

INSIGHTS ON

DIRECT TAX

PROPOSALS 2021

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1. TDS COMPLIANCE

1.1 TDS/TCS at higher rates on non-filer of income tax return

Section 206AA of the Act provides for higher rate of TDS for non-furnishing of PAN. Similarly, section 206CC of the Act provides for higher rate of TCS for non-furnishing of PAN.

- ✓ It is proposed to insert new section 206AB and sec 206CCA in the Act as special provision providing for higher rate for TDS and higher rate of TCS respectively for the non-filers of income-tax return.
- ✓ Proposed section 206AB of the Act would apply on any sum or income or amount paid, or payable or credited, by a person to a specified person.
- ✓ This section shall not apply where the tax is required to be deducted under sections:
 - 192 - salary
 - 192A - withdrawals of provident fund
 - 194B - winning from lottery or crossword puzzles.
 - 194BB - winning from horse race.
 - 194LBC - income paid by securitization trust.
 - 194N - cash withdrawals of more than Rs. 1 crore during a F.Y.
- ✓ The proposed TDS rate in this section is higher of the followings rates: -
 - twice the rate specified in the relevant provision of the Act; or
 - twice the rate or rates in force; or
 - 5%
- ✓ If the provision of section 206AA of the Act is applicable to a specified person, in addition to the provision of this section, the tax shall be deducted at higher of the two rates provided in this section and in section 206AA of the Act.
- ✓ Proposed section 206CCA of the Act would apply on any sum or amount received by a person from a specified person.
- ✓ The proposed TCS rate in this section is higher of the following rates: -
 - twice the rate specified in the relevant provision of the Act; or
 - 5%

- ✓ If the provision of section 206CC of the Act is applicable to a specified person, in addition to the provision of this section, the tax shall be collected at higher of the two rates provided in this section and in section 206CC of the Act.
- ✓ The specified person is a person:
 - who has not filed the returns of income for both of the two assessment years relevant to the two previous years which are immediately before the previous year in which tax is required to be deducted or collected, as the case may be.
 - Further the time limit for filing tax return u/s 139(1) of the Act has expired for both these assessment years.
 - There is another condition that aggregate of tax deducted at source and tax collected at source in his case is Rs. 50,000/- or more in each of these two previous years.
 - Specified person shall not include a non-resident who does not have a permanent establishment in India.

Applicable from 1st July 2021

1.2 Levy of TDS on purchase of goods over a limit

Chapter XVIIIB of the Act relates to deduction of tax at source on various payments at rates contained therein.

- ✓ It is proposed to provide for TDS @ 0.1% by person responsible for paying any sum to any resident for purchase of goods.
- ✓ It is proposed that the tax is only required to be deducted by those person (i.e —buyer) whose total sales, gross receipts or turnover from the business carried on by him exceed Rs. 10 crores during the financial year immediately preceding the financial year in which the purchase of goods is carried out.
- ✓ A person may be exempted from obligation under this section on fulfilment of conditions as may be specified.

- ✓ Tax is required to be deducted by such person, if the purchase of goods by him from the seller is of the value or aggregate of such value exceeding Rs. 50 lakhs in the previous year.
- ✓ It is also proposed to provide that the provisions of this section shall not apply to-
 - (i) a transaction on which tax is deductible under any provision of the Act; and
 - (ii) a transaction, on which tax is collectible under the provisions of section 206C other than transaction to which sub-section (1H) of section 206C applies.
- ✓ This means, if on a transaction a TDS or tax collection at source (TCS) is required to be carried out under any other provision, then it would not be subjected to TDS under this section. There is one exception to this general rule. If on a transaction TCS is required under sub-section (1H) of section 206C as well as TDS under this section, then on that transaction only TDS under this section shall be carried out.
- ✓ It is also proposed to consequentially amend sub-section (1) of section 206AA of the Act and insert second proviso to further provide that where the tax is required to be deducted under section 194Q and Permanent Account Number (PAN) is not provided, the TDS shall be at the rate of 5%.

Applicable from 1st July 2021

1.3 Exemption of deduction of TDS on payment dividend to Business Trust in whose hand dividend is exempt:

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

Applicable retrospectively from 1st April 2020.

