

PREFACE

It gives me a great pleasure to present this compilation of all the amendments made by Finance Act (No 1 & 2) 2019 relevant for CA Final Direct Tax & International Tax – Paper 7.

Further while discussing the amendments in classroom I will be also addressing the amendments made by Income Tax Amendment Ordinance 2019 passed on 20th September 2019.

All the amendments are explained in this booklet after explaining the existing position of the law. Further wherever necessary practical questions have been put for better understanding of the amendments.

I hope this booklet along with lecture will help you all to a great extent.

Thanks for coming for the lecture.

God bless you all.

CA AARISH KHAN.

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PART A- EFFECTED BY THE FINANCE ACT (NO. 2) 2019**AMENDMENT NO -1****AMENDMENT TO SECTION 2(19AA)**

Section 2(19AA) provides for the definition of the expression “demerger for the purpose of providing tax neutrality where assets and liabilities of an undertaking are transferred pursuant to the demerger. One of the existing conditions for tax-neutral demergers is that the resulting company should record the property and the liabilities of the undertaking at the value appearing in the books of account of the demerged company.

AMENDMENT - Indian Accounting Standards (Ind-AS) compliant companies are required to record the property and the liabilities of the undertaking at a value different from the book value of the demerged company. In order to accommodate such companies, section 2(19AA) has been amended with effect from the assessment year 2020-21. The amended provisions provide that the requirement of recording property and liabilities at book value by the resulting company shall not be applicable in a case where the property and liabilities of the undertakings received by it, are recorded at a value different from the value appearing in the books of account of the demerged company immediately before the demerger in compliance of the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015.

AMENDMENT NO -2**DEEMED ACCRUAL OF GIFT OF MONEY TO A NON -RESIDENT/FOREIGN COMPANY [Sec 9(1)(viii)]**

A person (who is non-resident in India) is taxable in India in respect of income that accrues or arises in India or is received in India or is deemed to accrue or arise in India or is deemed to be received in India. A gift of money is chargeable to tax in the hands of recipient, except for certain exceptions provided in section 56(2)(x).

AMENDMENT - In a few cases, gift received by a non-resident/ foreign company from a resident person, is not taxable in India [even if it is not covered by exceptions specified in section 56(2)(x)]. There is no deeming provision under section 9 for this purpose.

To plug in this loophole, clause(viii) has been inserted in section 9(1) with effect from the assessment year 2020-21. This clause is applicable if the following conditions are satisfied —

1. Payer is resident in India. Payer may be resident and ordinarily resident in India or resident but not ordinarily resident in India. Payer may be an individual, HUF, AOP, BOI, artificial juridical person, firm, LLP, company or any other person.
2. Recipient is non-resident/foreign company.
3. A sum of money is received by non-resident/ foreign company on or after July 5, 2019.
4. Income arises outside India. The transaction is not covered by any of the exceptions specified by section 56(2)(x).

If these conditions are satisfied, money received by a non-resident/foreign company, shall be

deemed to accrue or arise in India.

Illustration:

X is resident in India. He transfers the following assets to his friend Y (a non-resident Indian or foreign citizen currently located in USA) or to Y Ltd. (a foreign company) –

1. Gift of Rs. 9 lakhs by NEFT transfer from X's bank account (SBI, Mumbai) to Y's bank account in California.
2. Gift of Rs. 10 lakhs to Y (this money is gifted to Y in India by an account-payee cheque when Y visited India on a short trip).
3. Gift of Rs. 11 lakhs to Y (X has a bank account in Citibank, New York. Permission of RBI has taken for this purpose. This gift is transferred from Citibank, New York account of X to the account of Y in Deutsche Bank, New Jersey).
4. Gift of house property situated in Pune (stamp duty value: Rs. 45 lakh).
5. Gift of house property situated in New Jersey (market value: Rs. 2.70 crore).
6. Shares in Reliance Industries Ltd. (market value as per stock exchange quotation: Rs. 20 lakh).
7. Shares in a US company, not having any tangible/intangible assets in India (market value: Rs. 18 lakh).
8. Shares in Malaysian company (net worth of the company: Rs. 900 crore, more than 95 per cent assets located in India) (market value of shares gifted: Rs. 10.5 crore).
9. Jewellery (market value: Rs. 30 lakh) (it is given as gift to Y when he visited India).
10. Diamonds (market value: Rs. 10 lakh) (given as gift outside India from X's locker in a foreign bank).
11. Tagore painting (market value: Rs. 6 crore) (it is given as gift to Y when he visited India).
12. Raja Ravi Verma painting (market value: Rs. 2 crore) (taken from India by X when he visited USA and given as a gift on birthday of Y in California).
13. Computer and car (market value: Rs. 8 lakh) (given as gift to Y when he visited India).
14. Gift of Rs. 11 lakhs by electronic transfer from Indian bank account of X to Y's bank account in USA (gift given on the occasion of marriage of Y).
15. Transfer of a plot of land in Nagpur to Y (stamp duty value: Rs. 62.8 lakh, sale consideration: Rs.60 lakh).

In these cases, amount taxable in India in the hands of Y will be as follows -

Assets	If transfer takes place before July 5, 2019	If transfer takes place on or after July 5, 2019	Sections
Gift of Rs. 9 lakhs by way of NEFT to foreign bank	Not taxable	Taxable	9(1)(viii), 56(2)(x)
Gift of Rs. 10 lakhs in India	Taxable	Taxable	5,56(2)(x)
Gift of Rs. 11 lakhs by bank transfer in New Jersey	Not taxable	Taxable	9(1)(viii), 56(2)(x)
Pune property	Taxable	Taxable	5,56(2)(x)
New Jersey property	Not Taxable	Not Taxable	5
Shares in Reliance	Taxable	Taxable	9(1)(i), 56(2)(x)
Shares in US company	Not Taxable	Not Taxable	9(1)(i), 56(2)(x)

Shares in a Malaysian company	Taxable	Taxable	9(1)(i), 56(2)(x)
Jewellery	Taxable	Taxable	5,56(2)(x)
Diamonds	Not Taxable	Not Taxable	5,56(2)(x)
Tagore painting	Taxable	Taxable	5,56(2)(x)
Raja Ravi Verma painting	Not Taxable	Not Taxable	5,56(2)(x)
Computer and car	Not Taxable	Not Taxable	5,56(2)(x)
Marriage gift	Not Taxable	Not Taxable	5,56(2)(x)
Transfer of Nagpur land (stamp duty value does not exceed 10% of sale consideration)	Not Taxable	Not Taxable	5,56(2)(x)

Subject to provisions of relevant Double Taxation Avoidance agreement.

AMENDMENT NO -3

AMENDMENT TO SECTION 9A

In order to facilitate location of fund managers of off-shore Funds in India, section 9A provides a specific tax regime for this purpose with the following objectives -

- a. the tax liability in respect of income arising to the Fund from investment in India would be neutral to the fact as to whether the investment is made directly by the fund or through engagement of Fund manager located in India; and
- b. that income of the fund from the investments outside India would not be taxable in India solely on the basis that the Fund management activity in respect of such investments have been undertaken through a fund manager located in India.

In the case of an "eligible investment fund", the fund management activity carried out through an "eligible fund manager" acting on behalf of such fund, shall not constitute business connection in India of the said fund. Further, an "eligible investment fund" shall not be said to be resident in India merely because the "eligible fund manager" undertaking fund management activities on its behalf, is located in India.

These benefits of section 9A are available subject to the conditions provided in sub-section (3)/(4)/(5) of the said section. These provisions, inter-alia, are related to residence of fund, corpus, size, investor broad basing, investment diversification and payment of remuneration to fund manager at arm's length.

AMENDMENT - Section 9A(3)(j) provides that the monthly average of the corpus of the fund shall not be less than Rs. 100 crore. Where the fund has been established or incorporated in the previous year, the corpus of fund shall not be less than Rs. 100 crore at the end of such previous year. This condition has been amended with effect from the assessment year 2019-20 to provide that where the fund has been established or incorporated in the previous year, the fund shall be required to fulfil the condition of maintaining the corpus of Rs. 100 crore within a period of 6 months from the last day of the month of its establishment or incorporation, or at the end of such previous year, whichever is later.

Further, section 9A(3)(m) provides that the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than the arm's length price of the said activity. This condition has been amended to provide that the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than the amount calculated

in such manner as may be prescribed (instead of the arm's length price of the said activity).

AMENDMENT NO -4

EXEMPTION OF INTEREST INCOME OF RUPEE DENOMINATED BONDS [SEC. 10(4C)]

Clause (4C) has been inserted in section 10 with effect from the assessment year 2019-20. It is applicable if the following conditions are satisfied -

1. Interest is payable to a non-resident or a foreign company.
2. It is payable by an Indian company or a business trust.
3. It is payable in respect of money borrowed from a source outside India by way of issue of rupee denominated bonds [as referred to in section 194LC(2)(ia)].
4. The aforesaid bonds are issued during September 17, 2018 and March 31, 2019.

If these conditions are satisfied, interest income will be exempt under section 10(4C)

AMENDMENT NO -5

EXEMPTION OF CERTAIN INCOME RECEIVED BY A SPECIFIED FUND

[SEC. 10(4D)]

Clause (4D) has been inserted with effect from the assessment year 2020-21. It is applicable if the following conditions are satisfied -

1. Income is accrued or arises to or received by a specified fund. For this purpose, "specified fund" means a fund which satisfies the following conditions -
 - It is a fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate.
 - It has a certificate of registration as a Category III Alternative Investment Fund and is regulated under SEBI (Alternative Investment Fund) Regulations, 2012.
 - It is located in any International Financial Services Centre.
 - All units of fund are held by non-residents.
2. Income arises as a result of transfer of capital asset referred to in section 47(viia).
3. Income arises as a result of transfer of a capital asset on a recognised foreign exchange located in any International Financial Services Centre.
4. Consideration for transfer is paid or payable in convertible foreign exchange.

If the above conditions are satisfied, exemption will be available under section 10(4D) to the extent such income is accrued or arises or received in respect of units held by non-resident.

AMENDMENT NO -6

AMENDMENT TO SECTION 10(12A)

Section 10(12A) provides that any payment from the National Pension System (NPS) Trust to an employee on closure of account or his opting out of the pension scheme referred to in section 80CCD, to the extent it does not exceed 40 per cent of the total amount payable to him at the time of closure or at the time of his opting out of the scheme, shall be exempt from tax.

AMENDMENT - With a view to enable the pensioner to have more disposable funds, the

aforesaid exemption has been increased from 40 per cent to 60 per cent. After this amendment (which is applicable from the assessment year 2020-21) 60 percent of the total amount payable to the person at the time of closure or at the time of his opting out of NPS, shall be exempt from tax under section 10(12A).

AMENDMENT NO -7

AMENDMENT TO SECTION 10(15)

With a view to facilitate external borrowing by the units located in International Financial Services Centre, sub-clause (ix) has been inserted in section 10(15) with effect from the assessment year 2021-22. It is applicable if the following conditions are satisfied –

1. Recipient of interest is a non-resident.
2. Interest is payable by a unit located in an International Financial Service Centre.
3. Interest pertains to money borrowed by it on or after September 1, 2019.

If the aforesaid conditions are satisfied, interest income will be exempt under section 10(15)(ix).

