

KOTTAYAM BRANCH OF ICAI

06.02.2023

First look at the Direct Tax proposals in Union Budget 2023

CA. PRASANTH SRINIVAS
Partner, S. S. Ayyar & Co.
Chartered Accountants, Kottayam
Ph: 9447125731 E mail: ssayyarandco@gmail.com

Premise

- Post pandemic slow growth
- Increase in inflation
- Middle class expecting tax concessions
- Investors expecting higher interest rates on deposits
- Borrowers expecting lower interest rates on loans
- Adani – Hindenburg Fallout
- Federal reserve announcement (Rates hiked)
- IMF projects India's growth rate to be more than that of China

Economic Survey 2023

- GDP growth to slow down to 6.5% from 7%. Yet India will be the fastest growing economy.
- Growth in FY 2022 – 23 was propelled by private consumption and capital formation
- Tax collection targets – 65 percent achieved in the first 8 months of the fiscal
- Rupee continues to be in pressure because of muted export growth and widening current account deficit
- India to be self sufficient in coal production by 2030
- Simpler tax rules mooted for start ups.

SOCIO ECONOMIC WELFARE MEASURES

Promoting timely payments to Micro and Small Enterprises

Section: 43B

Clause of FB: 13

Effective date: AY 2024 – 25

Discussion

Section 43B of the Act provides for certain deductions to be allowed only on actual payment. Further, the proviso of this section allows deduction on accrual basis, if the amount is paid by due date of furnishing of the return of income.

Proposal

- In order to promote timely payments to micro and small enterprises, it is proposed to include payments made to such enterprises within the ambit of section 43B of the Act.
- Accordingly, it is proposed to insert a new clause (h) in section 43B of the Act to provide that any sum payable by the assessee to a micro or small enterprise beyond the time limit specified in section 15 of the Micro, Small and Medium Enterprises Development (MSMED) Act 2006 shall be allowed as deduction only on actual payment.

Contd...

Contd...

- **However, it is also proposed that the proviso to section 43B of the Act shall not apply to such payments.**
- **Section 15 of the MSMED Act mandates payments to micro and small enterprises a under**
 - **If there is a written agreement, payment shall be made as per agreement, which cannot be more than 45 days.**
 - **If there is no such written agreement, the section mandates that the payment shall be made within 15 days.**

Increasing threshold limit for co-operatives to withdraw cash without TDS

Section: 194 N

Clause of FB: 85

Effective date: 01.04.2023

Discussion

- **Section 194N of the Act provides that a banking company or a co-operative society engaged in carrying on the business of banking or a post office, which is responsible for paying any sum to any person (referred to as the recipient) shall, at the time of payment of such sum in cash, deduct an amount equal to two per cent of such sum, as income-tax.**
- **The requirement to deduct tax applies only when the payment of amount or aggregate of amount in cash during the year exceeds one crore rupees.**
- **However, in case of a recipient who is a non-filer (3 years), tax is to be deducted at the rate of 2% on any sum exceeding Rs. 20 lakh but not exceeding Rs. 1 crore in aggregate during the financial year and, at the rate of 5% on sum exceeding Rs. 1 crore in aggregate during the financial year.**

Contd...

Contd...

Proposal

- It is proposed to amend section 194N of the Act by inserting a new proviso to provide that where the recipient is a co-operative society, the provisions of this section shall have effect, as if for the words “one crore rupees”, the words “three crore rupees” had been substituted.

Penalty for cash loan/ transactions against primary co-operatives

Section: 269 SS / 269 T

Clause of FB: 105, 106

Effective date: 01.04.2023

Discussion

- **Present provisions state that every person including PACS and PCARD are liable for penalty on accepting loan or deposit in cash exceeding Rs.20,000 as per Section 269SS as well as repayment of loan and deposit in cash exceeding Rs.20,000 under section 269T. Since PACS and PCARD are providing credit facilities at the grass-root level, relaxation may be made for them under the aforesaid provisions**

Proposal

- **It is proposed to increase the monetary limits under sections 269 SS and 269 T from Rs.20,000 to Rs.2,00,000 for PACS and PCARD Bank vis-à-vis loans or deposits taken from or repaid to any member thereof.**

Relief to start-ups in carrying forward and setting off of losses

Section: 79

Clause of FB: 35

Effective date: AY 2023-24

Discussion

- Section 79 of the Act restricts carrying forward and setting off of losses in the case of closely held companies. It prohibits setting off of carried forward losses if there is change in shareholding beyond 49 %.
- However, some relaxation has been provided in case of an eligible start-up as referred to in section 80-IAC of the Act. There is an additional condition that the loss is allowed to be set off, only if it has been incurred during the period of seven years beginning from the year in which such company is incorporated.

