person which has been omitted to evade tax liability

The penalty payable shall be 100% of aggregate of all such false and omitted entries.

Penalty shall also be imposed on any other person, who causes in any manner a person to make or cause to make a false entry or omits or causes to omit any entry.

*The false entries includes the use or intention to use the following–*

- *Forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence*
- *Invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both;*
- *Invoice in respect of supply or receipt of goods or services or both to or from a person who do not exist.*

### **Imposition of penalty for not providing details of donors:**

A new Section 271K has been introduced to impose and levy penalty of not less than Rs.10,000 to Rs.1,00,000 on charitable institutions who fails to furnish statement containing the details of donors within the prescribed time or fails to provide to donor certificate of amount of donation.

## Chapter 10: New Registration process for Trusts

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### Rationalization of provisions related to charitable & religious institutions:

Any entity approved, registered or notified under section 10(23C), 12AA, 35 or 80G shall be required to apply for fresh registration or approval or intimate regarding it being approved, as the case may be, and on doing so, approval, registration or notification in respect of such entity shall be valid for a period not exceeding 5 years at one time calculated from 1st April, 2020. This process of registration should be done **between 01.06.2020 & 31.08.2020** (both inclusive). Application for approval under section 80G shall be made to Principal Commissioner or Commissioner. The relevant forms and detailed procedure to apply for registration is still awaited.

The application pending for approval, registration, as the case may be, shall be treated as application in accordance with the new provisions, wherever they are being provided for.

Deduction under section 80G/ 80GGA to a donor shall be allowed only if a statement is furnished by the donee who shall be required to furnish a statement in respect of donations received and in the event of failure to do so, fee and penalty shall be levied.

Similar to section 80G of the Income Tax Act, 1961 deduction of cash donation under section 80GGA for scientific research or rural development shall be restricted to Rs 2,000/- .

### Levy of late filing fees for default in furnishing of statement containing the details of donors or furnishing of certificate to donor:

A new Section 234G has been introduced to impose and levy late filing fees for delay in furnishing of statement by trusts or institutions which contains the details of donors or delay in issuing certificate to the donors amounting to Rs. 200 per day of default.

However, such total amount of late filing fees shall not exceed the amount in respect of which failure has occurred. This late filing fees shall be paid before filing of the statement.

## Chapter 11: E-assessment Procedures

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### Inclusion of Best Judgment Assessment under e-assessments

The Government of India in order to impart greater efficiency, transparency and accountability to the assessment process under the Act a new e-assessment scheme has already been introduced. With the advent of the e-assessment scheme, most of the functions/ processes under the Act, including of filing of return, processing of returns, issuance of refunds or demand notices and assessment, which used to require person-to-person contact between the taxpayer and the Income-tax Department, are now in the electronic mode. Now, the scope of section 143(3A) has been expanded to include the reference of section 144 of the Act relating to best judgment assessment.

### Launching of e-appeal & e-penalty proceedings:

On the lines of faceless e-assessment scheme, now a taxpayer can manage to comply with most of his obligations under the Act without any requirement for physical attendance in the offices of the Department.

The filing of appeals before Commissioner (Appeals) has already been enabled in an electronic mode on the income tax e-filing portal. On the same lines, now the government in order to ensure that the reforms initiated by the Income-tax department to eliminate human interface from the system reach the next level has launched e-appeals scheme and e-penalty proceedings scheme.

### Stay by ITAT on payment of 20% of demand:

ITAT may grant stay u/s 254(2A) subject to the condition that the assessee deposits not less than 20% of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act, or furnishes security of equal amount in respect thereof.

The total stay granted by ITAT cannot exceed 365 days.

### Vivad Se Vishwas Scheme, 2020

The Government of India has issued a completely new act which is known as The Direct Tax Vivad Se Vishwas Act, 2020. The said act received the assent of the President on 17th March, 2020.

Under this new act, the taxpayer would be required to pay only the amount of the disputed taxes and will get complete waiver of interest and penalty provided he pays by 31st March 2020 which is now extended to 30th June 2020. Taxpayers in whose cases appeals are pending at any level can benefit from this scheme.

## Chapter 12: Other Miscellaneous Provisions

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### **Rationalization of provisions for start-ups:**

Section 80-IAC allows 100% deduction from its total income for an eligible start-up on the fulfillment of certain conditions:

- i. Start-up is incorporated between 01.04.2016 and 31.03.2021 (both inclusive).
- ii. Turnover of such start up does not exceed Rs. 25 crores. This turnover limit has now been revised to Rs.100 crores.
- iii. Deduction was allowed in 3 consecutive years out of 7 years. Now, this 7 years' limit has been changed to 10 years.

### **Deferment of TDS or tax payment on account of allotment of security or sweat equity shares under Employee Stock Option Scheme (ESOP) issued by an eligible start-up**

In order to boost the start-up ecosystem, the Finance Act, 2020 has provided relief to certain employees by inserting new sub-section (1C) to section 192 of the Act which states as under:

Any person being an eligible start-up referred to in section 80-IAC, responsible for paying any income to its employee being perquisite of the nature specified in section 17(2)(vi) i.e. *the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at concessional rates* shall within 14 days –

- i. after the expiry of 48 months from the end of the relevant assessment year or
- ii. from the date of sale of such specified security or sweat equity share by the employee or
- iii. from the date of which the assessee ceases to be the employee of the person

whichever is earliest on the basis of rates in force of the financial year in which the said specified security or sweat equity share is allotted or transferred.

