




Seminar on Union Budget – 2021

**Organized by:
Tax Bar Association, Jodhpur**

**On:
04.02.2021**

**Speaker:
CA B.M. Biyani, B.Com, LLB, FCA, CS
(Direct Tax Proposals)**





If I and you always agree ..

then one of us is useless

If I and you always disagree ..

then both of us are useless



Add “new expressions” to your dictionary !!!

Specified

(Specified person, Specified authority, Specified conditions)

Imparting greater efficiency, transparency and accountability by

(a) eliminating the interface between the authority and the assessee in the course of proceedings to the extent technologically feasible;

(b) optimising utilisation of the resources through economies of scale and functional specialisation;

(c) introducing a mechanism / team –based mechanism with dynamic jurisdiction.

Shall be deemed to have never been ..

Prior to ..

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Finance Bill, 2021 at a glance

Part	Clause No.
Title & Commencement	1
Income-tax	2 to 79
Customs	80 to 95
Excise	96 to 98
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Amendments to different economic laws	117 to 159
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Schedules	I to VII

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Tax Rates	FB Clause	2
	IT Act Section	4
	Effective from	AY 2021-22 / AY 2022-23

Tax Rates

No change

Depreciation on Goodwill		FB Clause	3(i), 7, 18, 20
		IT Act Section	2(11), 32, 50, 55
		Effective from	AY 2021-22
Old law	Smif Securities Limited (2012) 348 ITR 302(SC): The expression “any other business or commercial rights of similar nature” admits “goodwill of a business or profession”. Hence depreciation is allowed on “goodwill”.		
New law	Section 2(11) and 32: “not being goodwill of business or profession” inserted in the language. Hence depreciation is not allowed.		
	Section 50: If the goodwill forms part of a block of asset as on 01.04.2020, the WDV of the block and short-term capital gain shall be determined in a prescribed manner.		
	Section 55: If the assessee has already claimed depreciation on purchased goodwill upto AY 2020-21, the cost of goodwill shall be taken to be the purchase price (-) depreciation claimed upto AY 2020-21 for the purpose of computing capital gain at the time of subsequent sale.		
Comment	Reasons of amendment are: <ul style="list-style-type: none">• Many corporates were mis-using depreciation benefit by creating goodwill in amalgamations, etc.• In general, the Goodwill appreciates and does not depreciate.		
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Taxation of ULIP	FB Clause	3(ii), 5(c), 14(a), 29
	IT Act Section	2(14), 10(10D), 45(1B), 112A
	Effective from	01.02.2021

Section	Old law	New law
10(10D)	Amount received under a life insurance policy (including bonus) is exempted. Hence amount received under Unit Linked Insurance Policy (ULIP) is also exempted.	<p>Exemption shall not apply with respect to any ULIP, issued on or after 01.02.2021, if the premium payable for any of the previous year during the term of such policy exceeds Rs. 2,50,000.</p> <p>In case of multiple ULIPs, exemption shall be allowed u/s 10(10D) with respect of those ULIPs, only if the aggregate premium payable does not exceed Rs. 2,50,000 in any of the previous year during the term of any of those policies.</p> <p>Alert: If the sum is received on death, exemption shall be allowed.</p>
2(14)	--	ULIP which is not exempted u/s 10(10D), has been included in the definition of "capital asset".

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Taxation of ULIP	FB Clause	3(ii), 5(c), 14(a), 29
	IT Act Section	2(14), 10(10D), 45(1B), 112A
	Effective from	01.02.2021

Section	Old law	New law
45(1B)	--	Profit or gain arising from receipt from ULIP which is not exempted u/s 10(10D) [including the amount allocated by way of bonus on such policy], then, shall be chargeable under the head "Capital gains" in the previous year in which such amount was received and the income taxable shall be calculated in such manner as may be prescribed. <i>Section 48 shall not apply.</i>
2(42A)	<p>Proviso to section 2(42A): <i>A unit of "equity oriented fund" shall be short-term, if it was held by the assessee for not more than 12 months immediately preceding the date of its transfer.</i></p> <p><i>Explanation-4 to section 2(42A) prescribes that the meaning of "equity oriented fund" shall be same as in Explanation to section 112A.</i></p>	No change. This will apply.

Taxation of ULIP		FB Clause	3(ii), 5(c), 14(a), 29
		IT Act Section	2(14), 10(10D), 45(1B), 112A
		Effective from	01.02.2021
Section	Old law	New law	
Explanation to section 112A	--	“Equity oriented fund” – amended to include “ULIPs not exempted u/s 10(10D) which has suffered STT”	
Explanation to section 111A	“Equity oriented fund” shall have the same meaning as in Explanation to section 112A	No change. This will apply	
Finance (No. 2) Act, 2004	--	Finance (No. 2) Act, 2004 also amended: STT shall be levied on maturity or partial withdrawal of ULIPs not exempted u/s 10(10D).	
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Taxation of ULIP	FB Clause	3(ii), 5(c), 14(a), 29
	IT Act Section	2(14), 10(10D), 45(1B), 112A
	Effective from	01.02.2021

Let us conclude ..

- High premium ULIPs taken on or after 01.02.2021 shall not get the benefit of exemption u/s 10(10D).
- The resultant profit shall be taxable as Capital Gain.
- The capital gain shall be short-term or long-term on the basis of 12 months holding.
- STCG shall be taxable u/s 111A.
- LTCG shall be taxable u/s 112A.

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Slump Sale	FB Clause	3(v)
	IT Act Section	2(42C)
	Effective from	AY 2021-22
Old law	“Slump sale” means the transfer of one or more undertakings as a result of the sale for a lump sum consideration ...	
New law	The words “as a result of sale” replaced by “by any means” . Further “Transfer” shall have the same meaning as defined in section 2(47)	
Effect	Areva T&D India Ltd. (Madras High Court) dated 08.09.2020: Section 2(42C) admits a situation of “sale” only. Any transaction other than sale, does not fall in section 2(42C) and therefore the special procedure for taxation of slump sale prescribed u/s 50B, would not apply. The amendment nullifies this decision. Now, the concept of “slump sale” shall apply to all kinds of “Transfer” and therefore special section 50B shall apply in case of every transfer.	
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LTA / LTC	FB Clause	5(b)
	IT Act Section	10(5)
	Effective	Only AY 2021-22
Old law	LTA / LTC received by an employee is exempted to the extent employee incurs expenditure on travel.	
New law	The exemption shall also be allowed if the amount is utilized for incurring prescribed expenditure.	
Comment	Amendment has been made to give effect to “ LTC Cash Voucher Scheme ” introduced in October, 2020 to boost consumer demand and provide tax exemption to employees, who are unable to claim LTC due to travel restrictions on account of Covid-19.	
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Interest on PF		FB Clause	5(d)(i)/(ii)
		IT Act Section	10(11)/(12)
		Effective from	AY 2022-23
FB Clause	IT Act	Old law	New law
5(d)(i)	10(11)	<p>Payment from any fund covered under Provident Fund Act, 1925 is exempted. (This covers Statutory Provident Funds applicable to the employees of Govt. and educational institutions).</p> <p>Payment from any other notified Provident Fund is exempted (This covers PPF)</p> <p>Thus, any payment from SPF or PPF is exempted.</p>	<p>Exemption shall not be allowed in respect of interest accrued during the previous year in the account, to the extent it relates to the contribution made by that person exceeding Rs. 2,50,000 in any previous year in that fund, on or after 01.04.2021.</p> <p>Interest shall be computed in a prescribed manner.</p>
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Interest on PF		FB Clause	5(d)(i)/(ii)
		IT Act Section	10(11)/(12)
		Effective from	AY 2022-23
FB Clause	IT Act	Old law	New law
5(d)(ii)	10(12)	Payment from RPF is exempted.	<p>Exemption shall not be allowed in respect of interest accrued during the previous year in the account, to the extent it relates to the contribution made by that person exceeding Rs. 2,50,000 in any previous year in that fund, on or after 01.04.2021.</p> <p>Interest shall be computed in a prescribed manner.</p>
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Interest on PF	FB Clause	5(d)(i)/(ii)
	IT Act Section	10(11)/(12)
	Effective from	AY 2022-23

