PROPOSAL OF FINANCE BILL 2022-2023

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Income Tax Rates for AY 2023-24

Individuals / HUF:

i. **Slab Rate:**

Total Taxable income	Old Regime			New Regime u/s 115BAC
	Age <60 years	Senior Citizen	Super Senior Citizen	
Up To 2,50,000	Nil	Nil	Nil	Nil
2,50,001 To 3,00,000	5%*	Nil	Nil	5%*
3,00,001 To 5,00,000	5%*	5%*	Nil	5%*
5,00,001 To 7,50,000	20%	20%	20%	10%
7,50,001 To 10,00,000	20%	20%	20%	15%
10,00,001 To 12,50,000	30%	30%	30%	20%
12,50,001 To 15,00,000	30%	30%	30%	25%
Above 15,00,000	30%	30%	30%	30%

Notes:

- Rebate u/s 87A allowed for Income upto 5,00,000
- No change in tax slab for individuals

ii. **Surcharge Rate:**

Total Taxable income	Surcharge Rate (%)
Upto 50 Lakhs	Nil
50,00,001 To 1,00,00,000	10
1,00,00,001 To 2,00,00,000	15
2,00,00,001 To 5,00,00,000	25
Above 5,00,00,000	37

Note:

- The maximum surcharge on the taxable income under the head capital gains u/s 111A, 112 & 112A will be restricted to 15%
- Health & Education Cess leviable @ 4% on income tax (including surcharge, if any)
- In all cases, Marginal relief will be available

Domestic Company

Effective Tax Rates:

Net Taxable Income	Domestic Companies not opting for Concessional Tax		Domestic Company (Including OPC) Opting for Concessional Tax		Foreign Companies
	Turnover in FY 20-21 upto Rs. 400 Crores	Turnover in FY 20-21 above Rs. 400 Crores	New Mfg. Companies (115BAB)	Others (115BAA)	
Upto Rs 1 Crore	26.00%	31.20%	17.16%	25.17%	41.60%
1 Crore to 10 Crores	27.82%	33.38%	17.16%	25.17%	42.43%
Above 10 Crores	29.12%	34.94%	17.16%	25.17%	43.68%

Notes:

- In all cases, Marginal relief will be available

Partnership Firms/ LLP

Income	Effective Tax Rate
Upto Rs. 1 Crore	31.20%
Above Rs. 1 Crore	34.94%

Business and Profession

Section 14A - Clarification in respect of disallowance

Existing Provisions:

Section 14A of the IT Act provides that no deduction shall be allowed in respect of expenditure incurred by the assesse in relation to an income that does not form part of the total income.

CBDT Circular No 5/2014 provided that section 14A applies even when taxpayer has not earned any exempt income. As against that various High Court held that section 14A is not applicable where no exempt income is accrued, arisen or received during a previous year.

Proposed Amendment:

The Proposed amendment clarifies that the provisions of section 14A of the IT Act shall and always have been deemed to apply and that the expenditure to be disallowed even if no exempt income has accrued or arisen or has been received during the year.

Amendment is effective from 1st April, 2021

CGCA Comments

- Though the amendment is applicable from AY 2022-23, the language of the amendment and memorandum explaining the amendment suggest that the applicability of the said provision would be applicable to all pending cases.
- Since dividend is now taxable in the hands of shareholder, the practical application of the said amendment would get subdued to a large extent.

Sec – 37 - Allowability of expenditure laid out or expended wholly and exclusively for the purpose of business and profession

Existing Provisions:

Currently, section 37 provides for non-deduction of certain types of expenditure while computing the business income. Explanation to the said section provides that any expenditure incurred by the Assessee for any purpose which is an offence, or which is prohibited by law is not deductible. It was not specifically mentioned regarding the

expenditure incurred for any purpose which is an offence under foreign law or for compounding of an offence for violation of foreign law.

Further there are contrary decisions on the allowability of certain benefit paid as business deduction which are paid in violation of law / rule / guideline which prohibit the receiver to accept such amount. This was particularly related to prohibition on the medical practitioner and their professional associations from taking any gift, travel facility, hospitality, cash or monetary grant from the pharmaceutical and allied health care sector industries.

CBDT Circular No 5/2012 proposed to disallow expenditure incurred by pharmaceutical or allied health sector industries or other assessee covered by IMCR. Tribunal took contradictory views on allowability and matter was referred to Special Bench in case of Macleads Phamaceuticals.