AMENDMENT NO -8

CONDITIONS GOVERNING EXEMPTION UNDER SECTION 10(23C)(iv)/(v)/(vi)/(via)

For availing of the exemption under the aforesaid sub-clauses of section 10(23C), the trust/institution is required to make an online application to the prescribed authority. The prescribed authority before approving of the fund/institution, may call for such documents (including audited annual account or information, which it may consider necessary in order to satisfy himself about the genuineness of the activities of the fund or trust or institution.

AMENDMENT - The above provisions have been amended with effect From September 1, 2019 on the following lines –

Enquiry at the time of approval - Under the amended version, the prescribed authority has been empowered, to satisfy himself about the compliance of the trust or institution to requirements of any other law which is material for the purpose of achieving its objects.

Enquiry at the time of rescinding of notification - Where a trust or an institution has been granted approval under the aforesaid provisions and, subsequently, it is noticed that the trust or institution has violated requirements of any other law which was material for the purpose of achieving its objects, and the order (or direction or decree), holding that such violation has occurred, has not been disputed (or has attained finality), the prescribed authority/Central Government may, rescind the notification or withdraw the approval and forward a copy of the order rescinding the notification or withdrawing the approval to Such fund or institution or trust or university, etc., and to the Assessing Officer.

AMENDMENT NO -9**AMENDMENT TO SECTION 10(34A)**

Any income arising to a shareholder (on account of buy-back of shares) is exempt from tax under section 10(34A). However, tax is payable by the company (which buys-back its own shares) under section 115QA. These two provisions are applicable only in the case of buy-back of unlisted shares.

AMENDMENT - The aforesaid provisions will be applicable (on or after July 5, 2019) even in the case of buy-back of listed shares. Consequently, in the case of buy-back of shares (listed or unlisted) on or after July 5, 2019 -

- a. income of shareholder will be exempt under section 10(34A); and
- b. the company (with buy-back its own shares), will be liable for tax on distributed income under section 115QA.

Note: Further if the public announcement of Buy Back of Listed Shares is made before 5th July then the new amended provision shall not apply, i.e. Sec 115QA and Sec 10(34A) shall not apply. (Amendment made by Ordinance on 20th September 2019)

AMENDMENT NO -10**CANCELLATION OF REGISTRATION OF CHARITABLE TRUST/INSTITUTION**
[SEC. 12AA]

Section 12AA prescribes for manner of granting registration in case of trust or institution for the purpose of availing of exemption under section 11. Further, section 12AA provides procedure for cancellation of registration on the basis of the following two grounds -

- CIT/PCIT is satisfied that activities of trust or institute are not genuine or are not being carried out in accordance with its objects; or
- it is noticed that the activities of trust/institute are being carried out in a manner that either whole or any part of its income would cease to be exempt {Sec 13(1)}

In many cases, courts/Tribunal have held that violation of provisions of the Prohibition of Capitation Fees Act, Foreign Contribution Regulation Act, or any other Act, by a charitable trust could not be a ground to take away the aforesaid registration of the entity – Padanilam Welfare trust v. CIT[2012] 20 taxmann.com 113 (Chennai), Global Academy of Emergency Medicine v. CIT[2019] 101 taxmann.com 394 (Delhi), CIT v. Maria Social Service Society [2018] 99 taxmann.com 381 (Kar.), Maria Social Service Society v. CIT [2018] 99 taxmann.com 380 (Bang.), Bharati Vidyapeeth v. ITO[2009] 28 SOT 32 (Pune).

AMENDMENT - To supersede the aforesaid rulings, section 12AA has been amended with effect from September 1, 2019. The amended provisions provide the following-

Enquiry at the time of registration - At the time of granting the registration to a trust or institution, the CIT/PCIT shall, inter alia, also satisfy himself about the compliance of the trust or institution to requirements of any other law which is material for the purpose of achieving its objects.

Violation requirement for cancellation - Where a trust or an institution has been granted registration under section 12AA(1)(b) and, subsequently, it is noticed that the trust or

institution has violated requirements of any other law which was material for the purpose of achieving its objects, and the order for direction or decree), holding that such violation has occurred, has not been disputed (or has attained finality), CIT/PCIT may, by an order in writing, cancel the registration of such trust or institution after affording a reasonable opportunity of being heard.

AMENDMENT NO -11

PRESCRIPTION OF ELECTRONIC MODE OF PAYMENT [SEC 13A]

To claim exemption under section 13A, a political party is required to receive donation (exceeding Rs. 2,000) only through an account-payee cheque/draft or using the electronic clearing system through a bank account.

AMENDMENT TO SECTION 13A - In order to encourage other electronic modes of payment, section 13A has been amended (with effect from the assessment year 2020-21) so as to include **such other electronic mode as may be prescribed**, in addition to the already existing permissible modes of payment in the form of an account-payee cheque or an account-payee bank draft or the electronic clearing system through a bank account.

AMENDMENT TO OTHER SECTIONS - There are several provisions in other sections [list given in the Table below] which prohibit cash transactions and allow/ encourage payment or receipt only through account-payee cheque, account-payee draft or electronic clearing system through a bank account. To promote other electronic modes of payment, identical modifications have been made in the scheme of these sections so as to include such other electronic mode as may be prescribed, in addition to the already existing permissible modes of payment in the form of an account-payee cheque or an account-payee bank draft or the electronic clearing system through a bank account. A list of similar amendment in other sections is as follows –

	<i>Amount in excess of which payment / receipt is required by an account-payee cheque/draft/electronic clearing system through a bank</i>	<i>Other electronic modes (as maybe prescribed) will be applicable from -</i>
35AD: Expenditure of capital nature	Rs. 10,000	Assessment year 2020-21
40A(3)/(3A): Any business expenditure	Rs. 10,000	Assessment year 2020-21
43(1): Actual cost	Rs. 10,000	Assessment year 2020-21
43CA: Consideration for transfer	Full consideration or part thereof	Assessment year 2020-21
44AD: Turnover	–	Assessment year 2020-21
50C: Consideration for transfer	Full consideration or part thereof	Assessment year 2020-21
56(2)(x): Consideration for transfer	Full consideration or part thereof	Assessment year 2020-21

80JJAA: Cost in the case of existing business	–	Assessment year 2020-21	
269SS: Loan or deposit	Rs. 20,000	September 1, 2019	
269ST: Transactions	Rs. 2,00,000	September 1, 2019	
269T: Repayment of loan/deposit	Rs. 20,000	September 1, 2019	

AMENDMENT NO -12

DISALLOWANCE OF BUSINESS EXPENDITURE ON ACCOUNT OF NON-DEDUCTION OF TAX ON PAYMENT TO NON-RESIDENT PAYEE [Sec. 40(a)(i)]

In case of payment /credit to a non-resident/foreign company or payment/ credit to a person outside India, tax deduction provisions are applicable, if the following conditions are satisfied –

- a. the amount paid/payable is interest, royally, technical fees or any other sum (but not salary), and
- b. in the hands of the recipient, it is chargeable to tax in India.

Disallowance under section 40(a)(i) is applicable in the following two cases -

Case 1 - Tax is deductible from aforesaid payment/credit to a non-resident /foreign company, but it is not deducted.

Case 2 - Tax is deductible (and it is so deducted) on the aforesaid payment/credit but the tax deducted is not deposited by the deductor till the due date of submission of his return of income.

In the above two cases, 100 per cent of payment credit is disallowed under section 40(a)(i). Consequently no deduction is available in the year of payment /credit. If, however, tax is deducted in a subsequent year ,expenditure [i.e., amount disallowed under section 40(a)(i)] will be allowed as deduction in the year in which TDS is deposited by the deductor with the Government.

Amendment to section 40(a)(i) - The above provisions have been amended with effect from the assessment year 2020-21. Under the amended provisions, a relief is given in Case 1 (and not in Case 2), This relief will be available if the following conditions are satisfied -

1. Tax is deductible, on the aforesaid payments but it is not deducted (wholly or partly) by the payer (i.e., Case 1).
2. The payer is not deemed to be an assessee-in-default under the first proviso to section 201(1).

If the above conditions are satisfied, then for the purpose of section 40(a)(i) it shall be deemed that the payer has deducted and paid the tax on such amount on the date of the furnishing of return of income by the recipient.

Amendment to section 201 - Currently, relief is available under section 201 in the case of TDS default when recipient is resident. To accommodate the aforesaid modification in the scheme of section 40(a)(i), section 201 has been simultaneously amended with effect from the assessment year 2020-21.

After the amendment, by virtue of first proviso to section 201(1), the payer is not deemed to

be an assessee-in-default if -

- a. the recipient has furnished his return of income under section 139;
- b. the recipient has taken into account the above income in such return of income;
- c. recipient has paid the tax due on the income declared in such return of income, and
- d. the payer furnishes a certificate to this effect from a chartered accountant in a prescribed form.

AMENDMENT NO -13

SECTION 43B EXTENDED TO NON-BANKING FINANCE COMPANIES

Section 43B is applicable only if the taxpayer maintains books of account on the basis of mercantile system of accounting. Provisions of section 43B have been amended (with effect from the assessment year 2020-21) by inserting clause (da). After this amendment, the scope of section 43B has been extended to cover interest payable on loan or borrowing from -

- a. "systemically important non-deposit taking non-banking financial company (NBFC)"; or
- b. "deposit taking [NBFC]".

Impact of amendment - Outcome of the amendment is as follows –

1. **Deduction on payment basis** - Interest payable on loan or borrowing to the aforesaid entities will be deductible on payment basis in the year in which interest is actually paid.
2. **When deductible on accrual basis** - If, however, interest is paid after the end of the previous year but on or before the due date of submission of return of income, interest will be deductible on "accrual" basis in the year in which it becomes due for payment.
3. **Double deduction not allowed** - Explanation 3AA has been inserted to provide that where a deduction in respect of aforesaid interest is allowed as deduction in any earlier year (i.e., prior to the assessment year 2020-21) on accrual basis, such interest is not again deductible on payment basis in the year in which the payment is made.
4. **Conversion of interest into loan** - Explanation 3CA has been inserted to provide that if an outstanding interest is converted into loan, conversion will not be treated as payment of interest.
5. **Systemically important non-deposit taking NBFC** – It means a non-banking financial company (NBFC) which is not accepting or holding public deposits and is having total assets of not less than Rs. 500 crores as per the last audited balance sheet and is registered with RBI under the provisions of the Reserve Bank of India Act.
6. **Deposit taking NBFC** - "Deposit taking NBFC" means a non-banking financial company which is accepting or holding public deposits and is registered with RBI under the provisions of the Reserve Bank of India Act.

AMENDMENT NO -14**INCENTIVES TO NON-BANKING FINANCE COMPANIES [SEC. 43D]**

Amendment - Section 43D has been amended so as to insert reference of a "deposit-taking NBFC" or a "systemically important non-deposit taking NBFC" in it in order to extend the benefit of the provision of this section to the said entities.

AMENDMENT NO -15**AMENDMENT TO SECTION 47(viiab)**

Section 47 provides that any transfer of a capital asset, being bonds or Global Depository Receipts [referred to in section 115AC(1)] or rupee denominated bond of an Indian company or derivative, made by a non-resident shall not be regarded as transfer.