Proposal

- The time period for loss of eligible start-ups to be considered for relaxation is proposed to be increased from seven years to ten years from the date of incorporation.

Extension of date of incorporation for eligible start-up for exemption

Section: 80 IAC

Clause of FB: 41

Effective date: AY 2023-24

Discussion

- Under the existing provision of section 80 IAC, the startup, inter-alia, will be eligible for deduction provided it is incorporated between 01.04.2016 and 31.03.2023.

Proposal

- It is proposed to extend the outer date to 31.03.2024.

Conversion of Gold to Electronic Gold Receipt and vice versa

Section: 47, 49, 2 (42A)

Clause of FB: 3, 21, 23

Effective date: AY 2024-25

Discussion

- Pursuant to the announcement in the Union Budget 2021-22 about Gold Exchange, SEBI has been made the regulator of the entire ecosystem of the proposed gold exchange. Accordingly, SEBI has come out with a detailed regulatory framework for spot trading in gold on existing stock exchanges through the instrument of Electronic Gold Receipts (EGR)

Proposal

- It is proposed to exclude the conversion of physical form of gold into EGR and vice versa from the purview of 'transfer' for the purposes of Capital gains
- It is also proposed that

Contd...

Contd. .

o the cost of acquisition of the EGR for the purpose of computing capital gains shall

be deemed to be the cost of gold in the hands of the person in whose name Electronic Gold Receipt is issued; and

o the holding period for the purpose of capital gains, would include the period for which gold was held by the assessee prior to its conversion into EGR.

• Similar provision for conversion from EGR to gold is also proposed

Exemption to development authorities etc

**Section: 10 (46), 10 (46A),
11, 10 (23C)**

Clause of FB: 5, 7

Effective date: AY 2024-25

Discussion

- **In view of the decision of the Supreme court in the case of Assistant Commissioner of Income-tax (Exemptions) vs Ahmedabad Urban Development Authority (143 Taxmann.com 278), certain classes of entities are compartmentalized under a new section 10 (46A) in order to provide them tax exemption**

Proposal

- **The new clause (46A) proposes to exempt any income arising to a body or authority or Board or Trust or Commission, not being a company, which has been established or constituted by or under a Central or State Act with one or more of the following purposes, namely**
- Contd...**

Contd...

- dealing with and satisfying the need for housing accommodation;**
 - planning, development or improvement of cities, towns and villages;**
 - regulating, or regulating and developing, any activity for the benefit of the general public; or**
 - regulating any matter, for the benefit of the general public, arising out of the object for which it has been created**
- It is also required to be notified by the Central Government in the Official Gazette for the purposes of this clause**
 - Consequential amendment is also proposed in the *Explanation* to the nineteenth proviso of clause (23C) of section 10 of the Act. Similarly, consequential amendment is also proposed in sub-section (7) of section 11 of the Act**

15% concessional tax to promote new manufacturing co-operative society

Section: 115 BAE

Clause of FB: 45, 51, 52

Effective date: AY 2024-25

Discussion

- Under section 115 BAB of the Act, new manufacturing domestic companies set up on or after 01.10.2019, which commence manufacturing or production by 31.03.2024 and do not avail of any specified incentive or deductions, may opt to pay tax at a concessional rate of 15 per cent.
- However, the same provision has not been provided for new manufacturing co-operative societies

Proposal

- In view of the above, it is proposed to insert a new section 115BAE to the Act in which concessional tax regime is being provided for the new manufacturing cooperative societies as well. The conditions are materially similar to the conditions applicable to new manufacturing companies

EASE OF COMPLIANCE

Increasing threshold limits for presumptive taxation schemes

Section: 44 AD, 44

ADA

Clause of FB: 15, 16,

17

Effective date: AY 2024-25

Discussion

- Representations have been received for increasing the thresholds for eligibility for availing benefit of the presumptive schemes for eligible business and professions in order to benefit more persons in the small and medium segment

Proposal

- In order to ease compliance and to promote non-cash transactions, it is proposed to increase the threshold limits for presumptive scheme in section 44AD and section 44ADA of the Act on fulfilment of certain conditions

Contd...

Contd...

