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2023-24

PRE-BUDGET MEMORANDUM

Chartered  
Accountants  
Association Surat





# Pre-Budget Memorandum 2023-24

By Chartered Accountants Association Surat



Sr. No.	Existing provision under the I. T. Act, 1961	Section 2 of Finance act: - Tax rates for non-corporate Tax payers
1	<b>Difficulty / Issue</b>	<ol style="list-style-type: none"><li>1) Tax rates for corporates and MAT have been reduced in the recent past, however, the rates of tax for non-corporates, such as partnership firms, LLPs and AOPs and individual is continuing since long more than 15 years without any modification on lower side.</li><li>2) In case of an individual, amount of rebate u/s. 87A is compulsory and it is restricted to the total income of Rs.5,00,000/-</li></ol>
	<b>Our Suggestion</b>	<ol style="list-style-type: none"><li>1) Tax rates for the partnership firms and LLPs may be reduced to 25%</li><li>2) Tax rate for individual be suitably amended and highest tax rate be reduced to 25%.</li><li>3) To promote the voluntary payment of tax amongst the assessee returning Income marginally in excess of Rs 5 lakh, marginal relief u/s.89 may be extended to them to restrict the amount of tax on income in excess of Rs.5,00,000/-. If the Income is Rs 5,01,000/-, the TAX PAYABLE comes to Rs 12,700/- as against NIL tax on Rs 5 lakh (for deduction u/s 87A), only for a small increase of Rs 1,000/-, the INDIVIDUAL has to pay Rs 12,700/-. MARGINAL RELIEF in such cases may suitably be provided.</li><li>4) Surcharge on tax be removed or drastically reduced so that effective tax rate is made comparable with peer countries.</li></ol>

Sr. No.	Existing provision under the I. T. Act, 1961	Section 2 of Finance act: -Tax rates for Co-operative societies
2	<b>Difficulty / Issue</b>	Tax slabs for co-operative society has not been revisited since enactment of finance act 1991. Not all the incomes of a co-operative society are eligible deduction under section 80P of the income tax act. Higher income tax curtails the income of the small and privileged members of the co-operative societies.
	<b>Our Suggestion</b>	Tax slabs may be reinstated at par with the tax slabs which are applicable to the individuals.



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Sr. No.	Existing provision under the I. T. Act, 1961	Surcharge above threshold limit to be charged only for portion above the threshold
3	<b>Difficulty / Issue</b>	Surcharge becomes applicable to various entities on surpassing the threshold limit set for that category of assessee. On Surcharge becoming applicable, the same is charged on the full amount from Rupee 1 of the taxable income. Even though Marginal relief is available, final tax liability of the assessee shoots suddenly, resulting into hardships to the assessee.
	<b>Our Suggestion</b>	Surcharge should be charged only on the excess of the threshold limit.

Sr. No.	Existing provision under the I. T. Act, 1961	Exemption under section 10(2):- any sum received by an individual as a member of a Hindu undivided family
4	<b>Difficulty / Issue</b>	The section talks of exemption for receipt by a member where such sum is paid "out of the income". This does not clarify, whether Income of this year or Income of any previous year.
	<b>Our Suggestion</b>	An amendment, clarificatory in nature, required to clarify "Income of any year" or "Income of any previous year".

Sr. No.	Existing provision under the I. T. Act, 1961	Section 24(b): - Deduction in respect of payment of interest
5	<b>Difficulty / Issue</b>	Considering the current scenario of the cost of acquisition of the house property and amount of loan obtained from the bank, deduction of Rs.2,00,000/- is at lower side.
	<b>Our Suggestion</b>	It may be enhanced to at least Rs.3,00,000/- considering the inflation index compared to the year in which these provisions were introduced.

Sr. No.	Existing provision under the I. T. Act, 1961	Chapter VIA deductions to be increased with Cost inflation index
6	<b>Difficulty / Issue</b>	A considerable time has passed since the Chapter VIA deductions were last revised.



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	<b>Our Suggestion</b>	Deductions under Chapter VIA should be increased every 3 years in parity with the Cost Inflation Index as notified by the Board and upward or downward revision be made This shall make these deductions more practically feasible.
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Sr. No.	Existing provision under the I. T. Act, 1961	<b>Section 37(1): - Disallowance of any expenditure incurred by corporates on the corporate social responsibility (CSR) as referred to in section 135 of the Companies Act, 2013.</b>
7	<b>Difficulty / Issue</b>	When the Companies Act has mandated certain class of companies to incur certain portion of profit as corporate social responsibilities (CSR), along with certain expenditures in the nature of CSR expenses are allowed as deductions under other sections of income tax act like section 35 and 35AC, there exist a partiality in treatment of CSR expenditures.  Furthermore, when Income tax act promotes compliance of different laws by <u>disallowing</u> the expenditure in the nature of penalty or fine <u>for violation</u> of any law for the time being in force, then expenditure incurred for <u>compliance</u> of Companies Act may be allowed as deduction.
	<b>Our Suggestion</b>	It may positively be allowed as 100% deduction; CSR expenditure can play a vital role in developing productive social infrastructure. Remedial actions initiated by the corporates during Covid-19 lock down and thereafter are the best example of it.

