

Budget Circular
Finance Bill, 2021

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CHARTERED ACCOUNTANTS

DIRECT TAX

The Hon'ble Finance Minister has presented The Finance Bill, 2021 on 01.02.2021. The broad proposals are set out as below:

▪ **Rates of Income tax**

There is no change in the rate of Corporate Income-Tax.

There is no change in the rate of Personal Income-Tax.

▪ **Surcharge on Income Tax**

There is no change in Surcharge on Income Tax.

▪ **Exemption for LTC Cash Scheme**

It is proposed to insert second proviso in clause 5 of section 10, so as to provide that, for the assessment year beginning on the 1st day of April, 2021, the value in lieu of any travel concession or assistance received by, or due to, an individual shall also be exempt under this clause subject to fulfilment of conditions to be prescribed.

The conditions for this purpose shall be prescribed in the Income-tax Rules in due course and shall, inter alia, be as under:

- a) The employee exercises an option for the deemed LTC fare in lieu of the applicable LTC in the Block year 2018-21;
- b) "specified expenditure" means expenditure incurred by an individual or a member of his family during the specified period on goods or services which are liable to tax at an aggregate rate of twelve per cent or above under various GST laws and goods are purchased or services procured from GST registered vendors/service providers;
- c) "specified period" means the period commencing from 12th day of October, 2020 and ending on 31st day of March, 2021;
- d) the amount of exemption shall not exceed thirty-six thousand rupees per person or one-third of specified expenditure, whichever is less;
- e) the payment to GST registered vendor/service provider is made by an account payee cheque drawn on a bank or account payee bank draft, or use of electronic clearing system through a bank account or through such other electronic mode as prescribed under Rule 6ABBA and tax invoice is obtained from such vendor/service provider;
- f) If the amount received by, or due to an individual as per the terms of his employment, from his employer in relation to himself and his family, for the LTC is more than what is allowable to such person under the above discussed provisions, the exemption under the proposed amendment would be available only to the extent of exemption admissible under above listed provisions.

This amendment will take effect from 1st April, 2021 and will, apply in relation to the assessment year 2021-2022 only.

▪ **Deduction in respect of profits and gains from housing projects**

Section 80IBA in the Act is amended so as to provide deduction in respect of income from business of affordable residential house property subject to the condition that the project is approved during the period starting from 1st June 2016 and ending on 31st March 2022.

To help migrant labourers and to promote affordable rental, it is proposed to allow deduction under section 80-IBA of the Act also to such rental housing project which is notified by the Central Government in the Official Gazette and fulfils such conditions as specified in the said notification.

▪ **Tax incentives for affordable housing**

Section 80EEA in the Act is amended so as to provide a deduction in respect of interest up to one lakh fifty thousand rupees on loan taken for residential house property from any financial institution subject to the condition that the loan has been sanctioned by a financial institution during the period starting from 1st April 2019 and ending on 31st March 2022.

▪ **Changes under section 80IAC for claiming deduction by a start-up**

Section 80IAC has been amended for claiming deduction by a start-up wherein the eligible startup is required to be incorporated on or after 1st day of April, 2016 but before 1st day of April, 2022.

▪ **Value adopted by the authority for purpose of stamp duty**

Section 43CA has been amended to now provide that where the consideration declared to be received or accruing as a result of the transfer of land or building or both, is less than the value adopted or assessed or assessable by any authority of a State Government (i.e. "stamp valuation authority") for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall for the purpose of computing profits and gains from transfer of such assets, be deemed to be the full value of consideration provided that the value so adopted or assessed or assessable exceeds 120% of the consideration received or accruing as a result of transfer. The said relaxation is subject to the following conditions:

- 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

Further the sections 56(2)(x) has been amended to now provide for these transactions that the circle rate shall be deemed as sale/purchase consideration only if the variation between the agreement value and the circle rate is more than 20%.

▪ **Relaxation for certain category of senior citizen from filing return**

Senior citizens who are of the age of 75 year or above are relaxed from filing of return of income subject to the following conditions:

- a) The senior citizen is resident in India and of the age of 75 or more during the previous year;
- b) He has pension income and no other income. However, in addition to such pension income he may have also have interest income from the same bank in which he is receiving his pension income;
- c) This bank is a specified bank. The Government will be notifying a few banks, which are banking company, to be the specified bank; and
- d) He shall be required to furnish a declaration to the specified bank. The declaration shall be containing such particulars, in such form and verified in such manner, as may be prescribed.