1.4 Rationalisation of the provision concerning withholding on payment made to Foreign Institutional Investors (FIIs):

- ✓ Section 196D of the Act provides for deduction of tax on income of FII from securities as referred to in clause (a) of sub-section (1) of section 115AD of the Act (other than interest referred in section 194LD of the Act) at the rate of 20 %.
- ✓ Since the said section provides for TDS at a specific rate indicated therein, the deduction is to be made at that rate and the benefit of agreement under section 90 or section 90A of the Act cannot be given at the time of tax deduction.
- ✓ Accordingly, it is proposed to insert a proviso to section 196D(1) of the Act to provide that in case of a payee to whom an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A applies and such payee has furnished the tax residency certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A of the Act, then the tax shall be deducted at the rate of 20% or rate or rates of income-tax provided in such agreement for such income, whichever is lower.
- ✓ Accordingly, the principle laid down by the Hon'ble Supreme Court in the case of PILCOM vs. CIT West Bengal (Civil Appeal No. 5749 of 2012) has been overruled.

Applicable from 1st April 2021.

2. INDIVIDUALS & HUF

2.1 Relaxation from return filing to certain senior citizens

In order to provide relief to senior citizens who are of the age of 75 year or above and to reduce compliance for them, it is proposed to insert a new section to provide a relaxation from filing the return of income, if the following conditions are satisfied:

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- (i) The senior citizen is resident in India and of the age of 75 or more during the previous year.
- (ii) He has pension income and no other income. However, in addition to such pension income he may have also have interest income from the same bank (specified bank) in which he is receiving his pension income.
- (iii) The Government will be notifying a few banks, which are banking company, to be the specified bank: and
- (iv) He shall be required to furnish a declaration to the specified bank containing such particulars, in such form and verified in such manner, as may be prescribed.
- (v) Once the declaration is furnished, the specified bank would compute income of such senior citizen after giving effect to deductions allowable under Chapter VI-A and rebate allowable under section 87A of the Act, for the relevant assessment year and deduct income tax on the basis of rates in force after which, there will not be any requirement of furnishing return by such senior citizen for this assessment year.

Applicable from 1st April 2021
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2.2 Withdrawal of exemption on interest received on employee's contribution to PF/RPF.

- ✓ At present, interest received/accrued on contribution to provident fund (to which Provident Funds Act 1925 applies or any other provident fund set up by Central Government and notified in this behalf) is exempt from tax under clause (11) and clause (12) of section 10 of the Act.

- ✓ It is proposed to insert proviso to above clause, providing that the provisions of these clauses shall not apply to the interest income accrued during the previous year in the account of the person to the extent it relates to the amount or the aggregate of amounts of contribution made by the person exceeding Rs. 2,50,000 in a previous year in that fund, on or after 1st April 2021, computed in such manner as may be prescribed.

Applicable from AY 2022-23 and subsequent assessment years

2.3 Exemption for LTC Cash Scheme

- ✓ Presently section 10(5) provides for exemption in respect of leave travel concession (LTC) received by or due to an employee from his employer for himself and his family to any place in India. In view of outbreak of COVID pandemic, it is proposed to provide tax exemption to cash allowance in lieu of LTC subject to fulfilment of conditions to be prescribed.
- ✓ It is also proposed to clarify that where an individual claims and is allowed exemption under the second proviso in connection with prescribed expenditure, no exemption shall be allowed under this clause in respect of same prescribed expenditure to any other individual.
- ✓ The conditions for this purpose shall be prescribed in the Income-tax Rules in due course and shall, inter alia, be as under:
 - (a) The employee exercises an option for the deemed LTC fare in lieu of the applicable LTC in the Block year 2018-21.
 - (b) specified expenditure means expenditure incurred by an individual or a member of his family during the specified period (commencing from 12th day of October 2020 and ending on 31st day of March, 2021) on goods or services which are liable to tax at an aggregate rate of 12% or above under various GST laws and goods are purchased or services procured from GST registered vendors/service providers;
 - (c) the amount of exemption shall not exceed Rs. 36,000/- per person or one-third of specified expenditure, whichever is less.
 - (d) the payment to GST registered vendor/service provider is made by an account payee cheque or bank draft, or through other electronic mode as prescribed

under Rule 6ABBA and tax invoice is obtained from such vendor/service provider.

- (e) If LTC received by, or due to an individual from his employer is more than what is allowable under the above discussed provisions, the exemption would be available only to the extent of exemption admissible under above listed provisions.

Applicable for AY 2021-2022 only

2.4 Tax incentive for purchase of affordable housing – Sec 80EEA

- ✓ The existing provisions of section 80EEA provide a deduction in respect of interest up to Rs. 1,50,000 on loan taken for residential house property from any financial institution subject to the following conditions:
 - (i) loan has been sanctioned by a financial institution during the period beginning on the 1st of April, 2019 to 31st March 2021
 - (ii) the stamp duty value of house property does not exceed forty-five lakh rupees.
 - (iii) assessee does not own any residential house property on the date of sanction of loan.
- ✓ It is proposed to extend the period of sanctioning of loan by the financial institution to 31st March 2022.

