



2020

BUDGET



**A STEP TOWARDS
\$ 5 TRILLION ECONOMY**

Tax Practitioners' Association, Indore

TAX NEWS & VIEWS

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Dear Professional Colleagues,

The life is full of uncertainties, we have some events favourable to us and some having adverse impact. We should live our life with sportsman spirit which mean we should not be affected by our win or defeat in our professional life. Keeping in mind we have planned the first ever Sports Meet of our members on 25th January 2020 in which we have organized various games and members have participated with full enthusiasm. We will continue to have such events in future also.

The faceless E Assessment for A.Y. 2018-19 have started and many assessee have received notices from National E Assessment Centre which requires cumbersome and voluminous compliances. We are making a representation to CBDT in the matter.

The Union Budget 2020 has made many relevant changes in Income Tax Act and granted much needed relief to tax payers. It is felt that the Government has made its best efforts to put the economy on fast track again. We hope this will increase the importance of tax professionals in our society.

We will continue to plan useful academic events and seminars for our members in Direct and Indirect Taxes and other laws having impact on our professional working.

Professionally Yours,
CA. Manoj Gupta



Happiness is the only meaning and purpose of life, the whole aim and end of human existence- Aristitotle

Dear Friends,

Happiness is one of the most sought –after goals in life. Today we professionals are working in a very stressful environment with due dates after due dates. I have come across with so many professionals' friends who feels that now a days, there is no life for a tax professional. This overwork and stress is actually affecting our life and our relations. Now there is a need to think of it- what life we want to live and how. So let's start living life happily. Do what you love- like if your passion is singing, start singing. You will find that when you're doing what you love, you're filled with joy. Practice smiling more and see how it affects you internally. I have often observed that happiness is a choice. You feel what you choose to feel, or for that matter, allow yourself to feel. If you want to reduce stress then It's upon you to find ways to manage stress. EXERCISE! Not only will it ensure that you live longer, exercise is one the best stress busters. Lastly, spend time with your loved ones because there is no meaning to life if we can't spend enough time with those nearest and dearest to us. Friends, it is said that *"Happiness is not something you postpone for the future; it is something you design for the present."* So live happily by avoiding negativity because – *'Zindagi Na Milegi Dobara'*

With Best regards,
CA. Krishan Garg



BUZZING AROUND BUDGET

CA. Rajesh Selot



RELIEF TO TAX PAYERS- A FALLACY YET WELCOME

New Slabs Rates:

₹250000 to 500000	5%
₹500001 to 750000	10%
₹750001 to 1000000	15%
₹1000001 to 1250000	20%
₹1250001 to 1500000	25%
Above ₹1500000	30%*

*Plus surcharge and cess

■ This new slab is optional and the tax payers can continue existing slabs claiming deductions/exemptions. This option can be availed every year without any restriction -Only by individuals and HUF having NIL business income without availing any deduction/ exemption. This option is also available to individuals/HUF having income from business/ profession, however such option if opted can be reversed by them only once.

■ Co-operative societies shall now have an option to be taxed at the rate 22% plus surcharge and cess without claiming any deductions/exemptions. Also the alternative minimum tax (AMT) won't be applicable to them.

■ Corporate tax rate of 15% extended to new electricity manufacturing companies provided they start producing electricity before 31.03.2023.

■ Partnership firms and LLPs Tax Rates: No change.

DEEPENING AND WIDENING TAX NET: A COMPULSION

A) Major change in Residential Status (Section 6):

■ All Indian citizens to be deemed resident in India if they are not resident of any other country and not liable to tax in any other country . Accordingly if any Indian is holding Indian passport, he needs to establish residential status of other country if he claims to be a non-resident. Such Indian citizen shall be required to pay tax on global income. Further for the purpose of determining residential status, the number of days for stay in India will be only 120 days as against 182 days. For residents but not ordinarily residents, now test shall be of having status of NRI in 7 out of 10 years in place of 9 out of 10 years.

However a recent press release clarified that an Indian citizen so deemed resident in India shall not be taxed on income earned out of India unless derived from an Indian business or profession.