Once the declaration is furnished, the specified bank would be required to compute the income of such senior citizen after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A of the Act, for the relevant assessment year and deduct income tax on the basis of rates in force. Once this is done, there will not be any requirement of furnishing return of income by such senior citizen for this assessment year.

This amendment will take effect from 1st April, 2021.

▪ **Exemption from deduction of TDS on payment of Dividend to business trust**

Section 194 of the Act provides for deduction of tax at source (TDS) on payment of dividends to a resident. The second proviso to this section provides that the provisions of this section shall not apply to such income credited or paid to certain insurance companies or insurers. It is proposed to amend second proviso to section 194 of the Act to further provide that the provisions of this section shall also not apply to such income credited or paid to a business trust by a special purpose vehicle or payment of dividend to any other person as may be notified.

This amendment will take effect retrospectively from 1st April, 2020.

▪ **Criteria for Tax Audit**

Section 44AB has been amended to now provide relief to small and medium enterprises carrying on business and whose total sales, turnover or gross receipts as the case may be in business does not exceed ten crore rupees.

Provided that in the case of such a person–

- (a) aggregate of all amounts received including amount received for sales, turnover or gross receipts during the previous year, in cash, does not exceed five per cent. of the said amount; and

(b) aggregate of all payments made including amount incurred for expenditure, in cash, during the previous year does not exceed five per cent. of the said payment.

This amendment will take effect from 1st April, 2021 and will accordingly apply for the assessment year 2021-22 and subsequent assessment years.

▪ **Advance tax instalment for dividend income**

Dividend income will be considered for the purpose of the advance tax after the date of declaration. However, such relaxation will not be applicable for deemed dividend as per sub-clause (e) of clause (22) of Section 2 of the Act.

This amendment will take effect from 1st April, 2021 and will accordingly apply to the assessment year 2021-22 and subsequent assessment years.

▪ **Changes in timing for filing of various returns**

In the case of a partner of a firm which is required to furnish report from an accountant for entering into international transaction or specified domestic transaction, as per section 92E of the Act, the due date for filing of original return of income is extended to 30th November of the assessment year.

The belated return and revised return under Sub-section (4) and (5) of Section 139 respectively shall now be filed three months before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier. Practically it means no return can be filed after 31st December of relevant assessment year.

These amendments will take effect from 1st April, 2021 and will accordingly apply to the assessment year 2021-22 and subsequent assessment years.

▪ **Payment by Employer of Employee's Contribution to a fund on or before due date**

In order to provide clarity with respect to the due date for the payment by employer of employee's contribution towards welfare fund, it is proposed to:

a) amend clause (va) of sub-section (1) of section 36 of the Act by inserting another explanation to the said clause to clarify that the provision of section 43B does not apply and deemed to never have been applied for the purposes of determining the "due date" under this clause; and

b) amend section 43B of the Act by inserting Explanation 5 to the said section to clarify that the provisions of the said section do not apply and deemed to never have been applied to a sum received by the assessee from any of his employees to which provisions of sub-clause (x) of clause (24) of section 2 applies.

These amendments will take effect from 1st April, 2021 and will accordingly apply to the assessment year 2021-22 and subsequent assessment years.

▪ **Constitution of Dispute Resolution Committee for small and medium taxpayers**

In order to provide early tax certainty to small and medium taxpayers, it is proposed to introduce a new scheme for preventing new disputes and settling the issue at the initial stage. For the same, the Central Government shall constitute one or more Dispute Resolution Committee (DRC). The DRC, subject to such conditions as may be prescribed, shall have the powers to reduce or waive any penalty imposed under this Act or grant immunity from prosecution for any offence under this Act in case of a person whose dispute is resolved under this provision.

