



UNION BUDGET 2012 HIGHLIGHTS

1) NEW TAX SLAB:

Net Taxable Income	Resident Senior Citizen of the age of 80 and above during the previous year	Resident Senior Citizen of the age of 60 and above during the previous year	All other Resident Individual/AOP/BO I/AJP/HUF
Up to Rs.200,000	NIL	NIL	NIL
RS. 200,001 to Rs.250,000	NIL	NIL	10.3% on the amount in excess of RS.2, 00,000.
Rs.250,000 to RS.500,000	NIL	10.3% on the amount in excess of RS.2,50,000	10.3% on the amount in excess of RS.2, 00,000.
RS.500,000 to Rs.10,00,000	20.6% on the amount in excess of RS.500,000	20.6% on the amount in excess of RS.500,000	20.6% on the amount in excess of RS.500, 000.
Above Rs.10,00,000	30.9% on the amount in excess of Rs.10,00,000	30.9% on the amount in excess of Rs.10,00,000	30.9% on the amount in excess of Rs.10, 00,000.

2) TDS on transfer of certain immovable properties (other than agricultural land):

Under the existing provisions of the Income-tax Act, tax is required to be deducted at source on certain specified payments made to residents by way of salary, interest, commission, brokerage, professional services, etc.

On transfer of immovable property by a non-resident, tax is required to be deducted at source by the transferee. However, there is no such requirement on transfer of immovable property by a resident except in the case of compulsory acquisition of certain immovable properties.

In order to collect tax at the earliest point of time and also to have a reporting mechanism of transactions in the real estate sector, it is proposed to insert a new provision to provide that every transferee, at the time of making payment or crediting any sum by way of consideration for transfer of immovable property (other than agricultural land), shall deduct tax, at the rate of 1% of such sum, if the consideration paid or payable for the transfer of such property exceeds –

- (a) fifty lakh rupees in case such property is situated in a specified urban agglomeration; or
- (b) twenty lakh rupees in case such property is situated in any other area.

It is further proposed to provide that where the consideration paid or payable for the transfer of such property is less than the value adopted or assessed or assessable by any authority of a State Government for the purposes of payment of stamp duty, the value so adopted or assessed or assessable shall be deemed as consideration paid or payable for the transfer of such immovable property.

For better compliance, it is also proposed to provide that a registering officer appointed under the Indian Registration Act, 1908 (Registrar) shall not register the transfer of any immovable property where taxes are required to be deducted under this provision unless the transferee furnishes proof of deduction and payment of TDS.

For reducing the compliance burden on the transferee, it is also proposed that a simple one page challan for payment of TDS would be prescribed containing details (including PAN) of transferor and transferee and also certain details of the property. The transferee would not

be required to obtain any Tax Deduction and Collection Account Number (TAN) or to furnish any TDS statement as this would be mostly a one time transaction. The transferor would get credit of TDS like any other pre-paid taxes on the basis of information furnished by the transferee in the challan of payment of TDS.

This amendment will take effect from 1st October, 2012.

3) TCS on cash sale of bullion and jewellery:

Tax Collection at Source (TCS) on cash sale of bullion and jewellery

Under the existing provisions of the Income-tax Act, tax is required to be collected at source by the seller at the specified rate on certain goods like alcoholic liquor, tendu leaves, scrap etc. at the time of sale.

In order to reduce the quantum of cash transaction in bullion and jewellery sector and for curbing the flow of unaccounted money in the trading system of bullion and jewellery, it is proposed to provide that the seller of bullion and jewellery shall collect tax at the rate of 1% of sale consideration from every buyer of bullion and jewellery if sale consideration exceeds two lakh rupees and the sale is in cash. This would be irrespective of the fact whether buyer is a manufacturer, trader or purchase is for personal use.

This amendment will take effect from 1st July, 2012.

4) Penalty on undisclosed income found during the course of search at 10 pc, 20 pc, 30 pc:

Penalty on undisclosed income found during the course of search

Under the existing provisions of section 271AAA of the Income-tax Act, no penalty is levied if the assessee admits the undisclosed income in a statement under sub-section (4) of section 132 recorded in the course of search and specifies the manner in which such income has been derived and pays the tax together with interest, if any, in respect of such income. As a result, undisclosed income (for the current year in which search takes place or the previous year which has ended before the search and for which return is not yet due)

found during the course of search attracts a tax at the rate of 30% and no penalty is leviable.