Comments	<ul style="list-style-type: none"> • Limit of Rs. 2,50,000 is for SPF / RPF + PPF? ... No, the limit of Rs. 2,50,000 is separate for SPF / RPF / PPF. • Maximum permissible deposit in PPF (as per PPF Scheme) is Rs. 1,50,000. Any relevance of amendment for PPF? • The amendment applies to the interest on contributions made after 01.04.2021. Hence do not worry for the interest on accumulated balance as on 31.03.2021.
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Educational / Medical Institutions	FB Clause	5(d)(iii)
	IT Act Section	10(23C)
	Effective from	AY 2022-23

Amendments relevant to University or other educational institution / Hospital or other medical institution covered u/s 10(23C)(iiia) / (iiib)

IT Act	Old law	New law
10(23C)(iiia)	Income of university or other educational institution is exempted if aggregate annual receipts do not exceed Rs. 1 Crore.	<p>Limit is increased to Rs. 5 Crore</p> <p><i>It is also prescribed that if the assessee has university or educational institution (+) hospital or medical institution, the exemption u/s 10(23C)(iiia) and 10(23C)(iiib) shall be allowed only if the aggregate annual receipts do not exceed Rs. 5 Crore</i></p>
10(23C)(iiib)	Income of hospital or medical institution is exempted if aggregate annual receipts do not exceed Rs. 1 Crore.	

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Educational / Medical Institutions	FB Clause	5(d)(iii)
	IT Act Section	10(23C)
	Effective from	AY 2022-23
Amendments relevant to any charitable or religious entity, university or other educational institution, Hospital or other medical institution covered u/s 10(23C)(iv) / (v) / (vi) / (via) [i.e. approved by the prescribed authority]		
IT Act	Old law	New law
3 rd Proviso	Corpus donations are unconditionally exempted.	Corpus donations shall be exempted only if they are invested or deposited in permissible modes of section 11(5) maintained specifically for such corpus. [Advise - Open a separate bank account for corpus donations and keep them deposited in that account]
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Educational / Medical Institutions	FB Clause	5(d)(iii)
	IT Act Section	10(23C)
	Effective from	AY 2022-23
Amendments relevant to any charitable or religious entity, university or other educational institution, Hospital or other medical institution covered u/s 10(23C)(iv) / (v) / (vi) / (via) [i.e. approved by the prescribed authority]		
IT Act	Old law	New law
3 rd Proviso	Corpus donations are unconditionally exempted.	Application for charitable or religious purposes from the Corpus, shall not be treated as application for charitable or religious purposes. But the amount not so treated as application, shall be treated as application for charitable or religious purposes in the previous year in which the amount or part thereof is re-invested or re-deposited into the permissible modes of section 11(5) maintained specifically for such corpus, from the income of that year and to the extent of such re-investment or re-deposit.
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Educational / Medical Institutions	FB Clause	5(d)(iii)
	IT Act Section	10(23C)
	Effective from	AY 2022-23
Amendments relevant to any charitable or religious entity, university or other educational institution, Hospital or other medical institution covered u/s 10(23C)(iv) / (v) / (vi) / (via) [i.e. approved by the prescribed authority]		
IT Act	Old law	New law
3 rd Proviso	--	<p>Application from any loan or borrowing, shall not be treated as application for charitable or religious purposes.</p> <p>But any repayment of such loan or borrowing shall be treated as application.</p>
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Educational / Medical Institutions	FB Clause	5(d)(iii)
	IT Act Section	10(23C)
	Effective from	AY 2022-23
Amendments relevant to any charitable or religious entity, university or other educational institution, Hospital or other medical institution covered u/s 10(23C)(iv) / (v) / (vi) / (via) [i.e. approved by the prescribed authority]		
IT Act	Old law	New law
14 th Proviso	Any payment out of accumulation to any other trust or institution registered u/s 12AA or any covered u/s 10(23C)(iv)/(v)/(vi)/(via) is not treated as application.	Reference of 12AB is also inserted.
Explanation at the end	--	The calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of excess application of any of the year preceding the previous year. This will nullify some court decisions.
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Equalisation levy	FB Clause	5(g)
	IT Act Section	10(50)
	Effective from	AY 2021-22
Old law	(i) Income arising from any “specified service” which has suffered Equalization Levy, is exempted Or (ii) Income arising from any e-commerce supply or services made or provided or facilitated on or after 01.04.2021, which has suffered Equalization Levy, shall be exempted.	
New law	<ul style="list-style-type: none">Explanation 1 added to clarify that the exemption u/s 10(50) shall not be available in respect of income chargeable as “royalty” or “fee for technical service”. [Amendment is also proposed in “Equalisation levy” to clarify that “Equalisation Levy” is not leviable on royalty and fee for technical services].In Point No. (ii), 01.04.2021 has been substituted by 01.04.2020, because Equalisation Levy had already been levied from 01.04.2020. The amendment is made to remove anomaly.	
Effect	Royalty and FTS shall be taxable under Income-tax and not Equalisation Levy.	
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Charitable / Religious Institutions		FB Clause	6
		IT Act Section	11
		Effective from	AY 2022-23
IT Act	Old law	New law	
11(1)(d)	Corpus donations are unconditionally exempted.	Corpus donations shall be exempted only if they are invested or deposited in permissible modes of section 11(5) maintained specifically for such corpus. [Advise - Open a separate bank account for corpus donations and keep them deposited in that account]	
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Charitable / Religious Institutions		FB Clause	6
		IT Act Section	11
		Effective from	AY 2022-23
IT Act	Old law	New law	
Explanation 4 to section 11(1)	--	Application for charitable or religious purposes from the Corpus, shall not be treated as application for charitable or religious purposes. But the amount not so treated as application, shall be treated as application for charitable or religious purposes in the previous year in which the amount or part thereof is re-invested or re-deposited into the permissible modes of section 11(5) maintained specifically for such corpus, from the income of that year and to the extent of such re-investment or re-deposit.	
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Charitable / Religious Institutions		FB Clause	6
		IT Act Section	11
		Effective from	AY 2022-23
Provision	Old law	New law	
Explanation 4 to section 11(1)	--	Application from any loan or borrowing, shall not be treated as application for charitable or religious purposes. But any repayment of such loan or borrowing shall be treated as application.	
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Charitable / Religious Institutions		FB Clause	6
		IT Act Section	11
		Effective from	AY 2022-23
IT Act	Old law	New law	
Explanation 5 to section 11(1)	--	The calculation of income required to be applied or accumulated during the previous year shall be made without any set off or deduction or allowance of excess application of any of the year preceding the previous year	
11(2) / (3)	<p>Any payment out of accumulation to any other trust or institution registered u/s 12AA or any covered u/s 10(23C)(iv)/(v)/(vi)/(via) is not treated as application.</p> <p>If the trust or institution makes such payment, it shall be deemed to be income of the trust or institution.</p>	Reference of 12AB is also inserted.	
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Employees' contribution to PF / ESI	FB Clause	8, 9
	IT Act Section	36(1)(va), 43B
	Effective from	AY 2021-22