Proposed Amendment:

In order to clarify the department position, it is now clarified that no deduction u/s 37 is allowable in respect of any expenditure incurred by the Assessee for any purpose which is an offense, or which is prohibited by law shall include any offence which is prohibited under the law of India or outside India including expenditure for compounding of offence under the law for the time being in force in India or outside India.

Further, it has also been provided that any expenditure incurred to provide any benefit or perquisite, in whatever form, to a person, whether or not carrying on a business or exercising a profession, and acceptance of such benefit or perquisite by such person is in violation of any law or rule or regulation or guidelines, as the case may be, for the time being in force, is also not allowable as deduction.

CGCA Comments

- The said amendment would have a big impact on pharmaceutical and allied sector.
- There is no clarity on amounts paid under settlement without accepting offence whether would be allowed as deduction or not
- The language of the section is very wide and virtually covers all law. Eg: amount paid to RBI for contravention of FEMA law would get his by the explanation and would not be allowed as deduction

- It is not clear from the language of the section whether violation of any third party guideline would also result in disallowance of expenditure.
- Though the amendment is applicable from AY 2022-23, the language of the amendment and memorandum explaining the amendment suggest that the applicability of the said provision would be applicable to all pending cases.

Section 40(a)(ii) - Clarification regarding treatment of cess and surcharge

Existing Provision:

As per Section 40(a)(ii) any amount paid on account of rate or tax levied on profit and gains from business and profession shall not be deductible while calculating total income of the assesse. Deductibility of cess was not clear and accordingly taxpayers claimed deduction of cess. Deduction was upheld by Bombay HC and Rajasthan HC whereas Kolkata ITAT in Kanoria Chemicals case disallowed deduction.

Proposed Amendment:

As per proposed amendment now it is hereby clarified that tax shall include and shall be deemed to have always included any **Surcharge** or **Cess**, by whatever name called, on such tax.

The amendment is effective retrospectively from AY 2005-06.

CGCA Comments

- Amendment is retrospective and will apply for all the years since introduction of cess and surcharge.
- Since, there has been retrospective amendment by legislature the Assessee can plead for waiver of interest u/s 234B by making an application to CBDT u/s 119(2)(b).

Amendment to Section 80-IAC – Extension of date of incorporation for eligible start up for exemption

Existing Provision:

Section 80-IAC of the Act provides a tax holiday of 100% of profits from the eligible business of an eligible start-up for 3 consecutive AYs out of 10, beginning from the

year of incorporation, at the option of the assesses, subject to fulfilment of certain conditions. One of the conditions is that the entity is incorporated on or after 1st April, 2016 but before 1st April, 2022.

Proposed Amendment:

Owing to COVID pandemic in order to factor delays and promote eligible start-ups, the amendment to section 80-IAC extend the period of incorporation of eligible start-ups by one year to 31st March, 2023.

Sec 115BAB - Extension of time for commencement of manufacturing or production

Existing Provision:

As per the provisions of section 115BAB of the IT Act, new domestic manufacturing company set up and registered after 1st October, 2019 shall be eligible for concessional rate of tax at 15% provided it commences manufacturing or production on or before 31st March, 2023 and does not avail of any specified incentives or deductions.

Proposed Amendment:

It is proposed that the deduction shall be allowed to Company which are able commence manufacturing or production of an article or thing till **31st March, 2024**.

Section 115BBD - Withdrawal of Concessional rate of tax on dividend from foreign companies

Existing Provision:

Existing provisions provides concessional rate of tax on dividend income received by an Indian company from specified foreign company (wherein the Indian Company holds 26 % or more in nominal value of equity shares).

Proposed Amendment:

Given the abolition of the Dividend distribution tax regime u/s 115O, the proposal aims for uniformity in tax treatment where dividends are received by Indian

Companies from specified foreign companies as compared to dividends received from a domestic company.

