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THE CHARTERED ACCOUNTANT

JOURNAL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

UNION BUDGET 2020-21





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Union Budget 2020-21 : Achieve Big Goals with Focused Steps

The burgeoning Indian economy is steadily moving ahead aspiring to reach a figure of five trillion US dollar amidst arduous times. The Economic Survey 2019-20 highlighted that the world economy is facing challenges as, during the year 2019, the world output growth reached its slowest pace of 2.9% since the global financial crisis of 2009. This is notwithstanding that the present growth achieved by India is significantly high, but expectations are more and we have also achieved much higher rates in the past. The infectious slowdown in the global manufacturing, trade and demand caught the Indian economy and its growth rate slowed. At the same time, there are signs of bottoming out of slowdown in manufacturing activity and global trade, which is likely to have a positive impact on growth in the next year. In order to meet the challenges, a number of steps are included in Union Budget 2020-21 to boost investment, consumption and exports.

The growth of Indian economy is meaningful when it reaches all strata of the society. The growth needs to be inclusive such that its fruits are also enjoyed by otherwise deprived classes who are living in the remotest part of the country. There is need to provide basic necessities to all irrespective of their financial conditions and geographical locations. Chartered Accountants with their acumen and skills can play a leading role in augmenting revenues, improving tax management and ensuring better compliances, thereby helping the society, business and economy.

The Union Budget 2020-21 is centred around three significant themes – aspirational India, economic development and caring society – all of which are focussed on ease of living. Accordingly, the Finance Bill, 2020 contains specific tax proposals directed towards these themes. A tax measure directed towards the first theme, namely, Aspirational India is the levy of health cess @ 5% as a duty of customs on import of medical devices to be utilised for creating health infrastructure and services. Since the specified medical devices are now being manufactured in India, this cess would also boost the domestic industry.

A handful of direct tax proposals are directed towards the second theme, namely, economic development. The budget has given a fillip to eligible start-ups by raising the threshold turnover limit for qualifying for deduction under section 80-IAC from ₹ 25 crores to ₹ 100 crores. The deduction can now be claimed in any three consecutive years out of ten years from the year of incorporation. In order to attract fresh investment, create jobs and stimulate the economy, the period of concessional rate of withholding tax @ 5% under section 194LC and 194LD has been extended by three years. Removal of dividend distribution tax, which is an additional corporate tax, would ease compliance burden on corporates. An indirect tax proposal towards this theme is the increase in customs duty on items, which are also produced domestically by MSMEs, and withdrawal of eighty customs duty exemptions. Also, introducing enabling provisions for investigation in cases of circumvention of countervailing duty and strengthening anti-circumvention measures for anti-dumping duty will promote *Make in India* and consequently, lead to economic growth.

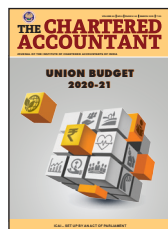
The tax proposals towards developing a Caring Society include extension of time for approval of affordable housing project for availing deduction under section 80-IBA to 31.3.2021. Further, the time limit for sanctioning of loan for affordable housing for availing deduction under section 80EEA is also proposed to be extended to 31.3.2021. Corruption free, policy driven good governance is *sine qua non* for achieving the three significant themes. The proposals towards this end include legislative backing to Taxpayer's Charter and launching of faceless appeal on the lines of faceless assessment for greater efficiency. In short, the Finance Bill, 2020 contains a number of provisions that are directed towards uplifting the Indian economy.

"The secret of getting ahead is getting started. The secret of getting started is breaking your complex overwhelming tasks into small manageable tasks, and starting on the first one." - Mark Twain.

-Editorial Board ICAI: Partner in Nation Building

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Profile

Our New President



CA. Atul Kumar Gupta, President, ICAI (2020-21)

A man with astute intellect, quick understanding and sharp vision, CA. Atul Kumar Gupta has been elected as President of The Institute of Chartered Accountants of India for the term 2020-21 on 12th February 2020. Having served the profession for about two decades, he joined the Central Council of ICAI in 2013 wherein he is currently serving for third consecutive term, i.e. 2013-16, 2016-19 and 2019-22. He got elected as Vice-President in February, 2019 for the term 2019-2020.

Widely respected for his strong organisational skills and deep insight in the affairs of profession, CA. Atul Gupta has immensely contributed to the cause of profession during his term in Central Council, and earlier as Regional Council member and Chairman of the Northern India Regional Council. With his commitment, dedication and service to the profession, he endeavours to take the profession to newer zeniths, and also come up to the expectations of stakeholders consequently.

A commerce and a law graduate by education, CA. Atul Gupta has imbibed a unique perspective to view and critically address the matters. He has led the cause of profession through various

committees of the Institute, serving as Chairman of Digital Accounting and Assurance Board, Board of Studies, IT Committee and Indirect Taxes Committee, among others.

CA. Atul Gupta is known and appreciated widely for his key contribution as facilitator of the Goods and Service Tax regime, particularly in its formative years. Under his stewardship at Board of Studies, the New Scheme of Education and Training that was benchmarked with the revised International Education Standards, was launched in 2017, with thorough revision of the content of the study materials of Intermediate and Final level courses.

He, earlier, has been the Chairman of SAFA Committee on Education, Training & CPD and Director of XBRL India and ICAI-Accounting Research Foundation (ARF) in the past.

Through ICAI-ARF, he is credited for the promotion of the agenda of research in profession. After anchoring the ICAI-ARF team in the project of preparation of accrual-based financial statements of the North-Western Zonal Railways for the year 2014-15, CA. Gupta has mentored the team in the project of preparation of accrual-

based financial statements of the Indian Railways for the years 2015-16 and 2016-17. Under his Chairmanship in the year 2010-11, the Northern India Regional Council of the Institute got the Best Regional Council award.

As President of the Institute, CA. Gupta is now Chairman of all Standing Committees including Executive, Finance and Examination Committees, besides being the ex-officio member of all Non-Standing Committees and Editor of ICAI Journal, *The Chartered Accountant*. He is Chairman of the ICAI Research wing ICAI – Accounting Research Foundation and Extensible Business Reporting Language (XBRL) India. He is also Director of the Governing Board of Indian Institute of Insolvency Professionals of ICAI and ICAI Registered Valuers Organisation.

CA. Atul Gupta is member of very important committees constituted by the government and regulators relating to policy formation that include Government Accounting Standards Advisory Board (GASAB) and Audit Advisory Board- both constituted by the C&AG of India, Committee to Advise on Valuation Matters, Committee of Experts to examine the need for institutional framework for regulation and development of Valuation Professionals of MCA, Board Member, Insurance Regulatory & Development Authority (IRDA), Insurance Advisory Committee and Apex Committee of IRDA, and Member of SEBI's Primary Market Advisory Committee.

On International front, he is Board member of South Asian Federation of Accountants (SAFA) and representing ICAI in International Integrated Reporting Council (IIRC).

With his deep insight of the affairs of profession, CA. Gupta has always kept the profession on high priority at national and international levels. He has addressed numerous technical meetings and seminars/ conferences and represented the Institute and its professional initiative in the past, including those at Association of Corporate Treasurer, Chartered Institute of Taxation and Financial Reporting Council, ICAEW, Chartered Institute of Public Finance Accountancy, UK and American Accounting Association.

A man with clear vision and deep understanding of the subject and respected for his down-to-earth approach to the issues at hand among his professional colleagues. CA. Gupta has a surpassing ability to deal with most challenging situations. Having an exceptional ability to bring out a range of alternative solutions on the table in any given situation, he has to his credit successful closures of many difficult tasks in a time-bound manner. With straightforward approach to profession, he has always been concerned about the quality of services and expectations of his professional colleagues and their aspirations. Profusely interested in the brand Indian CA and ICAI, he has always volunteered to act as a bridge between the stakeholders and the Institute.

He symbolises the transformational perspective which is going to be crucial for relevance of all economic entities and more particularly regulators, so that the transformation addresses the expectation gap while being focal to upholding transparency, probity and trust as the guiding virtues for the work programme of ICAI in times to come. Being the ardent reformer; he has a holistic grasp on the imperative of digital transformation, the developments taking nationally and globally in regard to accountancy profession and through his experience in public life all over two decades; he intends to metamorphize the overall regulatory perspective as laid under the enabling Act and Regulation governing the Chartered Accountancy profession.

Being thoroughly conversant with the professional concerns and demands of his times, CA. Gupta has authored many relevant books and has published numerous articles in leading newspapers, magazines and professional newsletters, and delivered lectures in about 1500 seminars and conferences.

A supporter of putting Indian accountancy profession on global map, CA. Gupta has also passionately represented the profession on various International forums through a number of meetings and conferences and making impeccable impact thereat. ■

Profile

Our New Vice-President



CA. Nihar Niranjan Jambusaria
Vice-President, ICAI

A man of professional wisdom, vision and strong organisational skills, with a firm belief in all round inclusive growth of Indian Chartered Accountancy profession, CA. Nihar Niranjan Jambusaria has been elected as the Vice President of the Institute of Chartered Accountants of India (ICAI) for the year 2020-21. A seasoned professional, CA. Nihar Jambusaria qualified as a Chartered Accountant in the year 1984 and was in practice for nearly 27 years and then joined industry.

CA. Nihar Niranjan Jambusaria, a Fellow Chartered Accountant from Mumbai has long history of honorarily serving the profession at various positions. He became Chairman of WIRC of ICAI in the year 2004-05.

He has been serving as Central Council member since 2013. True believer of

ICAI being partner in National Building, CA. Jambusaria has represented ICAI in many important committees constituted by the Government ministries and regulatory organisations. He has been nominated as a member of the e-Commerce Committee formed by the Ministry of Finance and Peer Review Committee of the Central board of Direct Taxes.

CA. Nihar Niranjan Jambusaria has made noteworthy contributions in different capacities to serve the profession. He has taken multiple roles in technical and non technical areas for the growth of the accountancy domain in India. He has served as Chairman of – Ind AS Implementation Committee, International tax Committee and various other important Committees and Boards of ICAI. He has also served as a Member of SAFA Committee on Professional Accountants in Business, a key committee engaged in the activities for the development of profession who are working in Industry in South Asia.

CA. Jambusaria has been a speaker at national and international forum and provides his incisive inputs in many complex and tricky areas of the profession with ease. As an avid academician and an orator par excellence, he has attended and contributed to numerous seminars, conferences and other events. He has addressed Chartered Accountants and other stakeholders at more than 900 events so far covering various subjects of professional interest like Direct tax, Accounting Standards, international tax and professional development and alike.

With focus on innovation and niche enablement, he intends to translate his passion for the inclusive growth of the profession through the transformational agenda that the current paradigm warrants and wishes to take the profession forward. ■

From the President



CA. Atul Kumar Gupta
President, ICAI

My dear Professional Colleagues,

I express my gratitude to esteemed fellow brethren in the Council and the accounting fraternity representatives through Regional Council(s), Branches and members for according an opportunity to serve as 68th President of this august Institute, which brings a sense of self-actualisation together with consciousness of the onerous responsibility which one has to shoulder. It would be our endeavour to render best of selfless efforts for the profession and the country. Coming from rather modest background, I have moved up the echelons with the blessings of Almighty and Parents. We have inherited a long rich legacy where the Past Presidents and Council members have relentlessly worked to position ICAI as a pioneer accounting body globally. I must assure that there would be no dilution in my efforts to take the profession to newer zeniths.

The one year defined term of ICAI President seemingly a short period; motivates the President in Office to set challenging targets and in process envision a higher growth trajectory for the CA profession domestically and internationally. As Vice-President in the previous Council Year, got the opportunity to closely work with the immediate Past President CA. Prafulla P. Chhajed and that enabled me to gain deeper learning of complex and important aspects of not only domestic but global environment and its interface with overall economic development which required consistent

approach and way forward to work with newly elected Vice-President, CA. Nihar Niranjana Jambusaria, Council Members and officials of this Institute. The incisive technical knowledge and rich industry experience of the Vice-president will help us to move ahead holistically for the betterment of the profession.

Time has come to increase the pace and set the tone for ICAI@2024 when the profession moves to 75 years of excellence. With the collective wisdom of the Council, our primary goal is to lay down path of progressive transformation for the future. With the vision set for the year 2024; we have created Action Plan for the year 2020-21 in identifying strategic priority areas. This issue of the Journal separately contains salient aspects of Vision 2024 and Action Plan 2020-21 for the information of fraternity. Also some of the significant activities of the ICAI during the previous month have been published in the inner pages of the journal.

From the President

Considering the potential of Indian economy, there is requirement of at least five lakh members. It would be our vision to encourage qualified students to secure membership and others to regularise in order to reach the said number in next four years. With the marginalisation of geographical barriers, many members are professionally spreading across the globe creating values for themselves as also for Indian accounting profession. The Institute recognises such strides of the members and would work to supplement their efforts by creating institutional framework on entering more and more Mutual Recognition Agreements and Memorandum of Understandings. It would be Council's endeavour to have larger number of such arrangements with professional bodies in other jurisdictions as also to open newer ICAI chapters / focal points to have an International ICAI network to three digits by 2024.

Other aspects that are part of ICAI vision 2024 is to consolidate and further strengthen ICAI as a robust regulator and a technology enabled organisation; having core functions in recommending framework of standards setting and artificial intelligence enabled ICAI knowledge hub, empowering members with knowledge and skills in forensic audit and related emerging paradigm as also increasing the number of members to CA Benevolent Fund. It is our desire that ICAI in the times to come, is recognised for its integrated and diminutive role of being an accounting educational body, professional research and distinguished authority bringing value to stakeholders.

The technology has made inroads in all spheres of the profession and we have come a long way. CA. Y.M. Kale, past President, ICAI stated in the year 1996 – *"Helping members maintain their professional competitiveness often involves improving their capacity to*

make effective use of modern technology. In promoting the technical advancement and relevance of accountancy as the language of business, familiarity with computers is now indispensable." Moving on from familiarity of computers; today's milieu require the members to gain skillset in artificial intelligence, blockchain and robotic process automation, besides expertise in different aspects covering cyber security, data analytics, forensic audit, fraud detection, information system audit, computer assisted audit techniques.

The Institute is seized of these and other challenges that current eco-system has brought in and is working on improving knowledge delivery in areas resulting out of disruptions as well as existing focal areas of the profession. Plans are on anvil to augment ICAI Digital Learning Hub for knowledge delivery for both members and the students leading to an enhanced system of monitored knowledge delivery and granting of continuing professional development to ICAI membership.

We will also ensure that the aspiring professional accountants namely the students, are not lagging behind in having contemporary yet futuristic education. Further, the focus of education and training will be on imparting relevant practical knowledge to be tested through increased concentration on case studies – both in education and examination systems to test the examinees in simulated environment. My experience has been that those students who are constantly keeping a keen eye in learning practical realities are able to perform better in the examinations and are more successful in their professional endeavours. With vision of developing *future ready* members; exposition to qualitative aspects of knowledge will be the *mantra* through competency assessment examination.

Since its formative years; the Institute has always remained an important constituent in

From the President

the world standards setting process. Taking this further, a Sustainability Accounting Standards Board in ICAI has been formed this year to help companies in achieving sustainable development goals and thus truly act as partner in nation building by being catalyst in harnessing the power of non-financial reporting for societal cause. With the matrix that will be developed by this Board, endeavour would be to lay down disclosure requirements for companies in terms of “sustainability part” aligning with sustainable development goals of the United Nations (UN).

The profession has to play a leading role in Indian economy. The Indian government has set an ambitious target of reaching \$ 5 trillion mark by the year 2024 to acquire position of being third largest economy in the world from the existing rankings. With the resources available; I am sure the country has the wherewithal to surmount this dream. As per the advance estimates released by the National Statistical Organisation (NSO), the Indian economic growth is likely to be 5 per cent in the current fiscal year ending 31st March, 2020. Chartered Accountants with their reach in business and industry can guide the nation to achieve what the country and countrymen truly deserve. It is not without reason that the *Accounting and Finance Services* forms part of Champion Service Sector identified by the government for focussed attention. In the words of CA. G.P. Kapadia, First President of ICAI – *“The profession is so linked up with commerce and industry that a detached consideration of each without the other cannot arise”*.

ICAI has taken a number of initiatives to be a partner in Nation Building. Every year amongst other inputs to Government and regulatory bodies; ICAI submits pre and post budget memoranda to the Government to iron out procedural glitches to improve tax administration and have better compliances.

ICAI recently submitted a concept paper to the Ministry of Corporate Affairs on the report of the High Level Committee on Corporate Social Responsibility, to review the existing framework and recommend a roadmap for developing a robust policy on Corporate Social Responsibility (CSR). The Concept Paper inter-alia contains suggestions on the Report in several areas such as creation of capital assets through CSR spending, tax benefits, deepening CSR impact, implementing agencies, third party assessment and CSR Audit. As members of this great profession, we look forward to your continued contribution to the Indian economy by constantly endeavouring to enhance Independence, Integrity and Excellence as the fundamental virtues in whatever we do as that has helped the profession to acquire indomitable position. I am sure that together we will contribute our mite to further building a robust and resilient economy by constant adherence to this edifice we have set for ourselves.

I am happy to share with you that we have more than 80000 women CAs and close to 300000 girl students pursuing CA Course. The strength of women in the profession is growing at faster pace which is a positive sign. I wish you all happy Women’s day and my heartiest congratulations on this great occasion.

Before I conclude, I would urge all my brethren to epitomise the wisdom that Swami Vivekananda laid for generations to come. I quote *“Arise, awake and do not stop until the goal is reached.”* I am sure that collective wisdom, support & guidance of entire CA fraternity in the journey of excellence will enlighten the path of progressive transformation.

Best wishes,



CA. Atul Kumar Gupta
President, ICAI
25th February, 2020

FROM THE PRESIDENT

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

Members of Twenty-Fourth Council and ICAl Acting Secretary [as on 12th February 2020]



1st Row (L to R)

: Dr. Ravi Gupta (Govt. Nominee), Adv. Vijay Kumar Jhalani (Govt. Nominee), Shri Rakesh Sehgal (Acting Secretary), CA. Nihar Niranjani Jambusaria (Vice-President), CA. Atul Kumar Gupta (President), CA. Pratulla P. Chhajed (Immediate Past President), Shri Chandra Wadhwa (Govt. Nominee), Dr. P. C. Jain (Govt. Nominee), CA. Kemisha Soni

2nd Row (L to R)

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3rd Row (L to R)

: CA. Dheeraj Kumar Khandelwal, CA. Jay Chhaira, CA. Satish Kumar Gupta, CA. (Dr.) Debashis Mitra, CA. Shrinivas Yeshwant Joshi, CA. Pramod Jain, CA. Babu Abraham Kallivayalil, CA. Charanjot Singh Nanda

4th Row (L to R)

: CA. Tarun Jannadas Ghia, CA. (Dr.) Sanjeev Kumar Singhal, CA. Anil Satyanarayan Bhandari, CA. Sushil Kumar Goyal, CA. Prasanna Kumar D, CA. Pramod Kumar Boob, CA. Hans Raj Chugh

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Not in Photograph

: Govt. Nominees - Shri Manoj Pandey, Shri Gyaneshwar Kumar Singh, Ms. Ritika Bhatia, Shri Sunil Kanoria

Photographs



Meeting with Shri Arjun Ram Meghwal

ICAI President CA. Atul Kumar Gupta along with ICAI Vice-President CA. Nihar N. Jambusaria, presenting a bouquet to Minister of State, Water Resources, River Development & Ganga Rejuvenation and Parliamentary Affairs Shri Arjun Ram Meghwal (19.02.2020)



Meeting with Minister of State of Corporate Affairs, Finance

ICAI President CA. Atul Kumar Gupta along with Rajya Sabha MP and ICAI Past President CA. N.D. Gupta; the then ICAI President CA. Prafulla P. Chhajed in a meeting with Hon'ble Minister of State of Corporate Affairs, Finance Shri Anurag Singh Thakur during 70th Annual Function of ICAI (07.02.2020)

Meeting with Joint Secretary, Ministry of Corporate Affairs



ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar Niranjan Jambusaria presenting bouquets to Central Council Members (Govt. Nominee) Shri Gyaneshwar Kumar Singh (left) and Shri Manoj Pandey (right) during meetings in New Delhi (17.02.2020)



Meeting with University Grants Commission

ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar Niranjan Jambusaria in a meeting with Vice-Chairman, UGC, Dr. Bhushan Patwardhan. Also seen in picture, CA. Vandana D Nagpal, Director, Board of Studies and CA. (Dr.) M. S. Jhadav (17.02.2020)



Meeting with Association of Indian Universities

ICAI Vice-President CA. Nihar Niranjan Jambusaria in a meeting with Dr. Pankaj Mittal, Secretary General of Association of Indian Universities along with CA. Vandana D Nagpal, Director, Board of Studies and CA. (Dr.) M. S. Jhadav in New Delhi (18.02.2020)

Photographs



Residential Meet of Members in Public Service

ICAI President CA. Atul Kumar Gupta (the then Vice-President) and the then ICAI President CA. Prafulla P. Chhajed with Member of Parliament, Rajya Sabha CA. Suresh Prabhu and Hon'ble Judge, Gujarat High Court Justice CA. Bhargav Karia during lighting the lamp ceremony in Kottayam. Also seen in picture Central Council members CA. Sushil Goyal and CA. Babu Araham Kallivayalil (01.02. 2020)



Meeting with Member of Parliament

ICAI President CA. Atul Kumar Gupta and ICAI Vice-President CA. Nihar Niranjana Jambusaria welcoming Hon'ble Member of Parliament, Rajya Sabha CA. Arun Singh at ICAI Bhawan in New Delhi. Also seen in picture Central Council members CA. Satish Kumar Gupta, CA. (Dr.) Sanjeev Singhal, Adv. Vijay Kumar Jhalani (Govt. Nominee), CA. Rajesh Sharma, and past Council member CA. Mukesh Kushwaha



Meeting with Secretary, Ministry of Corporate Affairs

ICAI President CA. Atul Kumar Gupta along with ICAI Vice-President CA. Nihar Niranjana Jambusaria presenting a bouquet to Secretary, Ministry of Corporate Affairs Shri Injeti Srinivas during a meeting in New Delhi (17.02.2020)

ICAI President CA. Atul Kumar Gupta (the then Vice-President) along with Central Council member CA. Dheeraj Kumar Khandelwal presenting a memento to CA. Srinivasan Janardanam, Principal Financial Management Specialist, ADB, Ms. Maria Joao Kaizeler, Sr. FM Specialist, Public Financial Management Division, ADB and CA. Krishnendu Sarkar, Sr. Financial Management Officer, ADB in New Delhi (05.02.2020)



Collaboration with Asian Development Bank (ADB)

ICAI President CA. Atul Kumar Gupta (the then Vice-President) in a meeting with Principal Financial Management Specialist, ADB CA. Srinivasan Janardanam, Sr. FM Specialist, Public Financial Management Division, ADB, Ms. Maria Joao Kaizeler and Sr. Financial Management Officer, ADB CA. Krishnendu Sarkar during exposure session for practising chartered accountants with Asian Development Bank in New Delhi. Also seen in picture, Ms. Seema Gerotra, Joint Director (05.02.2020)



Interactive Meet with Members

ICAI President CA. Atul Kumar Gupta addressing the members at Sonapat Branch of NIRC of ICAI. Also seen in picture, Central Council members CA. Hans Raj Chugh, CA. (Dr.) Sanjeev Kumar Singhal, CA. Pramod Jain (15.02.2020)





MoU Signing between ICAI and IIM Jammu

ICAI President CA. Atul Kumar Gupta with Director IIM Jammu Prof. B. S. Sahay at MoU at signing of Memorandum of Understanding (MoU) with Indian Institute of Management (IIM) Jammu (21.02.2020)



Lecture Meeting on Finance Bill 2020

CA. Prafulla P. Chhajed, the then ICAI President, in a group photograph at a Lecture Meeting on Finance Bill 2020 in Mumbai (04.02.2020)



Regional Awards Distribution Ceremony, Mumbai

CA Prafulla P. Chhajed, the then ICAI President, and WIRC Chairperson CA. Priti Paras Savla at Regional Awards distribution Ceremony of Western India Regional Council (08.02.2020)



Residential Meet of Members in Public Service

ICAI President CA. Atul Kumar Gupta (the then Vice-President) and the then ICAI President CA. Prafulla P. Chhajed with Shri Suresh P. Prabhu, Member of Parliament in a group photograph with their Council colleagues during Residential Meet of Members in Public Service in Kottayam (01.02.2020)

Action Plan 2020-21

Action Plan 2020-21



Vision 2024

ICAI aims at harnessing the opportunities and addressing the challenges presented by the rapidly changing environment



Largest Accounting Body
Globally 500000 Members



Expanding Professional Horizon
100 Overseas Chapters
50 MRAs/MOUs



Robust Regulator Strong
Peer Review & FRRB



Technology Enabled Anywhere,
Anytime Service, CPE To Members



Celebrating Excellence
Profession @ 75



Future Ready Profession
100000 trained CAs in
Forensic Audit



Knowledge Hub Standard
Setting AI enabled Audit Tools



Skill Based Education & Training
Moving towards 100% Case
Study Based Evaluation



CA Benevolent Fund (by the
Members & for the Members)
250000 Life Members

Strategic Priority Areas

World's leading accounting body, a regulator and developer of trusted and independent professionals with world class competencies

Envisioning New Frontiers

- Landscaping CA Profession Globally

Robust Regulatory Mechanism

- Towards increased Accountability

Nurturing Skills

- Recalibrating Education and Training

Profession as Partner in Development

- Continuous Stakeholder Engagement

Catapulting Profession to New Heights

- Pathways enabling Professional Excellence



Future Ready Institute

- Supporting profession in new Milieu

Harnessing Technology

- Building a Proactive Institution

New Avenues for Profession

- Member and Student Initiatives

Research and Innovation

- Boosting Economic Growth with Innovative insights



Robust Regulatory Mechanism

–Towards increased
Accountability



- ✧ Institutionalise framework for assurance services in Public Interest entities.
- ✧ Enhancing Audit quality by expanding scope of Peer Review and automating the Peer Review process.
- ✧ Augmenting outreach of Financial Reporting Review Board by establishing more benches.
- ✧ Develop mechanism to collate information under Tender Monitoring Group.
- ✧ Promote new code of ethics benchmarked to International Ethical standards amongst members and stakeholders.
- ✧ To synthesise UDIN information for meaningful realignment of Institute's work program.
- ✧ To improve assurance services framework by working with stakeholders regarding qualification by auditors and minimize perception gap.
- ✧ Proactive approach on the QRB's recommendations on specific quality improvement aspects as case studies for practice units at large.
- ✧ Automating Disciplinary mechanism and operational processes from filing to orders.
- ✧ e-hearing for time bound disposal of cases in Disciplinary Committee.
- ✧ Imbibing learning from decisions of Appellate authority for improvement in the investigations and adjudication mechanism at Disciplinary level.

Action Plan 2020-21



Nurturing Skills

- Recalibrating Education and Training



- ✧ Case study based evaluation in Examination for Competency based approach.
- ✧ Conceptualize framework to stimulate students to learn beyond curriculum and gain vital skill sets and acumen.
- ✧ Multidisciplinary Case study papers at Final level to nurture analytical and critical thinking.
- ✧ Launch Mentor's training program "Saarthi" to develop next generation leaders.
- ✧ Review Industrial training policy and take necessary measures to promote Industrial training among students and industry.
- ✧ E-Diary for Articles to improve efficacy of Articleship training.
- ✧ To upgrade ITT Centres into Forensic and Analytics Labs for developing professionals in digital economy.
- ✧ Form Quality Review Group to review educational material on continuous basis for quality excellence.
- ✧ To attract best talent to Chartered Accountancy stream by exploring integrated course from XI Class.

Profession as Partner in Development

- Continuous Stakeholder Engagement



- ✧ Meaningful dialogue with stakeholders on various initiatives of sharing institutional knowledge and dissemination of technical expertise.
- ✧ Competency development of stakeholders with focussed workshops in emerging assurance and IT areas.
- ✧ Customised competency and capacity building of Ministry and Government bodies in accounting and allied areas through Digital Hub.
- ✧ Enhancing employability of youth and promoting Job creation through Skill India Programs for students.
- ✧ Organising International Dialogue Forums/Events to showcase knowledge prowess of Indian Chartered Accountants, exchange ideas and understand future trends.
- ✧ Workshop for Regulators, Institutions and multilateral bodies to understand the expectations from the profession and associate in various initiatives for the development of profession and nation.
- ✧ Coordination committee of Stakeholders- Establish a regular forum for liaison and interaction with relevant regulators, industry bodies and stakeholders to formulate common views on international and domestic issues that affect the accounting profession.
- ✧ Starting a knowledge forum for Media fraternity and investigating agencies about Auditors mandate under law and address the expectation gap.
- ✧ Contribute towards Sustainable economic Environment.

Action Plan 2020-21



Catapulting Profession to New Heights –

Pathways enabling Professional Excellence



- ✧ Engagement with policy makers and regulators for creating new avenues for the profession.
- ✧ Institutionalise framework to Promote 'Ease of Doing' culture and support start-ups.
- ✧ Empowering small and medium practitioners by providing niche knowledge and capacity building initiatives.
- ✧ Digital Hub - Technology enabled capacity building and continuous professional development.
- ✧ To convert the challenge of digital disruption into opportunity by working towards evolving forensic audit standards in digital economy.
- ✧ Competency Development of Profession in emerging futuristic area like Forensic Audit, Block Chain, etc. Empowering 20000 members by nurturing technical acumen and skills in Forensic Audit for future marketplace in the year 2020-21.
- ✧ Expanding Quality of Firm's Audit Process through developing focussed training modules and knowledge enrichment through learning from Case studies on Accounting and Assurance.
- ✧ Work towards Joint Audit of Public interest entities and FDI based projects.
- ✧ Measures to promote networking of CA Firms.

Future Ready Institute

- Supporting profession in new milieu



- ✧ Roadmap envisioning Futuristic profession and take measures to realign the Institute to continue to act as a catalyst and Institution of prominence and National importance.
- ✧ Explore analytics-driven decision making to identify emerging trends and create maximum value for all stakeholders.
- ✧ Positioning Institute as a knowledge hub amongst stakeholders by developing and harnessing intellectual capital.
- ✧ Foster culture of accountability and value addition by adopting technology across the ICAI.
- ✧ Competency mapping of human resources vis-a-vis future, to orient them into knowledge assets.
- ✧ Equipping ICAI branches with necessary infrastructure and resources to organise Classes/Virtual Classes for Students.
- ✧ Fostering Research by partnering with Universities of national and International repute enabling members to pursue academic and analytical research leading to Ph.D.
- ✧ Formulate strategy to attract best talent to CA course.
- ✧ To introduce technological interventions to regulate and enhance qualitative CPE.
- ✧ Enhancing environment for optimum utilisation of Infrastructure.

Action Plan 2020-21



Harnessing Technology

- Building a Proactive Institution



- ✧ Promoting e-governance by providing Digi-Locker facility to members and students and issue various ICAI documents in Digital form.
- ✧ Establish National call centre for enhanced services to Members and Students.
- ✧ To work towards developing ICAI's Over the Top (OTT) platform to provide quality education and training to students and members.
- ✧ Measures to have a central website for entire ICAI for smooth and efficient functioning.
- ✧ Establish Grievance handling Directorate to strengthen E-Sahaayata.
- ✧ Moving towards 100% digital (machine based) evaluation in examination.
- ✧ Office Management Software for small and medium practitioners.
- ✧ Integrating all ICAI portals and services under ERP environment for optimum operational efficiency.

New Avenues for Profession

- Member and Student Initiatives



- ✧ Undertake special study to understand needs and expectations of industry and members to formulate enabling policy framework.
- ✧ Instituting mechanism to update new age expectations of members from ICAI and for evolving framework to involve and connect members with Institute's activities.
- ✧ Technology-based allotment system for assignments from Banks, PSUs and other Public Interest entities for enhanced transparency, independence and inclusive distribution.
- ✧ To review fair remuneration for assurance services and other assignments.
- ✧ Dedicated Placement Directorate for attracting opportunities nationally and internationally for professionals.
- ✧ Measures to mobilize CA Benevolent Fund to support upto Rs. 20000 per Month to needy families. Enrolment of 50000 new Life Members in the year 2020-21.
- ✧ To review policy for improving efficacy of Articleship for developing versatile professionals.
- ✧ Task force to frame guidelines for fostering networking for developing 100 Indian Global Firms/MDP.
- ✧ "We Care" Alumni Program for Senior CA's.
- ✧ Propose institutional interventions for examination reforms to enhance efficiency.
- ✧ To refurbish Student Scholarship policy to support meritorious and needy Students.
- ✧ To forge partnerships with insurance and financial intermediaries for enhancing social/professional security for members and students.
- ✧ Welcome Kit for students - forging tie-ups to provide laptop, newspaper and other learning tools.

Action Plan 2020-21



Research and Innovation

- Boosting Economic Growth with innovative insights



- ✧ Conduct research on contemporary and emerging area aligned to accounting profession.
- ✧ Promoting Centres of Excellence to act as hub for Research and Innovation.
- ✧ Position papers/Dialogue on issues arising from the regulatory landscape, including globalization, technology advances and impact on the profession and on business.
- ✧ Focussed Capacity building workshop across the nation on Accounting Standards, Standards on auditing and Code of Ethics.
- ✧ To undertake studies to highlight contribution of Accountancy profession on significant economic developmental subjects like broadening the tax base in country and USD 5 Trillion Economy.
- ✧ Participate and partner with other bodies at national and international levels in research and development in accounting, assurance, taxation, finance and business advisory services.
- ✧ Development of Kit of Accounting and Assurance Standards for audit of less complex entities.
- ✧ To update assurance standards in line with emerging trends and global practices.
- ✧ Conduct study of Rotation of Auditors to assess impact on assurance services.
- ✧ Guidance notes for new sectors and upgrade the existing guidance notes based on recent developments.
- ✧ Mapping of Accounting Standards, Standards on Auditing with the provisions of Companies Act.

Envisioning New Frontiers

- Landscaping CA Profession Globally



- ✧ Develop Foreign policy for enhanced representation of ICAI nominees in international forums of accountancy and related organizations for raising the profile of Indian accountancy profession.
- ✧ Nurturing relevant competencies (technical and soft skills) in curriculum relevant for global mobility.
- ✧ Positioning Chartered Accountancy qualification as globally recognized qualification and initiate measures to attract international students.
- ✧ Explore collaborative arrangements with prominent global institutions for developing competency and capacity in niche areas.
- ✧ Enhance our global outreach by opening new Chapters/representative offices at newer overseas jurisdictions. To setup Representative Offices in 40 countries/cities in the year 2020-21.
- ✧ To work towards Institutionalization of accounting profession in jurisdictions which are evolving in terms of strong accountancy profession.
- ✧ Measures to promote International Placements and Industrial Training by engaging with International Bodies, Industry Chambers and Multinationals through our Overseas constituents.
- ✧ Collaborate with International forums and bodies for undertaking joint research/study program in areas of mutual interest to further enrich our knowledge in emerging areas.
- ✧ Increased collaboration with International bodies dealing in emerging and specialised areas having interface with core accounting and allied areas.
- ✧ Contribution to International Standards Setters in education, accounting, auditing, ethics, digital environment and governance to make them more relevant for SMPs and from Indian perspective.
- ✧ Focus on promoting export of Chartered Accountant services globally.

Marching Towards Better Reporting Structure

ICAI, in its endeavour to remain converged with the globally acceptable International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB) at all times, continuously monitors the financial reporting developments globally and plays a critical role in the Nation's Standard-setting Framework by formulating, amending and implementing Ind ASs in line with IFRS Standards issued by IFRS Foundation. In this context, read on the following updates.

Indian Accounting Standards (Ind AS) Disclosure Checklist – Revised February 2020: The Accounting Standards Board of the ICAI had brought out the Publication in June 2018 to provide a ready reckoner of all the disclosures required by Ind AS. Subsequently, in May 2019, this Publication was updated to include the changes due to notification of Ind AS 115 and withdrawal of Ind AS 11 and Ind AS 18. Further, due to changes necessitated by notification of new standard, viz., Ind AS 116 and few other amendments in Ind AS, it has been decided to update the Publication again. While bringing out this updated Publication, it was decided to enhance the coverage of the Publication by including the presentation requirements, in addition to disclosure requirements, of the Ind AS. Accordingly, this Publication presents a checklist of presentation and disclosures requirements applicable to entities in preparing the financial statements in accordance with Ind AS applicable as on April 1, 2019. The Revised Publication has been released on 70th Annual Day of ICAI held on February 7, 2020. The said Publication has been hosted on the ICAI website at <https://resource.cdn.icai.org/58287asb47542ias.pdf>

Deferral of Implementation of Ind AS in Insurance Sector

The IRDAI on June 28, 2017, had issued a circular whereby the effective date of implementation of Ind AS in the Insurance Sector in India was deferred to financial year 2020-21. Recently, the IRDAI on January 21, 2020 has issued another Circular mentioning that IRDAI has decided to implement Ind AS 109 and Ind AS equivalent of IFRS 17 simultaneously alongwith all other applicable Ind AS. The effective date of implementation shall be decided after finalisation of IFRS 17 by IASB. Through this recent Circular, the old Circular dated June 28, 2017, stands withdrawn and the requirement of Proforma Ind AS financial statements being submitted on a quarterly basis stands dispensed.