- **under section 44AD of the Act, for eligible business, where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total turnover or gross receipts, a threshold limit of three crore rupees will apply.**
- **under section 44ADA of the Act, for professions referred to in sub-section (1) of section 44AA of the Act, where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed five per cent of the total gross receipts, a threshold limit of seventy-five lakh rupees will apply**
- **provision of section 44AB of the Act shall not apply to the person, who declares profits and gains for the previous year in accordance with the provisions of sub-section (1) of section 44AD of the Act or sub-section (1) of section 44ADA of the Act, as the case may be**

**WIDENING AND
DEEPENING OF
TAX BASE /
ANTI AVOIDANCE**

Extending deeming provision under section 9 to gift to not-ordinarily resident

Section: 9

Clause of FB: 4

Effective date: AY 2024-25

Discussion

- Any sum of money exceeding fifty thousand rupees, received by a non-resident without consideration from a person resident in India, shall be income deemed to accrue or arise in India
- It has come to notice that certain persons being not ordinarily residents are receiving the gifts from persons resident in India and not paying tax on it.

Proposal

- In view of the above, it is proposed to extend this deeming provision to sum of money exceeding fifty thousand rupees, received by a not ordinarily resident, without consideration from a person resident in India.

Removal of exemption from TDS on payment of interest on listed debentures to a resident

Section: 193

Clause of FB: 81

Effective date: 01.04.2023

Discussion

- **Clause (ix) of the proviso to section 193 provides that no tax is to be deducted in the case of any interest payable on any security issued by a company, where such security is in dematerialized form and is listed**

Proposal

- **It is seen that there is under reporting of interest income by the recipient due to above TDS exemption. Hence, it is proposed to omit clause (ix) of the proviso to section 193 of the Act.**

Increasing rate of TCS of certain remittances

Section: 206 C

Clause of FB: 90

Effective date: 01.07.2023

Discussion

- In order to increase TCS on certain foreign remittances and on sale of overseas tour packages, amendment is proposed in sub-section (1G) of section 206C of the Act.

Proposal

- The current and proposed TCS rates are tabulated as under
-

| S.No | Type of remittance | Present rate* | Proposed rate* |
|-------------|--|---|-----------------------|
| (i) | For the purpose of any education, if the amount being remitted out is a loan obtained from any financial institution as defined in section 80E. | 0.5% of the amount or the aggregate of the amounts in excess of Rs.7 lakh. | No change. |

| | | | |
|-------|---|--|----------------------------------|
| (ii) | For the purpose of education, other than (i) or for the purpose of medical treatment. | 5% of the amount or the aggregate of the amounts in excess of Rs.7 lakh. | No change. |
| (iii) | Overseas tour package | 5% without any threshold limit. | 20% without any threshold limit. |
| (iv) | Any other case | 5% of the amount or the aggregate of the amounts in excess of Rs.7 lakh. | 20% without any threshold limit. |

- * In the table above, the present rate and the proposed rate of TCS are on the amount or the aggregate of the amounts being remitted by the buyer in a financial year.

Limiting the roll over benefit claimed under section 54 and section 54F

Section: 54, 54 F

Clause of FB: 25, 30

Effective date: AY 2024-25

Discussion

- Section 54 – Residential property transferred and proceeds re-invested in residential property – no monetary cap
- Section 54 – Any other long term capital asset transferred and proceeds re-invested in residential property – net consideration allowable pro-rata without any cap

Proposal

- It is proposed to impose a limit on the maximum deduction that can be claimed by the assessee under sections 54 and 54F to rupees ten crore.
- Consequential amendment is proposed in section 54 (2) and 54 F (4) that deal with deposit in Capital Gains Account Scheme.

Preventing undervaluation of inventory

Section: 142

Clause of FB: 68, 72, 122

Effective date: 01.04.2023

Discussion

- Endeavour to curb undervaluation of inventory

Proposal

- It is proposed to amend section 142 so that the AO can direct the assessee to get the inventory valued by a cost accountant nominated by PCCIT / CCIT / PCIT / CIT
- Assessee is then required to furnish the report of inventory valuation in the prescribed form duly signed and verified by such cost accountant and setting forth such particulars as may be prescribed and such other particulars as the Assessing Officer may require
- Incidental matters are also set forth in the amendment
- Consequential amendments are proposed in section 153 (time limits) and section 295 (power to make rules) of the Act

Rationalisation of exempt income under life insurance policies

Section: 10 (10D)

Clause of FB: 3, 5, 32

Effective date: AY 2024-25

Discussion

- **Several high net worth individuals are misusing the exemption provided under clause (10D) of section 10 of the Act by investing in policies having large premium contributions**
- **As a first step in 2020-21, exemption was withdrawn in respect of ULIP policies where annual premium was in excess of Rs. 2,50,000 in aggregate.**

Proposal

- **It is proposed to tax income from insurance policies (other than ULIP for which provisions already exists) having premium or aggregate of premium above Rs 5,00,000 in a year.**

Contd...