Exemption / Deductions

Exemption of Sum Received for Medical Treatment & on Death Due to COVID-19

- Reimbursement of medical expenses for treatment of Covid-19 exempt from tax

  Reimbursement of expenses incurred by employee on his medical treatment or that of his family member in respect of illness relating to Covid-19 by employer is exempt from perquisite taxation

  Similarly, reimbursement of expenses incurred by assessee on his medical treatment or that of his family member in respect of illness relating to Covid-19 by any person exempt from gift taxation under section 56(2)

  Both above exemptions are subject to conditions notified by Central Government

- **Amount received by family member on account of death of person relating to Covid-19**

  Amount received by family member of a deceased person exempt from gift taxation under section 56(2)(x) as per below limits:

Received from	**Exemption Limit**	**Time period**
Employer	No Limit	Within 12 months from date of death of such person
Any other person or persons	10,00,000	

  Exemptions are subject to conditions notified by Central Government

CGCA Comments

- Lot of corporates have already announced to support the family members of deceased employees for next 5-10 years. In all such cases, the amount received after a period of 12 months would be subjected to tax in the hands of recipient.

Section 80DD - Relaxation in Conditions for Deduction of Annuity

Existing Provisions

The existing provision of section 80DD provides for a deduction to an individual or HUF, who is a resident in India for contribution made to LIC or any other insurance company for the benefit of the dependent who is suffering from disability. The deduction is available to the individual only if the scheme provides annuity or lumpsum amount after the death of such individual.

Proposed Amendment:

Now, it is proposed to allow deduction under the said section to the individual/ HUF even if the annuity or lumpsum amount is payable by the insurance company during the lifetime but upon attaining age of 60 years or more of the individual or the member of the HUF in whose name subscription to the scheme has been made and where payment or deposit has been discontinued.

TDS / TCS provision

Sec 194IA – TDS on immovable property

Existing Provisions:

The buyer of the immovable property (other than agricultural land) shall be liable to deduct tax at the rate of 1% of such consideration, if the said consideration is Rs 50 lakhs or more.

Proposed Amendment:

It is now proposed to deduct TDS at the rate of 1% to be deducted if 'consideration' or 'stamp duty value' of such property, **whichever is higher.**

In case the consideration paid for the transfer and stamp duty value is less than fifty lakh rupees, no tax is to be deducted u/s 194-IA.

Section 194-R – TDS on benefit or perquisite

As per section 28(iv) of the Act, the value of any benefit or perquisite, whether convertible into money or not, arising from business or exercise of profession is taxable in the hands of the recipient

However, such income is often not reported or incorrectly reported by the recipients. Therefore, in order to widen and deepen the tax base, section 194R is proposed to be inserted to require any person responsible for providing any such perquisite or benefit to a resident, to deduct tax at 10% percent on the value or aggregate value of such benefit or perquisite.

The provision will not apply, if the value of such benefit or perquisite provided or likely to be provided, does not exceeds **Rs. 20,000**.

In situation where the benefit or perquisite is wholly or partly in kind, the person providing such benefit/perquisite shall make sure that TDS u/s 194R is paid correctly before releasing such benefit or perquisite.

Further, section 194R shall not apply to individuals/HUF, whose total sales/gross receipts does not exceed ` 1 crore (in case of business) or 50 lacs (in case of profession) during the FY immediately preceding the FY in which such benefit/perquisite is provided.

Different Scenarios:

Scenarios	Turnover/ Gross Receipt Individual/ HUF in FY 2021-22	Applicability (Yes/ No)
An Individual is giving a perquisite to a Resident for Rs. 19,000	Gross Receipts from Profession is Rs. 58 Lakhs	**No**
A HUF is giving a benefit of perquisite to a Resident for Rs. 28,000	Turnover from Business is Rs. 88 Lakhs	**No**
An Individual is giving a perquisite to a Resident for Rs. 50,000	Turnover from Business is Rs. 1.28 Crores	**Yes**

The amendment will take effect from 1st July, 2022

CGCA Comments

- The term benefit or perquisite has not been defined in the Act. In absence of clear definition one would have to borrow the meaning from judicial pronouncements.

Decision	Held
Ms. Priyanka Chopra v DCIT [2018] 89 taxmann.com 286 (Mumbai -Trib.)	Receipt of Toyota Car as gift for promotion of NDTV Toyota Greenathon campaign as brand ambassador is taxable under section 28(iv)
ACIT v Swiftsol(I) (P.) Ltd [2018] 171 ITD 577 (Nagpur) and Rupee Finance & Management (P.) Ltd. [2008] 120 ITD 539 (Mumbai)	Purchases goods or assets at a price lower than the market price cannot be taxed under section 28(iv)

- Section 194R needs to be read as corollary to section 28(iv). If a benefit or perquisite does not fall within section 28(iv), it should not be subject to TDS under section 194R
- 194R covers benefit in kind only. Benefit in cash falls outside scope of provisions
- Huge compliance challenge as company will have to put in place mechanism to track sales incentive and business promotion expense

- In absence of valuation rules, issue are likely to arise on what value the TDS ought to be deducted.
- It is expected that CBDT will come out with detailed circular clarifying the various open issues, with implementation of the said provision.

