

Analysis of Finance Act 2021

JB Nagar CPE Study Circle

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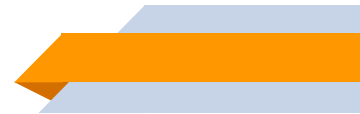
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- Finance Minister (FM) Nirmala Sitharaman has presented the Union Budget 2021 of India on the 1st of February, 2021.
- This Act gives effect to proposals of the central government for the Financial year 2021-22. The Finance Act is a part of the Union Budget, stipulating all the legal amendments required for the changes in taxation proposed by the Finance Minister.
- This Act encompasses all amendments required in various laws pertaining to tax, in accordance with the tax proposals made in the Union Budget.
- On 23rd March 2021, the Lok Sabha, the lower house of India's bi-cameral legislature, passed the Finance Act, 2021 (the amended Act) with certain amendments & 10 New Section. And the same received assent of president on 28th March 2021

Existing Goodwill Provisions

- ❑ The Supreme Court in the case of **Smifs Securities Ltd. 348 ITR 302 (2012)** had held that the **goodwill of a business or profession is a depreciable asset and depreciation on goodwill is allowable** under section 32.
- ❑ Therefore the previously depreciation is calculated as follows

Particulars	Amount
Opening WDV of block of assets	100
Add: Actual cost of any asset acquired during the previous year under that block	50
Less: Money payable in respect of any asset, sold, destroyed discarded, or demolished during the previous year together with the scrap value, if any	70
Closing WDV of block of assets	80
Depreciation/Amortization @ 25%	20



Amendments in Provisions of Goodwill

- Goodwill of a business or profession will not be considered as a depreciable asset.**
- Section 2(11)**
Exclude goodwill of a business or profession from the definition of 'block of assets'.
- Section 32(1)(ii) and Explanation 3 to section 32
Goodwill of a business or profession shall not be considered as an asset and shall not be eligible for depreciation.
- Proviso is added to section 50(2) to
- Adjust closing WDV of intangible asset as on 31.03.2020:**
 - Reduce standalone tax WDV of goodwill
 - Difference between actual cost of goodwill and depreciation allowable till 31 March 2020.
 - Reduction not exceed the closing WDV of intangible assets as on 31 March 2020.
- Section 55(2)(a)**
 - Goodwill is purchased by an assessee, the cost of acquisition = purchase price for Section 48
 - Assessee has claimed and has been allowed depreciation prior to assessment year 2020-21, then depreciation so claimed by the assessee shall be reduced from the amount of purchase price of the goodwill.

Computation of WDV

Now the Computation of WDV of the block of intangible assets as on 31.03.2021 is as follows: -

Case-1 In April 2019, XYZ Ltd. sold the trademarks in Rs. 40 crores

Case-2 In April 2019, XYZ Ltd. sold the trademarks in Rs. 80 crores

Particulars	Case - 1	Case - 2
Previous Year 2018-19		
Intangible assets acquired on April 2018		
▪ Goodwill	100.00	100.00
▪ Trademarks	50.00	50.00
▪ Licenses & franchisees	50.00	50.00
Block of intangible assets [A]	200.00	200.00
Less: Depreciation [B = A * 25%]	(50.00)	(50.00)
WDV as on 31-03-2019 [C = A-B]	150.00	150.00
Previous Year 2019-20		
Opening WDV [C]	150.00	150.00
Less: Intangible assets sold during year [D]	(40.00)	(80.00)
Less: Depreciation [E = (C - D) * 25%]	(27.50)	(17.50)
WDV as on 31-03-2020 [F = C - D - E]	82.50	52.50

Computation of WDV

Particulars	Case - 1	Case - 2
Previous Year 2020-21		
Opening WDV [F]	82.50	52.50
Adjustment on account of goodwill	(56.25)	(52.50)
Less: Actual cost of goodwill included in block of assets as reduced by the previous years' depreciation [G]		(Amount of reduction' on account of such goodwill shall not exceed the WDV)
Cost of Goodwill	100.00	
Less: Dep. allowed on goodwill:		
–Previous Year 2018-19 [100 * 25%]	25.00	
–Previous Year 2019-20 [(100-25) * 25%]	18.75	
WDV of Goodwill included in Block of assets	56.25	
Less: Depreciation [H = (F – G) * 25%]	(6.56)	0.00
WDV of block of intangible assets as on 31-03-2021	19.69	0.00

Key Points

- ❑ These amendments is effective from AY 2021-22, What about the advance tax payments? Interest under sections 234B and 234C get attracted ?
- ❑ The amendment only excludes “goodwill” from the definition of “block of assets” and not any other intangible assets. Therefore now onwards the payment made at the time of purchase of goodwill need to be proportionate.
- ❑ **As per Hindustan Coca Cola Beverages (P.) Ltd. , 198 TAXMAN 104 (Delhi) and Areva T & D India Ltd., 20 taxmann.com 29 (Delhi)**
 - Depreciation was claimed on goodwill by the assessee on account of
 - Payment made for the marketing and trading reputation,
 - Trade style and name, Marketing and distribution,
 - Territorial know-how, Information or consumption patterns and
 - Habits of consumers in the territory Copyrights,
 - Patents, Trademarks,
 - Trade secrets Customer lists,
 - Marketing rights Franchises
 - Business claims Business information;
 - Business records Contracts;
 - Employees Knowhow,

- ❑ Ineligible for depreciation - both for existing goodwill as on 31 March 2020 and new goodwill acquired on or after 1 April 2020.