Developments at IFRS Foundation & IASB

IASB consults on approach to updating its IFRS for SMEs Standard

The IASB is asking for views on its approach for updating the *IFRS for SMEs* Standard—the simplified Accounting Standard for Small and Medium-sized Entities. The objective of the consultation is to seek views on whether and how to

align the *IFRS for SMEs* Standard with full IFRS Standards, which are the Standards developed for publicly accountable entities and currently required in more than 140 jurisdictions. The Request for Information asks for views on different approaches to updating the *IFRS for SMEs* Standard, as well as views on how the Standard could be aligned with newer IFRS Standards, such as IFRS 9 *Financial Instruments*, IFRS 15 *Revenue from Contracts with Customers* and IFRS 16 *Leases*. Mr. Hans Hoogervorst, Chair, IASB has said that 'this review is about determining to what extent the *IFRS for SMEs* Standard should be updated for developments in IFRS Standards and ensuring it remains a high-quality Standard for the millions of companies that have begun using it since it was first issued 10 years ago'.

The Request for information can be assessed at <https://cdn.ifrs.org/-/media/project/2019-comprehensive-review-of-the-ifrs-for-smes-standard/request-for-information-comprehensive-review-of-the-ifrs-for-smes-standard.pdf?la=en>

Amendments to IAS 1, Presentation of Financial Statements: The IASB has issued *Classification of Liabilities as Current or Non-current*, which amends IAS 1. The amendments affect requirements in IAS 1 for the presentation of liabilities. Specifically, they clarify one of the criteria for classifying a liability as non-current. The amendments are effective for annual reporting periods beginning on or after 1st January 2022. Earlier application is permitted.

New member to join the IASB - The Trustees of the IFRS Foundation have appointed Mr. Bruce Mackenzie as a member of the IASB from 1st October 2020.

Comments on documents issued by IFRS Interpretations Committee

(i) IFRS Interpretations Committee (IFRS IC) in its November 2019 meeting discussed the following matters and tentatively decided not to add it to its standard-setting agenda. The IFRS IC invited comments on its tentative agenda decision for consideration at its future meeting. The ICAI had submitted its comments on these tentative agenda decision to IFRS IC.

- Player Transfer Payments (IAS 38, Intangible Assets)
- Multiple Tax Consequences of Recovering an Asset (IAS 12, Income Taxes) ■

Contributed by Accounting Standards Board of ICAI. Comments can be sent to asb@icai.in. Refer https://www.icai.org/post.html?post_id=14058 for Ind AS-IFRS Standards Convergence Status

ICAI in Action

Residential meet of CA Members in Public Service

The Committee for Members in Entrepreneurship and Public Services (CMEPS) of ICAI organised a Residential Meet of ICAI Members in Public Service in Kerala. The Residential meet was attended by 51 members from politics, judiciary, administrative services, foreign services, IPS, IRS, Appellate Tribunal, SFIO and others. The residential meet was appreciated by all the Members and provided a common platform where members in public service from all sectors participated and discussed emerging issues.

The Residential Meet was inaugurated by Chief Guest CA. Suresh P. Prabhu, Hon'ble Member of Parliament and Prime Minister's Sherpa to G7 and G20. He appreciated the new efforts and initiatives taken by ICAI in keeping pace with the digital revolution and making the profession ready for future. The residential Meet was also graced by the presence of CA. Thomas Chazhikadan, Hon'ble Member of Parliament on 2nd February who addressed the members in public service on issues of relevance to the profession. He also dwelled upon some of the aspects of the Union budget.

The Residential meet was addressed by Guests of Honour Hon'ble Mr. Justice (CA.) Bhargav D. Karia, Judge, Gujarat High Court on first day and Hon'ble Mr. Justice (CA.) Dr. Vineet Kothari, Senior most Judge of Madras High Court and Hon'ble Mr. Justice (CA.) Dinesh Mehta, Judge, Rajasthan High Court on second day. The meet dwelled upon technical sessions on How to Enhance Public Trust and Confidence by CA. Arun Kumar Gujarathi, Hon'ble Ex. Speaker of Maharashtra Legislative Council, Climate Change Financing by CA Praveen Garg IAS, Additional Secretary & Financial Advisor, Ministry of Environment, Forests and Climate Change, Positive strengths of CA profession amongst the Government, Regulators, Media, Members, Students and other Stakeholders by CA. Deepak

Kumar Kedia, IPS and Role of ICAI as Professional Accountancy Body for a Future Ready Profession by CA. Mahaveer Singhvi, IFS, Joint Secretary (Counter Terrorism) MEA, Government of India. A session on Managing Oneself was addressed by Dr. CV Ananda Bose IAS(Retd.) Principal Advisor, Heritage Project, Government of India and Chairman, UN Consultative Body.

Memorandum of Understanding (MoU) with Indian Institute of Management (IIM), Jammu

The developing knowledge base requires members to upskill themselves and acquire new knowledge. CA. Atul Kumar Gupta, President ICAI & Prof. B. S. Sahay, Director IIM signed an MoU to facilitate respective organisations to work together and explore areas of mutual collaboration and cooperation for offering executive training programs exclusively for the Chartered Accountants. This MoU envisions to create synergies between ICAI and IIM, Jammu in research, teaching and training programs. Under the MoU customised training programs for the CAs will be designed with modules on leadership, communication skills, conflict management, negotiation skills, marketing, data analytics, team building and change management. The skills will assist members to progress faster in their career graph and emerge as successful professional.

Collaboration with Asian Development Bank

A Contact-cum-Exposure Session was organised on 5th February, 2020 for Chartered Accountants with the senior officials of Asian Development Bank. The session covered Consultancy requirements of ADB, Audit requirements of ADB and ADB's India experience wherein the queries were fielded by Specialists from Public Financial Management Division of ADB. To take this collaboration further, discussions have been initiated to undertake research, pilot studies in varied areas of accountancy and other related disciplines of mutual interest and bringing out

Developments

study papers based on them for the knowledge sharing amongst members.

Assisting Government in Taxation Transformations

Chartered Accountants are known for their financial prowess in the areas of Direct and Indirect Taxation. A large number of professionals are guiding individuals to corporates in taking correct decisions and thereby contribute in tax compliances and resource augmentation for the Government. Considering the practical challenges, the ICAI has submitted Post-Budget Memorandum 2020 to the Ministry of Finance. A representation has also been submitted to the Chairman, CBDT with request to consider various issues in "The Direct Tax Vivad Se Vishwas Bill, 2020". A meeting was also held with Principal CCIT on 03rd Feb, 2020 in New Delhi to discuss the taxation related matters.

In the area of knowledge dissemination, budget viewing session and live webcast on highlights of tax proposals of Union Budget 2020-21 was jointly organised by Direct Tax Committee, GST & Indirect Taxes Committee and Committee on International Taxation on 1st February, 2020.

Issuance of Compendium of Standards on Internal Audit (As on February 1, 2020)

Standards on Internal Audit (SIAs), as issued by Institute are aimed to increase the overall credibility, consistency, clarity and comparability of the work performed by Internal Auditors. The Institute has initiated the process of revising SIAs and making them mandatory for certain class of companies in a phased manner. The principle-based Standards on Internal Audit provide a framework for internal audit activities, establish the basis for evaluation of internal audit performance, and foster improved organizational processes and operations. The Internal Audit Standards Board is bringing out Compendium of Standards on Internal Audit (As on February 1, 2020) containing revised Preface, Framework (including revised definition of Internal Audit), Basic Principles of Internal Audit and all Standards on Internal Audit which are currently applicable.

Release of Practitioner's Guide to Audit of Small Entities (Revised 2020)

Auditing and Assurance Standards Board has recently released thoroughly revised 2020 edition of the publication - Practitioner's Guide to Audit of Small Entities. The Guide provides a step by step approach to implementation of Standards on Auditing that may be followed while conducting audit of small entities. The Guide contains ready to use audit programme templates for audit of small entities. Appendices to the Guide contain illustrative formats of various letters and confirmations required in course of audit of small entities.

The Board has also released Audio Book of Auditing Pronouncements.

Certificate Distribution Ceremony of first Batch of Japanese Language Course

Certificate Distribution Ceremony of first Batch of Japanese Language Course was held on 4th February, 2020 wherein Mr. Kaoru Miyamoto, Director General, Mr. Kousuke Noguchi, Director, Japan Foundation alongwith team of Japan Foundation, CA. Babu Abraham Kallivayalil, the then Chairman and Secretary Committee for Export of CA Services & WTO and members who have received the certificate were present.

E-lectures on Accrual Accounting in Local Bodies

Many Local Bodies in the country have already shifted to accrual basis of accounting and others are in process of shifting to accrual basis of accounting. There is still scope to improve their accounting system and harmonise the diverse accounting practices being followed by them. There is also a need to build the capacity of accounts/finance staff of Local Bodies. It is an emerging area where profession can play an important role and serve in the best interest of the nation. In the direction, the Committee on Public and Government Financial Management (CP&GFM) has initiated development of e-learning modules on Basics and Fundamentals of Accrual Accounting specific to Local Bodies in India. ■

Hon'ble Lok Sabha Speaker Lauds ICAI as Transparent, Impartial and Responsible Organisation at 70th Annual Function

The Institute of Chartered Accountants of India (ICAI) celebrated its 70th Annual Function on February 7, 2020 in New Delhi in environment of rejoice and jubilation. The event was graced by Hon'ble Speaker of Lok Sabha Shri Om Birla as Chief Guest and Hon'ble Minister of State for Corporate Affairs, Finance, Shri Anurag Singh Thakur, as the Guest of Honour. CA. Prafulla P. Chhajed, then President, CA. Atul Kumar Gupta, then Vice-President, Past Presidents, Central and Regional Council Members of ICAI were also present in the celebrations. On the occasion, meritorious CA students and outstanding Regional Councils, Branches and overseas Chapters were felicitated by conferring awards for their outstanding accomplishments.



An assemblage of more than 1500 members, students and other stakeholders cheered ICAI for rendering and administering an internationally benchmarked qualification for more than seven decades at Hotel Ashok in New Delhi. Chartered Accountant members were present at the event in large numbers echoing their commitment to deliver quality services in regular and niche areas of the profession in business & play important role as strong pillar of the Indian economy. ICAI is setting benchmarks of academic excellence, grooming accounting professionals and empowering the nation while harmonizing financial reporting framework with global practices and fast tracking accounting reforms as a dynamic *partner in nation building*. With over 3 lakh members and over 7 lakh students, ICAI is the world's premier accounting body.

Inauguration

The 70th Annual Function started with playing of



ICAI motto song and lighting of auspicious lamp. At the outset, Shri Rakesh Sehgal, Acting Secretary, ICAI heartily welcomed the Chief Guest, Guest of Honour, all the dignitaries, the members in the profession, students and esteemed guests. He stated that ICAI has been playing significant role as gatekeeper in building trust, which is achieved by resilient financial framework, reinforcing elements of financial accountability. He also highlighted that ICAI contribution to the growth of the nation has been remarkable. His welcome address was followed by a small video on achievements of ICAI.

Chartered Accountants are the guardians of financial probity

CA. Prafulla P. Chhajed, the then President, ICAI shared "ICAI will continue to be trusted partner and influencer in accounting, auditing

Report - Annual Function



and educational standard setting process. The Institute ensures that it's professionals are driven and future ready in the right mix of innovative skills, professional competencies and perspective of ethics and integrity." Since its inception in 1949, ICAI has covered an illustrious journey by enriching the nation, adding professional value and benefitting the society. Chartered Accountants are the guardians of financial probity and play a dynamic role in ensuring stability and sustainability for the national growth. Today ICAI and its members are a force to be reckoned with." He also complimented and shared with the audience that Shri Om Birla is proud father of a rank holder Chartered Accountant daughter.



CA. Chhajed, highlighted ICAI contribution during the year 2019-20. He informed the distinguished guests about opening of offices at new Union Territories and stated that "The Institute has always extended the mission of inclusive growth by undertaking various social and economic upliftment initiatives, the latest being the decision to open offices in the newly constituted Union Territories of Jammu & Kashmir and Ladakh providing opportunities to the youth and students of both these states. Going further we have decided to waive 75% of the registration fee for the students of Union Territories of Jammu & Kashmir, Ladakh and eight North-Eastern States."

He also discussed initiatives with regards to regulation and creating of Standards and informed that "considering the need for accounting standards for local bodies, the Institute approved 12 new Accounting Standards for Local Bodies (ASLBs)

this year in addition to 15 already issued Standards to complete the set of ASLBs, which can now be considered by the Government for notification and time-bound implementation across India."

He also said "it is matter of pride for the Institute, my fellow professionals and all Indians to get opportunity to host World Congress of Accountants, 2022 to be held in Mumbai in November, 2022."

He then shared initiatives about imbibing technology in form of Digital Learning Hub and e-Pathshala. He shared that UDIN initiative has been noted by international community and said that "This Indian initiative is the first of its kind in the world that was well appreciated in the IFAC Council and will be soon mirrored by the other SAFA member bodies. He also informed that "the institute initiated the process of fully automating its disciplinary process including the introduction of E-hearing facility."

He assured everyone that "with its time-tested legacy of protecting public interest and inspiring stakeholders' confidence by example, the Institute will continue to be a trusted and influential partner in accounting, auditing, ethical and educational standards-setting, paving the way to quality standards. The Institute ensures that its professionals are driven and future-ready with a right mix of innovative skills, new-age competencies and perspectives of ethics and integrity."

Accountancy and financial service is one of the 12 champion sectors of Government

Shri Anurag Singh Thakur, Hon'ble Minister of State for Corporate Affairs, Finance while complimenting ICAI on the 70th Annual function,



referred ICAI as a big family, as Chartered Accountants and students make it one million plus.

He further stated that “as globalisation has a positive impact to open new avenues for the country to establish distinctive position in the knowledge world, the service sector has emerged as the largest and fastest growing sector in the last two decades.” He also said that “considering the service sector growth, improvement in competitive advantage and export of commercial services the union government has ratified the accountancy and financial services as one of the 12 champion sectors.” He said “I am happy to know that ICAI is taking all possible steps and making all efforts for mutual recognition agreements with foreign accounting institutes which is the first step of for promoting exports of accountancy services in the overseas market.”

He further added that “Accountancy professionals should work hand in hand with Government and Members should choose entrepreneurship, contribute in public interest projects and be enabling partners in India’s economic growth. The legacy of CA profession and its alma mater is built on the strong foundations of contributions made by ICAI members, as well as on the support of Government and other stakeholders.”

Referring CA course as a multi-layered course that involves many subjects he said “the knowledge required by the students during journey to become a Chartered Accountant and after becoming one must always be linked to the nation building, strongly.” “I am of the view, that the CA profession which has to serve the society in many different way.” “Accounting profession can play a central role in realising public aspiration and take up the role of the profession in providing quality financial information, facilitating market discipline and fostering confidence of various stakeholders in the financial market.” He also said “if a Chartered Accountant fulfills his duty with diligence and honesty, the propensity of the financial scams in this country will go down.” He stated that Chartered Accountants have very important role to play in building of nation and said “it is a responsibility of a CA to provide catalyst role for increasing and sustaining the double-digit growth,

good governance and competitiveness growth of learning experience of auditing, accounting, a prudent financial management. I am happy to note, the various initiative taken by ICAI to play a greater role in economic development and to uphold public confidence.”

He also said “the profession has moved much beyond performing accountancy functions and has been contributing by giving inputs to the government and various regulators in the area of financial markets, taxation, corporate laws, economic laws, bringing reforms in the government accounting. “Acknowledging the role of ICAI in GST implementation, he highlighted the role played by CAs in the success of insolvency and bankruptcy proceedings. He thanked the members for their contribution to **Sabka Vishwas** and other schemes of the government and looked forward to participation in **Vivad se Vishwas Scheme**. He said “I seek your cooperation to make it success and end the litigation as much as possible.” He also said “There is no hatred for the honest and there is no good for those who steal”.

Chartered Accountants have a significant contribution to keep economic system healthy and make economy stronger.



Shri Om Birla, Hon'ble Speaker of Lok Sabha while addressing the audience congratulated ICAI for completing 70 glorious years of existence with fairness, accountability and transparency in indisputable and responsive manner. Set up under an Act of Indian Parliament, the Institute has been responsibly working with immaculateness and transparency in the economic world.”

He stated that since its inception, ICAI has emerged as the regulator and developer of trusted and independent professional world class competencies in the areas of Accounting, Assurance, Taxation, Finance, Business Advisory Services and alike.

He stated that the Parliament gave the power to Chartered Accountants with an idea that Chartered Accountants will audit books of accounts so that they present true and fair view. “You work in transparent and accountable manner by auditing the right and the wrong.”

Report - Annual Function

He further added that in 70 years of existence of Institute, there has not been a single occasion when the Examination system has been breached. He said that “the examination system has been functioning without any dispute or questions asked. This is commendable as doubts are raised even when examinations have been conducted by State agencies.”

And that’s why today the chartered accountants of India have created their positive and expert image within the country and overseas. Chartered accountancy is not just limited to auditing. In any organisation, within the country or abroad, in administrative or other tasks, in public or private sector, Chartered Accountants have successfully played critical role for the growth. Chartered Accountants have been in forefront in administration.

“In my visits abroad, I have found Indian Chartered Accountants playing important role in companies there. While playing these roles they also acquire knowledge that is brought to India for the development. You successfully work in all forms of organisations whether in public or private sector, with transparency for economic growth. You also work to create systems in the entire organisation and help them to bring it to profitable position.” Acknowledging the vital contribution of Chartered Accountants in the healthy economic system he stated that “due to your methodical finance administration skills, you have played an extensive role in bringing in financial control and transparency in the government as well.”

With regards to the role of Chartered Accountants in the economic system of the country and development he stated that “you will have to think that how can you strengthen the economy of India by connecting and coordinating the youth of this country to the economy, as well as using them properly and guiding industry and service sectors.” He said “a chartered accountant is a person who can make an economic system healthy in any country by helping it to move in the right direction. A chartered accountant does not just prepare or make a financial project report but play a guiding role in building the relevant economic system.” He stated that the Chartered Accountants can make noteworthy contribution to make India as an export oriented

country within the world, help in economic growth, facilitate small scale industries, develop service sector and bring transparency in imports and exports. He complimented and said that “even you can lead the world economy by playing an important role in the right manner. You are versatile.”

ICAI profession shall help in reaching \$ 5 trillion economy goal



While delivering Vote of thanks, CA. Atul Kumar Gupta, the then Vice-President, now President, ICAI remarked “The remarkable journey of ICAI over last 70 years has led to establishing one of the premier Accounting body in the world. ICAI has been playing a key role not only for empowering the profession but is also contributing towards development of business, industry & commerce across all sectors of the Indian economy.”

He thanked Shri Om Birla and stated that the speech of Hon’ble speaker, Lok Sabha is recognition of ICAI contribution to the nation and is motivation to work more. He stated that “ICAI is fully committed to excellence and achievement of international benchmarks. Accountancy Profession is assisting and contributing towards reaching India’s goal of becoming a \$5 trillion economy by 2024 which will be coinciding with the 75 years of the ICAI existence. ICAI is also committed towards achievement of Sustainable Development Goals - 2030.”

CA. Gupta thanked Shri Anurag Thakur and assured full support to national goals with focus on rural economy, rural entrepreneurship, export, increasing global trade, generating resources and like. He informed the distinguished gathering about the role played by ICAI in implementing GST including thousands of programs conducted throughout the country.

He stated that “We are working as a Socio-Economic Catalyst. Most of the time, I emphasise the words ‘Socio-economic Catalyst’ because the course is highly affordable as four-year course fee is less than one thousand dollars.” He also informed that seven lakh students are pursuing CA Course. “Previously, a fresh Chartered Accountant was able to get a package on ₹ 6 lakhs per annum. In this regard, we conducted a program for the rank holders, and in the ensuing placement programme it was found that average package of students was about 22 lakh

Report - Annual Function

rupees.” He also stated that there have been many motivational and aspirational stories. He said that recently daughter of an auto-rickshaw driver and son of a tailor became Chartered Accountant. Quoting these stories he stated that “the profession has played an important role as a socio-economic catalyst and played a key role as partner in nation building.”

He also acknowledged the contribution of former presidents and thanked distinguished gathering, members from branches and overseas, and complimented rankholders.

Awards and recognition

The Chief Guest also distributed awards under various categories to meritorious students, Branches/Regional Councils & Overseas Chapters of ICAI. The Institute is committed to provide the best of the accounting education, to give transparent and truthful accounting, audit and governance service to the industry and the Nation.

Releases and launches

ICAI releases a number of publications from time to time as a tool for knowledge sharing and assisting members in their upliftment. On the annual Day following releases and launches took place.

1. Accounting Standards (AS): Disclosure Checklist
2. Audio Book of Auditing Pronouncements
3. Business Strategic Planning & Information Technology in Insurance Sector
4. Certificate Course on Internal Audit
5. Compendium of Standards on Internal Audit (As on February 1, 2020)
6. Compendium of Technical Guides on Accounting (As on February 1, 2020)
7. Compendium on Accounting Standards for Local Bodies (Volume-II)
8. Digital Competency Maturity Model (DCMM) for Professional Accounting Firms – Version 2.0 and Implementation Guide

Best Regional Council

First Prize- Gold Shield and Certificate	Second Prize- Silver Shield and Certificate
Western India Regional Council of ICAI	Southern India Regional Council jointly with Eastern India Regional Council of ICAI

9. E-Learning Module on Basics and Fundamentals of Accrual Accounting for Local Bodies in India
10. Guide to CA Certificates in GST
11. Handbook on Exempted Supplies under GST
12. Indian Accounting Standards (Ind AS): Disclosure Checklist
13. Principles and Practice of General Insurance
14. Principles and Practice of Life Insurance
15. Case Law Refrencer
16. Code of Ethics (Volume-II) Revised 2020
17. Risk Management & Reinsurance
18. Software for automation of Peer Review process
19. Status Paper on Accounting Reforms in Local Bodies in India: Overview (Revised)
20. UDIN- A Report

Booklets for students

1. Significant Case Laws in Paper 6D: Economic Laws
2. Introduction of upgraded Tally .ER9 in AICITSS(IT)
3. Introduction of upgraded Tally .ER9 in ICITSS(IT)

Portal

Portal for Audit Enablers

Awards and certificates

The event was an opportunity to recognise the hardwork and achievements of Rank Holders of CA Examination who were presented medals and certificates.

Regional Councils, Overseas Chapters, Branches have been acting as useful connect with the members, students and other stakeholder at large. They are quintessential part of ICAI agenda. While all these units make significant contribution, the best performing were also awarded on the day.

Report - Annual Function

Overseas Chapter Awards

Category I (More than 500 Members)		
1 st	<i>UAE (Dubai) Chapter of ICAI</i>	<ul style="list-style-type: none"> • CA. Anish Mehta, Chairman • CA. Mahmood Bangara, Past Chairman • CA. Anurag Chaturvedi, Secretary
2 nd	<i>UAE (Abu Dhabi) Chapter of ICAI</i>	<ul style="list-style-type: none"> • CA. Aashish Bhandari, Chairman • CA. Neeraj Ritolia, Vice Chairman • CA. John George, Member • CA. Krishnan NV, Member
3 rd	<i>Kuwait Chapter of ICAI</i>	<ul style="list-style-type: none"> • CA. Sai Venkata Subbarao Devata, Chairman • CA. Kaizar Shakir, Vice Chairman • CA. Aditya Dhanuka, Treasurer
Category II (101 to 500 members)		
1 st	<i>Oman (Muscat) Chapter of ICAI</i>	<ul style="list-style-type: none"> • CA. Ashwini Sawrikar, Chairperson • CA. Ramananda Prabhu, Vice Chairman • CA. Shahnawaz Khan, Member
2 nd	<i>Bahrain Chapter of ICAI</i>	<ul style="list-style-type: none"> • CA. Sridhar, Immediate Past Chairperson • CA. Ajay, Secretary, Excom
3 rd	<i>Qatar (Doha) Chapter of ICAI</i>	<ul style="list-style-type: none"> • CA. Rukkaiya Pachisa, Chairperson • CA. Sandeep Chowdhary, Vice Chairman
Category III (Upto 100 members)		
1 st	<i>Canada (British Columbia, Vancouver) Chapter</i>	• Mr. Vijay Gupta, Chairman Emeritus
2 nd	<i>Tanzania (Dar es Salaam) Chapter of ICAI</i>	• CA. Narendra Juneja, Member, Tanzania (Dar es Salaam) Chapter of ICAI
3 rd	<i>The Netherlands (Amsterdam) Chapter of ICAI</i>	• CA. Vikas Chaturvedi, Chairman

Branch Awards

1	Best Branch of Regional Council- Mega category (2501 and above members)	Pune Branch of WIRC of ICAI	Ahmedabad Branch of WIRC jointly with Gurugram Branch of NIRC of ICAI
2	Best Branch of Regional Council- Large category (1001-2500 members)	Ernakulam Branch of SIRC of ICAI	Vadodara Branch of WIRC jointly with Ludhiana Branch of NIRC of ICAI

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3	Best Branch of Regional Council- Medium category (501-1000 members)	Siliguri Branch of EIRC jointly with Amritsar Branch of NIRC of ICAI	Aurangabad Branch of WIRC of ICAI
4	Best Branch of Regional Council- Small category (201-500 members)	Ahmednagar Branch of WIRC of ICAI	Jalgaon Branch of WIRC jointly with Salem Branch of SIRC of ICAI
5	Best Branch of Regional Council- Micro category (upto 200 members)	Dibrugarh Branch of EIRC of ICAI	Tirunelveli Branch of SIRC of ICAI
6	Best Students' Association	WICASA of WIRC of ICAI	EICASA of EIRC of ICAI
7	Best Branch of Students' Association- Mega category (10001 and above Students*)	Pune Branch of WICASA of WIRC of ICAI	Ahmedabad Branch of WICASA of WIRC of ICAI
8	Best Branch of Students' Association- Large category (5001 to 10000 Students*)	Nagpur Branch of WICASA of WIRC of ICAI	Thane Branch of WICASA of WIRC of ICAI
9	Best Branch of Students' Association Medium category (3001 to 5000 Students*)	Aurangabad Branch of WICASA of WIRC of ICAI	Vadodara Branch of WICASA of WIRC jointly with Chandigarh Branch of NICASA of NIRC of ICAI
10	Best Branch of Students' Association Small category (1001 to 3000 Students*)	Ahmednagar Branch of WICASA of WIRC of ICAI	Jalgaon Branch of WICASA of WIRC of ICAI
11	Best Branch of Students' Association Micro category (Upto 1000 Students*) *Students include all stages i.e CPT/ Foundation + IPCC/Intermediate + Final.	Sivakasi Branch of SICASA of SIRC of ICAI	Pimpri Chinchwad Branch of WICASA of WIRC of ICAI
12	Certificate for Appreciation state level Branch	Jammu and Kashmir Branch of NIRC of ICAI	
13	Certificate for Appreciation for image building by connecting with Global leaders of the profession	Agra Branch of CIRC of ICAI	



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Classification of Grant Related to Assets in the Statement of Cash Flows

A. Facts of the Case

1. A company was incorporated on 16th August 1984 for procuring, transmission, processing and marketing of natural gas. The company has an authorised share capital of ₹ 2,000 crore, out of which ₹1,691.30 crore is paid-up share capital. The Government of India ('GoI') holds 54% equity of the company at present. The securities of the company are listed on National Stock Exchange, Bombay Stock Exchange and London Stock Exchange. At present, the company owns over 11,000 Kms of pipeline and currently transmits about 206 MMSCM per day of natural gas. The company operates six LPG manufacturing plants in different parts of the country with an installed capacity of 1.04 Million MT of LPG per annum. The company has an integrated petrochemical plant at Pata, Uttar Pradesh for manufacturing polymers. The company has world's longest pipeline from Jamnagar to Loni for transmission of LPG. The company has integrated its business activities and operates the City Gas Distribution ('CGD'), Exploration of Natural Gas, Wind Power & Solar Power Plant and Telecom Businesses. The company has formed subsidiaries/associates/joint venture companies for CGD, Petrochemicals, LNG, Gas Trading, Power Generation and Shale Gas.
2. The company has prepared its accounts as per Indian Accounting Standards (Ind ASs) w.e.f. 1st April 2016. In compliance with the Companies (Indian Accounting Standards) Rules, 2015, the company has prepared its financial statements for F.Y. 2016-17 with comparative figures for F.Y. 2015-16. The company has adjusted the impact of transition from Indian Generally Accepted Accounting Principles to Ind ASs in the opening reserve as on 1st April 2015 and in the statement of profit and loss for F.Y. 2015-16. Further, the holding company, subsidiaries, joint ventures, or associate companies of the company also need to make transition to Ind ASs w.e.f. 1st April 2016.
3. The GoI has entrusted with the company the task to execute the 2,600 km long Jagdishpur Haldia and Bokaro-Dhamra Gas Pipeline Project connecting the Eastern states of the country to the National Gas Grid. Five states, viz., Uttar Pradesh, Bihar, Jharkhand, Odisha and West Bengal will benefit from gaining access to natural gas on affordable and equitable basis. The project work is under progress as per phase-wise schedule. The Cabinet Committee on Economic Affairs (CCEA), GoI has approved a capital grant of ₹ 5,176 crore being 40% of estimated capital cost of ₹ 12,940 crore *vide* Notification no. L-14014/44/2006-GP-I (Pt. II) dated 7th October 2016. The first instalment of ₹ 450 crore was disbursed by the GoI to the company during F.Y. 2016-17. (Copy of circular separately supplied by the querist)
4. As per the querist, in accordance with the provisions of Indian Accounting Standard (Ind AS) 20, 'Accounting for Government Grants and Disclosure of Government Assistance', the company has accounted for the amount of capital grant under the head "Other non-current liabilities". Further, the company has classified the amount of capital grant under "Cash flows from financing activities" in the Cash Flow Statement during F.Y. 2016-17 in line with the provisions of Ind AS 7, 'Statement of Cash Flows'.
5. The Comptroller & Auditor General of India (C&AG) has conducted supplementary audit on the accounts of the company for F.Y. 2016-



17 under section 143(6) of the Companies Act, 2013. While conducting the supplementary audit of accounts, the C&AG accepted the accounting treatment made by the company. However, the C&AG has made observation on classification of capital grant by the company as *Financing Activity* in the Cash Flow Statement and opined that it should be classified as an *Investing Activity* in the Cash Flow Statement.

6. The company and its statutory auditors are of the opinion that the capital grant is one of the sources of financing the project expenditure besides loan and internal generation/equity. The company is of the view that had the company not received the capital grant, the alternate source for such financing would be either from equity or borrowings. Thus, in substance, capital grant is in the nature of a financing activity and, therefore, is correctly shown as Financing Activity.

7. However, the C&AG has not accepted views of the company/joint statutory auditors and, instead, is of the view that, since the capital grant was received specifically for investment and acquisition of long-term asset, the company should recognise the government grant as deferred income in accordance with paragraph 24 of Ind AS 20. Accordingly, the amount should be proportionately taken to income over the period of useful life of pipeline project. Unlike financing activities, viz., loan and equity on which interest/dividend is payable, the amount received as government grant will be utilised for investing activities only and, therefore, will not change the equity/borrowing of the company and should be reflected as an "Investing activity" in the Cash Flow Statement.
8. The provisional comment of the C&AG and the reply submitted by the company are as follows:

Provisional Comment	Reply
<p>III. Standalone Cash Flow Statement for the financial year ended 31st March 2017</p> <p><u>Cash Flow from financing activities</u></p> <p>The above includes ₹ 450 crore towards the capital grant received from Govt. of India for execution of Jagdishpur-Haldia-Bokaro-Dhamra Pipeline Project (JHBDPL).</p> <p>In this regard, Para 6 of Ind AS 7 states that <i>"Investing activities are the acquisition and disposal of long-term assets and other investments not included in cash equivalents" while "Financing activities are activities that result in changes in the size and composition of the contributed equity and borrowings of the entity"</i>.</p> <p>However, audit observed that capital grant received from GoI was for investment purpose and to meet out the capital expenditure (acquisition of long-term assets) of above said pipeline project. Thus, the same should have been classified as investing activity whereas the company has classified this grant under financing activities in Cash flow Statement.</p>	<p>It is submitted that the company has received ₹ 450 crore during the year towards capital grant approved by Cabinet Committee on Economic Affairs (CCEA), Government of India for execution of Jagdishpur Haldia Bokaro Dhamra Pipeline Project (JHBDPL).</p> <p>The long-term asset will be constructed by utilising the Government grant given for a specific purpose. The grant received, being specific, is source of funds for the creation of the said asset. If the company would not have received any grant from GoI, the alternate source for such financing would be either from equity or borrowings. Thus, in substance, capital grant is in the nature of financing activity as per the provision of Ind AS 7.</p> <p>It is also submitted that as per Indian GAAP (AS-3), the amount of grant was disclosed under Capital Reserve, which forms part of Reserves and Surplus. Further as per the provisions of Ind AS 7 also, the amount of Grant become part of Non-Current Liabilities. Thus, the nature of grant is financial activities.</p>

Provisional Comment	Reply
<p>Management / Joint Statutory Auditors replied that if the company would not have received any grant from GoI, the alternate source for such financing would be either from equity or borrowings. Thus, in substance, capital grant is in the nature of financing activity.</p> <p>Management's/Joint Statutory Auditors' replies are not acceptable as govt. grant has been received specifically for investment and acquisition of long-term asset and the company has to recognise the Government Grant as deferred income in accordance with Para 24 of Ind AS 20 which would be proportionately taken to income over the period of useful life of pipeline project. Unlike, financing activities, viz. loan and equity on which interest/dividend is payable, the amount received as Govt. grant will be utilised for investing activities only and therefore will not change the equity/ borrowing of the company. Thus, statement of cash flows is also deficient to that extent.</p>	<p>It is further submitted that the expenditures that result in a recognised asset in the balance sheet are eligible for classification as investing activities, whereas the financing activities are related to forecast claims on future cash flows by providers of capital to the entity.</p> <p>Since the grant received by the company was source of fund for creation of assets, the company has correctly classified the capital grant as financing activities.</p> <p>Further, the user is able to understand the cash receipts from grant from the disclosure in Cash Flow Statement. Hence, Provisional Comment may please not be pursued further.</p>

9. It is also pertinent to mention that Ind AS 7 does not provide any guidance on treatment of capital grant received from GoI as described hereinabove in the Cash Flow Statement as such. In view of the difference of opinion with the C&AG, it was decided to take the opinion of the Expert Advisory Committee of the Institute of Chartered Accountants of India on the said matter.

B. Query

10. The querist has sought the opinion of the Expert Advisory Committee on the following issues:
- Whether the classification of ₹ 450 crore received as capital grant from Government of India under 'Financing activities' in the Statement of Cash Flows for FY 2016-17 for the reasons mentioned in paragraph 6 above is correct as per Ind AS 7.
 - In case the answer to (i) above is not in the affirmative, what should be the appropriate classification of capital grant of such nature and purpose from Government of India in the Statement of Cash Flows.

C. Points considered by the Committee

11. The Committee notes that the basic issue raised by the querist relates to classification of the receipt of ₹ 450 crore by way of grant related to assets (hereinafter referred to as 'the grant') from the Government of India (hereinafter referred to as 'the government') in the statement of cash flows for the financial year 2016-17 in the context of Indian Accounting Standards (Ind ASs) notified under the Companies (Indian Accounting Standards) Rules, 2015 (hereinafter referred to as 'the Rules'). The Committee notes from the facts of the case that C&AG has agreed that the amount received is in the nature of government grant and not shareholder's contribution. The Committee has, therefore, considered only the issue raised and has not examined any other issue that may be contained in the Facts of the Case, such as amount to be recognised in the balance sheet and statement of profit and loss, classification, recognition, measurement and accounting treatment of grant received by the company. Further, the Committee presumes that the pipeline will be owned and controlled by the company and that the company is not

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acting only as an implementing/executing agency of the government and consequently, the pipeline or components thereof, as the case may be, will be recognised as asset(s) in the company's financial statements.

12. The Committee notes that the terms 'Investing activities' and 'Financing activities' are defined in paragraph 6 of Indian Accounting Standard (Ind AS) 7, Statement of Cash Flows, notified under the Rules, as below:

"Investing activities are the acquisition and disposal of long-term assets and other investments not included in cash equivalents."

"Financing activities are activities that result in changes in the size and composition of the contributed equity and borrowings of the entity."

13. The Committee first examines whether receipt of the grant should be classified as cash flow from financing activity in the cash flow statement. For classification as financing activity, the receipt of the grant should result in change in the size and composition of contributed equity and borrowings. Although there can be equity contribution otherwise than by way of subscription to equity shares, in the extant case, the receipt of the grant does not represent equity contribution from the government neither it is borrowing from the government.
14. As per paragraph 6 of Ind AS 7 reproduced in paragraph 12 above, only acquisition and disposal of long-term assets and other investments not included in cash and cash equivalents should be classified as investing activities. Hence, at first sight, it may appear that receipt of the grant does not meet the definition of investing activity, since the resulting cash inflow does not arise from disposal of any asset. However, in substance, to the extent of the grant, cost of the pipeline project is borne by the government. In effect, the cash outflow on the long-term asset, i.e., pipeline, is reduced by the amount of the grant. This factual position is not changed by the accounting and presentation requirements of Ind AS 20, 'Accounting for Government Grants and Disclosure of Government Assistance', notified under the Rules. Accordingly, the Committee is of the view that the receipt of the grant is an investing activity. This view is

strengthened by paragraph 28 of Ind AS 20 which states as follows:

"28. The purchase of assets and the receipt of related grants can cause major movements in the cash flow of an entity. For this reason and in order to show the gross investment in assets, such movements are disclosed as separate items in the statement of cash flows."