▪ **Income escaping assessments and search assessments**

The salient features of new procedure for the purpose of assessment or reassessment or re-computation of income escaping assessment and the assessment of search related cases are as follows:

- a) The provisions of section 153A and section 153C, of the Act are proposed to be made applicable to only search initiated under section 132 of the Act or books of accounts, other documents or any assets requisitioned under section 132A of the Act, on or before 31st March 2021.
- b) Assessments or reassessments or in re-computation in cases where search is initiated under section 132 or requisition is made under 132A, after 31st March 2021, shall be under the new procedure.
- c) Section 147 proposes to allow the Assessing Officer to assess or reassess or re-compute any income escaping assessment for any assessment year (called relevant assessment year).
- d) Before such assessment or reassessment or re-computation, a notice is required to be issued under section 148 of the Act, which can be issued only when there is information with the Assessing officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year. Prior approval of specified authority is also required to be obtained before issuance of such notice by the Assessing Officer.
- e) Further, in search, survey or requisition cases initiated or made or conducted, on or after 1st April, 2021, it shall be deemed that the Assessing officer has information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the three assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or requisition is made or any material is seized or requisitioned or survey is conducted.

- f) New Section 148A of the Act proposes that before issuance of notice the Assessing Officer shall conduct enquiries, if required, and provide an opportunity of being heard to the assessee. After considering his reply, the Assessing Office shall decide, by passing an order, whether it is a fit case for issue of notice under section 148 and serve a copy of such order along with such notice on the assessee. The Assessing Officer shall before conducting any such enquiries or providing opportunity to the assessee or passing such order obtain the approval of specified authority. However, this procedure of enquiry, providing opportunity and passing order, before issuing notice under section 148 of the Act, shall not be applicable in search or requisition cases.
- g) The time limitation for issuance of notice under section 148 of the Act is proposed to be provided in section 149 of the Act and is as below:
- in normal cases, no notice shall be issued if three years have elapsed from the end of the relevant assessment year.
 - in specific cases where the Assessing Officer has in his possession evidence which reveal that the income escaping assessment, represented in the form of asset, amounts to or is likely to amount to fifty lakh rupees or more, notice can be issued beyond the period of three year but not beyond the period of ten years from the end of the relevant assessment year;
 - Another restriction has been provided that the notice under section 148 of the Act cannot be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April, 2021, if such notice could not have been issued at that time on account of being beyond the time limit prescribed under the provisions of clause (b), as they stood immediately before the proposed amendment.
 - Since the assessment or reassessment or re-computation in search or requisition cases (where such search or requisition is initiated or made on or before 31st March 2021) are to be carried out as per the provision of section 153A, 153B, 153C and 153D of the Act, the aforesaid time limitation shall not apply to such cases.
- h) The specified authority for approving enquiries, providing opportunity, passing order under section 148A of the Act and for issuance of notice under section 148 of the Act are proposed to be —
- Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;
 - Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year.
- i) Once assessment or reassessment or re-computation has started the Assessing officer is proposed to be empowered (as at present) to assess or reassess the income in respect of any issue which has escaped assessment and which comes to his notice subsequently in the course of the proceeding under this procedure notwithstanding that the procedure prescribed in section 148A was not followed before issuing such notice for such income.

These amendments will take effect from 1st April, 2021.

▪ **Allowing prescribed authority to issue notice under clause (i) of sub-section (1) of section 142**

In order to enable centralized issuance of notices etc. in an automated manner, it is proposed to amend the provisions of clause (i) of the sub-section (1) of the section 142 to empower the prescribed income-tax authority besides the Assessing Officer to issue notice under the said clause.

This amendment will take effect from 1st April, 2021.

▪ **Faceless Proceedings before the Income-Tax Appellate Tribunal (ITAT) in a jurisdiction less manner**

It is proposed to notify a scheme for the faceless proceedings before the Income-Tax Appellate Tribunal (ITAT) in a jurisdiction less manner thus introducing an appellate system with dynamic jurisdiction.

▪ **Discontinuance of Income-Tax Settlement Commission**

It is proposed to discontinue Income-tax Settlement Commission (ITSC) and to constitute Interim Board of settlement for pending cases.

▪ **Rationalisation to eliminate possibility of double deduction while calculating application or accumulation**

It has been proposed that -

- a) Voluntary contributions made with a specific direction that it shall form part of the corpus shall be invested or deposited in one or more of the forms or modes specified in sub-section (5) of section 11 maintained specifically for such corpus.
- b) Application out of corpus shall not be considered as application for charitable or religious purposes. However, when it is invested or deposited back, into one or more of the forms or modes specified in sub-section (5) of section 11 maintained specifically for such corpus from the income of the previous year, such amount shall be allowed as application in the previous year in which it is deposited back to corpus to the extent of such deposit or investment.
- c) Application from loans and borrowings shall not be considered as application for charitable or religious purposes by Charitable & Religious Trust. However, when loan or borrowing is repaid from the income of the previous year, such repayment shall be allowed as application in the previous year in which it is repaid to the extent of such repayment.
- d) No set off or deduction or allowance of any excess application, of any of the year preceding the previous year, shall be allowed.