Sr. No.	Existing provision under the I. T. Act, 1961	<b>Section 36(1)(va) r.w.s 2(24)(x): PF/ESIC delayed payment should be treated at par with the employer contribution covered under Sec.43B</b>
8	<b>Difficulty / Issue</b>	Delayed payment of PF/ESIC are presently taxed as income when they relate to the employee contribution portion and if they are delayed for payment to the fund or corporation, as the case may be, as income of the assessee. However, there are a number of reasons which may result into the assessee falling into such a situation, including but not limited to: <ol style="list-style-type: none"> <li>1. Ill-health of the employer</li> <li>2. Act-of-God, flood, earthquake, pandemic etc.</li> <li>3. Employer handling the business, single-handedly in case of MSMEs</li> <li>4. Holidays, strikes, public unrest</li> </ol>



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		<p>5. Technical issues/Portal Glitches etc.</p> <p>On account of the above, the assessee may not be able to pay the amount deducted from employee's salary as PF/ESIC contribution, to the credit of the fund or ESI Corporation. The employer may do so even if knowing that such a matter is an offence under the relevant workmen welfare statute and even if knowing that it would not be deductible due to the Pro-revenue outcome in Special Civil Case No.2833/2016 – Checkmate Services Pvt Ltd vs. Commissioner of Income Tax – 1 (SC). This is resulting into a permanent disallowance of payment even if made after the due date.</p>
	<b>Our Suggestion</b>	<p>Despite the pro-revenue outcome of the aforesaid case decided by the Hon'ble Supreme Court, it is a prerogative of the legislature to pass an act for the welfare of the subject and not to adjudicate the acts of its subjects for same offence under different statutes, which may result to double jeopardy. If the assessee are harassed to such an extent, then it is natural that they may not pay the amount to their workmen at all. Hence, to foster a feeling of care for the workmen, a suitable respite should be given to the employer who definitely acts in the bonafide interests of the workmen as well as the Government, to fulfil the requirements of payment of employee related payments before due date of filing Income Tax Return u/s 139(1) and such a payment should be treated at par with Sec.43B. Suitable changes in 43B and 36(1)(va) should be made to accommodate this welfare provision to remedy the situation instead of making Income Tax a penal statute.</p>

Sr. No.	Existing provision under the I. T. Act, 1961	Section: -44AA(1) r.w. Rule 6F
9	<b>Difficulty / Issue</b>	<p>Section 44AA(1) mandates specified professionals to prepare and maintain the books of accounts which is in contradiction of section 44ADA(4).</p> <p>Section 44AA(2) mandates other professionals and businesses to prepare and maintain the books of accounts which is contradiction of section 44AD(5).</p> <p>Various limits specified in section 44AA (read with rule 6F) have remained unchanged since long time.</p>



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	<b>Our Suggestion</b>	Section 44AA may be suitably amended to exclude the assesseees who are maintaining the books of accounts under presumptive taxation i.e. 44AD and 44ADA, and the limits specified in section 44AA may be revised in line with section 44AB and section 44AD as it has not been amended since long time.
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Sr. No.	Existing provision under the I. T. Act, 1961	Section 44AB and Section 44AD: -
10	<b>Difficulty / Issue</b>	The turnover limit u/s 44AB is ONE CRORE and u/s 44AD it is TWO CRORES. This creates unwanted confusion in the minds of the assessee.
	<b>Our Suggestion</b>	The TURNOVER limits under both the sections may be brought to a common amount of Rs 2 Crore.

Sr. No.	Existing provision under the I. T. Act, 1961	Section 44AD(4) and (5): -
11	<b>Difficulty / Issue</b>	The drafting of Sub section (4) does not convey the proper intention of the Section. The purpose of introduction of section 44AD was to have ease of doing business and ease of doing Tax compliance but after introduction of sub-section 4, this purpose is getting defeated as the turnover of the businesses are highly unpredictable during current times. Businesses may switch in and out of the limit of Rs. 2 crores for different years, in that situation it becomes difficult to comply with section 44AD as well as 44AB and the small business are unnecessarily pushed out of simplified scheme for five years and are forced to have an audit u/s. 44AB instead of having small amount of turnover. Literal interpretation of this section implies that once the assessee opt out to declare profit in accordance with this section, he/she can never get the benefit of this section.
	<b>Our Suggestion</b>	The provision should clearly provide that there is no need to maintain books of account in case assessee opts for the provision of the section.  There should not be any compulsion on the part of the assessee to compulsorily adopt the provision of the section. It may be left on the wisdom of the assessee.



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		Suitable amendment may be made to sub section 4 and 5. Further, the same should be clarified in the same manner as is done u/s 44AE(5).
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Sr. No.	Existing provision under the I. T. Act, 1961	Section 44ADA: -
12	<b>Difficulty / Issue</b>	The assessee who are having a gross receipt of less than 50 lakh rupees, are required to declare an income @ 50% of such gross receipts, which is not feasible in all the cases, and hence they are mandated to do the audit u/s.44AB.
	<b>Our Suggestion</b>	The small professionals are having limited profitability and hence the limit of Rs.50 lakh may be increased to Rs.1 crores We may also suggest the percentage of deemed income be reduced from 50% to 25/30%.

Sr. No.	Existing provision under the I. T. Act, 1961	Section 44AD & 44ADA: - Interest and remuneration paid to partners by firm from the presumptive income
13	<b>Difficulty / Issue</b>	Earlier before enactment of finance act 2016, by virtue of proviso to subsection 2 of section 44AD, Interest and remuneration paid to partners were allowable as deduction after computing profit @6%/8% of the gross turnover/receipt. After deletion of that proviso every small partnership firm claiming substantial amount of interest and remuneration as deduction from profit are subjected to unnecessary tax audit u/s.44AB read with section 44AD.
	<b>Our Suggestion</b>	As the interest and remuneration are taxable in the hands of the partners, it may be allowed as deduction from profit, out of the presumptive income, to avoid double taxation. Also, it may reduce the additional cost of audit to the small partnership firms.