Applicable from AY 2022-23` and subsequent assessment years

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

- ✓ Proposed to insert fourth proviso to clause (10D) of section 10 of the Act to provide that the exemption under this clause shall not apply with respect to any ULIP issued on or after the 1st of February, 2021, if the amount of premium payable for any of the previous year during the term of the policy exceeds Rs. 2.5 Lacs.

- ✓ Proposed to insert fifth proviso to this clause to provide that, if premium is payable by a person for more than one ULIPs, issued on or after the 1st of February, 2021, exemption under this clause shall be available only with respect to such policies aggregate premium whereof does not exceed the amount of Rs. 2.5 Lacs for any of the previous years during the term of any of the policy.
- ✓ The exemption of amount received from ULIP will be available to any sum received on the death of a person. It is to be noted that in case of existing policy, this benefit is already available under section 10(10D).
- ✓ It will be provided that ULIPs (to which exemption under section 10(10D) does not apply) will be a capital asset and subject to capital gains tax under section 111A and 112A.

Applicable from AY 2021-22 and subsequent assessment years

3. BUSINESS INCOME

3.1 Depreciation on Goodwill

- ✓ It is seen that Goodwill of a business or a profession has not been specifically provided as an asset either in the definition under clause (11) of section 2 of the Act or in section 32 of the Act.
- ✓ Thus, while Hon 'ble Supreme Court has in the case of Smiff Securities Limited [(2012)348 ITR 302 (SC)] held that the Goodwill of a business or profession is a depreciable asset, the actual calculation of depreciation on goodwill is required to be carried out in accordance with various other provisions of the Act,
- ✓ It has been decided to propose that goodwill of a business or profession will not be considered as a depreciable asset and there would not be any depreciation on goodwill of a business or profession in any situation.
- ✓ In a case where goodwill is purchased by an assessee, the purchase price of the goodwill will continue to be considered as cost of acquisition for the purpose of computation of capital gains under section 48 of the Act subject to the condition that in case depreciation was obtained by the assessee in relation to such goodwill prior to the assessment year 2021-22, then the depreciation so obtained by the assessee shall be reduced from the amount of the purchase price of the goodwill.

Applicable from AY 2021-22 and subsequent assessment years

3.2 Tax treatment of employee's contribution when deposited after due date.

- ✓ Section 43B specifies the list of deductions that are admissible under the Act only upon their actual payment. Employer's contribution is covered in clause (b) of section 43B. According to it, if any sum towards employer's contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of the employees is actually paid by the assessee on or before the due date for furnishing the return of the income under sub-section (1) of section 139, assessee would be entitled to deduction under section 43B and such deduction would be admissible for the accounting year.

- ✓ This provision does not cover employee contribution referred to in clause (va) of sub-section (1) of section 36 of the Act, but some courts have applied the provision of section 43B on employee contribution as well.
- ✓ Accordingly, in order to provide certainty, it is proposed to –
 - (i) amend section 36(1) (va) of the Act by inserting another explanation to the said clause to clarify that the provision of section 43B does not apply and deemed to never have been applied for the purposes of determining the —due date under this clause; and
 - (ii) amend section 43B of the Act by inserting Explanation 5 to the said section to clarify that the provisions of the said section do not apply and deemed to never have been applied employee’s contribution to various funds.

Thus, it would mean that employee’s contribution to various funds shall not be allowed as deduction if it is deposited after due date of deposit as per the respective funds.

Applicable from AY 2021-22 and subsequent assessment years

3.3 Increase in safe harbour limit of 10% to 20% - Sec 43CA & Sec 56(2)(x)

- ✓ In case of transfer of land or building or both; where the consideration declared to be received or accruing as a result of such transfer, is less than the value adopted or assessed or assessable by Stamp valuation authority for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall be deemed to be the full value of consideration for:
 - the purpose of computing profits and gains from transfer of such assets as per sec 43CA or
 - the purposes of computing income from other sources as per sec 56
- ✓ The said sections also provide that where the stamp value of the property does not exceed 110% of the consideration received or accruing as a result of the transfer, the consideration so received, or accruing shall be deemed to be the full value of the consideration. Thus, the present provisions of section 43CA and 56(2)(x) of the Act provide for safe harbour of 10%.