AMENDMENT -The above provision of section 47(viiab) has been amended (with effect from the assessment year 2020-21) to provide that transfer of securities (as may be notified by the Central Government) shall not be regarded as transfer in the hands of a non-resident.

AMENDMENT NO -16**AMENDMENT TO SECTIONS 50CA AND 56(2)(x)**

Shares received by a person for inadequate consideration (or without consideration) are chargeable to tax in the hands of recipient under section 56(2)(x) to the extent of inadequacy of consideration (or absence of consideration), if a few conditions are satisfied (this section is also applicable for receipt of money or property without consideration or for inadequate consideration). Conversely, section 50CA provided that if unquoted shares are transferred for inadequate consideration, capital gain is calculated in the hand of transferor by taking fair market value of shares as "full value of consideration".

FAIR MARKET VALUE - For these provisions, the Fair market value is determined based on the prescribed method. Determination of fair market value based on the prescribed rules may result into genuine hardships in certain cases where the consideration for transfer of shares is approved by certain authorities and the person transferring the share has no control over such determination.

EXEMPTION - Currently, the provisions of section 56(2)(x) are not applicable to certain specified transitions. However, no such exemption is available under section 50CA. For instance, if X transfers shares (fair market value: Rs. 10 lakh) to Y for Rs. 4 lakh, Rs. 6 lakh is taxable as income of Y (i.e., recipient) under section 56(2)(x). Capital gain of X (i.e., transferor) will be calculated by taking Rs. 10 lakh as full value of consideration under section 50C. If X and Y are relatives, section 56(2)(x) is not applicable [there are a few more such cases where section 56(2)(x) is not applicable]. However, no such exemption is available under section 50CA.

AMENDMENT - In order to provide relief to such types of transactions (as given above) from the applicability of sections 56(2)(x) and 50CA, these sections have been amended with effect from the assessment year 2020-21. The amended provisions empower the Board

to prescribe transactions undertaken by certain class of persons to whom the provisions of sections 56(2)(x) and 50CA shall not be applicable.

AMENDMENT NO -17

AMENDMENT TO SECTION 54GB

The existing provisions of the section 54GB, inter alia, provide for rollover benefit in respect of capital gain arising from the transfer of a residential property owned by an individual or a HUF. To be able to get benefit of this provision, the assessee is required to utilise the net consideration for subscription in the equity shares of an eligible company (i.e., a company which owns an eligible start-up) before the due date of filing of the return of income. The assessee is required to have more than 50 per cent share capital (or more than 50 per cent voting rights) after the subscription in shares in the eligible company. The said section, inter alia, puts restriction on transfer of assets acquired by the company for 5 years from the date of acquisition. Currently, the benefit of this section is only available for investment in the equity shares of eligible start-up and that period ends on March 31, 2019 (in other words, at present no benefit is available for residential property transferred after March 31, 2019).

AMENDMENT - The following amendments have been made to the scheme of section 54GB with effect from the assessment year 2020-21 -

1. The sun set date of transfer of residential property (for investment in eligible start-up company) has been extended from March 31, 2019 to March 31, 2021.
2. The condition of minimum shareholding of 50 per cent of share capital or voting rights has been reduced to 25 per cent.
3. The condition restricting transfer of new asset (being computer or computer software) has been relaxed from the current 5 years to 3 years.

AMENDMENT NO -18

AMENDMENT TO SECTION 56(2)(viib)

Section 56(2)(viib) is applicable if a closely held company (i.e., a company in which the public are not substantially interested) receives consideration for issue of shares at a premium from resident persons. The aggregate consideration received for such shares (as exceeds the fair market value of shares) shall be chargeable to tax in the hands of recipient company.

AMENDMENT TO CATEGORY II AIF - Exemption from this provision has been provided for the consideration for issue of shares received by a venture capital undertaking from a venture capital company or a venture capital fund or by a company from a class or classes of persons as may be notified by the Central Government in this behalf (i.e., a start-up company). Currently, the benefit of exemption is available to Category I Alternate Investment Fund (AIF). With a view to facilitate venture capital undertakings to receive funds from Category II AIF, section 56(2)(viib) has been amended (with effect from the assessment year 2020-21). After this amendment, the benefit of exemption will be available to fund received by venture capital undertakings from Category I or Category II AIF.

**AMENDMENT TO COMPLIANCE WITH THE NOTIFICATION OF EXEMPTION
ISSUED UNDER SECTION 56(2)(viib) –**

Under section 56(2)(viib), the Central Government is empowered to notify that the provisions of this section shall not be applicable to consideration received by a notified company. For the purpose of section 56(2)(viib), exemption is available to a “startup” if a few conditions, given by Notifications specified in the notification are satisfied. The scheme of section 56(2)(viib) has been amended (with effect from the assessment year 2020-21) to provide that in case of failure to comply with the aforesaid conditions, the consideration received for issue of shares (which exceeds the fair market value of such shares), shall be deemed to be the income of the company chargeable to tax for the previous year in which the failure to comply with any of the aforesaid conditions has taken place. Further, it shall be deemed that the company has under-reported the said income in consequence of the misreporting referred to in section 270A(8)/(9) for the said previous year.

AMENDMENT NO -19

AMENDMENT TO SECTION 79

Section 79 regulates carry forward and set off of losses in case of a closely held company (i.e., not being a company in which the public are substantially interested). Clause (a) of section 79 applies to all such companies (except an eligible start-up as referred to in section 80-IAC), while clause (b) applies only to such eligible start-up. These provisions are as follows –

Clause (a) of section 79: Loss of a closely held company

Where a change in shareholding has taken place during the previous year in the case of a closely held company, earlier year losses shall be carried forward and set off against the income of the current previous year, only if the persons beneficially holding 51 per cent of the voting power on the following two dates are same -

- a. on the last day of the previous year in which the loss was incurred;
- b. on the last day of the previous year in which the company wants to set off the brought forward loss.

Clause (b) of section 79 : Loss of a start-up

In case of a closely held start-up (as referred to in section 80-IAC), brought forward loss can be set off against current year's income only if all the shareholders of the company (who held shares carrying voting power on the last day of the previous year in which the loss was incurred), continue to hold shares on the last day of the current year (i.e., the year in which the company wants to set off the brought forward loss). This restriction is applicable only for such loss which is incurred during the period of 7 years beginning from the year in which such company is incorporated.

Amendment for eligible start-up

Currently, a closely held company (which owns an eligible start, up) cannot carry forward and setoff loss under section 79(a).

To further facilitate ease of doing business in the case of an eligible start-up, the scheme of section 79 has been modified (with effect from the assessment year 2020-21) so as to provide that brought forward loss of a closely held eligible start-up shall be carried forward and set off against the income of current previous year on satisfaction of either of the two

conditions stipulated currently under clause (a) or clause(b) as given above.

For other closely held companies, there would be no change, and loss incurred in any year prior to the previous year shall be carried forward and set off only on satisfaction of condition currently provided at clause (a).

AMENDMENT NO -20

AMENDMENT TO RESOLUTION OF DISTRESSED COMPANIES –

The existing provisions of section 79 are not applicable to a company where any change in shareholding takes place in a previous year pursuant to a resolution plan approved under the Insolvency and Bankruptcy Code, 2016 (IBC). Thus, loss in such cases can be carried forward and set off even if there is change in voting power or shareholding. This benefit has been extended to certain companies (with effect from the assessment year 2020-21). Thus, it has been provided in newly substituted section 79 that the provision of this section shall not apply to those companies, and their subsidiary and the subsidiary of such subsidiary, where -

- the National Company Law Tribunal (NCLT) on a petition moved by the Central Government under section 241 of the Companies Act has suspended the Board of Directors of such company and has appointed new directors, who are nominated by the Central Government, under section 242 of the Companies Act; and
- a change in shareholding of such company, and its subsidiaries and the subsidiary of such subsidiary, has taken place in a previous year pursuant to a resolution plan approved by NCLT under section 242 of the Companies Act.

AMENDMENT NO -21

AMENDMENT TO SECTION 80C

Section 80C has been amended with effect from the assessment year 2020-21. The amended version is applicable if the following conditions are satisfied –

1. The taxpayer is an employee of the Central Government.
2. He contributes to his NPS (Tier-II) account.
3. Such contribution is for a fixed period of not less than 3 years.
4. Such contribution is in accordance with the scheme as may be notified by the Central Government for this purpose.

If these conditions are satisfied, the aforesaid contribution will be deductible within the overall limit of Rs. 1,50,000 under section 80C.

AMENDMENT NO -22

AMENDMENT TO SECTION 80CCD

The Union Cabinet in its meeting on December 6, 2018 has approved enhancement of the mandatory contribution by the Central Government for its employees covered under NPS Tier-1 from 10 per cent to 14 per cent (minimum contribution by employees to remain 10 per cent). To avoid any adverse tax treatment in the hands of employees, section 80CCD(2) has been amended with effect from the assessment year 2020-21. The impact of amended version is as follows –

1. Contribution by the Central Government (or by any other employer) to NPS is first included under the head “Salaries” in hands of employees under section 15, read

with section 17(1) (viii). After the above Union Cabinet's decision, the Central Government will continue 14 per cent of salary for its employees. To put it differently, 14 per cent contribution by the Central Government will be included in the salary of concerned employee under section 15, read with section 17(1) (viii).

2. Employer's contribution to NPS is deductible under section 80CCD(2) (the ceiling limit of Rs. 1,50,000 is not applicable). However, amount deductible under section 80CCD(2) on account of employer's contribution to NPS cannot exceed 10 per cent of "salary" of the concerned employee. This limit of 10 per cent has been extended to 14 per cent in the case of Central Government employees (with effect from the assessment year 2020-21). There is no amendment pertaining to non-Government employees.

AMENDMENT NO -23

DEDUCTION IN RESPECT OF INTEREST ON LOAN TAKEN FOR CERTAIN HOUSE PROPERTY [SEC 80EEA]

Section 80EEA has been inserted with effect from the assessment year 2020-21. Deduction under this section is available if the following conditions are satisfied –

1. The assessee is an individual.
2. He is not eligible to claim any deduction under section 80EE.
3. He has taken a loan for the purpose of acquisition of residential house property.
4. The loan is sanctioned by a financial institution (i.e., a bank or banking institution or a housing finance company) during April 1, 2019 and March 31, 2020.
5. The stamp duty value of the residential house property does not exceed Rs. 45 lakhs.
6. The assessee does not own any residential house property on the date of sanction of loan.

AMOUNT OF DEDUCTION - If the above conditions are satisfied, the assessee can claim deduction under section 80EEA. Deduction is available in respect of interest payable on the above loan or Rs. 1,50,000, whichever is less. Deduction is available for the assessment year 2020-21 and subsequent assessment years.

SAME INTEREST IS NOT DEDUCTIBLE TWICE - If interest is claimed as deduction under section 80EEA, such interest (or such portion of interest) is not again deductible under section 24(b) or under any other provision of the Act for the same or any other assessment year.

AMENDMENT NO -24

DEDUCTION IN RESPECT OF INTEREST ON LOAN TAKEN FOR PURCHASE OF ELECTRIC VEHICLE [SEC 80EEB]

Section 80EEB has been inserted from the assessment year 2020-21. Under this section, deduction is available if the following conditions are satisfied –

1. The assessee is an individual.
2. He has taken a loan for the purpose of purchase of an electric vehicle. For this purpose, "electric vehicle" means -
 - a vehicle which is powered "exclusively" by an electric motor whose traction energy is

- supplied exclusively by traction battery) installed in the vehicle, and
- it has such electric regenerative braking system, which during braking provides for the conversion of vehicle kinetic energy into electrical energy.