Contd...

- **Income is proposed to be exempt if received on the death of the insured person.**
- **This income shall be taxable under the head “income from other sources”.**
- **Deduction shall be allowed for premium paid, if such premium has not been claimed as deduction earlier.**
- **The proposed provision shall apply for policies issued on or after 1st April, 2023.**
- **There will not be any change in taxation for policies issued before this date.**
- **Consequential amendments made in section 56 and section 2(24)**

Prevention of double deduction claimed on interest on borrowed capital for acquiring, renewing or reconstructing a property

Section: 48

Clause of FB: 22

Effective date: AY 2024-25

Discussion

- It has been observed that some assesseees have been claiming deduction of interest paid on borrowed capital under section 24 or under Chapter VI A. Secondly while computing capital gains on transfer of such property this same interest is also taken as part of cost of acquisition or cost of improvement under section 48 of the Act.

Proposal

- In order to prevent this double deduction, it is proposed to insert a proviso after clause (ii) of the section 48 so as to provide that the cost of acquisition or the cost of improvement shall not include the amount of interest claimed under section 24 or Chapter VIA

Defining the cost of acquisition in case of certain assets for computing capital gains

Section: 55

Clause of FB: 31

Effective date: AY 2024-25

Discussion

- There are certain intangible assets or rights for which the assessee has not paid any cost; nor the act specifies the cost of acquisition to be nil.
- In such cases, courts have held that capital gains computation fails as there is no cost of acquisition.

Proposal

- It is proposed to provide that the 'cost of improvement' or 'cost of acquisition' of a capital asset being any intangible asset or any other right (other than those already mentioned) shall be 'Nil'.

Joint Commissioner of Income Tax (Appeals)

| | | |
|-------------------------|--|---------------------------------------|
| Section: 246 | Clause of FB: 3, 60, 61, 62, 64, 65, 73, 75, 76, 78, 79, 98, 99, 100, 101, 102, 103, 104, 107, 109, 110, 111, 112, 115, 117, 120, 121 & 122 | Effective date: 01.04.2023 |
|-------------------------|--|---------------------------------------|

Discussion

- **There is a pressing need to reduce the work load and pendency of appeals lying before the CIT (Appeals).**

Proposal

- **It is proposed to entrust small appeal cases to JCIT / Additional CIT (Appeals) who shall function upon such terms and conditions as applicable to CIT (Appeals)**
- **Appealable orders are listed in new section 246.**
- **The orders passed by DCIT and lower ranked officers shall lie before them**
- **Procedure is laid down for transferring appeals from CIT (Appeals) to JCIT (Appeals) and vice versa subject to appellant being heard**
- **Appellate proceedings shall be faceless and procedural aspects shall be as notified**
- **Consequential amendments are proposed in various sections of the Act**

Rationalisation of Appeals to the Appellate Tribunal

Section: 253

Clause of FB: 102

Effective date: 01.04.2023

Discussion

- **Certain orders remain un-appealable due to drafting issues.**
- **These are sought to be remedied**

Proposal

- **Penalty order passed by CIT (Appeals) u.s. 271 AAB, 271 AAC and 271 AAD are made appealable.**
- **Revision order u.s. 263 passed by PCCIT, CCIT are also now made appealable.**
- **Hitherto cross objections could be filed only in respect of appeal against order of CIT (Appeals). This is now extended to other orders in appeal as well.**

Alignment of timeline provisions under section 153 of the Act

Section: 153, 147

Clause of FB: 69,70,71, 72

Effective date: 01.04.2023

Discussion

- **Department feels that 6 months time available for completing scrutiny assessment is not sufficient for a fair assessment and for passing a speaking order.**
- **It also amounts to compromising assessee's natural justice**

Proposal

- **Therefore, it has been proposed that the time available for completion of assessment relating to the assessment year commencing on or after the 1st day of April, 2022 shall be twelve months from the end of the assessment year in which the income was first assessable.**
- **Consistent with the above, the time available for completion of assessment proceedings in the case of an updated return is also proposed to be increased to 12 months from the end of the financial year in which such return is furnished.**
- **Certain amendments regarding timelines vis-à-vis search assessments and re-assessments are also proposed**