- ✓ In order to enable the real-estate developers to liquidate their unsold inventory at a lower rate to home buyers, it is proposed to increase the safe harbour threshold from existing 10% to 20% under section 43CA of the Act, if the following conditions are satisfied: -
 - i) The transfer of residential unit takes place during the period from 12th November 2020 to 30th June, 2021.
 - ii) The transfer is by way of first-time allotment of the residential unit to any person.
 - iii) The consideration received or accruing as a result of such transfer does not exceed Rs. 2 crores
- ✓ Further it is proposed to provide the consequential relief to buyers of these residential units by increasing the safe harbour from 10% to 20% in clause (x) of section 56(2) of the Act. Accordingly, for these transactions, circle rate shall be deemed as sale/purchase consideration only if the variation between the agreement value and the circle rate is more than 20%.

Applicable from AY 2021-22 and subsequent assessment years

3.4 No Presumptive taxation for LLPs u/s 44ADA

Section 44ADA of the Act relates to special provision for computing profits and gains of profession on presumptive basis.

- ✓ The provisions of section 44ADA of the Act were made applicable to individual, Hindu undivided family (HUF) and partnership firm but not a Limited Liability Partnership (LLP). This is for the reason that LLP are required to maintain books of accounts in any case under LLP Act.
- ✓ It is proposed to make this position clear in the law. Hence it is proposed to amend sub-section (1) of section 44ADA of the Act to provide that the provision of this section shall apply to an assessee, being an individual, HUF or partnership firm, not being an LLP.

Applicable from AY 2021-22 and subsequent assessment years

3.5 Incentive for startups.

- ✓ Under the existing provisions of sec 80-IAC; an eligible start-up can claim deduction of 100% of the profits and gains derived from an eligible business for 3 consecutive years out of 10 years, at its own option, subject to the following conditions:
 - the eligible start-up is incorporated on or after 1st April 2016 but before 1st April, 2021.
 - the total turnover of its business does not exceed Rs. 100 crores in any of the previous years beginning from the year in which it is incorporated.
- ✓ It is proposed to amend section 80-IAC so as to extend the outer date of incorporation to before 1st April 2022.

Applicable from 1st April 2021

3.6 Rationalization of tax audit provisions in certain cases

- ✓ Under section 44AB of the Act, every person carrying on business is required to get his accounts audited, if his total sales, turnover or gross receipts, in business exceeds Rs. 1 crore in any previous year.
- ✓ In order to reduce compliance burden on small and medium enterprises, the threshold limit is increased for a person carrying on business from Rs. 1 crore to Rs. 5 crores in cases where –
 - (i) aggregate of all receipts in cash during the previous year does not exceed 5% of such receipt; and
 - (ii) aggregate of all payments in cash during the previous year does not exceed 5% of such payment.
- ✓ In order to incentivize non-cash transactions, it is proposed to increase the threshold from Rs. 5 crores to Rs. 10 crores in cases listed above.

Applicable from AY 2021-22 and subsequent assessment years

4. CAPITAL GAINS

4.1 Increase in scope of slump sale.

- ✓ Section 50B of the Act contains special provision for computation of capital gains in case of slump sale.
- ✓ Section 2(42C) of the Act defines -slump sale to mean the 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.
- ✓ This has been interpreted by some courts that other means of transfer listed in section 2(47) of the Act, in relation to definition of the word transfer in relation to capital asset like exchange, relinquishment etc, are excluded.
- ✓ It is proposed to amend the scope of the definition of the definition of slump sale by amending the provision of section 2(42C) of the Act so that all types of transfer as defined in section 2(47) of the Act are included within its scope.

Applicable from AY 2021-22 and subsequent assessment years

5. MISCELLANEOUS AMENDMENTS

5.1 Extending due date for filing ITR in some cases

- ✓ In the case of a firm liable for Transfer Pricing Audit (Form 3CEB), the due date for filing of original return of income is the 30th of November of the assessment year. Since the total income of such partner can be determined after the books of accounts of such firm have been finalized, it is proposed that the due date of such partner be extended to 30th November of the assessment year.