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Sr. No.	Existing provision under the I. T. Act, 1961	Special Analytical Audit of Entities above Rs.250 crores to be randomly allotted to Cas
14	<b>Difficulty / Issue</b>	At present the audit of all assessees whose turnover exceeds INR 10 Crores are required to get their accounts audited u/s 44AB. However, there is a need for higher technical and analytical audit for entities having higher turnover, where the auditor needs to be on a rotation basis.
	<b>Our Suggestion</b>	In addition to the Tax Audit u/s 44AB, a Special Analytical Audit should be put in place to be allotted to the entities whose turnover exceeds INR 250 Crores (in line with the definition of Large Enterprises as per MSMED), on a random basis through the use of automated allotment software, so that no auditor is repeated for the next year and new avenues for improvement are identified, reported and corrected each year.

Sr. No.	Existing provision under the I. T. Act, 1961	Stay of demand 10% instead of 20% at AO Level
15	<b>Difficulty / Issue</b>	Any demand from the Income Tax Department is followed up by a persistent follow up to pay the outstanding amount within a stipulated time, followed by an attachment of Bank Account. It is pertinent to note that the Bank Account, represents the basis of doing business in India in the era of cashless economy. At this juncture, if the bank account is attached, it would mean a grave interference by the Government with the Fundamental Rights of a person to do business as enshrined under Article 19(1)(g).
	<b>Our Suggestion</b>	A stay of demand should firstly be made in a just and reasonable manner. For this, the existing limit of mandatory 20% of outstanding amount should be reduced to 10%.  Secondly, other security should be allowed in place of cash security.





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Sr. No.	Existing provision under the I. T. Act, 1961	20% Stay of demand at ITAT level to be removed in case stay by ITAT
16	<b>Difficulty / Issue</b>	The newly introduced norms of payment of 20% of the DEMAND for stay of demand at ITAT level creates no logic to approach a higher authority like ITAT, when the same remedy is available with the lower authorities by payment of 20% of outstanding tax as a condition precedent to grant of stay. Prior to the current situation, the ITAT had discretionary powers to allow grant of stay at any amount as it may deem fit.
	<b>Our Suggestion</b>	The discretionary powers of ITAT with respect to grant of stay should be reinstated at the earliest to remove hardships on the taxpayers. Present power is redundant, as if 20% was to be paid, then Assessing Officer is himself empowered, no need to approach ITAT.

Sr. No.	Existing provision under the I. T. Act, 1961	Section 47(xiiib): - Transfer of a capital asset by a private/unlisted public company to a limited liability partnership (LLP) as a result of conversion of the company into LLP in accordance with the provisions of section 56 or section 57 of the LLP Act, 2008
17	<b>Difficulty / Issue</b>	A limit of Turnover and Total asset is specified in the section subject to which Transfer of assets on conversion of company into LLP is not subject to capital gain tax, this limit of Turnover and total asset is Rs.60 lakh and Rs.5 crores respectively (in any of the three previous years preceding the previous year in which the conversion takes place)  When the limit for turnover under presumption taxation u/s.44AD and limit for conduct of Tax audit is Rs.2 crores and Rs.10 crores respectively, the limits specified Section 47(xiiib) is too small, and due to that companies getting converted to LLPs are forced to pay huge amount of capital gain tax.
	<b>Our Suggestion</b>	These limits of Turnover and Total assets may be removed altogether, so that maximum persons can take benefit of the format of LLPs which is popularised and companies can be converted into LLP without burden of capital gain tax.



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Sr. No.	Existing provision under the I. T. Act, 1961	Section 54 and 54F: -
18	<b>Difficulty / Issue</b>	The time limit in case of PURCHASE of another asset is 1 year prior and 2 years post sales. However, in case of Construction, the limit is only post 3 years. When the asset is sold, naturally advance is being received before the document of sale is registered. In case a house is required to be constructed, the assessee cannot use the advance money received and has to wait till the final documents get registered. This should not be the intention of the provision.
	<b>Our Suggestion</b>	Provisions of section 54 and 54F may be suitably amended to allow or include the cost of construction incurred 1 year before the transfer of capital asset takes place in case of Construction of house.

Sr. No.	Existing provision under the I. T. Act, 1961	Section 54EC: - Exemption from Capital Gains on investment in certain Bonds
19	<b>Difficulty / Issue</b>	This section restricts the maximum amount of exemption to Rs.50 lakhs on investment in capital gains, in addition to that benefit is only available for long term capital gain on transfer of land or building.
	<b>Our Suggestion</b>	The limit of exemption may be increased from Rs. 50 lakhs to 150 lakhs and restriction of assets (i.e. land & building) may be removed and made open for all the assets. This may help the Government in generating funds at much lesser cost for a longer period of five years.

Sr. No.	Existing provision under the I. T. Act, 1961	No provision under income tax act for exemption of capital gain on transfer of Industrial undertaking (for the purpose of Shifting /Expansion) except section 54EC
20	<b>Difficulty / Issue</b>	Taxpayers are forced to pay capital gain when the capital gain arises due to transfer of industrial undertaking for the purpose of shifting from existing place to another place for securing viability or for expansion of existing facility and there is no intention of the taxpayer to earn the capital gain.