As the word “exclusive” is used, interest on loan taken for purchase of a “hybrid car” (which derives some of its power from Conventional engine) is not eligible for deduction.

3. Loan is taken from a financial institution (i.e., a bank or any deposit taking NBFC or a systematically important non-deposit taking NBFC).
4. Loan is sanctioned during April 1, 2019 and March 31, 2023.

AMOUNT OF DEDUCTION – If the above conditions are satisfied, the assessee can claim deduction under section 80EEB. Deduction is available in respect of interest payable on the above loan or Rs. 1,50,000, whichever is less. Deduction is available for the assessment year 2020-21 and subsequent assessment years.

SAME INTEREST IS NOT DEDUCTIBLE TWICE – If interest is claimed as deduction under section 80BEB, such interest (or such portion of interest) is not again deductible under any other provision of the Act for the same or any other assessment year.

AMENDMENT NO -25

TAX INCENTIVE FOR CONSTRUCTION OF AFFORDABLE HOUSING PROJECTS [SEC. 80-IBA]

The existing provisions of section 80-IBA, inter alia, provide that where the gross total income of an assessee includes any profits and gains derived from the business of developing and building housing projects, there shall subject to certain conditions, be allowed, a deduction of an amount equal to 100 per cent of the profits and gains derived from such business.

EXISTING CONDITIONS PERTAINING TO PLOT SIZE, AREA OF RESIDENTIAL UNIT, ETC. –

Under the existing provisions of section 80-IBA, deduction is available only if the size of the plot, area of residential unit and utilization of FAR, should not exceed the following –

Location of project	Area of plot of land on which project is situated	Carpet area of residential units comprised in the housing project	Utilization of permissible FAR
Project is located within the cities of Chennai, Delhi, Kolkata or Mumbai	Not less than 1,000 square metres	Not to exceed 30 square metres	Not less than 90%
Project is located in any other place	Not less than 2,000 square metres	Not to exceed 60 square metres	Not less than 80%

ALIGNMENT OF THE DEFINITION OF “AFFORDABLE HOUSING” WITH GST ACT –

The above parameters of “affordable housing” under section 80-IBA are different from “affordable housing” under GST Act. To align the aforesaid parameters with GST regulations, section 80-IBA has been amended (with effect from the assessment year 2020-21). The amended provisions (which are applicable for the projects approved on or after September 1, 2019) are as follows -

Size of the plot, area of residential unit, etc. - The size of the plot, area of residential unit and utilization of FAR should not exceed the following -

<i>Location of project</i>	<i>Area of plot of land on which project is situated</i>	<i>Carpet area of residential units comprised in the housing project</i>	<i>Utilization of permissible FAR</i>
Project is located within the metropolitan cities of Bengaluru , Chennai, Delhi, NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurugram, Faridabad), Hyderabad , Kolkata and Mumbai (whole of Mumbai Metropolitan Region)	Not less than 1,000 square metres	Not to exceed 60 square metres	Not less than 90%
Project is located in any other place	Not less than 2,000 square metres	Not to exceed 90 square metres	Not less than 80%

STAMP DUTY VALUE NOT EXCEEDING RS. 45 LAKH

The stamp duty value of a residential unit in the housing Project does not exceed Rs,45 lakh.

AMENDMENT NO -26

AMENDMENT TO SECTION 80LA

Under the existing provisions of section 80LA, deduction is available to –

- a.** a scheduled bank and having an offshore banking unit in a special economic zone; or
- b.** a foreign bank and having an offshore banking unit in a special economic zone; or
- c.** a unit of International Financial Services Centre.

These assesses can claim deductions pertaining to (a) any income from the offshore banking unit in a Special Economic Zone; (b) income from the business referred to in section 6(1) of the Banking Regulation Act, with an undertaking located in Special Economic Zone or any other undertaking which develops, develops and operates or operates and maintains a Special Economic Zone; (c) income from any unit of the International Financial Services Centre from its business for which it has been approved for setting up in such a centre in a Special Economic Zone. The amount of deduction is 100 per cent of the aforesaid income for first 5 years and 50 per cent for next 5 years.

Amendment – Under the amended version (which is applicable from the assessment year 2020-21). Deduction available to a unit of International Financial Services Centre shall be increased to 100 per cent for any 10 consecutive years. The assessee, at his option, may claim the said deduction for any 10 consecutive assessment years out of 15 years beginning with the year in which the necessary permission is obtained.

AMENDMENT NO -27

POWER OF AO IN RESPECT OF MODIFIED RETURN OF INCOME FILED IN PURSUANCE TO SIGNING OF APA [SEC 92CD]

Advance Pricing Agreement (APA) is an agreement between a taxpayer and a taxing authority on an appropriate transfer pricing methodology for a set of transactions over a fixed period of time in future.

The APA offers better assurance on transfer pricing methods and are conducive in providing certainty and unanimity of approach. Sections 92CC and 92CD provide a framework to empower the Board (with the approval of the Central Government) to enter into an APA with any person for determining the arm's length price (ALP) or specifying the manner in which ALP is to be determined in relation to an international transaction which is to be entered into by that person. The APA is valid for a period, not exceeding 5 previous years, as may be specified therein. These sections also provide for rollback of the APA for 4 years. In order to give effect to the APA section 92CD also provides for mechanism, including filing of modified return of income by the taxpayer and manner of completion of assessments by the Assessing Officer having regard to terms of the APA.

Sub-section (3) of this section deals with a situation where assessment or re-assessment has already been completed, before expiry of the time allowed for filing of modified return. There is a view that due to the use of words "assess or reassess or recomputed", the Assessing Officer may start fresh assessment or reassessment in respect of completed assessments or reassessments of the assessee who have modified their returns of income in accordance with the APA entered into by them, while the intention of the legislature is that Assessing Officer should merely modify the total income consequent to modification of return of income in pursuance of APA.

AMENDMENT - The scheme of section 92CD has been amended to clarify that in cases where assessment or reassessment has already been completed and modified return of income has been filed by the taxpayer, the Assessing Officers shall pass an order modifying the total income of the relevant assessment year (determined in such assessment / reassessment) having regard to and in accordance with the APA. These amendments are applicable with effect from September 1, 2019.

AMENDMENT NO -28

CLARIFICATIONS PERTAINING TO SECONDARY ADJUSTMENT AND OPTION TO ASSESSEE TO MAKE ONETIME PAYMENT [SEC. 92CE]

Section 92CE regulates provisions pertaining to secondary adjustment in international transactions. It was inserted with effect from the assessment year 2018-19. Secondary adjustment under section 92CE is applicable in the following situations -

1. Where a primary adjustment to transfer price has been made suo motu by the assessee in his return of income.

2. Where a primary adjustment to transfer price made by the Assessing Officer has been accepted by the assessee.
3. Where a primary adjustment to transfer price is determined by an APA (advance pricing agreement) entered into by the assessee under section 92CC.
4. Where a primary adjustment to transfer price is made as per the sale harbour rules framed under section 92CB.
5. Where a primary adjustment to transfer price is arising as a result of resolution of an assessment by way of the mutual agreement procedure under DTAA entered into under section 90/90A.

THRESHOLD LIMIT - If the following two conditions are not satisfied, secondary adjustment is not required –

- a. the amount of primary adjustment made in the case of an assessee in any previous year does not exceed Rs, 1 crore; **and**
- b. the primary adjustment is made in respect of the assessment year 2016-17 (or any earlier assessment year).

AMENDMENTS (WITH EFFECT FROM THE ASSESSMENT YEAR 2018-19) –

The following amendments have been made to the above scheme of secondary adjustment under section 92CE (with effect from the date of insertion of section 92CE, i.e., assessment year 2018-19 onwards) -

Threshold limit - The condition of threshold [i.e., (a) and (b) given above) of Rs. 1 crore and of the primary adjustment made up to assessment year 2016-17, are alternate conditions. However no refund will be granted if already paid because of AND.

Excess money - The assessee shall be required to calculate interest on the excess money or part thereof.

Repatriation of excess money - The excess money may be repatriated from any of the associated enterprises of the assessee which is not resident in India.

Amendment (applicable with effect from September 1, 2019) - Sub-sections (2A) to (2D) have been inserted in section 92CE with effect from September 1, 2019. These provisions are given below -

Additional income tax – In a case, where the excess money or part thereof has not been repatriated in time, the assessee will have the option to pay additional income-tax at the rate of 18 per cent on such excess money (or part thereof). It will be increased by surcharge at the rate of 12 per cent and health and education cess at the rate of 4 per cent (effective tax rate: 20.9664 per cent). The following points should be noted –

- If the assessee pays the additional income-tax, he will not be required to make secondary adjustment or compute interest from the date of payment of such tax. However, He is required to make secondary adjustment pertaining to interest till the date of payment of additional tax.
- The tax so paid shall be the final payment of tax and no credit shall be allowed in respect of the amount of tax so paid.
- The deduction in respect of the amount on which such tax has been paid, shall not be allowed under any other provision.

E1 X Ltd. is an Indian company. It renders services to Y Inc. (an American company which is an associated enterprise of X Ltd. within the parameters of section 92A). During the previous year 2017-18, X Ltd. charges 8 per cent on cost for providing services to Y Inc. However, X Ltd. would have earned a margin of 11 per cent on cost if similar services were provided to unconnected foreign entities. The Assessing Officer makes transfer pricing adjustments to the tune of 3 per cent which comes to an addition of Rs. 12 crore to the reported income of X Ltd. (date of assessment order: December 20, 2018) The adjustment is accepted by X Ltd.

The addition of Rs. 12 crore is known as primary adjustment. However, the primary adjustment to the income of X Ltd. does not address the benefit obtained by Y Inc. by retaining Rs. 12 crore in cash. Provisions of section 92CE on secondary adjustment seek to target such cash benefit by applying a tax charge on excess benefit in the hands of foreign entity. Under this section, Rs. 12 crore will be considered as a separate transaction as a deemed loan (in the language of section 92CE it is known as "secondary adjustment") given by X Ltd. to Y Inc. This deemed loan would exist for tax purposes only and would not appear in the books of account of X Ltd. Arm's length value of interest on deemed loan will be calculated as per rule 10CB [i.e., where international transaction is de-nominated in Indian rupee : MCLR of SBI (1 year) + 3.25%]. This interest will be taxable in the hands of X Ltd. annually till Rs. 12 crore is repatriated by Y Inc. (of America) to X Ltd. (in India). Tax consequences in this case will be as follows on the assumption that (a) MCLR (1 year) of SBI + 3.25% comes to 11.7%, and (b) Y Inc. has not repatriated Rs. 12 crore to X Ltd. –

Previous year 2018-19 - Date of final assessment order (no appeal by X Ltd.) is December 20, 2018. Excess money is Rs. 12 crores. Time-limit for repatriation is 90 days from the date of final order (i.e., December 20, 2018 + 90 days, last date for repatriation is March 20, 2019). Deemed interest on Rs. 12 crores will start from March 21, 2019 at the rate of 11.7%. For the previous year ending March 31, 2019, it comes to Rs. 4,23,123 (i.e., amount of secondary adjustment for the previous year 2018-19). X Ltd. will pay income-tax on Rs. 4,23,123 at the applicable rate (i.e., 25% or 30% + applicable surcharge + HEC).