- ❑ Cost of acquisition of self-generated goodwill will be NIL.

- ❑ **Adjust closing WDV of intangible asset as on 31.03.2020:**
 - Reduce standalone tax WDV of goodwill
 - Difference between actual cost of goodwill and depreciation allowable till 31 March 2020.
 - Reduction not exceed the closing WDV of intangible assets as on 31 March 2020.

Existing Slump sale Provision -50B

Computation of Capital Gain/Loss in Case of Slump Sale as follows:

Particular	Amount
Full value of consideration	Xxx
(-) Expenses in relation to transfer	Xxx
Net consideration	Xxx
(-) Cost of acquisition/ Net worth	Xxx
Capital Gain or (Loss)	XXX

- "Net worth" = aggregate of total assets - value of liabilities.
- Aggregate of total assets is (a) tax WDV of depreciable assets (b) NIL value for capital assets (full deduction Claimed under investment-linked tax holiday provision and (c) book value of other assets.

As per section 2(42C) of Income -tax Act 1961, Slump Sale means

- **the transfer of one or more undertakings**
- **as a result of the sale**
- for a lump sum consideration
- without values being assigned to the individual assets and liabilities in such sales.

Divergent views on taxation of slump exchange

The Courts have taken divergent views on taxation of slump exchange (i.e. a transfer of an undertaking for consideration other than money) :

- ❑ **Bombay HC in Bharat Bijlee { [2014] 46 taxmann.com 257}: Slump exchange transaction would not be taxable.** held that where the assessee transferred its lift division to another company in terms of scheme of arrangement under section 391, read with section 394 of Companies Act, 1956, in view of the fact that the consideration for the said transfer was not determined by parties in terms of money but its disbursement was to be in terms of allotment or issue of bonds/preference shares, it was to be regarded as a case of exchange and not a sale and, thus, provisions of section 2(42C) of the Act did not apply to assessee's case
- ❑ **Delhi HC in SREI Infrastructure { [2012] 20 taxmann.com 476}: Slump exchange transaction would be taxable**
- ❑ **The Supreme Court in Vatsala Shenoy vs. Jt. CIT [2016] 74 taxmann.com 143/243 Taxman 152/389 ITR 519**
- ❑ **The Bombay High Court in the case of Pr. CIT v. UTV Software Communication Ltd. [2019] 103 taxmann.com 12/261 Taxman 562**
- ❑ **The ITAT Mumbai Bench in the case of Oricon Enterprises Ltd. v. Asstt. CIT [2018] 94 taxmann.com 250/171 ITD 231**

Divergent views on taxation of slump exchange

Transfer which “in effect and substance” is by way of sale is also currently covered in the definition of slump sale under section 50C of the Act as interpreted by various courts.

Hon’ble Supreme Court in CIT vs. R.R. Ramakrishna Pillai [(1967) 66 ITR 725 SC]. If a transfer of an asset is in lieu of another asset (non-monetary) it can be said to be monetized in a situation where the consideration for the asset transferred is ascertained first and is then dis-charged by way of non-monetary assets. In this situation it would be a case of transfer by way of sale and would thus be covered within existing provisions of section 50C of the Act.

Hon’ble SC in the case of Artex Manufacturing Company [(1997), 227 ITR 260] held that the sale of business on a going concern for a lump-sum non-monetary consideration was transfer by way of sale on the ground that the slump price was determined by the value on the basis of itemized assets, though this price was not mentioned in the agreement.

Ho’ble SC in the case of Dhampur Sugar Mills [(2006) 147 STC 57] considered the case of a dealer who took a sugar mill on long term lease for an agreed amount of license fee and in satisfaction therefore, the dealer was required to give the entire quantity of molasses to the owner of the sugar mill. It was held that the said transaction “in effect and substance” involved passing of monetary consideration and was accordingly liable to sales tax.

Amended Provisions of Slump sale

- ❑ Definition of Slump sale Section 2(42C):
 - “**transfer of undertaking as a result of the sale**” to “**transfer of undertaking by any means**”
 - all types of “transfer” as defined in section 2(47) are included within its scope.
 - Now slump sale by way of exchange will also be covered and now paying cash consideration is not necessary.
 - This would bring cases like sale of business division against equity shares, sale against assets (instead of monetary consideration) within the ambit of slump sale.

- ❑ Section 50B(2)
 - Fair market value of capital asset instead of book value shall be considered
 - Method to calculate the fair market value (FMV) of the capital assets – Not yet prescribed

- ❑ New clause in Explanation 2 of section 50
 - Value of capital asset being goodwill, which **has not been acquired** by the assessee by purchase from previous owner, shall be taken as nil while computing net worth.

Slump sale - FMV Vs Actual Sale Consideration

Impact of FMV :-

Tax implications	in hands of seller	in hands of buyer
Amount received by transferor > FMV	Nil	<ul style="list-style-type: none"><input type="checkbox"/> Excess consideration need to be recognised as value for goodwill or for other commercial Right of similar nature<input type="checkbox"/> No depreciation on the goodwill.<input type="checkbox"/> goodwill would be treated as capital assets and capital gain shall arise on its subsequent transfer.
Actual amount received by Transferor < FMV.	Higher capital gain tax liability due to deeming fiction.	<ul style="list-style-type: none"><input type="checkbox"/> Short consideration can be treated as capital reserve should not be taxable

Amendment effective from 1st April 2021 and will apply from A.Y. 2021-22. Accordingly, transactions of slump exchange in FY 2020-21 will be subject to taxation.



