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# Amendments passed in the Finance Act, 2021

| Section amended | Existing provisions of the Income-tax Act, 1961 | Amendment proposed in Finance Bill 2021 | Amendment finally incorporated in the Finance Act, 2021 | Remarks, if any |
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| Section 2(29A) | No provision prior to introduction by Finance Bill, 2021. | Finance Bill, 2021, proposed to insert sub-section (29A) to section 2 of the Act to define the term 'liable to tax' as under:<br>*"liable to tax", in relation to a person, means that there is a liability of tax on such person under any law for the time being in force in any country, and shall include a case where subsequent to imposition of tax liability, an exemption has been provided"* | The said sub-section (29A) to section 2 introduced by Finance Bill, 2021 stands substituted as under:<br>*"liable to tax", in relation to a person and with reference to a country, means that there is an income-tax liability on such person under the law of that country for the time being in force and shall include a person who has subsequently been exempted from such liability under the law of that country"* | To bring greater clarity, the amendment passed by the Lok Sabha seeks to narrow down the scope of the expression "liable to tax", as under:<br>• Condition of "liable to tax" is now to be seen in relation to a person and with reference to a country, as opposed to liability of tax of the person in any country;<br>• Earlier, liability of tax was to be examined in respect of any law for the time being in force; amendment by Lok Sabha now restricts the same to income-tax liability under the law of the other country.<br>The amendment nullifies the decision of the Bombay High Court in the case of DIT vs Chiron Bearing |



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| | | | | Gmbh & Co: ITA No.2273/2010, wherein a partnership firm established in Germany and liable to 'trade tax' but not income-tax was held to be 'liable to tax' in Germany for purposes of Article 4 of the India-Germany tax treaty since trade tax is one of the taxes covered under Article 2 of the said tax treaty.<br><br>In other words, any person having income tax liability under the laws of that country and who has subsequently been exempted from taxation, would only be deemed to be 'liable to tax'.<br><br>Therefore, persons of Indian origin staying in countries where no income-tax laws for taxation of personal income exist, they shall be governed by the residence rule as provided under the IT Act [,eg. residence rule for stateless persons under section 6(1A)] and may be deemed as resident in India. |

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| | | | | However, in case of UAE and Saudi Arabia, because of the specific language of the treaty with India, where the individual staying for more than 183 days (as opposed to 'liable to tax' in that state) would qualify as resident of those countries, notwithstanding the above amendment treaty protection may still be available to such persons. |
| Section 10(11) | Section 10(11) provides for exemption from taxation of interest earned on deposits in Provident Fund and Public Provident Fund. | With the intent to tax the income earned by persons or employees who contribute large sums to such funds and then claim exemption under section 10(11)/ 10(12), it was proposed to introduce a cap on the maximum yearly contribution, income arising whereon will be considered as exempt, by way of introduction of proviso in the said sections providing that exemption shall not be available on interest accrued in the account of a person during the previous year, to the extent it relates to the amount or aggregate of amounts contributed by such person exceeding Rs.2.5 lakhs in a previous year in that fund. | Second proviso has been introduced in section 10(11) and 10(12) of the Act, to enhance the tax-free limit of contribution in the said funds from Rs.2.5 lakhs to Rs.5 lakhs, subject to the condition that there shall not be any contribution by the employer of that person in such funds. | As per the amendment made by Finance Bill, 2021, income by way of interest on contribution in a previous year up to Rs.2.5 lakhs would have been exempt, however, interest corresponding to contribution in excess of Rs.2.5 lakhs shall be taxable.<br><br>Enhancement of limit of tax-free contribution to PF/ PPF is a welcome move introduced by the Lok Sabha, as the same may provide relief to employees contributing upto Rs.5 lakhs in such funds, however, the condition of employer not contributing to such funds remains to |
| Section 10(12) | Section 10(12) provides for exemption in respect of accumulated balance due and becoming payable to an employee from recognized Provident Fund to the extent provided in Rule 8 of Part A of Fourth Schedule. | | | |