B) TDS & TCS Changes & New Insertions: SMART WAY

1. TCS u/s 206C @0 .1% on sale of goods to one person of more than Rs.50 lacs by a person having turnover of more than Rs.10 crores in the immediate preceding year.
2. TCS u/s 206C @ 5% on overseas tour program packages without any threshold limit. If no PAN/Aadhar is furnished, TDS @ 10%.
3. TCS u/s 206C @ 5% on payment to an authorised dealer(under liberalised remittance scheme) for remittance out of india exceeding aggregate of seven lakh rupees.
4. TDS u/s 194A, 194C, 194 H, 194I and 194J applicable to an individual/HUF only when turnover exceeds one cr. in case of business and fifty lakh rupees in case of profession.
5. 194 -dividend- TDS @ 10% if dividend is more than Rs. 5000/--
6. TDS under section 194C applicable upon manufacturing of a product by using the material purchased from the customer now also applicable if purchased from any associate of such customer means all persons relating to such customer as defined in S. 40A(2)(b).

7. 194J-TDS@ 2% in case of technical services & 10% in case of professional services.

8. New section 194K- TDS @ 10% upon payment of any income in respect of units of a mutual fund by the funds notified u/s 10(23D).

9. TDS u/s 194 O (new section)@1% on payment by an e-commerce operator whether resident or non-resident to a e-commerce participant resident in India on sale of goods/services/digital products. However no TDS if recipient is an Individual/HUF having PAN/Aadhar and if receipt is less than Rs. 5 lacs.

FEES AND PENALTIES: CHECKS & BALANCES

Section 80G exemption holder institutions/funds and the specified research associations now required (1) to submit annual statement of donation received and/or(2) to furnish a certificate to the donor failing which fee of 200 for every day(S.234G) shall lie till the default continues beside a penalty of not less than 10000/- extended to one lakh rupees u/s 271K. This provision is brought to curb bogus claims u/s 80G.

Penalty for false entry or omission of any entry to evade tax liability @100% of value u/s 271AAD at the discretion of the AO. False entry includes use or intention to use (1).any forged document, (2) an invoice without actual supply/ receipt and also (3) an invoice from/to a person who does not exist. It is to be noted that this penalty is in addition to penalty u/s 270A wherein clause 9(d) already covers such kind of transactions of false entry.

RELAXATIONS: NOT UPTO THE MARK

Dividend distribution tax is abolished, dividend income to be taxed in the hands of recipients, however to remove cascading effect set off is available in case of Holding/Subsidiary company and inter corporate dividends.

No deduction of expense against earning dividend income under section 57 except deduction of Interest up to maximum 20% of dividend income.

Date of filing audit reports is fixed as 30 th September whereas returns of such assessee may be filed upto 31st October.

To boost start ups, tax burden on employees relating to employee stock option is deferred to four years or when they leave the company or when they sell, whichever is earliest. Similarly a start up now can have turnover of 100 cr and still may claim 100% exemption from tax in any three consecutive years out of 10 years.

For the purpose of section 50C, 43CA and 56, the present allowable difference of 5% between consideration value and circle value is enhanced to 10%.

Tax audit thresholds increased from one Cr rupees to five Cr rupees with a rider that total receipts and total payments in cash should not exceed 5% of such receipts or payments during the year. However an individual, HUF and partnership firm shall be open to avail of section 44AD in case their turnover does not exceed two cr rupees.. However an attempt is made to illustrate the provisions as under-

Applicability of Tax Audit Provisions

Turnover or Gross Receipts	Profit and gains	Existing Tax Audit Applicable?	Proposed Tax Audit	
			Applicable?	
			Cash Receipts/Payments	
			Upto 5% of total	> 5% of total
Upto 1 crores	< 8% (or 6%)	Yes (44AD)	Yes (44AD)	Yes (44AD)
	8% (or 6%) or more	No	No	No
1- 2 crores	< 8% (or 6%)	Yes (44AD)	Yes (44AB)	Yes (44AB)
	8% (or 6%) or more	No	No	No
2 - 5 crores	Upto 8%(or 6%)	Yes (44AB)	No	Yes (44AB)
	>8% (or 6%)	Yes (44AB)	No	Yes (44AB)

HIT ON BUREAUCRACY THRU TECHNOLOGY: FORCED HONESTY

Tax payer Charter shall be notified soon by CBDT specifying the rights of a tax payer and having an objective of ending the harassment.

Form 26AS now shall include lot of information to be uploaded in the electronic filing account in designated portal by the prescribed income tax authority or others so authorised so as to make available a pre-filled return to the 'a'.

Registrations of charitable institutions will be now 100% electronically with provisional registration number.

Now Surveys can be carried out only with the approval of the Commissioner or Director except in case of information received from prescribed authority, it can be done with the approval of Joint Director or the Joint Commissioner as the case may be.

■ System of e-hearing of appeals with dynamic jurisdiction to eliminate interface may be brought in place soon.