In order to strengthen the penal provisions, it is proposed to provide that the provisions of section 271AAA will not be applicable for searches conducted on or after 1st July, 2012. It is also proposed to insert a new provision in the Act (section 271AAB) for levy of penalty in a case where search has been initiated on or after 1st July, 2012. The new section provides that,-

(i) If undisclosed income is admitted during the course of search, the taxpayer will be liable for penalty at the rate of 10% of undisclosed income subject to the fulfillment of certain conditions.

(ii) If undisclosed income is not admitted during the course of search but disclosed in the return of income filed after the search, the taxpayer will be liable for penalty at the rate of 20% of undisclosed income subject to the fulfillment of certain conditions.

(iii) In a case not covered under (i) and (ii) above, the taxpayer will be liable for penalty at the rate ranging from 30% to 90% of undisclosed income.

These amendments will take effect from the 1st day of July, 2012 and will, accordingly, apply to any search and seizure action taken after this date.

5) No Basic Exemption on Unexplained Income – To be taxed at 30 percent:

Taxation of cash credits, unexplained money, investments etc.

Under the existing provisions of the Income-tax Act, certain unexplained amounts are deemed as income under section 68, section 69, section 69A, section 69B, section 69C and section 69D of the Act and are subject to tax as per the tax rate applicable to the assessee. In case of individuals, HUF, etc., no tax is levied up to the basic exemption limit. Therefore, in these cases, no tax can be levied on these deemed income if the amount of such deemed income is less than the amount of basic exemption limit and even if it is higher, it is levied at the lower slab rate.

In order to curb the practice of laundering of unaccounted money by taking advantage of basic exemption limit, it is proposed to tax the unexplained credits, money, investment,

expenditure, etc., which has been deemed as income under section 68, section 69, section 69A, section 69B, section 69C or section 69D, at the rate of 30% (plus surcharge and cess as applicable). **It is also proposed to provide that no deduction in respect of any expenditure or allowance shall**

be allowed to the assessee under any provision of the Act in computing deemed income under the said sections.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.

6) Compulsory filing of income tax return in relation to assets located outside India irrespective of Income:

Under the existing provisions of section 139, every person is required to furnish a return of income if his income during the previous year relevant to the assessment year exceeds the maximum amount which is not chargeable to tax. The return of income has to be furnished in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

It is proposed to amend the provisions of section 139 so that furnishing of return of income under section 139 may be made mandatory for every resident having any asset (including financial interest in any entity) located outside India or signing authority in any account located outside India. Furnishing of return by such a resident would be mandatory irrespective of the fact whether the resident taxpayer has taxable income or not.

This amendment will take effect retrospectively from the 1st day of April, 2012 and will accordingly apply to assessment year 2012-13 and subsequent assessment years.

7) Relief from long-term capital gains tax on transfer of residential property if invested in a manufacturing small or medium enterprise:

The Government had announced National Manufacturing Policy (NMP) in 2011, one of the goals of which is to incentivise investment in the Small and Medium Enterprises (SME) in

the manufacturing sector. It is proposed to insert a new section 54B so as to provide rollover relief from long term capital gains tax to an individual or an HUF on sale of a residential property (house or plot of land) in case of re-investment of sale consideration in the equity of a new start-up SME company in the manufacturing sector which is utilized by the company for the purchase of new plant and machinery. This relief would be subject to the conditions that-

- (i) the amount of net consideration is used by the individual or HUF before the due date of furnishing of return of income under sub-section (1) of section 139, for subscription in equity shares in the SME company in which he holds more than 50% share capital or more than 50% voting rights.
- (ii) The amount of subscription as share capital is to be utilized by the SME company for the purchase of new plant and machinery within a period of one year from the date of subscription in the equity shares.
- (iii) If the amount of net consideration subscribed as equity shares in the SME company is not utilized by the SME company for the purchase of plant and machinery before the due date of filing of return by the individual or HUF, the unutilised amount shall be deposited under a deposit scheme to be prescribed in this behalf.
- (iv) Suitable safeguards so as to restrict the transfer of the shares of the company, and of the plant and machinery for a period of 5 years are proposed to be provided to prevent diversion of these funds. Further, capital gains would be subject to taxation in case any of the conditions are violated.
- (v) The relief would be available in case of any transfer of residential property made on or before 31st March, 2017.**