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		Exemption provided under section 54EC blocks the money of taxpayers which are otherwise useful for them in doing business or in expansion of existing facilities, even exemption u/s.54EC is bounded by a limit of Rs.50 Lakhs.
	<b>Our Suggestion</b>	New provision for exemption of capital gain on transfer of Industrial undertaking may be introduced to set-off against investment in new land and building and plant and machinery in new industrial undertaking.

Sr. No.	Existing provision under the I. T. Act, 1961	<b>Section 54ED: - Capital gain on transfer of certain listed securities or unit</b>
21	<b>Difficulty / Issue</b>	Exemption under section 10(38) has been withdrawn with effect from first day of April 2018, on transfer of long-term capital assets being listed securities and has been made taxable subject to a limit specified under section 112A, hence as of today there is no Exemptions are provided on capital gain on transfer of long term capital assets being listed securities.
	<b>Our Suggestion</b>	A deduction under this section had been discontinued since AY 2007-08. When Indian government is aiming at becoming a USD 5 Trillion economy by the end of the year 2024-25, to achieve this target it may promote the idea of "MAKE IN INDIA" and the expansion of the businesses of the companies. A revival of this section can encourage companies and their promoters to get finance through "IPO" and "FPO" for the new business or expansion of the existing business. It shall also help the Start-ups. It may also stabilize the stock market in a way that a sum of money earned through capital gains are re-invested in the stock market and the new entrepreneur may get a chance to do the business through raising funds from open market "IPO".

Sr. No.	Existing provision under the I. T. Act, 1961	<b>Section 56(2)(x): - Limit of Gifts from non-relative</b>
22	<b>Difficulty / Issue</b>	A limit specified in section 56(2)(x) is Rs.50,000/- which was last amended in the Finance act 2006.
	<b>Our Suggestion</b>	Considering the current time, this limit may be increased to Rs.1,50,000/-



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Sr. No.	Existing provision under the I. T. Act, 1961	Section 56(2)(x): - Clarification required in the definition of a relative
23	<b>Difficulty / Issue</b>	The definition of RELATIVE at present allows a gift by UNCLE/AUNT to his nephew/niece but vice-versa is not allowed. However, this was not the intention of the statute at the time of introduction.
	<b>Our Suggestion</b>	An Amendment of clarificatory nature may suitably be made to clarify the tax treatment of cases as above.

Sr. No.	Existing provision under the I. T. Act, 1961	Section 56(2)(x)(b) read with Section 45(3): - Transfer of asset by a partner to partnership firm.
24	<b>Difficulty / Issue</b>	Any Capital Asset transferred as CAPITAL CONTRIBUTION in the partnership firm is taxable as capital gain u/s 45(3) in the hands of the partner. With introduction of section 56(2)(x)(b), such transaction also gets covered under this section in the hands of the firm.
	<b>Our Suggestion</b>	A clarification is required u/s 56(2)(x)(b) with regard to exclusion of transaction covered u/s 45(3).

Sr. No.	Existing provision under the I. T. Act, 1961	Section 64(1)(iv), 64(1)(vi) and Section 64(1A): -
25	<b>Difficulty / Issue</b>	<ol style="list-style-type: none"><li>1) Clubbing provisions are clumsy in nature and defeats the purpose of section 56(2)(x) where any sum of money or movable or immovable property is received without any consideration or with inadequate consideration from the relatives are exempt from income tax but if any income is derived from investing of such sum of money or property then such income is clubbed in the income of the person who has paid such sum of money or has transferred an asset without any consideration or with inadequate consideration to their relatives.</li><li>2) furthermore, in the current era when the looking forward to women empowerment with greater expectations, such kind of clubbing provisions demotivates the transferor being husband or father in law or mother in law</li></ol>



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		<p>transferring the property with an intention to assist their wife or daughter in law on becoming independent person or businesswomen.</p> <p>3) An amount received in excess of Rs.1500/- by a minor child is clubbed in the hands of the parent, this limit seems to be impractical during current times, when even a gift of the value up to Rs.50000/-received from a non-relative person is exempt from tax u/s.56(2)(x).</p>
	<b>Our Suggestion</b>	Clubbing provisions may suitably be dropped as they are not relevant during current times, a limit of Rs.1500/-(received by a minor) may be raised at par with the limit specified in section 56(2)(x) to Rs 50,000/-.

Sr. No.	Existing provision under the I. T. Act, 1961	Section 90
26	<b>Difficulty / Issue</b>	Section 90(4) provides that non-resident shall not be entitled to benefit of DTAA unless the Tax Residency Certificate (TRC) is obtained. Section 90(5) provides that non-resident shall also provide information as may be prescribed (Form 10F). This linkage is interpreted by revenue that form 10F is compulsory along with TRC to claim treaty benefit even when information required in form 10F is already incorporated in TRC.
	<b>Our Suggestion</b>	Proviso to Section 90(5) inserted to effect that provision of S.90(5) shall not apply when TRC obtained u/s 90(4) incorporates the information as prescribed.

Sr. No.	Existing provision under the I. T. Act, 1961	Section 92
27	<b>Difficulty / Issue</b>	As per article 9(2) of OECD model tax convention, when profit of enterprise in state A is revised upwards, the state B shall allow/make downwards adjustment ("secondary adjustment"). However, adjustment which results into reducing income is prohibited by S.92(2) and thereby results into double taxation.
	<b>Our Suggestion</b>	Section 92(2) be amended providing that provision of S.92(2) shall not apply when adjustment is made in terms of DTAA.