Old law	<p>Claim of department: Employees' contribution to staff welfare funds (like PF, ESI) are covered u/s 36(1)(va) and deduction is allowed to the extent, the employer makes payment to the relevant fund by due date under the rules of relevant fund. Therefore, failure to pay upto due date under the rules of relevant fund, attracts disallowance.</p> <p>Claim of assessee: Section 43B over-rides section 36(1)(va) and therefore payment made to relevant fund upto due date u/s 139(1) is allowable as deduction.</p> <p>Decisions favouring assessee:</p> <ul style="list-style-type: none"> (i) High Court of Himachal Pradesh in CIT Vs Nipso Ployfabriks Ltd., (2013) 350 ITR 327 (ii) Karnataka High Court in CIT Vs Sabri Enterprises, (2008) 298 ITR 141. (iii) Bombay High Court in CIT Vs Ghatge Patil Transports Ltd., (2014) 368 ITR 749. (iv) Madras High Court in Industrial Security & Intelligence India Pvt. Ltd. Appeal No. 585 and 586 of 2015 (v) CIT Vs. Nuchem Ltd. [2015] 59 taxmann.com 455 (Punjab & Haryana) (vi) CIT Vs. AIMIL Ltd. [2010] 321 ITR 508 (Delhi) (vii) CIT Vs. George Williamson (Assam) Ltd. [2006] 284 ITR 619 (Gauhati) (viii) CIT Vs. Kichha Sugar Co. Ltd. [2013] 356 ITR 351 (Uttarakhand) (ix) Sagun Foundry (P) Ltd. Vs. CIT [2017] 78 taxmann.com 47 (Allahabad) (x) Bihar State Warehousing Corporation Ltd. Vs. DCIT [2017] 393 ITR 386 (Patna) <p>Decisions favouring department:</p> <ul style="list-style-type: none"> (i) Pr. CIT Vs. Suzlon Energy Ltd. [2020] 115 taxmann.com 340 (Gujarat) (ii) CIT Vs. Merchem Ltd. [2015] 378 ITR 443 (Kerala)
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Employees' contribution to PF / ESI	FB Clause	8, 9
	IT Act Section	36(1)(va), 43B
	Effective from	AY 2021-22
Old law	Hon'ble Rajasthan High Court favouring assessee: Hon'ble Rajasthan High Court has decided in favour of assessee, in following decisions: (i) CIT Vs. State Bank of Bikaner and Jaipur (2014) 363 ITR 70 (Raj) dated 06.01.2014 (ii) CIT Vs. Jaipur Vidyut Vitran Nigam Ltd. (2014) 363 ITR 307 (Raj) dated 06.01.2014 (iii) CIT Vs. Udaipur Dugdh Utpadak Sahakari Sangh Ltd. (2014) 366 ITR 163 (Rajasthan) (iv) CIT Vs. Rajasthan State Beverages Corporation Ltd. / Rajasthan State Ganganagar Sugar Mill dated 04.08.2016 (2017) 250 Taxman 32 (Rajasthan)	
	Hon'ble Supreme Court: The SLP filed by department against the decision of Hon'ble Rajasthan High Court in <u>CIT Vs. Rajasthan State Beverages Corporation Ltd. / Rajasthan State Ganganagar Sugar Mill</u> , has been dismissed on 04.07.2017.	
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Employees' contribution to PF / ESI	FB Clause	8, 9
	IT Act Section	36(1)(va), 43B
	Effective from	AY 2021-22
New law	<p>Explanation 2 to section 36(1)(va): <i>For the removal of doubts, it is hereby clarified that the provisions of section 43B shall not apply and <u>shall be deemed never to have been applied</u> for the purposes of determining the “due date” under this clause.</i></p> <p>Explanation 5 to section 43B: <i>For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply and <u>shall be deemed never to have been applied</u> to a sum received by the assessee from any of his employees to which the provisions of sub-clause (x) of clause (24) of section 2 applies.</i></p>	
Comment	Amendment is made from AY 2021-22 and not with retrospective effect. But the language uses “shall be deemed never to have been applied” .. This may lead to litigation.	
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Employees' contribution to PF / ESI	FB Clause	8, 9
	IT Act Section	36(1)(va), 43B
	Effective from	AY 2021-22

Comment	<p>Validity of addition made by CPC u/s 143(1)(a)(iv): In majority cases, the addition has been made by CPC u/s 143(1)(a)(iv).</p> <p>Section 143(1)(a)(iv) reads as: “Section 143(1)(a) – the total income or loss shall be computed after making the following adjustments, namely:- (iv) disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return”.</p> <p>If we read the Form 3CD, different clauses thereof require different kinds of reporting. While clause No. 20(b) prescribes reporting of “details of contributions received from employees for various funds ...”, clause 21 and 22 prescribes reporting of “disallowance”, “not allowable”, “inadmissible”.</p> <p>Therefore, in clause No. 20(b) there is no disallowance indicated by the auditors. Hence it is beyond the scope of section 143(1)(a)(vi) to make this addition.</p> <p><i>In appeals, a specific Ground to this effect must be taken.</i></p>
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Stamps authority valuation	FB Clause	10, 21(a)
	IT Act Section	43CA, 56(2)(x)
	Effective from	AY 2021-22
Old law	The tolerance limit for deviation between declared sale proceed and Stamps Authority Valuation is 10%.	
New law	<p>20% deviation shall be allowed if following conditions are satisfied:</p> <p>(i) There is a transfer of residential unit.</p> <p>(ii) Transfer is made during 12.11.2020 to 30.06.2021</p> <p>(iii) Transfer if by way of first time allotment to any person (i.e. primary sale)</p> <p>(iv) Declared sale proceed does not exceed Rs. 2 Crore.</p> <p>“Residential unit” means an independent housing unit with separate facilities for living, cooking and sanitary requirement, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through an interior door in a shared hallway and not by walking through the living space of another household.</p>	
Comment	The amendment is proposed in both section 43CA [for the seller] as well as 56(2)(x) [for the buyer].	
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Tax Audit	FB Clause	11
	IT Act Section	44AB(a)
	Effective from	Ay 2021-22
Old law	<p>44AB(a): Every person carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed Rs. 1 Crore in any previous year, get his accounts audited and furnish audit report.</p> <p>Provided that in the case of a person whose:</p> <p>(a) aggregate of all amounts received including amount received for sales, turnover or gross receipts during the Previous Year, in cash, does not exceed 5% of the said amount, and</p> <p>(b) aggregate of all payments made including amount incurred for expenditure, in cash, during the Previous Year, does not exceed 5% of the said payment,</p> <p>this clause shall have effect as if for the words “1 crore rupees”, the words “5 crore rupees” had been substituted.</p>	
New law	Limit is increased from Rs. 5 Crore to Rs. 10 Crore.	