■ System of e-hearing of penalty cases before AO with dynamic jurisdiction to eliminate interface may be brought to place soon.

■ PAN now shall be allotted instantly on the basis of Aadhar without filling up detailed form.

ACHIEVING TAX COLLECTION TARGETS: WIN-WIN STEP VIVAD SE VISHWAS SCHEME-

■ An attractive scheme with an objective to settle down about 483000 pending litigations at various appellate forums is launched with immediate effect. Under the scheme, if 100% of disputed tax is paid before 31.3.2020, then entire interest and penalty is waived. In case of only disputed penalty or disputed interest, if 25% of such amount is paid, rest is waived. If paid after 31st march but before 30.06 2020, then need to pay 110% or 30% respectively.

■ The said scheme shall most probably be applicable to all type of defaults and additions as apparently no rider or exclusions are noticed.

INCREASING WORK LOAD & BURDENS: PROF. OPPORTUNITY

■ All existing Charitable Trusts to apply again u/s 10(23)(c), 12AA, 12AB, 80G as the case may be. Such registration as requested shall be granted for a period of five years only after making enquiries by the Commissioner and being satisfied. Drastic amendments are done in relevant Sections.

■ Now the ITAT can not grant stay of demand unless 20% of demand is paid or security equal to this amount is furnished. Such stay can be granted for a maximum period of 365 days.

LESSON: AN ERA OF MODI RAJ

In short, the Government seems to be determined and firm to widen and deepen the tax net and aspire to explore every opportunity of collecting tax through TCS/TDS but at the same time also expects from the tax payers to be honest in tax compliances as more and more faceless procedures are being adopted.

If the tax payer does not want to be honest, the system of advance technology such as pre-filled return etc. shall force the tax payer to become honest and in such a changed scenario, the professionals are also duty bound to guide their clients to abide by the tax law sincerely which would save both from horrible penalties.

Quick Insights of Budget 2020 INTERNATIONAL TAXATION



■ All Indian Citizens to be deemed Resident of India, and taxed on his global income if he is not liable to tax in any other country by the reason of his residency or any other criteria of similar nature. In other words, Indian citizens should be tax residents of at least one country else their global income would be taxable in India. Accordingly if any Indian is holding Indian passport, he needs to establish Residential status of other country if he claims to be a non resident. Such Indian Citizen shall be required to pay tax on global income.

■ Further for the purpose of determining residential status, the number of days for stay in India will be 120 days as against 182 days.

■ For Resident but not ordinary resident -- test will be of non resident in 7 out of 10 preceding years as against present condition of 9 out of 10 preceding years.

■ Exemption to Non Resident in filing of ROI in certain cases: It is proposed to amend Section 115A of the Act, to exempt a non-resident from filing the return of income if: (i) the total income of non-resident from India consists of dividend or interest income, royalty or FTS (Fees for Technical Services)(ii) taxes are deducted at rates are not lower than rates mentioned in Section 115A of the Act

■ TCS in foreign remittance under LRS (Liberalised Remittance Scheme) exceeding Rs 7 lakh at the rate of 5%. Also on overseas tour package -@ 5%.

■ TDS on e-commerce payment to e-commerce participant at the rate of 1% & TDS on FTS (few cases) reduced under section 194J to 2%.

■ DRP (Dispute Resolution Panel) forum not to be limited to TP (Transfer Pricing) issues only but to be allowed to non residents for all disputes.

■ Deferral of 'Significant Economic Presence' (SEP) provisions-Applicability of the SEP provisions deferred to AY 2022-23.

■ A specific preamble text along with adoption of MLI has been incorporated in Section 90 of the Act.

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सर्वांगीण विकास का संकल्प किन्तु कर प्रस्तावों में गुगली बाल में की है। प्रेरक इन्डिया, आर्थिक विकास, सबका ध्यान, की थीम पर बजट प्रस्तुत किया है वित्तमंत्री निर्मला सीतारमण ने। यूँ तो बजट में सामाजिक व राष्ट्रीय कल्याण के कई सराहनीय प्रस्ताव हैं बजट में जिससे व्यय का स्वरूप निर्धारित होगा, किन्तु आय के बिना, प्राप्तियों के बिना भी अर्थतंत्र नहीं चलता है, अतः देखिये कर प्रस्ताव क्या है इस बजट में