The proposed amendments in the provisions of the Income-tax Act shall be effective from 1st April, 2013 and would accordingly apply to assessment year 2013-14 and subsequent assessment years

8) S. 80C No Deduction on life insurance Premium if premium payable exceed 10% of sum assured:

Eligibility condition for deduction in respect of life insurance policies

Section 80C of the Income-tax Act provides that in computing the total income of an assessee, being an individual or an HUF, a deduction of up to one lakh rupees for life insurance premia, contributions to any provident fund, tuition fees, subscription to any deposit scheme of a public sector company engaged in financing, construction or purchase of houses in India for residential purposes, fixed term deposits of not less than five years with a scheduled bank, etc., is allowed.

The existing provisions contained in section 80C(3) provide that the deduction for life insurance premium shall be allowed for only so much of any premium or other payment made on an insurance policy as is not in excess of 20% of the actual capital sum assured.

It is proposed to amend the provisions to provide that the deduction for life insurance premium as regards insurance policies issued on or after 1st April, 2012 shall be allowed for only so much of the premium payable as does not exceed 10% of the actual capital sum assured.

It is further proposed to insert the definition of “actual capital sum assured” so as to provide that the actual capital sum assured in relation to a life insurance policy shall be the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account— (i) the value of any premiums agreed to be returned, or (ii) any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person. This amendment has been proposed to ensure that the life insurance products are not designed to circumvent the prescribed limits by varying the capital sum assured from year to year. This definition is also referred to in the proposed *Explanation 2* in section 10(10D).

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.

9) Presumptive taxation not applicable to commission/ brokerage and Income from Agency business:

Presumptive taxation not to apply to professions etc.

Finance (No.2) Act, 2009 substituted Section 44AD in the Income-tax Act to provide for a presumptive income scheme for small businesses with effect from 1st April, 2011. Under this scheme a sum equal to 8% of the total turnover or gross receipts is deemed to be the profits and gains from business. This presumptive scheme is applicable only to a person carrying on any business, except business of plying, hiring or leasing goods carriage, having turnover or gross receipt of less than 60 lakh rupees.

It is proposed to amend section 44AD to clarify that this presumptive scheme is not applicable to (i) a person carrying on profession as referred to in sub-section (1) of section 44AA; (ii) persons earning income in the nature of commission or brokerage income; or (iii) a or a person carrying on any agency business.

This amendment will take effect retrospectively from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent assessment years.

10) Deduction for Donation not allowed for cash donations in excess of ten thousand rupees:

Prohibition of cash donations in excess of ten thousand rupees

Section 80G of the Income-tax Act provides for a deduction in respect of donations to certain funds, charitable institutions, etc. subject to specified conditions. The deduction is allowed in respect of any donation being a sum of money. Similarly, section 80GGA of the Income-tax Act provides for a deduction in respect of certain donations for scientific research or rural development made to research associations, universities, colleges or other associations/institutions, subject to specified conditions.

Currently, there is no provision in either of the aforesaid sections specifying the mode of payment of money. Therefore, it is proposed to amend sections 80G and 80GGA so as to specify therein that any payment exceeding a sum of ten thousand rupees shall only be allowed as a deduction if such sum is paid by any mode other than cash.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to assessment year 2013-14 and subsequent assessment years.

11) Threshold Limit for TDS on payment of interest on debentures raised to Rs. 5000:

Threshold for TDS on payment of interest on debentures

Under the existing provisions of section 193 of the Income-tax Act, a person responsible for paying interest to a resident individual on listed debentures of a company, in which the public are substantially interested, is not required to deduct tax on the amount of interest payable if the aggregate amount of interest paid during a financial year does not exceed Rs.2,500/- and the interest is paid by account payee cheque. However, in the case of unlisted debentures of a company, no threshold limit is specified for deduction of tax on payment of interest.

In order to reduce the compliance burden on small assessee and companies, it is proposed that no deduction of tax should be made from payment of interest on any debenture, (whether listed or not)

issued by a company, in which the public are substantially interested, to a resident individual or Hindu undivided family, if the aggregate amount of interest on such debenture paid during the financial year does not exceed Rs.5,000 and the payment is made by account payee cheque.

This amendment will take effect from 1st July, 2012.