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Presumption taxation of specified professions	FB Clause	12
	IT Act Section	44ADA
	Effective from	AY 2021-22
Old law	Section 44ADA: Section was introduced through Finance Act, 2016. Since inception the language of section applies to “an assessee, resident in India” . Memorandum to Finance Bill, 2016 stated: <i>“The scheme will apply to such resident assessee who is an individual, HUF or partnership firm but not LLP”</i>	
New law	Section shall apply to an individual, HUF or a partnership firm other than LLP, who is resident in India.	
Comment	Section 44ADA brought at par with 44AD. Question - HUF can also claim benefit of section 44ADA...Can HUF have profession?	
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Transfer of asset by Firm / AOP / BOI to Partners	FB Clause	14(b)
	IT Act Section	45(4), 45(4A)
	Effective from	AY 2021-22
Old law	Section 45(4): <i>“The profits or gains arising from the transfer of a capital asset by way of distribution of capital assets on the dissolution of a firm or other association of persons or body of individuals (not being a company or a co-operative society) or otherwise, shall be chargeable to tax as the income of the firm, association or body, of the previous year in which the said transfer takes place and, for the purposes of section 48, the fair market value of the asset on the date of such transfer shall be deemed to be the full value of the consideration received or accruing as a result of the transfer.</i>	
	Mahul Construction Corporation Vs. ITO (ITAT-Mumbai) dated 24.11.2017: If a firm creates revaluation reserve and distributes to its partners, capital gain is not taxable.	
	Smt. Girija Reddy Vs. ITO (ITAT-Hydrabad) dated 03.04.2012: Increase in partners capital on account of revaluation of assets, capitalization of self-generated goodwill and subsequent payment to partners, does not attract tax.	
	National Company Vs. ACIT (Madras High Court) dated 08.04.2019: Reconstitution of firm by way of admission of two partners and retirement of two partners, does not attract section 45(4) as the partnership firm continues.	
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Transfer of asset by Firm / AOP / BOI to Partners	FB Clause	14(b)
	IT Act Section	45(4), 45(4A)
	Effective from	AY 2021-22
Old law	<p>Sampath Iyengar's "Law of Income Tax" revised by S.Rajaratnam, 12th edition, says: <i>"Retirement is prima facie not covered by the sub-section. But the Departmental view is that the words "or otherwise" immediately succeeding "dissolution" under Section 45(4) would cover even retirement. "Or Otherwise" can only mean "before or after dissolution" in contradistinction to "on". Further Section 45(4) when understood in conjunction with Section 45(3) can refer to formations and dissolutions. Since change in constitution is a concept recognised in Chapter XVI-C of the Act, there is no reason why the law should not have referred to change in constitution along with dissolution, if that were the intent instead of the expression "or otherwise"</i></p> <p>A.N. Naik Associates (2004) 136 Taxman 107 (Bom): If a firm transfers its capital asset to any retiring or continuing partner, section 45(4) shall apply.</p> <p>Courts have also observed that neither section 45(4) nor section 45(1) applies.</p>	
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Transfer of asset by Firm / AOP / BOI to Partners	FB Clause	14(b)
	IT Act Section	45(4), 45(4A)
	Effective from	AY 2021-22

New law

New Section 45(4)	New Section 45(4A)
Overrides section 45(1)	Overrides section 45(1)
Where a partner of firm or member of AOP/BOI receives any capital asset at the time of dissolution or reconstitution of firm / AOP / BOI, which represents the balance in his capital account in the books of account of firm / AOP / BOI	Where a partner of firm or member of AOP/BOI receives money or other asset at the time of dissolution or reconstitution of firm / AOP / BOI, which is in excess of the balance in his capital account in the books of account of firm / AOP / BOI
Any profit or gain arising therefrom shall be taxable in the hands of firm / AOP / BOI under Capital Gain head in the Previous Year in which such capital asset is received	Any profit or gain arising therefrom shall be taxable in the hands of firm / AOP / BOI under Capital Gain head in the Previous Year in which money or other asset is received
Capital Gain shall be computed u/s 48	Capital Gain shall be computed u/s 48
FMV of the capital asset on the date of receipt shall be deemed to be the Full Value of Consideration for the section 48.	Money or FMV of the asset on the date of receipt shall be deemed to be Full Value of Consideration for the purpose of section 48

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Transfer of asset by Firm / AOP / BOI to Partners	FB Clause	14(b)
	IT Act Section	45(4), 45(4A)
	Effective from	Ay 2021-22
New law		
New Section 45(4)		New Section 45(4A)
COA shall be determined in accordance with the provisions of Capital Gain head.		COA = Balance in the capital account at the time of dissolution or reconstitution
“Balance in the capital account in the books of Firm / AOP / BOI shall be calculated without taking into account increase in the Capital A/c due to revaluation of any asset or due to self-generated goodwill or any other self-generated asset. [This has been provided to nullify the effect of decisions discussed above]		Same
--		To avoid double taxation of Firm / AOP / BOI, section 48 has been amended to provide that the amount included in the income of Firm / AOP / BOI u/s 45(4A) which is attributable to a capital asset being transferred, shall be allowed as deduction. This would be relevant when the firm / AOP / BOI shall be transferring the re-valued asset or self-generated goodwill created in the books of firm.
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Incentives to Start-up	FB Clause	19, 25
	IT Act Section	54GB, 80-IAC
	Effective from	AY 2022-23
Old law	Section 54GB: Capital gain can be invested in “eligible start-up” upto 31.03.2021. Section 80-IAC: 3Year – 100% tax holiday is granted to start-up incorporated during 01.04.2016 to 31.03.2021.	
New law	In both sections, the deadline date has been extended to 31.03.2022.	
Comments	Start-ups shall be benefited.	
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Capital gain on self-generated assets	FB Clause	20
	IT Act Section	55(2)
	Effective from	Ay 2022-23
Old law	Capital gain arising on transfer of certain self-generated assets [mentioned in section 55(2)] is taxable by taking Nil cost.	
New law	Now, capital gain on transfer of (i) self-generated goodwill of a profession, or (ii) self-generated trademark / brand name associated with a profession, shall also be taxable by taking Nil cost.	
Comment	If a Chartered Accountant sells self-generated goodwill to another Chartered Accountant, earlier it was not taxable. But now it will be taxable.	
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Deduction of interest on Housing loan	FB Clause	24
	IT Act Section	80EEA
	Effective from	AY 2022-23
Old law	Additional deduction upto Rs. 1,50,000 is allowed in respect of interest on loan taken for affordable house provided the loan is sanctioned during 01.04.2019 to 31.03.2021.	
New law	Deadline extended upto 31.03.2022	
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Deduction to approved Housing Projects	FB Clause	25
	IT Act Section	80-IBA
	Effective from	AY 2022-23
Old law	100% deduction is allowed in respect of profit derived from the business of developing and building “approved housing projects”. The project must be approved during 01.06.2016 to 31.03.2021	
New law	Deadline extended upto 31.03.2022	
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Deduction to rental housing projects	FB Clause	26
	IT Act Section	80-IBA
	Effective from	AY 2022-23
Old law	--	
New law	<p>100% deduction shall also be allowed in respect of profit derived from the business of developing and building “rental housing project”.</p> <p>Here “rental housing project” means a project which is notified by the Central Govt. for this purpose and fulfils the conditions specified in notification.</p>	
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Taxation of income from Retirement Benefit A/c	FB Clause	28
	IT Act Section	89A
	Effective from	AY 2022-23
Old law	--	
New law	<ul style="list-style-type: none">• A person is resident in India• He opened a “specified account” in a notified foreign country while being non-resident in India and resident in that foreign country. <p>“Specified account” means an account maintained in a notified foreign country for retirement benefits and the income from such account is taxed by foreign country at the time of withdrawal / redemption and not on accrual basis.</p> <ul style="list-style-type: none">• The income accrued in specified account shall be taxed in India in such manner and in such year as may be prescribed.	
Comment	Many a time income may be taxable in India on accrual basis and in foreign country on cash basis. This creates mis-match. The amendment seeks to address the problem of mis-match.	
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MAT	FB Clause	31(b)
	IT Act Section	115JB
	Effective from	AY 2021-22
Old law	--	
New law	If there is an increase in Book Profit of the previous year due to the income of past year(s) included in the Book Profit on account of (i) an Advance Pricing Agreement entered u/s 92CC, or (ii) Secondary Adjustment u/s 92CE, the AO shall, on an application made by the assessee, re-compute the Book Profit of the past year(s) and MAT payable, if any, during the previous year, in such manner as may be prescribed and the rectification u/s 154 shall be done within 4 years from end of the financial year in which the application is received by the AO.	
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Return of Income	FB Clause	32(a)
	IT Act Section	139(1)
	Effective from	AY 2021-22
Old law	Existing due date for furnishing Return: (i) 31 st October – for a partner of an audited firm (ii) 30 th November – for an assessee who is required to furnish report of Transfer Pricing u/s 92E	
New law	in (i) – Spouse of such partner if section 5A applies, is also added. In (ii) – Partner of a firm who is required to submit report of Transfer Pricing u/s 92E is, also added.	
Comments	--	
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Belated Return	FB Clause	32(b)
	IT Act Section	139(4)
	Effective from	AY 2021-22
Old law	“Any person who has not furnished a return within the time allowed to him u/s 139(1), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.”	
New law	“Any person who has not furnished a return within the time allowed to him u/s 139(1), may furnish the a return for any previous year at any time within three months prior to the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.”	
Comment	<ul style="list-style-type: none">• The amendment is proposed to curtail the time by 3 months so that belated return could be filed by 31st December (and not by 31st March). But there seems to be a drafting error. The meaning of language is quite different. The word “within” used in the language suggests that belated return can be filed only during the month of January, February and March !!!• There is a grammatical mistake .. article “the” and “a” both crept into.	
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Revised Return	FB Clause	32(c)
	IT Act Section	139(5)
	Effective from	AY 2021-22
Old law	“If any person, having furnished a return u/s 139(1) or 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.”	
New law	“If any person, having furnished a return u/s 139(1) or 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time within three months before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.”	
Effect	The amendment is proposed to curtail the time by 3 months so that revised return could be filed by 31 st December (and not by 31 st March). But there seems to be a drafting error. The meaning of language is quite different. The word “ within ” used in the language suggests that revised return can be filed only during the month of January, February and March !!!	
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Defective Return	FB Clause	32(d)
	IT Act Section	139(9)
	Effective from	AY 2021-22
Old law	<p>Section 139(9) prescribes the conditions in which a return is treated as defective. It further prescribes that in order to cure defect, the AO may intimate defect to the assessee and thereafter the assessee shall rectify defect within 15 days. If the assessee does not rectify, the return becomes invalid.</p> <p>In many cases, the CPC has intimated the defect, but the assesseees have not responded, particularly because they have not seen the e-mails. Due to which, many returns have become invalid, creating problems for assesseees as well as department.</p>	
New law	<p>The Board is empowered to notify that any of the conditions for treating the return as defective, shall not apply or apply with modifications.</p>	
Comments	Good provision	
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Notice u/s 142(1)(i)	FB Clause	33
	IT Act Section	142(1)(i)
	Effective from	01.04.2021
Old law	The notice u/s 142(1)(i) can be served only by AO.	
New law	Notice can also be served by a “prescribed income-tax authority”.	
Comments	-	
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Summary Assessment	FB Clause	34(a)
	IT Act Section	143(1)
	Effective from	01.04.2021
Old law		New law
Intimation u/s 143(1) can be sent within 1 year from end of the financial year in which the return is made.		Time limit reduced is reduced by 3 months.
The AO can make adjustment of “ disallowance of expenditure ” indicated in the audit report but not taken into account in computing the total income in the return.		<p>The AO can make adjustment of “disallowance of expenditure or increase in income” indicated in the audit report but not taken into account in computing the total income in the return.</p> <p>Interesting: CPC has already made such adjustment. One can argue that those adjustments are beyond the authority of section 143(1).</p>
The AO can make adjustment of disallowance of deduction claimed u/s 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or 80-IE, if the return is furnished beyond the due date u/s 139(1).		<p>The AO can make adjustment of disallowance of deduction claimed u/s 10AA or under any provision of Part “C” – Deduction in respect of certain Incomes” of Chapter-VI, if the return is furnished beyond the due date u/s 139(1).</p> <p>[Amendment made to align with section 80AC]</p>
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Scrutiny Notice	FB Clause	34(b)
	IT Act Section	143(2)
	Effective from	01.04.2021
Old law	Scrutiny Notice can be served within 6 months from end of the financial year in which return is filed.	
New law	Scrutiny Notice can be served within 3 months from end of the financial year in which return is filed.	
Comments	Time-limit is reduced by 3 months. Last date for service of notice shall be 30 th June.	
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Income escaping assessment	FB Clause	35 to 40, 42 to 43
	IT Act Section	147 to 151A, 153A, 153C
	Effective from	01.04.2021
Old law		New law
Section 147 to 151A: Assessment or re-assessment of "Income escaping assessment"		Entire scheme of section 147 to 151A has been revamped. Assessment of search / requisition cases, is also brought u/s 147
Section 153A, 153C: Special procedure for assessment of search cases u/s 132 / requisition cases u/s 132A		[Section 153A and 153C shall apply only in relation to a search initiated / requisition made upto 31.03.2021. Search initiated / requisition made on or after 01.04.2021 shall be assessed / re-assessed u/s 147].
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Income escaping assessment	FB Clause	35
	IT Act Section	147
	Effective from	01.04.2021