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| | | | | be clarified. |
| Section 43(6) | Goodwill is recognized as a "commercial right" eligible for depreciation u/s section 32 of the Act [refer CIT v. Smifs Securities Ltd.: 348 ITR 302 (SC)].<br><br>Accordingly, cost of goodwill acquired is included as part of block of assets for claiming depreciation thereon. | The Finance Bill, 2021, with an intention to deny depreciation on goodwill, proposed to amend section 2(11) and section 32 to specifically exclude goodwill of a business or profession from the definition of block of assets so as to deny depreciation thereon.<br><br>Accordingly, w.e.f. AY 2021-22, depreciation is not allowable on goodwill, including goodwill acquired in earlier year(s). | Section 43(6) of the Act stands amended so as to delete value of goodwill, if any, included in the written down value (WDV) of block of assets as on 1.4.2021.<br><br>Accordingly, it is proposed to adjust closing WDV of intangible asset as on 31 March 2020 by reducing the standalone WDV of goodwill computed as difference between actual cost of goodwill and depreciation allowable on such goodwill till 31.03.2020. The reduction shall, however, not exceed the closing WDV of intangible assets as on 31.03. 2020 | The Finance Act 2021 has amended section 2(11) and section 32 to specifically exclude goodwill of a business or profession from the definition of 'block of assets' and thereby denying depreciation on goodwill.<br><br>Also, section 43(6) of the Act has been amended to remove value of goodwill, if any, included in the written down value (WDV) of block of assets in respect of previous year relevant to assessment year commencing from 1.4.2021. As a result, pursuant to the amendment by the Finance Act 2021, depreciation on 'goodwill' that has been capitalized and formed part of the block, has been withdrawn retroactively, w.e.f. FY 2020-21. |

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| | | | | The state has power to make retrospective amendments to the tax laws and such an action may particularly be necessary sometime to curb any malpractice. However, the above amendment brought about by Finance Act, 2021 resulting in denial of depreciation on goodwill acquired in the past and already included in the block of assets essentially takes away the vested right of the assesses. There have been decisions of the Courts to the effect that once depreciation on an asset has been allowed in the first year, the same cannot be questioned in a subsequent year.<br><br>It needs to be seen whether this amendment is challenged before the Court in a writ petition |
| Section 9B [new section], | Section 45(4) imposes capital gains tax in the hands of firm where the | Finance Bill, 2021 proposed to insert new sub-section (4) in section 45 to provide that if any partner of the firm | The changed the scheme of taxation is as under: | - The amended provisions provide better clarity to the scheme of taxation in case of reconstitution |

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| 45(4), 48 | capital asset of the firm is distributed to the partner on dissolution or otherwise. | receives during the previous year any capital asset as a result of dissolution/re-constitution which represents his/her capital balance at that time, then the profit (FMV of the capital asset – cost of acquisition of asset) arising from receipt of such capital asset by the partner will be taxable as capital gain in the hands of the firm in the year in which such capital asset was received by the partner. Further, the balance in capital account is to be calculated without taking into account increase in the value due to revaluation of any asset.<br><br>The provisions proposed as aforesaid raised a number of issues on their interpretation and practical application | 1. New section 9B has been inserted to provide as under:<br>• Where a partner receives **any capital asset or stock-in-trade or both** in connection with **dissolution or reconstitution** of the firm, then the firm shall be deemed to have transferred such capital asset or stock-in-trade or both, **in the year in which such asset(s) are received by that partner**.<br>• Transfer shall be chargeable to tax in the hands of the firm under the head **PGBP (for stock in trade) or Capital Gain (for capital asset).**<br>• **FMV of asset** on date of receipt received shall be deemed to be the full value of consideration of the asset.<br>• "Reconstitution of specified entity" has been defined to mean cases where: | of the firm vis-à-vis the amendments proposed in the Finance Bill, 2021.<br>- While section 9B covers cases relating to both dissolution and reconstitution of the firm, **section 45(4) only** provides mechanism for computing capital gains in case of **reconstitution**.<br>- Under the amended provisions, cost of the asset transferred (including its indexed cost) is not considered.<br>The amended provisions, in effect, taxes deemed benefit in the hands of the partner as capital gains/ business income in the hands of the firm.<br>- <u>For example (CG)</u>:<br>Cost of asset - Rs.100<br>FMV of asset - Rs.150<br>Capital balance – Rs.40<br>Taxable gain – Rs.110<br>[Rs.150 – Rs.40]<br>- Though section 9B states that |

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| | | | (i) one or more of the partners retire, or<br>(ii) one or more new partners or members are admitted with at least one existing partner continuing in the firm; or<br>(iii) there is change in share of existing partners.<br>2. Newly substituted section 45(4) provides as under:<br>• Where partner of the firm receives **any capital asset or money or both** as a result of **reconstitution (as defined in section 9B of the Act),** then, capital gains shall be chargeable to tax in the hands of the firm in the **year of receipt** by the partner.<br>• The gains shall be computed as per following formula:<br>A = B+C-D, where<br>A = Capital gains chargeable | income chargeable under the head business income shall be in accordance with the provisions, computation of business income in case of distribution of stock-in-trade is not clear.<br>- Computation in case of distribution of both stock in trade and capital asset is also not clear.<br>- There is also no rationale or logic in denying the benefit of capital loss under section 45(4). |