Amendment of Section 201/206C

Section 201 and 206C provides consequences of persons who fail to deduct tax or collect tax or after deducting or collecting, fail to deposit the same to the Central Government. Further section 201(1A) and 206C(7) provide for payment of interest at the rates specified in case of failure to deduct/collect or deposit tax.

In cases where the default for deduction/collection or payment continues, computation of interest has been a subject matter of litigation in the past.

Accordingly, to make the intention of the legislation clear, Finance Bill, 2022 amends section 201(1A) and 206C(7) to provide that where any order is made by the AO for default u/s 201(1) or 206C(6A), the interest shall be paid in accordance with such order.

CGCA Comments

- Though the intention of legislature is to levy interest in case whether or not the default continues, the language of amendment creates some ambiguity. It is expected that the language of the section would be modified at the time of passing of Finance Bill.

Amendment of Section 206AB/206CCA

Finance Act, 2021 inserted Section 206AB and 206CCA for deduction and collection of tax at source at a higher rate wherein the payment is made to or there is a receipt from specified persons.

"Specified person" was defined under section 206AB, as a person who has not filed ITR for **two immediately preceding years** (from the year in which tax was to be

deducted or collection) for which the due date u/s 139(1) had expired, and also if for such purpose, the aggregate TDS and TCS in his case was INR 50,000 or more in each of these two previous years.

It is now proposed that for a person would be considered as specified person if he has not filed ITR for one year prior to year in which TDS or TCS is to be done, and the due date to file return for such year has expired, reducing from 2 previous years of non-filing of ITR.

Further, the provisions of section 206AB were not applicable in relation to transactions on which tax is to be deducted under sections 192, 192A, 194B, 194BB, 194LBC or 194N of the Act. It is now proposed that provision of S. 206AB shall also not apply to Individual and HUF taxpayers, covered under sections 194-IA, 194-IB and 194M.

Assessment Procedures

Section 144B - Amendments to Faceless assessment provisions

Section 144B was inserted in the Act to provide the procedure for faceless assessment with effect from April 1, 2021. However, in view of the difficulties faced by the administration as well as taxpayers in the operation of the faceless assessment procedure, Finance Bill, 2022 proposes to substitute the existing provisions of sub-sections (1) to (8) of Section 144B with a new sub-section (1) to (8) of Section 144B. Two major changes are proposed in comparison to old provisions, which are as follows:

a. If the Assessee request for a personal hearing in reply to show cause notice effecting the income / loss then the Assessing officer will mandatorily be required to accept and provide hearing through video conferencing or video telephony in accordance with the procedure laid down by the CBDT.

b. Section 144B(9) of the Act provides that the assessment proceedings shall be void if the procedure mentioned in Section 144B was not followed. However, a large number of disputes were raised under this sub-section on account of technical issues arising due to use of information technology, leading to unnecessary litigation. Accordingly, it is proposed that, If the procedure laid down in faceless assessments are not complied with, then the same shall not invalidate the faceless assessments proceedings

Section 148, 148A, 148B, 149 - Reassessment provisions

- Scope of term '**information**' for reopening assessment

  As per the existing provisions the Assessing Officer reopens the assessment if there is information that the income has escaped assessment. It is proposed to widen the scope of '**information**' for reopening assessment to cover the following:

  a. Any audit objection to the effect that the assessment is not made in accordance with provisions of Act. (As per the existing provisions, information only included objection by CAG)
  b. Exchange of information under tax treaties
  c. Information available under faceless collection of information
  d. Information requiring action pursuant to order of Tribunal or Court

- Time period for reassessment extended to 10 years from 3 years

  a) In cases where search is initiated or books of account or documents or assets are seized or requisitioned or survey is conducted, it such case it would be deemed that the Assessing Officer has requisite information to carry out reassessment for a period upto 10 years.

  b) Cases where escaped income exceeds Rs. 50 lakhs is represented in form of:
     i. Expenditure in relation to a transaction, event or occasion; and
     ii. Entry/entries in the books of account

- Re-opening for multiple years

  A new subsection has been introduced to provide that where income escaped assessment in the form of asset / expenditure is found to have been incurred in multiple previous years aggregating to Rs. 50 lakhs or more, then the notices for assessment or reassessment or re-computation shall be issued for all such previous years (within the 10 year limit).