New Section 147

Section 147:

If any income chargeable to tax, in the case of an assessee, has escaped assessment for any assessment year, the AO may, subject to the provisions of sections 148 to 153, assess or reassess such income or re-compute the loss or the depreciation allowance or any other allowance or deduction for such assessment year.

Explanation.—For the purpose of assessment or reassessment under this section, the AO may assess or reassess the income in respect of any issue, which has escaped assessment, and such issue comes to his notice subsequently in the course of the proceedings under this section, irrespective of the fact that the provisions of section 148A have not been complied with.

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Income escaping assessment	FB Clause	36
	IT Act Section	148
	Effective from	01.04.2021

New Section 148

Section 148:

Before making the assessment, reassessment or re-computation u/s 147, and **subject to the provisions of section 148A**, the AO shall serve on the assessee **a notice, along with a copy of the order passed, if required, under clause (d) of section 148A**, requiring him to furnish within such period, as may be specified in such notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed; and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139:

Provided that no notice under this section shall be issued unless there is information with the AO which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year and the AO has obtained prior approval of the specified authority to issue such notice.

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Income escaping assessment	FB Clause	36
	IT Act Section	148
	Effective from	01.04.2021

New Section 148

Explanation-1:

For the purposes of this section and section 148A, the information with the AO which suggests that the income chargeable to tax has escaped assessment **means,—**

- (i) any information flagged in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time;
- (ii) any final objection raised by the Comptroller and Auditor General of India to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act.

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Income escaping assessment	FB Clause	36
	IT Act Section	148
	Effective from	01.04.2021

New Section 148

Explanation-2:

For the purposes of this section, where,—

- (i) a search is initiated u/s 132 or books of account, other documents or any assets are requisitioned u/s 132A, on or after 01.04.2021, in the case of the assessee; or
 - (ii) a survey is conducted u/s 133A in the case of the assessee on or after 01.04.2021; or
 - (iii) the AO is satisfied, with the prior approval of the PCIT / CIT that any money, bullion, jewellery or other valuable article or thing, seized or requisitioned in case of any other person on or after 01.04.2021, belongs to the assessee; or
 - (iv) the AO is satisfied, with the prior approval of PCIT / CIT, that any books of account or documents, seized or requisitioned in case of any other person on or after 01.04.2021, pertains or pertain to, or any information contained therein, relate to, the assessee,
- the AO shall be **deemed to have information which suggests that the income chargeable to tax has escaped assessment** in the case of the assessee for the 3 assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or books of account, other documents or any assets are requisitioned or survey is conducted in the case of the assessee or money, bullion, jewellery or other valuable article or thing or books of account or documents are seized or requisitioned in case of any other person.

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Income escaping assessment	FB Clause	36
	IT Act Section	148
	Effective from	01.04.2021

New Section 148

Explanation-3:

For the purposes of this section “specified authority” means the specified authority referred to in section 151.