Dissolution or reconstitution of partnership firm Section :45(4)

Heading	Existing Provision	Amended Provision
<p>Taxation on receipt of capital asset or money by a Partner</p>	<p><input type="checkbox"/> <u>Dissolution or otherwise:</u> Capital Gains tax in hands of firm only in case of transfer of <u>capital asset</u></p> <p><input type="checkbox"/> <u>Reconstitution</u> / <u>Retirement of a partner:</u> No taxation of capital gains held by various courts.</p> <p><input type="checkbox"/> <u>Distribution of money:</u> - No taxability in hands of firm</p>	<p><input type="checkbox"/> Sub-section 4 of Section 45 is substituted capital gains tax will be chargeable in hands of firm on receipt of <u>money or capital asset</u> by a Partner representing his capital account balance on <u>reconstitution (No dissolution covered by Sec 9B)</u></p> <p><input type="checkbox"/> Capital gains tax will be chargeable in hands of firm on receipt of money or capital asset by a Partner in excess of his capital account balance</p> <p><input type="checkbox"/> Value of money and FMV in case of capital asset will be deemed to be full value of consideration</p> <p><input type="checkbox"/> Capital account balance of the partner will be deemed to be Cost of Acquisition</p>

Tax on transfer of money/property by firm/AOP/BOI to its partners or members

❑ Calculation of capital gain :

Value of money received

Add : Fair Market value of capital asset received

Less : Balance in the capital account (without giving effect to revaluation of assets, self-generated goodwill or any other self-generated asset)

❑ If the above is a negative figure, then the capital gain shall be NIL.

Before Section 9B

❑ No Taxability

- Distribution, division or allotment of assets
- by a partnership firm upon dissolution or reconstitution
- is nothing but a mutual adjustment of rights between the partners.

- ❑ **Apex Court in case of Malabar Fisheries Co. vs. CIT [1979] 2 Taxman 409 (SC)** has held that a partnership firm, under the Indian Partnership Act, 1932, **is not a distinct legal entity, apart from the partners constituting it.** The firm, as such, has no separate rights of its own in the partnership assets and when one talks of the firm's property or firm's assets, all that is meant is property or assets in which all partners have a joint or common interest. If that be the position, **it is difficult to accord the contention that upon dissolution the firm's rights in the partnership assets are extinguished. The firm, as such, has no separate rights of its own in the partnership assets but it is the partners who own jointly in common its assets.**

Section 9B - Income on receipt of capital asset or stock in trade

Income on receipt of capital asset or stock in trade by a partner from a firm on reconstitution or dissolution.

Section 9B of the Act: -

- Income on receipt of **capital asset**
- Income on receipt of **Stock in trade or both**
- received in the hands of Partners or members from AOP/BOI/Firm
- at the time of its dissolution or **reconstitution**,
- to be taxable as capital gain or business income (as the case may be)
- **in the hands of the AOP/BOI/Firm.**

Reconstitution Includes:

- **One or more** of its partners or members **ceases to be partners** or members.
- **One or more** new partners or members are **admitted**. However, at least one existing partner or member should continue to be partner or member of the specified entity after admission of the new partner(s) or member(s); or
- **All** the partners or members **continue** with **change in their respective share** or in share of some of them.

Section 9B - Income on receipt of capital asset or stock in trade

Compute the gains arising from deemed transfer of stock-in-trade:

- Transfer of Stock in trade
- Taxable in the hand of Firm /AOP/BOI
- Taxable as PGBP Income
- Fair Market value of the stock in trade is Recorded as sale in Firm Books

Compute the gains arising from transfer of capital asset:

The computation of capital gain under section 9B r.w.s 48(iii) shall be as follows:

Full value of consideration received or accrued (FMV of capital asset)

Less:

- (a) Expenditure incurred wholly and exclusively in connection with transfer;
- (b) Cost of Acquisition/Indexed cost of acquisition;
- (c) Cost of improvement/ Indexed cost of improvement; or
- (d) The amount chargeable to tax as income of firm under Section 45(4) which is attributable to capital asset being transferred by the firm
- (e) Exemption under Sections 54 to 54GB to the extent of net result of above calculation

Income taxable under the head capital gains

Tax on transfer of money or property by a firm/AOP/BOI to its partners or members

Section 45(4): Taxability at the time of reconstitution on income arising on receipt of money or capital asset.

Section 9B: Taxability at the time of dissolution or reconstitution on income arising on receipt of capital asset or stock in trade. .

To avoid double taxation in case of capital asset at the time of reconstitution, amendment u/s 48 of the Act has been made

Section 36(1)(va) Payment of employee contribution to a fund on or before due date

Employees' Contribution to
ESIC and PF disallowed if
Paid after due date of
relevant

The wordings of the Explanation indicate that the clarification is retrospective in nature. However, in the Memorandum of Budget, it has been mentioned that the said amendment will apply from assessment year 2021-22 and onwards. Accordingly, there still exist a grey area as to whether existing litigation will get the benefit of various Tribunal/Court Rulings or benefits will be denied due to such an amendment.

