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Smt Nirmalaji Sitharaman,
Hon'ble Union Finance Minister,
Government of India,
North Block
New Delhi - 110 001

Sub : Pre-Budget Memorandum for Union Budget - 2022

Respected Nirmalaji Sitharaman,

As you have started the exercise to prepare and present the 4th consecutive union budget 2022-23, amid signs of revival in the Covid19 hit economy, we expect the budget for the next year to address critical issues of demand generation, job creation, putting the economy on a sustained 8% plus growth path, lucrative to attract FDI as well Indian investment for industrialisation and most importantly, to inch nearer to 5 trillion economy.

As always, we at VIA have compiled few of the suggestions on Direct Tax for the upcoming Union Budget-2022 and would like to request you to kindly consider the following :

1. To reduce the compliance burden of TDS /TCS of Quarterly return :

- a) There is enormous compliance burden on the taxpayers which is consuming the time from, constructive activities to the clerical activities. This needs to be amended.
- b) Quarterly filing of TDS/ TCS returns may be replaced by just two returns, one return for a 9 months period from April to December and second for the period from January to March. It will relieve the deductor from compliance burden and the same time can be used by him to verify the TDS credit and follow up if the amount is not reflected.
- c) Further, the small taxpayers may be relieved from the compliance burden of filing the TDS/TCS returns. This can be done by suitably designing Challan cum Return forms as is done in the case of TDS on Sale of property.





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2. Scrapping of TDS U/s 194Q and TCS U/s 206C(1H) :

Section 206C(1H) which provides for TCS on sale has already added an unnecessary compliance burden on the taxpayers. Addition of Section 194Q in the Income Tax Act - 1961 has further complicated the compliance process and has been the biggest deterrent to the concept of "Ease of business". Though the seller is getting immunity from the TCS compliance u/s 206C(1H) if the buyer does TDS, it is case specific and cannot be generalized.

It may be considered that the data of buyers & sellers can very well be extracted from the GST returns. TDS & TCS on purchase/ Sale is neither widening the tax base nor increasing the revenue

3. Disallowance towards Payment of PF/ESIC U/s 36(1)(va) in respect of Employee contribution paid after the due date :

- a) *The businessmen have numerous compliances to be done and often stuck with temporary liquidity issues. As a result, they find it difficult to make the payment of employee share within the due date on certain occasions.*
- b) *Union Budget - 2021 has provided for outright disallowance of the amount of employee shares towards PF/ESIC, if not paid within the due date under the respective Acts. This amendment has enhanced the financial burden of the taxpayers, despite the fact that the industries and businesses are already struggling with liquidity crunch post Covid19 2nd Wave.*
- c) *There is enough penal provision under the relevant labour laws to ensure the payment within the due date.*
- d) *In the interest of all, suitable amendment may kindly be done so as to allow the deduction if the same is paid before the date of filing income tax return as against due date under the respective Acts.*
- e) *Alternatively, the due date under the respective Act may be increased from the middle of the month to the end of the month.*





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4. Enhanced amount of TDS & TCS for Non-Filer of Income Tax Returns U/s 206AA & 206CCA :

- a) *The Finance Act- 2021 has provided higher TDS & TCS rate if the recipient of payment or seller is not regularly filing the income tax returns. This was done by adding new sections 206AA, 206AB & 206CCA.*
- b) *Now, every person is required to verify the applicable TDS/TCS rate in each and every case.*
- c) *The process of verifying whether the person is filing the income tax return or not is a time-consuming process as it has to be backed by the OTP at the portal.*
- d) *It is requested that the proposal may kindly be withdrawn as the Income Tax Department has enough infrastructure and system to ensure the compliance from the non-filers. Adding compliance requirements on the recipient of payment/seller will increase the workload & burden of the tax payers.*

5. Abolition of the Income Tax Settlement Commission :

Finance Act- 2020 abolished the Income Tax Settlement Commission with immediate effect. Settlement of tax disputes has to be part of the taxation system and without any mechanism to resolve the tax disputes things are getting complex.

Incorporation of the Dispute Resolution Committee in the last budget was good but the beneficiaries are limited in view of the ceiling of Rs. 50 Lakh and Rs. 10 Lakh therein. It is recommended as under:

- a) *The Income Tax Settlement Commission need to be restored or*
- b) *The scope of DRC may be widened without any limit of Rs.50 Lakh & Rs. 10 Lakh as such*



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6. Faceless Assessment Scheme-2019 :

- a) *We very strongly and honestly appreciate the efforts of the present Government in implementing the faceless assessment scheme which enhances the transparency in the administration and giving a enhanced image to the income tax department.*
- b) *It is humbly prayed that the concept of accountability may be established in the faceless assessment scheme whereby the penalty may be imposed on the assessing officer for error or intentional high pitched. Assessee may be given the right to demand for fixing the accountability of the assessing officer. Independent "Accountability Examination committee" may be formed wherein not only the departmental team but also people from profession & ITAT may be taken so as to ensure the intended purpose.*
- c) *Imposing unrecoverable tax demand on the assessee may be equivalent to killing the small taxpayers / citizens. To a great extent, human touch was there during the earlier physical assessment system. However, this human touch is totally missing in the faceless assessment scheme and abrupt high pitched assessment orders are passed without realizing the fact that the taxpayers are human beings. It is humbly prayed that every order proposed with addition of amount more than the returned income may be passed through the test of "Human Touch" whereby the case may be examined from human angel as well.*