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Income escaping assessment	FB Clause	37
	IT Act Section	148A
	Effective from	01.04.2021

New Section 148A

The AO **shall, before issuing any notice u/s 148**, --

- (a) conduct any enquiry, **if required**, with the prior approval of specified authority, with respect to the information which suggests that the income chargeable to tax has escaped assessment;
- (b) provide an opportunity of being heard to the assessee, with the prior approval of specified authority, by serving upon him a notice to show cause within such time, as may be specified in the notice, being not less than 7 days and but not exceeding 30 days from the date on which such notice is issued, or such time, as may be extended by him on the basis of an application in this behalf, as to why a notice u/s 148 should not be issued on the basis of information which suggests that income chargeable to tax has escaped assessment in his case for the relevant assessment year and results of enquiry conducted, if any, as per clause (a);
- (c) consider the reply of assessee furnished, if any, in response to the show-cause notice referred to in clause (b);
- (d) decide, on the basis of material available on record including reply of the assessee, whether or not it is a fit case to issue a notice u/s 148, by passing an order, with the prior approval of specified authority, within 1 month from the end of the month in which the reply referred to in clause (c) is received by him, or where no such reply is furnished, within 1 month from the end of the month in which time or extended time allowed to furnish a reply as per clause (b) expires:

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Income escaping assessment	FB Clause	37
	IT Act Section	148A
	Effective from	01.04.2021

New Section 148A

Proviso:

The above procedure of enquiry, providing opportunity, consideration of reply and passing of order, shall not apply in a case where,—

- (a) a search is initiated u/s section 132 or books of account, other documents or any assets are requisitioned u/s 132A in the case of the assessee on or after 01.04.2021;
- (b) the AO is satisfied, with the prior approval of the PCIT / CIT that any money, bullion, jewellery or other valuable article or thing, seized in a search u/s 132 or requisitioned u/s 132A, in the case of any other person on or after 01.04.2021, belongs to the assessee; or
- (c) the AO is satisfied, with the prior approval of the PCIT / CIT that any books of account or documents, seized in a search u/s 132 or requisitioned u/s 132A, in case of any other person on or after 01.04.2021, pertains or pertain to, or any information contained therein, relate to, the assessee.

Explanation.—For the purposes of this section, “specified authority” means the specified authority referred to in section 151.

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Income escaping assessment	FB Clause	38
	IT Act Section	149
	Effective from	01.04.2021

New Section 149

The notice u/s 148 shall be issued –

(a) Normally - Within 3 years from end of the relevant assessment year

*(b) If the AO has in his possession **books of accounts or other documents or evidence** which reveal that the income chargeable to tax, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to Rs. 50,00,000 or more for that year – Within 10 years from end of the relevant assessment year*

Proviso 1st and 2nd – Transitional provisions

Proviso 3rd –

For the purpose of computing the period of limitation as per this section, the time or extended time allowed to the assessee, as per show-cause notice issued u/s 148A(b) or the period during which the proceeding u/s 148A is stayed by an order or injunction of any court, shall be excluded.

Proviso 4th –

Provided also that where immediately after the exclusion of the period referred to in the 3rd Proviso, the period of limitation available to the AO for passing an order u/s 148A(d) is less than 7, such remaining period shall be extended to 7 days and the period of limitation in sub-section (1) shall be deemed to be extended accordingly.

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Income escaping assessment	FB Clause	39
	IT Act Section	151
	Effective from	01.04.2021

New Section 151

“Specified authority” for the purposes of section 148 and section 148A shall be,—

- (i) PCIT / PDIT / CIT / DIT, if 3 years or less than 3 years have elapsed from the end of the relevant assessment year;
- (ii) PCCIT / PDGIT (If there is no PCCIT / PDGIT, then CCIT / DGIT), if more than 3 years have elapsed from the end of the relevant assessment year.

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Income escaping assessment	FB Clause	40
	IT Act Section	151A
	Effective from	01.04.2021

Amendment in section 151A

The conducting of enquiries or issuance of show-cause notice or passing of order u/s 148A, shall also be faceless.

(The assessment / reassessment u/s 147, issuance of notice u/s 148 and sanction u/s 151 are already faceless).

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Income escaping assessment	FB Clause	35 to 40, 42 to 43
	IT Act Section	147 to 151A, 153A, 153C
	Effective from	01.04.2021

Steps involved in new scheme

	Section	Action	Prior approval of specified authority is required?	Comments
1	Proviso to section 148	AO must have information which suggests that the income chargeable to tax has escaped assessment.		AO shall be deemed to have information in Search, Requisition or Survey cases for preceding 3 years.
2	148A(a)	AO shall conduct enquiry with respect to the information, if required "If required" indicates that the AO shall apply his own mind whether further enquiry is required or not.	Yes	Not applicable in search or requisition cases
3	148A(b)	AO shall give opportunity of hearing to assessee by serving a SCN as to why a notice u/s 148 should not be issued. Assessee can file reply within the time specified in SCN (minimum time – 7 days, Maximum – 30 days, can be extended by AO on assessee's application)	Yes	Not applicable in search or requisition cases

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Income escaping assessment	FB Clause	35 to 40, 42 to 43
	IT Act Section	147 to 151A, 153A, 153C
	Effective from	01.04.2021

Steps involved in new scheme

	Section	Action	Prior approval of specified authority is required?	Comments
4	148A(c)	AO shall consider the reply filed by assessee		Not applicable in search or requisition cases
5	148A(d)	AO shall decide, on the basis of information available on record including reply of the assessee, whether or not it is a fit case to issue notice u/s 148, by passing an order., within 1 month from end of the month in which the reply is received by him (or within 1 month from end of the month in which time / extended time expires, if no reply is filed)	Yes	Not applicable in search or requisition cases

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Income escaping assessment	FB Clause	35 to 40, 42 to 43
	IT Act Section	147 to 151A, 153A, 153C
	Effective from	01.04.2021

Steps involved in new scheme

	Section	Action	Prior approval of specified authority is required?	Comments
6	148	AO shall serve a notice upon the assessee alongwith a copy of the order passed u/s 148A(d), if any	Yes	Notice shall be issued within 3 years / 10 years as prescribed in section 149. <i>[Alert – Existing section 150 shall apply in some exceptional cases. In those cases, notice can be issued at any time]</i>
7	148	Assessee shall submit return within the time specified by AO in the notice.		Provisions of the Act shall, so far as may be, apply as if such return were a return required to be furnished u/s 139.
8	147	AO shall proceed to complete assessment.		Assessment shall be completed within the time-limit prescribed in section 153(2)

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Income escaping assessment	FB Clause	35 to 40, 42 to 43
	IT Act Section	147 to 151A, 153A, 153C
	Effective from	01.04.2021

Fundamental aspects

	Old law	New law
AO must have reason to believe	Necessary	More safeguard is provided to the assessee by Section 148A.
AO must record reasons in writing	Necessary	
Prior approval of higher authority	Necessary at one stage only – before issuing notice u/s 148	
Assessee can demand reasons and AO duty bound to supply reasons	Yes (GKN Drive – Supreme Court)	
Application of mind by AO	Necessary	
Application of mind by higher authority	Necessary	

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Income escaping assessment	FB Clause	35 to 40, 42 to 43
	IT Act Section	147 to 151A, 153A, 153C
	Effective from	01.04.2021
Fundamental aspects		
	Old law	New law
Validity of assessment, if the AO is able to assessee only newer income without survival of original issue which led to the proceeding	Controversy in courts. Better view was – it is not allowed. The assessment shall be illegal. Ranbaxy Laboratories Ltd. (Delhi) / Jet Airways (Bombay).	This is a very grey area for assessee. Now, the situation has been put in Explanation to section 147. It seems that the assessment shall be valid.
Benefit of “change in opinion”, “proceeding without fresh material”, “full and true disclosure” in earlier proceedings	Section 147 talks of “income chargeable to tax has escaped assessment”. Hence <u>Kelvinator India Ltd. (2010) 320 ITR 561 (SC)</u> – Supreme Court in favour of assessee	Language of section 147 is still same. Kelvinator Ltd. – Supreme Court still holds goods.
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Income escaping assessment	FB Clause	35 to 40, 42 to 43
	IT Act Section	147 to 151A, 153A, 153C
	Effective from	01.04.2021
Fundamental aspects		
	Old law	New law
Benefit of section 152(2) [i.e. dropping the proceeding] available?	Yes	Yes
Separate order of each assessment year or consolidated order of all assessment years?	Separate order	Separate order
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Income escaping assessment	FB Clause	35 to 40, 42 to 43
	IT Act Section	147 to 151A, 153A, 153C
	Effective from	01.04.2021