TDS on payment of accumulated balance due to an employee

**Section: 192 A r.w.s.
206 AA**

Clause of FB: 80

Effective date: 01.04.2023

Discussion

- TDS at the rate of 10% is attracted on payment of taxable component of accumulated balance due to an employee under the EPS, provided the amount exceeds Rs. 50,000. If PAN is not furnished, TDS will be done at MMR

Proposal

- Second proviso to section 192 A is omitted. Therefore, non-production of PAN will attract only 20% TDS as laid down in section 206 AA

Facilitating TDS credit for income already disclosed in the return of income of past year

**Section: 155, 154,
244 A**

Clause of FB: 74, 93

Effective date: 01.10.2023

Discussion

- **Eg. : A offers Rs. 1 lakh as income from B in the AY 2020-21**
- **B deducts TDS in AY 2021-22 at the time of making payment**
- **By that time, A's time limit for filing revised return had expired. Moreover, A cannot claim this TDS in AY 2021-22**

Proposal

- **Section 155 (20) is inserted. Income shall be included in the return filed u.s. 139 in any assessment year (relevant AY)**
- **TDS should have been duly done in any subsequent financial year**
- **Assessee shall make an application to AO in the prescribed form within two years from the end of the FY in which TDS was done.**
- **The AO will amend the assessment order or intimation allowing credit of such TDS in the relevant AY**
- **Consequently 4 year time limit for rectification u.s. 154 may be reckoned from the end of the FY in which TDS is done.**
- **Credit for such TDS shall not be given in any other AY**
- **If any refund arises, interest thereon shall be calculated from the date of application to the date of granting of refund**

Relief from special provision for higher rate of TDS/TCS for non-filers of income-tax returns

**Section: 206 AB,
206 CCA**

Clause of FB: 89, 91

Effective date: 01.04.2023

Discussion

- Higher deduction of TDS / TCS is prescribed if the deductee or collectee is a non-filer of ITR

Proposal

- There are certain persons who are not required to file ITR.
- Hence, definition of specified persons in these sections are amended to exclude the persons who are not required to file ITR and who are notified by the central government

Non resident investors brought within the ambit of S. 56(2)(viib)

Section: 56(2)(viib)

Clause of FB: 32

Effective date: AY 2024 – 25

Discussion

- The section endeavors to prevent generation and circulation of black money through share premium from resident investors in closely held companies. Presently this is not applicable vis-à-vis non-resident investors.

Proposal

- The phrase 'being a resident' is removed from Section 56(2)(viib). Thus, the provision is applicable for shares issued to any person irrespective of his residential status.

Computation of perquisite in respect of rent free accommodation (RFA) / concession in the matter of rent (CR)

**Section: 17(2) &
Rule 3**

Clause of FB: 10

Effective date: AY 2024 – 25

Discussion

- **Rule 3 – Valuation of RFA**
- **Section 17(2) explanation – Valuation of CR**

Proposal

- **Sub clauses (i) and (ii) of Section 17(2) are amended giving Government the power to prescribe the method for computing these two perquisites.**

Section 10AA – Export oriented SEZ units

Section: 10AA

Clause of FB: 6 & 74

Effective date: AY 2024 – 25

Discussion

- Such units are entitled for 15 years' tax benefits subject to conditions.

Proposal

- Proviso to S 10AA (1) – *Return of Income must be filed on or before the due date u/s 139(1).*
- New sub-section inserted – *Sale proceeds should be brought into India in convertible foreign exchange within 6 months from the end of the previous year or further time granted by the competent authority (RBI or designated person) or it should be deposited in an overseas account permitted by the competent authority.*
- *AO is given power to amend the assessment order if later it is found that export earning is realized in India after the prescribed period.*

Perquisite in respect of business or profession

Section: 28(iv) 194R

Clause of FB: 11

Effective date: AY 2024 – 25

Discussion

- **Courts have interpreted that this section this section is attracted only in respect of non monetary perquisites and not in respect of perquisites in cash.**

Proposal

- **It is proposed to clarify that the provisions of S 28 (iv) also apply to cases where benefit or perquisites are provided in cash or in kind or partly in cash and partly in kind.**
- **Consequent amendment is made in Section 194 R relating to TDS on such perquisites**