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| | | | to tax;<br>B = Value of money received;<br>C = FMV of capital asset received on date of receipt;<br>D = Balance in capital account of the partner without considering effect of upward revaluation of any asset.<br>• It is provided that if the aforesaid computation results in a **loss**, the same **shall be ignored**, i.e., if A above is negative, it shall be deemed to be zero.<br>3. Proposed section 45(4A) by the Finance Bill, 2021 has been dropped.<br>4. A consequential amendment has been made in section 48, to provide that the amount of capital gains offered to tax by the firm under section 45(4) | |

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| | | | shall subsequently be allowed as reduction while computing capital gains in the hands of the partner. | |
| 50B | Section 50B of the Act contains special provision for computation of capital gains in case of slump sale.<br><br>Section 2(42C) defines slump sale to mean transfer of one or more undertakings as a result of sale for lump sum consideration without value being assigned to individual assets and liabilities in such cases.<br><br>Section 50B(2) provides that where an undertaking or division is acquired, the net worth of such undertaking or division is deemed as the cost of acquisition. | Courts/Tribunals in various cases held that transfer of an undertaking other than by way of sale would not fall within the ambit of slump sale<br><br>Finance Bill, 2021, proposed to amend section 2(42C) of the Act by widening the scope of slump sale to include within its ambit, transfer by all modes stated under section 2(47) viz., exchange or relinquishment of the asset, or extinguishment of any rights therein etc. | The Lok Sabha has amended sub-section (2) to section 50B to provide that the FMV of the capital assets (being an undertaking or division transferred by way of slump sale) as on the date of transfer shall be calculated in the prescribed manner. Such FMV shall be **deemed** to be full value of the consideration received or accruing as a result of transfer of such capital asset.<br><br>Explanation 2 to section 50B has been inserted to provide that the value of capital asset being goodwill, which has not been acquired by the assessee by purchase from previous owner, shall be taken as NIL while computing net worth. | Section 50B of the Act provides that profits or gains arising to transferor for transfer of undertaking under a slump sale are chargeable to tax as capital gains. For this purpose, the "net worth" of the undertaking is considered as the cost of acquisition of the undertaking transferred.<br><br>Consequent to the amendment, FMV of the undertaking or division transferred during slump sale shall be deemed to be the full value of the consideration as a result of such transfer and therefore, following situations may arise:<br><br>- Actual consideration > FMV; or<br><br>- Actual consideration < FMV<br><br>Implications in hands of seller |

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| | Explanation 2 to Section 50B provides that for computing net worth, (a) depreciable assets are taken at WDV; (b) non-depreciable asset at book value and (c) NIL value for capital assets in respect of which full deduction has been allowed under investment-linked tax holiday provisions. | | | Where the actual consideration is more than the FMV, section 50B(2)(ii) provides that the FMV of the capital asset shall be taken as full value of consideration. More clarity on this aspect will be provided when the Rules are prescribed in this regard.<br><br>Where the actual consideration is less than the FMV then consideration will be deemed to be at FMV, thereby resulting in higher capital gains tax.<br><br><u>Implications in hands of buyer</u><br><br>Where the actual consideration is more than the FMV, then such excess shall be recognised as goodwill in books of account of buyer. The Finance Bill, 2021 has sought to prohibit the depreciation on the goodwill.<br><br>If the actual consideration is less than FMV then the difference shall |