D. Opinion

15. On the basis of the above, the Committee is of the following opinion on the issues raised by the querist in paragraph 10 above:
- The classification of ₹450 crore received as grant related to assets from Government of India as part of cash flows from 'Financing activities' in the statement of cash flows for the financial year 2016-17 is not correct.
 - The same should be classified as part of cash flows from 'Investing activities' in the statement of cash flows for the financial year 2016-17 as discussed in paragraphs 13 and 14 above.

1.	The Opinion is only that of the Expert Advisory Committee and does not necessarily represent the Opinion of the Council of the Institute.
2.	The Opinion is based on the facts supplied and in the specific circumstances of the querist. The Committee finalised the Opinion on January 04, 2018. The Opinion must, therefore, be read in the light of any amendments and/or other developments subsequent to the issuance of Opinion by the Committee.
3.	The Compendium of Opinions containing the Opinions of Expert Advisory Committee has been published in thirty six volumes. A CD of Compendium of Opinions containing thirty six volumes has also been released by the Committee. These are available for sale at the Institute's office at New Delhi and its regional council offices at Mumbai, Chennai, Kolkata and Kanpur.
4.	Recent opinions of the Committee are available on the website of the Institute under the head 'Resources'.
5.	Opinions can be obtained from EAC as per its Advisory Service Rules which are available on the website of the ICAI, under the head 'Resources'. For further information, write to eac@icai.in . ■

Macroeconomic Aspects of Indian Economy

The Union Finance Minister presented the budget, 2020-21 against the backdrop of challenging economic environment emanating particularly out of factors resulting in low growth of global output. Within the country, the consumption expenditure, particularly, the rural consumption, is decreasing significantly. The stakeholders were expecting an expansionary policy, to boost consumption and revive investment climate. However, due to constraints on the revenue targets, there has been pressure on the fiscal deficit. In the emerging scenario, the government is depending critically on disinvestment. Read on...

The Indian economic growth has declined from 8.1% in first quarter of 2018 to 4.5% in the third quarter of 2019. On the positive side, this could be viewed against the growth of global output that was estimated at 2.9% in 2019 by the World Economic Outlook published by the IMF¹ that has declined from 3.6% in 2018. Notably, the global output growth has been recorded the lowest since the global financial crisis of 2009 which emanated from the large-scale decline in industrial and trade activities.

In India, the deceleration of GDP growth, on demand side, has been caused by a slump in the growth of real fixed investment in first half of 2019-20 in comparison to 2018-19. This was so, partly because of the sluggish growth of real consumption expenditure. In fact, private capital expenditure for second quarter of 2019-20 has recorded its lowest growth in last one and half decade. Poor rural demand has been the major factor for this low consumption. This was in addition to the distressed rural economy which had been confronting unemployment, low productivity, poverty, infrastructure deficiency and poor delivery of basic services.

On the supply side, all sectors contributed to the deceleration in GDP growth in the first half of 2019-20. These sectors exclude 'Agriculture and Allied activities', 'Public Administration', defense and other services whose growth in first half of 2019-20 was higher than in the second half of 2018-



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19. A contrast is presented by the industrial output which recorded only 1.1% growth in August, 2019 the lowest in the last eighty months.

The Viewpoint

Against the backdrop, the FM initiated the operative part of the budget speech by acknowledging the two cross-cutting advancements, i.e., a) explosion of technologies, especially analytics, artificial intelligence, robotics, machine learning, bio-informatics and; b) highest number of people in the age group of 15-65 years.

The first part of the budget has been woven around three prominent themes: Firstly, 'economic development' for all to reiterate "Sabka Saath, Sabka Vikas, Sabka Vishwas; Second, 'aspirational India' to enhance living standards which include education, health, and livelihood for all; Third, 'caring society' for humanity and compassion. In other words, FM emphasised 'ease of living' to all citizens in

¹International Monetary Fund (2020), "Tentative Stabilization, Sluggish Recovery?" World Economic Outlook. Washington D.C.

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a corruption free, policy driven system of governance.

Programmes and Plans

With these laudable goals, the FM made a number of policy announcements. These have been similar to the policy prescriptions used to be made in the 'five year plan' prepared by the erstwhile 'Planning Commission' duly approved by the 'National Development Council' which has been disbanded and substituted with Team India.

The FM while reiterating the goal of doubling farmers' incomes by 2022, laid emphasis on Agriculture, Irrigation and Rural Development. The following 16 action points were indicated as the focus:

1. Encouraging the State governments to implement model laws, i.e., a) Model Agricultural Land Leasing Act, 2016; b) Model Agricultural Produce and Livestock Marketing (Promotion and Facilitation) Act, 2017; and c) Model Agricultural Produce and Livestock Contract Farming and Services (Promotion and Facilitation) Act, 2018.
2. Comprehensive measures for one hundred water stressed districts.
3. Expansion of PM-KUSUM scheme to provide two million farmers for setting up stand-alone solar pumps and enabling farmers to set up solar power generation capacity on their fallow/barren lands.
4. Balanced use of all kinds of fertilizers including the traditional organic and other innovative fertilizers.
5. Viability Gap funding for setting up of efficient warehouses at the block/*taluk* level.
6. Village Storage Scheme to be run by the Self Help Groups (SHGs).
7. Setting up a "Kisan Rail" with refrigerated coaches through PPP arrangements.
8. *Krishi Udaan* by the Ministry of Civil Aviation on international and national routes.
9. Supporting States adopting a cluster basis to focus on "one product one district" in horticulture sector.
10. Expansion of integrated farming systems in rain fed areas.
11. Integration of financing on Negotiable Warehousing Receipts (e-NWR) with National Agriculture Market (e-NAM).
12. Expansions of NABARD re-finance scheme and coverage of all eligible beneficiaries of *Pradhan Mantri Kisan Samman Nidhi (PM-KISAN)* under the *Kisan Credit Card (KCC)* scheme.
13. Coverage of artificial insemination from the present 30% to 70% and doubling of milk processing capacity from 53.5 million MT to 108 million MT by 2025.
14. Development, management and conservation of marine fishery resources.
15. Raising fish production to 200 lakh tonnes through

involvement of youth.

16. Expansion of SHGs under *Deen Dayal Antyodaya Yojana*.

Although, there are number of action points on Agriculture, Irrigation and Rural Development but the budgeted allocation of ₹ 2.83 lakh crore is only slightly higher by 13.2% than the revised estimates of the previous year. Under wellness, water and sanitation, viability gap funding (VGF) has been provided for setting up hospitals in PPP mode. Eradication of Tuberculosis by 2025 has also been announced. Total allocation for *Swachh Bharat Mission* and *Jal Jeevan Mission* has been enhanced to 12,300 crore and 3.60 lakh crores respectively in 2020-21. New Education Policy will be announced soon, it has been stated.

₹ 27,300 crore has been provided for the development and promotion of industry and commerce for the year 2020-21. Under the theme of economic development, the focus is on entrepreneurship and infrastructure to create employment opportunity for India's youth.

Table 1

Government Budgeted Expenditure on Major Sectors			
(In ₹ billion)			
Sectors	2019-20 (RE)	2020-21 (BE)	Variation
Interest Payments	6,251	7,082	13.3%
Grants in aid to State Governments	4,470	5,148	15.2%
Capital Expenditure excluding Defence & Communications	2,338	2,725	16.5%
Agriculture & Allied Activities	2,346	2,650	12.9%
Pensions	1,841	2,107	14.4%
Communications	206	655	217.3%
Defence	3,163	3,231	2.1%
Relief on account of Natural Calamities	183	232	26.8%
Census, Surveys & Statistics	30	67	121.4%
Police	906	936	3.3%
Medical & Public Health	256	298	16.4%
Rural Employment	710	615	-13.4%
Others	4,285	4,678	9.2%
Total Expenditure	26,986	30,422	12.7%

Source: *Budget at a Glance, 2020-21*

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Similarly, the focus under the theme of 'caring society' has been on women & child, social welfare, culture and tourism and environment and climate change.

Expenditure on Sectors

Table 1 shows budget estimates of expenditure for 2020-21.

₹ 3,43,678 crore or 12.7% has been the increase over the Revised Estimates of 2019-20. The table shows major items of expenditure where variations have occurred.

Maximum increase of 217% can be noticed in 'Communication' due to capital infusion in BSNL/MTNL for 4G spectrum, implementation of VRS and payment of ex-gratia for employees of BSNL/MTNL. The next highest increase is in Census, Survey & Statistics, i.e., 121%, for obvious reason to conduct population census by the Registrar General and Census Commissioners, India. Higher capital is needed for Road Transport, Railways & for infrastructure projects in pipeline, hence 16.5% increase over previous year can be noted.

This year, for the first time in the history of independent India, the Union Finance Commission has submitted an interim report only for a year, i.e. 2020-21. The report has been partially accepted and higher provision is made for post devolution revenue deficit grant, devolution for Panchayats and Municipalities, grants for State Disaster Response Fund, assistance to States from National Disaster Response Fund and releases of compensation to States for revenue losses on roll out of GST.

With the subdued demand in rural consumption, higher allocation to rural development and particularly to rural employment was expected. However, sharp decline of 13.4% over previous year in rural employment is seen due to lower requirement under Mahatma Gandhi National Rural Employment Guarantee Programme.

Fiscal Deficit

Due to significant shortfall in revenue collection particularly in

Table 2

Union Budget 2020-21: A Bird's Eye View			
	In ₹ billion)		
	2018-19	2019-20 (RE)	2020-21 (BE)
GDP*		2,04,422	2,24,894
Total Expenditure	23,151	26,986	30,422
of which:	-	-	-
On Revenue Account	20,074	23,496	26,301
On Capital Account	3,077	3,489	4,121
Total Receipts	16,657	19,317	22,459
of which:			
Revenue Receipts	15,529	18,501	20,209
Capital Receipts**	1,128	816	2,250
Total Receipts (without borrowings)	16,657	19,317	22,459
Revenue Deficit (% of GDP)	2.4%	2.4%	2.7%
Fiscal Deficit (% of GDP)	3.4%	3.8%	3.5%
Source: Budget at a Glance, Union Budget Documents 2020-21			
Notes: *GDP for BE 2020-21 has been projected at ₹ 224894 billion assuming 10% growth over the estimated GDP of ₹ 204422 billion for 2019-2020 (RE)			
**includes recovery of loans and disinvestments but excludes borrowings and other liabilities			

GST, slippage in fiscal deficit target set in the budget estimate of 2019-20 was apprehended. As table 2 indicates, the FM invoked 'escape clause' in the Fiscal Responsibility and Budget Management (FRBM) Act, 2003 and relaxed the fiscal deficit – GDP ratio by 0.5%, i.e. from 3.3% to 3.8% in the current year and 3.5% for the next year, though FRBM Act stipulates the necessity to return to the original target in the next year.

This has been due to three reasons; first, the nominal GDP growth rate of 7.5% in the current year has been below the assumed rate of 12 % in the budget of the previous year. Second, the revenue deficit-GDP ratio, as can be seen from table 2, rose to 2.7% from 2.4% in the revised estimate of 2019-20. Third, the disinvestment target of ₹ 1.03 lakh crores as budgeted for 2019-20 could not be achieved. This estimate has been revised by bringing it down to ₹ 65000 crores. Towards this, the FM announced a threefold increase of ₹ 2.1 crore as disinvestment target. This includes divestment of government stake in public

sector banks and other financial institutions including IDBI Bank and partial sale of its stake in Life Insurance Corporation (LIC), Air India and CONCOR for the year 2020-21. Thus, fiscal deficit target of 3.5% of GDP for the year 2020-21 depends largely on disinvestment. With expansionary fiscal policy and high fiscal deficit there is also need to arrest the issue of slowdown.

Conclusions

The Finance Minister in her speech stated that "the fundamentals of the economy are so strong and that ensured macroeconomic stability." However, in view of reduced growth, there is a need for further diagnosis of health of Indian economy so that more effort can be made to boost consumption, revive investment climate and increase exports. When the growth in economy is low there are constraints on resources and it becomes extremely challenging to achieve economic expansion. The economy has potential and reversal is only a matter of time and it is hoped that high rates of growth will be achieved sooner than later. ■

Salient Features of the Finance Bill, 2020 - Direct Taxes

The Finance Minister presented her Second Budget on 1st February, 2020. As usual, in this budget 2020-21 through Finance Bill, 2020, the Finance Minister has proposed many amendments to the Income-tax Act. This Finance Bill, 2020 has 104 clauses proposing amendments to the various provisions of the Income-tax Act. In addition thereto, the Finance Minister has announced a scheme known as 'Vivad se Vishwas' and consequently introduced Direct Tax Vivad se Vishwas Bill, 2020. The major amendments in the Finance Bill, 2020 relating to direct taxes and the Vivad se Vishwas are analysed here...



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A. DIVIDEND DISTRIBUTION TAX

1. Dividend income to be taxed in the hands of the Shareholders – Dividend Distribution Tax being abolished.

The Finance Bill, 2020 has proposed to make a far reaching amendment to the system of taxing dividend income. At present, a company is required to pay dividend distribution tax under section 115-O at the rate of 15 % (effective tax rate of 20.56%) on the amount of dividend declared/distributed or paid by such company. Further, under section 115BBDA, a person resident in India other than a domestic company or a fund or institution eligible for exemption under section 10(23C) or registered under section 12A of the Income-tax Act is

required to pay a further tax on dividend income exceeding ₹ 10 lakh at the rate of 10 %. Now, under the proposed amendment, the liability to pay dividend distribution tax under section 115-O and on dividend income exceeding ₹ 10 lakh under section 115BBDA is being abolished. Instead, dividend received by any shareholder will be considered as its ordinary income and will be taxable at the rate applicable to such person with no threshold exemption. However, in order to avoid cascading effect of tax on a shareholder which happens to be a company, old Section 80M is being revived. As per this Section 80M, dividend income received by a domestic company from any other domestic company to the extent such dividend is distributed by such company on or before one month prior to

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the date of furnishing of return of income shall be allowed as deduction while computing its income. Accordingly, in case a company receives any dividend income during the financial year, say, 2020-21 and such dividend to the extent it is distributed on or before 30.09.2021, the company shall be allowed to deduct dividend distributed by

it out of its dividend income received from the other domestic company.

2. Impact analysis of abolition of Dividend Distribution Tax.

a. Abolition of dividend distribution tax to adversely affect resident in India

The taxation of dividend income in the hands of the

shareholder instead of dividend distribution tax will have mixed consequences. In the case of resident shareholder by and large it will have an adverse impact except a shareholder whose income is chargeable to tax at a rate which is lower than 20 as can be understood from the following table :

Case	Particulars	Tax liability on dividend under the existing regime	Tax liability on dividend under the new regime	Net increase in tax liability under the new regime
	Amount to be distributed as dividend	120.56	120.56	
	DDT paid by company	20.56	-	
	Dividend received by shareholders	100.00	120.56	
Case I	Tax on dividend payable by shareholders @ of 20.8%	NA	25.08	
	Net income of shareholder	100.00	95.48	4.52
Case II	Tax on dividend payable by shareholders @ 31.20%	NA	37.61	
	Net income of shareholder	100	82.95	17.05
Case III	Tax on dividend payable by shareholders @ of 30% plus surcharge of 10% and cess of 4%	-	41.38	-
	Net income of shareholder	100	79.18	20.82
Case IV	Tax on dividend payable by shareholders under the slab rate of 30% plus surcharge of 37% and cess of 4%	NA	51.53	-
	Tax liability under 115BBDA @ 10% + surcharge @ 37% + Cess @ 4%	14.25	-	-
	Net income of shareholder	85.75	69.03	16.72

On going through the above table, it is to be noted that only in the case of a person having income which does not fall in the tax bracket of 20 % or more, the tax liability consequent to this new dividend regime will be lower. In the case of a person who falls in the tax bracket of 20 %, the increase in liability will be ₹ 4.52 on every ₹100 received. In the case of a person in tax bracket of 30% and not liable to surcharge,

the increase in liability will be of ₹ 17.05 on every ₹ 100 received as dividend. In the case of a person having income of ₹50 lakhs and being liable to surcharge at the rate of 10%, the increase in tax liability on dividend income of ₹100 received will be ₹ 20.82. In the case of a person having income exceeding ₹ 5 crore and dividend income exceeding ₹10 lakhs, there will be increase in tax liability of ₹16.72 on every

₹ 100 received as dividend income exceeding ₹10 lakhs.

b. Effective tax rate on companies to go up substantially under new regime of dividend taxation

It may also be relevant to analyse the effective tax rate on the company including its shareholder consequent to the proposed changes in the dividend tax regime. The same may be understood from the below table:

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Particulars	Old Regime: Requirement to pay DDT	New Regime: No requirement to pay DDT
	Company whose turnover exceed ₹ 400 crore in F.Y. 2017-18	
Tax rate	30%	30%
Surcharge on income exceeding ₹ 10 Crore at the rate of 12%	12%	12%
Tax and Surcharge	33.60%	33.60%
Health and Education cess at the rate of 4% of tax and surcharge	1.34%	1.34%
Total tax	34.94%	34.94%
Balance income [100 -total tax]	65.06%	65.06%
Amount available for distribution to the shareholder (including DDT to be paid)	65.06	65.06
Dividend distribution tax @ 20.56% on net dividend distributed (applicable under old regime)	11.09	-
Dividend distributed to the shareholder	53.97	65.06
Tax @10% plus surcharge @ 37% and cess @ 4% in the hands of the shareholder on dividend received exceeding ₹10 lakhs under section 115BBDA (applicable for old regime)	7.69	
Tax @30% plus surcharge @37% and cess @ 4% in the hands of the shareholder on dividend income assuming the maximum marginal rate of tax (applicable for new regime)		27.81
Net income in the hands of the shareholder	46.28	37.25
Effective Tax Rate	53.72%	62.75%

As per the table above, a company presently is liable for tax at the effective rate of 53.72 % assuming that shareholder is liable to pay tax on dividend income exceeding ₹ 10 lakhs as well. Under the proposed dividend taxation

regime, this tax rate will increase to 62.75 %. Thus, for every ₹ 100 earned by such company only ₹ 37.25 will be net income available in the hands of the shareholder. Even in the case of a company which opts for the

tax rate of 22 % (effective tax rate of 25.17 %) the net tax rate will increase from 46.77 % to 57.16 %. The net income available to a shareholder for every ₹ 100 earned by the company will be ₹ 42.84. This can be seen from the below table:

Particulars	Old Regime: Requirement to pay DDT	New Regime: No requirement to pay DDT
	Company who opts to pay tax at concessional rate under section 115BAA	
Tax rate	22%	22%
Surcharge on income exceeding ₹10 Crore at the rate of 12%	10%	10%
Tax and Surcharge	24.20%	24.20%
Health and Education cess at the rate of 4% of tax and surcharge	0.97%	0.97%
Total tax	25.17%	25.17%
Balance income [100 -total tax]	74.83%	74.83%

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Amount available for distribution to the shareholder (including DDT to be paid)	74.83	74.83
Dividend distribution tax @ 20.56% on net dividend distributed (applicable under old regime)	12.76	-
Dividend distributed to the shareholder	62.07	74.83
Tax @10% plus surcharge @37% and cess @ 4% in the hands of the shareholder on dividend received exceeding ₹10 lakhs under section 115BBDA (applicable for old regime)	8.84	
Tax @30% plus surcharge @37% and cess @ 4% in the hands of the shareholder on dividend income assuming the maximum marginal rate of tax (applicable for new regime)		31.99
Net Income in the hands of the shareholder	53.23	42.84
Effective Tax Rate	46.77%	57.16%

Further, a company as on date is required to spend 2% of its profit towards corporate social responsibility (CSR) in case profit is more than ₹ 5 crore or more as per the provision of Section 135 of Companies Act, 2013. It is also important to note that no deduction of this CSR expenditure is allowed while computing business income. Thus, the CSR obligation of 2% is like an additional tax or cess and hence the net income in the hands of the shareholder get further reduced to that extent.

c. Abolition of dividend distribution tax to benefit multinational companies.

Though the above analysis indicate that switching over from dividend distribution tax to tax dividend income in the hands of the shareholder will be disadvantageous to almost all domestic shareholders, the same will however be advantageous to the overseas investors. At present dividend is distributed by the company to its shareholder after paying the dividend distribution tax. The credit of such dividend distribution tax paid by the company is not available to the overseas shareholder in their

Analysis indicate that switching over from dividend distribution tax to tax dividend income in the hands of the shareholder will be disadvantageous to almost all domestic shareholders, the same will however be advantageous to the overseas investors.

home country. In the new dividend tax regime, tax on such dividend income will be levied in India in the hands of the shareholder with the result that such overseas shareholder will be eligible to take credit of the tax so paid on its dividend income in India against the tax liability on such dividend income in its home country. Further, the tax rate on dividend income in the hands of the overseas shareholder is much lower in view of the tax rates on such dividend income being prescribed in the Double Taxation Avoidance Agreement (DTAA). The tax rate on dividend income under various DTAA ranges from 5% to 15%.

d. Buy back of shares apparently to be a better option than distribution of dividend.

With the proposed change of taxing dividend income in the hands of shareholder where tax rate on such dividend income goes as high as up to 42.74%, it may be advisable that in the case of companies predominantly owned by the promoters, such companies should opt for buy back of shares rather than distribution of dividend. As per provision of Section 46A, on purchase by the company of its own shares from the shareholder, the difference between the cost of acquisition and the value of the consideration received by the shareholder is deemed to be the capital gain arising to such shareholder. However, such capital gain is exempt under section 10(34A) in the hands of the shareholder if the company under section 115QA is required to pay tax on the income distributed income to the shareholder on buy back of its shares. This tax rate is 20%. This distributed income is the difference of the amount paid

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by the company on buy back of shares and the amount which was received by the company for issue of such shares determined as per Rule 40BB. Thus, the tax liability on buy back of shares that is required to be paid by the company at the time of buy back of the shares is much lower as compared to the tax on dividend income under the new regime of dividend taxation as can be seen from the following table :

Tax implications under dividend model after abolition of DDT		Tax implications under buy back model	
Particulars	Amount	Particulars	Amount
Dividend Distributed	123.30	Total amount allocated for buy back of shares	123.30
Tax on dividend income in the hands of the shareholder @ 42.74%	52.70	Tax to be paid by the company under section 115QA of buy back of shares	23.30
Net income in the hands of shareholders	70.60	Net income in the hands of shareholder	100.00

It may be relevant to point out that under the provisions of the Companies Act, a company can buy back its paid up equity capital and the amount of the buy-back should not exceed 25 % of the aggregate paid up capital and free reserve of the company with a restriction of no further issue of share capital within a period of six months except by way of bonus issue. Further, no buy back can be made within a period of one year from the date of closure of the preceding offer of buy back. Considering the above provision, a company can plan to make an offer of buy back to the extent it intends to declare and pay dividend. On such income being distributed by way of buy back of shares, company will be required to pay tax at the rate of 20 % (effective tax rate 23.30 %) under section 115QA. The amount so received

by the shareholder on buy back of share will be exempt under section 10(34A) of the Act. The benefit of this concessional rate of tax under section 115QA can now be availed by both listed and unlisted companies. In the case of listed companies, where the promoters want to retain certain prescribed percentage of holding and consequent to buy back of shares, there may be a possibility of reduction in such holding, such reduction can be recouped

by such promoter through purchase of share through open market post buy back of shares by the company. Further, in case consequent to such buyback of shares regularly, there is an overall reduction in the paid up capital of the company, the same can also be recouped by issue of bonus shares.

B. CHARITABLE TRUSTS

1. All existing charitable trusts/institutions to apply for re-registration.

The Finance Bill, 2020 has proposed far reaching amendment in respect of all charitable trusts/institutions claiming exemption under section 10(23C) or under section 11 of the Income-tax Act. At present a charitable trust or institution is required to obtain registration under section 12A at the time

of its inception and one such registration is granted, the same is valid till such time it is withdrawn or cancelled under section 12AA(3) or Section 12AA(4) of the Act. It has now been proposed in the Finance Bill, 2020 that the provision of Section 12AA shall not be applicable on or after 1st June, 2020. Further, a new clause (ac) has been inserted in Section 12A w.e.f. 1st June, 2020 providing that where the trust or institution is registered under section 12A or under section 12AA, it shall be required to make an application in the prescribed form to the Principal Commissioner or Commissioner for registration of trust within three months from 1st June 2020 and such trust or institution should obtain registration under section 12AB. Thus, all existing trusts or institutions which are registered under section 12A or Section 12AA will mandatorily be required for re-registration within a period of three months starting from 1st June, 2020 i.e. upto 31st August, 2020 and obtain registration under section 12AB. However, it has been provided under section 12AB that in such cases where the trust/institution is already registered under section 12A or Section 12AA and such application is made as is required under the above clause, registration shall be granted by the Principal Commissioner or the Commissioner by passing an order within a period of three months from the end of the month in which the application was received and such registration shall be valid for a period of 5 years. This amendment will require every trust or institution which are registered to apply again and in case such application is not made, then, by implication, the registration shall stand cancelled

on the expiry of three months i.e. 31st August, 2020 with the result that such trust or institution shall not be eligible for claiming exemption in respect of its income under section 11 of the Act. Further, as per Section 115TD of the Act, such trust or institution shall be required to pay tax on the aggregate fair market of the total assets of the trust or the institution as on 31st August, 2020 which exceeds the total liability of such trust on that date. The tax payable on such value shall be at the maximum marginal rate. This provision can have a far reaching implication on many of the trusts or institutions which though may not be having much income but may be having assets by way of properties etc. which are rented out at a very old nominal rate in case such trust or institution fails to apply again and obtain registration under this new Section 12AB of the Act.

It is to be noted that there is no threshold exemption and all trusts or institutions registered will have to mandatorily apply for re-registration. There may be many trusts or institutions which may not be functional or defunct or having some disputes and despite there being no income during the year, such trusts or institutions will still become liable to pay tax on the fair market value of the assets exceeding the liability held by it consequent to the applicability of Section 115TD in the absence of registration.

Further, it has been provided that a trust or institution which has been registered under new Section 12AB it shall be required to apply for re-registration at least six months prior to the expiry of the period of registration i.e. 5 years. Thus, there will be an obligation on trust registered to apply for re-

registration at least six months prior to the expiry of the period of registration of 5 years. It is to be noted that at the time of re-registration, the Commissioner shall call for such documents or information and make enquiry to satisfy himself about the genuineness of the activities of the trust or institution and also the compliance of such requirement of any other law for a time being enforced by the trust or institution which may be material for the purpose of achieving its object. It is only after being satisfied about the objects of the trust, the genuineness of the activities of the trust and the compliance of the requirement of any other law for the time being enforced that the Commissioner shall pass an order granting registration under section 12AB. Such order of re-registration shall also be for a period of five years only and such trust shall again be required to apply for re-registration at least for six months before the expiry period of re-registration of five years. Such order of registration or re-registration can be passed by the Commissioner within a period of six months from the end of the month in which the application for registration or re-registration is made.

Apparently, there was no reason for asking re-registration of such trust and then to restrict the registration for a period of 5 years. All these trusts or institutions are managed by part-time/retired persons and do not have much resources or access to professional advice. Thus, to expect from such trusts or institutions, a high level of compliance apparently is not desirable. As analysed above, the implication of registration being cancelled are far reaching i.e. tax

Practically it may not be possible for a new trust or institution to make an application one month prior to the previous year for which registration is sought.

at the maximum marginal rate on the fair market value of the net worth of the company in view of provision of Section 115TD of the Act.

2. Provisional registration to a new trust or institution

The Finance Bill, 2020 has proposed to grant provisional registration to a new trust or institution. The application for such registration has to be made at least one month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought. On making such application, an order shall be made granting provisional registration for a period of three years from the assessment year from which the registration is sought. This order shall be passed by the Commissioner within a period of one month from the end of the month in which the application was received. Further, it has been provided that such trust or institution which has been provisionally registered, it shall apply for regular registration at least six months prior to the expiry of the provisional registration or within six months of commencement of its activities whichever is earlier. On application so filed by such trust or institution, the Commissioner will follow the same process as is for re-registration i.e. calling for document and information etc.

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It may be relevant to point out sub-clause (vi) of clause (ac) of Section 12A(1) in the Finance Bill, 2020 has put a condition of making an application one month prior to the commencement of the previous year relevant to the assessment year from which the registration is sought. This clause is intended for new trust or institution. However, practically it may not be possible for a new trust or institution to make an application one month prior to the previous year for which registration is sought. Take a case that in case a trust is created in May, 2020 and it needs a registration in respect of the activities which include donation received in the financial year (previous year) 2020-21. As per the condition of this clause (vi), in order to be eligible to claim exemption in respect of donation received during this financial year 2020-21, it ought to have applied for registration one month prior to the beginning of the previous year 2020-21 i.e. in February 2020. This is practically impossible as the trust itself has come into existence in May, 2020. Apparently, there appears to be a drafting error. The requirement should be to make an application within one month from the beginning of the assessment year. This will take care of the trust or institution which get registered in the last month of the financial (previous year) say March, 2021 and it receives donation in the month of March 2021 itself on which it will be claiming exemption. Thus, a period of one month from the end of the previous year or one month from the beginning of the assessment year will be the right condition rather than one month

prior to the commencement of the previous year.

3. Approval under section 10(23C) to be obtained again.

The Finance Bill, 2020 has proposed similar amendment as in the case of trusts or charitable instructions under section 12A (ac) and 12AB in respect of trust or institution claiming exemption under section 10(23C). All such trusts or institutions shall be required to apply for approval again within a period of three months from 1st June, 2020 i.e. by 31st August, 2020 and the approval so given shall be for a period of five years. The approval shall be granted for a period of 5 years and it has to be renewed again after a period of 5 years by making an application at least 6 months prior to the expiry of the registration period of 5 years.

4. Approval under section 80G also to be obtained again.

The Finance Bill, 2020 has proposed similar amendment in respect of the approval under section 80G. As per the amendment, all trusts or institutions which have obtained approval for the purpose of the deduction under section 80G shall be required to apply again for seeking approval within three months from the first day of June, 2020 i.e. 31st August, 2020. In case such approval is not applied, then donation made to such trust or institution shall not be eligible for deduction under section 80G. Such approval shall be for a period of 5 years and has to be applied again at least 6 months prior to the expiry of the period of registration. The Commissioner shall follow the same process as is proposed for renewal of registration under section 12AB i.e. calling for

document and information, making enquiry about the genuineness of the activities of the trust or institution and fulfilment of all the conditions stated in Section 80G(5).

5. Trust or institution to file annual statement of donation.

The Finance Bill, 2020 has proposed to insert Clause (viii) and (ix) in Section 80G (5) requiring trust or institution approved under section 80G to file statement of donation received and also to issue the certificate to the donor. It has been further stated that deduction on account of donation under section 80G shall be allowed to the donor only on the basis of the statement filed by the donee trust or institution. The statement has to be filed in the prescribed form and within such time as may be prescribed by the Rules. In case of delay in filing such statement a late fee of ₹ 200 per day shall be applicable under newly inserted Section 234G of the Act. Further, a penalty under section 271K, which shall not be less than ₹ 10,000/- and which may extend up to ₹ 1.0 lakh shall be leviable if the trust or institution fails to file such statement.

All the above amendments relating to charitable trust or Institution shall be effective from 1st June, 2020.

C. International Taxation

1. Period of stay for non-resident Indian being reduced from 182 days to 120 days.

As per the provisions of Section 6(1) of Income-tax Act, an individual is said to be resident of India if he has been in India for a period of 182 days or more. Further, an individual is also considered to be resident if

during the year he has been in India for 60 days or more and such person has been in India within the last four years for a period of 365 days or more. On fulfilling of either of the above condition, an individual is considered to be a resident in India. However, in order to give concession to citizens of India, in the existing Explanation below this Section 6(1), it has been provided that a citizen of India who leaves India in any previous year as a member of the crew of Indian ship or who leaves India for the purpose of employment outside India, then the second condition of 60 days stay in India, in case he has been in India for 365 days or more in the four preceding years, will be relaxed and such Indian citizen will not be considered as resident if he is in India for less than 182 days during the year despite the fact that such individual has been in India for 365 days or more in the preceding four years. This relaxation is applicable in the first year when an Indian citizen leaves India to become non-resident.

In the case of citizens of India and person of Indian origin who have become non-resident, the above Explanation further gives a relaxation to such citizens of India on similar lines. For such non-resident citizen of India who being outside India comes on a visit to India in any year, such Indian citizen will not be considered to be resident of India if the stay in India is less than 182 days despite the fact such Indian citizen was in India for 365 days or more in the preceding four years. This relaxation has been given only to citizen of India considering the fact that Indian citizen may be required to visit India frequently for social obligation, health, taking care

of the parents etc. The Finance Bill, 2020 has now proposed an amendment whereby the visit of Indian citizen who are non-resident has been restricted to less than 120 days in a year. Accordingly, Indian citizen who are non-resident their stay in India during the year has to be less than 120 days in order to maintain the status of non-resident if they have been in India for a period of 365 days or more during the preceding four years. This amendment will affect the frequent visit of the non-resident Indian as non-resident Indian will have to restrict their stay in India to less than 120 days, otherwise such non-resident Indian will be considered as resident and liable to pay tax on global income.

This may cause hardship to many non-resident Indian citizen as well as person of Indian origin if they have to stay in India for period of 120 days or more on account of health, social obligation, taking care of the parents or any other contingency. This may ultimately also reduce bonding of non-resident Indian citizen settled abroad with India. The country has been greatly benefited by the contribution of Indian citizen settled abroad. This amendment has been proposed on the reasoning that the period of 182 days is being misused by many individuals who are actually carrying out substantial economic activities from India and such individual manage their stay in India, so as to remain a non-resident and hence are not required to declare their global income in India. Though there may be many such individuals which may be managing their period of stay of less than 182 days so as to avoid paying tax on global income in India but merely on that reasoning the law

should not be changed as it will affect not only these individuals who are misusing such provision, but also all non-resident Indian citizens who are not misusing this provision but are otherwise required to be in India on account of health, social obligation, taking care of the parents or any other contingency. Further, the objective of collecting tax on global income from those individuals who manage their period of stay in India to avoid paying tax on global income in India will still not pay tax on global income as such individual will now manage their period of stay in India of less than 120 days as against less than 182 days at present for avoiding payment of tax on global income in India. It may be relevant to point out that this period of 182 days has been reduced to 120 days in the case of the citizen of India or person of Indian origin who having been outside India comes on a visit to India. The period of 182 days shall continue to apply in respect of citizen of India in the first year when they become non-resident when they leave India as a member of the crew of the ship or for the purposes of employment outside India. Thus, in the first year the benefit of 182 days will still be available but after first year the period of stay in India has to be less than 120 days for Indian citizens and persons of Indian origin in case such non-resident wants to continue to enjoy the status of non-resident.

2. Indian Citizens to be deemed resident of India.

The Finance Bill, 2020 has proposed an amendment in Section 6 by inserting sub section (1A) whereby an Indian Citizen i.e., irrespective of the fact that such Indian citizen was not in India for more than

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182 days during the year, such Indian citizen will be deemed to be a resident of India and consequently liable to pay tax on global income, if such Indian citizen claims that he is not liable to tax in any other country by reason of his domicile / residence or any other criteria of similar nature. The objective of this amendment has been stated to tax such Indian citizens who claim themselves as stateless persons as it is possible for an individual to arrange his affairs i.e. stay in the various countries in the manner that he does not become resident of any country during the year and hence not liable to pay tax on its income in any of the country. This amendment will have far reaching implications on all Indian non-residents despite the fact such non-residents may not be liable to be considered as resident of India.

Now, the first implication will be that of jurisdiction on all such Indian non-residents of Indian Income Tax Officer. If any person is an Indian Citizen and despite the fact such person is non-resident of India and bonafide resident of any other country even say USA or Europe, the Income tax officer with this amendment has got a jurisdiction on all Indian non-resident Citizens to issue notice and ask for details of global income and evidence of payment of tax on such income in one or other country. If tax has not been paid on any part of the global income, then Income Tax Officer can ask why the same has not been paid and if such Indian non-resident claims that he has not been paid tax because he has earned income in a country where it is not taxable and if he is not resident of that country, then this clause may get invoked. Thus, the implications of the amendment will be:

1. Jurisdiction of Indian Income Tax Officer to question all Indian non-residents
2. To ask details of all global income from Indian non-residents which will include bank accounts and investments outside India.
3. To ask all Indian non-residents to establish of which country such Indian person were residents during the relevant year.
4. To demonstrate tax has been paid in the country of their residence on all global income by such Indian non-residents.
5. If tax has not been paid on any part of global income, to explain why and on which ground it has not been paid.
6. If tax has not been paid on any income on the ground that he is not domiciled/ resident of that country where such income has been earned, then Indian Tax officer will consider such person as deemed resident under this proposed amendment.
7. If a person is considered as deemed resident of India, such person under Indian Income Tax becomes liable to pay tax on all global income in view of provision of Section 5(1) of the Income-tax Act, whereby a resident is liable to pay tax on entire global income.

The above analysis shows that the most crucial implication of the proposed amendment is jurisdiction/ right of Income Tax officer to question all Indian non-residents, to seek details of global

income and shifting of onus on all such Indian non-residents to demonstrate whatever income he has earned, he has paid tax on such income in one of the country, otherwise the same will be liable for taxation in India. It is further important to note that the clarification issued by CBDT on 2nd February, 2020 to allay above apprehension has not only added to the confusion but goes against the provision of Income-tax Act applicable as on date.