Amendments relating to Charitable Trusts

For the discussions below

| | |
|---------------------|---|
| Regime 1 | Entities referred to in section <ul style="list-style-type: none">• 10(23C)(iv) – Approved charitable trust• 10(23C)(v) – Public religious or religious / charitable trust• 10(23C)(vi) – University / Educational Institutions• 10(23C)(via) – Hospital / Medical institutions |
| Regime 2 | 12AA / 12AB registered entities |

Allowability vis-a- vis depositing back of amount spent from corpus

Section: Regimes 1 & 2

Clause of FB: 5

Effective date: AY 2023 – 24

Discussion

- Amount spent from corpus donation is not allowed as deduction.
- But if amount spent from corpus donation is replenished from income it can be claimed as application subject to conditions

Proposal

Allowability vis-a- vis repayment of loan

Section: Regimes 1 & 2

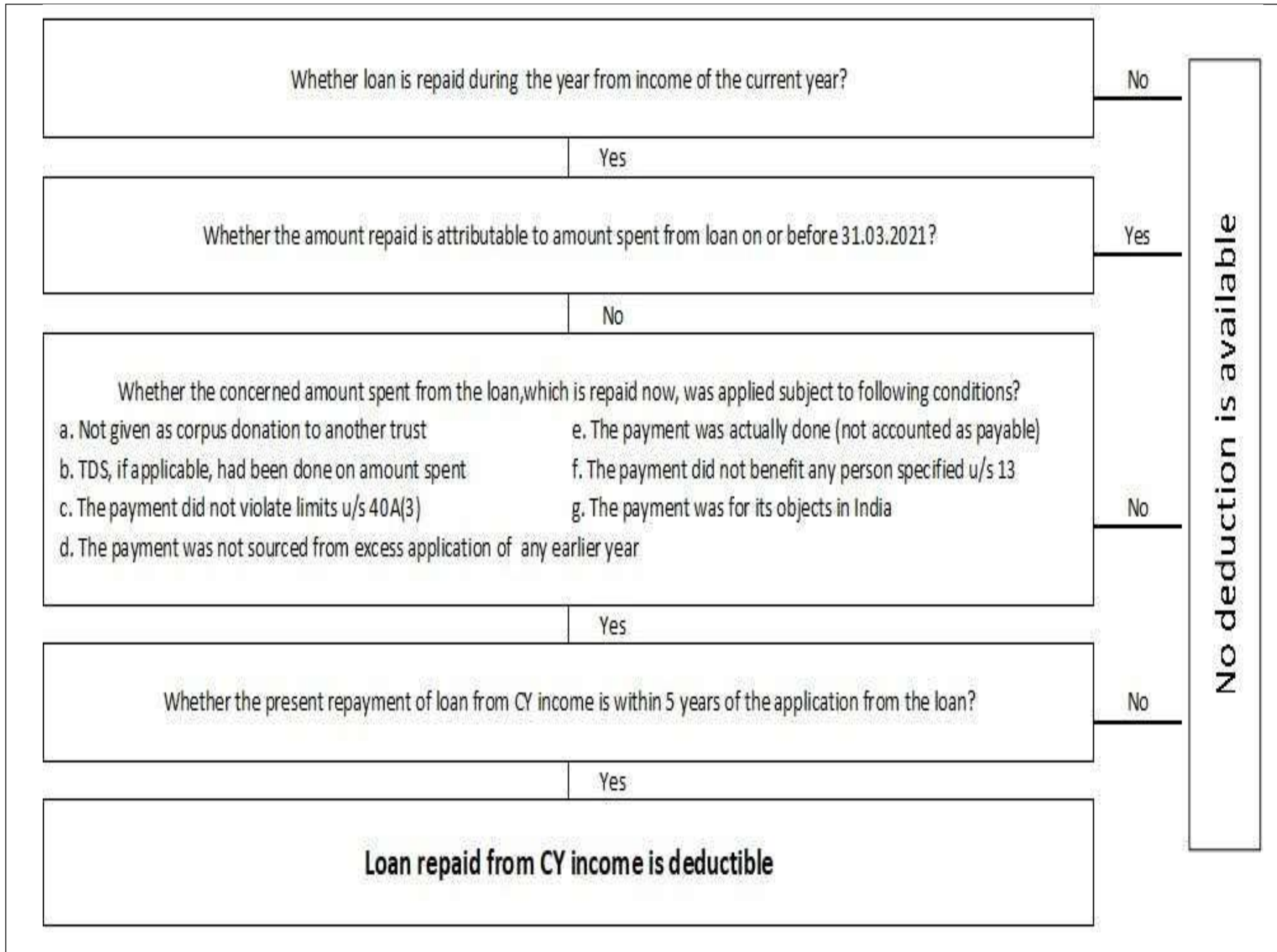
Clause of FB: 7

Effective date: AY 2023 – 24

Discussion

- Amount spent from loan is not allowed as deduction.
- But if the loan is repaid from income it can be claimed as application subject to conditions