Applicable from AY 2021-22 and subsequent assessment years

5.2 Reduction in time limit for filing Belated and/or revised return.

- ✓ Sub-sections (4) and (5) of section 139 of the Act contain provisions relating to the filing of belated and revised returns of income respectively. At present the belated or revised returns under sub-sections (4) and (5) respectively of sec 139 of the Act could be filed before the end of the assessment year or before the completion of the assessment whichever is earlier.
- ✓ It is proposed that the last date for filing of belated or revised returns of income, as the case may be, be reduced by 3 months.
- ✓ Thus, the belated return or revised return could now be filed 3 months before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

5.3 Reduction of time limit for completing assessment.

- ✓ Section 153 of the Act contains provisions in respect of time-limit for completion of assessment, reassessment and re-computation under the Act.
- ✓ The time limit for completion of assessment proceedings under sections 143 or 144 of the Act was reduced to 18 months for A.Y. 2018-19 and 12 months for A.Y. 2019-20 and subsequent assessment years vide the Finance Act, 2017.
- ✓ It has been proposed that the time limit for completion of assessment proceedings may be reduced further by 3 months. Thus, the time for completing of assessment is proposed to be 9 months from the end of the assessment year in which the income was first assessable.

Applicable from AY 2021-22 and subsequent assessment years

5.4 Time limit for issuing notice u/s 143(2)

- ✓ It is proposed to reduce the time limit for issue of notice under section 143(2) of the Act from 6 months to 3 months from the end of the financial year in which the return is furnished.

Applicable from 1st April 2021

5.5 Extending time limit for approval of affordable housing project – Sec 80-IBA

- ✓ The existing provisions of section 80-IBA of the Act provide that where the gross total income of an assessee includes any profits and gains derived from the business of developing and building affordable housing projects, there shall, subject to certain conditions specified therein, be allowed a deduction of 100% of the profits and gains derived from such business. The conditions contained in the section prescribe that the project is approved by the competent authority during the period from 1st June 2016 to 31st March 2021.
- ✓ To help migrant labourers and to promote affordable rental housing, it is proposed to allow deduction under section 80-IBA of the Act to such rental housing project also which is notified by the Central Government in the Official Gazette and fulfils such conditions as specified in the said notification.
- ✓ The period of approval of the project by the competent authority is proposed to be extended to 31st March 2022.

Applicable from AY 2022-23 and subsequent assessment years

5.6 Rationalization of provisions of charitable entities

In order to rationalize the provisions of charitable trust, it has been proposed that.

- ✓ Voluntary contributions made with a specific direction that it shall form part of the corpus shall be invested or deposited in one or more of the forms or modes specified in section 11(5) maintained specifically for such corpus.
- ✓ Application out of corpus shall not be considered as application for charitable or religious purposes for the purposes of third proviso of section 11(23C) and section 11(a) and section 11(b). However, when it is invested or deposited back, into one or more of the forms or modes specified in section 11(5) maintained specifically for such corpus from the income of the previous year, such amount shall be allowed as application in the previous year in which it is deposited back to corpus to the extent of such deposit or investment.

- ✓ Application from loans and borrowings shall not be considered as application for charitable or religious purposes for the purposes of third proviso of section 11(23C) and section 11(a) and section 11(b). However, when loan or borrowing is repaid from the income of the previous year, such repayment shall be allowed as application in the previous year in which it is repaid to the extent of such repayment.
- ✓ Clarify in both section 10(23C) and section 11 that for the computation of income required to be applied or accumulated during the previous year, no set off or deduction or allowance of any excess application, of any of the year preceding the previous year, shall be allowed.

Applicable from AY 2022-23 and subsequent assessment years

5.7 Advance tax instalment on dividend income

- ✓ Section 234C of the Act provides for payment of interest by an assessee who does not pay or fails to pay on time the advance tax instalments as per section 208 of the Act.
- ✓ The first proviso of the sub section (1) provides for the relaxation that if the shortfall in the advance tax instalment is on account of certain income listed therein, no interest under section 234C shall be charged provided the assessee has paid full tax in subsequent advance tax instalments.
- ✓ Aforesaid relaxation is to insulate the taxpayers from payment of interest under section 234C of the Act in cases where accurate determination of advance tax liability is not possible due to the intrinsic nature of the income.
- ✓ It is proposed to include dividend income in the above exclusion but not deemed dividend as per sec 2(22)(e) of the Act.

Applicable from AY 2021-22 and subsequent assessment years

5.8 New Dispute Resolution Committee

- ✓ In order to provide early tax certainty to small and medium taxpayers, it is proposed to introduce a new scheme for preventing new disputes and settling the issue at the

initial stage. The new scheme is proposed to be incorporated in a new section 245MA.