The clarification issued by CBDT states that *"in case of an Indian citizen who becomes deemed resident of India under this proposed provision, income earned outside India, shall not be taxed in India unless it is derived from an Indian business or profession"*.

The above clarification is contrary to the provision of Section 5(1) of the Income-tax Act. There is no such provision whereby in the case of a resident of India which will include deemed resident that income earned outside India will not be taxable and only income derived from an Indian business or profession will be taxable. The deeming fiction proposed in the Finance Bill, 2020 doesn't state so. The proposed amendment states that such Indian resident will be a deemed resident. Once a person is deemed to be resident of India, under section 5(1), such person will be liable to pay to tax on its global income which includes not only income earned in India but also income earned abroad. It cannot be said that in such case, only income derived from an Indian business or profession only will be taxed in India. The resident has to pay tax on entire income from all sources whether

earned in India or abroad. Once a deeming fiction is created that the person is deemed to be resident, then all consequences have to follow. Further, under existing law also, every non-resident irrespective of his citizenship is required to pay tax on all income earned in India. It can't be interpreted that such person will be required to pay tax only on income derived from business or profession in India. It is to be noted that it is only in the case of resident but not ordinary resident that the income derived from a business controlled in or a profession set up in India is taxable in India. But this status of resident but not ordinary resident has another condition that such person should be non-resident in 9 (proposed to be reduced to 7) out of 10 preceding years. Thus, the benefit of this clause may not be applicable to all the non-residents who may be considered as deemed residents under the proposed amendment. Further, the use of the word "bonafide" in the clarification further gives an authority to Income Tax officer to challenge the status of non-resident. The proposed amendment and the clarification can have serious implications by interpreting that all those Indian Citizens who are not liable to pay tax in the country of their residence, as deemed resident of India and being asked to pay tax in India even on income earned in the country of residence of course subject to benefit of tax credit in respect of tax, if any, paid outside India in such income. This may lead to a situation where such Indian may surrender Indian Citizenship and obtain Citizenship of any other country so as to avoid all such complications.

This amendment may be beneficial to many expats who come to India for employment as these expats will be able to enjoy the status of resident but not ordinary resident for a period of 4 years from the year they become resident in India and consequently will not be required to pay tax on their global income during this extended period of 4 years of resident but not ordinary resident.

3. Period of Not Ordinarily Resident extended to 4 years.

As per the provision of Section 6(6) an individual and HUF is considered to be not ordinarily resident in India during the year if such individual or Karta of such HUF has been a non-resident in 9 out of the 10 preceding years or has been in India for a period of less than 730 days during the preceding 7 years. Further as per the proviso to Section 5(1) such resident is not liable to pay tax in respect of income which accrues or arises to him outside India during the year except such income which is derived from a business controlled in or a profession set up in India. The Finance Bill, 2020 has proposed to give extended period of this status of not ordinarily resident by considering the status as not ordinarily resident if such person has been non-resident in 7 of the 10 preceding years as against 9 of the 10 preceding years at present. The other condition of a period of less than 730 days during the

preceding 7 years is proposed to be deleted. With this relaxation such person i.e. an individual or HUF can have a status of not ordinarily resident for a period of four years as against two years at present. During this period when the status is that of not ordinarily resident such person shall not be required to pay tax on income which accrues or arises to him outside India during the year except income derived from the business controlled in or a profession set up in India. This amendment may be beneficial to many expats who come to India for employment as these expats will be able to enjoy the status of resident but not ordinary resident for a period of 4 years from the year they become resident in India and consequently will not be required to pay tax on their global income during this extended period of 4 years of resident but not ordinary resident.

D. TAX COLLECTION AT SOURCE (TCS)

1. TCS on Overseas Remittances.

The Finance Bill, 2020 has widened the scope of tax collection at source by inserting a new sub-section (1G) in Section 206C whereby, every person, being an authorised dealer, who receives an amount of ₹ 7 lakh or more in a financial year for remittance out of India from a buyer under Liberalized Remittance Scheme of the RBI shall be required to collect tax at source at the rate of 5% at the time of debiting the amount to the buyers or at the time of receipt of such amount from the buyer by any mode whichever is earlier. In case of non-furnishing

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of PAN or Aadhaar by such buyer, the tax shall be required to be deducted at 10% under section 206CC of the Act. It has been clarified that in case the nature of the payment is liable for deduction at collection at source or any other provision of the Act, then tax shall not be required to be collected at source on such payment.

This amendment will have far reaching implication as remittance being sent by all residents for the various purposes including education of children, medical treatment or investment otherwise shall be liable for tax collection at source. The objective for introducing this scheme apparently has been stated that many of such persons who send such remittances are not filing tax returns. In case this is one of the reasons, then the compliance of the same could have been easily achieved by widening the scope of Section 139(1) making it mandatory for such person to file tax return rather than collecting tax at source from such person. In case such person is not liable for tax, there is no reason why tax should be collected at source. This will not only increase the compliance burden of the authorised dealer and the remitter but also increase the paper work as many of these persons will be seeking certificate of no deduction or lower deduction under section 197 or asking for refund of the tax so collected at source. This amendment shall be effective from 01.04.2020 and as such tax shall be required to be collected under this provision from 01.04.2020.

2. TCS on Overseas Tour Package.

The Finance Bill, 2020 under the above new sub-section (1G) of Section 206C has also proposed for collection of tax at source by the seller of overseas tour program package to collect tax at source at the rate of 5% at the time of debiting the amount to the purchase of the overseas tour program package or at the time of receipt of such amount, whichever is earlier, at the rate of 5%. In case of non-furnishing of PAN or Aadhaar by such buyer, the tax shall be required to be deducted at 10% under section 206CC of the Act. It is to be noted that no threshold has been fixed in respect of overseas tour program package, meaning thereby that for every small payment made, the seller shall be required to collect tax at source. The scope of overseas tour program package is also very wide as its meaning has been defined to mean any tour program which offers visit to a country or territory outside India and include expenses for travel or hotel stay or boarding or lodging or any other expenditure of similar nature or in relation thereto. The above definition apparently mean that this provision shall be applicable not only when there is a package which include both travel and stay but will also be applicable when the payment is either for travel or stay or any other expenditure of any similar nature are incurred. Thus, apparently on purchase of ticket for overseas travel also, this provision will be applicable. However, it has been clarified that in case the nature of the payment is liable for deduction at collection at source

or any other provision of the Act, then tax shall not be required to be collected at source on such payment. Thus, while making payment to the tour operator, in case the tax is being deducted of the tour operator by the payee under section 194C of the Act, then tour operator shall not be obliged to collect tax at source in respect of such payment. This amendment shall be effective from 01.04.2020 and as such tax shall be required to be collected under this provision from 01.04.2020.

3. TCS on Sale of Goods

The Finance Bill, 2020 has proposed a new sub-section (1H) under section 206C requiring every seller whose total turnover in the business carried on exceed ₹ 10 crore in the preceding financial year to collect tax at source at the rate of 0.1% of the sale consideration exceeding ₹ 50 lakhs in respect of sale of any goods. Thus, under this provision, every seller whose turnover has been more than ₹ 10 crore in the preceding year will be required to collect at source, from every buyer on purchase of goods by such buyer if the total purchases by such buyer exceeds ₹ 50 lakhs. It may be noted that the tax is required to be collected only in respect of the sale value exceeding ₹ 50 lakhs during the year. In case such buyer does not have the PAN Number or Aadhar Number, then the rate of collection shall be 1% under section 206CC of the Act.

This provision has far reaching implication as the scope is to wide and the magnitude of implication can be understood from the fact that business entities having turnover exceeding ₹ 10 crore will be liable to collect tax at

source from all the buyers whose purchases during the year is more than ₹ 50 lakhs. This will mean that on each and every invoice, where the sale exceeds ₹ 50 lakhs, there will be a separate charge of TCS from such buyer. The seller shall be required to maintain an account of the TCS collected, issue TCS certificate, file statement of such tax collected. The buyer on its own will be required to maintain the account of TCS paid by it, the credit of the same in the statement filed by the seller and claim of such TCS in the tax return. This procedure will be applicable for each and every invoice. It need to be emphasised that the volume of work and compliance requirement will be more than the volume of work and compliance under GST which itself is finding difficult to cope with the volume of work. In the present case of TCS, the requirement will be on all goods whether the same are liable for GST or not. Take the case of a milk, vegetable, cereals traders/distributors. A local milk supplier will be buying its entire supply of milk from the vendor say Mother Dairy. Its purchases in the year are bound to be more than ₹ 50 lakhs from Mother Dairy and turnover of Mother Dairy itself will be more than ₹ 10 crore. Now, under this proposed law, the Mother Dairy on each invoice will be levying TCS at the rate of 0.1 %. Mother Dairy will be required to issue TCS Certificate and such TCS credit will be reflected in 26AS. The number of entries for each person will run into hundreds and there will be requirement of reconciliation. Similar will be the case of other such products. Though in the proposed Section, an enabling

provision has been made to exempt certain categories but the fact remains that this will affect each and every person carrying on business. One need to consider that in many trades, there is only one supplier and the purchases from such supplier are far more than ₹ 50 lakhs.

The implication can be understood with another example of Oil Company like Indian Oil Corporation. With a turnover of about ₹ 6 lakh crore, it will be collecting TCS from each of its distributor to whom it is supplying oil and the supply of the oil to each of its distributor will exceed ₹ 50 lakhs. Then the distributor will further make the sale to the wholesaler. The distributor then will collect TCS from the whole seller and on each invoice, there will be a separate charge of TCS like GST. The wholesaler on its part will sell to the petrol pump dealer and in turn will levy TCS on each of the invoice raised on the petrol pump dealer. The purchase of each petrol dealer is more than ₹ 50 lakhs. In this process, on each and every subject of the transaction, the TCS will get collected. This will have huge impact not only on the paper work compliance obligation but will also have serious impact on the working capital.

In many of the businesses, the margins are less than 0.1% and particularly in wholesale trading businesses, the margin is less than 0.1%. In these cases, the TCS collected may be more than the total income raising serious issue about the fund flow. The GST having been introduced and there being a complete trail available particularly in respect of

the transaction which aggregates ₹ 50 lakhs or more, there is no justification to introduce this provision so as to increase the compliance obligation on the trade which otherwise is finding difficult to cope with the compliance provisions under the GST Law. Contrary to introducing such obligation, there is a need to consolidate the compliance under the various statute. The information available under one statute should be used in the other statute rather than asking that information again in the other statute. It will be ideal that tax returns under the various laws are integrated and businessman is required to submit one consolidated return rather than filing so many returns. It appears that while drafting this provision, one has not considered the volume of work and the manpower required for compliance of goods of such provision.

This amendment shall be effective from 01.04.2020 and as such tax shall be required to be collected under this provision from 01.04.2020.

E. Vivad se Vishwas Scheme.

The Finance Minister introduced Direct Tax Vivad se Vishwas Bill, 2020 in the Parliament for resolution of pending tax disputes. Subsequently, there were a number of issues raised in relation to the said scheme. Consequently, the Cabinet approved a number of changes to resolve such issues. Under the revised proposal of Vivad se Vishwas Scheme, a taxpayer is only required to pay the amount to be determined in accordance with the Scheme as a full and

final settlement in respect of the dispute. The appeal in relation to the dispute shall be deemed to have been withdrawn and no further proceedings would be initiated in respect of such dispute.

Issues which need further consideration

The amended Vivad se Vishwas scheme has addressed many of the issues that emanated from the Scheme presented initially. However, the Scheme has still not addressed few other issue i.e dispute at AO's level and dispute which assessee believes may arise in future, exclusion of disputes set aside by ITAT/ High Court or Supreme Court, exclusion of cases of revision under section 263. The same are discussed hereunder:

a. Cases pending before AO or where similar disputes are likely to arise in future

Only those cases where appeals are pending before the appellate forums have been covered. Disputes that are pending with the Assessing Officer have not been covered in the scheme. Exclusion of such cases and not giving an option to settle disputes which are before Assessing Officer doesn't appear to be a good idea. Ideally, when settlement of disputes is the objective, the scheme should have been extended to cover all disputes and also such disputes that are likely to occur. There is a possibility that in one year, the dispute has reached to appeal level, and similar issue in next year is at Assessing Officer's level and further similar dispute will come up in subsequent year because of stand taken by the Assessing Officer in the

earlier year for which appeal is pending. If one goes for this scheme, he will only be able to settle disputes of such years for which the appeal is pending. However, similar issues which in all likelihood will come up in future because of the stand taken by the Assessing Officer in earlier year will remain pending and entail unnecessary litigation in subsequent years. Ideally, option should have been given to settle all disputes not only where the appeals are pending but also where assessee visualises such dispute in subsequent years. This would have not only encouraged people to come out clean once and for all and avoid unnecessary litigation in future on similar issues but would also have enhanced revenue collection. Voluntary compliance considering dispute may arise will be far more effective as against later on enforcement mechanism which may be able to identify only a few cases and take action and ultimate recover taxes. The number of cases coming up voluntarily and tax so recovered will be much higher. This will also ensure reduced litigation in future as well. It may be relevant to point out that in the Sabka Saath Sabka Vishwas Scheme of Indirect taxes, there was an option to the declarant to pay taxes in respect of anticipated disputes and one of the reason for the success of this Scheme was resolution of anticipated disputes. Accordingly, the scope of Vivad se Vishwas Scheme needs to be expanded so as to include declaration in respect of anticipated disputes in respect of the returns already filed by the taxpayer. In such cases, the declarant will clearly state the issue and the amount

involved and pay taxes thereon. In case of any dispute arising in future, the declarant will get immunity in respect of the issue and to the extent of the amount stated in the Declaration. This will encourage many taxpayers to settle anticipated disputes and will ensure that the number of disputes in the coming years also do not rise much. This enabling provision may itself bring additional revenue of at least ₹ 100,000 crore which otherwise may be difficult to realise despite best of enforcement mechanism provided in the Act.

b. Cases set aside by ITAT, High Court or Supreme Court.

In the revised scheme, orders for which time for filing appeal has not expired as on 31st January, 2020 has been included. However, those disputes which have travelled to an Appellate Forum earlier and has been set aside by the Appellate Forum to the Assessing Officer for one reason or the other have not been included. Similarly there may be cases where assessment orders have been set aside by the Commissioner invoking its powers of revision under section 263 of the Act. A dispute having arisen and the same being subject matter of the appeal, set aside of the same to the AO is a continuing process of appeal. The objective of the scheme is to put an end to the litigation. Accordingly such cases which have been set aside by the Appellate Forum to the AO need to be included in the scheme. It may be important to point out that these cases will be older than the ordinary appeals having travelled at least once to the Appellate Forum and being

In tax rate of 78% under section 115BBE, the element of penalty is already included, as penalty in such cases is limited to 10% of the income in dispute as against 30% to 90% of the income in the other cases.

back to the AO. This will help in putting quietus to the old litigations.

c. Need to reduce tax rate applicable for dispute on income liable for tax under section 115BBE.

The Taxation Laws (Second Amendment) Act, 2016, has amended the provision of Section 115BBE increasing the tax rates applicable on the income in respect of cash credits i.e. unexplained share capital, loan and unexplained investment in money, bullion, jewelry, etc. to 60%. Further, the Finance Act has provided surcharge applicable on such income at the rate of 25% of the tax and cess at the rate of 4% with the result the effective tax rate on such income is 78% from assessment year 2017-18 onwards. A large number of disputes has arisen and are pending in appeals on the issue whether the additions made are justified or not and further, such additions falls within the meaning of income stated in this Section 115BBE so as to be liable for higher rate of tax i.e. 78%. In order to encourage settlement of such disputes, it is imperative that the tax rate is commensurate and at par with the tax rate applicable on other income. As per the Scheme, in the

ordinary case, howsoever grave the case may be, the assessee is required to pay only tax and on payment of such tax, the interest and penalty get waived off. In tax rate of 78% under section 115BBE, the element of penalty is already included, as penalty in such cases is limited to 10% of the income in dispute as against 30% to 90% of the income in the other cases. When this penalty of 30% to 90% is being waived, there is justification that the penalty component included in the tax rate of 78% in Section 115BBE be also reduced appropriately. Thus, in the case of the income in dispute on which tax rate has been applied under section 115BBE, instead of asking 100% of the tax, 50% of the tax may be asked for settlement of the dispute under this Scheme. This will be in line with the proposed Scheme where a higher rate of 125% of tax has been proposed in search cases and lower rate of 50% has been proposed in the case where Department is in appeal. Further, this will also remove discrimination of different tax rates on similar nature of income. The addition in dispute in respect of unexplained cash credit/investment for AY 2016-17 and earlier years can be settled by paying 30% tax whereas the similar addition for AY 2017-18 onwards have to be settled by paying tax at the rate of 75%. It may also be relevant to point out that this amendment was made on 16.12.2016 i.e. when 9 months of the year had already passed. This reduction in the tax rate will go a long way in settling dispute in appeals which have come in large numbers in January 2020 itself and revenue collection on this account itself will at least be 25,000 crore.

d. Additional 10 % tax post 31.03.2020 need to have nexus with the disputed tax in arrears.

As per the proposed Scheme, disputed tax at the rate of 100% is required in case payment is made on or before 31.03.2020. Similarly, penalty or fee at the rate of 25% is required to be paid before 31.03.2020. However, in case payment is not made by 31.03.2020, then, tax at the rate of 110% and penalty at the rate of 30% is required to be paid. The difference in payment of tax is of 10% and that of penalty is 20%. This provision does not take into account the tax already paid by the taxpayers. The requirement of paying additional tax of 10% should be limited to the amount of disputed tax in arrears as on 31.03.2020 rather than on the total disputed tax. There is a possibility that in the case of a declarant, the total disputed tax may be ₹ 200 lakhs and out of which, ₹ 190 lakhs would have been recovered and the balance tax payable may be only ₹ 10 lakhs as per the Scheme. In the case of such person, if a declaration is filed and payment is made by 31.03.2020, he will be required to pay just ₹ 10 lakhs. But in case, the declaration is filed after 31.03.2020, then such person will be required to pay ₹ 30 lakhs i.e. 110% of disputed tax of ₹ 200 lakhs which comes to ₹ 220 lakhs minus ₹ 190 lakhs already paid. Considering this fact, this additional tax of 10% be limited to disputed tax in arrear as on 31.03.2020 rather than the total disputed tax. Similarly, in the case of penalty, the additional liability should be restricted to 10% of 25% and not 20% of 25% to make the Scheme fair and equitable. ■

Finance Bill, 2020 - Key Provisions of Personal and Corporate Taxation

On the tax front, the Finance Bill 2020 proposes radical changes around various aspects like rule relating to residency, abolition of dividend distribution tax, TDS on e-commerce transaction and TCS on foreign remittance through Liberalised Remittance Scheme. With thrust on bringing greater transparency, this bill emphasises on digitisation and intends to plug in loopholes in terms of reporting and compliance. The Finance Bill, 2020 also proposes to simplify the tax structure and introduce a tax payer charter. The article highlights important changes proposed in the Finance Bill, 2020 relating to Personal and Corporate Taxation. Read on...



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New Personal Taxation Regime of Reduced Tax Rates

In line with the new regime of reduced corporate tax rates, Section 115BAC is being introduced with a new personal taxation regime with reduced tax rates in case of Individuals and HUFs. New tax slabs as compared to earlier slab rates are:

Income slabs (in ₹)	Rate of Tax (%) (under new regime)	Rate of Tax (%) (under old regime)
Upto 250,000	NIL	NIL
250,000 to 500,000	5	5
500,001 to 750,000	10	20
750,001 to 1,000,000	15	20
1,000,001 to 1,250,000	20	30
1,250,001 to 1,500,000	25	30
Above 1,500,000	30	30

Surcharge would continue to apply as earlier.

One can opt for new regime by foregoing certain prescribed deductions/exemptions such as deductions under chapter VIA (except employers' contribution to NPS and deduction under section 80JJAA), house rent allowance, leave travel concession, standard deduction, entertainment allowance, profession tax, additional depreciation, interest on loan with regard to self-occupied house property to name a few. Further, loss from let-out property shall only be eligible to be carried forward. It may be

noted that Alternate Minimum Tax (AMT) shall not apply in such cases.

To avail new tax regime Individual and HUFs (i) with no business income - can exercise this option every year at the time of filing of return under section 139(1); (ii) with business income - can exercise this option on or before due date of filing the return (option once exercised shall continue for that year and all subsequent years).

Having set a bar on claiming aforementioned deductions/exemptions, this scheme may be beneficial to taxpayers who have not been claiming many deductions earlier. On the contrary, there may be higher tax outflow under the new regime, as tax benefit on deductions may outweigh the benefit of reduced tax rates under the new regime.

In short, introduction of new regime of taxation has given a choice to the taxpayers to judiciously decide and minimise their tax outflow.

Changes in determination of residential status

- i. Indian citizen shall be deemed to be resident in India if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.

This amendment tries to bring in taxation based on citizenship. It is intended to curb the practice of an individual to arrange his affairs in such a manner that he is not liable to tax in any country or jurisdiction during a year. This could also

impact individuals who have permanently settled abroad or settled in countries having no income tax. Further, 'deemed to be resident' may have an impact on determining their residential status as ordinarily or not ordinarily resident in the subsequent years.

CBDT has issued press release dated 02.02.2020, stating that in such cases income earned outside India shall not be taxed in India unless it is derived from an Indian business or profession. Necessary amendment is required in this regard.

- ii. It is proposed to amend Explanation 1 to Section 6(1), wherein **Indian citizens or Person of Indian Origin** visiting India will be considered as resident if their stay is **120 days** (as against earlier limit of 182 days) or more in the current year.
On account of this change, individuals permanently settled abroad and visiting India will have to take note of their presence in India. Proposed amendment will also have a check on individuals who are actually carrying out substantial economic activities from India, but manage their period of stay in India, so as to remain a non-resident in perpetuity and not be required to declare their global income in India.
- iii. Now individual or HUF (whose Manager) would be considered as 'Not Ordinarily Resident' (RNOR) if he has been non-resident in India in **seven out of ten previous**

It is now proposed to introduce an aggregate monetary limit of ₹ 7,50,000 in respect of employer contribution to aforesaid schemes. Contribution in excess of this limit and annual accretion on such excess would be a taxable perquisite under section 17.

years. The amendment has done away with erstwhile conditions and one simplified condition has been introduced to ensure that a non-resident is not suddenly faced with the compliance requirement of a resident.

Taxation of employers' contribution to retiral benefits in excess of specified limits

Currently, employers' contribution to following retiral are taxable if

- Provident Fund contribution is in excess of 12% of salary; or
- NPS contribution is in excess of 14% of salary for CG employees and 10% in other cases; or
- Superannuation Fund contribution is in excess of ₹ 1,50,000.

It is now proposed to introduce an aggregate monetary limit of ₹ 7,50,000 in respect of employer contribution to aforesaid schemes. Contribution in excess of this limit and annual accretion on such excess would be a taxable perquisite under section 17.

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Increase in the threshold would reduce the compliance burden of small and medium enterprises on satisfaction of twin conditions of cash receipts and payments not exceeding 5% of total receipts/ payments. This is one more step towards achieving cash less economy.

Introduction of monetary limit would have an impact on employees in the higher income bracket. This could also lead to double taxation in the event withdrawal from such funds is also taxable. With this backdrop, employees may need to have a cursory view on their compensation structure.

Easing the tax burden of employees of eligible start-ups

Currently, the specified security and sweat equity shares are taxable as perquisite at the time of exercise. To ease the tax burden of employees of eligible start-ups (Section 80-IAC), it is proposed to defer its taxation and taxes shall be paid within 14 days of earlier of the following:

- Expiry 48 months from end of the relevant assessment year, or
- Sale of shares by employee, or
- An employee's resignation.

Accordingly, taxes have to be deducted by employer under section 192 or paid by assessee directly under section 191 as the case may be.

Though this amendment could ease out cash flow issues of employer and employee, however, it may increase the cost of administration and compliance in order to track the year of taxability and making the tax payments. Currently, benefit under this section has been extended to employees of eligible start-ups, however benefit could have been extended to all other employees as well.

Increase in Turnover Threshold Limit for Tax Audits under section 44AB

It is proposed to increase turnover threshold for tax audit for persons carrying on business from ₹ 1 crore to ₹ 5 crore, provided annual cash receipts and payments do not exceed 5% of the total receipts and payments, respectively. However, no change is proposed in threshold limit for persons carrying on profession.

Increase in the threshold would reduce the compliance burden of small and medium enterprises on satisfaction of twin conditions of cash receipts and payments not exceeding 5% of total receipts/ payments. This is one more step towards achieving cash less economy. However, a clarity is required if cash tax payments, or expenses otherwise not deductible would also fall under cash payments limit of 5%.

It may be noted that, liability to deduct / collect taxes under section 194A, 194C, 194H, 194I, 194J and 206C shall continue to apply in case of Individual / HUFs where gross receipts/ turnover exceeds ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession. Thereby, inspite of

increase in threshold for audit, one would still have to comply with TDS/TCS provisions.

Further, where tax audit is required under section 44AB, due date of return filing of return of income is extended to 31st October.

Increase in the Safe Harbor Limit for Real Estate Transactions

Existing provisions of Section 43CA, 50C (sellers) and 56(2) (x) (purchaser) provide that consideration on transfer of land or building should be in accordance with stamp duty valuation and allow a safe harbour of 5% of consideration. This limit is proposed to be increased to 10%.

Increase in the cap to 10% is a welcome step and would help reducing tax burden of the assessee.

Cost of Acquisition of Assets Acquired Before 01.04.2001

For the purpose of computing cost of acquisition of capital asset being land or building or both acquired before 01.04.2001, it is proposed to provide that fair market value (FMV) of such asset as on 01.04.2001 shall not exceed wherever available, its stamp duty value as on 01.04.2001.

As validating genuinity of cost of acquisition in each case may not be possible, this provision will restrict claiming of FMV as cost of acquisition where the stamp duty value is comparatively less. It may be noted that safe harbour provided under section 50C, 56(2) of 10% is not made available under this section.

Incentives to Start-ups

Section 80-IAC is proposed to provide that (i) deduction shall be available for a period of 3 consecutive assessment years out of 10 years (as against erstwhile 7 years) beginning from year in which it is incorporated; (ii) deduction shall be available, if the total turnover of its business does not exceed ₹ 100 crores in any of the previous years beginning from the year in which it is incorporated.

Having extended the period to 10 years, this would benefit start-ups who start making profits only in later years.

No Limitation on Interest Paid or Payable to Indian PE of a Non Resident (NR)

Section 94B provides for limitation on deduction of interest paid/payable to associate enterprise (AE). It is proposed to provide that, where lender is an Indian PE of a non-resident, engaged in the business of banking, provisions of deemed AE (and disallowance of interest deduction) under section 94B will not apply.

Aligning the Purpose of entering into DTAA with Multilateral Instruments (MLI)

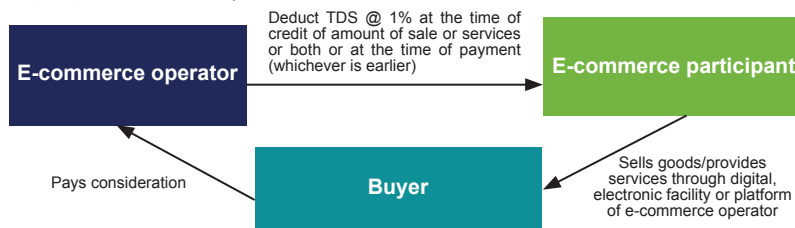
For India, MLI has entered into force on 01.10.2019 and will apply alongside existing Double Taxation Avoidance Agreements (DTAAs). Article 6 of MLI intends to eliminate double taxation *without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance*. Amendment is proposed under section 90 and 90A to align with Article 6.

Deferring Applicability of Significant Economic Presence (SEP)

Scope of business connection of a non-resident in India was expanded through introduction of SEP under section 9(1)(i). The monetary and number of users thresholds were not yet notified. In light of on-going discussions on the subject in G20-OECD BEPS project, applicability of SEP and its revised definition is proposed to be deferred to be applicable from AY 2022-23 and onwards.

Business Connection – Income Attributable to Operations in India

In case of 'business connection', it is proposed to clarify that income



attributable to operations carried out in India shall include income from:

- advertisement targeted at customers residing or customer accessing advertisement through IP address located in India;
- sale of data collected from a person who resides or who uses IP address located in India; and
- sale of goods and services using data collected from a person who resides or who uses IP address located in India.

Widening of the scope of business connection could have major

impact on assessee's from non-treaty jurisdictions.

Changes in relation to TDS/ TCS:

TDS on E-commerce Transaction - Insertion of Section 194-O

To bring participants engaged in the electronic commerce within the tax net, it is proposed to levy TDS at the rate of 1% (5% in no PAN/ Aadhaar cases) on e-commerce transaction. Exception being where Individual / HUF (e-commerce participant) have furnished PAN/ Aadhaar and gross sales or services or both through e-commerce operator does not exceed ₹ 5,00,000.

For eg: A (buyer) visits website of T (e-commerce operator) to book hotel rooms/ movie tickets of H (participant). Further, one needs to contemplate whether sale of goods/ services *through digital, electronic facility* could include even those goods/ services only *facilitated* (where goods/services are not sold/provided digitally or cases where buyers reach the website of vendors/ participants by clicking on the advertisements) through the e-commerce operator.

Amending the Definition of Work in Section 194C

Currently, definition of work **excludes** "manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, *other than such customer*".

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Some assessee used this as escape clause by getting contract manufacturer to procure the raw material supplied through its *related parties* thereby not being liable to TDS. To plug the leakage, 'work' is proposed to include raw material provided by customer or its associate. Associate mean as persons specified under section 40A(2)(b) (related parties). Therefore, now any work carried on using raw material provided by the associate shall also be liable to TDS.

Rate of TDS on Fee for Technical Services Reduced

It is proposed to reduce the rate of TDS in case of fees for technical services under section 194J (other than professional services) to 2% from existing 10%. This would iron out litigation on account of short deduction (under section 194J) via a viz 194C). However, it is important to have clarity on interpreting fee for technical versus professional services.

TCS on Foreign Remittance through Liberalised Remittance Scheme (LRS)

It is proposed to levy TCS at 5% (10% in no PAN/Aadhaar cases) on (i) Amount received by an Authorised dealer exceeding ₹ 7,00,000 in a financial year for remittance out of India under the LRS of RBI. (ii) Amount received by seller of an overseas tour program package. This shall not apply to a buyer (i) who is liable and has deducted TDS under other provisions; (ii) is Central Government, a State Government, etc.

This could result in levy of TCS even on remittance which is not in the nature of income (like transfer of funds overseas

bank account). Further, this will increase compliance burden of Authorised Dealer (AD) requiring them to keep a track of monetary limits. On the other side, it may create hardship to the purchasers of foreign currency for emergency and essential purposes such as medical, studies, business trips, family maintenance, etc. As the LRS is applicable only to resident individuals under FEMA, non residents shall be out of it.

Further, as section casts responsibility on seller of overseas tour packages, there may be chances of TCS being collected by them and ADs resulting in double collection. Clarity is also required to understand that whether foreign tour packagers shall be liable to collect TCS.

TCS on Sale of Goods

Every seller, who receives sale consideration of any goods exceeding ₹ 50 lakhs in any previous year (other than goods on which TCS otherwise collectible under the Act) shall collect from the buyer TCS of 0.1 % (1% in no PAN/Aadhaar cases) of sale consideration exceeding ₹ 50 lakhs. This provision not to apply if buyer is liable and has deducted TDS. 'Seller' to mean a person whose total sales, gross receipts or turnover from business carried on by him exceed ₹ 10 crore during immediately preceding financial year. This would cast additional liability apart from levy of GST.

Concessional Rate of TDS – 194LC

Benefit of concessional TDS rate of 5% in respect of interest on overseas borrowings, long-term bonds and rupee denominated

bonds (RDBs) is proposed to be extended up to 1st July 2023. Further, TDS at 4% is proposed on long-term bonds and RDBs listed on a recognised stock exchange in an IFSC.

TDS on Investments by a Foreign Institutional Investor (FII) or QFI – 194LD

Benefit of concessional TDS at 5% in respect of interest paid to an FII or a QFI for investment in government securities and RDB is proposed to be extended up to 1st July 2023. Further, benefit will be extended to investments in municipal debt securities.

Insertion of Taxpayer's Charter

To build trust between the taxpayers and tax administration, it is proposed to insert Section 119A to empower the CBDT to adopt and declare a Taxpayer's Charter.

Additional Condition on Grant of Stay by the ITAT

Currently, ITAT has full power to grant stay of income tax demand under section 254(2A), even an absolute stay of demand, in deserving cases. However, it is proposed to provide that stay may be granted on condition that assessee deposits atleast 20% of the amount of tax, interest, fee, penalty or any other sum payable under the Act, or furnish security of equal amount in respect thereof.

This could majorly have an impact on high pitched assessment cases, wherein 20% would also be a huge sum. However, assessee would still have the option of filing writ petition.

Faceless 'e-Appeals' and 'e-Penalty'

In line with new scheme of 'faceless e-Assessments' as introduced earlier, it is proposed

to insert new sub-section (6B) in Section 250 and sub-section (2A) in Section 274, so as to facilitate incorporation of 'new scheme of faceless e-appeals and e-penalty', respectively, to be notified in near future. These initiatives are intended to iron out difficulties faced by the assessee's and enhance transparency.

Annual financial statement (AFS)- Section 285BB

It is proposed to delete Section 203AA and introduce Section 285BB regarding AFS. Section 285BB proposes to mandate tax authorities to upload in registered account of tax payer a statement, setting forth such information, which they possess. Accordingly, AFS with wider information coverage would replace Form 26AS.

Penalty for Fake Invoices – 271AAD

It is proposed to levy penalty on a person, if it is found during any proceeding under the Act that in books of accounts maintained by him there is a (i) false entry or (ii) any entry relevant for computation of total income has been omitted to evade tax liability. The penalty shall be equal to aggregate amount of false entries or omitted entry.

Unlike the existing penalty provisions where penalty on bogus purchases, etc. was leviable on the tax sought to be evaded, Section 271AAD invokes penalty equal to amount of false entries/ omitted entry. This shall also have serious consequences in the hands of any person who assists in making false entry/ omitting entry, as such person shall also be liable to penalty equal to aggregate amount of false entries or omitted entry.

Miscellaneous

1. Consequent to abolition of DDT, dividend income shall be taxable in the hands of shareholders / unit-holders and only interest expense, if any, up to 20% of dividend shall be allowed as deduction under section 57. Though this would reduce litigation around Section 14A on the other hand limiting of interest expense to 20% could increase litigation in the areas of claiming other incidental expenses. Further, in the event no dividend income is earned, deduction could be denied.
2. Option of reduced tax rate of 22% available to domestic companies is proposed to be extended to resident co-operative societies not availing tax incentive or exemptions or tax holiday on similar lines with domestic company.
3. Benefits of reduced corporate tax rate of 15% under section, 115BAB is proposed to be extended to companies engaged in electricity generation.
4. Currently, definition of royalty under section 9(1) (vi) excludes "consideration for sale, distribution or exhibitions of cinematography films". It is now proposed to include such amounts within the purview of royalty.
5. To provide clarity, it is proposed to make deduction under section 35AD optional enabling assessee to claim deduction under section 35AD or depreciation under section 32.
6. Benefit of carry forward under section 72AA is proposed to be extended to (i) Amalgamation of the nationalised public sector

Unlike the existing penalty provisions where penalty on bogus purchases, etc was leviable on the tax sought to be evaded, Section 271AAD invokes penalty equal to amount of false entries/ omitted entry.

banks; (ii) Amalgamation of nationalised public sector general insurance companies.

7. It is proposed to clarify and expand scope of Advance Pricing Agreement (APA) provisions and SHR to include determination of profit attributable under section 9(1)(i) to a Permanent Establishment (PE).
8. Provisions of Section 115UA proposed to be extended to unlisted investment trusts.
9. Currently, e-assessment scheme covers only assessment under section 143(3). Scheme to now include "best judgment assessment" under section 144.

A New Direct Tax Amnesty Scheme 'Vivad Se Vishwas'

With a view to reduce litigation, scheme proposes full waiver of interest and penalty if disputed tax amount is paid by 31.03.2020. Scheme shall remain open till 30.06.2020, but amnesty will only be partially available for payments made after 31.03.2020.

There may not be much incentive in case where appeals are pending before High Court or Supreme Court and taxes outstanding have already been recovered by the department.

Thus one can say that with this Union Budget, Government has made earnest efforts to dot the i's and cross the t's! ■

Abolishment of Dividend Distribution Tax

The existing regime, of payment of Dividend Distribution Tax (DDT) by the Indian Company, and thereafter such dividend being exempt in the hands of shareholders, has been replaced with direct taxation of the dividend income. While this is likely to benefit non-resident shareholders (other than foreign portfolio investors not structured as a company/NRI's in higher tax bracket), it is likely to create an additional tax impact on Promoters of Indian company/ resident high networth individuals, increasing compliance burden for smaller shareholders, simultaneously.



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Abolishment of DDT and its impact on Investors – Resident and Non-resident

Amidst high expectations, the Union Budget 2020 was presented by the Finance Minister, on 1st February 2020. Several changes were made to tackle the growth slowdown, which is a prevailing phenomenon, both at domestic and international level. This article focuses on one of the proposed key amendments to the Income-tax Act, 1961 ('the Act') introduced by Budget, which relates to the abolishment of DDT, which was currently levied at an approximate rate of 20.56%, on the company, which distributed dividend.