1. देश के कुल राजस्व में 17% राशि, आयकर व 18% कारपोरेट टैक्स से आता है, केन्द्रीय उत्पाद शुल्क से 7%, सीमा शुल्क से 4% जीएसटी से 18% तथा शेष कर भिन्न व अन्य साधनों से आवक होती है।
2. इस बजट में आयकर की स्लेब में निम्नलिखित परिवर्तन किया है।

0-2.5 लाख - छूट	2.5-5 लाख-5%
5-7.50 लाख-10%	7.50-10 लाख-15%
10-12.5 लाख-20%	12.5-15 लाख-25%
15 लाख से उपर 30%	

3. नई कर स्लेब के लाभग्रहिता करदाता, पहले की तरह छूटों व कटौतियों का लाभ नहीं ले सकेंगे। करदाता यदि चाहें तो पुरानी स्लेब के अन्तर्गत पूर्ववत् छूटों व कटौतियों का लाभ ले सकता है। नई स्लेब का चयन वैकल्पिक रहेगा, करदाता नये अथवा पुराने संगणनों में लाभप्रद विकल्प को चुन सकता है।
4. नई स्लेब उन करदाताओं के लिए ज्यादा फायदेमंद होगी जिन्हें छूट व कटौतियों से सरोकार न हो। नई व्यवस्था तब भी लाभदायक है जब पहले चेप्टर 6(क) के तहत 1.50 लाख तक कटौती ले रहे हो।
5. व्यक्तिगत और संयुक्त हिंदू परिवार की स्थिति में मिलने वाली विभिन्न छूट व कटौती का लाभ लेने पर वर्तमान आयकर की दरों में कोई बदलाव नहीं।
6. व्यक्तिगत और संयुक्त हिंदू परिवार की स्थिति में आयकर कानून के तहत मिलने वाली छूटों का लाभ न लेने पर आयकर की दरों में परिवर्तन किया गया है। छूट या कटौती जिसका लाभ उक्त करदाता नहीं ले सकेगा। जिनमें मुख्यतः यात्रा रियायत, मकान किराया भत्ता, धारा 10(14) में मिलने वाले भत्तों की छूट, सांसदों और विधायकों को मिलने वाले भत्ते, अव्यस्क के पेटे मिलने वाली 1500 रुपए की छूट, धारा 10ए में एसईजेड पर मिलने वाली छूट, वेतन पर मानक कटौती, मनोरंजन भत्ता, प्रोफेशनल टैक्स, स्वयं के रहवासी मकान पर ब्याज की छूट या किराये की आमदनी की स्थिति में होने वाली हानि की छूट का लाभ, अतिरिक्त घसारा, धारा 32एडी के नई मशीनरी पर मिलने वाली छूट, धारा 33एबी में मिलने वाली छूट, धारा 33एबीए में मिलने वाली छूट, वैज्ञानिक अनुसंधानों के लिए धारा 35 में कुछ शर्तों के साथ मिलने वाली छूट, कोल्ड चैन, कृषि उत्पादन, वेयर हाउस, हाउसिंग प्रोजेक्ट, खाद निर्माण, दो सितारा होटल इत्यादि को धारा 35एडी में मिलने वाली छूट, धारा 35सीसीसी के अंतर्गत कृषि को बढ़ावा देने के लिए खर्च की 150 प्रतिशत की छूट, फेमिली पेंशन पर धारा 57 में मिलने वाली छूट तथा चेप्टर 6ए के तहत मिलने वाली छूट जैसे जीवन बीमा प्रीमियम, पीपीएफ, ट्यूशन फीस, मकान ऋण भुगतान, मेडिकलेम, शिक्षा ऋण पर ब्याज, दान, मकान किराया, आधारभूत सुविधा प्रदान करने वाले उद्योगों की आय, एसईजेड की आय, स्टार्टअप की आय,



कुछ विशिष्ट उद्योगों की आय पर छूट आदि शामिल रहेगी। वेतन भोगी करदाताओं को वाहन भत्ते, दैनिक भत्तों की छूट व पेशन फंड की छूट धारा 80 सीसीडी व नए कर्मचारियों की नियुक्ति पर मिलने वाली छूट को नए उक्त प्रावधान से मुक्त रखा गया है। ऐसे करदाताओं को इस प्रावधान को व्यवसाय या प्राफेशन से आय वाले करदाता द्वारा एक बार चुनने के बाद केवल एक अवसर पुराने प्रावधान पर लौटने का मिलेगा। इसके बाद वह नए प्रावधान में दिए गए लाभों का इस्तमाल नहीं कर सकेगा। अन्य करदाताओं की स्थिति में हर वर्ष वह करदाता उक्त प्रावधान को चुन सकता है। यह प्रावधान कर निर्धारण वर्ष 2021-22 से लागू होगा।