12) Tax Audit & presumptive taxation Limit raised to One Crore:

Under the existing provisions of section 44AB, every person carrying on business is required to get his accounts audited if the total sales, turnover or gross receipts in the previous year exceed sixty lakh rupees. Similarly, a person carrying on a profession is required to get his accounts audited if the total sales, turnover or gross receipts in the previous year exceed fifteen lakh rupees.

In order to reduce the compliance burden on small businesses and on professionals, it is proposed to increase the threshold limit of total sales, turnover or gross receipts, specified

under section 44AB for getting accounts audited, from sixty lakh rupees to one crore rupees **in the case of persons carrying on business and from fifteen lakh rupees to twenty five lakh rupees in the case of persons carrying on profession.**

II. It is also proposed that for the purposes of presumptive taxation under section 44AD, the threshold limit of total turnover or gross receipts would be increased from sixty lakh rupees to one crore rupees.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply to the assessment year 2013-14 and subsequent assessment years.

13) Senior Citizens not having Business Income Exempt from Advance tax payment:

Under the existing provisions of Income-tax Act, every assessee is required to pay advance tax if the tax liability for the previous year exceeds ten thousand rupees. In case of senior citizens who have passive income of the nature of interest, rent, etc., the requirement of payment of advance tax results in raising compliance burden.

In order to reduce the compliance burden of such senior citizens, it is proposed that a resident senior citizen, not having any income chargeable under the head “Profits and gains of business or profession”, shall not be liable to pay advance tax and such senior citizen shall be allowed to discharge his tax liability (other than TDS) by payment of self assessment tax.

This amendment will take effect from the 1st April, 2012. Accordingly, the aforesaid senior citizen would not be required to pay advance tax for the financial year 2012-13 and subsequent financial years.

Section 56(2) provides for the specific category of incomes that shall be chargeable to income-tax under the head “Income from other sources”.

14) Share premium in excess of the fair market value to be treated as income:

It is proposed to insert a new clause in section 56(2). The new clause will apply where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares. In such a case if the consideration received for issue of shares exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be chargeable to income-tax under the head “Income from other sources. However, this provision shall not apply where the consideration for issue of shares is received by a venture capital undertaking from a venture capital company or a venture capital fund.

Further, it is also proposed to provide the company an opportunity to substantiate its claim regarding the fair market value. Accordingly, it is proposed that the fair market value of the shares shall be the higher of the value—

- (i) as may be determined in accordance with the method as may be prescribed; or
- (ii) as may be substantiated by the company to the satisfaction of the Assessing Officer, based on the value of its assets, including intangible assets, being goodwill, know-how, patents, copyrights, trademarks, licenses, franchises or any other business or commercial rights of similar nature.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.

15) Reopening time limit Increased to 16 Years for income in relation to asset located outside India:

Reassessment of income in relation to any asset located outside India

Under the provisions of section 149 of the Income-tax Act, the time limit for issue of notice for reopening an assessment on account of income escaping assessment is 6 years. The

time limit of 6 years is not sufficient in cases where assets are located outside India because gathering information regarding such assets takes much more time on account of additional procedures and laws of foreign jurisdictions.

It is proposed to amend the provisions of section 149 so as to increase the time limit for issue of notice for reopening an assessment to 16 years, where the income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment.

Amendments are also proposed to be made in section 147 of the Income-tax Act to provide that income shall be deemed to have escaped assessment where a person is found to have any asset (including financial interest in any entity) located outside India.

The provisions of sections 147 and 149 are procedural in nature and will take effect from 1st July, 2012 for enabling reopening of proceedings for and assessment year commencing prior to this date. This is proposed to be clarified through an Explanation stating that the provisions of these sections, as amended, by the Finance Act, 2012, shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012.

Corresponding amendments are also proposed to be made to the provisions of section 17 of the Wealth-tax Act.

These amendments will take effect from the 1st day of July, 2012.

16) Alternate Minimum Tax (AMT) on all persons other than companies:

Under the existing provisions of the Income-tax Act, Minimum Alternate Tax (MAT) and Alternate Minimum Tax (AMT) are levied on companies and limited liability partnerships (LLPs) respectively.

However, no such tax is levied on the other form of business organisations such as partnership firms, sole proprietorship, association of persons, etc.