Previous year 2019-20 - The following calculations are given on the assumption that income of X Ltd. before the aforesaid secondary adjustment is Rs. 2 crores. Tax on secondary adjustment is calculated under two different situations: Situation 1 - X Ltd. does not pay additional income-tax as per section 92CE(2A), Situation 2 - X Ltd. pays additional income-tax on the entire excess money on October 31, 2019 under section 92CE(2A) –

	<i>Situation 1</i>	<i>Situation 2</i>
Primary adjustment for the previous year 2018-19	12,00,00,000	12,00,00,000
Add Secondary adjustment for the previous year 2018-19	4,23,123	4,23,123
Total (a)	12,04,23,123	12,04,23,123
Secondary adjustment for the previous year 2019-20 -		
- In Situation 1 [i.e., interest @ 11.7% on (a) from April 1, 2019 to March 31, 2020]	1,40,89,505	-
- In Situation 2 [i.e., interest (i.e., 11.7% on (a) from April 1, 2019 to October 31, 2019]	-	82,18,878
Other income	2,00,00,000	2,00,00,000
Net income	3,40,89,510	2,82,18,880

Tax @ 30% + SC : 7% + HEC : 4%	1,13,80,440	94,20,590
Additional income-tax under section 92CE(2A) -		
Income-tax (18% of Rs. 12,00,00,000)	-	2,16,00,000
Add: Surcharge @ 12% (always applicable, even if net income is below Rs. 1 crore)	-	25,92,000
Total	-	2,41,92,000
Add: Health and education cess @ 4%	-	9,67,680
Additional tax under section 92CE(2A)	-	2,51,59,680

Note: If the aforesaid additional tax is not paid, secondary adjustment for the previous year 2020-21 will be national interest [@ MCLR (1 year) of SBI + 3.25%] on (Rs. 12,04,23,123 + 1,40,89,505).

AMENDMENT NO -29

AMENDMENT TO SECTION 111A

Section 111A has been amended (with effect from the assessment year 2020-21) so as to provide that “equity-oriented fund” shall have the meaning assigned to it in clause (a) of the Explanation to section 112A.

AMENDMENT NO -30

AMENDMENT TO SECTION 115A

Section 115A provides the method of calculation of income-tax payable by a non-resident /foreign company where the total income includes any income by way of dividend (other than referred in section 115-O), interest, royalty and fees for technical services; etc. Section 80LA, provides for deduction in respect of certain incomes to a unit located in an International Financial Services Centre (IFSC). However, section 115A(4) prohibits any deduction under Chapter VIA (which includes section 80LA).

In order to ensure that units located in IFSC claim full deduction under section 80LA, the scheme of section 115A has been amended (with effect from the assessment year 2020-21) to provide that the aforesaid provision of section 115A(4) shall not apply to a unit of an IFSC for claiming deduction under section 80LA.

AMENDMENT NO -31

BOOK PROFIT UNDER SECTION 115JB

Book profit for the purpose of calculation of minimum alternate tax is regulated by Explanation 1 to section 115JB, Clause (iih) of the Explanation provides that in case of a company, against which an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7/9/10 of the Insolvency and Bankruptcy Code, the aggregate amount of unabsorbed depreciation and loss (before depreciation) brought forward shall be allowed to be reduced from the net profit to calculate book profit. This clause has been amended (with effect from the assessment year 2020-21) so as to provide that the aggregate amount of unabsorbed depreciation and loss (excluding depreciation) brought forward shall also be allowed to be reduced from net profit to calculate

book profit in case of a company, and its subsidiary and the subsidiary of such subsidiary, where, the National Company Law Tribunal, on an application moved by the Central Government under section 241 of the Companies Act, 2013 has suspended the Board of Directors of such company and has appointed new directors who are nominated by the Central Government, under section 242 of the said Act.

MEANING OF SUBSIDIARY COMPANY – A company shall be a subsidiary of another company, if such other company holds more than half in nominal value of the equity share capital of the company.

AMENDMENT NO -32

TAX ON INCOME DISTRIBUTED BY WAY OF DIVIDEND BY A UNIT OF INTERNATIONAL FINANCIAL SERVICES CENTRE [SEC. 115-O(8)]

Section 115-O(8) provides that no tax on distributed profits shall be chargeable in respect of the total income of a company, being a unit of an International Financial Services Centre (IFSC), deriving income solely in convertible foreign exchange, for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise), on or after April 1, 2017, out of its current income, either in the hands of the company or the person receiving such dividend.

• **AMENDMENT** – To facilitate distribution of dividend by companies operating in IFSC, the above provisions of section 115-O(8) have been amended (with effect from September 1, 2019) to provide that any dividend paid out of accumulated income derived from operations in IFSC, after April 1, 2017 shall also not be liable for tax on distributed profits.

AMENDMENT NO -33

TAX ON INCOME DISTRIBUTED BY WAY OF BUY-BACK OF SHARES [SEC. 115QA]

Section 115QA provides for the levy of additional income-tax at the rate of 20 per cent (effective rate after surcharge and cess: 23.296 per cent) of the distributed income on account of buy-back of unlisted shares by the company. As additional income-tax has been levied at the level of company, the consequential income arising in the hands of shareholders has been exempted from tax under section 10(34A).

Anti-abuse provision - Section 115QA was introduced as an anti-abuse provision to check the practice of unlisted companies resorting to buy-back of shares instead of payment of dividends. This practice of widespread abuse was noted, in the past, amongst unlisted companies where the taxpayers preferred it for tax avoidance, as tax rate for capitals gains was lower than the rate of dividend distribution tax. However, instances of similar tax arbitrage have now come to notice in case of listed shares as well, whereby the listed companies are also indulging in such practice of resorting to buy-back of shares, instead of payment of dividends.

AMENDMENT - In order to curb such tax avoidance practices adopted by the listed companies, the scope of existing anti-abuse provision under section 115QA has been extended to all companies (including companies listed on a recognised stock exchange). Thus, any buy-back of shares (on or after July 5, 2019) from a shareholder by a company listed on

recognised stock exchange, shall also be covered by the provision of section 115QA. Accordingly, the scope of exemption under section 10(34A) has been extended to shareholders of the listed company on account of buy-back of shares.

Note: Further if the public announcement of Buy Back of Listed Shares is made before 5th July then the new amended provision shall not apply, i.e. Sec 115QA and Sec 10(34A) shall not apply. **(Amendment made by Ordinance on 20th September 2019).**

AMENDMENT NO -34

AMENDMENT TO SECTION 115R

The existing provisions of the section 115R provide that any amount of income distributed by the specified company or a mutual fund to its unitholders shall be chargeable to tax and such specified company or mutual fund shall be liable to pay additional income-tax on such distributed income.

AMENDMENT - In order to incentivize relocation of mutual fund in International Financial Services Centre (IFSC), the above provisions of section 115R have been amended with effect from September 1, 2019. The amended version provides that no additional income-tax shall be chargeable under section 115R if the following conditions are satisfied -

1. Income is distributed by "specified mutual fund". "Specified mutual fund" for this purpose is -

- It is a mutual fund specified under section 10(23D).
- It is located in any IFSC.
- All the units are held by non-residents

2. Such income is distributed out of its income derived from transactions made on a recognised stock exchange located in any IFSC and where the consideration for such transaction is paid or payable in convertible foreign exchange.

3. Such income is distributed on or after September 1, 2019.

AMENDMENT NO -35

AMENDMENT TO SECTION 115UB

Section 115UB, *inter alia*, provides for pass through of income earned by the Category I and II Alternative Investment Fund (AIF), except for business income which is taxed at AIF level. Pass through of profits (other than profit and gains from business) has been allowed to individual investors so as to give them benefit of lower rate of tax, if applicable. Pass through of losses are not provided under the existing regime and are retained at AIF level to be carried forward and set off in accordance with Chapter VI Provisions regulating adjustment of losses have been amended. Legal provision, before and after amendment, is summarised below -

Adjustment of losses up to the assessment year 2019-20

If in any year there is a loss at the fund level (either current loss or the loss which remained to be set off), the loss shall not be allowed to be passed through to the investors, but would be carried over at fund level to be set off against income of the next year in accordance with the provisions of Chapter VI.

Adjustment of losses with effect from the assessment year 2020-21

From the assessment year 2020-21, section 115UB(2) has been amended to provide that -

- the business loss of the investment fund shall be allowed to be carried forward by the fund and it shall not be passed onto the unit holder;
- the loss (other than business loss) shall also be ignored for the purposes of pass through to its unit holders, if such loss has arisen in respect of a unit which has not been held by the unit holder for a period of at least 12 months;
- the loss (other than business loss) accumulated at the level of investment fund as on March 31, 2019, shall be deemed to be the loss of a unit holder who held the unit on March 31, 2019 in respect of the investments made by him in the investment fund and allowed to be carried forward by him for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year and it shall be set-off by him in accordance with the provisions of Chapter VI;
- the loss so deemed in the hands of unit holders shall not be available to the investment fund for the purposes of Chapter VI.

AMENDMENT NO -36**MANDATORY FURNISHING OF RETURN OF INCOME BY CERTAIN PERSONS**
[SEC. 139]

The following amendments have been made to the provisions of section 139 -

High value transactions - Currently, a person (other than a company or a firm) is required to furnish the return of income only if his total income exceeds the maximum amount not chargeable to tax, subject to certain exceptions. Therefore, a person entering into certain high value transactions is not necessarily required to furnish his return of income. In order to ensure that persons who enter into certain high value transactions do furnish their return of income, section 139 has been amended with effect from April 1, 2020 (*i.e.*, from the assessment year 2020-21 onwards). Under the amended version, a person (other than a company or a firm) shall be mandatorily required to file his return of income, if during the previous year, he -

- a** has deposited an amount (or aggregate of the amounts) exceeding Rs. 1 crore in one or more current account maintained with a banking company or a co-operative bank; or
- b** has incurred expenditure of an amount (or aggregate of the amounts) exceeding Rs. 2 lakhs for himself or any other person for travel to a foreign country; or
- c** has incurred expenditure of an amount (or aggregate of the amounts) exceeding Rs. 1 lakh towards consumption of electricity; or
- d** fulfils such other prescribed conditions, as may be prescribed.

AMENDMENT NO -37

Persons claiming exemption under sections 54, 54B, etc. - Currently, a person claiming rollover benefit of exemption from capital gains tax on investment in specified assets like house, bonds, etc., is not required to furnish a return of income, if after claim of such rollover benefits, his total income is not more than the exemption limit. In order to make furnishing of return compulsory for such persons, sixth proviso to section 139(1) has been amended with effect from April 1, 2020 (*i.e.*, from the assessment year 2020-21 onwards). Impact of sixth proviso (before and after amendment) is given below –

Who is covered by sixth proviso?	<i>Individual/HUF/AOP/BOI/artificial juridical person</i>
When return is required to be submitted on compulsory basis?	<p>If total income (or net income or taxable income) exceeds the exemption limit without claiming the following exemptions or deductions -</p> <ol style="list-style-type: none"> 1. Deduction under sections 10A, 10B, 10BA, 80C to 80U. (Till AY 2019-20) 2. Exemption under sections 54, 54B, 54D, 54EC, 54F, 54G, 54GA and 54GB [applicable from the assessment year 2020-21 onwards along with Point 1.]