Fundamental aspects

	Old law	New law
Survey cases u/s 133A	Need based assessment of relevant year only	For 3 years – Compulsory Beyond 3 years – Need-based and quantum-based
Search cases u/s 132 or Requisition cases u/s 132A	For 6 years – Compulsory Beyond 6 years - Need-based and Quantum based	For 3 years – Compulsory Beyond 3 years – Need-based and quantum-based

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Time-limit for completion of 143(3) / 144	FB Clause	41
	IT Act Section	153(1)
	Effective from	01.04.2021
Old law		New law
<p>Order of assessment u/s 143(3) or 144 can be made within 12 months from end of the relevant A.Y.</p>		<p>Order of assessment u/s 143(3) or 144 can be made within 9 months from end of the relevant A.Y.</p> <p>Hence time-limit is reduced by 3 months.</p> <p>Consequential effect on section 153(4): If a reference u/s 92CA has been made to TPO, the period available for assessment shall be extended by 12 months. Hence this would be reduced from 12+12=24 months to 9+12=21 months.</p>
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TDS out of dividend	FB Clause	44
	IT Act Section	194
	Effective from	01.04.2020
Old law	--	
New law	Dividend paid by Special Purpose Vehicle (SPV) to Business Trust (i.e. InviT or REIT) has been exempted from TDS requirement.	
Comments	Such dividend is exempt in the hands of Business Trust u/s 10(23FC) w.e.f. 01.04.2020. Hence retrospective amendment was necessary.	
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TDS out of Interest	FB Clause	45
	IT Act Section	194A
	Effective from	01.04.2021
Old law	--	
New law	Interest paid by Infrastructure Debt Fund on Zero Coupon Bond has been exempted from TDS requirement.	
Comments	--	
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TDS out of payments to Specified Senior Citizens	FB Clause	48
	IT Act Section	194P
	Effective from	01.04.2021
Who will deduct?	Specified Bank "Specified Bank" means a banking company notified by Central Govt.	
Who is payee?	Specified senior citizen "Specified senior citizen" means an individual – (i) Who is resident in India, (ii) Who is of the age of 75 years or more at any time during the Previous Year, (iii) Who is having Pension Income (+) No other income except interest income from any account maintained by him in the same specified bank in which he is receiving his pension income, and (iv) Who has furnished a declaration in a prescribed form to the specified bank.	
Transaction	Payment of Pension Income + Interest income	
TDS at which time?	When to deduct? ... as of now it's a mystry!!!	
TDS Rate	Specified bank shall after giving effect to the deduction allowable under Chapter VI-A and rebate allowable under section 87A, compute the total income of such specified senior citizen and deduct TDS on such total income on the basis of the rates in force.	
Extra Point	Section 194P overrides all other TDS provisions. Hence no TDS u/s 192 or 194A.	
Benefit to Payee?	The specified senior citizen shall not be required to furnish return u/s 139(1).	
Comments	Is it compulsory TDS? ... No it will apply only if the Payee submits a declaration	
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TDS out of purchase of goods	FB Clause	48, 50
	IT Act Section	194Q, 206AA
	Effective from	01.07.2021
Who will deduct?	Any person, being a buyer whose total sales, gross receipts or turnover from the business exceed Rs. 10 Crore during the financial year preceding the financial year in which the purchase of goods is carried out	
Who is payee?	Any resident, being seller	
Transaction	Purchase of any goods of the value or aggregate of such value exceeding Rs. 50 lakh in any previous year	
TDS at which time?	Credit of sum to the account of Seller or at the time of making payment to the Seller, whichever is earlier	
TDS Rate	0.1% of such sum exceeding Rs. 50 lakh. If the Payee does not submit PAN, TDS shall be 5%.	
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TDS out of purchase of goods		FB Clause	48, 50
		IT Act Section	194Q, 206AA
		Effective from	01.07.2021
Exemption from TDS	<ul style="list-style-type: none">• The Central Govt. can notify any buyer who will not be required to deduct TDS.• If TDS is deductible by the buyer under any other provision. [Presently there is no other TDS on purchase of goods. Hence this exemption does is academic only]• If TCS is collectible by the Seller u/s 206C <u>other than TCS on sale of goods u/s 206C(1H).</u> [Please read section 206C(1H) wherein it has been prescribed that if the buyer deducts TDS, the TCS shall not apply. Thus, we can draw following conclusions: (i) If TDS u/s 194Q + TCS u/s 206C(1H) – Buyer shall deduct TDS u/s 194Q. (ii) If TDS u/s 194Q + TCS under any provision other than 206C(1H) – Seller shall collect TCS.		
Comments	<p>Mr. A is having turnover exceeding Rs. 10 crore in preceeding year .. He will have to take care of:</p> <ul style="list-style-type: none">(i) Section 194Q on purchase transactions, as well as(ii) Section 206C(1H) on sale transactions <p>Oh my God!!!</p>		
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TDS out of purchase of goods	FB Clause	48, 50
	IT Act Section	194Q, 206AA
	Effective from	01.07.2021

Section 194Q Vs. 206C(1H) – for a quick reference

	Section 194Q	Section 206C(1H)
Who will deduct?	Any person, being a buyer whose total sales, gross receipts or turnover from the business exceed Rs. 10 Crore during the financial year preceding the financial year in which the purchase of goods is carried out	Any person, being a seller whose total sales, gross receipts or turnover from the business exceed Rs. 10 Crore during the financial year preceding the financial year in which the sale of goods is carried out
Who is payee?	Any resident, being seller	Any person, being buyer (definition of Buyer has certain exclusions)
Transaction	Purchase of any goods of the value or aggregate of such value exceeding Rs. 50 lakh in any previous year	Receives any amount as consideration for sale of goods exceeding Rs. 50 lakh in any previous year
TDS at which time?	Credit of sum to the account of Seller or at the time of making payment to the Seller, whichever is earlier	At the time of receipt

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TDS out of purchase of goods	FB Clause	48, 50
	IT Act Section	194Q, 206AA
	Effective from	01.07.2021

Section 194Q Vs. 206C(1H) – for a quick reference

	Section 194Q	Section 206C(1H)
TDS Rate	0.1% of such sum exceeding Rs. 50 lakh. If the Payee does not submit PAN, TDS shall be 5%.	0.1% of such sum exceeding Rs. 50 lakh. If the Payee does not submit PAN, TDS shall be 1%.
Exemption from TDS	The Central Govt. can notify any buyer who will not be required to deduct TDS. TDS is deductible by the buyer under any other provision of this Act. TCS is collectible by the Seller u/s 206C other than TCS on sale of goods u/s 206C(1H)	The Central Govt. can notify any seller who will not be required to collect TCS. Goods exported out of India OR if the TCS is collectible u/s 206C(1)/(1F)/(1G) If the buyer deducts TDS has deducted TDS.
TDS / TCS on GST?	Old Circular No. ____ No TDS on GST	Circular No. ____ Yes TCS on GST