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Sr. No.	Existing provision under the I. T. Act, 1961	Section 139: - Fixing of various dates
28	<b>Difficulty / Issue</b>	Due date for filing of Income tax return (ITR) for regular assessee (Non audit) is 31 <sup>st</sup> July and for assessee who are subjected to audit u/s.44AB is 30 <sup>th</sup> September. Usually, these dates are extended every year for the benefit of the tax payers due to the different reasons.
	<b>Our Suggestion</b>	Extension of due dates every year is not a sustainable solution for the stakeholders and industry at large. In the past when the forms were simple, yet a period upto October 31 <sup>st</sup> was allowed. However, with the introduction of more complex return forms and complicated tech involved in the IT Return filing process coupled with faster processing times claimed by CPC, the present due date structure is insufficient to meet the workload and needs a mid-term review. Thus, a suitable amendment be made in the Income Tax Act allowing return filing as follows: <ul style="list-style-type: none"> <li>• Audit Cases – Upto 30<sup>th</sup> November every year</li> <li>• Transfer Pricing Audit Cases – Upto 31<sup>st</sup> December every year</li> <li>• Trust Returns – Upto 31<sup>st</sup> December every year</li> <li>• Non-Audit Cases – Upto 31<sup>st</sup> March every year</li> </ul>

Sr. No.	Existing provision under the I. T. Act, 1961	Section 115BA: - Tax on income of certain manufacturing domestic companies Section 115BAA: - Tax on income of certain domestic companies Section 115BAB: - Tax on income of new manufacturing domestic companies Section 115BAC: - Tax on income of individuals and Hindu undivided family Section 115BAD: - Tax on income of certain resident co-operative societies
29	<b>Difficulty / Issue</b>	Tax payers are facing hardships when they opt for the scheme in the ITR, but fail to file the relevant form. In such event, they are slapped with the heavy demand resulting out of simple procedural lapse of non-filing of relevant form, which although is half complied by opting in and submitting relevant section in the ITR, yet they are kept away from the assured legal right to be taxed as per the special option rate they have selected in their ITRs
	<b>Our Suggestion</b>	The contents and requirements of the form are also paltry, the information whereof is already present in the ITR. Forms mentioned above i.e. Forms 10IB/10IC/10ID/10IE/10IF create confusion and hence should be dropped and the requirements of opting as mandated by the relevant section should



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		be implemented in the IT Return itself in Schedule NTR, while selecting the relevant section code from the dropdown in the ITR. Further, the requirements of above forms may be altogether be done away with retrospective effect, giving relief to the tax payers.
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Sr. No.	Existing provision under the I. T. Act, 1961	115BBE: - Tax on income referred to in section 68 or section 69 or section 69A or section 69B or section 69C or section 69D.
30	<b>Difficulty / Issue</b>	Rate of Tax prescribed under section 115BBE is 60% added by 25% surcharge, 10% penalty u/s.271AAC and 4% cess comes to 84% which is very high, it was suitable during the time of demonetisation period but during current time it is demotivating to any taxpayer.
	<b>Our Suggestion</b>	Rate of Tax may be restored back to 30% as it was earlier.

Sr. No.	Existing provision under the I. T. Act, 1961	Expedited disposal of Startup registration application by IMB
31	<b>Difficulty / Issue</b>	Presently, as on date, there are 83,580 Startups registered under DPIIT, out of which merely 813 have received the Income Tax exemption under section 80IAC as per the decisions of IMB which can be viewed at link <a href="https://www.startupindia.gov.in/content/sih/en/startup-scheme.html">https://www.startupindia.gov.in/content/sih/en/startup-scheme.html</a> . The proportion of Startups getting the exemption under section 80IAC is relatively low considering that it has almost been 7 years since the launch of Startup India Scheme
	<b>Our Suggestion</b>	It is recommended to increase the meetings of IMB, so that the applications are disposed of in a smooth manner and with lower turnaround time.



Sr. No.	Existing provision under the I. T. Act, 1961	Problem of choice by Startup pending 80IAC Application								
32	<b>Difficulty / Issue</b>	<p>During the pendency of 80IAC applications, if the ITR is to be filed, then the Startups have to make a decision to choose either of:</p> <p>The Tax regimes of 15% or 22% as per section 115BAB or 115BAA respectively as applicable;</p> <p>Eventually, a Startup would have to forgo the deduction under section 80IAC even if they succeed to get the eligibility certificate by the IMB subsequently.</p>								
	<b>Our Suggestion</b>	<p>In order to promote the objectives of the Startup India scheme, we propose the following amendment:</p> <table border="1" data-bbox="475 927 1458 2016"> <thead> <tr> <th data-bbox="475 927 635 1032">Section</th> <th data-bbox="635 927 1043 1032">Relevant provision</th> <th data-bbox="1043 927 1458 1032">Suggestion (Proposed amendment)</th> </tr> </thead> <tbody> <tr> <td data-bbox="475 1032 635 2016"><b>115BAA</b></td> <td data-bbox="635 1032 1043 2016"> <p>“... (2) For the purposes of sub-section (1), the total income of the company shall be computed,— (i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (i) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of <sup>31-</sup> <sup>32</sup>[Chapter VI-A other than the</p> </td> <td data-bbox="1043 1032 1458 2016"> <p>“... (2) For the purposes of sub-section (1), the total income of the company shall be computed,— (i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (i) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of <sup>31-32</sup>[Chapter VI-A other than the provisions of <b>section</b></p> </td> </tr> </tbody> </table>			Section	Relevant provision	Suggestion (Proposed amendment)	<b>115BAA</b>	<p>“... (2) For the purposes of sub-section (1), the total income of the company shall be computed,— (i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (i) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of <sup>31-</sup> <sup>32</sup>[Chapter VI-A other than the</p>	<p>“... (2) For the purposes of sub-section (1), the total income of the company shall be computed,— (i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (i) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of <sup>31-32</sup>[Chapter VI-A other than the provisions of <b>section</b></p>
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			provisions of section <b>80JJAA or section 80M</b> ];....”	<b>80JJAA or section 80M or section 80IAC</b> ];....”
		<b>115BAB</b>	<p>“... (2) For the purposes of sub-section (1), the following conditions shall apply, namely:–</p> <p>(a).....</p> <p>.</p> <p>(c) the total income of the company has been computed,–</p> <p>(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of 35[Chapter VI-A other than the provisions of section <b>80JJAA or section 80M</b>];</p>	<p>“... (2) For the purposes of sub-section (1), the following conditions shall apply, namely:–</p> <p>(a).....</p> <p>.</p> <p>(c) the total income of the company has been computed,–</p> <p>(i) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) or sub-section (2AB) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of 35[Chapter VI-A other than the provisions of section <b>80JJAA or section 80M or 80IAC</b>];</p>