AMENDMENT NO -38

PROVISION OF CREDIT OF RELIEF PROVIDED UNDER SECTION 89 [SECS. 140A, 143, 234A, 234B AND 234C]

Section 89 contains provisions for providing relief where salary (or family pension) is paid in arrears or in advance. The existing provisions of sections 140A, 143, 234A, 234B and 234C contain provisions pertaining to tax computation after allowing credit for prepaid taxes and certain admissible reliefs, credits, etc. However, the relief under section 89 is not specifically mentioned in these sections.

AMENDMENT - With a view to avoiding genuine hardship in the case of a person who is eligible for relief under section 89, the provisions of sections 140A, 143, 234A, 234B and 234C have been amended (with retrospective effect from the assessment year 2007-08) to provide that computation of tax liability shall be made under these sections after allowing relief under section 89.

AMENDMENT NO -39

TDS ON NON-EXEMPT PORTION OF LIFE INSURANCE PAY-OUT ON NET BASIS [SEC. 194DA]

Under section 194DA, a person is required to deduct tax at source, if it pays any sum to a resident under a life insurance policy, which is not exempt under section 10(10D). The present requirement is to deduct tax at the rate of 1 per cent of amount payable [*i.e.*, sum payable by way of a life insurance policy including the sum allocated by way of bonus on such life insurance policy but excluding the amount exempted under section 10(10D)].

AMENDMENT - The aforesaid provision has been amended with effect from September 1, 2019 to provide tax deduction at the rate of 5 per cent of income component of the sum payable by the deductor.

AMENDMENT NO -40

AMENDMENT TO SECTION 194-IA

Section 194-IA relates to payment on transfer of certain immovable property (other than agricultural land) and provides for levy of TDS at the rate of 1 per cent on the amount of

consideration paid or credited for transfer of such property.

AMENDMENT - The term "consideration for transfer of any immovable property" is not defined for the purposes of section 194-IA. In the case of purchase of immovable property, there are other types of payments made besides the sales consideration and the buyer is contractually bound to make such payments to the builder /seller, either under the same agreement or under a different agreement. Some of these payments are those for rights to amenities like club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee, etc. Accordingly, section 194-IA has been amended (with effect from September 1, 2019) to provide that the term "consideration for immovable property" shall include all charges of the nature of club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property.

AMENDMENT NO -41

TDS ON CERTAIN PAYMENTS BY INDIVIDUAL/HUF [SEC 194M, APPLICABLE FROM SEPTEMBER 1, 2019]

Section 194M has been inserted with effect from September 1, 2019. Provisions of this section are given below -

Who is deductor - An individual/HUF (who is not required to deduct tax at source under sections 194C, 194H or 194J) is required to deduct tax under section 194M. Consequently, an individual/HUF is required to deduct tax at source in respect of the following under section 194M -

- Payment/credit to a resident contractor or resident professional, when such payment is for personal use.
- Payment/credit to a resident contractor or resident professional or to a resident by way of commission (not being insurance commission) or brokerage [where payer is an individual/HUF who carries on business or profession and books of account are not subject to tax audit under section 44AB(a)/(b) in the immediately preceding financial year].

Threshold limit - Tax is not deductible if aggregate amount paid or payable during the financial year to a resident does not exceed Rs. 50 lakh.

Payment covered - TDS under section 194M is applicable in respect of amount paid/payable to a resident for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract or by way of commission (not being insurance commission) or brokerage or by way of fees for professional services.

When deductible - Tax is deductible at the time of credit of aforesaid sum or at the time of payment of the aforesaid sum in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

Rate of TDS - Tax is deductible at the rate of 5 per cent of the aforesaid payment or credit.

Lower TDS certificate - Recipient can apply for nil/lower TDS certificate under section 197.

TAN not necessary - Individual/HUF (who is required to deduct tax under section 194M) shall be able to deposit the tax deducted using his PAN and shall not be required to obtain TAN.

E1 X is an individual. He makes the following payments to a resident consultant (or to a resident contractor for a work contract or to a resident by way of commission/brokerage). Amount of payment is Rs. 27,00,000 on August 10, 2019 and Rs. 26,00,000 on November 22, 2019. The following situations are examined -

Situation 1 - X is a businessman. His books of account are audited every year under section 44AB. Payment to consultant (or contractor or broker) is for business purposes.

Situation 2 - X is a businessman. His books are not audited in the immediately preceding financial year (as turnover is lower than the threshold limit of Rs. 1 crore). Payment to consultant (or contractor or broker) is for business purposes.

Situation 3 - Payment to consultant (or contractor) is for personal purposes [not deductible under section 37(1)].

Situation 4 - X is a non-resident Indian (or foreign citizen). He does not have any income in India. Payment to consultant (or contractor) is for personal purposes.

Situation 5 - X is a farmer. His entire income is exempt under section 10(7). Payment to consultant (or contractor) is for personal purposes.

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Situation 1 - Tax is deductible under section 194J (if the recipient is consultant) or under section 194C (if recipient is a contractor) or under section 194H (if recipient is a broker). Consequently, TDS provisions of section 194M are not applicable. If it is payment to a consultant, amount of TDS under section 194J is 10% of Rs. 27,00,000 on August 10, 2019 and 10% of Rs. 26,00,000 on November 22, 2019.

Situation 2 - Provisions of sections 194C, 194H and 194J are not applicable. Aggregate payment to the recipient during the financial year 2019-20 is Rs. 53,00,000 (more than the threshold of Rs. 50,00,000 under section 194M). Tax is deductible under section 194M. Payment of Rs. 27,00,000 is made prior to September 1, 2019 (*i.e.*, before the application of section 194M). Therefore, tax deduction is not required at the time of payment of Rs. 27,00,000 on August 10, 2019. However, payment on November 22, 2019 is subject to TDS under section 194M (amount of TDS will be Rs. 1,30,000, being 5% of Rs. 26,00,000).

Situation 3 - It is payment to a consultant or contractor. Payment is for personal purposes. Tax is not deductible under section 194C or 194J. Consequently, tax is deductible under section 194M. No tax deduction at the time of payment of Rs. 27,00,000 on August 10, 2019. Tax of Rs. 1,30,000 will be deducted by X at the time of payment of Rs. 26,00,000 on November 22, 2019.

Situation 4 - Even if X is non-resident (not having income in India), TDS provisions of section 194M are applicable (as given above, no TDS on August 10, 2019 and Rs. 1,30,000 will be deducted on November 22, 2019).

Situation 5 - Even if income of X is exempt under section 10(7), TDS provisions of section 194M (as given above) are applicable.

AMENDMENT NO -42**TDS ON PAYMENT OF CERTAIN AMOUNTS IN CASH [SEC. 194N, APPLICABLE FROM SEPTEMBER 1, 2019]**

Section 194N has been inserted with effect from September 1, 2019. Provisions of section 194N are given below -

Who is deductor - A bank, co-operative bank or a post office, who is responsible for paying any sum in cash to an account holder, is required to deduct tax at source under section 194N.

Threshold limit - It is Rs. 1 crore. In other words, tax is deductible by a bank (or co-operative bank or post office) if aggregate payment in cash from one or more accounts during a previous year to an account holder, exceeds Rs. 1 crore.

When deductible - Tax is deductible at the time of payment in cash.

Rate of TDS - Tax is deductible at the rate of 2 per cent of payment (or aggregate payment) in cash exceeding Rs. 1 crore.

Lower TDS certificate - Not possible.

Cash payment to certain recipients without TDS - Exemption is available, when cash payment is made to certain recipients, such as the Government, banking company, co-operative society engaged in carrying on the business of banking, post office. Exemption is also available when cash payment is made to the following persons -

- Any business correspondent of a banking company or co-operative bank in accordance with the guidelines issued in this regard by RBI.
- Any white label ATM operator of a banking company/co-operative bank in accordance with the authorisation issued by RBI under the Payment and Settlement Systems Act, 2007.
- Such other person or class of persons notified by the Central Government in consultation with RBI.
- *Tax deducted under section 194N, not to be treated as deemed receipt* - Tax deducted (under section 194N) shall not be deemed to be income received (for the purpose of section 198) for computing income of recipient.

E1 X Ltd. is a manufacturing company (having head office at Mumbai and branch office at Kolkata).

X Ltd. has a current account with SBI Mumbai and overdraft account with SBI Kolkata. The two accounts are separately operated by head office and branch office. Head office and branch office have separate TAN and GSTIN. Cash withdrawn by head office and branch office from these two accounts is as follows -

- from SBI Mumbai by head office on July 10, 2019: Rs. 10 lakhs
- from SBI Kolkata by branch office on October 10, 2019: Rs. 60 lakhs
- from SBI Mumbai by head office on January 10, 2020: Rs. 35 lakhs

• Total cash payment to X Ltd. (head office and branch office) during the financial year 2019-

20 is Rs. 1.05 crore. Cash payment by SBI up to January 9, 2020 does not exceed Rs. 1 crore. It exceeds Rs. 1 crore only after cash payment of Rs. 35 lakh on January 10, 2020. The excess amount is Rs. 5 lakh. Tax deductible by SBI on January 10, 2020 is Rs. 10,000 (being 2% of the excess amount of Rs. 5 lakh).

E2 Suppose cash payment by SBI to X Ltd. in the above example is as follows -

- from SBI Mumbai by head office on July 10, 2019: Rs. 1.1 crore
- from SBI Kolkata by branch office on October 10, 2019: Rs. 30 lakhs
- from SBI Mumbai by head office on January 10, 2020: Rs. 20 lakhs

Cash payment exceeds Rs. 1 crore on July 16, 2019. No tax is, however, deductible on July 10, 2019 (as section 194N is applicable only from September 1, 2019). Up to October 10, 2019, cash payment by SBI to X Ltd. is Rs. 1.40 crore. Amount in excess of Rs. 1 crore (up to October 10, 2019) is Rs. 40 lakh (this includes cash payment of Rs. 10 lakh by SBI to X Ltd. prior to September 1, 2019). Therefore, tax deductible by SBI on October 10, 2019 is Rs. 60,000 (being 2% of Rs. 30 lakh). Further SBI will deduct tax at source under section 194N on January 10, 2020 which comes to Rs. 40,000 (*i.e.*, 2% of Rs. 20 lakh).

AMENDMENT NO -43

ONLINE FILING OF APPLICATION SEEKING DETERMINATION OF TAX TO BE DEDUCTED AT SOURCE ON PAYMENT TO NON RESIDENTS [SEC 195(2)]

Under section 195(2), a person (who is responsible for tax deduction on payment of any sum to a non-resident) considers that the whole of such sum would not be income chargeable in the case of the recipient, he can make an application to the Assessing Officer to determine the appropriate proportion of such sum (chargeable to tax in the hands of recipient) which is subject to TDS. This provision is used by a person making payment to a non-resident to obtain certificate/order from the Assessing Officer for lower or *nil* withholding tax.

AMENDMENT - The process of obtaining above certificate/order is currently manual. In order to use technology to streamline the process, the scheme of section 195 has been amended (with effect from November 1, 2019) to allow for prescribing the form and manner of application to the Assessing Officer and also for the manner of determination of appropriate portion of sum chargeable to tax by the Assessing Officer.