In order to widen the tax base vis-à-vis profit linked deductions, it is proposed to amend provisions regarding AMT contained in Chapter XII-BA in the Income-tax Act to provide that a person other than a company, who has claimed deduction under any section (other than section 80P) included in Chapter VI-A under the heading “C – Deductions in respect of certain incomes” or under section 10AA, shall be liable to pay AMT.

Under the proposed amendments, where the regular income-tax payable for a previous year by a person (other than a company) is less than the alternate minimum tax payable for such previous year, the adjusted total income shall be deemed to be the total income of such person and he shall be liable to pay income-tax on such total income at the rate of eighteen and one-half per cent.

For the purpose of the above,

- (i) “adjusted total income” shall be the total income before giving effect to provisions of Chapter XII-BA as increased by the deductions claimed under any section (other than section 80P) included in Chapter VI-A under the heading “C – Deductions in respect of certain incomes” and deduction claimed under section 10AA;
- (ii) “alternate minimum tax:” shall be the amount of tax computed on adjusted total income at a rate of eighteen and one- half per cent; and
- (iii) “regular income-tax” shall be the income-tax payable for a previous year by a person other than a company on his total income in accordance with the provisions of the Act other than the provisions of Chapter XII-BA.

It is further provided that the provisions of AMT under Chapter XII-BA shall not apply to an individual or a Hindu undivided family or an association of persons or a body of individuals (whether incorporated or not) or an artificial juridical person referred to in section 2(31)(vii) if the adjusted total income of such person does not exceed twenty lakh rupees.

It is also provided that the credit for tax (tax credit) paid by a person on account of AMT under Chapter XII-BA shall be allowed to the extent of the excess of the AMT paid over the regular income-tax. This tax credit shall be allowed to be carried forward up to the tenth assessment year immediately succeeding the assessment year for which such credit becomes allowable. It shall be allowed to be set

off for an assessment year in which the regular income-tax exceeds the AMT to the extent of the excess of the regular income-tax over the AMT.

Consequential amendments are also proposed to the provisions of section 140A relating to self-assessment, section 234A relating to interest for defaults in furnishing return of income, section 234B relating to interest for defaults in payment of advance tax and section 234C relating to interest for deferment of advance tax.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.

17) Processing of return not necessary where scrutiny notice issued:

Under the existing provisions, every return of income is to be processed under sub-section (1) of section 143 and refund, if any; due is to be issued to the taxpayer. Some returns of income are also selected for scrutiny which may lead to raising a demand for taxes although refunds may have been issued earlier at the time of processing. It is therefore proposed to amend the provisions of the Income-tax Act to provide that processing of return will not be necessary in a case where notice under sub-section (2) of section 143 has already been issued for scrutiny of the return.

This amendment will take effect from the 1st day of July, 2012.

18) Sum received from life insurance policy exempt if premium for any of the years during policy tenure not exceeded 10 % of sum assured:

Under the existing provisions contained in section 10(10D) of the Income-tax Act, any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, is exempt. For this purpose, it is necessary that the premium payable for any of the years shall not exceed 20% of the actual capital sum assured.

It is proposed to reduce the threshold of premium payable to 10% of the actual capital sum assured from 20% of the actual capital sum assured. Accordingly, it is proposed to amend section 10(10D) so as to provide that the exemption for insurance policies issued on or after 1st April, 2012 would only be available for policies where the

premium payable for any of the years during the term of the policy does not exceed 10% of the actual capital sum assured.

Further, in order to ensure that the life insurance products are not designed to circumvent the prescribed limits by varying the capital sum assured from year to year, it is also proposed to provide that the capital sum assured would be the minimum of the sum assured in any of the years of the policy. Insertion of a new *Explanation 2* has been proposed towards this effect by referring to the new definition

of “actual capital sum assured” under *Explanation* of section 80C (3A). This *Explanation* will apply to insurance policies issued on or after the 1st April, 2012.

This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.

19) Fair market value shall be deemed full value of consideration if actual consideration not attributable or determinable:

Capital gains are calculated on transfer of a capital asset, as sale consideration minus cost of acquisition. In some recent rulings, it has been held that where the consideration in respect of transfer of an asset is not determinable under the existing provisions of the Income-tax Act, then, as the machinery provision fails, the gains arising from the transfer of such assets is not taxable.