Sr. No.	Existing provision under the I. T. Act, 1961	<b>Section 144A/144B</b>
33	<b>Difficulty / Issue</b>	Section 144B - faceless assessment is silent about obtention of direction of Joint commissioner as envisaged u/s 144A. Currently, in faceless assessment assessee is not able to gather direction from joint commissioner.
	<b>Our Suggestion</b>	Section 144B suitably be amended so as to factor the effective availment of S.144A window by assessee.



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Sr. No.	Existing provision under the I. T. Act, 1961	Section 194A: - TDS on Interest payments
34	<b>Difficulty / Issue</b>	Existing threshold limit of Rs.5000/- had been in operation since a very long time
	<b>Our Suggestion</b>	Limit of Rs.5000/- may be increased to Rs.10,000/- considering the cost inflation index and the rise in the levels of interest incomes.

Sr. No.	Existing provision under the I. T. Act, 1961	Section 194J: - TDS on fees for professional or technical services
35	<b>Difficulty / Issue</b>	Existing threshold limit of Rs.30,000/- for technical and professional services has been in operation since a long time.
	<b>Our Suggestion</b>	Considering the cost inflation index and the rising standards of transaction costs, nearly all professional fees are getting covered under the TDS. Hence, the same may be suitably increased to Rs.1,00,000/-

Sr. No.	Existing provision under the I. T. Act, 1961	Section 194-O: - TDS on payment of certain sums by e-commerce operator to e-commerce participant
36	<b>Difficulty / Issue</b>	Definition of E-commerce operator is inclusive one, it includes all the web or e-platforms that provides facility of only listing of products and services and no transactions are routed through them, the best example could be "India mart" and "OLX".
	<b>Our Suggestion</b>	A clarificatory amendment in the definition of e-commerce operator is necessary to avoid the litigations in future.

Sr. No.	Existing provision under the I. T. Act, 1961	TDS Wallet
37	<b>Difficulty / Issue</b>	In the erstwhile regime, TDS was required to be paid Section-wise/code-wise and Assessment year wise. With the passing of time, inter-code payments as well as payments across multiple years with a single challan became possible.



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		However, with the new system of payment of TDS challan on the new IT Portal, a bottleneck is created to pay and account for the TDS.
	<b>Our Suggestion</b>	It is suggested, that a TDS Wallet similar to payment wallet or the one similar to GST may be suitably implemented, wherein Electronic Credit Ledger and Electronic Cash Ledger takes into account any payment of challan for any accounting period/month.

Sr. No.	Existing provision under the I. T. Act, 1961	Section 206C(1H) vis a vis 194Q: -
38	<b>Difficulty / Issue</b>	Both the sections are operating in same area of transaction i.e. SALE/PURCHASE
	<b>Our Suggestion</b>	Section 206C(1H) when in operation and collected with the billed amount, creates lots of confusion and in most cases such amounts has to be borne by the Seller. Thus Sec.206C(1H) may preferably be deleted.

Sr. No.	Existing provision under the I. T. Act, 1961	Section 209: - Payment of advance tax
39	<b>Difficulty / Issue</b>	The threshold limit of INR 10,000 for payment of advance tax was last amended by Finance Act, 2009. Along with that requirement to pay 15% advance tax for non-corporate assesses by 15th June is unrealistic due to uncertainty in the business and it is difficult to estimate the total income for the entire year within a period of two and half month from the beginning of the year, adversity is further added by levy of interest u/s. 234C for shortfall in payment of advance tax instalment.
	<b>Our Suggestion</b>	The threshold for payment of advance tax may be increased from Rs. 10,000/- to Rs.50,000, and requirement to pay 15% advance tax instalment by 15 <sup>th</sup> June for non-corporate assesses may be done away and the provision may be reinstated as it was earlier.