7. टैक्स ऑडिट की टर्नओवर सीमा को कुछ शर्तों के साथ एक करोड से बढ़ाकर 5 करोड कर दी गई है। प्रमुख शर्त यह जोड़ी गई है कि कुल प्रतियों जिसमें टर्नओवर आदि शामिल होगा। जिसका 5% या उससे कम नकदी हो तथा इसी प्रकार के समस्त भुगतान जिसमें खर्च भी शामिल होंगे कुल भुगतान का 5% या उससे कम नगदी होने पर ही यह प्रावधान चालू वित्त वर्ष यानि 2019-20 (कर निर्धारण वर्ष 2020-21) से लागू होगा।
8. सहकारी संस्थाओं को प्राप्त होने वाली विभिन्न वाली छूट का लाभ न लेने पर धारा 115बीएडी के तहत आयकर की दर 22% रहेगी। यह प्रावधान कर निर्धारण वर्ष 2021-22 से लागू होगा।
9. धारा 43 सीए, 50सी व धारा 56 के प्रावधान अब अचल संपत्ति के हस्तांतरण या बिक्री पर व्यवहार मूल्य, गाइडलाइन मूल्य से अंतर की राशि अब 10 प्रतिशत तक कम होने पर व्यवहार मूल्य ही मान्य होगा। यह प्रावधान कर निर्धारण वर्ष 2021-22 से लागू होगा। वर्तमान में अंतर की राशि 5 प्रतिशत तक होने पर प्रावधान लागू नहीं होते हैं।
11. फेसलेस कर निर्धारण की तरह अब विभाग 31 मार्च 2022 तक फेसलेस अपील की सुनवाई हेतु विभाग गाइडलाइन निर्धारित करेगा। जिससे करदाता को कमिश्नर अपील में उपस्थित होने की आवश्यकता नहीं होगी।
12. किसी भी स्तर पर लंबित अपील के निपटान हेतु सरकार ने विवाद से विश्वास स्कीम की धोषणा की है। जिसमें करदाता विवादित मुद्दों पर केवल देय आयकर की राशि का भुगतान 31 मार्च 2020 तक करके ब्याज व शास्ती से मुक्त हो जाएगा। कुछ शर्तों के साथ इस स्कीम का लाभ 30 जून 2020 तक भी मिलेगा। आयकर विभाग इस संबंध में विस्तृत गाइड लाइन जारी करेगा।

केन्द्रीय बजट 2020 आयकर से सम्बंधित मुख्य प्रावधान



सी.ए. एस.एन. गोयल

13. कुछ मुद्दों को छोड़कर व्यवसायिक संस्थानों पर अब धारा 133ए के अंतर्गत सर्वे की कार्यवाही आयकर आयुक्त या आयकर निदेशक के अनुमोदन पर ही हो सकेगी।
14. आयकर अपील की अधिकरण द्वारा अब प्रकरण में मांग पर स्टे लेने की समय सीमा निर्धारित की गई है। साथ ही मांग का 20% जमा करने की शर्त भी लागू कर दी है।
15. टैक्स आडिट वाले प्रकरण में विवरणी दाखिल करने की समय सीमा 30 सितंबर से बढ़ाकर 31 अक्टूबर कर दी गई है। ऑडिट कराने की समय सीमा यथावत रखी गई है। आडिट की स्थिति में विभाग द्वारा पूर्व में भरी विवरणी देने हेतु एक माह पहले टैक्स ऑडिट रिपोर्ट देने पर प्राप्त हो सकेगी। पूर्व में भरी विवरणी प्राप्त होने पर तथा उसी विवरणी को मान्य करने पर प्रकरण की स्कूटनी नहीं होगी। यह प्रावधान कर निर्धारण वर्ष 2020-21 से लागू होंगे। प्राप्ति एवं भुगतान की परिभाषा के लिए विभाग से स्पष्टीकरण अपेक्षित है।
16. आयकर विभाग अब करदाताओं के अधिकार व उनकी शिकायत के निराकरण हेतु विभाग टैक्सपेयर चार्टर जारी करेगा।
17. करदाता के निवासी स्टेटस के निर्धारण के प्रावधानों में परिवर्तन किए गए हैं। वर्तमान में भारतीय नागरिक या भारतीय मूल के व्यक्ति के भारत में 182 दिन या इससे अधिक रहने पर उसे निवासी माना जाता है। इसी तरह यह प्रावधान भारत के बाहर नौकरी पर जाने वाले व्यक्ति या भारतीय पोत पर काम करने वाले व्यक्ति पर लागू होता है। इस समयावधि को अब 182 दिन से घटाकर 120 दिन कर दिया गया है। यह प्रावधान 1 अप्रैल 2020 से लागू होंगे। इसी प्रकार ऐसे भारतीय नागरिक जिनकी विदेशों में कोई आय नहीं है और वे अन्य देशों में रहते हैं तथा वे निवासी की परिभाषा में भी नहीं आते हैं तो भी उन्हें अब आयकर कानून के तहत निवासी माना जाएगा।
18. धारा 194जे के तहत अब तकनीकी सेवाओं पर कर कटौती की दर 10% से घटाकर 2% कर दी गई। ये प्रावधान एक अप्रैल 2020 से लागू होंगे।
19. ई-कॉमर्स सुविधाप्रदाता को अब विक्रय के पेटे भुगतान पर 5% की दर से स्रोत पर कर कटौती करना होगा। ये प्रावधान एक अप्रैल 2020 से लागू होंगे। सेवा प्रदाता व्यक्तिगत या संयुक्त हिंदू परिवार होने की स्थिति में स्रोत पर कर कटौती के प्रावधान 5 लाख या उससे अधिक भुगतान पर लागू होंगे।
20. लाभांश वितरण कर (डीडीटी) समाप्त कर दिया गया है। अब लाभांश पर