Existing Provisions Relating to Dividend Taxation

The applicability of tax provisions on any dividend, is at two level;

one at the level of the company that declares /distributes or pays dividend, and another, on the recipient of such dividend which could either be a resident, or a non-resident.

- **Tax implications in the hands of the Company**
 - a) Under the existing laws, even though dividend constituted income in the hands of the shareholders, the tax on such dividend was payable by the company which declared dividend, @ 15% of the gross dividend under section 115-O (plus surcharge and cess) (except dividend covered under section 2(22)(e), where the rate of DDT was 30%), which amounted to an effective DDT of 20.36%. However, no deduction or

In order to remove the adverse impact of the existing regime, the Finance Bill proposes to revamp the provision relating to taxation of dividend, both in the hands of the company declaring such dividend, as well as the recipient of dividend.

credit is allowable to the company, in respect of such DDT.

- b) However, where a company, whose whole of nominal value of equity share capital is held by a business trust, declared dividend to such business trust, subject to certain conditions, such dividend is not liable to DDT, in view of specific exemption under section 115-O(7). Similarly, dividend declared by a unit of an International Financial Service Centre, is also not liable to DDT, subject to certain conditions.
- c) In a similar manner, specified companies and Mutual Funds are currently liable to pay additional income tax on income distributed by them to their unit holders, at specified rate, which were thereafter, exempt from tax in the hands of the unit holders under section 10(35).

In all such cases, where dividend was exempt in the hands of the shareholders, there was no requirement to deduct TDS on dividend referred to in Section 115O, under the provision of Section 194.

- **Tax implications in the hands of the Shareholder/ recipients**

The dividend received by a shareholder, which was covered under section 115O, was exempt in their hands under section 10(34). However, where a specified shareholder (other than an Indian Company/Trust covered under section 12A or 12AA, amongst others), received dividend exceeding ₹ 10 lakhs, such recipient was liable to pay tax @ 10% (plus applicable surcharge and cess), in addition to the DDT paid by the company. There was no expenditure which was allowed as a deduction in computing dividend income.

Even in the case of non-resident shareholders, dividend received from the Indian company was not liable to tax in India. Accordingly, the Indian Company declaring dividend was not liable to deduct TDS from such dividend. However, in cases, where such dividend was liable to tax in the hands of the non-resident in their country of residence, there was generally no credit available for the dividend distribution tax paid by the Indian Company. In view of this, such companies had a very low return on investment, which effectively discouraged them from investing into India. Further, the profits of such companies were not repatriated by them due to high incidence of dividend distribution tax in India, and corresponding taxability in certain cases in their country of residence.

Proposed Provision under Finance Bill 2020

In order to remove the adverse impact of the existing regime, the Finance Bill proposes to revamp the provision relating to taxation

of dividend, both in the hands of the company declaring such dividend, as well as the recipient of dividend. Correspondingly, the provisions of Section 115-O, Tax on distributed profits of domestic companies, Section 115R - Tax on distributed income to unit holders, Section 115BBDA - Tax on certain dividends received from domestic companies, Section 10(34) - Dividend income from domestic company, Section 10(35) - Income from specified mutual fund of the Income Tax Act, 1961 (IT Act), shall be operative till 31st March 2020.

The changes which have been made, can be summarised as under :

- *Tax implications in the hands of the Company/ Mutual Fund etc.*

The company which declares dividend will no longer be liable to pay dividend distribution tax, on or after 1.4.2020. However, the company declaring dividend shall be liable to deduct TDS @ 10% if aggregate payment of dividend during the FY is more than 5000 INR, under the provisions of Section 194. Further, it is proposed to insert a new Section 194K, where any person, who is responsible for paying to a resident, any income of Mutual Fund units referred to in Section 10(23D), or units from the administrator of the specified undertaking or units from the specified company shall be liable to deduct income-tax @ 10%, where the income exceeds ₹ 5,000.

On similar lines, it is proposed to amend Section 194LBA, to provide for deduction of tax by business trust, on dividend income paid to unit holder, @ 10% for both resident and non- resident unit holders.

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The benefit of these tax rates are available, provided the recipient is beneficial owner of such dividend, and not receiving such dividend on behalf of another person, and the non-resident does not have a Permanent Establishment (PE) in India.

- **Tax implications in the hands of the shareholder/ recipients**

Section 10(23FC) of the IT Act is proposed to be amended to provide that all dividends received/ receivable by business trust, from a Special Purpose Vehicle, shall be exempt income in the hands of such business trust. However, dividend income received by the unit holders from business trust, would be taxable in the hand of unit holder of the business trust, under the provisions of Section 115UA of the IT Act, and would no longer be entitled to exemption under section 10(23FD) of the IT Act.

The provision of Section 57 of the IT Act, have been amended to provide that deduction of interest expense, which shall not exceed 20% of dividend income, shall be allowed against the dividend income. Besides this, no further deduction shall be allowed from dividend income, or income in respect of units of mutual fund or specified company.

- **Section 80M – Removing the cascading impact of taxes**

In order to remove the cascading effect of taxation of dividend, the budget proposes

to insert Section 80M, which provides that if the gross total income of a domestic company (Company A), includes any dividend income from any other domestic company (Company B), Company A shall be allowed a deduction against the dividend income, to the extent of the amount of dividend distributed by Company A. However, the deduction will be allowed to the company only in respect of the dividend distributed by Company A one month prior to the due date of filing of return. The benefit of Section 80M is available even in respect of companies which opt for the lower tax regime introduced vide Section 115BAA and Section 115BAB of the IT Act.

- **Taxation of Dividend received by non-residents**

The Finance Bill, 2020, proposes that dividends paid to non-resident shareholders will be liable to tax at 20% under section 115A of the Income-tax Act, 1961. However, since a non-resident can opt to be governed by the provision of the Tax Treaty, if these are more beneficial, the non-resident shareholder can also opt for the provision of Treaty to pay tax at a lower rate on dividend as under, wherever the rates under the IT Act are higher:

S.No.	Country	Rate
1	UK	10%
2	USA	15%
3	Singapore	10%
4	Netherlands	10%
5	Luxembourg	10%
6	China	10%

The benefit of these tax rates are available, provided the recipient is beneficial owner of such

dividend, and not receiving such dividend on behalf of another person, and the non-resident does not have a Permanent Establishment (PE) in India.

Whenever a decision has to be made on whether the provision of the Treaty – (Article 10 – Dividend) are more beneficial, the following aspects should be kept in mind :

- Certain tax treaties provide that the benefit of the reduced rate of 10-15% shall be available only when the non-resident owns, more than 10/25% shareholding of the company declaring the dividend.
- Consequent to the amendments made, under the Multilateral Instrument, to which India is a signatory, and which forms part of the Base Erosion and Profit Shifting initiative of the OECD, where a non-resident receives such dividend on behalf of other person who is the beneficial owner of such dividend, they may not be eligible for the lower taxation benefit. For example, if a Singapore shareholder receives payment on behalf of a USA shareholder, the provision of India Singapore Treaty would not be applicable.

Thus, the impact of the proposed changes on foreign companies whose dividend income is taxable in their country of residence (say at 20%), the situation would be as under :

Particulars	Position under Existing laws	Position under Finance Bill
Tax on Indian company	20% - DDT	Nil
Tax on Foreign Investor (Corporate) in India	Nil	10-15%
Tax Credit Available to Non-resident in Home Country	Nil	Available to the extent of Tax payable in Home Country
Tax in Home Country	20%	5% (assuming 15% credit of TDS is available)
Total Tax Cost	40%	15-20%

However, one of the most significant impact of the current changes in the hands of the non-resident is, that the TDS deducted by the Indian Company at the time of payment of dividend, will now be available as a credit to the non-resident, where it is liable to pay any taxes on such dividend in its country of residence. The extent of availability of credit, shall depend on the respective treaties, and on the domestic tax laws of the country concerned.

Non-resident has a PE in India

It should be noted that the provision of Article 10 - Dividend, in several Treaties, specifically provide that they shall not be applicable in case where the Non Resident has a Permanent Establishment (PE) in India. In such a case, the dividend income would be taxable as business income, on net basis. Once the dividend income is taxable as business income, the question that would arise would be whether any deduction will be available against such income? Generally, the deduction of expenses against business income, even in Treaty cases, is allowed as per the local laws of India. As discussed above, since the proposed amendment seeks to restrict the allowability of expenses against such dividend income to 20%, the foreign company may be liable to pay tax on remaining dividend at the rate of tax applicable to the

foreign recipient. In such a case, the foreign taxpayer may evaluate if the provision of the IT Act are more beneficial and continue to be governed by such provision on a case to case basis.

Impact of the removal of DDT in the cases of Real Estate Investment Trusts (REITs) and Infrastructure Investment Trust (InvITs)

Under the existing provisions of the Income Tax Act, dividends received by REITs and InvITs are exempt from tax in their hands under the provisions of Section 10(23FC) of the Act. Further, where REITs/ InvITs, further distributes such dividend to its unitholders, it is exempt from tax in their hands under section 10(23FD) of the Act.

The provision of the finance bill proposes to amend the tax provision to provide that dividend received from REIT/ InvITs, shall henceforth be taxable in the hands of the unit holders at applicable rates and the REIT/ InvITs will be liable to deduct tax under section 194LBA of the Act on such dividend at the rate of 10%.

Conclusion

Advantages

- The taxpayers would be liable to pay taxes on dividends, at the rate of tax applicable to them. Since, the existing rate of DDT was 20.56%, taxpayers who are under a lower tax bracket, would end up gaining from the proposed provisions.

- The return on equity capital for foreign investors may increase, particularly in those cases, where the taxes withheld in India is available as a tax credit in the country of residence of such investors. Such Investors need to pay tax at 5 to 20%, depending on their country of residence. Even Foreign Portfolio Investors, who are organised as companies, can avail similar benefits of reduced taxation.
- Foreign companies can consider repatriating profits in their Indian subsidiaries at lower rates. This would help particularly in cases where the Indian entities operate on a cost plus model and do not undertake other independent operations.
- Indian companies that both receive dividend, and pay dividend can claim a deduction of dividend paid under section 80M, thereby reducing the burden of tax on them, provided certain conditions are satisfied.

Disadvantages

- TDS withheld by company from dividend payments shall impose additional burden on small taxpayers, who may end up filing return and claiming a refund, in cases where their total income is not liable to tax/liable to tax at lower rates.
- Promoters/ Taxpayers in higher income tax bracket, would be liable to pay taxes, which may be at a rate of 34 to 43%, depending on the slab of income in which they fall, as against the existing DDT plus tax payable in cases where dividend during the year exceeded ₹10 lakhs. Similarly, Foreign Portfolio Investors, who are not organised as companies, would be liable to pay tax at higher rates, compared to the existing DDT regime. ■

Changes in Section 44AB and due date of ITR & Reports

One of the most talked about amendments in tax proposals are doing away with the tax audit requirement for businesses having turnover of upto ₹ 5 crores, changes in the due date of ITR and other reports required to be submitted under the Income-tax Act, 1961. Such proposals will have far reaching impact and may require increased focus on standardisation of various processes related to annual tax return filing to ensure timely compliance. Read on...

Background

Tax reforms have been high on the agenda of the Central Government in the last couple of years. Increasing the tax base, reduction in tax rates for companies without any exemption/ deduction, incentivise



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the start-ups, single window clearance, etc. have been some of the crucial steps taken by the Government to reduce the tax litigation and create an environment of tax compliant society in India.

In this backdrop, the Finance Minister of India, in the Budget Speech 2020 emphasised on reducing the tax compliance burden in India and boosting India as an attractive destination for foreign investments.

This article analyses the changes proposed in Section 44AB of the Income-tax Act, 1961 ('the Act'), its impact on various other sections including the due dates of filing the Income-tax returns by the taxpayers.

Section 44AB of the Act, as it stands presently, reads as under:

"Audit of accounts of certain persons carrying on business or profession

44AB. Every person,—

- (a) carrying on business shall, if his total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds one crore rupees in any previous year; or*
- (b) carrying on profession shall, if his gross receipts in profession exceed fifty lakh rupees in any previous year; or*
- (c) carrying on the business shall, if the profits and gains from the business are deemed to be the profits and gains of such person under section 44AE or section 44BB or section 44BBB, as the case may be, and he has claimed his income to be lower than the*

profits or gains so deemed to be the profits and gains of his business, as the case may be, in any previous year; or

- (d) carrying on the profession shall, if the profits and gains from the profession are deemed to be the profits and gains of such person under section 44ADA and he has claimed such income to be lower than the profits and gains so deemed to be the profits and gains of his profession and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year; or
- (e) carrying on the business shall, if the provisions of sub-section (4) of Section 44AD are applicable in his case and his income exceeds the maximum amount which is not chargeable to income-tax in any previous year,

get his accounts of such previous year audited by an accountant before the specified date and furnish by that date the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

Provided that this section 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 and his total sales, turnover or gross receipts, as the case may be, in business does not exceed two crore rupees in such previous year.

Provided further that this section shall not apply to the person, who derives income of the nature referred to in Section 44B or Section 44BBA, on and from the 1st day of April, 1985 or, as the case may be, the date on which the relevant section came into force, whichever is later.

Provided also that in a case where such person is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this section if such person gets the accounts of such business or profession audited under such law before the specified date and furnishes by that date the report of the audit as required under such other law and a further report by an accountant in the form prescribed under this section.

Explanation.—For the purposes of this section,—

- (i) “accountant” shall have the same meaning as in the Explanation below sub-section (2) of Section 288;
- (ii) “specified date”, in relation to the accounts of the assessee of the previous year relevant to an assessment year, means the due date for furnishing the return of income under sub-section (1) of Section 139.”

Further, the Explanation below sub-section (2) of Section 288 defines “accountant” to mean a chartered accountant within the meaning of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under sub-section (1) of Section 6 of that Act subject to certain exclusions as contained therein.

The above section stipulates that the following persons are required to get their accounts compulsorily audited by a chartered accountant:

- A person carrying on business if the total sales, turnover or gross receipts, as the case may be, in business exceed or exceeds ₹ 1 crore in any previous year.
- A person carrying on profession, if his gross receipts in profession exceeds ₹ 50 lakhs in any previous year.

- A person covered under section 44AE (Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages) or 44BB (Special provision for computing profits and gains in connection with the business of exploration, etc., of mineral oils) or 44BBB (Special provision for computing profits and gains of foreign companies engaged in the business of civil construction, etc., in certain turnkey power projects) of the Act if such person claims that the profits and gains from the business are lower than the profits and gains computed under these sections.
- A person covered under section 44ADA (Special provision for computing profits and gains of profession on presumptive basis) if such person claims that the profits and gains from the profession are lower than the profits and gains computed in accordance with the provisions of Section 44ADA and if his income exceeds the maximum amount which is not chargeable to tax in any previous year.
- A person covered under section 44AD(4) if his total income exceeds the maximum amount which is not chargeable to income-tax in any previous year.

Further, Rule 6G of the Income-tax Rules, 1961 (the Rules) prescribes that the audit report under section 44AB shall be furnished in the following forms:

- In the case of a person who carries on business or profession and who is required by or under any law

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to get this accounts audited- The audit report should be submitted in Form 3CA.

- In the case of a person who carries on business or profession and who is not required to get his accounts audited under any other law- the audit report should be submitted in Form 3CB.

In both the cases provided above, the prescribed particulars are required to be furnished in Form 3CD.

The provisions of Section 44AB of the Act were introduced for the first time in the Finance Bill, 1984. While introducing such provisions, the then Finance Minister of India, Mr. Pranab Mukherjee in his speech said,

"In all cases where the annual turnover exceeds ₹ 20 lakhs or where the gross receipts from a profession exceed ₹ 10 lakhs, I am providing for a compulsory audit of accounts. This is intended to ensure that the books of accounts and other records are properly maintained and faithfully reflect the true income of the taxpayer."

Further as per the Memorandum to the Finance Bill, 1984, it was stated that:

"Compulsory audit of accounts of certain persons carrying on business or profession"

15. Accounts maintained by companies are required to be audited under the Companies Act, 1956. Accounts maintained by co-operative societies are also required to be audited under the Co-operative Societies Act, 1912. There is, however, no obligation on other categories of taxpayers to get their accounts audited.

16. A 'proper audit for tax purposes would ensure that the books of account and other records are properly maintained and that they faithfully reflect the income of the taxpayer and

claims for deductions are correctly made by him. Such audit would also help in checking fraudulent practices. It can also facilitate the administration of tax laws by a proper presentation of the accounts before the tax authorities and considerably saving the time of assessing officers in carrying out routine verifications, like checking correctness of totals and verifying whether purchases and sales are properly vouched or not. The time of the assessing officers thus saved could be utilised for attending to more important investigational aspects of a case."

Tax audit report has been one of the most important aspects of the tax system and it provides a basic framework for preparation of the Income-tax return for the assessee under the provisions of the Act. At the same time, it places a tremendous responsibility on the members of our profession in carrying out the audit and in furnishing the audit report setting forth the prescribed particulars.

When the requirement for preparation of tax audit report was introduced in year 1984, most of the accounting systems were manual and hence, the third party audit was introduced to ensure the authenticity of the books of accounts and records thereto.

To cope with the evolving situations and provide robust information framework, Tax audit report has also undergone various changes over the years.

With the development of accounting systems (like introduction of new systems like ERP, Tally, etc.), access to global markets through liberalised policies and increased focus on accounting of the business/ profession, there was an expectation from the Industry to relax the provisions of Section 44AB of the Act. The presence of presumptive taxation provisions

and self-declaration mechanisms in place also added more fuel to this expectation. Presently, the books of accounts/various ledgers are mostly kept in computerised form and the third party information is also available in digitalised/e-formats.

Various other factors which may have contributed to this expectation can be summarised as under:

- With increased focus on accountability and correct reporting, the Act provides enough penal consequences for the assessee who do not comply with the provisions of the Act or submit the false or wrong information.
- There is enough duplication regarding the various information which are required to be furnished in tax audit report as well as in Income-tax return forms (ITR). Hence, tax audit report may be an additional compliance burden on the small assessee.
- There are stringent governance norms under various other laws in force (e.g. the Companies Act, 2013, SEBI regulations, etc.) for the assessee to prepare their books of accounts which represent true and fair view.

To overcome this compliance burden, the Finance Bill, 2020 has proposed following changes in Section 44AB of the Act and other connected provisions:

- The threshold limit for furnishing tax audit report under section 44AB of the Act for person carrying on business has been increased to ₹ 5 crores from ₹ 1 crores where:
 - a) The aggregate of all receipts in cash during the previous year does not exceed 5% of such receipt; and

- b) The aggregate of all payments in cash during the previous year does not exceed 5% of such payment

Thus, if cash payment or cash receipts for a year are up to ₹ 25 lakhs with total turnover or sales or gross receipt from the business upto ₹ 5 crores, there shall be no requirement to get the accounts audited under Section 44AB and accordingly, there shall be no requirement to furnish the Tax Audit report.

Changes in the due date for furnishing various reports (including tax audit report):

Presently, the due date for filing the tax audit report under section 44AB of the Act and various other reports (e.g. Form 3CEB – Transfer pricing certificate, Form 29B- MAT Certificate, certificates required under sections 10A, 12A, 50B, 80-IA, 80-IB etc) for claiming exemption/ deductions under the Act is aligned with the date specified under section 139(1) of the Act for filing the ITR.

In order to enable pre-filled tax return forms to ensure ease of compliance, it has been proposed that in case of persons having income under the head of profits and gains from business and profession, the above mentioned reports shall be furnished by the taxpayers one month prior to the due date of filing the tax return. The proposed amendments will be effective from 1st April 2020 and will accordingly apply from AY 2020–21 onwards. Consequential amendments have been made in various other Sections i.e. Section 10, Section 10A, Section 12A, Section 32AB, Section 33AB, Section 33ABA, Section 35D, Section 35E, Section 44AB, Section 44AD, Section 50B, Section 80-IA, Section 80-IB,

Section 80JJAA, Section 92F, Section 115JB, Section 115JC and Section 115VW of the Act.

Changes in the TDS/ TCS provisions having reference to Section 44AB of the Act:

The amendment relating to increase the threshold to ₹ 5 crores under Section 44AB of the Act for getting the books of accounts audited will also have consequential effect on various TDS/TCS provisions contained in Sections 194A, 194C, 194H, 194I, 194J and 206C as these provisions trigger liability of TDS/TCS on certain categories of persons, if the gross receipt or turnover from the business or profession carried on by them exceed the monetary limit specified in clause (a) or clause (b) of Section 44AB.

Therefore, it has been proposed to amend these sections to include the reference to the monetary limits specified in clause (a) or clause (b) of Section 44AB of the Act to ₹ 1 crore in case of business or ₹ 50 lakhs in case of profession, as the case may be.

Change in the due date for filing the Income-tax return (ITR) – Amendment in Section 139 of the Act

Presently, the due date for furnishing the tax return:

- (i) in case of a company; or
- (ii) a person other than the company whose accounts are required to be audited under the Act or under any law for the time being in force; or
- (iii) a working partner of a firm whose accounts are required to be audited under the Act or under any law for the time being in force;

is 30th September of the relevant AY. Further, in case a taxpayer is required to furnish the Transfer pricing report as required under Section 92E, the due date of filing the tax return is 30th November of the relevant AY.

It is proposed to extend the due date for furnishing the tax return from 30th September to 31st October of the relevant AY. It may be noted that there are no changes in due date of filing the ITR if the taxpayer is required to furnish Form 3CEB under Section 92E of the Act.

It is also proposed to remove the distinction between a working and non-working partner of a firm with respect to the due date of filing their personal ITR. The ITR in such case is now proposed to be filed by 31st October of the AY in these cases.

The proposed amendments are effective from 1st April 2020 and will accordingly apply from AY 2020–21 onwards.

Conclusion

While the above amendments are the steps taken in the right direction, it would have far reaching consequences. The requirement to do away from tax audit report for businesses having the total sales, turnover or gross receipts exceeding ₹ 5 crores will entail putting significant efforts on preparation of ITR going forward. This would be the case as the relevant information having bearing on the tax computation (e.g. Section 43B disallowances, provisions related to gratuity, tax depreciation schedule, provision for leave encashment, etc.) will still have to be compiled by the Companies which were earlier covered in the Tax audit reports.

Further, early filing of tax audit reports and other reports/ certificates as required under various provisions of the Act will ensure that the exercise for annual tax compliance season is started early to avoid last minute rush. The businesses/ taxpayers may also like to standardise the various processes related to annual tax return filing to ensure timely compliance. ■

Charitable Institutions – Decoding Union Budget 2020

Budget 2020 proposes to digitise the process of registration for Charitable Trusts, making it electronic. Even the existing charitable institutions are required to apply for fresh registration under the new provision. Further, duration of registration is proposed to be fixed to 5 years. Charitable institutions which are yet to start their activities can obtain provisional registration for 3 years, which can be regularised by filing an application immediately on commencement of activities. It is proposed that entities receiving donation shall also be required to file a statement and issue a certificate to the donor specifying the amount of donation received. Deduction under section 80G/ 80GGA shall be available to a donor only if the aforesaid statement is furnished by the donee. Read on...



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Background

'Charitable institutions/ Trusts' working as a not-for-profit entity plays a significant role in promoting economic development and social welfare objective therefore, always remained a focus point amid the tax authorities and tax payers. For this very reason, certain tax incentives, deductions, exemptions are provided to charitable institutions engaged in undertaking charitable or religious activities (education, healthcare, relief to poor, etc.) and registered under the provisions of the Income-tax Act, 1961 ('the Act').

The provision for exemption to charitable institutions is governed by Section 11 of the Act, which provide that a Trust registered under section 12AA of the Act may enjoy exemption from paying any income-tax on donations / grants received, provided that such income is applied for charitable purpose in accordance with the provisions contained in Section 11, 12, 12A, 12AA and 13 (which constitutes a complete code for taxation of charitable trust / charitable institution) of the Act.

Apart from the above, there are other provisions of the Act, wherein registration can be granted by the central

government or income-tax authorities such as:

- Section 10(23C) of the Act: Applies to institutions solely engaged in running hospitals, educational institutes, etc.
- Section 10(46) of the Act: Applies to statutory bodies engaged in administering an activity for the benefit of general public.

Need for the Amendment

There were certain loose ends in the existing provisions which cause anomaly and practical challenge in obtaining registration/approval, such as:

- Section 11(7) of the Act provides exclusion to institutions registered under section 10(23C) of the Act, but the same exclusion is not available to entities claiming exemption under section 10(46) of the Act.
- Also, there is no limitation period under the existing law for registration of the charitable institution / trust. In other words, the registration of a charitable trust would remain valid indefinitely unless withdrawn by income-tax authorities.
- There is no reporting by the trust in respect of donor from whom donation has been received and is eligible for claiming deduction under section 80G of the Act.

In order to address the aforesaid issues, the Budget 2020, presented before the parliament

on 1st February 2020, proposed following amendments effective from 1st June 2020:

Section 11, 12, 12AA of the Act: Exemption and Registration of Trusts

a) Exclusion of exemption under section 10(46) of the Act if approved under section 12A

An amendment is proposed in Section 11(7) of the Act, to provide that exemption under section 10(46) of the Act shall not be available to a trust or institution registered under section 12A read with Section 12AA (Section 12AB w.e.f. 1 June 2020) of the Act.

Further, where such charitable trust / institution applies for registration under section 10(23C) or Section 10(46) of the Act, the registration of such institutions under section 12A read with Section 12AA of the Act would become inoperative from the date on which the entity is registered under section 10(23C) or section 10(46) of the Act.

However, an opportunity has

been given to such institution for obtaining registration under newly inserted section 12AB of the Act whereby such institutions would have to permanently forgo the exemption under section 10(23C) or Section 10(46) of the Act.

b) Procedure for registration of trust (Section 12A, 12AA and 12AB of the Act)

Under the existing regime, the procedure for registration of trust is governed by Section 12A read with Section 12AA of the Act, which provides that every charitable institution seeking registration has to submit an application with Principal Commissioner or Commissioner of Income-tax.

In order to make the process of registration fair and speedy, to digitise and to keep a regular check on activities of the Trust Section 12A has been amended and Section 12AB has been introduced to provide the timelines for filing of an application for registration, which are tabulated below:

S. no.	Circumstances	Timeline for filing of application*
1	Trust registered under existing provision of Section 12A or Section 12AA of the Act	Within 3 months from 1 st June 2020 i.e., by 31 st August 2020.
2	Trust registered under new provision (Section 12AB of the Act) and period of registration is due to expire	Atleast 6 months prior to date of expiry
3	Trust provisionally registered* under section 12AB of the Act	Earlier of following: <ul style="list-style-type: none"> • 6 months prior to date of expiry; or • within 6 months of commencement of activities

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S. no.	Circumstances	Timeline for filing of application*
4	Where registration of trust has become inoperative due to Section 11(7) of the Act	6 months prior to commencement of the Assessment Year from which said registration is sought to be made operative
5	Adoption or modification of object which does not conform with conditions of registration	Within 30 days from the date of such adoption / modification
6	Any other case (including new registration)	Atleast 1 month prior to commencement of financial year, thereby a provisional registration shall be granted for a period of three years.
*Provisional registration: From 1 st June 2020, if a new charitable trust seeks registration, then instead of final / permanent registration, a provisional registration will be granted to the such Trust. This registration will be provided for a maximum of 3 years within which the Trust has to obtain the final registration.		

Note

- Earlier any registration granted under the Act was for lifetime (unless withdrawn) but from 1st June 2020, registration (excluding the provisional registration) granted in accordance with proposed provision shall be valid for a period of 5 years.
- Under the proposed provisions, income-tax authorities are not required to conduct detailed inquiry in case of registration of existing trust. However, registration under s.no. 2 to 5 shall be granted only after satisfaction of the tax authority about the objects, genuineness and compliances under any other law.

c) Timelines for grant of registration by Principal Commissioner or Commissioner

Earlier, any order for registration or rejection of application has to be passed within 6 months from the date of the application. However, in the proposed provisions, an order of registration shall be passed as per the timeframe given in the adjacent table:

d) Due date for filing of return of income

Earlier, for every charitable institution/ trust, liable for audit under section 12A(1)(b), the due date for filing return of income was 30th September of the Assessment Year, but it is now proposed to extend the due date for filing return of income for such institution to 31st October.

Section 80G of the Act: Deduction to Donor for Donation made —

a) Reporting requirement for donee

Section 80G of the Act provides

S. no.	Scenario	Timeline for granting of approval*
1.	Application for registration under new provisions of a trust already registered under old provisions	Within 3 months
2.	Application for: <ul style="list-style-type: none"> • registration after expiry of registration granted under section 12AB; • provisional registration; • modification of object; or • in accordance with section 11(7) 	Within 6 months
3.	Any other case	Within 1 month
* Period is to be calculated from end of month in which application was received.		

that an exempt entity may accept donations or certain sum for utilisation towards its objects or activities in respect of which the donor shall get deduction in computing his taxable income. At present, there is no reporting obligation of the donee in respect of such donation. Only the donor who intends to claim deduction under section 80G of the Act, is required to provide in its return of income, details of donee institution along with other details (like Permanent Account Number of the charitable institution, amount of donation, etc.). Often, under this procedure people used to obtain back dated receipts or blank receipts from the institutions and claim the same as deduction.

In order to curb the aforesaid practice and to keep a track on the donations, the Budget 2020 has proposed to amend Section 80G of the Act, to cast a responsibility on the donee to furnish details of donations to the prescribed income-tax authorities within stipulated time period (details of timeline and forms are yet to be notified/ prescribed).

In addition to the aforesaid, such institution shall also be required to furnish a certificate to donee specifying the details of date, amount of donation, etc.

In order to have a strict compliance, it is proposed that any institution failing to deliver the statement containing details of donor in accordance with aforesaid provision shall be liable for late fee of lower of the following:

- ₹ 200 per day; or
- Amount for which reporting was to be made.

b) Penalty in case of non-reporting by the charitable institutions

In addition to above, it is also proposed that any charitable institution failing to deliver the statement containing details of donor in accordance with aforesaid provision shall be liable for penalty of ₹ 10,000 to ₹ 1,00,000.

c) Procedure for approval under section 80G of the Act

In order to standardise the process of approval of trust, the provisions of Section 80G of the Act are also proposed to be amended. Earlier, in order to avail the benefit of this section, the institution was required to obtain approval from the Commissioner. It is now proposed that such approval can also be obtained from Principal Commissioner.

Similar to existing Section 12AA of the Act, if a charitable institution / trust has obtained approval under section 80G of the Act, the same was valid for lifetime but from 01 June 2020, any approval (excluding provisional approval) obtained under this section shall be valid for a maximum 5 years.

d) Timelines for filing of application of approval

It is now proposed that an application to obtain approval under this section can be made within the time period. Please refer Table 1.

Table 1

S. no.	Scenario	Timeline for filing of application
1	Trust approved under existing provision of Section 80G(5)(vi) of the Act	Within 3 months from 1 st June 2020 i.e., by 31 st August 2020.
2	Trust approved under new provision and period of approval is due to expire	Atleast 6 months prior to date of expiry
3	Trust provisionally approved under new provisions	Earlier of following: <ul style="list-style-type: none"> • 6 months prior to date of expiry; or • Within 6 months of commencement of activities
4	Any other case (including new registration)	Atleast 1 month prior to commencement of financial year, thereby a provisional approval shall be granted for a period of three years

e) Timelines for grant of approval by Principal Commissioner or Commissioner

An order of approval under the new provision shall be passed as per following timelines:

Hospitals, Educational Institutes, etc.

Earlier, to avail the exemption, approval from the Commissioner of Income-tax (exemption) was

S. no.	Scenario	Timeline for granting of approval*
1	Application for approval under new provisions of a trust already approved under old provisions	Within 3 months
2	Application after expiry of approval / provisional approval	Within 6 months
3	Any other case	Within 1 month

*Period is to be calculated from end of month in which application was received.

Section 80GGA of the Act: Deduction of Donation made for Scientific Research or Rural Development

It is proposed that no deduction under this section shall be available to donor with respect to an amount exceeding ₹ 2,000 paid to research association for scientific research or to a university, in cash. Earlier, the said limit was of ₹ 10,000.

Section 10(23C) of the Act: Exemption to Institutions Solely Engaged in Running

required by Trust or Institutions or University or other education institutions or hospitals or medical institutions referred in sub-clause (iv), (v), (vi) and (via) of Section 10(23C) of the Act. It is now proposed that, such approved can also be obtained from Principal Commissioner / Commissioner.

The timelines for making an application under this Section and grant of approval by Principal Commissioner / Commissioner are same as proposed under section 80G of the Act, which have been discussed in earlier paragraphs in the article. ■

Budget Provisions relating to Amendments in TDS/TCS Provisions

Year by Year the provisions in respect of Tax Deducted at Source (TDS) deductions and compliances are being modified with the main intention of the Government to enhance the tax base and to ensure that the transactions entered are being monitored so that the earnings/incomes are being taxed and there is no escapement of income. This year the Government has proposed to introduce three new TDS provisions and modify certain existing provisions of which some has been long demand of the trade. The use of technology in capturing the data by the Government from various sources is playing a major role in computing the captured data to ensure that the details captured are effectively used to generate more revenue for the Government by plugging the revenue leakages and increase in the number of Return filers across the country, which has evident by increased filers in last five years. Read on...



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In the budget, it is proposed to increase the turnover limit for Tax Audit under section 44AB of the Income Tax Act, 1961 for business assesseees to ₹ 5 crore from existing ₹1 crore, subject to compliance of certain conditions. On such amendment, the TDS deduction provisions effective on Individuals and HUF under existing some of the Sections 194A, 194C, 194H, 194I and 194J would have got relief as they will not be liable to get their accounts audited and hence, exempted from the provisions of TDS deduction. To continue their deduction of tax, it has been proposed in the Finance Bill that the TDS provisions would be applicable to Individuals and HUF, whose turnover

from business exceeds ₹ 1 crore or gross receipts from profession exceeds ₹ 50 lakhs. The relaxation for non-deduction of TDS under the enumerated Sections shall only be available to such Individuals and HUF whose turnover from business does not exceed ₹ 1 crore or gross receipts from profession does not exceed ₹ 50 lakhs effective from 1st April, 2020.

The quoting and authentication of PAN/Aadhaar is mandatory for certain prescribed transactions and also mentioning them correctly in the Returns. To ensure proper compliances of the law, the relevant penalty provisions are amended to punish such non-compliers.

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This amendments for TDS/TCS deductions that are proposed to take effect from 1st April, 2020, have been summarised in tabulated form as under:

Section	TDS/ TCS	New/ Scope Expanded	Assessee covered	Brief	Basic Exemption Limit	Rate of TDS	Proposed Effective Date
194	TDS	New	Body Corporate	TDS on Dividend paid by a body corporate to a Resident Shareholder	₹ 5000	10%	1 st April, 2020
194A	TDS	Scope Expanded	Co-operative Society	Extension of to provisions to large co- operative society, with turnover criteria on Interest payments	50,000 for senior citizen and 40,000 in any other case	10%	1 st April, 2020
194C	TDS	Scope Expanded	All Assesseees	Extension of TDS to certain type of Works Contracts	No Change	1% (in case of Individual or HUF) or 2% (in other case)	1 st April, 2020
194J	TDS	Scope Expanded	All Assesseees	TDS rate reduced on technical fees	No Change	2% (Earlier 10%)	1 st April, 2020
194K	TDS	New	Mutual Funds	TDS on Income in respect of units	₹ 5000	10% for Resident holders, 20% for Foreign holders	1 st April, 2020
194O	TDS	New	Persons other than Individual and HUF	TDS on e-commerce Transactions (whether Sale of Products or Services)	₹ 5,00,000	1% (if PAN or Aadhar submitted, otherwise 5%)	1 st April, 2020
206C	TCS	New	Authorised Dealers	Remittances under Liberalised Remittance Scheme	₹ 7,00,000	5% (10% where no PAN/Aadhar is furnished)	1 st April, 2020
206C	TCS	New	Seller of Overseas Tour Program Package	Sale of overseas Tour Package		5% (10% where no PAN/Aadhar is furnished)	1 st April, 2020
206C	TCS	New	Seller of goods (whose gross receipts or Turnover exceeds ₹ 10 crores in a financial year	Sale of goods exceeding ₹ 50 lakhs in a financial year to any person	₹ 50,00,000	0.1% (1% where no PAN/Aadhar is furnished)	1 st April, 2020

Note: The provisions of TCS are not applicable in a case where remitter/buyer has deducted TDS under any provisions of the Income Tax Act, 1961.

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This is a welcome move by the Government as now the employees will not have to shell out tax on exercising the said option, but now it has given the time to them to pay the taxes on these perquisites.

Provisions relating to Deductions of Tax effective from 1st April, 2020

Section-192 : TDS on Salary

There has been a long outstanding demand of the trade to allow deduction of tax on perquisites granted by way of Employee Stock Ownership Plan (ESOP's) in the year in which the shares are sold as at the time of exercising the option, the employee were not getting actual cash making it difficult for them to pay tax additional tax. It is now addressed to some extent by allowing this to eligible start-ups referred in Section 80-IAC. For TDS on ESOPs given by such Start-ups, it is now proposed that from the financial year commencing on or after 1st April, 2021, they shall deduct or pay as the case may be tax within 14 days-

- (i) after the expiry of forty-eight months from the end of the relevant assessment year; or
- (ii) from the date of the sale of such specified security or sweat equity share by the assessee; or
- (iii) from the date of the assessee ceasing to be the employee of the person

whichever is the earliest, on the basis of rates in force for the financial year in which the said specified security or sweat equity share is allotted or transferred by eligible start-up referred to in Section 80-IAC.