Proposal



Treatment of donation to other trusts

Section: Regimes 1 & 2

Clause of FB: 5 & 7

Effective date: AY 2024 – 25

Discussion

- Certain trusts falling within a group roll funds from one trust to another by way of donation so that each trust in the loop gets the benefit of accumulating 15% of the respective donation
- E.g. Trusts A to E are under same group. Trust A's income of Rs. 1,00,000 is donated to Trust B. Trust B donates Rs. 85,000 (85% of Rs. 1,00,000) to Trust C. Trust C donates Rs. 72,250 (85% of Rs. 85,000) to Trust D. Trust D donates Rs. 61,413 (i.e. 85% of Rs. 72,250) to Trust E. Now Trust E has to apply Rs. 52,201 (i.e. 85% of Rs. 61,413). However, this effectively is only 52% of A's income of Rs. 1,00,000.

Proposal

- It is proposed that only 85% of eligible donations made by a trust or institution in the first regime or second regime to another trust or institution in the first regime or second regime shall be treated as application in the hands of the donor.

Omission of certain provisions relating to dating back of exemption

Section: Regimes 1 & 2

Clause of FB: 8

Effective date: 01.04.2023

Discussion

- Section 12A(2): *Once registered under section 12AA or 12AB, exemption shall be available to the trust from the assessment year relevant to the financial year in which application for registration was made.*
- Section 12A(2) 2nd proviso – *Once registration is granted u/s 12AA or 12AB, that status quo should be applied in all pending assessments of earlier years.*
- Section 12A(2) 3rd proviso - *Once registration is granted u/s 12AA or 12AB, earlier year's assessments should not be reopened just because the trust was not registered in those years*
- Section 12A(2) 4th proviso – *Trust will not get any immunity if registration is cancelled or application for registration is rejected*

Proposal

- **Second and third provisos are taken away – i.e. henceforth there is no immunity vis-à-vis earlier years for an already existing trust that applies for registration for the first time.**
- **Fourth proviso is also omitted.**

Regarding provisional / regular registration / approval

Section: Regimes 1 & 2 & 80G

Clause of FB: 5,8,9,40

Effective date: 01.10.2023

Discussion

Situation 1 :

- Trusts or institutions formed or incorporated during the previous year are not able to get exemption in the year of formation because they are required to apply for registration or approval at least one month before the previous year for which exemption is sought.

Situation 2

- Trusts / Institutions, where activities have already commenced, are required to apply for two registrations / approvals (i.e. provisional and regular) simultaneously.

Proposal

In Situation 1

- **Henceforth, the trusts / institutions shall be allowed to make application for provisional registration / approval before the commencement of activities.**

In Situation 2

- **The trusts / institutions that have already commenced their activities, shall make application for regular approval / registration (i.e. provisional can be skipped). IT authorities' powers are also spelt out.**

Violations vis-à-vis the new registration / approval regime

Section: Regimes 1 & 2 & 80G

Clause of FB: 5 & 9

Effective date: 01.04.2023

Discussion

- **The process of granting provisional approval / registration for new trust and the reregistration / re approval of already registered / approved trusts / institutions are automated.**
- **Application is filed in the portal and provisional approval / registration or re approval /re registration in suchcases is granted in an automated manner without verification.**

Proposal

- **In many cases it is found that applications are defective, not complete and contain incorrect particulars**
- **Therefore, proposal is made to empower CIT / PCIT to cancel the registration / approval when application referred to above is incomplete or it contains false or incorrect information.**

Trusts / Institutions not filing application in certain cases

Section: Regimes 1 & 2

Clause of FB: 57

Effective date: AY 2023-24

Discussion

- **Certain existing registered / approved trusts have not made application for re-registration or re approval**
- **Certain provisionally registered / approved trusts have not made application for regular registration**
- **Likely scenario in future – A trust registered / approved for 5 years may not apply for re registration or re approval**
- **Section 115TD provides for levy of exit tax on accreted income when a charitable trust gets converted to a non charitable trust in the manner laid down in the Act.**
- **By not applying for regular registration / approval or re registration or re approval the trust gets an easy route to exit without payment of exit tax.**