Before the amendment the late payment is allowed As the decision of Supreme Court in CIT v. Alom Extrusions Ltd. [2009] 319 ITR 306/185 Taxman 416 and various high court decided that the provisions of section 43B covers both, payment of employers' contribution and employee's contribution.

Section 43CA & 56(2)(x) Increase in safe harbour limit

Increase in safe harbour limit of 10% for home buyers and real estate developers selling such residential units

Basis	Section 43CA	Section 56(2)(x)
Applicability	Transfer of land or building or both (Used in business or profession)	Transfer of both movable and immovable property
Scope	consideration fixed < consideration fixed by stamp valuation authority of State government.	<p>Immovable property: If the difference between consideration and stamp duty value exceeds higher of the following:</p> <p>a. Rs.50,000/-</p> <p>b. 5% of consideration fixed.</p> <p>Movable property : If the difference between consideration and fair market value exceeds Rs. 50,000/-</p>
Action	The stamp duty value shall be treated as sale consideration for the purpose of computing profits/ gains.	The difference exceeding the consideration is taxable as other sources income

Increase the safe harbour threshold from existing 10% to 20% under section 43CA as well as 56(2)(x) of the Act, Provided that the transfer of residential unit takes place during the period from 12th November 2020 to 30th June 2021 by way of first time allotment and the transfer does not exceed

Section 44AB – Exemption from Audit

if the turnover of any assessee exceeded Rs.1 crore, such assessee was liable to get their accounts audited.

In February 2020, this threshold limit was raised to Rs.5 crores for FY 19-20

Further increased the threshold limit to Rs.10 crores for FY 20-21

The Higher threshold limit is applicable only if the cash receipt and payment made during the year does not exceed 5% of total receipt and total payment respectively. For the purpose of which the receipt/ payment other than account payee cheques will be considered as payment by cash




HUF is also not eligible for presumptive taxation scheme under section 44ADA



Eligible: Only resident Individual and a resident partnership firms

Not Eligible: LLP, HUF, Company, AOP, BOI, etc.

Time Limit for Return filling and Assessment

Section	Description
Filling of Return of Income Section 139(4) - Belated return Section 139(5) - Revised return	Reduced by 3 months. 31.03.2022  31.12.2021
Assessment Section 143(1) - intimation Assessment Section 143(2) - Scrutiny notice	<p>Intimation u/s 143(1): Reduce the time limit from one year to nine months.</p> 31.03.2023  31.12.2022 <p>Scrutiny Notice u/s 143(2): Reduce the time limit from six months to three months from the end of the financial year in which the return is furnished.</p> 30.09.2022  30.06.2022



Timeline for the AY 2021-22 - In case of Audit Assessee

Previous Year	2018-19	2019-20	2020-21
Assessment Year	2019-20	2020-21	2021-22
Due Date of ITR filing	30.09.2021	31.10.2021	31.10.2021
Last date upto which return can be filed belatedly or revised	31.03.2020	31.03.2021	31.12.2021
Processing of return and sending Intimation u/s 143(1)	31.03.2021	31.03.2022	31.12.2022
Time Limit to issue scrutiny Notice u/s 143(2)	30.09.2020	30.09.2021	30.06.2022
Time Limit to complete the assessment u/s 143(3)	31.03.2021	31.03.2022	31.12.2022



Jurisdictional Assessing Officer was empowered to issue notice u/s 142(1)



Section is amended to empower the prescribed income-tax authority besides the Assessing Officer to issue notice under section 142(1)



Intimation U/s Section 143(1)(a)

1. Any arithmetical error in the return;
2. An incorrect claim, if such incorrect claim is apparent from any information in the return;
3. Disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified under sub-section (1) of section 139;
4. **Disallowance of expenditure indicated** in the audit report but not taken into account in computing the total income in the return;
5. Disallowance of deduction claimed under **sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or section 80-IE**, if the return is furnished beyond the due date specified under sub-section (1) of section 139; or
6. Addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return:

4. disallowance of expenditure or **increase in income indicated**

5. 'section 10AA or under any of the provisions of Chapter VI-A under the heading "C.- Deductions in respect of certain incomes",

Section 148A – Before issuing notice u/s 148

The Assessing Officer, before issuing reassessment notice under Section 148, need to be follow the procedure of section 148A, as follows :

Conduct an enquiry

- prior approval of specified authority
- with respect to the information available with assessing officer
- which suggests that the income chargeable to tax has escaped assessments.

opportunity of being heard with the prior approval of specified authority,

Through show cause notice
(Period of 7 days -30 days time),

Consider the assessee reply

Passing and Order after approval of specified authority on basis of material available on record And reply of the assessee, within one month of assessee reply

Amendment in Reassessment Provisions

<p>Section 147 Completion Of Re-assessment</p>	<p>following conditions need to be satisfied:</p> <p>(a) Any income chargeable to tax has escaped assessment for any assessment year; and (b) The assessing officer follows the provisions of sections 148 to 153.</p>
<p>Section 148 Issue of notice for re- assessment</p>	<ul style="list-style-type: none"> ❑ In cases other than search, survey or requisition [Explanation 1 to Section 148] information shall be deemed to be suggesting that the income chargeable to tax has escaped assessment: <ul style="list-style-type: none"> (a) any information flagged accordance with the risk management strategy (b) any final objection raised by the CAG ❑ In search, survey or requisition cases [Explanation 2 to Section 148] In search, survey or requisition cases on or after 1st April 2021, 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. ❑ The assessing officer shall follow the process of Section 148A before issuing a notice under this provision, however, for search and requisition cases the Assessing Officer can directly issue the notice.