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| | | | | be treated as capital reserve not chargeable to tax. |
| Section 10(4F) introduced by Finance Bill, 2021, 80LA | No provision prior to introduction by Finance Bill, 2021. | The Finance Bill, 2021, had proposed to insert section 10(4F) to provide exemption in respect of income of a non-resident by way of 'royalty' on account of leasing of an aircraft to a unit located in an International Financial Services Centre ('IFSC').<br><br>Further, the Finance Bill also proposed to amend section 80LA of the Act to provide for 100% deduction of incomes earned by a unit in IFSC from transfer of aircraft or aircraft engine which was leased to a domestic company engaged in the business of operation of aircraft. The deduction is subject to the condition that the unit in IFSC transferring the aircraft has commenced operations by 31 March 2024. | The following amendments have now been made:<br>a) section 10(4F) is amended to also provide exemption in respect of 'interest income' arising to a non-resident on account of leasing of aircraft to a unit of an IFSC.<br>b) condition of unit of IFSC to be eligible for deduction under section 80LA of the Act is removed.<br>c) an Explanation has been inserted to define the meaning of 'aircraft', which shall include "an aircraft or a helicopter, or an engine of an aircraft or a helicopter, or any part thereof".<br><br>Amendment is also made in section 80LA of the Act to limit this deduction to transfer of aircrafts. Also, the condition pertaining to transferring to domestic company | Hitherto, only income in the form of 'royalty' arising to a non-resident on account of leasing of aircraft to a unit of an IFSC was exempted and not the income by way of lease payments in a finance lease of aircrafts, thereby placing finance leases at a disadvantage.<br><br>To overcome this problem, the section has been amended to specifically exempt even receipts in nature of interest income. |

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| | | | engaged in business of operation of aircraft is removed. Accordingly, the deduction under section 80LA of the Act will now be available to the transfer of aircraft which was leased to any person. | |
| Equalization Levy | Equalization Levy was first introduced vide Finance Act, 2016 as a 6% levy on payments made by residents to non-residents for online advertisements. Vide Finance Act, 2020, the scope of Equalization Levy was extended to cover consideration received or receivable for e-commerce supply or services made or provided or facilitated by an e-commerce operator on or after 01.04.2020. | The Bill proposed to amend section 165A of the Finance Act, 2016, to provide that consideration received or receivable from e-commerce supply or services shall include consideration for sale of goods irrespective of whether the e-commerce operator owns the goods; and consideration for provision of services irrespective of whether service is provided or facilitated by the e-commerce operator. | The term "consideration received or receivable from ecommerce supply or services" has been further amended to exclude consideration for sale of goods/ provision of services which are: (i) owned/ provided by a person resident in India or (ii) by a PE in India of a NR, if sale of such goods/ provision of such services is effectively connected with such PE. | Presently, the e-commerce operators were subjected to levy in respect of gross consideration of goods/ sold or services rendered by a person resident in India or the Indian PE of a non-resident, who were already subjected to Income-tax in India. In other words the consideration from such e-commerce supply or services in such cases was getting taxed twice, i.e. Income-tax and also equalization levy. The amendment seeks to restrict the applicability of EL provisions to sale of goods/ provision of services which are owned/ provided by a person located outside India. |
| Section 44AB | Section 44AB of the Act requires every person, carrying on business with total sales, turnover or | The said threshold was proposed to be further increased to Rs. 10 crores w.e.f. assessment year 2021-22 | A new proviso is now inserted to provide that for computation of the threshold limit of Rs. 10 crores, the payment or receipt settled through a | - |

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| | gross receipts exceeding Rs. 1 crore and every person carrying on profession with gross receipts exceeding Rs. 50 lakh, in the previous year to get his accounts audited and furnish such audit report by the due date as specified under section 139(1)<br><br>In order to minimize compliance burden on SME's, vide Finance Act, 2020, the aforesaid threshold of Rs.1 crore for a person carrying on business was increased to Rs. 5 crores subject to certain conditions | The higher threshold limit of Rs. 5/10 crores applied only if the cash receipt and payment made during the year does not exceed 5% of total receipt and total payment respectively. | non-account payee cheque or non-account payee bank draft shall be deemed to be cash payment or cash receipt respectively. | |
| Section 44ADA | Section 44ADA provides for special scheme of presumptive taxation for an **assessee, being a resident in India**, engaged in a profession referred to | The existing provisions of section 44ADA were applicable to all resident assessees. There was no specific prohibition on Companies, LLP or HUF. Finance Bill 2021 specifically excluded an LLP from the scope of | The section is now being amended to further exclude HUFs from the scheme of presumptive taxation. | Going forward, the section shall be applicable only to resident individuals and partnership firms (other than LLP). |

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| | in section 44AA(1) and whose total gross receipts do not exceed Rs. 50 lakhs in a previous year, whereby 50 per cent of the total gross receipts on account of such profession, or as the case may be, a higher sum claimed to have been earned by the assessee, is deemed to be the profits and gains of such profession chargeable to tax. | presumptive taxation under section 44ADA of the Act. | | |
| Section 112A | Section 112A provides for taxability of capital gains arising from transfer of long term capital asset being equity share or unit of equity oriented fund or unit of mutual fund on which STT is paid @ 10% in excess of Rs.1 lakhs. | Explanation to section 112A which defines equity oriented fund is amended to include fund set up under a scheme of insurance company comprising unit linked insurance premiums to which exemption under section 10(10D) does not apply due to 4th and 5th proviso of section 10(23D). | Second proviso inserted to provide that in case of scheme of insurance company comprising ULIP, percentage of investment of funds in specified securities (i.e. 90% or 65%, as case may be) is to be satisfied throughout the term of the insurance policy. | - ULIPs are proposed to be treated at par with equity oriented funds. |