Proposal

- **Amendment is proposed in Section 115TD**
- **If the trust fails to make application for re registration or re approval or regular registration or regular approval within the stipulated time, it shall be deemed to have been converted into any form that is not eligible for registration or approval. It will attract exit tax.**
- **Procedural part and definition part are also amended.**

Alignment of ITR, Accumulation and Audit report due dates

**Section: Regimes 1
& 2**

**Clause of FB: 5 and
7**

Effective date: AY 2023-24

Discussion

- **Presently**

| Due date for | Due date | Remarks |
|---------------------|---|---|
| ITR | 31st July | where there is no audit |
| | 31st October | where there is audit |
| Accumulation | same as ITR due date | Form 10 (section 11) / Form 9 A (section 10 (23C)) |
| Audit report | 1 month prior to ITR due date i.e. 30th September | Form 10 B (section 11) / Form 10 BB (section 10 (23C)) |

Proposal

- Due date for filing Form No 10 / 9 A is made 2 month prior to ITR due date (31st August I audit cases and 31st May in non-audit cases)
- Reason as per Memorandum explaining the provisions – “The auditors are required to report the details of form 10/9A in the audit report. Since the due date for furnishing form 9A/10 *(It should have been Form 10 B / 10 BB)* is one month before the due date of furnishing the ITR, auditors find it difficult to report”

No exemption if return is not filed

**Section: Regimes 1
& 2**

**Clause of FB: 5
& 8**

**Effective date: AY 2023-
24**

Discussion

- **With the introduction of the scheme of filing updated return under section 139 (8A), there arose an unintended situation wherein trusts filing updated returns became eligible for exemption.**

Proposal

- **It is clarified that exemption will be available only if the return of income is filed under section 139 (1) or 139 (4)**

Section 80 G

**Section: 80
G**

**Clause of FB:
40**

Effective date: AY 2024-25

Discussion

- **Section 80G gives a list of certain specified donees.**

Proposal

- **Following 3 institutions are removed from the list of eligible donees**
 - **80 G (2) (a) (ii) – Jawaharlal Nehru Memorial Fund**
 - **80 G (2) (a) (iii c) – Indira Gandhi Memorial Trust**
 - **80 G (2) (a) (iii d) – Rajiv Gandhi Foundation**

TAX RATES

- Tax Rates under the old regime – unchanged
- New tax regime under section 115 BAC will be the default rate from AY 2024-25
- Persons opting for old tax regime should opt out by filing prescribed form
- Henceforth, deduction in respect of standard deduction from salary / family pension will be available under the new tax regime. Similarly, deduction u.s. 80 CCH, in respect of contribution to agniveer corpus fund shall also be available
- Where the assessee has total income exceeding Rs. 5 crores, the rate of surcharge for AY 2024-25 would be 25% instead of 37% provided the assessee opts for the new scheme
- Rebate u.s. 87 A – threshold for assessee's opting new tax regime is increased from Rs. 5 lacs to Rs. 7 lacs from AY 2024-25.

- Tax rates u.s. 115 BAC

- Existing rates

| Total Income (Rs) | Rate of tax |
|-----------------------------|-------------|
| Up to 2,50,000 | Nil |
| From 2,50,001 to 5,00,000 | 5% |
| From 5,00,001 to 7,50,000 | 10% |
| From 7,50,001 to 10,00,000 | 15% |
| From 10,00,001 to 12,50,000 | 20% |
| From 12,50,001 to 15,00,000 | 25% |
| Above 15,00,000 | 30% |

New rates

| Total income | Rate |
|-------------------------------------|------|
| Upto Rs. 3,00,000 | Nil |
| From Rs. 3,00,001 to Rs. 6,00,000 | 5 % |
| From Rs. 6,00,001 to Rs.9,00,000 | 10 % |
| From Rs. 9,00,001 to Rs. 12,00,000 | 15 % |
| From Rs. 12,00,001 to Rs. 15,00,000 | 20 % |
| Above Rs. 15,00,000 | 30 % |

KERALA BUDGET 2023 – Glimpse

- 12 % growth recorded
- Guideline value for stamp duty increased
- Fuel cess hiked
- Additional tax on liquor
- Building taxes to increase
- Vehicle taxes to increase
- Electricity to become costlier

DISCUSSION POINTS

THANK YOU