- Requirement for separate approval done away

  No separate approval required for issue of notice under section 148, if a speaking order is passed by Assessing Officer holding it to be a fit case for reassessment.

Sections 92CA, 144C, 253 and 255: Period of Limitation for notification of various Faceless Schemes extended

As part of the process of making the tax administration transparent and efficient, provisions for notifying faceless schemes under Sections 92CA (TP assessments), 144C (DRP), 253 (Appeals to the Appellate Tribunals) and 255 (procedure of Appellate Tribunal) were introduced in the Act through Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 with effect from 01.11.2020.

The time limits for notifying such schemes under the stated Sections were to expire on March 31, 2022. In order to formulate the scheme with a stable technological system and give the government additional time it has been proposed to extend date of notifying faceless assessment schemes under various sections as follows:

Section	Particulars	Original Date	Extended Date
Sec 92CA	Faceless determination of arm's length price	31st March 2022	31st March 2024
Sec 144C	Faceless Dispute Resolution Panel	31st March 2022	31st March 2024
Sec 253	Faceless Appeal to ITAT	31st March 2022	31st March 2024
Sec 255	Faceless procedure of ITAT	31st March 2023	31st March 2024

Section 158AB – Litigation Management

With aim to manage litigation with respect to appeals filed by the Revenue on similar issues as already pending before the SC or jurisdictional HC, it is proposed to insert a new section i.e. Sec. 158AB.

Section 158AB proposed to be inserted to provide that filing of appeal by Revenue before ITAT / High Court to be kept in abeyance if:

- The subject question of law is pending before HC or SC;
- Collegium (consisting of 2 or more Principal CITs / Chief CITs / CITs) are of the view that subject question is identical to question of law raised in case of assessee for any other AY or any other assessee for any assessment year; AND
- Assessee accepts that it is identical to his case
  Once the question of law reaches finality in the other case is available, an Appeal can be filed before ITAT / HC within 60 days of its receipt once order in other case is passed

Section 263 - Revision of order passed by Transfer pricing officer

Existing Provision

Section 263 of the IT Act provides for revision of an order, which is erroneous and prejudicial to the interests of the tax authorities. Such orders can be passed within two years from the end of the fiscal year in which the order sought to be revised was passed. There was lack of clarity on revision of the order passed by a Transfer Pricing Authority.

Proposed Amendment

Provisions of section 263 have been expanded to include orders passed by the Transfer Pricing Officer (Revisionary powers have been given to the Commissioner who is assigned the jurisdiction over the TPO Consequential changes are also proposed in section 153 that, the Assessing Officer shall proceed to modify the order of assessment or reassessment or re-computation, in conformity with such order of the Transfer Pricing Officer, within two months from the end of the month in which such order of the Transfer Pricing Officer is received by him

Other Provisions

Sec 68 - Taxability of unexplained amounts / cash credits

Existing Provisions:

Section 68 of the Act deals with the taxability of unexplained amount credited in the books of account of the Assessee. Currently, an assessee is required to give explanation about the nature and source of such amount received from person to prove its genuineness. Further, in case of receipt of share application money by a closely held company, it also needs to prove the source of such amount in the hands of the shareholders. There are various decisions wherein it was held that the borrower is not required to provide explanation relating to source of source in the hands of the lender.

Proposed amendment:

It is now provided vide amendment in section 68 to put an additional onus on the assessee to explain the nature and source of any sum, whether in form of loan or borrowing, or any other liability credited in the books of an assessee. The same shall be treated as explained, only if the source of funds is also explained in the hands of the creditor or entry provider.

However this additional onus of proof, would not apply if the creditor is a well-regulated entity, i.e., it is a Venture Capital Fund, Venture Capital Company registered with SEBI.