These amendments will take effect from 1st April, 2022 and will accordingly apply to the assessment year 2022-23 and subsequent assessment years.

▪ **Reduction of time limit for intimation or completing assessment**

The time for sending intimation under sub-section (1) of section 143 is proposed to be reduced to nine months from the end of the financial year in which return is furnished.

The time for completing of assessment under sections 143 or 144 is proposed to be reduced to nine months from the end of the assessment year in which the income was first assessable, for the assessment year 2021-22 and subsequent assessment years.

This amendment will take effect from 1st April, 2021.

▪ **Taxation of proceeds of high premium Unit Linked Insurance Policy (ULIP)**

Insertion of fourth proviso to clause (10D) of section 10 of the Act to provide that the exemption under this clause shall not apply with respect to any ULIP issued on or after the 1st February, 2021, if the amount of premium payable for any of the previous year during the term of the policy exceeds two lakh and fifty thousand rupees.

Insertion of fifth proviso to this clause to provide that, if premium is payable by a person for more than one ULIPs, issued on or after the 1st February, 2021, exemption under this clause shall be available only with respect to such policies aggregate premium whereof does not exceed the amount of two lakh fifty thousand rupees, for any of the previous years during the term of any of the policy.

The exemption of amount received from ULIP shall however apply to any sum received on the death of a person.

It will be provided that such ULIPs will be a capital asset and subject to capital gains tax.

These amendments will take effect from 1st April, 2021 and will accordingly apply to the assessment year 2021-22 and subsequent assessment years.

▪ **Rationalisation of the provision of slump sale**

It is proposed to amend the scope of the definition of the term “slump sale” by amending the provision of clause (42C) of section 2 of the Act so that all types of “transfer” as defined in clause (47) of section 2 of the Act are included within its scope.

These amendments will take effect from 1st April, 2021 and will accordingly apply to the assessment year 2021-22 and subsequent assessment years.

▪ **Provisional attachment in Fake Invoice cases**

It is proposed to amend the provision of section 281B of the Act to enable the Assessing Officer to exercise the powers under this section during the pendency of proceedings for imposition of penalty under section 271AAD of the Act, if the amount or aggregate of amounts of penalty imposable is likely to exceed two crore rupees.

▪ **Goodwill is not a depreciable asset**

It is proposed that goodwill of a business or profession will not be considered as a depreciable asset and there would not be any depreciation on goodwill of a business or profession in any situation.

In a case where goodwill is purchased by an assessee, the purchase price of the goodwill will continue to be considered as cost of acquisition for the purpose of computation of capital gains under section 48 of the Act subject to the condition that in case depreciation was obtained by the assessee in relation to such goodwill prior to the assessment year 2021-22, then the depreciation so obtained by the assessee shall be reduced from the amount of the purchase price of the goodwill.

These amendments will take effect from 1st April, 2021 and will accordingly apply to the assessment year 2021-22 and subsequent assessment years.

▪ **Issuance of notice under sub-section (2) of section 143 of the Act**

It is proposed to reduce the time limit for issue of notice under sub-section (2) of section 143 of the Act from six months to three months from the end of the financial year in which the return is furnished.

▪ **Provision of Presumptive Taxation for Professionals under Section 44ADA**

It is proposed to amend sub-section (1) of section 44ADA of the Act to specifically provide that the provision of this section shall not apply to an assessee, being an LLP as defined under clause (n) of sub-section (1) of section 2 of Limited Liability Partnership Act, 2008.

▪ **Definition of term “Liable to Tax”**

It is proposed to insert clause (29A) to section 2 of the Act providing its definition. The term “liable to tax” in relation to a person means that there is a liability of tax on that person under the law of any country and will include a case where subsequent to imposition of such tax liability, an exemption has been provided.

▪ **TDS on Purchase of Goods – Section 194Q**

It is proposed to provide for TDS by person responsible for paying any sum to any resident for purchase of goods subject to the conditions as stated in the section 194Q. The rate of TDS is kept at 0.1%.