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Sr. No.	Existing provision under the I. T. Act, 1961	Section 234F: – Belated audited/non-audited ITRs to be charged with late fees in a graded manner of certain amount per month in a staggering manner.
40	<b>Difficulty / Issue</b>	At present Late Fees charged for late filing of belated IT Returns whether audited or non-audited, are uniform and single staged. Thus, when the due dates have passed, the tax payers are naturally demotivated and delay the filing of IT Returns even further.
	<b>Our Suggestion</b>	Graded month wise Late Fees should be introduced in a staggered manner, so that the violator of higher degree is subjected to higher late fees.

Sr. No.	Existing provision under the I. T. Act, 1961	Late fees for late audit submission to be introduced at Rs.10000 per month in lieu of Penalty
41	<b>Difficulty / Issue</b>	At present penalty for failure to get accounts audited u/s 44AB attracts penalty u/s 271B, which is ½% of Turnover or Rs.1,50,000/-, whichever is less. Any entity failing to get audited past this deadline is demotivated to get their accounts audited, since they have already failed the deadline, and the maximum applicable penalty has already been struck.
	<b>Our Suggestion</b>	To maintain the honour for law and the fear of its violation, Late fees for late audit submission should be introduced at Rs.10,000 per month in lieu of Penalty with a maximum CAP of Rs 1,50,000/-. This will ensure, that those who have lesser degree of violation are fined as per the same lesser degree and motivate the assessee to get the Audit work done earlier.

Sr. No.	Existing provision under the I. T. Act, 1961	Section 40A(3) / 269SS / 269T / 269ST
42	<b>Difficulty / Issue</b>	In the modern CORE BANKING MODULE (CBS), the whole Bank has become a single Unit. Anyone can deposit money from anywhere in Bank a/c. In case of upcountry customers, the outstation buyer makes the payment to the supplier by depositing cash in the Bank A/c of the supplier. Such deposit of cash is very common. However, provision of section 40A(3), 269SS, 269T, 269ST does not have any clarification with regard to the treatment of such deposit, whether to



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			treat as Bank transaction or CASH transaction. The assessee in fact does not receive any cash in his hands.
		<b>Our Suggestion</b>	SUCH deposit of CASH directly in the BANK is suggested to treated at par with bank transaction and clarification in this regard may be inserted in the relevant sections. Certain conditions, may be put forth like furnishing of PAN of the depositor.

Sr. No.	Existing provision under the I. T. Act, 1961	<b>Income Computation and Disclosure Standards (ICDS)</b>	
43		<b>Difficulty / Issue</b>	ICDS are inconsistent with the concept of real income. In most of the cases, the main objective behind enacting the ICDS seems to be to prepone the taxation on income. Income tax may be levied on income earned as per books of accounts, maintained in accordance with generally accounting principles.
		<b>Our Suggestion</b>	The ICDS may preferably be scrapped with immediate effect. Alternatively, items which are in nature of adjustments to the real income as per accounting standards may be identified, so as to Tax only real income.

Sr. No.	Existing provision under the I. T. Act, 1961	<b>Definition of High-Pitched Assessment and discretionary powers to Principal CIT</b>	
44		<b>Difficulty / Issue</b>	Currently, under various criteria, demands of taxes, penalties, recovery and prosecution are launched after segregating the normal cases from the High-pitched assessments. However, under the Income Tax Act, the same has not been defined. Besides, for grant of stay on recovery, the instructions are against the assessees, thus creating hardships for the assessees.
		<b>Our Suggestion</b>	High Pitched Assessment should be defined for the purpose of STAY to differentiate it from rest of the cases. High Pitched Assessment may be defined to include cases where the addition made by AO is 3 (three) times the returned income. Besides, to avoid any hardships to the assessees, discretionary powers should be granted to Principal CIT to reduce the limit of minimum amount to be paid as a condition precedent to grant of stay at 2% to 5%.



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Sr. No.	Existing provision under the I. T. Act, 1961	Citizen Charter
45	<b>Difficulty / Issue</b>	At present Citizen charter is merely of academic citation in books In absence of any legal binding, assessments and other taxpayers' services are not working efficiently and effectively.
	<b>Our Suggestion</b>	Citizen charter shall be given a legal form in taxation laws and suitably pronounced by way of circular, notification or office note, every person (including web-portal) working on behalf of Ministry of Finance, Government of India shall be held responsible for any misrepresentation, negligence, fraud or serious errors. The Taxpayers may suitably be compensated at the cost of person making misrepresentation, negligence, fraud or serious errors.

Sr. No.	Existing provision under the I. T. Act, 1961	Free Digital Signature to be issue for authentication from Govt Side.
46	<b>Difficulty / Issue</b>	Most of the Government Departments used PAN based Class II Digital Signature for authentication till 31st December 2020, after which Class III Digital Signatures are only being issued for use. Since, the cost of procurement of such digital signatures is high, it is an additional burden only for authentication purposes, especially on MSMEs when they are already paying taxes. Further the tokens used for storage of digital signatures pose restriction on simultaneous compliance by various professionals having back-to-back compliance dates, eg. Company Secretary requiring DSC immediately after AGM to file annual returns, Chartered Accountant requiring DSC for Income Tax and GST Filings, at the same time Advocate handling Provident Fund compliances require DSC for monthly filings. Since most of these tokens are imported from China, their manufacturer does not function under Indian environmental rules. Also, when these tokens are abandoned or discarded, they pose a threat of E-Waste Pollution, and require disposal by the "Extended Producer" i.e. the importer under the Extended Producer's Responsibility and Authorization under Rule 13 of E-Waste Management Rules, 2016, as DSC Tokens being components and parts of items falling under Schedule I to the said rules. Since, importers seldom look into such matters, the same results into non-compliance of environmental rules.