CGCA Comments

- The proposed amendment cast additional liability on the Assessee to verify the genuineness and source of the person from whom credit is received. On failure to satisfy the source of credit to the satisfaction of Assessing Officer the income would be taxable @ appx. 85% u/s 115BBE + interest for default in payment of tax.

- The section in proposed form doesn't provide any exemption to explain source for loan taken from Banks / financial institution. However, it is expected that at the time of passing the bill suitable exceptions might be carved out from the section.

Taxation Scheme for Virtual Digital Assets (VDA)

- Considering the tremendous popularity gained by Virtual Digital Assets, a new scheme to provide for taxation of such virtual digital assets by inserting section 115BBH and amending section 56.

- Virtual digital assets are defined u/s 2 (47A) and includes cryptocurrencies, non-fungible tokens etc.

- Income from transfer of VDA shall be taxed @ 30% (Plus applicable surcharge and cess)

- Only cost of acquisition shall be allowed as deduction. Any other expenditure shall not be allowed as deduction for the purpose of computing the taxable income

- Losses generated from the transfer of the virtual digital assets shall not be allowed to set off against any other income and not be allowed to be carried forward to the subsequent assessment years

- Definition of property as per explanation to section 56(2)(vii) has been amended to include VDA. Hence, receipt of VDA without consideration or for inadequate consideration by a resident Indian would be taxable as gift in the hands of recipient as per section 56(2)(x)

- Section 194 S is proposed to be inserted which provides for TDS on transfer of a virtual digital asset by a person resident in India at the rate of 1 Person paying consideration shall be responsible for the deduction of tax.

  TDS will not be required to be deducted by following

Persons paying Consideration	**Turnover of preceding financial year**	**Aggregate Consideration in Financial year**
Individual or HUF	• Turnover from business < INR 1 Cr • Turnover from profession < INR 50 lakhs	Less than INR 50000
Other Persons		Less than INR 10000

- Where consideration of VDA is partly in cash and partly in kind or wholly in kind or in exchange of another VDA, person responsible for paying consideration shall recover taxes before transfer of VDA

- It is further proposed that, in case TDS is deducted under this provisions, no TDS / TCS is required under any other section.

CGCA Comments

- Special rate of tax has been prescribed for taxing gains of VDA, without referring to the head of income under which the same would be subject to tax. This creates an ambiguity for earlier year whether income from transfer of VDA would be taxed as capital gains or business income or income from other sources.

- In case of person whose income is beyond minimum threshold limit would still be subject to tax on the entire gains. However he would be entitled to rebate u/s 87A.

- It would also be possible for Assessee to claim deduction u/s 54F / 54EC against the gain arising on transfer of VDA.

- In case where receipt of VDA is taxable u/s 56(2)(x) – as on date there is no clarity as regards substitution of fair market value of VDA on date of receipt as its cost of acquisition in case of future sales

- Value determination is important for determining its fair market value on date of its receipt under section 56(2)(x). Value of VDAs is highly volatile and varies across exchanges on a single day and across regions. In absence of any guidance with regards to valuation of VDAs, taxpayer may have difficulty in complying with the provisions

Sec 139(8A) and Sec 140B - Updated Tax Return

In order to encourage voluntary compliance and reduce litigation it is proposed to introduce a **new section 139(8A)** for filing an updated return of income by any person within 24 months from the end of the relevant assessment year, whether or not he has filed a return of income previously for that assessment year.

Assessee would not be eligible to file an updated return in following case:

- loss return or
- which has the effect of decreasing the total tax liability or
- results in refund or increasing the refund due on the basis of original or revised or belated return.

Further, in case there are ongoing proceedings / situations where updated return cannot be furnished like:

- in cases of search and survey;
- years where assessment or reassessment proceedings are pending or completed;
- prosecution proceedings have been initiated;
- an updated return has already been furnished for the relevant assessment year;
- the Assessing Officer has information in respect of such persons in his possession under PMLA, BMA, etc. and the same has been communicated to such person.

Updated return shall be treated as defective unless such return is accompanied by the proof of payment of tax as required under Section 140B. Amount of additional tax to be paid alongwith updated return is as follows:

Particulars	Amount of Additional Tax
Where updated return is furnished before expiry of 12 months from end relevant Assessment Year	25% of aggregate of tax (including Surcharge and Cess) and interest payable on the additional income reported in updated return
Where updated return is furnished after 12months but before expiry of	50% of aggregate of tax (including Surcharge and Cess)

24 months from end of relevant Assessment Year	and interest payable on the additional income reported in updated return

Tax payable shall be computed after taking into account the following:-

- advance tax;
- TDS and / or TCS;
- relief of tax claimed u/s 89;
- relief of tax or deduction of tax claimed u/s 90 or 91 or 90A on account of tax paid in a country / territory outside India;
- tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD.