This is a welcome move by the Government as now the employees will not have to shell out tax on exercising the said option, but now it has given the time to them to pay the taxes on these perquisites. The Government should make this applicable to all types of companies.

Section 194 – TDS on Dividends

Presently, the Domestic Company declaring the dividend pays the Dividend Distribution Tax and the dividend received by the recipient does not have to pay any additional tax, exceptionally the recipient's does not have any dividend income exceeding ₹ 10 lakhs. Since the income received by the recipient exempted under section 10(34) stands withdrawn and proposed to tax dividend in the hands of the recipient effective from 1st April, 2020 and there was no liability for deduction of TDS.

Section 194 has been made effective and accordingly, payment of dividend by body-corporate to resident recipients shall be liable for tax deduction at the rate of 10% for sums paid by any mode, with a non-requirement of deduction of TDS if such aggregated dividend distributed or paid or likely to be distributed or paid during the financial year by the company to the shareholder, does not exceed ₹ 5,000. The exemption is given to the LIC, GIC and their wholly owned subsidiaries, they shall not be liable for TDS.

The proposed amendment will now make dividend recipients to pay tax at the applicable rates on such income.

Section 194A – TDS on Interest

The amendment proposed in Section 194A is to withdraw the TDS deduction exemption given

to the interest paid/credited by certain co-operative society (other than a co-operative bank) to a member or to income credited or paid by a co-operative society to any other co-operative society. Accordingly, it is proposed to amend sub-section (3) and insert proviso to provide that a co-operative society referred to in clause (v) or clause (viia) of said sub-section (3) shall be liable to deduct income-tax in accordance with the provisions of sub-section (1), if :

- (a) the total sales, gross receipts or turnover of the co-operative society exceeds fifty crore rupees during the financial year immediately preceding the financial year in which the interest referred to in sub-section (1) is credited or paid; and
- (b) the amount of interest, or the aggregate of the amount of such interest, credited or paid, or is likely to be credited or paid, during the financial year is more than fifty thousand rupees in case of payee being a senior citizen and forty thousand rupees, in any other case.

Section 194C - TDS on Contractors

Section 194C proposes to expand the scope of deduction of TDS on certain contracts by amending the definition of 'Work' to include the cost of material in the contract price for deduction of TDS under this Section.

Clause (iv) of the Explanation of the said section defines 'work'. Sub-clause (e) of this definition includes manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer within the definition. At present it excludes manufacturing or supplying a product according to

This proposed amendment will have the cascading effect on the job workers as they will be required to deduct tax on full contract price including material cost, which would be much higher amount and block higher money out of their price by way of TDS creating liquidity issues.

the requirement or specification of a customer by using material purchased from a person, other than such customer.

The amendment is proposed to the definition of 'work' defined under section 194C to provide that in a contract manufacturing the cost of the raw material used shall be included within the purview of the 'work'. The reason given for this is that some assessee's are using the escape clause of the section by getting the contract manufacturers to procure the raw material supplied through its related parties, associates the tax is being deducted at lower amount.

This proposed amendment will have the cascading effect on the job workers as they will be required to deduct tax on full contract price including material cost, which would be much higher amount and block higher money out of their price by way of TDS creating liquidity issues. They shall be compelled to apply for lower deduction certificate under section 197, an additional compliance.

Section 194J – TDS on Fees for Professional or Technical Services

The amendment in Section 194J has been proposed to reduce the rate of deduction of tax at source on fees paid for technical services

at a concessional rate of 2% instead of 10%. Presently, there are lot of litigations at various forums of Appeals for treating the sums as contract or professional fees, due to difference of opinion of the Deductor and the Tax Officer, treating the assessee as Assessee in default. Such assessee's will now get the relaxation due to amendment of this provision of deduction of TDS at the rate of 2% on fees for technical services. The TDS rate in other than technical fees under section 194J would remain same at the rate of 10% and there is no change in the same.

However, it seems that the proposed amendment may open another Pandora box for litigation for the payments made by the Deductor being classified as fees for technical services and Assessing Officer considering it as Professional Services. It is better that the services to be included in technical fees be properly clarified in the Finance Act or Rules for better purpose of this amendment.

Section 194K – TDS on Income in respect of Units

The said provisions were omitted by Finance Act, 2016 and now the same is proposed to be reintroduced. TDS at the rate of 10% at the time of credit of such income to the account of the payee or at the time of payment thereof by any mode, whichever is earlier by any person responsible for paying to a resident any income, is required to be deducted in respect of :

Income in respect of units, i.e.,

- (a) units of a Mutual Fund specified under section 10(23D); or
- (b) units from the Administrator of the specified undertaking; or
- (c) units from the specified company,

provided the income paid does not exceed ₹ 5,000 in the financial year.

It is also clarified subsequently, that the intention of the Government is to deduct TDS only on the income declared on the units of the Mutual Funds and not on the Capital Gains on sale.

Section 194O – TDS on e-Commerce transactions

The aforesaid Section is proposed in the Finance Bill, 2020 to widen and deepen the tax net by bringing participants of e-commerce within the tax net. A new levy of TDS at the rate of one per cent, to be deducted on the gross amount of such sales or service or both at the time of payment thereof to such participant by any mode, whichever is earlier:

- TDS is to be paid by e-commerce operator for sale of goods or provision of service facilitated by it through its digital or electronic facility or platform;
- E-commerce operator is required to deduct tax at the time of credit of amount of sale or service or both to the account of e-commerce participant; or
- Any payment made by a purchaser of goods or recipient of services directly to an e-commerce participant shall be deemed to be amount credited or paid by the e-commerce operator to the e-commerce participant and shall be included in the gross amount of such sales or services for the purpose of deduction of income-tax.
- The sum credited or paid to an e-commerce participant (being an individual or HUF) by the e-commerce operator shall not be subjected to provision of this section, if the gross amount of sales or services or both of such individual or HUF, through e-commerce operator, during the previous

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year does not exceed ₹ 5 lakhs and such e-commerce participant has furnished his PAN/Aadhaar to the e-commerce operator.

- A transaction in which tax has been deducted by the e-commerce operator under this section or which is not liable to deduction under the exemption then there shall not be further liability on that transaction for TDS under any other provision of Chapter XVII-B of the Act.

If the TDS is liable for deduction under any other Section then it is not required to be deducted. This exemption will not apply to any amount received or receivable by an e-commerce operator for hosting advertisements or providing any other services which are not in connection with the sale of goods or services referred to in sub-section (1) of the proposed Section. The definition of e-commerce operator, e-commerce participant, electronic commerce, services are given in the Explanation.

The consequential amendments are also being proposed in Section 197 (for lower TDS), in Section 204 (to define person responsible for paying any sum) and in Section 206AA (to provide for tax deduction at 5% in non-PAN/Aadhaar cases).

Provisions relating to Collection of Tax effective from 1st April, 2020

Section 206C of the Act provides for the collection of tax at source (TCS) on business of trading in alcohol, liquor, forest produce, scrap etc. Sub-section (1) of the said section, *inter-alia*, provides that every person, being a seller shall, at the time of debiting of the amount payable by the buyer to the account of the buyer or at the time of receipt of such

The basic intention of the Government seems to plug the loophole of unaccounted money in one of the area of foreign travel, the proposal to amend Section 206C to levy TCS on overseas remittance and for sale of overseas tour package will help to a large extent.

amount from the said buyer in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, collect from the buyer of certain goods a sum equal to specified percentage, of such amount as income-tax.

The basic intention of the Government seems to plug the loophole of unaccounted money in one of the area of foreign travel, the proposal to amend Section 206C to levy TCS on overseas remittance and for sale of overseas tour package will help to a large extent. Since the foreign remittances are already available on record through Form 15CA/15CB for making foreign remittances, they can easily be reconciled with the income disclosed in the Return of Income filed. The introduction of this Section will enable more hardship to genuine remitters on account of education, medical purposes.

Clause (IG) – TCS on Liberalised Remittance Scheme (LRS) and TCS on Selling of Overseas Tour Packages

An authorised dealer receiving an amount or an aggregate of amounts of ₹ 7 lakhs or more in a Financial Year for remittance out of India under the LRS of RBI, shall be liable to collect TCS,

if he receives sum in excess of said amount from a buyer being a person remitting such amount out of India.

A seller of an overseas tour program package who receives any amount from any buyer, being a person who purchases such package, shall be liable to collect TCS at the rate of 5% and at the rate of 10% in non-PAN/Aadhaar cases.

It is stated that the above TCS provision shall not apply if the buyer is liable to deduct tax at source under any other provision of the Act and he has deducted such amount, Central, State and certain other authorities are exempted.

Clause I(H)- TCS on Sale of goods over a limit

It is also proposed to amend Section 206C to levy TCS on sale of goods above specified limit, provided following conditions are satisfied:

1. Sale consideration received from a buyer in a previous year in excess of ₹ 50 lakhs and seller whose gross receipts, total sales or turnover from business exceeds 10 crores during the preceeding financial year
2. A seller of goods to collect TCS at the rate of 0.1% (1% non-PAN/ Aadhaar cases).

However, the Central and State Government, an embassy, a High Commission, legation, commission, consulate, the trade representation of a foreign state, a local authority or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to conditions as prescribed in such notification shall be exempted from TCS.

It is also stated that if the seller is liable to collect TCS under other provision of Section 206C or the

buyer is liable to deduct TDS under any provision of the Act and has deducted such amount, they shall be exempted from this provision.

Since all the dealers proposed to be covered are already liable for GST, the details and information are readily available, these information can be directly taken from CBIC and unwarranted compliance provision could have been avoided.

Other Amendments to TDS Provisions with their effective Date

Section 194LBA provides for a concessional deduction of tax at 5% by a specified company or a business trust, on distributed income paid to non-residents (not being a Company). The rate of tax deduction is proposed to be increased to 10%. (Effective from Assessment Year 2021-22).

Section 194LC of the Act provides for a concessional TDS at the rate of 5% by a specified company or a business trust, on interest paid to non-residents. The period of said concession deduction has been proposed to be extended to 01.07.2023 from 01.07.2020. The rate of TDS is also proposed to be reduced to 4% on interest payment against borrowings through issues of long-term bonds and RDB which are listed only on a recognised stock exchange in any IFSC.

The period concessional TDS of 5% is proposed to be extended to 01.07.2023 from existing 01.07.2020. Further, the said concessional rate shall also apply on the interest payable to an FII or QFI in respect of the investment made in municipal debt security. (Effective from Assessment Year 2021-22).

Section 194N of the Act for deduction of TDS @ 2% by bank on cash withdrawals exceeding

Section 196A of the Act is proposed to amend to revive its applicability on TDS on income in respect of units of a Mutual Fund. It is also proposed to substitute “of the Unit Trust of India” with “from the specified company defined in Explanation to Section 10(35) and also to include payments by any mode.

₹ 1 crore from a bank account, it is proposed that Central Government may notify the persons to whom these provisions shall not be applicable in consultation with the RBI.

Section 195 of the Act for deduction of tax in respect of income paid to non-residents, the second proviso relating to of interest payable by the Government or a public sector bank within the meaning of Section 10(23D) or a public financial institution, TDS is presently deducted at the time of making actual payment which is now proposed to amend to deduct tax at the time of crediting the interest in the books of account. The exemption provided to dividend referred to in Section 115-O is proposed to be deleted (Effective from Assessment Year 2021-22).

Section 196A of the Act is proposed to amend to revive its applicability on TDS on income in respect of units of a Mutual Fund. It is also proposed to substitute “of the Unit Trust of India” with “from the specified company” defined in Explanation to Section 10(35) and also to include payments by any mode. (Effective from Assessment Year 2021-22).

Section 196C of the Act, being tax on Income from foreign currency bonds or shares of Indian company and Section 196D in relation to Income of Foreign Institutional Investors from securities are proposed to be amended to remove exclusion provided to dividend under section 115-O and also to include payments by any mode. (Effective from Assessment Year 2021-22).

Section 201 of the Act relating to interest on late payment of TDS, it is proposed to provide extra time for passing an Order for treating a person in default, when correction statement is filed. The purpose stated in the budget speech is for prevention of fraud.

Section 204 of the Act defines the meaning of the person paying. It is proposed to include in Clause (v) a person who is not resident in India, the person himself or any person authorised by such person or the agent of such person in India including any person treated as an agent under section 163, to include the list of persons to be made accountable in case of non-deduction of tax or non-deduction at proper rates.

Procedural Changes relating to filing of TDS Returns

1. In TDS Returns, now it will also be required to report all the payments made to persons under section 194A wherein tax has been deducted, not deducted due to submissions of declarations or deductions that are below the exemption limit provided under the Section; and
2. Introduce online filing of application by a person making payments to non-resident seeking determination of tax to be deducted at source ■

Significant Proposals in Relation to Non-Residents

International taxation has never been as dynamic and emerging as it is now. There are global concerns over some of the prevailing international tax principles, framed decades back, not able to match with the speed and complexity of emerging businesses. Consequently, domestic tax laws and tax treaties that forms the basis for taxation of non-residents are evolving. There are several proposals under the Budget 2020 in respect of taxes on non-residents as applicable from 1st April 2020 (AY 2021-22) unless stated otherwise. Read on...

Recently, Organisation for Economic Co-operation and Development (OECD) has proposed Multilateral Instrument (MLI) to bring out the change in tax treaties in efficient and quick manner. It has been signed by more than 90 countries. In addition to change in tax treaties countries are making change in domestic taxation as well to fulfill the gap between existing international taxation system and new forms of business to enable the countries to have their fair share of taxes. At the same time, there is competition among nations to attract foreign investment at maximum for



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development and growth of economy. Thus, where existing international tax principles are required to be strengthened on one hand, there should be policies to provide friendly and stable business environment on the other. India has recognised this need of the hour as is evident from the Budget 2020 presented by Hon'ble Finance Minister in the Parliament on 1st February 2020.

Significant Proposals

1. Safe harbor rules and Advance pricing agreement for determination of attribution of profit to business

Budget 2020 has made amendment to Section 92CB and Section 92CC of the Act to provide for determination of income attributable to business connection/permanent establishment (PE) through Safe harbor rules and advance pricing agreement, respectively.

Attribution of income has always been a litigative area lacking uniformity primarily due to Rule 10. Rule 10 grants wide and open powers to Assessing Officer to allocate

income as it deems fit or considerable reasonable. The framing of Rule 10 has led to attribution profit in ad hoc manner by various Appellate Authorities and thereby creates uncertainty in the minds of foreign investors. Availability of Safe Harbor Rules (SHR) would surely provide certainty, subject to the approach that would be prescribed under safe harbor rules. Further, under Advance Pricing Agreement (APA) mechanism, allocation of income may be made through methods prescribed for determination of arm length price (ALP) under section 92C of the Act or method(s) as may be prescribed via supporting Rules.

2. Inclusion of income from advertisement and sale of data under income attributable to business connection in India

Taxing Digital economy is one of the top concern worldwide and countries are coming up with different forms of taxes to get their share of tax. Focus has shifted from physical

presence or value addition for taxing nexus to market presence over time because of the way technology is used in generating revenue. Though, OECD is working towards achieving consensus of nations to develop a common tax to tax digitalised world, countries have started adopting unilateral measures to protect their tax base. In same lines, India has also proposed to amend the source Rule by inserting Explanation 3A to Section 9 of the Act.

“Explanation 3A. –For the removal of doubts, it is hereby declared that the income attributable to the operations carried out in India, as referred to in Explanation 1, shall include income from–

- (i) such advertisement which targets a customer who resides in India or a customer who accesses the advertisement through internet protocol address located in India;*
- (ii) sale of data collected from a person who resides in India or from a person who uses internet protocol address located in India; and*
- (iii) sale of goods or services using data collected from a person who resides in India or from a person who uses internet protocol address located in India.”;*
- (iv) after Explanation 3A as so inserted, the following proviso shall be inserted with effect from the 1st day of April, 2022, namely:*

“Provided that the provisions contained in this Explanation shall also apply to the income attributable to the transactions or activities referred to in Explanation 2A.”

Clause (i), clause (ii) and clause (iii) aims to tax the specified income earned by non residents who have PE in India, in addition to income that was attributable in pre budget provision. In pre budget provision, income arising from functions

performed, assets utilised in India are only attributed to PE. It is now proposed to attribute revenue arising from following activities also to PE whether performed in or outside India:

- from sale of advertisement to customer residing in India or customers using internet protocol located in India
- from sale of data collected from a person who resides in India or uses internet protocol address located in India.
- From sale of goods and services using data collected as above.

This amendment aims to tax the revenue earned by non-resident through digital marketing, sale of data collected from India and also revenue from consequent sale of goods and services using such data. However, such business does not constitute PE under existing definition in DTAA in the absence of any physical activity/ form in India. Thus, proposed provision would not be of much effect unless definition of PE is amended in tax treaties.

Be as it may, non-residents having modest physical presence like the ones acting as market support service provider or warehouse in India, would be affected and proposal may lead to increase in tax base of such non-residents. Since, many tax treaties of India would be modified from 1st April 2020 because India has signed and ratified the MLI. This would have effect of lowering down of threshold of PE and change in application of preparatory and auxiliary exemption. Combined effect of MLI and proposed provision by Finance Bill would bring the revenue from sale by non-resident also under the net, who claimed to have minimal functions in India as of now and compensated on cost plus model.

3. **Amendment in Section 94B** Finance Act, 2017 has

introduced Section 94B in the Act that provides for disallowance of interest paid by Indian company in excess of 30% of Earnings Before Interest, Taxes, Depreciation and Amortisation (EBITDA), if loan is availed from non-resident associated enterprise, in computation of taxable income of such Company. Budget 2020 has proposed an amendment to the Section through insertion of Section (1A).

Section 92A of the Act defines associated enterprise and as per one of the conditions given under section 92A(2) of the Act, when loan granted by one enterprise constitutes 50% or more of total assets of other enterprise, both the entities qualifies as associated enterprises. Further definition of enterprise includes Permanent Establishment under section 92F of the Act. Thus if branch of any foreign bank has granted loan in excess of 50% of book value of asset, it would constitute associated enterprise under section 92A. This would trigger Section 94B and interest paid by Company on loan taken from such branch would be disallowed in excess of 30% of EBITDA of the Company. Insertion of Section (1A) aims to exclude interest paid in respect of a debt issued by a permanent establishment of a non-resident in India and engaged in business of banking and insurance.

It is a welcome move to bring the foreign banks operating as subsidiary or as a branch at equal footing. Earlier, loan availed from subsidiary of foreign branch would not have attracted Section 94B of the Act while loan availed from branch of foreign bank may be disallowed. With proposed amendment, branch of foreign banks/NBFC would have major relaxation.

4. **Amendment in Dispute Resolution Panel (DRP)** Clause 70 of the Finance Bill

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seeks to amend Section 144C of the Act relating to reference to dispute resolution panel (DRP). Currently, objection can be filed before DRP if there is variation in the returned income or loss of the taxpayer under Draft order issued by the Assessing officer (AO). It has now been proposed to make DRP route available to taxpayers even in cases where there is no variation in returned income/loss but otherwise prejudicial to the interest of the taxpayer. For example change in tax rate of taxpayer, tax credit.

Further, specified taxpayers are only allowed to file objection before DRP in current provision. The specified taxpayers are Foreign Company and any person in whose case transfer pricing adjustment have been made. Non-resident other than company like partnership firm, LLP, etc. were not eligible to adopt DRP route if adjustment is other than for transfer pricing issues. Now, it has now been proposed to include all non-residents under the ambit of specified taxpayer. It is applicable from 1st April 2020 and thus any adjustment made in the hands of any non-resident after such date can now be challenged before DRP. AO would therefore issue the draft assessment order first for adjustment made in the hands of non-resident prejudicial to its interest.

5. **Aligning purpose of entering into Double Taxation Avoidance Agreements (DTAA) with Multilateral Instrument (MLI)**

MLI is an instrument designed by OECD with G20 nations to enable modification in tax treaties under the project to tackle base erosion and profit shifting (BEPS). India is also signatory to MLI and changes proposed under it are applicable on many tax treaties with India w.e.f April 1, 2020. One of the change proposed

Purpose of all treaties is either prevention of fiscal evasion, double taxation or promotion of trade and investment. Supreme Court has also upheld in past that when prevention of treaty shopping is not defined as specific purpose, benefit of treaty cannot be denied if transaction is otherwise satisfying the purpose of treaty even if it's for tax evasion or treaty shopping.

by MLI is to modify the preamble of tax treaties that define the scope and purpose of it. Currently, preamble does not prescribe prevention of non double taxation or tax evasion or treaty shopping as the purpose of entering into tax treaty. Purpose of all treaties is either prevention of fiscal evasion, double taxation or promotion of trade and investment. Supreme Court has also upheld in past that when prevention of treaty shopping is not defined as specific purpose, benefit of treaty cannot be denied if transaction is otherwise satisfying the purpose of treaty even if it is for tax evasion or treaty shopping.

Article 6 of MLI would modify the Preamble of tax treaties now as :

"Intending to eliminate double taxation with respect to the taxes covered by this agreement without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this agreement for the indirect benefit of residents of third jurisdictions);"

Under the existing Act, Section 90 empowers Central Government to enter into tax treaty with following purpose:

- Granting tax credit in case of double taxation,
- Avoidance of double taxation,
- Exchange of information,
- Recovery of tax.

Since avoidance of non-taxation, fiscal evasion or treaty shopping are not listed in Section 90 of the Act, it may create legal challenge to amend tax treaties outside the scope of Section 90 and therefore it has been proposed to amend clause (b) of sub-section (1) of Section 90 of the Income Tax Act (herein after "the Act") so as to provide that the Central Government may enter into an agreement with the Government of any country outside India or specified territory outside India for, *inter alia*, the avoidance of double taxation of income under the Act and under the corresponding law in force in that country or specified territory, as the case may be, without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this agreement for the indirect benefit of residents of any other country or territory).

Similar amendment has been proposed in Section 90A of the Act that empowers specified association in India to enter into an agreement with any specified association in the specified territory outside India after adoption by Central Government.

6. **Exemption in respect of certain income of wholly owned subsidiary of Abu Dhabi Investment Authority and Sovereign Wealth Fund**
One of the most significant proposals in Budget 2020 to boost infrastructure sector in India is exempting income earned by Sovereign Wealth Funds in India including Abu Dhabi Investment Authority

(SWF). A new Section 10(23FE) has been introduced which will exempt income of SWF in the nature of dividend, interest or long term capital gains arising from an investment made in India on or before 31st March 2024.

Such exemption would be available if the investment is made in infrastructure companies or enterprises and investment is held for a minimum period of three years. India requires enormous money for all round infrastructural growth, this 100% tax exemption by India is expected to make India a darling country for investment within SWFs.

7. **Modification in conditions for offshore funds' exemption from "business connection"**

Another modification which has been proposed to boost investments in India is relaxing conditions to qualify as business connection under section 9A of the Act. Section 9A of the Act is like a safe harbour provisions whereby an "eligible investment fund" is not regarded as having a "business connection" in India merely because an "eligible fund manager" undertaking fund management activities on its behalf is located in India until certain conditions listed in the said Section are satisfied. Currently Offshore Funds' are allowed to invest only up to 5% of the total fund corpus, now via Budget 2020, it has been proposed to allow Offshore Funds' upto ₹ 25 crore over three years from the start of the fund without 5% barrier. Another proposal, which is more in the nature of rationalisation, is if the fund has been established or incorporated in the previous year, the condition of monthly average of the corpus of the fund to be at ₹ 100 crore shall be fulfilled within twelve months from the last day of the month of its establishment or incorporation.

8. **Exempting non-resident from filing of Income-tax return in certain conditions**

Currently, Section 115A of the Act exempts non-residents from filing annual income-tax return, if the total income comprises only of dividend or interest, and TDS on such income has been deducted as required under the Chapter XVII – B of the Income-tax Act, 1961.

Now, it has been proposed to extend this benefit to those taxpayers whose income comprises only of royalty or fees for technical services (FTS).

Above proposal is a welcome move from the CBDT, however, the above benefit comes with a rider that the tax should have been deducted as per the provisions of Section 115A. Apparently, it seems wherein TDS is deducted at a lower rate (or nil) because of treaty benefit, in comparison to rate prescribed under section 115A, non-resident would be required to file Annual Income Tax Return in India, even if its income only comprises of Royalty and FTS.

9. **Modification of residency provisions**

- **Reducing short exemption stay:** On many occasions it has been found that non-resident Indians visit India, stay here for good amount of period and manages their economic activity from India without paying taxes on their global income. In order to check such abuse of beneficial provision given in clause (b) of Explanation 1 of Section 6 of the Act, it has been proposed to decrease the period of 182 days to 120 days. As a result, wherein Indian citizen or person of Indian origin, who is also a non resident, comes on a visit to India for more than 120 days, he would now

Another anti abusive amendment proposed in Budget 2020 is to tax such Indian citizens who are not tax residents of any country.

become Resident starting April 2020.

- **Taxing stateless residents:** In addition to above, another anti-abusive amendment proposed in Budget 2020 is to tax such Indian citizens who are not tax residents of any country. As per Memorandum explaining the finance bill, there are certain individuals, typically high net worth individuals, arranges their affairs in such a way that they do not become liable to tax in any of the Country. Such arrangements, contributes towards disequilibrium in the society. In order to catch such individuals, a new sub-section (1A) has been added in Section 6 of the Act, according to which an Indian citizen who is not liable to tax in any other country or territory shall be deemed to be resident in India. Memorandum explaining finance bill explains the rationale for amendment is to tax the stateless high net worth individuals who arrange their affairs in such a way that they escape the tax liability around the world. However, framing of provision created concern among genuine taxpayers who are based out in country with no taxes like UAE. To clarify, Government issued the press release very next day stating, "*purpose not intended to include in tax net those Indian citizens who are bonafide workers in other countries. In some*

section of the media the new provision is being interpreted to create an impression that those Indians who are bonafide workers in other countries, including in Middle East, and who are not liable to tax in these countries will be taxed in India on the income that they have earned there. This interpretation is not correct. In order to avoid any misinterpretation, it is clarified that in case of an Indian citizen who becomes deemed resident of India under this proposed provision, income earned outside India by him shall not be taxed in India unless it is derived from an Indian business or profession. Necessary clarification, if required, shall be incorporated in the relevant provision of the law."

Clarification issued by government states that income of non-resident shall be taxed only if derived from an Indian Business or profession. This provision is same as it existed pre budget, thus purpose of proposed provision creates confusion. It is expected that some more clarification will come in the due course.

- *Relaxing condition to qualify as "Not Ordinary Resident"* - Currently, the Act lays two conditions to qualify as "Not Ordinary Resident", (a) Person is Non Resident in any 9 out of 10 preceding financial years, and (b) the aggregate stay in India during 7 preceding financial years is 729 days or less. Keeping in mind above two changes in Section 6 of the Act, because of which certain individuals may qualify

as residents, it seems in order to avoid hardship condition to qualify as "Not Ordinary Resident" has been relaxed.

10. **Removing dividend distribution tax (DDT) and moving to classical system of taxing dividend in the hands of shareholders/unit holders**

Budget 2020 has proposed that the provisions of Section 115-O the Act shall not be applicable on the dividend distributed after 31st March 2020 i.e., from FY 2020-21 onwards, domestic companies are not required to deduct and pay dividend distribution tax, instead dividend will become taxable in the hands of the shareholder. This sifting of taxability from the hands of company to the shareholder creates a beneficial scenario for non-resident shareholders. In most of the tax treaties entered by India with other countries, the source country, i.e., India is allowed to tax dividend. However, tax rate in tax treaties is generally within the range of 5 -15%. So now wherein non-resident is able to claim treaty benefit, the effective tax rate would drop from 20.35% to 5-15%. For a non-resident this proposal is more in the nature of tax incentive instead of "rationalisation of provisions of the Act". There is, however, modification in tax treaties in respect of condition to make beneficial rate of tax available to receiver of dividend, through MLI – Article 8. This interplay of MLI with domestic provision needs to be analysed for determining the taxability in the hands of non-resident investor.

11. **Applicability of Significant Economic Presence (SEP) deferred**

Finance Act, 2018, inserted an explanation 2A to Section 9(1)(i) to clarify that SEP of a Non-resident in India will constitute a "business connection" in India. However,

In most of the tax treaties entered by India with other countries, the source country, i.e., India is allowed to tax dividend. However, tax rate in tax treaties is generally within the range of 5 -15%.

since discussion on this issue is still going on in G20-OECD BEPS project and G20-OECD report is expected by the end of December 2020, the Finance Bill, 2020 has proposed to defer the applicability of SEP to assessment year starting from 2022-23.

12. **Change in the due date of filing Form No. 3CEB**

It has been proposed to change the due date filing of Form 3CEB from November 30th to October 31st. Thus for the financial year 2019-20, the due date of filing Form No. 3CEB is proposed to be 31st October 2020. The Memorandum explaining the Finance Bill, states that aforesaid amendment is primarily proposed to enable pre-filing of returns and hence, various reports such as accountant's report in Form no. 3CEB, tax audit report in Form no. 3CED, etc. shall be required to be filed by 31st October.

13. **Levy of Withholding taxes on e-commerce transactions**

Section 194-O the Act is proposed to be inserted to levy withholding tax on e-commerce transactions w.e.f. April 1, 2020 @ 1%. It would be levied on sale of good or services by e-commerce participant using e-commerce platform operated, owned or managed by e-commerce operator. Apparently, it seems that this Section would also be applicable on non-residents e-commerce operators. ■

Indirect Tax Measures in Budget 2020

All the changes in Goods and Services Tax (GST) are made through GST council recommendations. Out of these recommendations, some also require amendments in the GST Acts which occur through the Finance Acts enacted every year. This budget has increased estimation of indirect tax revenue collection which mainly comprise of central share in GST and Custom Duty from ₹ 9,85,339 to ₹ 10,95,500 crore envisaging a revenue growth of 11.18%. Read on to know more

The Union Budget is stated to be centred around three significant themes – Aspirational India, Economic Development and Caring Society – all of which are directed towards ease of living and doing business in better India. In short, helping the Indian industry is the most important theme of this budget.

On Indirect Tax front, a tax measure directed towards the first theme, namely, Aspirational India is the levy of health cess @5% as a duty of customs on import of medical devices to be utilised for creating health infrastructure and services. Since the specified medical devices are now being manufactured in India, this cess would boost the domestic industry.

The indirect tax proposal directed towards the second



theme, namely, Economic Development is the increase in customs duty on items, which are also produced domestically by MSMEs, and withdrawal of eighty customs duty exemptions. Also, introducing enabling provisions for investigation in cases of circumvention of countervailing duty and strengthening anti-circumvention measures for anti-dumping duty will promote Make in India and consequently, economic growth.

The third theme Caring Society include the National Calamity Contingent Duty to be levied on cigarettes and other tobacco products which will, in addition to garnering revenue, promote social welfare.

A. Certain Amendment in the Customs Act, 1962

Largely, the incentive hidden in this budget is to boost the Indian industry and hence certain changes in the Customs Act, 1962 have been made.



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Benefit proposed for exporter:

The Hon'ble Finance Minister in her budget speech has proposed to digitally refund to exporters, duties and taxes levied at the Central, State and local levels, such as electricity duties and VAT on fuel used for transportation, which are not getting exempted or refunded under any other existing mechanism. This scheme for reversion of duties and taxes on exported products will be launched this year. This would certainly reduce a huge amount of paperwork and interface with the authorities and would motivate the exporters.

Power to prohibit importation or exportation of goods

Clause (f) of sub-section (2) of Section 11 of the Customs Act, 1962 is proposed to be amended so as to include "any other goods" in addition to gold or silver, to enable the Central Government to prohibit either absolutely or conditionally the import or export of such goods to prevent injury to the economy

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on account of uncontrolled import or export of such goods.

Facility of Electronic Duty Credit Ledger in the Customs

A new Section 51B will be inserted to Custom Act, 1962 so as to provide for creation of an Electronic Duty Credit Ledger in the customs system. This will enable duty credit in place of remission to be given on exports. The provision for recovery of duties under section 28AAA of Customs Act, 1962 is also being expanded to include such electronic credit of duties.

It is also proposed to empower the Central Government to make regulations for the purpose of prescribing the manner, procedures, conditions and restrictions to carry out the purposes of this facility. Further, the Bill seeks to amend the heading of Chapter VIIA of Customs Act from 'Payments through electronic cash ledger' to 'Payments through electronic cash ledger and electronic duty credit ledger'.

For Reducing litigation

With the objective of reducing litigation, an explanation is proposed to be inserted in Section 28 of the Custom Act, 1962 to explicitly clarify that any notice issued under the said section, prior to the enactment of the Finance Act, 2018, shall continue to be governed by the Section 28 as it existed before the said enactment, notwithstanding order of any Appellate Authority, Appellate Tribunal, Court or any other law to the contrary. This amendment shall come into effect retrospectively from the 29.03.2018, the date of commencement of the Finance Act, 2018.

Recovery of duties in certain cases

Section 28AAA of the Customs Act is proposed to be amended so as to provide for recovery of duty from a person against utilisation of instruments issued under any other law, or under any scheme of the Central Government, for the time being in force, in addition to the Foreign Trade (Development and Regulation) Act, 1992.

B. Amendment in Customs Tariff Act, 1975

Under Make in India initiative, rate of customs duty on mobile phones, footwear, electric vehicles, electronics, household articles etc. has been increased. Further, the exemption from levy of social welfare surcharge cess on various goods and removal of concessional duty benefit on several items has been withdrawn. Some major changes are:

Power to impose safeguard duty

Bill seeks to make amendments to safeguard provisions to check surge in imports and prevent serious injury to domestic industry. Section 8B of the Custom Tariff Act, 1975 is proposed to be substituted to empower the Central Government to apply safeguard measures. Safeguard measure shall include imposition of a Safeguard Duty or application of a Tariff Rate Quota or any other measure that the Central Government may consider appropriate as safeguard measure.

Health Cess

Health Cess is proposed to be imposed on the import of Medical devices falling under headings 9018 to 9022, at the rate of 5% ad valorem on the import value of such goods as determined under section 14 of the Customs Act, 1962. This Health Cess shall be a duty of Customs. Any Export Promotion scrips shall not be used for payment of said Cess. Health Cess shall not be imposed on medical devices which are exempt from BCD. Further, inputs/ parts used in the manufacture of medical devices will also be exempt from Health Cess. The proceeds of Health Cess shall be used by the Union for funding of health infrastructure in the Country.

Social Welfare Surcharge [SWS]

SWS means duty of customs levied vide Section 110 of the Finance Act, 2018 on the goods specified in the First Schedule to the Customs Tariff Act, 1975 to fulfil the commitment of the Government to provide and finance education, health and social security. It is levied at the rate of 10% of the aggregate duties of customs, on imported

goods. Notification No. 09/2020 – Customs dated 2-2-2020 has been issued to amend Notification No. 11/2018 – Customs dated 2-2-2018. Few items have been exempted from levy of SWS w.e.f. 2-2-2020. However, all commercial vehicles (including electric vehicles) if imported or completely built unit under tariff heading 8702 or 8704 will be exempt w.e.f. 1.4.2020. Further, exemption from levy of SWS has been withdrawn in respect of 51 entries of specified items.

Amendment in Countervailing Duty Rules and Anti-Dumping Duty Rules

- (i) These Rules are proposed to be amended to strengthen the anti-circumvention measures

Under Make in India initiative, rate of customs duty on mobile phones, footwear, electric vehicles, electronics, household articles etc. has been increased.

by making them more comprehensive and wider in scope. This is to take care of all types of circumventions of antidumping duty in line with best international practices. Further, certain other changes are proposed to be made for bringing more clarity in the Rules.

- (ii) The Countervailing Duty Rules provide for the manner and procedure for causing investigation into the cases of imports of subsidised goods that cause injury to domestic industry. Currently, the Countervailing Duty Rules do not have any mechanism for imposition of countervailing duty in case of circumvention of these measures. A provision is being incorporated in the countervailing Duty Rules to enable investigation into the case of circumvention of countervailing duty for enabling imposition of such duty. Certain other changes are

being made for bringing more clarity in the Rules.

Administration of Rules of Origin under Trade Agreement

Upsurge in imports under Free Trade Agreements (FTAs) with undue claims benefits posing threat to domestic industry has led to review of Rules of Origin requirements. Hence, a new Chapter VAA (a new section 28DA) is proposed to be incorporated in the Customs Act, 1962 to provide enabling provision for administering the preferential tax treatment regime under Trade Agreements.

Consequential changes have also been proposed in Section 111 for confiscation of goods imported on claim of preferential rate in contravention of provision of Chapter VAA or of any rule made under this Act. Further, Section 156 (2) of the Custom Act is proposed to be amended to empower the Central Government to make rules for carrying out the purposes of newly inserted Chapter VAA.

A tabular view can be presented to describe the changes in Custom duty made afterwards budget which is basically focused on improving the Indian Industry

Custom duty on specified item of category of goods	Before	After
Household Goods and appliances	10%	20%
Electric appliances	10%	20%
Stationery Items	10%	20%
Toys	20%	60%
Custom Duty on Footwear	25%	35%
Custom Duty on Specified furniture goods	20%	25%
Custom Duty on newsprint and lightweight coated paper	10%	5%

C. Excise

National Calamity Contingent Duty (NCCD) is levied as a duty of excise on certain manufactured goods specified under the Seventh Schedule of Finance Act, 2001. NCCD on cigarettes has been increased ranging from 212% to 388% depending on cigarette stick size.