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	<b>Our Suggestion</b>	Since almost all DSC based filing under Income Tax is required for Audit Cases, where adequate tax is already being collected by the Income Tax Department. Hence, Income Tax Department should issue PAN/Aadhar based Digital Signature with OTP authentication, without any cost in a dematerialized form on a cloud-based platform accessible through Aadhar based OTP as an API on each Government Website like GST, Income Tax, MCA, EPF etc. and accessible from multiple locations at a time.
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Sr. No.	Existing provision under the I. T. Act, 1961	<b>Stop Bombarding of unidentifiable emails &amp; SMS after office hours</b>
47	<b>Difficulty / Issue</b>	Numerous unidentifiable emails and SMS with masked PAN, GST or Return Filing numbers are bombarded by the department (both CPC under Income Tax and GST) in the evening after office hours, at night, midnight, in the early morning and even on public holidays, on the registered email and phone numbers. Such communications are highly undesirable in similar fashion as official calls to government officials after office hours. Classical example is the extension of Due Date to 10th January 2021 (for AY 2020-21), which was Sunday.
	<b>Our Suggestion</b>	Emails requiring the assessee to take any action or responding on to the portal should be made only during working hours and at no other time. Also, emails sent to the authorised representative of the assessee or a Chartered Accountant/Tax Consultant should bear appropriate name of the party instead of masked characters. Further, for any remedial action, password protected intimations and orders should be avoided, especially when sent on the secondary email that being of the Authorised representative, to let them identify, which client's non-compliance or pending compliance has resulted into issuance of notice or order. All this will ensure that any pending compliance is completed as early as possible, without any delay. Presently All Assessment Orders and other Orders are received without PASSWORD protection.



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Sr. No.	Existing provision under the I. T. Act, 1961	Due dates on Public Holidays
48	<b>Difficulty / Issue</b>	It is well settled law since the colonial era vide Sec.10 of General Clauses Act, 1897, that any act or proceeding is required to be done on a date on which the Court or Office is closed, then the acts done on next day when the Court or Office is open, shall be considered to be done on time. However, such golden wisdom is not injected in the lines of code which make up the present-day robust portals, whether it may be Income Tax, GST, MCA or any other, and returns or filings if not done by the due date is treated as non-compliance despite the due date being a public holiday
	<b>Our Suggestion</b>	The validation rules deciding the late fees and penalties within the portals algorithm, should first check the public holidays database, before determining that a violation under that particular Act has happened or not. Appropriate grace period as allowed by Sec.10 of the General Clauses Act, 1897 should be allowed without entering into avoidable litigation.

Sr. No.	Existing provision under the I. T. Act, 1961	Financials Statements Portal to be implemented with data to be uploaded with finalized balance sheet data
49	<b>Difficulty / Issue</b>	All departments including but not limited to GST, Income Tax, MCA, etc require financial statements to be furnished as a part of their annual filing process. Even banks require financial statements as a part of their due diligence process while granting of loans. All the above departments, agencies and private bodies require financial statements in different formats. At times, many queries of mismatch are raised when details of such financial statements are regrouped and reclassified as per the requirement of different departments.
	<b>Our Suggestion</b>	Finance Ministry should set up an independent Financial Statements Portal to handle all the financial statements, such that no financial statements are required to be furnished in Income Tax Returns, MCA Annual Filings or GST Annual Returns, but simply a Financial Statement ID generated on the Financial Statements Portal is required to be quoted in GST, Income Tax and MCA documents. Not only it would ease up the filing process, but speed up the compliance process as well. Since, multiple professionals would work on different compliance work eg. CA filing Tax Audit Reports and GST Audit Reports, CS filing Annual Filings with MCA, Cost Accountants preparing Cost





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		Audit Report, Banks issuing new lines of credit, all at the same time, with same Financial Statements ID
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Sr. No.	Existing provision under the I. T. Act, 1961	<b>Absence of provision under income tax or any other act for the payment of Tax pension to the senior citizens.</b>
50	<b>Difficulty / Issue</b>	Senior citizens have contributed a lot in the progress of the nation by paying the taxes year after year, similar to "PM Kisan Samman Nidhi Yojana" wherein an amount of Rs.2000/- each is provided to the needy farmers. However, at present there is no pension scheme for tax payers or senior citizens who takes or had taken substantial pain in contributing tangible assets for the betterment of the nation.
	<b>Our Suggestion</b>	With an amount of Tax pension, a senior citizen may be able to fulfil some of their limited needs. Other tax payers of the nation shall be encouraged to pay taxes more and in timely manner. It may indirectly reduce the tax avoidance and evasion. This may be linked with tax payment by the assessee throughout his life.

Sr. No.	Existing provision under the I. T. Act, 1961	<b>Out of the Box Approach for better tax complinaces.</b>
51	<b>Difficulty / Issue</b>	At present, only a few crore tax payers are paying tax in so magnitude so that all welfare schemes and development scheme of the government is executed without hindrances or blockage but somewhere it is feeling amongst the tax payer's community that they are not suitably recognized by the government.
	<b>Our Suggestion</b>	In past, four types of certificates were given for 3-4 years on the basis of tax compliance level but the same has been stopped since last couple of years. The government should bring out with some out of the Box approach to honour the tax payers. Like inviting them as guest of honour at district level program, Preferred clearance at Air Port, Railway Reservation etc. Special invite member of various committee, A few names of honest tax payers be assigned to public places like warriors, social workers etc.