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| Section 115JB | New sub-section (2D) inserted in section 115JB by Finance Bill, 2021. | New sub-section (2D) was proposed to be inserted in section 115JB whereby it was provided that the assessing officer, on an application made by the assessee under section 154 of the Act, shall re-compute the book profit of relevant preceding years and tax payable, if any, during the previous year, in the prescribed manner. | It is proposed to insert provisos to said sub-section (2D) to section 115JB providing as under:<br>- Re-computation of book profit would only be made if the assessee has not utilized the MAT credit in any subsequent assessment year<br>- Sub-section (2D) shall apply to assessment year 2020-21 or earlier<br>- No interest shall be payable to the assessee on refund arising on account of the provisions of the said sub-section | Amendments passed by the Lok Sabha streamline the manner in which MAT credit would be allowed/ book profit would be re-computed to ensure that the assessees do not avail unintended benefits.<br><br>It is also made clear by way of amendment that no interest shall be granted to the assessee in case re-computation of book profit for past years results in refund. |
| Section 115UB | The existing provisions of section 115UB provide for taxability of income of investment funds and income received by the unit holders of such funds. | No amendment was proposed in Finance Bill, 2021. | Funds regulated under the International Financial Services Centers Authority Act, 2019 shall also qualify as "investment fund" for the purposes of section 115UB of the Act. | The amendment proposes to widen the meaning of "investment fund" by including funds, which fulfill the conditions mentioned in Explanation 1, and are regulated under the International Financial Services Centers Authority Act, 2019. |
| Section 139 | Section 139(4) provides option to person who has not furnished a return within section 139(1) to furnish the return before | The time limit was amended to provide that person who has not furnished return under section 139(1) may furnish a return for any previous year at any time within 3 months prior | Return (belated or revised) shall now have to be filed 3 months prior to end of relevant AY (i.e. 31$^{st}$ December) or completion of assessment, whichever is earlier | The anomaly that belated return or revised return is to be filed within 3 months prior to end of relevant AY (i.e. from January to March of AY) has been rectified and such returns |

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| | end of relevant AY or completion of assessment, whichever is earlier.<br><br>Sub-section (5) provides that return furnished under section 139(1)/(4) may be revised before the end of relevant AY or completion of assessment, whichever is earlier. | to end of the relevant AY (i.e. 31st December) or before the completion of assessment, whichever is earlier.<br><br>Similar amendment proposed to reduce time limit for revising returns under section 139(5) of the Act. | | can now be filed anytime till/ before three months prior to end of relevant AY. |
| Section 149 | Section 149 provides the time limit (4 years/ 6 years/ 16 years) for issue of notice under section 148 of the Act | Time limits for issue of notice under section 148 of the Act were proposed:<br><br>(i) Normal cases - within 3 years from the end of the relevant AY;<br><br>(ii) Specific cases – within 10 years from the end of relevant AY where AO has in his possession books of account or other documents or evidence indicating income escaping assessment, represented in the form of asset, of Rs.50 lakhs or more. | The term 'asset' has been defined to include immovable property, being land or building or both, shares, securities loans and advances, deposits in bank account. | - |
| Section | Section 153(1) prescribes the time-limit for | The time required for completion of assessment proceedings under sections | It is further provided that where assessee withdraws pending | The amendment is applicable from 01.04.2021 |