प्राप्तकर्ता को कर निर्धारण वर्ष 2021-22 से नियमित आयकर देना होगा। धारा 80एम को पुनः जोड़ा गया है। इसके अंतर्गत लाभांश प्राप्तकर्ता कंपनी होने पर उनके द्वारा दिए जाने वाले लाभांश की छूट प्राप्त होगी। इस प्रकार धारा 57 के तहत लाभांश पर अधिकतम खर्च की छूट 20% होगी।

21. धारा 194ए के तहत अब ऐसी सहकारिता संस्था की दशा में जिनका कुल व्यवसाय 50 करोड से अधिक है के खातेदार सदस्य को 40000 से अधिक और वरिष्ठ खातेदार सदस्य को 50000 से अधिक ब्याज भुगतान पर 10% की दर से स्रोत पर कर कटौती करना होगा। यह प्रावधान कर निर्धारण वर्ष 2021-22 से लागू होंगे।

22. धारा 271एएडी के तहत झूठे/बोगस बिल जारी करने या किताबों में ऐसी प्रविष्टि पाए जाने पर बिल की राशि बराबर शास्ति का प्रावधान लाया गया है। यह कर निर्धारण वर्ष 2021-22 से लागू होगा।

23. धारा 80जी के तहत दिये गए दान पर अब छूट लेने हेतु दान प्राप्तकर्ता संस्था को एक विवरणी दाखिल करना होगी। जिसके अनुसार अब दानदाता छूट प्राप्त कर सकेगा। यह प्रावधान 1 जून 2020 से लागू होगा।

24. धारा 194सी के तहत अब करदाता द्वारा ग्राहक से माल खरीद कर कार्य करने की परिभाषा में ग्राहक के एसोसिएट को भी शामिल किया गया है। तदनुसार इस कार्य पर कर कटौती ग्राहक के एसोसिएट द्वारा बिक्री पर भी लागू होगी।

25. धारा 12एए, धारा 80जी एवं धारा 10 (23सी) के तहत रजिस्टर्ड संस्थाओं को अब कर छूट प्राप्त करने के लिए पुनः ऑनलाइन आवेदन करना होगा एवं अब जारी किये गए रजिस्ट्रेशन की समय सीमा अधिकतम 5 वर्ष रहेगी। अतः रजिस्ट्रेशन 31 अगस्त 2020 या उसके पूर्व कराना अनिवार्य होगा।

26. वित्त मंत्री के कथनानुसार अब विवरणों दाखिल करने के लिए कर विशेषज्ञ की जरूरत नहीं पड़ेगी, कर प्रणाली को और अधिक सरल बनाने व कर दर को कम करने की समीक्षा करेंगे।

27. कम्पनीयों पर से लाभांश वितरण टैक्स समाप्त करके केवल लाभांश प्राप्तकर्ताओं के हाथों ने उनकी दर पर ही कर लगेगा।

28. विदेशी निवेशों के लिए कर रियायत 31-3-2024 से पहले न्यूनतम 3 वर्ष की लाक इन अवधि के निवेश पर ब्याज, लाभांश और पूंजीवाद पर 100% छूट का प्रस्ताव।