Amendment in Reassessment Provisions

Section 148A
Procedure to be followed before issuing notice for re-assessment [section 148A]

Before issuing a notice under Section 148, The Assessing Officer shall conduct enquiries, Provide an opportunity of being heard to the assessee. After considering his reply the Assessing Officer shall decide, after passing an order, whether it is a fit case for the issue of notice under Section 148 and serve a copy of such order along with such notice on the assessee.

The aforesaid procedure does not apply in search or requisition cases.

However, in the case of a survey, the assessing officer has to follow the procedure laid down in Section 148A before issuing a notice under Section 148.

Section 149
Time period for re-opening of assessment

Non-serious tax evasion: reduced to 3 years from 6 years.

Serious tax evasion : AO in possession of 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 - 50 lakh or more in a year,** - 10 years, after approval of Principal Chief Commissioner.

Sanction Authority for Reopening

Section 151 provides that the 'specified authority' for this purpose shall be as follows:

Type of a case	Specified Authority
If 3 years or less than 3 years have elapsed from the end of the relevant assessment year	Principal Commissioner Principal Director or Commissioner or Director
If more than 3 years have elapsed from the end of the relevant assessment year	Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General

Previously the Period is 4 year and Approval is required of

1. Joint Commissioner
2. If AO is below the rank of Joint Commissioner then satisfaction of joint Commissioner before issuing notice u/s 148

Previously the Period is 4 year and Approval is required of: -

1. Principal Chief Commissioner or
2. Chief Commissioner or
3. Principal Commissioner or
4. Commissioner

- The word "Satisfied" has now been replaced by the word "approved"
- Mechanical satisfaction or non application of mind by the authority would not be sufficient
- Sanction/Approval of an authority in place of another authority would not be valid

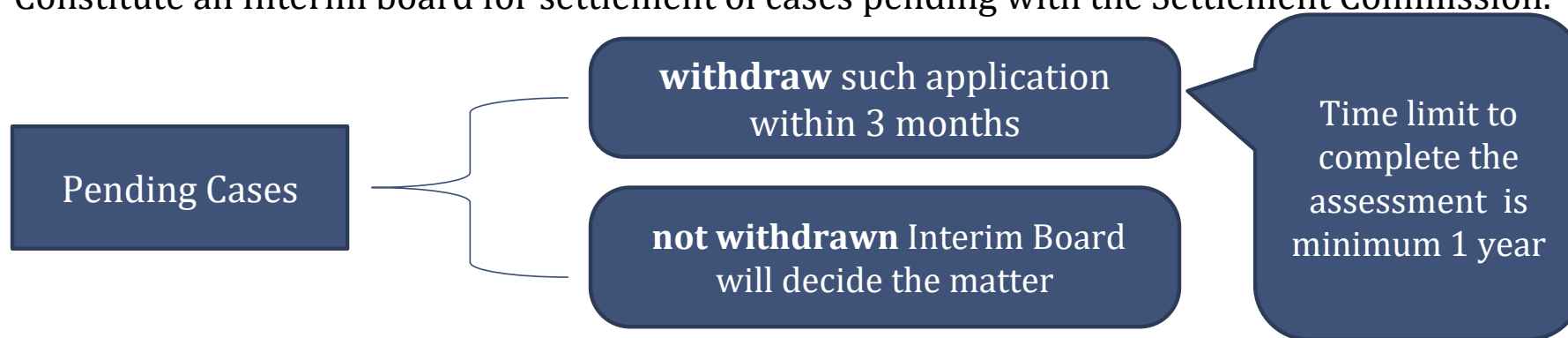
COMPARISON OF NEW SCHEME & OLD SCHEME OF RE-ASSESSMENT

Basis of Comparison	Existing Procedure	Amended Procedure
When notice under Section 148 can be Issued?	The AO has reasons to believe that income has escaped assessment.	The AO has information which suggests that income has escaped assessment.
Procedure before issuing a notice (In non-search or non-requisition cases)	Record reasons to believe that the income has escaped assessment	Follow the process laid down in Section 148A, namely: (a) Conduct an Inquiry; (b) Grant an opportunity of being heard to the assessee; (c) Consider reply of the assessee; (d) Pass an Order.
Sanction Authority for issuing notice	Up to 4 years- Joint Commissioner After 4 years-PCCIT or CCIT or PCIT or CIT	Up to 3 years-PCIT or PDIT or CIT or DIT After 3 years-PCIT or PDIT, or where there is no PCIT or PDIT, CCIT or DGIT
Time-limit for issuance of Notice	4 to 16 Years	3 to 10 years