7. Amendment to Section 115BBE :

- a) *The tax rate for certain income u/s 68, 69, 69A, etc. was enhanced to 60% and the effective tax rate after surcharge is 78%.*
- b) *This rate was enhanced from 30% so as to take care of the malpractices during demonetization.*
- c) *It is requested that the pre-demonetization rate may be restored now and such special income may be subject to tax rate of 30% only.*



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8. Enhancement of the tax audit limit from Rs. 10 Cr to Rs. 50 Cr Under Section 44AB :

Union Budget 2021 has enhanced the limit of Rs. 5 Cr to Rs. 10 Cr if the total receipt & payment by way of digital mode is more than 95%. In order to boost the digital transactions and provide ease of business, the limit may be hanced to Rs. 50 Cr.

9. Marginal Relief in case of Rebate U/s 87A :

Individual taxpayer with income of Rs. 5 Lakh is not required to pay any amount of Tax in view of Rebate U/s 87A. However, a person with income of Rs. 5,00,010/- is required to pay the tax of Rs. 12,802. The law be rationalized so as to allow margin relief and the tax liability in such a case should not exceed the amount of income i.e., Rs.10 in the present example.

10. Amendment to section 43CA and 56(2)(x) where the stamp duty valuation of the property is higher than the Actual sale consideration :

At present, if the stamp duty valuation of the property is relevant for computation of income if it is more than 110% of the actual sale consideration. Income Tax Act provides for taxation on notional basis and not taxation on actual earning of the taxpayers. It is acting as a deterrent in real estate transactions. It is submitted that the threshold limit of 10% may be enhanced to 25%. Further, an exception be carved out in respect of

- a) Sale of Industrial properties which is owned or leased by State Industrial Development Corporation across the country. In such a case, the properties are sold at concessional rate and tri-party agreement is entered into between the Buyer, seller and State industrial Development Corporation.*
- b) Sale of property in bank auction*
- c) Distress sale*
- d) Transfer pursuant to court order.*





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Option to make a reference to DVO prior to execution of the transactions :

Further, an option of referring to the DVO (Departmental Value Officer) at the instance of the Taxpayers may also be incorporated in the Income Tax Act so that the buyer / seller can get the fair market valuation prior to execution of the transactions. This will provide tax certainty and a better tax environment to the taxpayers of the country. Nominal fees may be prescribed for making the reference to the DVO

11. Exemption u/s 10(10D) if the premium exceeds Rs. 2.50 Lakh :

ULIP is an excellent insurance option with the taxpayers coupled with the investment options whereby taxpayers can get the higher returns by investing in it. There is already a ceiling of 10% of sum assured for investment in ULIP. The provision to restrict the amount to Rs. 2.50 Lakh is acting as a bar for investment in insurance cum investment options. In view of the fact that the country doesn't have a social security system in place, the limit of Rs. 2.50 Lakh may kindly be enhanced to Rs.15 Lakh as it would meet the requirement of funds in the hands of the taxpayers at the time of maturity or retirement.

12. Benefit of carry forward of Excess Application of Income in case of Charitable Trust :

- a) Charitable trusts are doing a lot of charitable activities in the country and helping in building a better world. The contribution by charitable trust of the country during the tough time of Covid, Earthquake, Floods, etc. cannot be ignored.
- b) There are various restrictions which are imposed in every budget on charitable trust which in our humble submission is not a good sign. More particularly, smaller trusts who with limited means are contributing with their physical efforts and smaller means.
- c) In the last Union Budget – 2021, the benefit of carry forward of excess application of the trust for set off against income of subsequent years was taken away. It is humbly prayed that the benefit of the carry forward may kindly be allowed to the trust in such cases.



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d) Further, the existing provision for trust may be revisited and smaller trusts, say with gross receipt up to Rs. 50 Lakh may be given an immunity from the requirements of registration & audit in the Income Tax Act-1961.

13. Appointment of the Authority for disposal of the pending Appeal under the Central Sales Tax Act 1956 :

Finance Act -2020 has abolished the Authority for Advance Ruling (AAR) under the Income Tax Act-1961. However, it may be noted that the same AAR was also vested with the Appellate power under the Central Sales Tax Act. The AAR is also discharging the functions of "Central Sales Tax Appellate Authority" (CSTAA). With the abolition of AAR, now CSTAA is not functional. We understand that at present number of cases are pending with the said authority involving the revenue of more than Rs. 1000/- Cr. With the abolition of A.A.R no separate authority or court is vested with the power of disposing off the present appeal. It is requested that the suitable authority may be appointed for disposing off the present pending cases under the Central Sales Tax Act urgently.

These are just a few suggestions which may kindly be considered in view of providing the ease of business to the taxpayers. We hope that it will find due consideration in the upcoming Budget documents.

Charles & Warr regards


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President


CA Ashok Chandak
Chairman - VIA Tax Forum


CA Naresh Jakhota
Treasurer