AMENDMENT NO -44

AMENDMENT TO SECTION 197

Section 197 regulates the provisions pertaining to certificate of lower/ *nil* tax deduction. It has been amended (with effect from September 1, 2019) so as to provide that the sums on which tax is deductible under section 194M, shall also be eligible for certificate for deduction at lower rate or *nil* rate.

AMENDMENT NO -45**RECOVERY OF TAX IN PURSUANCE OF AGREEMENTS WITH FOREIGN COUNTRIES [SEC 228A]**

Section 228A regulates recovery of tax in pursuance of agreements with foreign countries. It, *inter alia*, provides that where an agreement is entered into by the Central Government with a foreign Government for recovery of income-tax under the Income-tax Act and the corresponding law in force in that country and where such foreign country sends a certificate for the recovery of any tax due under such corresponding law from a person having any property in India, the Board, on receipt of such certificate may, forward it to the Tax Recovery Officer within whose jurisdiction such property is situated. This provision has been amended (with effect from September 1, 2019) so as to provide for tax recovery in cases where details of property of such person are not available but the said person is a resident in India. Further, section 228A(2) has been amended so as to provide for tax recovery where details of property of assessee in default are not available but the said assessee is a resident in a foreign country.

AMENDMENT NO -46**MANDATING ACCEPTANCE OF PAYMENTS THROUGH PRESCRIBED ELECTRONIC MODES [SEC 269SU]**

Section 269SU has been inserted with effect from November 1, 2019, in order to achieve the mission of the Government to move towards a less cash economy to reduce generation and circulation of black money and to promote digital economy. It requires that every person, carrying on business, shall, arrange facility for accepting payment through the prescribed electronic modes, in addition to the facility for other electronic modes of payment, if any, being provided by such person. However, this provision is applicable only if total sales, turnover or gross receipts of the person in business exceed Rs. 50 crores during the immediately preceding previous year.

Penalty under section 271DB - In order to ensure compliance of the aforesaid provisions, section 271DB has been inserted with effect from November 1, 2019. It provides that the failure to provide facility for electronic modes of payment prescribed under section 269SU, shall attract penalty of a sum of Rs. 5,000, for every day during which such failure continues. However, the penalty shall not be imposed if the person proves that there were good and sufficient reasons for such failure. Any such penalty shall be imposed by the Joint Commissioner.

AMENDMENT NO -47**PROVISIONS RELATING TO UNDER-REPORTING OF INCOME [SEC. 270A]**

Section 270A contains provisions relating to penalty for under-reporting and misreporting of income. The existing provisions provide for various situations for the purposes of levy of penalty under this section. However, these provisions do not contain the mechanism for determining under-reporting of income and quantum of penalty to be levied in the case where the person has under-reported income and furnished the return of income for the first time under section 148.

AMENDMENT - The aforesaid provisions of section 270A have been amended (with retrospective effect from April 1, 2017) to provide for manner of computing the quantum of penalty in a case where the person has under-reported income and furnished his return for the first time under section 148.

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AMENDMENT NO -48

AMENDMENT TO SECTION 271FAA

Section 271FAA regulates penalty for furnishing inaccurate statement of financial transaction or reportable account. It, *inter alia*, provides for penalty of a sum of Rs. 50,000, if a person referred to in section 285BA(1)(k) furnishes inaccurate information in the statement. Presently, penalty under section 271FAA cannot be imposed if inaccurate information is furnished by a person referred to in clauses (a) to (j) of section 285BA(1).

AMENDMENT - The above provisions of section 271FAA have been amended (with effect from September 1, 2019) so as to extend the penalty for furnishing inaccurate information in the statement to all the persons referred to in section 285BA(1).

AMENDMENT NO -49

AMENDMENT TO SECTION 272B

The following amendments have been made to the provisions pertaining to section 272B with effect from September 1, 2019 -

Section 272B(2) has been suitably amended so that penalty may also be levied on false quoting or non-intimation of Aadhaar number.

Penalty of Rs. 10,000 shall be levied for each default under section 272B(2).

New sub-section (2A) has been inserted to provide that if a person, who is required to quote and also authenticate his PAN/Aadhaar number, fails to do so, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of Rs. 10,000 for each such default.

New sub-section (2B) has been inserted to provide that if a person who is required to ensure that PAN/Aadhaar has been quoted/authenticated, fails to do so, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of Rs. 10,000 for each such default.

Before passing a penalty order under sub-section (2A) or (2B), the person (on whom the penalty is proposed to be imposed) shall be given an opportunity of being heard.

AMENDMENT NO -50

RATIONALISATION OF THE PROVISIONS OF SECTION 276CC

Section 276CC, *inter alia*, provides that prosecution proceedings for failure to furnish returns of income against a person shall not proceed against, for failure to furnish the return of income in due time, if the tax payable by such person, not being a company, on the total income determined on regular assessment does not exceed Rs. 3,000. For determining this monitoring ceiling, tax credit pertaining to TCS/self-assessment tax is not considered.

AMENDMENT - In order to rationalise the aforesaid provisions of section 276CC, the following amendment have been made with effect from the assessment year 2020-21 -

1. The aforesaid threshold ceiling of Rs. 3,000 has been increased to Rs. 10,000.
2. The threshold ceiling of Rs. 10,000 shall be calculated as follows -
 - Tax payable by the defaulter (not being a company) on total income determined on regular assessment
 - *Less:* Advance tax or self-assessment tax paid before the expiry of assessment year.
 - *Less:* Tax deducted or collected at source.

If the balance is Rs. 10,000 or less, section 276CC will not be applicable.

PART B - EFFECTED BY THE FINANCE ACT (NO. 1), 2019

AMENDMENT NO -51

STANDARD DEDUCTION TO SALARIED EMPLOYEES [Sec. 16(ia)]

Clause (ia) was inserted in section 16 by the Finance Act, 2018 to provide standard deduction to salaried employees. Under this provision, standard deduction is Rs. 40,000 or salary income, whichever is lower, for the assessment year 2019-20. With effect from the assessment year 2020-21, the quantum of standard deduction has been increased to Rs. 50,000.

AMENDMENT NO -52

NOTIONAL RENT ON SECOND SELF-OCCUPIED PROPERTY EXEMPT FROM TAX [SECS 23 AND 24]

If a person has occupied one house property for his own residential purposes, it is not chargeable to income-tax. Annual value of such property is taken as *nil* and interest on capital which was borrowed to finance purchase, construction, etc., of such property is deductible (subject to satisfaction of a few conditions) up to Rs. 2,00,000. If a person has occupied more than one house property for his residential purposes, only one property (according to his own choice) is treated as self-occupied property (annual value of such property is taken as nil, interest liability is deductible up to Rs. 2,00,000 subject to a few conditions). In such a case, income from other self-occupied property / properties will be calculated as if such property / properties are “deemed to be let out”.

AMENDMENT – The aforesaid provision has been amended to exempt notional income pertaining to two self-occupied residential house properties. Salient features of the amendment (applicable from the assessment year 2020-21) are given below –

1. If a person occupies only one house property for his own residential purposes, annual value of such property will be nil (as earlier). Interest on borrowed capital will be deductible up to Rs. 2,00,000 (subject to a few conditions).
2. If a person occupies two house properties for his own residential purposes, annual value of both the properties will be taken as nil. Aggregate interest on capital borrowed for the purpose of purchase / construction of these properties, will be deductible up to Rs. 2,00,000 (subject to similar conditions as were applicable earlier).
3. If a person occupies more than two house properties for his own residential purposes, only two properties (according to his own choice) will be treated as self-occupied properties and other houses will be “deemed to be let out”. In the case of two self-occupied properties (as selected by the assessee), annual value will be nil and aggregate interest on borrowed capital will be deductible up to Rs. 2,00,000 (subject to similar conditions as were applicable earlier). In the case of “deemed to be let out” properties, taxable income will be calculated as if such properties are let out properties.

AMENDMENT NO -53**NO NOTIONAL INCOME UP TO 2 YEARS FOR HOUSE PROPERTY HELD AS STOCK-IN-TRADE [SEC 23(5)]**

Sub-section (5) was inserted in section 23 by the Finance Act, 2017 with effect from the assessment year 2018-19. This sub-section is applicable if the following conditions are satisfied -

1. The property (consisting of any building and land appurtenant thereto) is held as stock-in-trade by the owner of the property.
2. The property (or any part of the property) is not let out during the whole (or any part) of the previous year. If the above conditions are satisfied, annual value of such property (or part of the property) shall be taken to be *nil*. However, this concession is available only for the period up to 1 year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority.

Amendment - The aforesaid period of 1 year has been extended to 2 years with effect from the assessment year 2020-21. Consequently, if the above two conditions are satisfied, annual value of the aforesaid properties shall be taken to be *nil for 2 years* from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority.

AMENDMENT NO -54**EXEMPTION UNDER SECTION 54 EXTENDED TO PURCHASE/CONSTRUCTION OF TWO RESIDENTIAL HOUSES**

Capital gain arising from transfer of a house property is exempt under section 54, if the following conditions are satisfied -

1. The property (which is transferred) is a residential house property.
2. Transferor is an individual or a Hindu undivided family.
3. The property (which is transferred) is a long-term capital asset.
4. To avail of exemption, the assessee will have to purchase/construct one residential house property in India within a specified time-limit. If the new property is not purchased/constructed till the due date of submission of return of income, the amount should be deposited in Capital Gains Deposit Account Scheme and investment in new property can be made by withdrawing from the deposit account.

Exemption under section 54 is the amount of investment in the new property or the capital gain, whichever is lower.

AMENDMENT - Currently, exemption under section 54 is available for investment in construction/purchase of one residential house property. With effect from the assessment year 2020-21, the following amendments have been made to the scheme of section 54 -

1. To get exemption, one can purchase/construct two residential house properties (specified time-limit for construction/purchase will remain the same).
2. The aforesaid option (of investment in two residential house properties) will be available only where the amount of capital gain does not exceed Rs. 2 crore. To put it differently, if long-term capital asset (being a residential house property) is transferred by an individual (or HUF) and

the amount of long-term capital gain (after indexation) exceeds Rs. 2 crore, the assessee cannot claim the benefit of investment in construction purchase of two residential house properties.

3. The aforesaid option can be exercised only once in a lifetime. In other words, if an assessee exercises the aforesaid option (of investment in two residential house properties) for the assessment year 2020-21 he shall not be subsequently entitled to exercise the same option for the assessment year 2021-22 (or any subsequent assessment year). However, in future he can continue to claim section 54 exemption by investing in purchase/construction of one residential house property.