D. Goods and Services Tax (GST)

Change in rates or exemptions are provided through notifications issued time to time. However there are certain amendments made through Finance Act as

recommended by GST council.

On the GST front, the government focused on procedural aspects to strengthen the enforcement of the law.

The significant changes proposed in Goods and Services Tax are as follows:

Registration

Section 29(1)(c) of CGST Act, 2017 is proposed to be amended to enable cancellation of registration which has been obtained voluntarily under sub-section (3) of Section 25. Further, a proviso to section 30(1) is proposed to be inserted to empower the jurisdictional tax authorities to extend the date for application of revocation of cancellation of registration in deserving cases.

Composition scheme

Initially the composition scheme under section 10(1) of CGST Act 2017 was available only to certain class of persons supplying goods and for supply of food covered under entry 6(b) of Schedule II. Subsequently, the scheme was extended to supply of services to the extent of 10% of turnover or ₹ 5 lakhs, whichever is higher. However, restriction like inter-state

supply of services etc. was not imposed.

Now, with a view to harmonise the conditions for eligibility under Composition Scheme for the taxable persons engaged in suppliers of goods and to the extent of eligible services, Clauses (b), (c) and (d) of Section 10(2) are proposed to be amended to exclude following categories of taxable persons from composition scheme who are engaged in making:

- supply of services not leviable to tax,

- inter-State outward supplies of services,
- supply of services through an electronic commerce operator who is required to collect tax at source

Tax Invoice

Proviso to Section 31(2) of the CGST Act, 2017 is proposed to be amended to provide enabling provision to prescribe the manner of issuance of invoices in case of supply of taxable services or specified supplies.

Relief in timeline for claiming input tax credit on debit note

The budget proposes to omit the words "invoice relating to such" from Section 16(4) of the CGST Act, 2017, thereby delinking the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing ITC. Now, the time limit of taking input tax credit on Debit note will be counted from date of Debit note irrespective of date of underlying invoices.

Penalty for beneficiary of fraudulent input tax credit

With a view to prevent fraudulent input tax credit, Section 122 of CGST Act, 2017 is proposed to be amended to penalise the beneficiary of the transactions of passing on or availing fraudulent Input Tax Credit. Further, scope of Section 132 of CGST Act, 2017 is proposed to widen to make the offence of fraudulent availment of input tax credit without an invoice or bill to make it a cognizable and non-bailable offence. Further, it proposes to make any person who commits, or causes the commission, or retains the benefit of transactions arising out of specified offences liable for punishment. Parallel amendments have been brought in the Income-tax Act also.

No requirement of TDS Certificate

Section 51 of CGST Act, 2017 so as to empower the Government to make rules to provide for the form and manner in which a certificate of TDS shall be issued. The reasoning for the said amendment has been

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provided in the memorandum to the bill which provides that proposed amendment has been made with a view to remove the requirement of issuance of TDS certificate by the deductor, and to omit the corresponding provision of late fees for delay in issuance of TDS certificate.

Power to issue instructions or directions

Section 168 of CGST Act, 2017 is to be amended to make provisions for enabling the jurisdictional commissioner to exercise powers under sub-section (5) of Section 66 and second proviso to sub-section (1) of Section 143.

Section 66(5) stipulates that in case of special audit the expenses of the examination and audit of records, shall be determined and paid by the Commissioner and such determination shall be final.

ITC on inputs / capital goods sent to a job worker from principal can be claimed without payment of tax subject to such goods coming back either as such or finished within the stipulated period of 1 and 3 years respectively. Such period can be extended by the Commissioner for a further period not exceeding one year and two years respectively in terms of second proviso to Section 143(1).

Enabling issuance of removal of difficulty order by 2 years

Finance Bill seeks to amend Section 172 of CGST Act, 2017 so as to extend the time limit provided for issuance of removal of difficulties order from three years (30.06.2020) to five years (30.06.2022), with effect from the date of commencement of the said Act (i.e. 01.07.2017).

Similar amendment is also proposed in **IGST Act, UTGST Act and Goods and Services Tax (Compensation to States) Act, 2017** by virtue of proposed amendment in proviso to Section 25(1), proviso to Section 26(1) and proviso to Section 14(1) respectively.

Definition of Union Territory

The definition of Union Territory in clause (114) of Section 2 is proposed to be amended so as to align with the Jammu and Kashmir Reorganisation

Act, 2019 and the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories), Act, 2019. Similar amendment is proposed in UTGST Act.

Constitution of Tribunal in Jammu and Kashmir and Ladakh

Section 109 (6) of the CGST Act, 2017 is proposed to be amended to bring the provision for Appellate Tribunal and its benches thereof under the CGST Act in the Union territory of Jammu and Kashmir and Union Territory of Ladakh.

Retrospective Changes Relating to GST

- **Amendment in Transitional arrangements for ITC**
Section 140 of the CGST Act, 2017 is proposed to be amended with effect from 01.07.17, to prescribe the manner and time limit for taking transitional credit. This amendment is to be made to nullify the effect of the various judgments of Courts.
- **Amendment in Schedule II**
With a view to provide clarity and resolve ambiguity, entries at 4(a) & 4(b) in Schedule II of the CGST Act is proposed to be amended w.e.f. 01.07.2017 to make provision for omission of supplies relating to transfer of business assets made without any consideration from Schedule II of the said Act.
- **Retrospective exemption or levy and collection of GST**
 - CGST, UTGST and IGST are proposed to be exempted on supply of fishmeal under tariff heading 2301 for the period 01.07.2017 to 30.09.2019. However, if GST has already been paid, the same would not be eligible for refund.
 - Levy of 6% CGST/UTGST and 12% IGST for the period 01.07.2017 to 31.12.2018, is proposed on supply of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery of

headings 8432, 8433 and 8436. However, no refund shall be made of the tax which has already been collected.

- **Notification issued under section 54(3)(ii) of CGST Act**
Notification No. 3/2019-Compensation Cess (Rate), dated 30.09.2019 disallows the refund of compensation cess in case of inverted duty structure for tobacco and manufactured tobacco w.e.f. 1.10.2019. This notification is proposed to be effective from 1.7.2017. Hence, no refund on account of inverted duty structure for tobacco would be admissible on any tobacco products once notified.

Conclusion

Government's focus on implementing various tools such as in-depth data analysis and artificial intelligence to crack down on frauds coupled with strengthening its internal systems by introducing Aadhar based verification, linking of various government portals, e-invoicing clearly demonstrate the intention for plugging revenue leakage and hence improving the Indian economy. The Government has introduced high penalties and in extreme cases non-bailable offence on taxpayers where cases of tax evasion or fraudulent availment of credits are detected. To work towards the Government's long-term objective of "Make in India", the Budget seeks to increase the domestic production by introducing various incentives and also by increasing the customs duty on several products.

The gross GST revenue collected in the month of January, 2020 is ₹1,10,828 crore which is highest ever collection since implementation of GST till now. It can be considered as a good sign of recovery of economy from its temporary slowdown. The author hopes that the changes proposed in customs will help in boosting the domestic manufacturing industry and support 'Make in India' initiatives of the Government. ■

Conceptual Framework for Financial Reporting – Robust Framework for the new century

As part of the convergence of Indian Accounting Standards (Ind AS) with the International Financial Reporting Standards (IFRS) Standard, the Exposure Draft (ED) of the Conceptual Framework has been issued recently for public comments. The Exposure draft of the Conceptual Framework is based on the Conceptual Framework 2018 issued by the International Accounting Standards Board (IASB). The Conceptual Framework is the foundation of the financial reporting standards and acts as mentor, philosopher and guide to the accounting standard-setter. The Conceptual Framework developed by the IASB has undergone a complete overhaul and refinement in recent years and expected to be foundation for international financial reporting standard setting in the new millennium. Read on...



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Conceptual Framework- The Foundation for Accounting Standard-setting

The *Conceptual Framework for Financial Reporting* describes the objective of and concepts for general purpose financial reporting. The Conceptual Framework is a practical tool that helps the Standard Setting Body to develop requirements in the individual Standards based on consistent concepts. It also help preparers to develop consistent accounting policies for areas that are not covered by a standard or where there is choice of accounting policy, and assist all stakeholders to understand and interpret the Standards.

It is important to note that the Conceptual Framework is a set

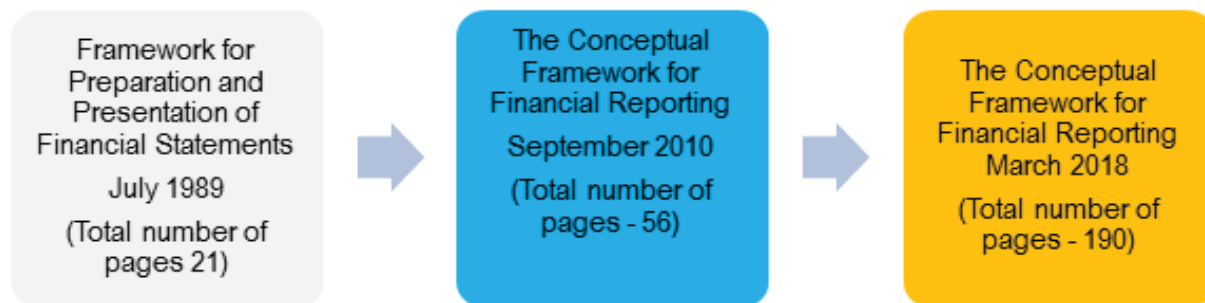
of accounting and reporting concepts but does not override any individual Standard. In the absence of a Standard that specifically applies to a transaction, management uses its judgement in developing and applying an accounting policy that results in information that is relevant and reliable. In making that judgement, IAS 8/Ind AS 8, *Accounting Policies, Changes in Accounting Estimates and Errors*, requires management to consider the definitions, recognition criteria and measurement concepts for assets, liabilities, income and expenses in the Conceptual Framework.

International Developments -Genesis of the new Conceptual Framework issued by the International Accounting Standards Board (IASB)

* Contributed with guidance from CA.Vidhyadhar Kulkarni and CA.Parminder Kaur

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In March 2018, the IASB issued a comprehensive framework titled 'Conceptual Framework for Financial Reporting (Conceptual Framework)' after five years of extensive deliberations since the Discussion Paper issued in 2013.



❖ Mandatory Effective date

- IASB/IFRS Interpretation Committee – March 2018 (immediately from issue date)
- Preparers and others – January 2020, early adoption permitted.

Journey of IASB's Conceptual Framework at Glance

	July 1989	International Accounting Standards Committee (predecessor of IASB) issued the Framework for the Preparation and Presentation of Financial Statements (Framework 1989)	
	April 2001	The IASB adopted the Framework 1989 issued by its predecessor body	
Revision of Conceptual Framework			
Phase I- jointly by IASB and Financial Accounting Standards Board, US national standard-setter	July 2006	<ul style="list-style-type: none">• Discussion Paper on revision of Conceptual Framework published by IASB and FASB	179 Comment letters received
	May 2008	<ul style="list-style-type: none">• Exposure Draft published jointly by IASB and FASB	142 Comment letters received
	Sept 2010	<ul style="list-style-type: none">• Conceptual Framework issued with newly developed Chapters 1 to 2 and Introduction Section• Remaining text of 1989 Framework carried forward	
Phase II- IASB individual project	July 2013	<ul style="list-style-type: none">• Discussion Paper - <i>A Review of the Conceptual Framework for Financial Reporting issued</i>	Comment Letters - 229 on DP, 233 on ED and 40 on ED update references Public Meetings > 230 (Investors, analysts, preparers, actuaries, regulators, standard-setters, accounting firms and others) Consultative Group Accounting Standards Advisory Forum (ASAF) Field Testing Case studies in World Standards Conference 2016
	May 2015	<ul style="list-style-type: none">• Exposure Draft of Conceptual Framework for Financial Reporting issued by IASB• Exposure Draft Updating References to the Conceptual Framework issued	
	March 2018	<ul style="list-style-type: none">• The Conceptual Framework for Financial Reporting was issued	

Revision in 2010: Joint Project of IASB with FASB US national standard-setter

When the international standard-setting body, the IASB was restructured in 2001, it signed an historic agreement called 'Norwalk Agreement' with FASB to make best efforts to make their standards compatible with each other. Subsequently in 2006, IASB and FASB entered into MoU, inter-alia, to achieve the objective of Norwalk Agreement. In this background, IASB and FASB in 2006 embarked on a joint-work to revise their respective Conceptual Framework. The revision of Conceptual Framework work was decided to be taken up in phases as changes were large and structural as well as conceptual. First phase of initiative (in 2010) culminated in IASB issuing two chapters of Conceptual Framework. The Chapters added were Chapter 1, *The Objective of general purpose financial reporting* and Chapter 2, *The qualitative characteristics of useful information*. The remaining chapters carried forward from Framework 1989. Chapter 1 widened the scope of Conceptual Framework to include objective of 'financial reporting' and not just 'financial statements'. At the same time, it also made the spectrum of users of financial reports more focused and narrowed it down to primary users, i.e., existing potential investors, lender and other creditors.

In case of Chapter 2, *The qualitative characteristics of useful information*, major changes are as follows:

- 'Reliability' was replaced with the term 'Faithful Representation'. Substance over Form was not

considered a separate component of Faithful Representation.

- Prudence was not included because it could be understood in a way that is inconsistent with neutrality.
- Verifiability was described as an enhancing qualitative characteristic rather than as part of the fundamental qualitative characteristic.

The IASB suspended work on the revision of remaining part of Conceptual Framework in 2010 so that it could focus on more urgent projects that arose from the global financial crisis.

Revision in 2018: New Conceptual Framework

In 2013, the IASB resumed the project of revising remaining part of the Conceptual Framework based on its 2011 public consultation Agenda for next five years. In 2018, the IASB completed its Conceptual Framework project and issued a comprehensive Conceptual Framework 2018. The main changes introduced are as follows:

New Topics	<ul style="list-style-type: none"> • Concepts on measurement, including factors to be considered when selecting a measurement basis • Concepts on presentation and disclosure, including when to classify income and expenses in other comprehensive income • Derecognition Guidance on when assets and liabilities are removed from financial statements
Revision	<ul style="list-style-type: none"> • Definitions of Assets and Liabilities • Recognition criteria for including assets and liabilities in financial statements
Clarification	<ul style="list-style-type: none"> • Regarding Prudence, Stewardship, Measurement uncertainty and Substance over Form

The approach of revising in 2018 was to fill the gaps, clarify and update certain areas as the 2010 Conceptual Framework work had following deficiencies:

- (a) some important areas were not covered;
- (b) the guidance in some areas was unclear; and

- (c) some aspects were out of date.

It may be noted that the IASB's Conceptual Framework 2018 did not address classification of financial instruments with characteristics of both liabilities and equity because of its research project on Financial Instruments with Characteristics of Equity (FICE). It also did not address the equity method of accounting and the translation of amounts denominated in foreign currency or the restatement of the measuring unit in hyperinflation. The IASB concluded that these issues would best be dealt with if it were to carry out projects to consider revising Standards on these topics. The IASB also suitably addressed the stakeholders concern regarding Substance over Form, Prudence and Management Stewardship in finalising the March 2018 version of the Conceptual Framework.

Consequential Amendments to IFRS/IAS

While it is not intended that entire set of standards are required to be revised

immediately, as and when Conceptual Framework is revised, the IASB had decided to amend certain standards as they contain specific reference to the Framework 1989. Therefore, henceforth these Standards will have to be applied using the

definition of elements in the new Conceptual Framework. But it is not expected that there will be significant changes in actual application due to these amendments. The individual Standards that are amended for reference to the Conceptual Framework 2018 are IFRS 2, IFRS 6, IFRS 14, IAS 1, IAS 34, IAS 37, IAS 38, IFRIC 12, IFRIC 19, IFRIC 20, IFRIC 22, and SIC-32. It may be noted that IASB decided not to amend IFRS 3* and IAS 8. Hence, in case of IFRS 3, entities have to apply the definitions of elements of financial statements as provided under Framework 1989. Also, in case of IAS 8, through specific paragraph (paragraph 54G) an exception has been created for entities not applying IFRS 14 to continue to use the definitions, recognition criteria and measurement in the Framework 1989 instead of new Conceptual Framework.

**Subsequently, IASB has issued amendments to address this aspect.*

Conceptual Framework for Financial Reporting under Indian Accounting Standards

The Institute of Chartered Accountants of India (ICAI), in the past, has issued a pronouncement with the title '*Framework for the Preparation and Presentation of Financial Statements under Indian Accounting Standards*' (hereinafter referred as existing Framework). This framework was primarily based on the Framework issued by IASB's predecessor body IASC in 1989 (Framework 1989). In view of the developments at the international level as mentioned in preceding paragraphs and with an objective to remain converged with the global accounting framework, the Accounting Standards Board,

ICAI developed the Exposure Draft of *Conceptual Framework for Financial Reporting under Ind AS* (hereinafter referred as Conceptual Framework - ED) corresponding to IASB's Conceptual Framework 2018. Substantially, Exposure Draft of Conceptual Framework under Ind AS is similar to IASB's Conceptual Framework 2018, however, the following changes are made to align it with Ind AS and Indian Law:

- For the terms 'Statement of financial position' and 'Statement of financial performance, the terms 'Balance Sheet' and 'Statement of Profit and Loss' respectively are used.
- In case the requirement in any Ind AS that departs from aspects of the Conceptual Framework under Ind AS, ICAI will explain the departure in the Appendix to the relevant Ind AS.
- Definition of Consolidated Financial Statements (CFS) in Conceptual Framework

under Ind AS covers only subsidiaries. In this regard, stakeholders' attention is drawn by way of a footnote that Companies Act, 2013, requires a company which has no subsidiary but has an associate and/or joint venture to prepare CFS in accordance with applicable Accounting Standards.

It is critical to highlight that there are certain substantial changes in the Conceptual Framework - ED. The changes are structural as well as conceptual. This new Conceptual Framework can be called a comprehensive framework as it comprises discussion on almost all of the important topics needed for standard setting, contain detailed commentary/explanation and are based on contemporary concepts. Conceptual Framework - ED is structured into 'Eight' chapters and includes an appendix containing definitions of various terms. It also has a separate section on Status and Purpose of Conceptual Framework.

Main changes from existing Framework

Summary of structural changes

Existing Framework	Conceptual Framework - ED
Introduction	Status and Purpose of the Conceptual Framework
The Objective of Financial Statements	Chapter 1 – The Objective of General Purpose Financial Reporting
Underlying Assumptions	Moved to Chapter 3 – Financial Statements And The Reporting Entity
Qualitative Characteristics of Financial Statements	Chapter 2 – Qualitative characteristics of useful financial information
--	Chapter 3 – Financial Statements and Financial Reporting
The Elements of Financial Statements	Chapter 4 – The Elements of Financial Statements
Recognition of the Elements of Financial Statements	Chapter 5 – Recognition and Derecognition
Measurement of the Elements of Financial Statements	Chapter 6 – Measurement
---	Chapter 7 – Presentation and Disclosure
Concepts of Capital and Capital Maintenance	Chapter 8 – Concepts of Capital and Capital Maintenance
---	Appendix Defined Terms

Summary of Conceptual Changes

Status and purpose of the Conceptual Framework

This section describes the purpose of the Conceptual Framework which was earlier broadly covered in Purpose and Status section. Its purpose is to assist ICAI in formulation of Ind AS, to assist preparers to develop consistent accounting policies when no Ind AS applies and to assist all parties to understand and interpret the Ind AS. An important clarification provided by this section is that Conceptual Framework will assist preparers to develop consistent accounting policies when an Ind AS allows a choice of accounting policy, i.e., when an entity exercise a choice of accounting policy available in Ind AS, it shall bear in mind the concepts enunciated in the Conceptual Framework.

Chapter 1 : The Objective of General Purpose Financial Reporting

This chapter contains discussions around objectives of general purpose financial reporting (GPFR) and users and their information needs. These two aspects were covered in two separate parts in existing Framework. It states that the objective of general purpose financial reporting is to provide financial information about the reporting entity to existing and potential investors, lenders and other creditors in making decisions relating to providing resources to the entity. As a result of this new objective, the key changes are as follows:

- Scope of reporting information is widened from 'financial statements' to 'financial reporting'.

- New definition of General Purpose Financial Reporting has been added.
- Range of users of financial information has been narrowed from 'wide range of users' to 'primary users'. Primary users are defined as existing and potential investors, lenders and other creditors whereas under the existing Framework users of financial statements included present and potential investors, employees,

lenders, suppliers and other trade creditors, customers, governments and their agencies and the public.

- It is explicitly stated that other parties such as regulators and members of the public other than investors, lenders and other creditors may also find Financial Reports useful but the General Purpose Financial Statements are not primarily directed to the other Groups.

Chapter 2 : Qualitative Characteristics of Useful Financial Information

Existing Framework	Conceptual Framework - ED
<p>The existing Framework refers to 4 (four) principal qualitative characteristics:</p> <ol style="list-style-type: none"> Understandability, Relevance – Materiality Reliability - Faithful Representation, Substance over Form, Neutrality, Prudence, Completeness, and Comparability. 	<p>Conceptual Framework - ED divides the qualitative characteristics into two broad heads in order to distinguish between the 'Fundamental qualitative characteristics' that are the not critical and other called as 'Enhancing qualitative characteristics' which are less critical but highly desirable.</p> <ol style="list-style-type: none"> Fundamental qualitative characteristics – relevance and faithful representation Enhancing qualitative characteristics – comparability, verifiability, timelines and understandability.
<p>Neutrality, Prudence and Substance over Form were separately discussed as part of Reliability</p>	<p>In the Conceptual Framework – ED, Prudence and Substance over Form are discussed as part of Fundamental qualitative characteristics of 'Faithful Representation'.</p> <p>The category 'Reliability' has been removed and replaced by 'Faithful Representation'. One of the reasons for removal is difference in understanding of the term 'reliability' by stakeholders and its confusion with measurement uncertainty.</p>

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Chapter 3: Financial Statements and the Reporting Entity

This is a new Chapter and contains the following:

- Objective and scope of financial statements which are based on the description of objectives and scope of general purpose financial reporting discussed in Chapter 1 of Conceptual Framework – ED and objectives of financial statements stated in Ind AS 1, *Presentation of Financial Statements*. However, in respect of latter, there are differences between the two.
- Going concern assumption description is continued but there is change in a phrase used, i.e., ‘cease trading’ replaces the earlier phrase ‘curtail materially the scale of its operation’ in the description of going concern.
- Reporting entity, a new topic has been introduced. Conceptual Framework -ED describes reporting entity, its boundaries and states that it is not necessarily a legal entity.
- Consolidated and unconsolidated financial statements: This section discusses the usefulness of financial information provided in consolidated financial statements and unconsolidated financial statements. The latter is described as the financial statements of a reporting entity that is the parent alone.
- Combined financial statements: This new concept is explicitly recognised and described as those of reporting entity which comprises of two or more entities that are not linked by a parent-subsidiaries relationship.

Chapter 4: The Elements of Financial Statements

This Chapter contains description of a few critical elements, viz., Assets, Liabilities, Income and Expenses. There is a major change in the definitions of Assets and Liabilities. Another major change is inclusion of a separate definition of ‘economic resources’. Two major reasons for changing the definition of assets and liabilities are as follows:

- explicit reference in the definitions of an asset and a liability to the flows of economic benefits blurred the distinction between the economic resource or obligation and the resulting flows of economic benefits
- the term ‘expected’ was understood by many as probability threshold and there was lack of clarity between the terms ‘expected’ and ‘probable’.

Key changes in the definition

Existing definition		Revised definition
Asset: A resource controlled by the entity as a result of past events and from which future economic benefits are expected to flow to the entity.	→	Assets: A present economic resource controlled by the entity as a result of past events.
Existing definition		Revised definition
Liability: A present obligation of the entity arising from past events, the settlement of which is expected to result in an outflow from the entity of resources embodying economic benefits.	→	Liability: A present obligation of the entity to transfer an economic resource as a result of past events. With regard to Obligation, the Conceptual Framework-ED developed ‘no practical ability to avoid’ criteria.
Existing definition		Revised definition
Income is increases in economic benefits during the accounting period in the form of inflows or enhancements of assets or decreases of liabilities that result in increases in equity, other than those relating to contributions from equity participants.	→	Income: Increases in assets, or decreases in liabilities, that result in increases in equity, other than those relating to contributions from holders of equity claims.
Existing definition		Revised definition
Expenses are decreases in economic benefits during the accounting period in the form of outflows or depletions of assets or incurrence of liabilities that result in decreases in equity, other than those relating to distributions to equity participants.	→	Expense: Decreases in assets, or increases in liabilities, that result in decreases in equity, other than those relating to distributions to holders of equity claims.

Definitions of Income and Expenses are updated to reflect the refinement in the definitions of asset and liability respectively. Revision to definition of Income and Expenses are consequential to changes in definition of Asset and Liability but it does not mean that Standard- Setter's focus is solely on the Balance Sheet. Rather it is found to be better if the asset and liability are defined first.

The Conceptual Framework – ED does not use the term 'contingent liability' because:

- Contingent liabilities are not a further element of financial statements, additional to liabilities and equity. Moreover, some 'contingent liabilities' are liabilities, but others are not.
- In common usage, the term 'contingent liability' is not used in the same way as in Ind AS 37. It often refers to an item that may give rise to an outflow of economic resources if some uncertain future event occurs.

Chapter 5: Recognition and Derecognition

There is a structural change in this area. There is elaborate description of recognition process and a discussion around an important accounting area, viz., derecognition. While the derecognition is being discussed, there is no specific prescription whether to use control approach or risk-reward approach, for laying down derecognition principles. There is a major change in the description of recognition criteria as can be seen from the following table:

Existing Framework	Conceptual Framework - ED
An entity should recognise an item that met the definition of an element of financial statements if it is probable that any future economic benefit associated with the item will flow to or from the entity and if the item has a cost or value that can be determined reliably.	Recognition criteria refer explicitly to the qualitative characteristics of useful information. The Conceptual Framework – ED provides that only items that meet the definition of an asset, a liability or equity and income or expenses are recognised.
No guidance is provided on derecognition	The Conceptual Framework – ED provides that derecognition aims to faithfully represent both (a) any assets and liabilities retained after the transaction that led to the derecognition (b) the change in the entity's assets and liabilities as a result of that transaction.

The rationales for above fundamental changes are:

- Probability criteria used in different standards was not consistent. Different thresholds, like, 'probability', 'reasonable certainty', 'more-likely than not', etc. were used.
 - Application of probability criterion for recognition
- could lead to loss of relevant information.
- Use of 'reliability' in the above definition was not clear.
 - Setting a more rigid recognition criteria in the Conceptual Framework does not help in standard-setting developing individual standards.

Chapter 6 : Measurement

Existing Framework	Conceptual Framework - ED
There is very little guidance on measurement. Existing framework has a brief discussion of following measurement bases: <ul style="list-style-type: none"> Historical cost Current cost Realisable (settlement) value Present Value Fair value 	Describes in detail what information measurement bases provide and explains the factors to consider when selecting a measurement basis. <p>(i) The Conceptual Framework - ED identifies two categories of measurement bases – (a) historical cost bases; (b) current value bases comprise fair value, value in use, fulfillment value and current cost. It also describes how the fundamental qualitative characteristics of 'Relevance' and 'Faithful Representation' affect the selection of measurement basis.</p> <p>(ii) It discusses the general implications that the 'Enhancing qualitative characteristics', viz., comparability, understandability and verifiability and cost constraint have for selection of measurement basis.</p>

Existing Framework	Conceptual Framework - ED
	<p>(iii) It discusses situations in which more than one measurement basis is needed for an asset or liability and for related income and expenses to provide users of financial statements with useful information.</p> <p>(iv) It also states that it is necessary to consider the nature of information provided in both the balance sheet and statement of profit and loss by the measurement basis selected.</p> <p>(v) Factors to consider when selecting a measurement basis:</p> <p>(a) From the view point of – ‘Relevance’:</p> <ul style="list-style-type: none"> • characteristics of the asset and liability and • contribution to future cash-flows <p>(b) From the view point of – ‘Faithful Representation’:</p> <ul style="list-style-type: none"> • whether the assets and liabilities are related in some way, and • measurement uncertainty

Chapter 7 : Presentation and Disclosure

There was no discussion about the principles of presentation and disclosure in existing Framework. This new Chapter discusses the following aspects:

- Communication tools
 - Information about assets, liabilities, equity, income and expenses is communicated through presentation and disclosure in the financial statements. Effective communication of information in financial statements makes that information more relevant and contributes to a faithful representation of an entity's assets, liabilities, equity, income and expenses.
- Objectives and principles- It states that balance is needed between giving

flexibility to entities and requiring information that is comparable.

- Classification
 - It should be based on shared characteristics of assets, liabilities, equity, income and expenses.
 - Classification of dissimilar items together obscures information, relevance, understanding and comparability
 - Provides high-level guidance on when it may be appropriate to present separately different classes of equity claims, and different components of equity.
 - Off-setting is generally not considered appropriate.
 - Aggregation is considered useful but balance needs to be maintained to avoid

concealing disclosure of relevant information.

- Profit or loss and Other Comprehensive Income: (a) defines or describes profit or loss, (b) sets a ground that all income and expenses are included in the statement of profit or loss. Only in exceptional circumstances, it will be decided to include certain income and expenses in other comprehensive income provided doing so would result in providing more relevant information or reflection of more faithful representation of entity financial performance for the period and (c) whether and when the amounts included in other comprehensive income should be reclassified into the statement of profit or loss.

Chapter 8 : Concepts of Capital and Capital Maintenance - By and large contents of this Chapter under existing framework and Conceptual Framework are same.

Appendix Defined Terms

– It is a new feature and includes definitions of various terms extracted or derived from relevant paragraphs of Conceptual Framework - ED.

As a consequence to the issuance of Conceptual Framework - ED, certain amendments are also proposed in some of the Ind AS that refers to the Conceptual Framework under Ind AS in place of existing Framework. The Exposure Draft of Conceptual Framework for Financial Reporting under Ind AS along with consequential amendments to references to Conceptual Framework in Ind AS can be accessed at <https://resource.pdf.icai.org/57880icaiasb010120.pdf> ■

Revised Code of Ethics - Fundamental Principles and Conceptual Framework

Ethical quandary confronted by a professional accountant in the present times is very distinct on account of ever changing and challenging business environment. More so, on account of the thrust being placed on fulfilment of his responsibility to act in the public interest. Accordingly, the revised Code of Ethics contains "Requirements" and "Application Material" to aid the professional accountant to fulfil his function to act in the public interest.

This article is directed to guide and assist members while carrying out their professional assignments keeping in mind the foremost important fact that they have to fulfil their act in the Public Interest. We have brought out the major changes in the revised code and specifically we have covered fundamental principles and conceptual framework

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The revised edition of the Code has been made compatible with Indian conditions so as to not to contradict with Indian domestic laws. The provisions of the revised Code have also been aligned with the provisions of the Companies Act, 2013. It covers the refreshed approach and certain substantially revised requirements.

The operative date of the revised Code of Ethics for Professional Accountants is fast approaching. This revised Code of ICAI is based on the 2018 edition of Code of Ethics issued by International Ethics Standards Board for Accountants (IESBA) and will be implemented from a date which will be announced shortly. IESBA is the ethics standards setting Committee of International Federation of Accountants. The 2018 edition of the Code has

almost completely been rewritten by IESBA.

Objective: We are covering the fundamental principles and conceptual framework as contained in the revised Code of Ethics edition 2019 and as to how it has evolved from its earlier edition, 2009. This article will help the members in understanding and interpreting the nuances of the revised Code and guide the members to fulfil their role of professional accountants to act in the public interest diligently.

Key Features : There are three key differences in the layout and perspective of the revised Code vis a vis the existing Code and the same has broadened the dimension of the revised code clearly guiding the professional accountant to deal with the

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various intricacies while carrying out his professional assignments. Foremost amongst them is to fulfil his professional responsibility to act in the “Public Interest”. The revised Code has laid down the “**Requirements**” and “**Application Material**” specifically to enable professional accountants to meet their responsibility to act in the Public Interest. Thus, the revised code is an enabler to act in the Public Interest. On the other hand, the existing Code mentions about professional accountant while acting in the public interest should observe and comply with the ethical requirements of this Code. Greater emphasis has been specifically put on compliance by the professional accountants in the revised Code which is not there in the existing one. The word “shall” has been used to convey the mandatory requirements of the Code at various places.

The revised Code has dealt with in detail the “application material”, designated with the letter “A” and obligations designated with the letter “R”. The application material is intended to help a professional accountant to understand and comprehend how to apply the conceptual framework to a particular set of circumstances and to comply with a specific requirement. Consideration of the “application material” is necessary to the proper application of the requirements

(A) Integrity

CODE OF ETHICS, 2009	CODE OF ETHICS, 2019
Section 110 - Integrity 110.1 The principle of integrity imposes an obligation on all professional accountants to be straightforward and honest in professional and employment relationships .	Subsection 111 – Integrity R111.1 A professional accountant shall comply with the principle of integrity, which requires an accountant to be straightforward and honest in all professional and business relationships . 111.1 A1 Integrity implies fair dealing and truthfulness.

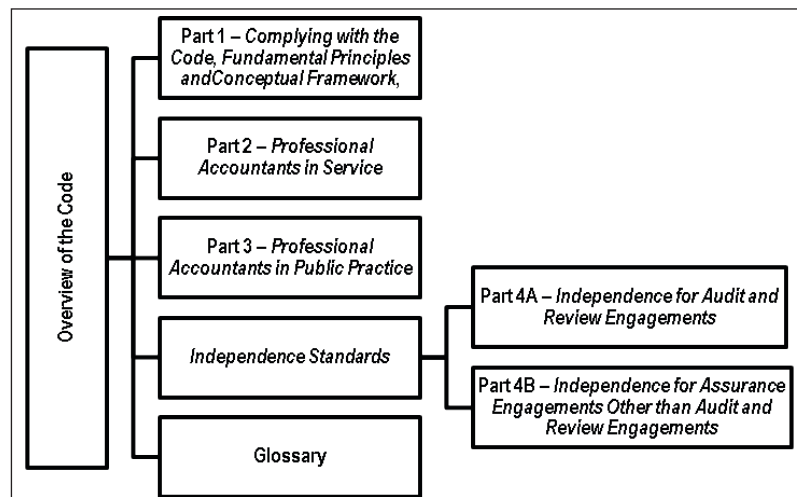
The Code provides a conceptual framework that professional accountants have to implement with a view to identify, evaluate and address threats to comply with the fundamental principles.

of the Code, including application of the conceptual framework. The existing Code, however, is not dealing with the “application material” and “requirements” to enable professional accountants to meet their responsibility to act in the public interest.

The Code provides a conceptual framework that professional accountants have to implement with a view to identify, evaluate and address threats to comply with the fundamental principles. The existing sections on Independence have been restructured as Independence Standards in the revised Code as under:

- **Independence Standards**
 - Part 4A – **Independence for Audit and Review Engagements**
 - Part 4B – **Independence for Assurance Engagements Other than Audit and Review Engagements**

Overview of the Code



The Fundamental Principles

Let us understand as to how fundamental principles have been dealt with and have undergone a change in the revised Code in comparison with the existing Code.

CODE OF ETHICS, 2009	CODE OF ETHICS, 2019
<p>Integrity also implies fair dealing and maintaining an impartial attitude and truthfulness.</p> <p>110.2 A professional accountant should not be associated with reports, returns, communications or other information where he believes that the information:</p> <p>(a) Contains a materially false or misleading statement; (b) Contains statements or information furnished negligently; or (c) Omits or obscures any information required to be included where such omission or obscurity would be misleading.</p>	<p>R111.2 A professional accountant shall not knowingly be associated with reports, returns, communications or other information where the accountant believes that the information:</p> <p>(i) Contains a materially false or misleading statement; (ii) Contains statements or information provided negligently; or (iii) Omits or obscures required information where such omission or obscurity would be misleading.</p> <p><i>When a professional accountant becomes aware of having been associated with information described in paragraph R111.2, the accountant shall take steps to be disassociated from that information</i></p>

The revised Code has directly emphasised the need for complying with the principle of integrity whereas the existing Code is not mandatorily laying stress on compliance with principle of integrity. The scope of the principle has been enlarged by replacing employment relationships with business relationship. Accordingly, the member is required to be

straightforward and honest in all professional and business relationships and not restricting to employment relationships.

The principle in the revised Code has done away with the anomaly of “should not be associated with reports, returns.....” with “shall not knowingly be associated with reports, returns...” and after becoming aware of having been

associated with information as mentioned above, shall take steps to be disassociated from that information, which is a clear step for making it more realistic and pragmatic.

In the revised Code, **meaning of integrity has been restricted** to fair dealing and truthfulness whereas in the existing Code the meaning of integrity was more open ended.

(B) Objectivity

CODE OF ETHICS, 2009	CODE OF ETHICS, 2019
<p>Section 120 Objectivity</p> <p>120.1 The principle of objectivity imposes an obligation on all professional accountants not to compromise their professional duty or while in service judgment because of bias, conflict of interest or the undue influence of others.</p> <p>120.2 A professional accountant may be exposed to situations that may impair objectivity. It is impracticable to define and prescribe all such situations. Relationships that bias or unduly influence the professional judgment of the professional accountant should be avoided.</p>	<p>Subsection 112 – Objectivity</p> <p>R112.1 A professional accountant shall comply with the principle of objectivity, which requires an accountant not to compromise professional or business judgment because of bias, conflict of interest or undue influence of others.</p> <p>R112.2 A professional accountant shall not undertake a professional activity if a circumstance or relationship unduly influences the accountant's professional judgment regarding that activity.</p>

The revised Code has precisely pointed out the need for complying with the principle of Objectivity whereas the existing Code is not obligatorily placing emphasise on compliance with principle of Objectivity. The scope of the principle has been widened by replacing professional duty and service judgement with professional or business judgement. Accordingly, more

leverage has been given to the members by replacing duty with judgement and service with business. It is pertinent to mention over here that edge has been accorded to members' professional judgement over professional duty, thus, giving him more freedom and independence to apply his professional skepticism.