Further, it is clarified that additional income tax shall also include surcharge and cess. **Consequential changes have also been proposed to section 144, 153, 234A, 234B and 276CC.**

Business Reorganization

- **Modified Return of Income**

  It is seen that there is a gap between the effective date of merger order and the date on which such order is issued by the competent authority. This affects the ability of the Assessee to modify their already filed returns, as the date for filing would already be expired.

  Hence, in order to remove this anomaly, it is proposed to insert a new section 170A to the Act, to provide that in case of business reorganization the Assessee would be entitled to file a modified return in prescribed manner within a period of 6 months from the end of the month in which such order is issued by the competent authority.

- **Validity of Proceedings Against Predecessor Company**

  Section 170 governs the procedure of taxation in case of succession to business in the event of reorganization or restructuring of the business.

  The period of time involved in concluding a business reorganization is a long-drawn process and is not time-bound, and often the reorganization is from a preceding date. The income tax proceedings and assessments are carried on and often completed qua the predecessor entities only, during the pendency of the court proceedings. Various Courts have held such proceedings and consequent assessments illegal as the predecessor assessee ceases to exist in the midst of a perfectly valid and legal proceeding.

With a view to clarify about the validity of such proceedings provides that the assessment or other proceedings pending or completed on the predecessor in the event of a business reorganization, shall be deemed to have been made on the successor entity.

Remedy for Refund of TDS in gross-up scenarios for international payments:

A new Section 239A of the IT Act is proposed to be inserted to allow the deductor to file a claim of refund before the AO in respect of tax deducted and borne by them, on any income paid to a non-resident, **other than interest under Section 195** of the IT Act, where the deductor claims that no such deduction was required.

Further, in case the Assessee is not satisfied with the order passed by Assessing Officer, he may file an appeal before Hon'ble CIT (A).

Section 94- Bonus Stripping and Dividend stripping to be made applicable to securities and InvIT/ REIT/AIFs

Section 94 of the Act deals with anti-avoidance provisions for transactions in securities and units of mutual fund. It is now proposed to widen its scope by amending the following:

Particulars	**Existing provision**	**Proposed Amendment**
Bonus Stripping	Applicable to Units of Mutual Funds	Applicable to securities as well as units of Mutual Funds, Infrastructure Investment Trust (InvIT) or Real Estate Investment Trust (REIT) or Alternative Investment Funds (AIFs)
Dividend Stripping	Applicable to securities and Units of Mutual Funds	

Section 79A - Set off of losses and unabsorbed depreciation in search cases

Existing Provisions:

Currently there is no provision in the Act to disallow set off of losses or unabsorbed depreciation, against undisclosed income which was detected owing to search and

seizure or survey or requisition proceedings. Allowing the set off is resulting in short levy of tax.

Proposed Amendment:

In order to deter and punish tax avoidance, a new section 79A is proposed to be inserted to provide that where undisclosed income is discovered pursuant to search or a survey, no set off against such undisclosed income of any loss, whether brought forward or otherwise, or unabsorbed depreciation shall be allowed.

This will prevent instances where assessees claim set off of losses or unabsorbed depreciation, against undisclosed income corresponding to difference in stock, undervaluation of stock, unaccounted cash payment etc. which is detected during the course of search or survey proceedings. This will bring such undisclosed income at par with undisclosed income falling in u/s 68, 69 etc. where such losses are not allowed for set off.

Section 285B - Scope of Reporting for Film Makers, Event Managers etc.

It is proposed to amend Section 285B, to extend the reporting requirements to persons engaged in specified activities such as event management, documentary production, production of programs for telecasting on television or over the top platforms or any other similar platform, sports event management, other performing arts or any other activity as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Section 285B currently provides for the producer of cinematographic films to furnish within 30 days from the end of the financial year or from the date of completion of the film, whichever is earlier, a statement containing particulars of all payments over Rs.50,000/- in the aggregate made by him or due from him to each person engaged by him.