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| 153 | completion of assessment under section 143/ 144 of the Act to be 21 months from the end of the relevant assessment year. This time limit, vide Finance Act, 2017, was reduced to 18 months for AY 2018-19 and 12 months for AY 2019-20 and subsequent assessment years | 143 / 144 of the Act is proposed to be further reduced to 9 months from the end of assessment year (for assessment year 2021-22 onwards). | application under section 245M and if the time period available for the assessing officer to make an order is less than 1 year, then the time limit for passing the order shall stand extended to 1 year. | Similar amendment proposed under section 153B of the Act which provides extension of time limit for passing order in cases where search is undertaken under section 153A of the Act |
| Section 263 | The existing section provides power to the Principal Commissioner or Commissioner to revise order passed by the assessing officer if the same is erroneous and prejudicial to the interests of the Revenue. | No amendment was proposed in Finance Bill, 2021. | In addition to revisionary powers statutorily vesting in the Principal Commissioner and Commissioner to revise order passed by the assessing officer, the amendment proposes to also confer such revisionary powers on the Principal Chief Commissioner or Chief Commissioner. | Amendment attempts to streamline the provisions of section 263 of the Act by conferring revisionary powers on the Principal Chief Commissioner and Chief Commissioner.<br><br>However, amendment is only made in sub-section (1) before the Explanation, whereas, to maintain parity, same amendment ought to also have been made in various other clauses in Explanation 1 and Explanation 2.<br><br>The provisions of section 263, as |

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| | | | | they stand after the aforesaid amendment passed by the Lok Sabha, may lead to certain unintended interpretations.<br><br>On similar lines, amendment also ought to have been made in section 264 of the Act. |
| Section 10(23FE) | With a view to promote investment of sovereign wealth funds, section 10(23FE) was inserted vide Finance Act, 2020 to provide exemption from tax of any income of a "specified person" in the nature of dividend, interest or long -term capital gains arising from investment made in India, provided the investment is –<br>• made on or before March 31, 2024;<br>• held for at least 3 years; | Scope of the exemption was expanded such that investment by specified person was further allowed to be made in the following entities:<br>(i) Domestic company set up and registered after 01.04.2021 having at-least 75% investment in one or more entities engaged in infrastructure companies as defined in section 80-IA(4)(i) of the Act ('Domestic Infrastructure Company');<br>(ii) specified NBFC-Infrastructure Finance Company ("NBFC-IFC") or in Infrastructure Debt Fund ("NBFC-IDF") | Scope of exemption is further expanded such that if investment by specified person is in Category-1 or Category-II Alternative Investment Fund (AIF) which is having 50% of investment in Domestic Infrastructure Company or NBFC-IFC or NBFC-IDC, then also income earned from the investment made in Category-1 or Category-11 AIF shall be eligible for exemption under section 10(23FE) of the Act. | In view of proposal to exempt income earned from direct investment in the Domestic Infrastructure Company, NBFC-IFC and NBFC-IDC, income from indirect investment in such companies AIF is also made eligible for exemption. |

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| | • made in company/ enterprise carrying on the business of developing and/or operating and maintaining any infrastructure facility as defined in Explanation to clause (i) of section 80-IA(4) or such business as notified by Central Government. | | | |
| Section 10(23FF) | No provision prior to introduction by Finance Bill, 2021. | Finance Bill, 2021 inserted sub-section (23FF) in section 10 of the Act to provide for exemption of capital gains arising in the hands of non-resident on subsequent sale of shares of Indian company by the resultant fund, where such shares were transferred from original fund to the resultant fund on account of relocation, provided that capital gains on such shares were not chargeable to tax if such relocation had not taken place. | Lok Sabha has made amendment in proposed sub-section (23FF) to also provide for exemption under the said sub-section to 'specified fund', which shall have the meaning assigned to it in clause (c) of the Explanation to section 10(4D) of the Act.<br><br>Further, the amendment provides that non-residents shall not include PE of non-resident in India.<br><br>Lok Sabha has also proposed to | Section 10(23FF) was introduced by way of Finance Bill, 2021 to provide tax incentives for units located in IFSC.<br>The amendment passed by the Lok Sabha brings certain changes to the eligibility to claim the incentives. |

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| | | | include the shares, transferred from wholly owned special purpose vehicle of the original fund to the resultant fund, in the scope of exemption under the said sub-section. | |
| Section 10(4D), 47(viiac)/(viiad) | Section 10(4D) provides for exemption from taxation to specified fund defined therein | The Finance Bill, 2021, had proposed following amendments in section 10(4D):<br>a) definition of specified fund was substituted<br>b) benefit of exemption was extended to the investment division of offshore banking unit, which inter-alia included a unit that is granted registration as a Category III AIF under SEBI (AIF) Regulations, 2012.<br><br>Further, clauses (viiac) and (viiad) were inserted in section 47 of the Act. | The definition of specified fund is further amended to provide that such fund can also be regulated under International Financial Service Centres Authority Act, 2019.<br><br>The definition of 'investment division of offshore banking unit' is further amended to provide that it should be granted registration as a Category-I Foreign Portfolio Investor under the SEBI (FPI) Regulations, 2019.<br><br>The meaning of 'resultant fund' provided in Explanation inserted in section 47, in respect of clause (viiac) and (viiad) has also been amended to provide that it can also be regulated under the International | The amendment widens the meaning of "specified fund" and "resultant fund" to include funds, which are regulated under the International Financial Services Centers Authority Act, 2019. |