It is, therefore, proposed that where in the case of a transfer, consideration for the transfer of a capital asset(s) is not attributable or determinable then for purpose of computing income chargeable to tax as gains, the fair market value of the asset shall be taken to be the full market value of consideration.

Accordingly, it is proposed to insert a new provision (section 50D) in the Income-tax Act to provide that fair market value of the asset shall be deemed to be the full value of consideration if actual consideration is not attributable or determinable.

This amendment will take effect from 1st day of April, 2013 and will accordingly apply to assessment year 2013-14 and subsequent assessment years.

20) Relief from LTCG tax on transfer of residential property if invested in a manufacturing small or medium enterprise:

Relief from long-term capital gains tax on transfer of residential property if invested in a manufacturing small or medium enterprise

The Government had announced National Manufacturing Policy (NMP) in 2011, one of the goals of which is to incentivise investment in the Small and Medium Enterprises (SME) in the manufacturing sector. It is

proposed to insert a new section 546B so as to provide rollover relief from long term capital gains tax to an individual or an HUF on sale of residential property (house or plot of land) in case of re-investment of sale consideration in the equity of a new start-up SME company in the manufacturing sector which is utilized by the company for the purchase of new plant and machinery. This relief would be subject to the conditions that-

- (i) the amount of net consideration is used by the individual or HUF before the due date of furnishing of return of income under sub-section (1) of section 139, for subscription in equity shares in the SME company in which he holds more than 50% share capital or more than 50% voting rights.
- (ii) The amount of subscription as share capital is to be utilized by the SME company for the purchase of new plant and machinery within a period of one year from the date of subscription in the equity shares.
- (iii) If the amount of net consideration subscribed as equity shares in the SME company is not utilized by the SME company for the purchase of plant and machinery before the due date of filing of return by the individual or HUF, the unutilised amount shall be deposited under a deposit scheme to be prescribed in this behalf.
- (iv) Suitable safeguards so as to restrict the transfer of the shares of the company, and of the plant and machinery for a period of 5 years are proposed to be provided to prevent diversion of these funds. Further, capital gains would be subject to taxation in case any of the conditions are violated.
- (v) The relief would be available in case of any transfer of residential property made on or before 31st March, 2017.**

The proposed amendments in the provisions of the Income-tax Act shall be effective from 1st April, 2013 and would accordingly apply to assessment year 2013-14 and subsequent assessment years.

21) Assessee liable to pay advance tax on income without deduction or collection of tax:

Under the existing provisions of section 209 of the Income-tax Act, the amount of advance tax payable is computed by reducing the amount of income-tax which would be deductible or collectible during the financial year from income-tax on estimated income. Therefore, in cases where the assessee receives or pays any amount (on which the tax was deductible or collectible) without deduction or collection of tax, it has been held by Courts that he is not liable to pay advance tax to the extent the tax is deductible or collectible from such amount.

In order to make an assessee liable for payment of advance tax in respect of income which has been received or paid without deduction or collection of tax, it is proposed to amend the aforesaid section to provide that where a person has received any income without deduction or collection of tax, he shall be liable to pay advance tax in respect of such income.

This amendment will take effect from the 1st April, 2012 and would, accordingly, apply in relation to advance tax payable for the financial year 2012-13 and subsequent financial years.

22) Intimation after processing of TDS statement rectifiable and appealable:

Vide finance (No.2) Act, 2009, section 200A was inserted in the Income-tax Act to provide for processing of TDS statement. After processing of TDS statement, an intimation is generated specifying the amount payable or refundable. The intimation generated after processing of TDS statement is not

(i) subject to rectification under section 154; (ii) appealable under section 246A; and

(iii) deemed as notice of demand under section 156.

In order to reduce the compliance burden of the deductor and also to rationalise the provisions of processing of TDS statement, it is proposed to provide that the intimation generated after processing of TDS statement shall be

(i) subject to rectification under section 154;

(ii) appealable under section 246A; and

(iii) deemed as notice of demand under section 156.

These amendments will take effect from 1st July, 2012.