It is proposed to provide that the provisions of section 194Q shall not apply to -

- a) a transaction on which tax is deductible under any provision of the Act; and
- b) a transaction, on which tax is collectible under the provisions of section 206C other than transaction to which sub-section (1H) of section 206C applies.

If on a transaction TCS is required under sub-section (1H) of section 206C as well as TDS under this section, then on that transaction only TDS under this section shall be carried out.

It is also proposed to consequentially amend sub-section (1) of section 206AA of the Act and insert second proviso to further provide that where the tax is required to be deducted under section 194Q and Permanent Account Number (PAN) is not provided, the TDS shall be at the rate of five per cent.

These amendments will take effect from 1st July, 2021.

▪ **TDS/TCS on non-filer at higher rates**

It is proposed to insert a new section 206AB in the Act as a special provision providing for higher rate for TDS and it would apply on any sum or income or amount paid, or payable or credited, by a person (herein referred to as deductee) to a specified person. The proposed TDS rate in this section is higher of the followings rates:-

- a) twice the rate specified in the relevant provision of the Act; or
- b) twice the rate or rates in force; or
- c) the rate of five per cent

If the provision of section 206AA of the Act is applicable to a specified person, in addition to the provision of this section, the tax shall be deducted at higher of the two rates provided in this section and in section 206AA of the Act.

It is proposed to insert a new section 206CCA in the Act as a special provision providing for higher rate for TCS and it would apply on any sum or amount received by a person (herein referred to as collectee) from a specified person. The proposed TCS rate in this section is higher of the followings rates:-

- a) twice the rate specified in the relevant provision of the Act; or
- b) the rate of five per cent

If the provision of section 206CC of the Act is applicable to a specified person, in addition to the provision of this section, the tax shall be collected at higher of the two rates provided in this section and in section 206CC of the Act.

The specified person is a person who has not filed the returns of income for both of the two assessment years relevant to the two previous years which are immediately before the previous year in which tax is required to be deducted or collected, as the case may be. Further the time limit for filing tax return under sub-section (1) of section 139 of the Act has expired for both these assessment years. There is another condition that aggregate of tax deducted at source and tax collected at source in his case is rupees fifty thousand or more in each of these two previous years. Specified person shall not include a non-resident who does not have a permanent establishment in India.

▪ **Taxability of interest on various funds where income is exempt**

It is proposed to insert proviso to clause(11) and clause (12) of section 10 of the Act, providing that the provisions of these clauses shall not apply to the interest income accrued during the previous year in the account of the person to the extent it relates to the amount or the aggregate of amounts of contribution made by the person exceeding two lakh and fifty thousand rupees in a previous year in that fund, on or after 1st April, 2021, computed in such manner as may be prescribed.

These amendments will take effect from 1st April, 2022 and shall apply to the assessment year 2022-23 and subsequent assessment years.

GOODS & SERVICES TAX

- **Removal of GST Audit & Reconciliation Statement**

Sub-section (5) of section 35 of the CGST Act is being omitted so as to remove the mandatory requirement of getting annual accounts audited and reconciliation statement submitted by specified professional.

- **Levy of tax on activities or transactions by person to its members or constituents or vice-versa**

A new clause (aa) in sub-section (1) of Section 7 of the CGST Act is being inserted, retrospectively with effect from the 1st July, 2017, so as to ensure levy of tax on activities or transactions involving supply of goods or services by any person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

- **Interest on Net Cash Liability only**

Section 50 of the CGST Act is being amended retrospectively, to substitute the proviso to sub section (1) so as to charge interest on net cash liability with effect from the 1st July, 2017.

- **Appeal to be filed by depositing a sum equal to 25% of penalty**

A proviso to sub-section (6) of section 107 of the CGST Act is being inserted to provide that no appeal shall be filed against an order made under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. of penalty has been paid by the appellant.

- **Modification of Section 16 of IGST Act**

Section 16 of the IGST Act is being amended so as to:

- (i) zero rate the supply of goods or services to a Special Economic Zone developer or a Special Economic Zone unit only when the said supply is for authorised operations;
- (ii) restrict the zero-rated supply on payment of integrated tax only to a notified class of taxpayers or notified supplies of goods or services; and
- (iii) link the foreign exchange remittance in case of export of goods with refund.

THANK YOU

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