| Section amended | Existing provisions of the Income-tax Act, 1961 | Amendment proposed in Finance Bill 2021 | Amendment finally incorporated in the Finance Act, 2021 | Remarks, if any |
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| | | | Financial Services Centres Authority Act, 2019. | |
| Section 10(48D) | No provision prior to introduction by Lok Sabha in the Finance Bill, 2021. | No provision prior to introduction by Lok Sabha in the Finance Bill, 2021. | Sub-section (48D) has been inserted in section 10 to provide exemption for any income accruing or arising to an institution, established for financing the infrastructure and development, set up under an act of Parliament and notified by the Central Government for the purpose of this clause, for a period of 10 consecutive assessment years beginning from the assessment year relevant to the previous year in which such institution is set up. | Exemption to the institutions and DFIs has been proposed by the Lok Sabha for long-term infrastructure projects in India.<br><br>DFIs are proposed to be based in Mumbai and its regional offices would be located in different cities. |
| Section 10(48E) | No provision prior to introduction by Lok Sabha in the Finance Bill, 2021. | No provision prior to introduction by Lok Sabha in the Finance Bill, 2021. | Sub-section (48E) has been inserted in section 10 to provide exemption for any income accruing or arising to a Development Financing Institution ("DFI"), licensed by the Reserve Bank of India under the Act of Parliament referred in clause (48D) of section 10 and notified by the Central Government for this clause, for a period of 5 consecutive assessment years | |

| Section amended | Existing provisions of the Income-tax Act, 1961 | Amendment proposed in Finance Bill 2021 | Amendment finally incorporated in the Finance Act, 2021 | Remarks, if any |
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| | | | beginning from the assessment year relevant to the previous year in which such institution is set up. | |
| Section 47 | Section deals with transactions not regarded as transfer | Clause (viiiac) inserted which provides that capital gains arising from transfer, in relocation, of capital asset from original fund to resulting fund shall not be regarded as transfer under section 47 of the Act.<br><br>Relocation was defined as:<br>(i) transfer of assets of original fund to a resultant fund<br><br>(ii) on or before 31.03.2023,<br><br>(iii) where consideration for such transfer is discharged in the form of share or unit or interest in the resulting fund to the shareholder or unit holder or interest holder of the original fund<br><br>(iv) in same proportion as held by such shareholder or unit holder or interest holder in original fund.<br><br>Further, allotment of shares of the | The definition of 'relocation' has been amended to also exclude transfer of assets of wholly owned special purpose vehicle of the original fund to the resultant fund from the ambit of capital gains under section 45. | Scope of section 47 enlarged to exclude capital gains earned on transfer of assets of wholly owned SPV of the original fund to the resultant fund. |

| Section amended | Existing provisions of the Income-tax Act, 1961 | Amendment proposed in Finance Bill 2021 | Amendment finally incorporated in the Finance Act, 2021 | Remarks, if any |
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| | | resultant fund to the shareholders of the original fund as a result of relocation shall not be treated as transfer for the purpose of capital gain. | | |
| Section 49 | Section 49 provides that cost of acquisition in respect of certain modes shall be deemed to be cost of the previous owner, as increased by cost of improvement incurred by the previous owner. | Cost of acquisition for clause (viiac) [relocation from original fund to resultant fund] and (viiad) [transfer by shareholder in relocation] in the hands of transferor shall be cost for which previous owner acquired it. | Sub-clauses (viiae) and (viiaf) have been inserted to deem cost of acquisition in respect of transactions specified under such clauses, as cost of the previous owner. | |
| Section 56 | Section 56(2)(x) provides that assets received without or inadequate consideration shall be charged to tax under the head “Income from other sources”.<br><br>Proviso to section 56(2)(x) excludes money or property received by certain entities from chargeability of provisions of said section. | Provisions of section 56(2)(x) of the Act were proposed to be amended to exclude transfer of capital asset between the original Fund and the resultant fund, which are not regarded as transfer under clause (viiac) or clause (viiad) of section 47, from the scope of said section. | Section has been expanded to exclude additional transactions not regarded as transfer under clause (viiae) and (viiaf) from scope of section 56(2)(x) of the Act. | - |