E1 The following information is given by X and Y for the previous year 2019-20 -

	<i>X Rs.</i>	<i>Y Rs.</i>
Sale consideration of a residential house property situated in Kolkata	3,30,00,000	9,40,00,000
Stamp duty value on the date of transfer	3,50,00,000	9,50,00,000
Cost of acquisition in 1996-97	28,00,000	1,60,00,000
Fair market value on April 1, 2001	29,00,000	2,30,00,000
Cost of improvement incurred in 2002-03	40,000	50,00,000
Expenditure on transfer borne by transferor	40,000	50,000
Purchase of residential house property in Cochin on December 1, 2019	60,70,000	20,10,000
Purchase of another residential house property in Mumbai on July 10, 2020	2,02,00,000	1,20,00,000

Computation of capital gain -

	<i>X Rs.</i>	<i>Y Rs.</i>
Full value of consideration (stamp duty value is taken if it exceeds 105% of sale consideration)	3,50,00,000	9,40,00,000
<i>Less:</i>		
Indexed cost of acquisition (it is assumed that CII of 2019-20 is 290)		
- In the case of X (Rs. 29,00,000 × 290 ÷ 100)	84,10,000	-
- In the case of Y (Rs. 2,30,00,000 × 290 ÷ 100)	-	6,67,00,000
Indexed cost of improvement (it is assumed that CII of 2019-20 is 290)		
- in the case of X (Rs. 40,000 × 290 ÷ 105)	1,10,476	1,38,09,524
- In the case of Y (Rs. 50,00,000 × 290 ÷ 105)	-	1,38,09,524
Expenditure on transfer	40,000	50,000
Long-term capital gain before exemption	2,64,39,52	1,34,40,476
<i>Less:</i> Exemption under section 54		
- In the case of X (as long-term capital gain exceeds Rs. 2 crore, X can avail section 54 exemption only for investment in one residential house property)	2,02,00,000	-
- In the case of Y (as long-term capital gain does not exceed Rs. 2 crore, Y can claim section 54 exemption for investment in two residential house properties) (Rs. 20,10,000 + Rs. 1,20,00,000, subject to maximum of long-term capital gain of Rs. 1,34,40,476)	-	1,34,40,476
Income under the head "Capital gains"	62,39,524	Nil

AMENDMENT NO -55**AMENDMENT TO SECTION 80-IBA**

Deduction under section 80-IBA is available in respect of profits and gains derived from the business of developing and building affordable housing projects. This deduction is available if the project is approved by the competent authority after June 1, 2016 but on or before March 31, 2019.

AMENDMENT - The time-limit for approval has been extended by one year (with effect from the assessment year 2020-21). After this amendment, deduction under section 80-IBA will be available if the project is approved by the competent authority after June 1, 2016 but on or before March 31, 2020.

AMENDMENT NO -56**INCREASE IN THRESHOLD LIMIT FOR TDS FROM INTEREST OTHER THAN INTEREST ON SECURITIES [SEC 194A]**

Tax deduction at source is required under section 194A if interest (other than interest on securities) paid or payable to a resident exceeds the threshold limit given below -

Who is payer	Interest is paid/payable on	When recipient is a senior citizen Rs.	When recipient is any other person Rs.
Banking company	Time deposit/recurring deposit	50,000	10,000
A co-operative society engaged in carrying on the banking business	Time deposit/recurring deposit	50,000	10,000
Post office	Notified scheme (<i>i.e.</i> , Senior Citizen Savings Scheme, 2004)	50,000	10,000
Any other person	-	5,000	5,000

AMENDMENT - With effect from April 1, 2019, the aforesaid limit of Rs. 10,000 has been increased to Rs 40,000. Consequently, if recipient of interest is a person (other than a senior citizen) tax will be deducted by bank/co-operative bank/post office (on or after April 1, 2019) only if aggregate interest payable during the financial year exceeds Rs. 40,000. There is no change in the threshold limit if recipient is a senior citizen Moreover, there is no change in the threshold limit of Rs. 5,000. There is no amendment in respect of taxability of interest in the hands of recipient.

AMENDMENT NO -57

**INCREASE IN THRESHOLD LIMIT FOR TDS FROM RENT UNDER SECTION
194-I**

Tax is deductible under section 194-I only if rent paid/payable during the financial year exceeds Rs. 1,80,000. The threshold limit has been increased to Rs. 2,40,000 with effect from April 1, 2019.

TAX RATES APPLICABLE FOR A.Y. 2020-2021**(A) INDIVIDUALS, HINDU UNDIVIDED FAMILIES, AOP'S, BOI'S -**

The rates applicable for the assessment year 2020-21 are as follows:

✓ **For Individuals / HUFs / AOPs / BOIs etc.:**

S L A B S	Senior Citizens	Super Senior Citizens	Others	Basic Tax Rate (%) of Net Taxable Income
	Resident Individuals of 60 Years but not more than 80 years at any time during the PY	Resident Individuals of 80 Years and Above at any time during the PY	Other Individuals, HUFs, AOPs, BOIs etc. (R and NR)	
	Up to 3,00,000	Up to 5,00,000	Up to 2,50,000	
	3,00,001 to 5,00,000		2,50,001 to 5,00,000	
	5,00,001 to 10,00,000	5,00,001 to 10,00,000	5,00,001 to 10,00,000	
	Above 10,00,000	Above 10,00,000	Above 10,00,000	
				NIL
				5%
				20%
				30%

SURCHARGE:

Sr No.	Total Income	Rate of Surcharge
1	TI up to 50 lacs	Nil
2	TI above Rs 50 lacs but up to Rs. 1 cr	10% on IT payable
3	TI > 1cr.	15% on IT payable
4	TI > 2cr.	25% on IT payable (other than CG u/s 111A & 112A)
5	TI > 5cr.	37% on IT payable (other than CG u/s 111A & 112A)
6	For Point (4) & (5)	On CG u/s 111A & 112A – 15% of IT Payable

⇒ **Health & Education Cess: @ 4% leviable on {tax plus surcharge}**

⇒ **Rebate u/s 87A:**

In case of resident Individual, whose Total Income does not exceed Rs.5,00,000, there shall be allowed a rebate of –

(a) 100% of the Income Tax; or

(b) Rs. 12,500

Whichever is less from the amount of Income Tax.

Alternate minimum tax – Tax payable by a non-corporate assessee cannot be less than 18.5 per cent (+ SC+ HE CESS) of “adjusted total income” as per section 115JC

(B) PARTNERSHIP FIRM (INCLUDING LLP)

A firm is taxable at the rate of 30 per cent for the assessment year 2020-21.

Surcharge – Surcharge is 12 per cent of income-tax if net income exceeds Rs. 1 crore. It is subject to marginal relief (in the case of a person having a net income of exceeding Rs. 1 crore, the amount payable as income tax and surcharge shall not exceed the total amount payable as income-tax on total income of Rs. 1 crore by more than the amount of income that exceeds Rs. 1 crore).

Health & Education cess – It is 4 per cent of income-tax and surcharge.

Alternate minimum tax – Tax payable by a non-corporate assessee cannot be less than 18.5 per cent (+ SC+HE CESS) of “adjusted total income” as per section 115JC.
9 per cent for UNIT located in IFSC subject to some conditions.

(C) COMPANIES

For the assessment years 2019-20 and 2020-21 the following rates of income-tax are applicable:

Company	Rate of Income-tax (per cent)	
	Assessment year 2019-20 (Last year)	Assessment year 2020-21 (Current year)
In the case of a domestic company -		
- where its total turnover or gross receipt during the previous year 2016-17 does not exceed Rs. 250 crores	25	NA
- where its total turnover or gross receipt during the previous year 2017-18 does not exceed Rs. 400 crores	NA	25
- any other domestic company	30	30
In the case of a foreign company-	40	40

Surcharge – Surcharge is applicable at the rates given below –

	If net income does not exceed Rs. 1 crore	If net income is in the range of Rs. 1 crore – Rs. 10 crores	If net income exceeds Rs. 10 crores
Domestic company	Nil	7%*	12%**
Foreign company	Nil	2%*	5%**

*** Marginal relief** – In the case of a company having a net income of exceeding Rs. 1 crore, the amount payable as income-tax and surcharge shall not exceed the total amount payable as income-tax on total income of Rs. 1 crore by more than the amount of income that exceeds Rs. 1 crore.

****Marginal relief** – In the case of a company having a net income of exceeding Rs. 10 crore, the amount payable as income-tax and surcharge shall not exceed the total amount payable as income-tax on total income of Rs. 10 crore by more than the amount of income that exceeds Rs. 10 crore.

Health & Education cess – It is 4 per cent of income-tax and surcharge.

MINIMUM ALTERNATE TAX – The following rate of minimum alternate tax shall be applicable –

MAT Rate = 15 % of Book Profit. (Amendment made by Ordinance on 20th September)
9 per cent for UNIT located in IFSC subject to some conditions.

Surcharge – Surcharge is applicable at the rates given below –

	If Book Profit does not exceed Rs. 1 crore	If Book Profit is in the range of Rs. 1 crore – Rs. 10 crores	If Book profit exceeds Rs. 10 crores
Domestic company	Nil	7%	12%
Foreign company	Nil	2%	5%

Health & Education cess – It is 4 per cent of income-tax and surcharge.

(D) CO-OPERATIVE SOCIETIES – The following rates are applicable to a co-operative society for the assessment year 2020-21 –

Net income range	Rate of income-tax (Per cent)
Up to Rs. 10,000	10
Rs. 10,000 – Rs. 20,000	20
Above Rs. 20,000	30

Surcharge – Surcharge is 12 per cent of income-tax if net income exceeds Rs. 1 crore. It is subject to marginal relief (in the case of a person having a net income of exceeding Rs. 1 crore, the amount payable as income tax and surcharge shall not exceed the total amount payable as income-tax on total income of Rs. 1 crore by more than the amount of income that exceeds Rs. 1 crore).

Health & Education cess – It is 4 per cent of income-tax and surcharge.

Alternate minimum tax – Tax payable by a non-corporate assessee cannot be less than 18.5 per cent (+ SC+ HE CESS) of “adjusted total income” as per section 115JC

(E) LOCAL AUTHORITIES –

Local authorities are taxable at the rate of 30 per cent.

Surcharge – Surcharge is 12 per cent of income-tax if net income exceeds Rs. 1 crore. It is subject to marginal relief (in the case of a person having a net income of exceeding Rs. 1 crore, the amount payable as income tax and surcharge shall not exceed the total amount payable as income-tax on total income of Rs. 1 crore by more than the amount of income that exceeds Rs. 1 crore).

Health & Education cess – It is 4 per cent of income-tax and surcharge.

Alternate minimum tax – Tax payable by a non-corporate assessee cannot be less than 18.5 per cent (+ SC+ HE CESS) of “adjusted total income” as per section 115JC

“ALL THE BEST TO EVERYONE”.

“MY BEST WISHES AND BLESSINGS ARE ALWAYS WITH YOU ALL”.

“NEVER GIVE UP”.

“DEVELOP THE QUALITY OF BEING PATIENT FOR THE NEXT 4 MONTHS”.

“SOME BAD DAYS WILL COME. DON’T WORRY, WORK HARDER AND OVERCOME THAT”.

“YOU HAVE EVERY QUALITY TO BECOME CA IN FIRST ATTEMPT. JUST BELIEVE YOURSELF AND BE FOCUSED”.

“THERE IS NO REPLACEMENT OF HARD WORK NO MATTER HOW MUCH EVER INTELLIGENT YOU ARE”.

NOTE:

- 1. INTERNATIONAL TAXATION- PAPER 6C LIVE BATCH COMMENCING AT ANDHERI & CHARNI ROAD FROM 3RD JANUARY 2020 TO 31ST JANUARY.**
- 2. NO PEN DRIVE LECTURES ARE AVAILABLE FOR REGULAR COURSE.**