COMPARISON OF NEW SCHEME & OLD SCHEME OF RE-ASSESSMENT

Basis of Comparison	Existing Procedure	Amended Procedure
<p>Jurisdictional Requirement</p> <div data-bbox="92 548 478 945" style="background-color: #2c4e64; color: white; border-radius: 50%; padding: 10px; display: inline-block; text-align: center;"> <p>Now Deleted</p> </div> <div data-bbox="92 1075 478 1399" style="background-color: #2c4e64; color: white; border-radius: 50%; padding: 10px; display: inline-block; text-align: center;"> <p>Continue under the new provision</p> </div>	<ul style="list-style-type: none"> <input type="checkbox"/> Reason to believe <input type="checkbox"/> More than 4 years – failure on the part of the assessee <input type="checkbox"/> Foreign assets reopening upto 16 years <input type="checkbox"/> Change of opinion <input type="checkbox"/> Income escaping assessment <input type="checkbox"/> Jurisdictional AO <input type="checkbox"/> Cannot reopen for verification purpose/for making fishing and roving inquiries <input type="checkbox"/> Recording of reasons in the form of passing of order u/s 148A <input type="checkbox"/> Issues related to service of notice u/s 148 <input type="checkbox"/> Approval of specified authorities – application of mind. <input type="checkbox"/> Procedure of assessment 	<ul style="list-style-type: none"> <input type="checkbox"/> Information with the Assessing Officer suggesting that the income chargeable to tax has escaped assessment. <input type="checkbox"/> Prior approval of the specified authority at various stages. <input type="checkbox"/> Any information flagged with the risk management strategy formulated by the Board. <input type="checkbox"/> Any final objection raised by the Comptroller and Auditor General India that assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act. <input type="checkbox"/> Inquiry u/s 148A <input type="checkbox"/> Conditions for extended time limit of 10 years u/s 149(1)(b). <input type="checkbox"/> 7. Third party in case of search satisfaction and prior approval.

- ❑ Discontinue the Income-tax Settlement Commission with effect from 01-02-2021.
- ❑ Constitute an Interim board for settlement of cases pending with the Settlement Commission.



- ❑ Assessing officer for making an assessment/reassessment/recomputation after the excluded time shall not be less than one year.
- ❑ If such period of limitation is less than one year, it shall be deemed to have been extended to one year.
- ❑ Amendment to Section 153B - time-limit for completion of assessment in search or requisition cases. Period shall stand extended to a minimum one year where assessee has exercised the option to withdraw the application filed before the Settlement Commission.
- ❑ This amendment applicable following sections:
 - For issue of notice for re-assessment under Section 149;
 - For rectification of mistake apparent from record under Section 154;
 - For other amendments as specified in Section 155;
 - For payment of interest on refund under Section 244A.

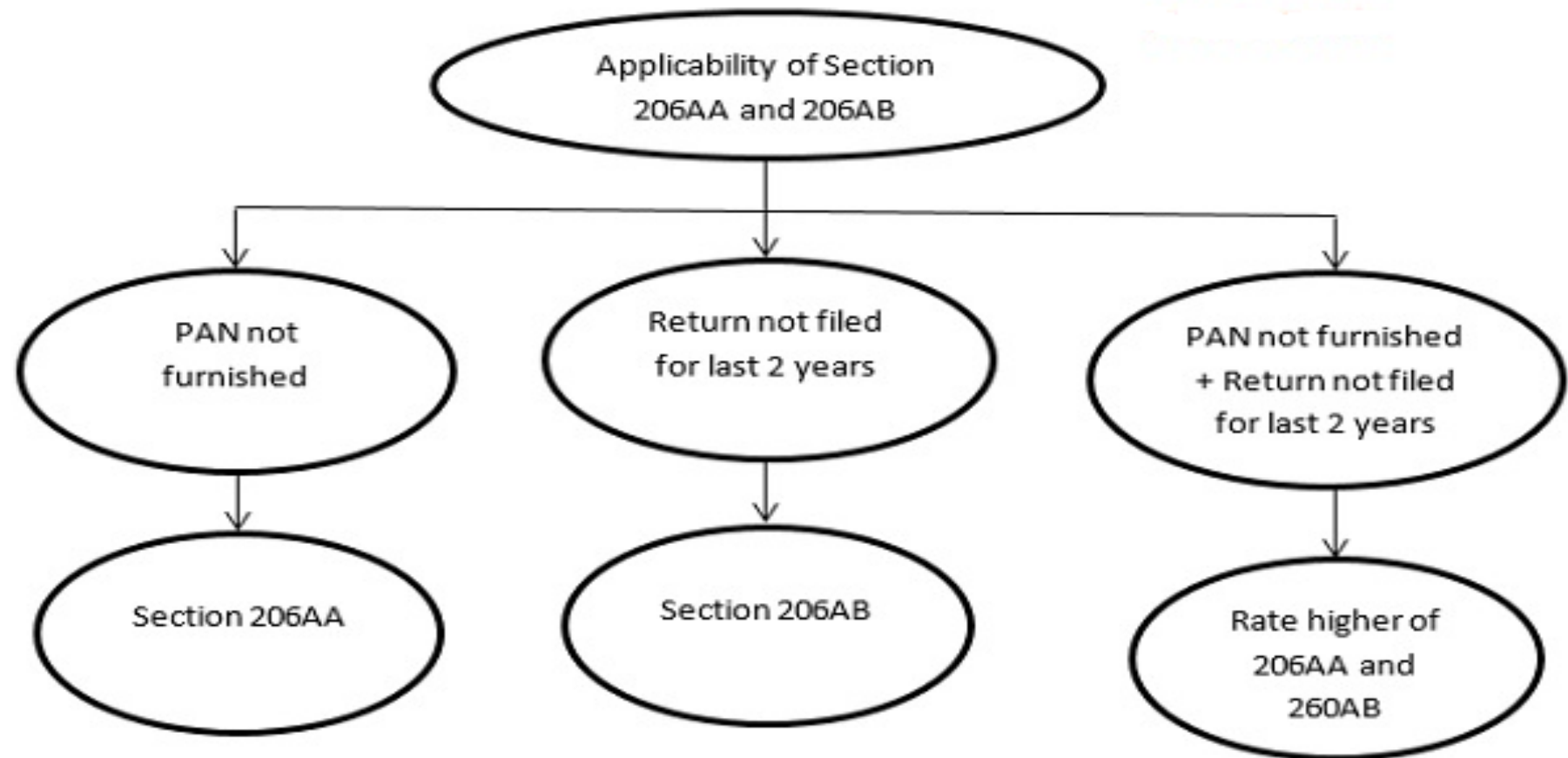
Sr. No.	Section	Amendment
1.	194 - Exemption from TDS on payment of Dividend to business trust	<p><u>If Payee is Individual</u> : - TDS @10% if amount exceeds Rs.5000/- <u>If payee is not an individual:</u> - No threshold limit.</p> <p>So amendment is brought in Section 194 that no TDS is required to be deducted on payment of dividend to business trust by special purpose vehicle referred to in Explanation to clause (23FC) of Section 10 or any other person notified.</p>
2.	Section 194A- No TDS on payment of interest by an infrastructure debt fund	Tax shall not deducted on Income in relation to Zero coupon bond issued by infrastructure debt fund.
3.	Section 194-IB deduction of income tax from the payment of rent by certain individuals or Hindu undivided family.	<p>In case tax is required to be deducted as per provision of Section 206AA (Non-furnishing of PAN) or Sec 206AB (Higher rate of TDS for non-filers) such deduction shall not exceed the rent payable for last month of previous year or last month of tenancy as case may be.</p> <p>Effective From 01.07.2021</p>