23) Heavy Penalty for delay & incorrect information in TDS/TCS Statement:

As per the existing provisions of the Income-tax Act, a deductor is required to furnish a periodical TDS statement (quarterly) containing the details of deduction of tax made during the quarter by the

prescribed due date. A substantial number of the deductors are not furnishing their TDS statement within the prescribed due date. Delay in furnishing of TDS statement results in delay in granting of credit of TDS to the deductee and consequently results into delay in issue of refunds to the deductee tax payers or raising of infructuous demand against the deductee tax payers. Further, in large number of cases, the deductors are not furnishing correct information like PAN of the deductee, amount of tax deducted, etc. in the TDS statement. Furnishing of correct information in respect of tax deduction is critical for processing of return of income furnished by the deductee because credit for TDS is granted to the deductee on the basis of information furnished by the deductor.

Under the existing provisions of section 272A, penalty of Rs.100 per day is levied for delay in furnishing of TDS statement, however, no specific penalty is specified for furnishing of incorrect information in the TDS statement. The said provisions of penalty are not proved to be effective in reducing or eliminating defaults relating to late furnishing of TDS statement.

In order to provide effective deterrence against delay in furnishing of TDS statement, it is proposed –

(i) to provide for levy of fee of Rs.200 per day for late furnishing of TDS statement from the due date of furnishing of TDS statement to the date of furnishing of TDS statement. However, the total amount of fee shall not exceed the total amount of tax deductible during the period for which the TDS statement is delayed, and

(ii) to provide that in addition to said fee, a penalty ranging from Rs.10,000 to Rs.1,00,000 shall also be levied for not furnishing TDS statement within the prescribed time.

In view of the levy of fee for late furnishing of TDS statement, it is also proposed to provide that no penalty shall be levied for delay in furnishing of TDS statement if the TDS statement is furnished within one year of the prescribed due date after payment of tax deducted along with applicable interest and fee.

In order to discourage the deductors to furnish incorrect information in TDS statement, it is proposed to provide that a penalty ranging from Rs.10,000 to Rs.1,00,000 shall be levied for furnishing incorrect information in the TDS statement.

Consequential amendment is proposed in section 273B so that no penalty shall be levied if the deductor proves that there was a reasonable cause for the failure.

Consequential amendment is also proposed in section 272A to provide that no penalty under this section shall be levied for late filing of TDS statement in respect of tax deducted on or after 1st July, 2012.

Amendments on the similar lines for levy of fee and penalty for delay in furnishing of TCS statement and furnishing of incorrect information in the TCS statement are also proposed to be made.

These amendments will take effect from 1st July, 2012 and will, accordingly, apply to the TDS or TCS statement to be furnished in respect of tax deducted or collected on or after 1st July, 2012.

24) Disallowance of business expenditure on account of non-deduction of tax on payment to resident payee:

A related issue to the above is the disallowance under section 40(a)(ia) of certain business expenditure like interest, commission, brokerage, professional fee, etc. due to non-deduction of tax. It has been provided that in case the tax is deducted in subsequent previous year, the expenditure shall be allowed in that subsequent previous year of deduction. In order to rationalize the provisions of disallowance on account of non-deduction of tax from the payments made to a resident payee, it is proposed to amend section 40(a)(ia) to provide that where an assessee makes payment of the nature specified in the said section to a resident payee without deduction of tax and is not deemed to be an assessee in default under section 201(1) on account of payment of taxes by the payee, then, for the purpose of allowing deduction of such sum, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the resident payee.

These beneficial provisions are proposed to be applicable only in the case of resident payee.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.

25) Deduction in respect of Interest on deposit in Savings Accounts:

Under the proposed new section 80TTA of the Income-tax Act, a deduction up to an extent Of Ten Thousand rupees in aggregate shall be allowed to an assessee, being an individual Or Hindu undivided family, in respect of any income by way of Interest on deposit (Not being time deposits) in a savings account with –

- i. A banking company to which the Banking regulation act, 1949 applies (Including any bank or banking Institution refer to any section 51 of that act).
- ii. A co-operative society engaged in carrying on the business of banking (Including a co-operative land mortgage bank or a co-operative land development bank).
- iii. A post office as define in Indian Post office Act.

However, where the aforesaid Income is derived from any deposit in a savings account held by, or on behalf of, a firm, an association of person or a body of Individuals, no deduction shall be allowed in respect of such income in computing the Total Income of any partner of firm or any member of association or Body.

This amendment will take effect from 1st April 2013 and will, accordingly, apply in relation to the assessment year 2013-2014 and subsequent Assessment year.

Professionally yours,
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We wish you a successful financial year ahead

Best Regards

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