- ✓ This committee shall resolve disputes of such persons or class of person which shall be specified by the Board. The assessee would have an option to opt for or not opt for the dispute resolution through the DRC.
- ✓ Only those disputes where the returned income is Rs. 50 lakh or less (if there is a return) and the aggregate amount of variation proposed in specified order is Rs. 10 lakh or less shall be eligible to be considered by the DRC.

Applicable from AY 2021-22 and subsequent assessment years

5.9 Faceless ITAT

- ✓ It is imperative that a faceless scheme be launched for ITAT proceedings on the same line as faceless appeal scheme which will reduce cost of compliance for taxpayers and increase transparency in disposal of appeals.
- ✓ Therefore, it is proposed to insert new sub-sections in the section 255 of the Act so as to provide that the Central Government may notify a scheme for the purposes of disposal of appeal by the ITAT so as to impart greater efficiency, transparency and accountability.

Applicable from 1st April 2021

5.10 Income escaping assessments and search assessment.

- ✓ The salient features of new procedure for the purpose of assessment or reassessment or re-computation of income escaping assessment and the assessment of search related cases are as follows:
 - a) The provisions of section 153A and section 153C, of the Act are proposed to be made applicable to only search initiated under section 132 of the Act or books of accounts, other documents or any assets requisitioned under section 132A of the Act, on or before 31st March 2021.
 - b) Assessments or reassessments or in re-computation in cases where search is initiated under section 132 or requisition is made under 132A, after 31st March 2021, shall be under the new procedure.

c) Section 147 proposes to allow the Assessing Officer to assess or reassess or re-compute any income escaping assessment for any assessment year (called relevant assessment year).

d) Before such assessment or reassessment or re-computation, a notice is required to be issued under section 148 of the Act, which can be issued only when there is information with the Assessing officer which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the relevant assessment year. Prior approval of specified authority is also required to be obtained before issuance of such notice by the Assessing Officer.

e) Further, in search, survey or requisition cases initiated or made or conducted, on or after 1st April, 2021, it shall be deemed that the Assessing officer has information which suggests that the income chargeable to tax has escaped assessment in the case of the assessee for the three assessment years immediately preceding the assessment year relevant to the previous year in which the search is initiated or requisition is made or any material is seized or requisitioned or survey is conducted.

f) New Section 148A of the Act proposes that before issuance of notice the Assessing Officer shall conduct enquiries, if required, and provide an opportunity of being heard to the assessee. After considering his reply, the Assessing Office shall decide, by passing an order, whether it is a fit case for issue of notice under section 148 and serve a copy of such order along with such notice on the assessee. The Assessing Officer shall before conducting any such enquiries or providing opportunity to the assessee or passing such order obtain the approval of specified authority. However, this procedure of enquiry, providing opportunity and passing order, before issuing notice under section 148 of the Act, shall not be applicable in search or requisition cases.

g) The time limitation for issuance of notice under section 148 of the Act is proposed to be provided in section 149 of the Act and is as below:

- in normal cases, no notice shall be issued if three years have elapsed from the end of the relevant assessment year.
- in specific cases where the Assessing Officer has in his possession evidence which reveal that the income escaping assessment, represented in the form of asset, amounts to or is likely to amount to fifty lakh rupees or more, notice can be issued beyond the period of three year but not beyond the period of ten years from the end of the relevant assessment year.

- Another restriction has been provided that the notice under section 148 of the Act cannot be issued at any time in a case for the relevant assessment year beginning on or before 1st day of April 2021, if such notice could not have been issued at that time on account of being beyond the time limit prescribed under the provisions of clause (b), as they stood immediately before the proposed amendment.
 - Since the assessment or reassessment or re-computation in search or requisition cases (where such search or requisition is initiated or made on or before 31st March 2021) are to be carried out as per the provision of section 153A, 153B, 153C and 153D of the Act, the aforesaid time limitation shall not apply to such cases.
- h) The specified authority for approving enquiries, providing opportunity, passing order under section 148A of the Act and for issuance of notice under section 148 of the Act are proposed to be —
- Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year.
 - Principal Chief Commissioner or Principal Director General or where there is no Principal Chief Commissioner or Principal Director General, Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year.
- i) Once assessment or reassessment or re-computation has started the Assessing officer is proposed to be empowered (as at present) to assess or reassess the income in respect of any issue which has escaped assessment, and which comes to his notice subsequently in the course of the proceeding under this procedure notwithstanding that the procedure prescribed in section 148A was not followed before issuing such notice for such income.

Applicable from 1st April 2021

THANK YOU

S K AGRAWAL AND CO CHARTERED ACCOUNTANTS LLP

Our Services areas are:



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