TDS Amendments

4.	Section 194P - Conditional Relaxation for senior citizens from filing return of income-tax: -	Senior citizen + resident in India + age of 75 or more Pension income + interest income from the same bank in which he is receiving his pension income; Effective from 01.07.2021
5.	Section 194Q - TDS on payment of certain sum for purchase of goods from resident.	If purchase of any goods of the value or aggregate of such value exceeding Rs.50 lakhs From a resident in any previous year, Rate of TDS: 0.1 % of sum exceeding 50 Lakhs Exception to TDS Deduction under Section 194Q: (a) tax is deductible under any of the provisions of this Act; and (b) tax is collectible under the provisions of section 206C other than a transaction to which sub-section (1H) of section 206C applies. Effective from 01.07.2021
6.	Section 196D TDS on Income of FII from securities	where an agreement referred to in section 90(1) or section 90A(1) applies to the payee and if the payee has furnished a certificate referred to in section 90(4) or section 90A(4), as the case may be, then, income-tax thereon shall be deducted *at the rate of 20% or *at the rate or rates of income-tax provided in such agreement for such income, whichever is lower.

TDS & TCS on non filler of income tax return at higher rates

Head	Section 206AA -TDS	Section 206AB- TDS	Section 206CC -TCS	Section 206CCA- TCS
Applicability	Non Furnishing of PAN in case of TDS	Higher rates of TDS for non filler of income tax return	Non Furnishing of PAN in case of TCS	Higher rate of TCS for non filler of income tax return
Rates	<input type="checkbox"/> As per ACT <input type="checkbox"/> As per Rates in force <input type="checkbox"/> 20% Whichever is Higher	<input type="checkbox"/> 2 times(As per ACT) <input type="checkbox"/> 2 times(As per Rates in force) <input type="checkbox"/> 5% Whichever is Higher	<input type="checkbox"/> 2 times(As per ACT) <input type="checkbox"/> 5% Whichever is Higher	<input type="checkbox"/> 2 times(As per ACT) <input type="checkbox"/> 5% Whichever is Higher
Exception	income received by a non-resident (or a foreign company): - Interest on bonds 194LC; - payments ref in 37BC; - Income in respect of investment in Category I or Category II AIFs as referred under Rule 114AAB.	sum/income on which tax is required to be deducted under any of the following provision: (a) Section 192/192A/194B/194B B/194LBC/194N not apply if the non-resident is not having any PE in India		



Section 234F - Fee for delayed filing of return

Where a person required to furnish a return of income under section 139, fails to do so within the time prescribed in sub-section (1) of the said section, he shall pay, by way of a fee, a sum of five thousand rupees.

Provided that if the total income of the person does not exceed five lakh rupees, the fee payable under this section shall not exceed one thousand rupees.

Total Income	Return Filing Date	Late Fees u/s 234F
Any Income	Within prescribed Due Date	NA
Upto Rs. 2.5 Lakh/Rs. 3 Lakh for Senior Citizen/Rs. 5 Lakh for very senior citizen	After Due Date	Rs. Nil
Above Rs. 2.50 Lakh/3Lakh but upto Rs. 5 Lakh	After Due Date	Rs. 1,000 (For a very senior citizen, Rs. Nil)
Above Rs. 5 Lakh	After Due Date	Rs. 5,000

Exempt interest [Section 10(11) & Section 10(12) of the Act]

- ❑ Extended the limit of Interest earned on contribution made by the employees from Rs.2,50,000 to Rs.5,00,000 in cases where there is no contribution to such funds by the employer.
- ❑ Therefore, where there is no contribution to the fund by the employer, the exemption limit for the interest income shall extend to Rs.5,00,000.