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Higher TDS of Non-Filers of Return	FB Clause	51
	IT Act Section	206AB
	Effective from	01.07.2021
Old law	--	
New law	<p>If TDS is required under any provision other than section 192, 192A, 194B, 194BB, 194LBC or 194N out of income paid or payable or credited to a “specified person” , the TDS shall be deducted at the HIGHER of:</p> <p>(i) Twice the prescribed TDS rate, or</p> <p>(ii) 5%</p> <p><i>“Specified person” means a person who has not filed the returns of income for both of the 2 assessment years relevant to the 2 previous years immediately prior to the previous year in which TDS is required to be deducted, for which the time limit u/s 139(1) has expired; and the aggregate of TDS and TCS in his case is Rs. 50,000 or more in each of these 2 previous years.</i></p> <p>However, the “specified person” shall not include a Non-Resident who does not have a P/E in India.</p> <p>Explanation.—For the purposes of this sub-section, the expression “permanent establishment” includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.’.</p>	
Extra Point	If section 206AA and 206AB, both are applicable, the TDS shall be deducted at HIGHER of the two rates prescribed in section 206AA and 206AB.	
Comments	How to get information that the payee has submitted ITR or not?	
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Higher TCS of Non-Filers of Return	FB Clause	52
	IT Act Section	206CCA
	Effective from	01.07.2021
Old law	--	
New law	<p>If TCS is required under any provision, on any sum received by a person from a “specified person” , the TCS shall be collected at the HIGHER of:</p> <p>(i) Twice the prescribed TCS rate, or</p> <p>(ii) 5%</p> <p><i>“Specified person” means a person who has not filed the returns of income for both of the 2 assessment years relevant to the 2 previous years immediately prior to the previous year in which TCS is required to be collected, for which the time limit u/s 139(1) has expired; and the aggregate of TDS and TCS in his case is Rs. 50,000 or more in each of these 2 previous years.</i></p> <p>However, the “specified person” shall not include a Non-Resident who does not have a P/E in India.</p> <p>Explanation.—For the purposes of this sub-section, the expression “permanent establishment” includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.’.</p>	
Extra Point	<p>If section 206CC and 206CCA, both are applicable, the TCS shall be collected at HIGHER of the two rates prescribed in section 206CC and 206CCA.</p> <p><i>[Presently, 206CC = 206CCA. Hence this point has not value]</i></p>	
Comments	How to get information that the Collectee has submitted ITR or not?	
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Interest	FB Clause	53
	IT Act Section	234C
	Effective from	01.04.2021
Old law	Advance-tax on dividend income covered u/s 115BBDA, can be paid after earning such dividend. Interest u/s 234C shall not be levied for previous installments.	
New law	Advance-tax on dividend income covered u/s 2(22)(a)/(b)/(c)/(d), can be paid after earning such dividend. Interest u/s 234C shall not be levied for previous installments.	
Comments	Benefit is not allowed for dividend covered u/s 2(22)(e).	
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Settlement Commission	FB Clause	54 to 65
	IT Act Section	245A to 245M
	Effective from	01.02.2021
Old law	--	
New law	Bye Bye to Settlement Commission w.e.f. 01.02.2021. Special arrangements made for disposal of pending applications.	
Comments	--	
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Dispute Resolution Committee (DRC)	FB Clause	66
	IT Act Section	245MA
	Effective from	01.04.2021
New law	<ul style="list-style-type: none">• Central Govt. shall constitute one or more Dispute Resolution Committees (DRCs)• Persons specified by CBDT, who fulfills “specified conditions” can opt for dispute resolution by DRC.• Dispute arising from any variation in the “specified order” can be resolved.• A detailed scheme of DRC shall be notified by the Central Govt.• DRC shall be faceless.• DRC shall have power to reduce or waive any penalty imposable under the Act or grant immunity from prosecution for any offense punishable under the Act..	
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Dispute Resolution Committee (DRC)	FB Clause	66
	IT Act Section	245MA
	Effective from	01.04.2021
Definitions	<p>Simply speaking “Specified conditions” means the offenders under certain Acts, like FEMA, IPC, Unlawful Activities Act, Narcotics Act, Benami Transactions Act, Prevention of Corruption Act, Money Laundering Act, etc., shall not be eligible to claim benefit of DRC.</p> <p>“Specified order” means such order, including draft order, as may be specified by the Board, where:</p> <ul style="list-style-type: none">(i) Aggregate variation proposed or made in order does not exceed Rs. 10 lakh,(ii) The total income as per return does not exceed Rs. 50 lakh (where a return has been filed by the assessee)(iii) Such order is not based on search u/s 132, requisition u/s 132A, survey u/s 133A or information received in pursuance of DTAA u/s 90 or 90A	
Comments	<p>Is the order of DRC binding? Can assessee file appeal against the order of DRC?</p> <ul style="list-style-type: none">• Title is DRC• Assessee is opting for DRC. It is his choice to opt or not opt.• There is no proposal to amend the provisions relating to appeals.• Seems they will bring restriction in the Scheme.	
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Advance Ruling	FB Clause	67 to 77
	IT Act Section	245N to 245W
	Effective from	01.04.2021
Old law	--	
New law	“Authority for Advance Ruling” is being replaced by “Board for Advance Ruling” It shall be faceless	
Comments	Why this done? Please read the Memorandum to Finance Bill.	
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ITAT	FB Clause	78
	IT Act Section	255
	Effective from	01.04.2021
Old law	--	
New law	ITAT shall be faceless	
Comments	CIT(A) is simply extension of assessment. But ITAT is a Tribunal. Further, the ITAT is the last facts finding authority. Should it be faceless, is a big question!!!	
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Provisional attachment	FB Clause	79
	IT Act Section	281B
	Effective from	01.04.2021
Old law	Provisional attachment of property of assessee can be done during the pendency of any assessment or reassessment proceeding.	
New law	Provisional attachment also possible during the pendency of any proceeding for imposition of penalty u/s 271AAD (i.e. 100% penalty for false entry / omission of entry) where the amount or aggregate amount of penalty likely to be imposed exceeds Rs. 2 Crore.	
Comments	--	
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Clauses not discussed, being less important to us

FB Clause	IT Act Section	Provision
3(iii)	2(19AA)	Definition of “demerger” amended for public sector companies
3(iv)	2(29A)	Meaning of “liable to tax”
3(vi)	2(48)	Meaning of “Zero Coupon Bond”
4	9A	Eligible Investment Funds
5(a)(i)	10(4D)	Non-Residents
5(a)(ii)	10(4E)	Non-Residents
5(a)(ii)	10(4F)	Non-Residents
5(e)	10(23FE)	Non-Residents
5(f)	10(23FF)	Non-Residents

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Clauses not discussed, being less important to us

FB Clause	IT Act Section	Provision
13, 15(a)/(b)	44DB	Business Re-organization of Co-operative Bank
15(c), 17, 21(b), 23	47, 49, 56(2)(x), 79	Relocation of capital asset of funds
22	72A	Public sector companies
27	80LA	Offshore Banking Units / IFSC
30	115AD	Non-Residents
31(a)	115JB	Foreign Company
49	196D	Non-Residents

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Vivad se Vishwas Scheme

- **Notification No. 04/2021 / F. No. IT(A) / 01 / 2020-TPL dated 31.01.2021:**
Scheme extended to 28.02.2021
- **Retrospective amendment made from 17.03.2020:**
The cases pending before Settlement Commission shall not be eligible for scheme.

Speech of Hon'ble Finance Minister

Speech	<p>Para 169: <i>".. in order to ease compliance for the taxpayer, details of salary income, tax payments, TDS, etc. already come pre-filled in income tax returns. To further ease filing of returns, details of capital gains from listed securities, dividend income, and interest from banks, post office, etc. will also be pre-filled."</i></p>
Effect	<p>Pre-filled Returns will have details of:</p> <ul style="list-style-type: none">• Capital gain from listed securities,• dividend,• Interest from Bank,• Interest from Post office interest, <p>Hello !!! Think deeply. It's a great step in controlling evasion of tax on these incomes !!!</p>

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