29. स्टार्टअप को कटौती के दावे की पात्रता अवधि 7 से बढ़ाकर 10 वर्ष की गई है।

30. सहकारी संस्थाओं के लिए अब 22% रियायती कर भुगतान का विकल्प, कम्पनियों की तरह मैट की जगह वैकल्पिक न्यूनतम कर की छूट का प्रस्ताव।

31. धर्मादा संस्थाओं के लिए 3 वर्ष के लिए अन्तिम पंजीयन व्यवस्था, पंजीयन प्रक्रिया इलेक्ट्रॉनिक होगी, प्रति 5 वर्ष में पंजीयन रिन्यूअल होगा।

32. आयकर विभाग में आगे सभी अपीलस मे फेसलेस (मानवीय हस्तक्षेप के बिना) आयकर कानून में संशोधन का प्रस्ताव है।

33. आधार होने पर तुरन्त पॉन नम्बर मिलेगा।

34. फर्जी दस्तावेज, बोगस व्यवहार में वर्णित रकम के समतुल्य शास्ति हेतु नई धारा 271 एएडी, बहुत ही कठिन कार्यवाही।

UNION BUDGET- 2020 Options in, Exemptions out



1. Approval under section 10(23C) for grant of exemption to certain Trust, or Institution or University or other educational institution or hospital or medical institution, will have to be obtained afresh.

2. Likewise, all Trusts or Institutions already registered under section 12A/12AA, will be required to apply for fresh registration up till 31 st August, 2020. Now, the registration will be granted only under section 12A and not under section 12AA.

3. In respect of professionals, there is no change in the limit under section 44AB and it would remain to be at Rs. 50 Lakhs only. However, for persons carrying on business, the threshold limit for getting books audited under section 44AB has been increased from 1 Crore to 5 Crores, subject to fulfillment of two conditions:

(i) Aggregate of all the receipts, including the receipts from sales, turnover or gross receipts, during the previous year, in cash, does not exceed 5% of the total receipts &

(ii) Aggregate of all the payments, made including amount incurred for expenditure, in cash, during the previous year does not exceed 5% of the said payment. Now, the question would be whether the cash amount deposited or withdrawn from the banks would also be taken into consideration for computing 5%? Further, limit of 5% is in respect of all receipts and payments, including capital receipts and capital payments. Now, the anomaly is that there is no amendment in section 44AD and consequently, a person having the turnover of Rs. 2 Crores or less, are required to pay presumptive tax

at the rate of 8%/6% for escaping from tax audit. But, a person having turnover of more than 2 Crores can escape the tax audit even by showing a lesser rate of profit subject to fulfillment of aforesaid two conditions.

4. Presently, due date for obtaining the audit report under section 44AB is the due date for furnishing the return. Now, it has been amended to be one month prior to the due date for furnishing the return. However, since, in the case of a company or a person who is required to get the books of accounts audited under section 44AB, the due date for furnishing the return has been extended from 30 th Sept. to 31st Oct., practically, the due date for furnishing the audit report would remain the same i.e. 30th Sept.

5. For the cost of acquisition as on 01-04-2001, the fair market value cannot exceed the stamp duty value.

6. Against the dividend income, only interest expenditure will be allowed and such interest expenditure too shall not exceed 20% of the dividend income.

7. The survey action under section 133A (1) can be carried out only with the approval of Director of Income-Tax or Commissioner. However, where survey is carried out on the basis of some information received from some prescribed authority, it can be carried out with the approval of the Joint Director or Joint Commissioner.

8. In respect of interest payment by a co-operative society, to the extent of Rs. 40,000/- (Rs. 50,000/- in the case of a senior citizen), they shall also be liable for TDS under section 194A if the total sales, gross receipts or turnover of the co-operative society in the preceding financial year exceeds Rs. 50 Crores.

9. TDS under section 194J for technical services shall be 2% only, but for all professional services the rate of 10% would continue.