### **Timeline extended for approval of affordable housing projects:**

In order to incentivize building affordable housing and to boost the supply of such houses, the period of approval of the project for claiming deduction under section 80-IBA is extended from 31st March 2020 to 31st March 2021.

### **Timeline extended for approval of loan for first time buyers of Residential House property:**

In order to continue promoting purchase of affordable housing, the period of sanctioning of loan by the financial institution for claiming deduction u/s 80EEA has been extended from 31st March 2020 to 31st March 2021.

### **Definition of “Work” amended u/s 194C**

The definition of 'work' under section 194C amended to provide that in a contract manufacturing, the raw material provided by the assessee or its associate shall fall within the purview of the 'work' under section 194C.

#### **Option for not availing deduction of certain capital expenditure u/s 35AD**

Section 35AD of the Income tax Act allows deduction in respect of capital expenditure on specified businesses (other than expenditure incurred on the acquisition of any land or goodwill or financial instruments). There was no option for not availing this incentive under the said section.

After the introduction of section 115BAA & 115BAB, a possible interpretation was domestic companies opting for concessional tax rates under those sections would also be denied the benefit of normal depreciation u/s 32 by operation of section 35AD(4). Hence, the Finance Act, 2020 has amended section 35AD to make the deduction there under as optional.

*Accordingly, a domestic company opting for concessional tax rate under section 115BAA or section 115BAB of the Act, which does not claim deduction under section 35AD, can claim normal depreciation under section 32 of the IT Act on such capital expenditure.*

#### **Verification of the return of income and appearance of authorized representative**

The return of income in the case of a Company needs to be verified by any Director of that company and in the case of a Limited Liability Partnership (LLP) needs to be verified by any Partner of the LLP which is in accordance with the provisions of Section 140.

The Finance Act, 2020 has amended Section 140 to provide that the return of income of a Company or LLP can now be verified by any other person as may be prescribed by the Board for this purpose.

The Finance Act, 2020 has also amended Section 288 (Appearance by AR) to provide that any other person as prescribed by the Board can appear as an authorized representative to appear before income tax authority or the Appellate Tribunal on behalf of the assessee.

#### **Rationalization of tax treatment of employer's contribution to recognized provident funds, superannuation funds and national pension scheme**

Currently, as per Section 17(2)(vii) any contribution by the employer to approved superannuation fund in respect of the employee exceeding Rs 150,000 is taxable as perquisite in the hands of employee.

The Finance Act, 2020 has amended Section 17(2)(vii) to provide a combined upper limit of Rs. 7,50,000 in respect of employer's contribution in a year to National Pension Scheme (NPS), approved superannuation fund and recognized provident fund and any excess contribution over and above the said limit shall be taxable.

Further, a new sub-clause (viiia) has been inserted to Section 17(2) that any annual accretion by way of interest, dividend or any other amount of similar nature during the previous year standing to the balance at the credit of the fund or scheme shall be treated as perquisite to the extent it relates to the employer's contribution which is included in total income.

### **Charge of equalization levy on e-commerce supply of services**

The Finance Act, 2020 has inserted a new section 165A for charging equalization levy on e-commerce supply of services by an e-commerce operator.

The e-commerce operator shall charge an equalization levy @ 2% of the amount of consideration received or receivable by it from e-commerce supply or services made or provided or facilitated by it

- i. to a person resident in India or
- ii. to a non-resident in the specified circumstances that is sale of advertisement which targets a customer, who is resident in India or a customer who accesses the advertisement through internet protocol address located in India or sale of data, collected from a person who is resident in India or from a person who uses internet protocol address located in India or
- iii. to a person who buys such goods or services or both using internet protocol address located in India

The due dates for payment of equalization levy on e-commerce supply of services by an e-commerce operator shall be made as under:

<b>Quarter ending on</b>	<b>Due Date</b>
30th June	7th July
30th September	7th October
31st December	7th January
31st March	31st March

### **Alignment of Double Taxation Avoidance Agreement (DTAA) with Multilateral Instruments (MLI)**

In the fast changing world, many taxpayers adopt tax planning strategies to artificially shift profits from higher tax jurisdictions to lower tax jurisdictions, thereby leading to tax evasion. In order to prevent the aforesaid tax structuring, OECD has designed multilateral convention to implement tax treaty related measures (MLI) as part of the Base Erosion and Profit Shifting (BEPS) project.

India has also become a party to MLI by signing the same w.e.f June 2019. To ensure parity with the MLI and to achieve the objective of BEPS project, the Finance Act, 2020 has amended Section 90 & 90A of the IT Act accordingly.

*We hereby draw your attention to this law for your necessary further action on compliances.*

**THANK YOU**