Amount contributed by Employee	Whether employer contributed to the fund	Whether interest on such fund shall be taxable	Amount of Employee's contribution on which interest is taxable)
1,50,000	Yes	No	-
4,50,000	Yes	Yes	Rs. 2,00,000 (Rs. 4,50,000 – Rs.2,50,000)
6,50,000	Yes	Yes	Rs.4,00,000 (Rs. 6,50,000 – Rs.2,50,000)
4,00,000	No	No	Whole amount of Interest is exempt as the limit is proposed to be extended to Rs. 5,00,000 from Rs. 2,50,000 in cases where there is no employer contribution.

Various Amendments

Sr. No.	Section	Insertion /Amendment
1.	Section 2(29A) Definition of the term 'Liable to tax' as per Section 2(29A)	"Liable to tax", in relation to a person and with reference to a country, means that there is an income-tax liability on such person under the law of that country for the time being in force and shall include a person who has subsequently been exempted from such liability under the law of that country.
2.	Section 10(10D)	<p>If ULIPs bought on or after February 1, 2021 & yearly premium is more than INR 2.5 lakh.</p> <p>Maturity benefit from ULIPs be considered as long-term capital gains and will be taxed accordingly.</p> <p>This amendment not covered death benefit. So, it remains tax-free.</p>
3.	Section 47 – Transaction not regarded as Transfer	<p>Clause (vii) provides that any transfer of a capital asset by Indian Infrastructure Finance Company Limited to an institution established for financing infrastructure and development, set up under an Act of Parliament and notified by the Central Government, shall not be regarded as transfer.</p> <p>Clause (vii) provides that any transfer of a capital asset under a plan approved by Central government, by a public sector company to another public sector company notified by the Central Government for the purpose of this Clause or to the Central Government or to a State Government shall not be regarded as transfer.</p>

Sr. No.	Section	Amendment
4.	Section 72A - set off and carry forward of losses	<p>apply in case of amalgamation of one or more PSU, or companies with one or more PSUs; amalgamation of an erstwhile PSU, if the share purchase agreement entered into under strategic disinvestment restricted immediate amalgamation of the said public sector company;</p> <p>amalgamation involving an erstwhile PSU, allowance for unabsorbed depreciation of the amalgamated company shall not be more than the accumulated loss and unabsorbed depreciation of PSU as on the date on which the PSU ceases to be a public sector company as a result of strategic disinvestment.</p>

Section 234C – Advance tax installment for dividend income

Section 234C of the Act provides for payment of interest by an assessee who does not pay or fails to pay on time the advance tax installments as per section 208 of the Act. The assessee is liable to pay a simple interest at the rate of 1% per month for a period of three months on the amount of shortfall calculated with respect to the due dates for advance tax installments.

Following exclusions are: –

- the amount of capital gains; or
- income of the nature referred to in sub-clause (ix) of clause (24) of section 2; or
- income under the head “Profits and gains of business or profession” in cases where the income accrues or arises under the said head for the first time; or
- **Dividend income - excluding deemed dividend under sub-clause (e) of clause (22) of section 2 of the Act (newly inserted)**

Section 281B - provisional attachment to protect revenue

- The said section provides for the provisional attachment of any property belonging to the assessee by the Assessing Officer, with the prior approval of the authorities specified therein, in case of pending assessment or reassessment proceedings so as to protect the interest of revenue.
- Now with effect from **01.04.2021** the provisional attachment of a property of the assessee may also be made during the pendency of proceedings for **imposition of penalty under section 271AAD where the amount or aggregate of amounts of penalty likely to be imposed under that section exceeds two crores rupees.**

- Section 245MA
 - Total income up to Rs.50 lakh
 - Disputed income up to Rs.10 lakhs
 - Powers to reduce or waive any penalty
 - Grant immunity from prosecution for any offence punishable
 - Eliminating the interface between the Dispute Resolution Committee and the assessee in the course of dispute resolution proceedings to the extent technologically feasible
 - Optimising utilisation of the resources through economies of scale and functional specialisation
 - Introducing a dispute resolution system with dynamic jurisdiction
 - The provision shall not be applicable in case of orders passed under Section 132 (Search), Section 132A (Requisition), Section 133A (Survey) or Section 90 & 90A.

Relief from Taxation in Income from Retirement Benefit Account maintained in notified country.

- ❑ To provide **relief from double taxation** due to mismatch of taxation on income from **withdrawal of retirement benefit** account maintained by a specified person in a notified country on account of the amount being taxable in the notified State on receipt basis while being taxable in India on accrual basis (hereinafter referred to as “Specified Account”). The details of the application of the provision are to be prescribed by the Central Government.
- ❑ Where a specified person has income accrued in a specified account, such income shall be taxed in such manner and in such year as may be prescribed.
- ❑ “Specified Person” means a person resident in India who opened specified account in a notified country while being non-resident in India and resident in that country.
- ❑ “Specified Account” means an account maintained in a notified country by the specified person in respect of his retirement benefits and the income from such account is not taxable on accrual basis but is taxed by such country at the time of withdrawal or redemption.
- ❑ “Notified Country” means a country as may be notified by CG in the Official Gazette.

THANK YOU

CA PIYUSH .S. CHHAJED