| Section amended | Existing provisions of the Income-tax Act, 1961 | Amendment proposed in Finance Bill 2021 | Amendment finally incorporated in the Finance Act, 2021 | Remarks, if any |
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| 115ACA | Where an Indian company or its subsidiary, engaged in information technology, entertainment, pharmaceutical or bio-technology industry, distributes dividend in respect of Global Depository Receipts (GDRs) issued to its employees under an Employees' Stock Option Scheme, the dividend is taxable at a concessional tax rate of 10% under section 115ACA in the hands of the employee provided he is a resident in India and GDRs are purchased by him in foreign currency.<br><br>Further, the long-term capital gain arising from transfer of such GDRs shall also be taxable at concessional rate of 10%. | No amendment was proposed in Finance Bill, 2021. | The Explanation to section 115ACA of the Act has been amended in order to provide that GDRs can be created by the Overseas Depository Bank in an International Financial Services Centre (IFSC) as well. Further, GDRs can also be issued against the issue of ordinary shares of issuing company, being a company incorporated outside India, if such depository receipt or certificate is listed and traded on any IFSC.<br><br>It has also been clarified that the IFSC shall have the same meaning assigned to it in section 2(q) of the Special Economic Zones Act, 2005. | Accordingly, pursuant to the amendment, GDRs can be created by the Overseas Depository Bank in an IFSC as well. |

| Section amended | Existing provisions of the Income-tax Act, 1961 | Amendment proposed in Finance Bill 2021 | Amendment finally incorporated in the Finance Act, 2021 | Remarks, if any |
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| | The GDR for this purpose is defined under clause (a) of the Explanation to said section to mean any instrument in the form of a depository receipt or certificate (by whatever name called) created by the Overseas Depository Bank outside India and issued to investors against the issue of:<br><br>(a) ordinary shares of issuing company, being a company listed on a recognised stock exchange in India; or<br><br>(b)foreign currency convertible bonds of issuing company. | | | |
| 245Q | The section provides that an applicant desirous of obtaining an advance ruling may make an | The Finance Bill, 2021 has proposed that the Authority for Advance Rulings shall cease to operate with effect from such date, as may be | The Lok Sabha has changed the reference from application filed under this Section to 'under this Chapter'. | |

| Section amended | Existing provisions of the Income-tax Act, 1961 | Amendment proposed in Finance Bill 2021 | Amendment finally incorporated in the Finance Act, 2021 | Remarks, if any |
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| | application in such form and in such manner as may be prescribed | notified by the Central Government.<br><br>The Central Government has been empowered to constitute one or more Board for Advance Rulings for giving advance rulings on and after the notified date<br><br>The Finance Bill, 2021 also proposed to amend Section 245Q (which deals with filing of application) that the application pending with the Authority, in respect of which order under section 245R(2) or section 245R(4) has not been passed before the notified date, shall be transferred to the Board for Advance Rulings along with all records, documents or material, by whatever name called and shall be deemed to be the records before the Board for all purposes. | Therefore, if any application is pending under Chapter XIX-B of the Act in respect of which order under section 245R(2) or section 245R(4) has not been passed before the notified date, it shall be transferred to the Board for Advance Rulings. | |
| Section 234F | Presently, section 234F provides for levy for following fee for default/ late filing of return:<br>(a) Rs.5,000, if the return | - | It is now provided that fees payable under section 234F of the Act, shall be restricted to Rs.5,000 irrespective of the date of filing of return of income. | W.e.f AY 2022-23, time limit to file belated return of income was reduced to 31$^{st}$ December of the assessment year. Being so, the amendment is merely consequential since no return |

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| | is filed on or before 31st December of the assessment year; &<br>(b) Rs.10,000, in other cases.<br>Fee is restricted to Rs.1000 where total income does not exceed Rs.5 lakhs | | Fee is restricted to Rs.1000 where total income does not exceed Rs.5 lakhs | can be filed after 31st December. |
| 234H (new section inserted) | Section 139AA of the Act read with Rule 114AAA of Rules requires an eligible assessee (having obtained PAN and eligible to obtain Aadhar number) to intimate Aadhar number to Pr. DGIT (Systems) latest by 31.03.2021 [as extended by The Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020]. | - | A new section is inserted to provide for levy of fee upto Rs.1000 on an assessee who fails to intimate/ link its Aadhar number within the prescribed time (31.3.2021 at present). | This amendment is part of the Government's effort to insist on linking of Aadhar number with PAN for better monitoring. |

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