10. A very harsh penalty under section 271AAD is proposed, whereby in addition to the existing penalties, in respect of any false entry found in the books of accounts, or for any omission of the entry in the books of account, a penalty equivalent to the amount of such entry shall be imposed. Thus, any transaction of false invoicing would be covered under such penalty clause



CA. Anil Garg

PROSECUTION-HAUNTING THE TAXPAYERS



CA. Pankaj Shah



No law will be respected or obeyed unless sanction accompanies such law. The same applied to income tax which enforces by providing threefold liability i.e. interest, penalty and lastly prosecution. While interest is levied to compensate the loss due to delay in payment of taxes, penalty is to deter the assessee by threat of punishment and realize him of serious pecuniary liability

MENS REA

On the other hand the intention of prosecution is to give message not to the assessee but to public at large. We all know that for imposing criminal liability of prosecution 'mensrea' or guilty mind is mandatory which means the intention behind the act has to be seen. It is well settled principle of common law that 'mensrea' is an essential ingredient of criminal offence. A statute can exclude that element, but it is a sound rule of construction to construe a statutory provision creating an offence in conformity with the common law rather than against it unless the statute expressly or by necessary implication excludes 'mensrea'. Mensrea by necessary implication can be excluded from a statute only where it is absolutely clear that the implementation of the object of a statute would otherwise be defeated and its exclusion enables those put under strict liability by their act or omission to assist the promotion of the law. The nature of mensrea that will be implied in a statute creating an offence depends upon the object of the Act and the provisions thereof.

Section 278E of Income tax provides for **presumption of mensrea** and also provides for shift of burden of proof from revenue to the assessee. According to this the

accused is required to prove that there is no "mensrea" and sub-section (2) therein requires the accused to prove the absence of 'mensrea' beyond reasonable doubt. The section further provides that the mere proof by a preponderance of probability would not be sufficient. This provision is unreasonable, illogical and too harsh. The provisions of section 278E would lead to unintended and dangerous consequences.

PROCEDURE

Income tax Act does not give any procedure for prosecution proceedings therefore the complaint is to be filed before a Magistrate and the procedure to be followed is the general procedure followed by the Criminal Courts, which is laid down by the Code of Criminal Procedure, 1973.

Section 292 of the Income-tax Act, 1961, provides that only the Metropolitan Magistrate or a Magistrate of the First Class has jurisdiction to try and convict a person of an offence under the Act.

POINTS TO PONDER

If penalty is cancelled prosecution proceedings will have to be quashed on this basis itself.

-(G.L. Didwania vs. I.T.O. 224 ITR 687 (S.C.).

Bar of limitation specified in section 468 of the Code of Criminal Procedure, 1973 would not apply to a prosecution under the Income-tax Act.

-Economic Offences (Inapplicability of Limitation) Act, 1974.

Late payment of tax can still trigger the provision of section 276B

-Madhumilan Syntex Ltd. vs. UOI [290 ITR 199(SC)].

Where the amount involved is insignificant, prosecution proceedings cannot be sustained

-[BeeGee Motors & Tractors vs. ITO, 218 ITR 155(P&H)]

To justify the offence, paucity of funds and financial stringency are considered as reasonable causes for delayed payment of TDS

-[ITO vs. Roshni Cold Storage (P.) Ltd. 245 ITR 322 (Mad.)].

Non-availability of Director to sign the cheque to make payment of tax deducted at source could not be accepted as reasonable cause for quashing prosecution

-[ITO vs. Rayala Corpn.(P.) Ltd. 206 ITR 381 (Mad.)].

Quashing of penalty is sufficient ground for quashing prosecution proceedings

-[Harkawatand Co. vs. UOI, 302 ITR 7 (MP)].

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Women's Day Announcement

Kind attn : Female Members

Entire World would be celebrating this year's Women's Day on **March 8th, 2020** . The day is celebrated as a tribute for the immense contribution made by women in different fields.

The day also marks a call to action for accelerating gender parity TPA has decided to dedicate the forthcoming issue of News Letter for its Female Members. Hence the articles written and compiled by female members will only be published in this special edition .

Material for publication can be mailed at camanojpgupta1@gmail.com.

All the female members are requested to whole heartedly contribute.





Glimpses of First Ever Sports Event



The event was formally inaugurated by CA. S.S. Deshpandey (Senior Member of TPA). He happily announced his willingness to train members in the unique game of Bridge.



Half Day Seminar on REAL ESTATE TRANSACTIONS – CRITICAL ISSUES IN GST

Saturday 18th Jan., 2020

Jointly Organised By



Tax Practitioners'
Association

&

CREDAI

INDORE



CA. Ashok Batra (New Delhi)



CA. Leeladhar Maheshwari (President - CREDAI)
with guest speakers & President TPA



CA. Payal Shah (Mumbai)

PROGRAMME ON LIVE BUDGET - 2020

Experts expressed their views



CA. Manoj Fadnis



CA. Anil Garg



CA. Manoj Gupta

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