The subjectivity in the

existing Code in context with relationships that “bias or unduly influence the professional judgement of the professional accountant should be avoided” has been overcome by directly instructing the member not to undertake a professional activity categorically if a circumstance or relationship unduly influences the professional accountant's professional judgement.

(C) Professional Competence and Due Care

CODE OF ETHICS, 2009	CODE OF ETHICS, 2019
<p>Section 130 Professional Competence and Due Care</p> <p>130.1 The principle of professional competence and due care imposes the following obligations on professional accountants:</p> <p>(a) To maintain professional knowledge and skill at the level required to ensure that the clients or employers receive competent professional service; and</p> <p>(b) To act diligently in accordance with applicable technical and professional standards while providing professional services.</p> <p>130.5 A professional accountant should take steps to ensure that those working under the professional accountant's authority in a professional capacity have appropriate training and supervision.</p> <p>130.6 Where appropriate, a professional accountant should make clients, employers or other users of the professional services aware of limitations inherent in the services to avoid the misinterpretation of an expression of opinion as an assertion of fact.</p>	<p>Subsection 113 – Professional Competence and Due Care</p> <p>R113.1 A professional accountant shall comply with the principle of professional competence and due care, which requires an accountant to : 111. Attain and maintain professional knowledge and skill at the level required to ensure that a client or employing organisation receives competent professional service, based on current technical and professional standards and relevant legislation; and</p> <p>112. Act diligently and in accordance with applicable technical and professional standards.</p> <p>R113.2 In complying with the principle of professional competence and due care, a professional accountant shall take reasonable steps to ensure that those working in a professional capacity under the accountant's authority have appropriate training and supervision.</p> <p>R113.3 Where appropriate, a professional accountant shall make clients, the employing organisation, or other users of the accountant's professional services or activities, aware of the limitations inherent in the services or activities.</p>

The revised Code has explicitly underlined the need for complying with the principle of Professional Competence and Due Care whereas the existing Code is not compulsorily insisting on compliance with principle of Professional Competence and Due Care. More clarity has been brought out in the revised Code by replacing 'employers' with 'employing organisation'. Further, more emphasis has been laid on possession of "current technical and professional standards and relevant legislations" while providing professional services to clients or employing organisation.

The scope of the principle has been enlarged by replacing professional duty and service judgement with professional or business judgement. Accordingly,

more leverage has been given to the member by replacing duty with judgement and service with business. It may be noted that the stress has been laid out more on member's professional judgement rather than professional duty, thus, giving him more freedom and independence to apply his professional skills to a greater extent.

In the revised Code, professional accountant's staff training has been made mandatory whereas earlier, it was recommendatory. The words, "should take steps to ensure..", have been replaced with "shall take reasonable steps to ensure.." definitely give command to professional accountant telling him that he shall take reasonable steps to ensure that those working in a professional capacity under his authority

have appropriate training and supervision, meaning thereby that he must do that training of staff working under him in professional capacity by taking reasonable steps.

The implication of this would be that competence of staff would definitely increase and its ultimate benefit will flow to him only.

Revised Code is specifically making it incumbent for the professional accountant to make clients aware of his limitations inherent in the services. Whereas, in the existing Code, an advisory is given to the professional accountant to make his client aware of limitations inherent in the services to avoid the misinterpretation of an expression of opinion as an assertion of fact.

(D) Confidentiality

CODE OF ETHICS, 2009	CODE OF ETHICS, 2019
<p>Section 140 - Confidentiality</p> <p>A professional accountant should maintain confidentiality even in a social environment. The professional accountant should be alert to the possibility of inadvertent disclosure, particularly in circumstances involving long association with a business associate or a relative*.</p> <p>140.4 A professional accountant should also consider the need to maintain confidentiality of information within the firm or employing organisation.</p> <p>The principle of confidentiality imposes an obligation on professional accountants to refrain from:</p> <p>(a) Disclosing outside the firm or employing organisation information acquired as a result of professional and employment relationships without proper and specific authority or unless there is a legal or professional right or duty to disclose; and</p>	<p>Subsection 114 – Confidentiality</p> <p>R114.1 A professional accountant shall comply with the principle of confidentiality, which requires an accountant to respect the confidentiality of information acquired as a result of professional and employment relationships. An accountant shall:</p> <p>(a) Be alert to the possibility of inadvertent disclosure, including in a social environment, and particularly to a close business associate or an immediate or a close family member;</p> <p>(b) Maintain confidentiality of information within the firm or employing organisation;</p> <p>(c) Maintain confidentiality of information disclosed by a prospective client or employing organisation;</p> <p>(d) Not disclose confidential information acquired as a result of professional and employment relationships outside the firm or employing organisation without proper and specific authority, unless there is a legal or professional duty or right to disclose;</p>

The revised Code has significantly emphasised the need for complying with the principle of Confidentiality whereas the existing Code is not imperatively laying focus on compliance with the principle of Confidentiality.

Introduction of the word “respect” which was not in existing Code.

“To respect the confidentiality of information.”

The term “respect” indicates

high level of regard and thoughtfulness on the part of professional accountant to manage confidentiality with the highest level of integrity and thereby developing a stronger relationship.

The word Relative has been replaced with Close family or immediate family member, which are defined as under :

Close family : A parent, child or sibling who is not an immediate family member.

Immediate family : A spouse (or equivalent) or dependent.

“Should also consider...”, replaced with “shall maintain...”, existing Code requires a professional accountant to consider the need to maintain confidentiality of information disclosed by a prospective client or employer. Whereas, the revised Code has made it mandatory for a professional accountant to maintain confidentiality of information within the firm or employing organisation.

(E) Professional Behaviour

CODE OF ETHICS, 2009	CODE OF ETHICS, 2019
<p>Section 150 Professional Behaviour</p> <p>150.1 The principle of professional behaviour imposes an obligation on professional accountants to comply with relevant laws and regulations and avoid any action that may bring discredit to the profession.</p> <p>The professional accountants should act in a manner consistent with the reputation of the profession and refrain from any conduct which might bring disrepute to the profession.</p>	<p>Subsection 115 – Professional Behaviour</p> <p>R115.1 A professional accountant shall comply with the principle of professional behaviour, which requires an accountant to comply with relevant laws and regulations and avoid any conduct that the accountant knows or should know might discredit the profession.</p> <p>A professional accountant shall not knowingly engage in any employment, occupation or activity that impairs or might impair the integrity, objectivity or good reputation of the profession, and as a result would be incompatible with the fundamental principles.</p>

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150.2 In promoting themselves and their work, **professional accountants should not bring the profession into disrepute** and should be honest and truthful and should not:

- (a) Make exaggerated claims for the services they are able to offer, the qualifications they possess, or experience they have gained; or
- (b) Make disparaging references or unsubstantiated comparisons to the work of others.
- (c) Advertise any professional/other facts which are in violation of advertisement guidelines issued by the Council* of the Institute from time to time.

115.1 A1 **Conduct that might discredit the profession includes conduct that a reasonable and informed third party would be likely to conclude adversely affects the good reputation of the profession.**

R115.2 When promoting himself and his work, a professional accountant shall not bring the profession into disrepute. A professional Accountant is required to conduct his affairs in a manner **that he remains outside the boundaries of professional and other misconduct**. A professional accountant shall be honest and truthful and shall not make: (a) Exaggerated claims for the services offered by, or the qualifications or experience of, the accountant; or (b) Disparaging references or unsubstantiated comparisons to the work of others. (c) Any direct or indirect measures to advertise any professional/other facts which are in violation of Advertisement Guidelines issued by the Council of the Institute from time to time.

The revised Code has directly focused on the need for complying with the principle of Professional Behaviour whereas the existing Code is not giving particular emphasis on compliance with the principle of Professional Behaviour.

The term “action” has been replaced by the term “**Conduct**” in the revised Code. Conduct means a person’s behaviour, whereas action connotes doing things, often for a particular purpose.

The revised Code has explained the conduct of the accountant by making it explicitly clear that it will cover “shall not knowingly engage in any employment, occupation or activity” that impairs or might impair the integrity, objectivity or good reputation of the profession, and as a result would be incompatible with the fundamental principles. In other words, this principle has also mandatorily covered compliance of other fundamental principles.

Further, an important insertion of the term “**not knowingly**” before “**engage in any employment...**”, has provided the professional accountant a greater leverage.

The reasonable and informed

third party test is a consideration by the professional accountant as to whether the same conclusions would be drawn by another party. Such consideration is made from the perspective of a reasonable and informed third party, who weighs all the relevant facts and circumstances that the accountant knows, or could reasonably be expected to know, at the time the conclusions are made. The reasonable and informed third party does not need to be an accountant but would possess the relevant knowledge and experience to understand and evaluate

the appropriateness of the accountant’s conclusions in an impartial manner.

Important insertion in the revised Code has been made, i.e., “A professional Accountant is required **to conduct his affairs in a manner that he remains outside the boundaries of professional and other misconduct.**”

In other words, a professional accountant needs to be cautious while conducting his affairs so that he is not brought within the ambit of professional and other misconduct.

Revised Code of Ethics requires :

- A professional accountant shall comply with each of the fundamental principles.
- The fundamental principles of ethics establish the standard of behaviour expected of a professional accountant.
- The conceptual framework establishes the approach which an accountant is required to apply to assist in complying with those fundamental principles.
- Subsections 111 to 115 set out requirements and application material related to each of the fundamental principles.
- A professional accountant might face a situation in which complying with one fundamental principle conflicts with complying with one or more other fundamental principles. In such a situation, the accountant might consider consulting, with:

• Others within the firm or employing organization.

• Those charged with governance.

• Institute

• Legal counsel.

The term “action” has been replaced by the term “Conduct” in the revised Code. Conduct means a person’s behaviour, whereas action connotes doing things, often for a particular purpose.

THE CONCEPTUAL FRAMEWORK

The circumstances in which professional accountants operate might create threats to compliance with the fundamental principles.

Section 120 sets out **requirements and application material**, including a conceptual framework, to assist accountants in complying with the fundamental principles and meeting their responsibility to act in the public interest.

The conceptual framework specifies an approach for a professional accountant to:

- Identify threats to compliance with the fundamental principles;
- Evaluate the threats identified; and
- Address the threats by eliminating or reducing them to an acceptable level.

The revised Code has inserted a specific section as mentioned above on “The Conceptual Framework” wherein it has laid out the entire approach to be followed by a professional accountant thereby guiding and assisting him by **specifying requirements and application material** to deal with his professional assignments. Though the existing Code has the conceptual framework for

the professional accountants in service and in practice yet is completely silent on the **requirements and application material** to deal with the professional assignments.

“When dealing with an ethics issue, the professional accountant shall consider the context in which the issue has arisen or might arise.”

The revised Code has categorically specified when applying the conceptual framework, the professional accountant shall:

- Exercise professional judgment;
- Remain alert for new information and to changes in facts and circumstances; and
- Use the reasonable and informed third party test.

Exercise of Professional Judgment

120.5 A1 Professional judgment involves the application of relevant training, professional knowledge, skill and experience commensurate with the facts and circumstances, including the nature and scope of the particular professional activities, and the interests and relationships involved. In relation to undertaking professional activities, the exercise of professional judgment is required when the professional accountant applies the conceptual framework in order to make informed decisions about the courses of actions available, and to determine whether such decisions are appropriate in the circumstances.

120.5 A2 An understanding of known facts and circumstances is a prerequisite to the proper application of the conceptual framework. Determining the actions necessary to obtain this

understanding and coming to a conclusion about whether the fundamental principles have been complied with also require the exercise of professional judgment.

120.5 A3 In exercising professional judgment to obtain this understanding, the professional accountant might consider, among other matters, whether:

- There is reason to be concerned that potentially relevant information might be missing from the facts and circumstances known to the accountant.
- There is an inconsistency between the known facts and circumstances and the accountant’s expectations.
- The accountant’s expertise and experience are sufficient to reach a conclusion.
- There is a need to consult with others with relevant expertise or experience.
- The information provides a reasonable basis on which to reach a conclusion.
- The accountant’s own preconception or bias might be affecting the accountant’s exercise of professional judgment.
- There might be other reasonable conclusions that could be reached from the available information.

Reasonable and Informed Third Party

Reasonable and informed third party test has already been explained in preceding paragraphs.

As expressed in the preceding paragraphs that the revised Code besides being explanatory and illustrative in coverage, has laid out the steps and the manner by which a professional accountant

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can identify, evaluate and address the threats rather than merely mentioning about identification, evaluation and addressal of the threats in the existing Code.

Identifying Threats

The Requirement in the revised Code is that the professional accountant shall identify threats to compliance with the fundamental principles.

The **Application material** for identifying threats covers an understanding of the facts and circumstances, including any professional activities, interests and relationships that might compromise compliance with

It is not possible to define every situation that creates threats. In addition, the nature of engagements and work assignments might differ and, consequently, different types of threats might be created.

the fundamental principles, is a prerequisite to the professional accountant's identification of threats to such compliance. The existence of certain conditions, policies and procedures established by the profession, legislation, regulation, the firm,

or the employing organization that can enhance the accountant acting ethically might also help identify threats to compliance with the fundamental principles.

It is not possible to define every situation that creates threats. In addition, the nature of engagements and work assignments might differ and, consequently, different types of threats might be created.

The meaning and definition of threats have been totally revamped in the revised Code and a comparison has been drawn with the existing Code with respect to different types of threats as under:

CODE OF ETHICS, 2009	CODE OF ETHICS, 2019	Remarks
Self-interest threats may occur as a result of the financial or other interests of a professional accountant or of a relative*;	<p>Self-interest threat – the threat that a financial or other interest will inappropriately influence a professional accountant's judgment or behaviour</p> <p>Exemplifying following situations wherein financial/other interest will inappropriately influence a professional accountant's judgement or behaviour:</p> <ul style="list-style-type: none"> A professional accountant having a close business relationship with a client. In such a scenario, the member's judgement will get impacted or biased. A professional accountant discovering a significant error when evaluating the results of a previous professional service performed by a member of the accountant's firm. If a member gets entangled in this situation, his behaviour will inappropriately get influenced. 	<p>A professional accountant's judgment" will be inappropriately influenced because of financial or other interest.</p> <p>Revised Code is very categorical since it has explicitly suggested that self interest threat will affect the professional accountants judgement.</p>
Self-review threats may occur when a previous judgment needs to be re- evaluated by the professional accountant responsible for that judgment;	<p>Self-review threat – the threat that a professional accountant will not appropriately evaluate the results of a previous judgment made; or an activity performed by the accountant, or by another individual within the accountant's firm or employing organisation, on which the accountant will rely when forming a judgment as part of performing a current activity.</p> <p>Certain situations have been illustrated as under-</p>	<p>Existing Code mentions that threat may occur when a previous judgement needs to be re-evaluated whereas revised Code categorically states that a professional accountant will not appropriately evaluate the results of a previous judgment made. It also covers judgement made by another individual within the accountant's firm or employing organisation whereas the existing Code is silent on this aspect.</p>

	<ul style="list-style-type: none"> A professional accountant issuing an assurance report on the effectiveness of the operation of financial systems after implementing the systems. A professional accountant having prepared the original data used to generate records that are the subject matter of the assurance engagement. <p>In afore stated scenarios, the professional judgement of the member will get jeopardised.</p>	
<p>Advocacy threats may occur when a professional accountant promotes a position or opinion to the point that subsequent objectivity may be compromised</p>	<p>Advocacy threat – the threat that a professional accountant will promote a client's or employing organisation's position to the point that the accountant's objectivity is compromised;</p> <p>Few situations have been exemplified as under-</p> <ul style="list-style-type: none"> A professional accountant promoting the interests of, or shares in, a client. A professional accountant lobbying in favour of legislation on behalf of a client. <p>The afore stated situations will lead to professional accountant's objectivity getting compromised.</p>	<p>The revised Code has explicitly talked about promoting a client's or employing organisations position whereas the existing Code is silent about the same.</p>
<p>Familiarity threat may occur when, because of a relationship, a professional accountant becomes too sympathetic to the interests of others.</p>	<p>Familiarity threat – the threat that due to a long or close relationship with a client, or employing organisation, a professional accountant will be too sympathetic to their interests or too accepting of their work;</p> <p>Certain situations have been illustrated as under:</p> <ul style="list-style-type: none"> A professional accountant having a close or immediate family member who is a director or officer of the client. An audit team member having a long association with the audit client. <p>In the aforesaid circumstances, member will be too sympathetic to the client's interests and this in turn will affect his professional judgement/behaviour.</p>	<p>The revised Code has replaced the term "relationship" appearing in the existing Code with "long or close relationship with a client or employing organisation".</p>
<p>Intimidation threat may occur when a professional accountant may be deterred from acting objectively by threats, actual or perceived.</p>	<p>Intimidation threat – the threat that a professional accountant will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the accountant.</p> <p>Few situations have been exemplified as under-</p> <ul style="list-style-type: none"> A professional accountant being threatened with dismissal from a client engagement or the firm because of a disagreement about a professional matter. 	<p>"May be" has been replaced with "will be", giving it an assertive meaning.</p> <p>Clarity is missing in the existing Code as it mentions that a professional accountant may be deterred from acting objectively by threats, actual or perceived"</p>

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	<ul style="list-style-type: none"> A professional accountant being informed that a planned promotion will not occur unless the accountant agrees with an inappropriate accounting treatment. <p>The afore stated situations will deter the member from acting objectively.</p>	The revised Code has categorically explained actual or perceived pressures by including attempts to exercise undue influence over the accountant.
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Evaluating Threats

The requirements while evaluating threats is when the professional accountant identifies a threat to compliance with the fundamental principles, the accountant shall evaluate whether such a threat is at an acceptable level.

The revised Code has guided the accountant as to how by using the reasonable and informed third party test, come to a conclusion that the fundamental principles have been complied with.

The Code has also explained the **factors relevant in evaluating the level of threats which are as under:**

- The consideration of qualitative as well as quantitative factors is relevant in the professional accountant's evaluation of threats, as is the combined effect of multiple threats, if applicable.
- The existence of conditions, policies and procedures might also be factors that are relevant in evaluating the level of threats to compliance with fundamental principles.

Examples of such conditions, policies and procedures include:

- Corporate governance requirements.

- Educational, training and experience requirements for the profession.
- Effective complaint systems which enable the professional accountant and the general public to draw attention to unethical behaviour.
- An explicitly stated duty to report breaches of ethics requirements.
- Professional or regulatory monitoring and disciplinary procedures.

The aforesaid conditions, policies and procedures might impact the evaluation of whether a threat to compliance with the fundamental principles is at an acceptable level. Such conditions, policies and procedures might relate to:

- (a) The client and its operating environment; and**
- (b) The firm and its operating environment.**

The professional accountant's evaluation of the level of a threat is also impacted by the nature and scope of the professional service.

The Client and its Operating Environment

The professional accountant's evaluation of the level of a threat might be impacted by

whether the client is:

- (a) An audit client and whether the audit client is a public interest entity;
- (b) An assurance client that is not an audit client; or
- (c) A non-assurance client.

For example, providing a non-assurance service to an audit client that is a public interest entity might be perceived to result in a higher level of threat to compliance with the principle of objectivity with respect to the audit.

The corporate governance structure,

including the leadership of a client might promote compliance with the fundamental principles. Accordingly, a professional accountant's evaluation of the level of a threat might also be impacted by a client's operating environment. **Few situations have been exemplified as under:**

- The client requires appropriate individuals other than management to ratify or approve the appointment of a firm to perform an engagement.
- The client has competent employees with experience and seniority to make managerial decisions.
- The client has implemented internal procedures that facilitate objective choices

in tendering non-assurance engagements.

- The client has a corporate governance structure that provides appropriate oversight and communications regarding the firm's services.

The Firm and its Operating Environment

A professional accountant's evaluation of the level of a threat might be impacted by the work environment within the accountant's firm and its operating environment.

Certain situations have been illustrated as under:

- Leadership of the firm that promotes compliance with the fundamental principles

and establishes the expectation that assurance team members will act in the public interest.

- Policies or procedures for establishing and monitoring compliance with the fundamental principles by all personnel.

The revised Code also requires if the professional accountant becomes aware of **new information or changes in facts and circumstances that might** impact whether a threat has been eliminated or reduced to an acceptable level, the accountant shall re-evaluate and address that threat accordingly.

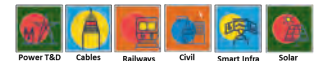
Examples of new information or changes in facts and

circumstances that might impact the level of a threat include:

- When the scope of a professional service is expanded.
- When the client becomes a listed entity or acquires another business unit.
- When the firm merges with another firm.
- When the professional accountant is jointly engaged by two clients and a dispute emerges between the two clients.
- When there is a change in the professional accountant's personal or immediate family relationships.



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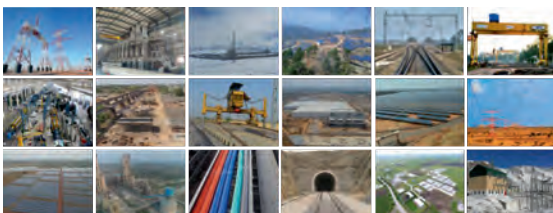


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Ethics

The **application material** for consideration of new information or changes and facts in circumstances requires an accountant to remain alert throughout the professional activity

If new information results in the identification of a new threat, the professional accountant is required to evaluate and, as appropriate, address this threat.

While Addressing Threats, the revised Code requires if the professional accountant determines that the identified threats to compliance with the fundamental principles are not at an acceptable level, the accountant shall address the threats by eliminating them or reducing them to an acceptable level. The accountant shall do so by:

- (a) Eliminating the circumstances, including interests or relationships, that are creating the threats;
- (b) Applying safeguards, where available and capable of being applied, to reduce the threats to an acceptable level; or
- (c) Declining or ending the specific professional activity.

Depending on the facts and circumstances, a threat might be addressed by eliminating the circumstance creating the threat. However, there are some situations in which threats can only be addressed by declining or ending the specific professional activity. This is because the circumstances that created the threats cannot be eliminated and safeguards are not capable of being applied

to reduce the threat to an acceptable level.

Safeguards

Safeguards are actions, individually or in combination, that the professional accountant takes that effectively reduce threats to compliance with the fundamental principles to an acceptable level.

Safeguards vary depending on the facts and circumstances and the **examples of safeguards to address threats in specific circumstances include:**

- Assigning additional time and qualified personnel to required tasks when an engagement has been accepted might address a self-interest threat.
- Having an appropriate reviewer who was not a member of the team, review the work performed or advise as necessary might address a self-review threat.
- Using different partners and engagement teams with separate reporting lines for the provision of non-assurance services to an assurance client might address self-review, advocacy or familiarity threats.

The requirement in the revised Code is that the professional accountant shall form an overall conclusion about whether the actions that the accountant takes, or intends to take, to address the threats created will eliminate those threats or reduce them to an acceptable level. In forming the overall conclusion, the accountant shall:

- (a) Review any significant judgments made or conclusions reached; and
- (b) Use the reasonable and informed third party test.

Conclusion : The five fundamental principles stand as the everlasting and essential guiding lights to the ethical behaviour. The paramount responsibility of the professional accountant is to abide by the fundamental principles and take all feasible safeguards to overcome obstacles to compliance. And certainly, the comprehensive aim of ethical behaviour is that professional accountants act, and are seen to act in the public interest. However, a sound Code of ethics cannot be simply a statement of fundamental principles. It must specialise and guide their application depending on tasks, roles and circumstances. The conceptual framework requires a professional accountant to be vigilant of such facts and circumstances which create threats to compliance with the fundamental principles. It is mandatorily required from a professional accountant to comply with the fundamental principles and also follow conceptual framework to identify, evaluate and address threats to compliance with the fundamental principles. In this manner, he would meet his foremost responsibility to act in the Public Interest.

Mahatma Gandhi once said “Morality is the basis of things and truth is the substance of all morality”. ■

Companies (Auditor's Report) Order, 2020

Issued by Ministry of Corporate Affairs on 25th February, 2020

S.O. (E).— In exercise of the powers conferred by sub-section (11) of section 143 of the Companies Act, 2013 (18 of 2013) and in supersession of the Companies (Auditor's Report) Order, 2016, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), vide number S.O. 1228 (E), dated the 29th March, 2016, except as respects things done or omitted to be done before such supersession, the Central Government, after consultation with the National Financial Reporting Authority constituted under section 132 of the Companies Act, 2013, hereby makes the following Order, namely:—

1. Short title, application and commencement.

- (1) This Order may be called the Companies (Auditor's Report) Order, 2020.

(2) It shall apply to every company including a foreign company as defined in clause (42) of section 2 of the Companies Act, 2013 (18 of 2013) [hereinafter referred to as the Companies Act], except—

- (i) a banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949 (10 of 1949);
- (ii) an insurance company as defined under the Insurance Act, 1938 (4 of 1938);
- (iii) a company licensed to operate under section 8 of the Companies Act;
- (iv) a One Person Company as defined in clause (62) of section 2 of the Companies Act and a small company as defined in clause (85) of section 2 of the Companies Act; and
- (v) a private limited company, not being a subsidiary or holding company of a public company, having a paid up capital and reserves and surplus not more than one crore rupees as on the balance sheet date and which does not have total borrowings exceeding one crore rupees from any bank or financial institution at any point of time during the financial year and which does not have a total revenue as disclosed in Scheduled III to the Companies Act (including revenue from discontinuing

operations) exceeding ten crore rupees during the financial year as per the financial statements.

(3) It shall come into force on the date of its publication in the Official Gazette.

2. Auditor's report to contain matters specified in paragraphs 3 and 4. - Every report made by the auditor under section 143 of the Companies Act on the accounts of every company audited by him, to which this Order applies, for the financial years commencing on or after the 1st April, 2019, shall in addition, contain the matters specified in paragraphs 3 and 4, as may be applicable:

Provided this Order shall not apply to the auditor's report on consolidated financial statements except clause (xxi) of paragraph 3.

3. Matters to be included in auditor's report.

- The auditor's report on the accounts of a company to which this Order applies shall include a statement on the following matters, namely:-

- (i) (a) (A) whether the company is maintaining proper records showing full particulars, including quantitative details and situation of Property, Plant and Equipment;
- (B) whether the company is maintaining proper records showing full particulars of intangible assets;
- (b) whether these Property, Plant and Equipment have been physically verified by the management at reasonable intervals; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account;
- (c) whether the title deeds of all the immovable properties (other than properties where the company is the lessee and the lease agreements are duly executed in favour of the lessee) disclosed in the financial statements are held in the name of the company, if not, provide the details thereof in the format below:-

Auditing

Description of property	Gross carrying value	Held in name of	Whether promoter, director or their relative or employee	Period held –indicate range, where appropriate	Reason for not being held in name of company*
-	--	-	-	-	*also indicate if in dispute

- (d) whether the company has revalued its Property, Plant and Equipment (including Right of Use assets) or intangible assets or both during the year and, if so, whether the revaluation is based on the valuation by a Registered Valuer; specify the amount of change, if change is 10% or more in the aggregate of the net carrying value of each class of Property, Plant and Equipment or intangible assets;
- (e) whether any proceedings have been initiated or are pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 (45 of 1988) and rules made thereunder, if so, whether the company has appropriately disclosed the details in its financial statements;
- (ii) (a) whether physical verification of inventory has been conducted at reasonable intervals by the management and whether, in the opinion of the auditor, the coverage and procedure of such verification by the management is appropriate; whether any discrepancies of 10% or more in the aggregate for each class of inventory were noticed and if so, whether they have been properly dealt with in the books of account;
- (b) whether during any point of time of the year, the company has been sanctioned working capital limits in excess of five crore rupees, in aggregate, from banks or financial institutions on the basis of security of current assets; whether the quarterly returns or statements filed by the company with such banks or financial institutions are in agreement with the books of account of the Company, if not, give details;
- (iii) whether during the year the company has made investments in, provided any guarantee or security or granted any loans or advances in the nature of loans, secured or unsecured, to companies, firms, Limited Liability Partnerships or any other parties, if so,-
- (a) whether during the year the company has provided loans or provided advances in the nature of loans, or stood guarantee, or provided security to any other entity [not applicable to companies whose principal business is to give loans], if so, indicate-
- (A) the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and guarantees or security to subsidiaries, joint ventures and associates;
- (B) the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and guarantees or security to parties other than subsidiaries, joint ventures and associates;
- (b) whether the investments made, guarantees provided, security given and the terms and conditions of the grant of all loans and advances in the nature of loans and guarantees provided are not prejudicial to the company's interest;
- (c) in respect of loans and advances in the nature of loans, whether the schedule of repayment of principal and payment of interest has been stipulated and whether the repayments or receipts are regular;
- (d) if the amount is overdue, state the total amount overdue for more than ninety days, and whether reasonable steps have been taken by the company for recovery of the principal and interest;
- (e) whether any loan or advance in the nature of loan granted which has fallen due during the year, has been renewed or extended or fresh loans granted to settle the overdues of existing loans given to the same parties, if so, specify the aggregate amount of such dues renewed or extended or settled by fresh loans and the percentage of the aggregate to the total loans or advances in the nature of loans granted during the year [not applicable to companies whose principal business is to give loans];
- (f) whether the company has granted any loans or advances in the nature of loans either repayable on demand or without specifying any terms or period of repayment, if so, specify the aggregate amount, percentage thereof to the total loans granted, aggregate amount of loans granted to Promoters, related parties as defined in clause (76) of section 2 of the Companies Act, 2013;
- (iv) in respect of loans, investments, guarantees, and security, whether provisions of sections 185 and 186 of the Companies Act have been complied with, if not, provide the details thereof;

- (v) in respect of deposits accepted by the company or amounts which are deemed to be deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules made thereunder, where applicable, have been complied with, if not, the nature of such contraventions be stated; if an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not;
- (vi) whether maintenance of cost records has been specified by the Central Government under subsection (1) of section 148 of the Companies Act and whether such accounts and records have been so made and maintained;
- (vii) (a) whether the company is regular in depositing undisputed statutory dues including Goods and Services Tax, provident fund, employees' state insurance, income-tax, sales-tax, service tax, duty of customs, duty of excise, value added tax, cess and any other statutory dues to the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as on the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated;
- (b) where statutory dues referred to in sub-clause (a) have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned (a mere representation to the concerned Department shall not be treated as a dispute);
- (viii) whether any transactions not recorded in the books of account have been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961 (43 of 1961), if so, whether the previously unrecorded income has been properly recorded in the books of account during the year;
- (ix) (a) whether the company has defaulted in repayment of loans or other borrowings or in the payment of interest thereon to any lender, if yes, the period and the amount of default to be reported as per the format below:-

Nature of borrowing, including debt securities	Name of lender*	Amount not paid on due date	Whether principal or interest	No. of days delay or unpaid	Remarks, if any
	*lender wise details to be provided in case of defaults to banks, financial institutions and Government.				

- (b) whether the company is a declared wilful defaulter by any bank or financial institution or other lender;
- (c) whether term loans were applied for the purpose for which the loans were obtained; if not, the amount of loan so diverted and the purpose for which it is used may be reported;
- (d) whether funds raised on short term basis have been utilised for long term purposes, if yes, the nature and amount to be indicated;
- (e) whether the company has taken any funds from any entity or person on account of or to meet the obligations of its subsidiaries, associates or joint ventures, if so, details thereof with nature of such transactions and the amount in each case;
- (f) whether the company has raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies, if so, give details thereof and also report if the company has defaulted in repayment of such loans raised;

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- (x) (a) whether moneys raised by way of initial public offer or further public offer (including debt instruments) during the year were applied for the purposes for which those are raised, if not, the details together with delays or default and subsequent rectification, if any, as may be applicable, be reported;
 - (b) whether the company has made any preferential allotment or private placement of shares or convertible debentures (fully, partially or optionally convertible) during the year and if so, whether the requirements of section 42 and section 62 of the Companies Act, 2013 have been complied with and the funds raised have been used for the purposes for which the funds were raised, if not, provide details in respect of amount involved and nature of non-compliance;
 - (xi) (a) whether any fraud by the company or any fraud on the company has been noticed or reported during the year, if yes, the nature and the amount involved is to be indicated;
 - (b) whether any report under sub-section (12) of Section 143 of the Companies Act has been filed by the auditors in Form ADT-4 as prescribed under rule 13 of Companies (Audit and Auditors) Rules, 2014 with the Central Government;
 - (c) whether the auditor has considered whistle-blower complaints, if any, received during the year by the company;
 - (xii) (a) whether the Nidhi Company has complied with the Net Owned Funds to Deposits in the ratio of 1:20 to meet out the liability;
 - (b) whether the Nidhi Company is maintaining ten per cent. unencumbered term deposits as specified in the Nidhi Rules, 2014 to meet out the liability;
 - (c) whether there has been any default in payment of interest on deposits or repayment thereof for any period and if so, the details thereof;
 - (xiii) whether all transactions with the related parties are in compliance with Sections 177 and 188 of Companies Act where applicable and the details have been disclosed in the financial statements, etc., as required by the applicable accounting standards;
 - (xiv) (a) whether the company has an internal audit system commensurate with the size and nature of its business;
 - (b) whether the reports of the Internal Auditors for the period under audit were considered by the statutory auditor;
 - (xv) whether the company has entered into any non-cash transactions with directors or persons connected with him and if so, whether the provisions of section 192 of Companies Act have been complied with;
 - (xvi) (a) whether the company is required to be registered under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934) and if so, whether the registration has been obtained;
 - (b) whether the company has conducted any Non-Banking Financial or Housing Finance activities without a valid Certificate of Registration (CoR) from the Reserve Bank of India as per the Reserve Bank of India Act, 1934;
 - (c) whether the company is a Core Investment Company (CIC) as defined in the regulations made by the Reserve Bank of India, if so, whether it continues to fulfil the criteria of a CIC, and in case the company is an exempted or unregistered CIC, whether it continues to fulfil such criteria;
 - (d) whether the Group has more than one CIC as part of the Group, if yes, indicate the number of CICs which are part of the Group;
 - (xvii) whether the company has incurred cash losses in the financial year and in the immediately preceding financial year, if so, state the amount of cash losses;
 - (xviii) whether there has been any resignation of the statutory auditors during the year, if so, whether the auditor has taken into consideration the issues, objections or concerns raised by the outgoing auditors;
 - (xix) on the basis of the financial ratios, ageing and expected dates of realisation of financial assets and payment of financial liabilities, other information accompanying the financial statements, the auditor's knowledge of the Board of Directors and management plans, whether the auditor is of the opinion that no material uncertainty exists as on the date of the audit report that company is capable of meeting its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date;
 - (xx) (a) whether, in respect of other than ongoing projects, the company has transferred unspent amount to a Fund specified in Schedule VII to the Companies Act within a period of six months of the expiry of the financial year in compliance with second proviso to sub-section (5) of section 135 of the said Act;
 - (b) whether any amount remaining unspent under sub-section (5) of section 135 of the Companies Act, pursuant to any ongoing project, has been transferred to special account in compliance with the provision of sub-section (6) of section 135 of the said Act;
 - (xxi) whether there have been any qualifications or adverse remarks by the respective auditors in the Companies (Auditor's Report) Order (CARO) reports of the companies included in the consolidated financial statements, if yes, indicate the details of the companies and the paragraph numbers of the CARO report containing the qualifications or adverse remarks.
- 4. Reasons to be stated for unfavourable or qualified answers.-** (1) Where, in the auditor's report, the answer to any of the questions referred to in paragraph 3 is unfavourable or qualified, the auditor's report shall also state the basis for such unfavourable or qualified answer, as the case may be.
- (2) Where the auditor is unable to express any opinion on any specified matter, his report shall indicate such fact together with the reasons as to why it is not possible for him to give his opinion on the same. ■

Legal Decisions



Income Tax

LD/68/131, [ITAT Mumbai: ITA No.6703/Mum/2018], The Asst. Commissioner of Income Tax Vs. Marks & Spencer Reliance India P. Ltd, 22/01/2020

Assessee had claimed further business loss by revising his return of income for AY 2012-13 which the AO had disallowed by restricting to loss claimed in original return filed under section 139(1) and by invoking Section 80. Mumbai ITAT held that such further loss claimed in revised return was allowable since, the assessee had filed original return within the due date prescribed under section 139(1), the revised return filed subsequently within the due date prescribed under section 139(5) partakes the nature of original return filed under section 139(1). Thus the conditions are fulfilled by assessee and accordingly, loss claimed shall be allowed to be carried forward, as per ITAT.

LD/68/132, [Bombay High Court: ITA No.1824 of 2018], Sanjay L. Sonavane Vs. The Assistant Commissioner of Income Tax, 17/01/2020

54F benefit denied to assessee since the new residential house was constructed on the land owned by the mother of assessee, and also the commencement and completion certificate issued by the Municipal Corporation was also in the name of the mother of the assessee. Assessee's reliance on Delhi High Court judgement in the case of Ravinder Arora [(2012) 342 ITR 38 (Delhi)] distinguished by Bombay High Court.

LD/68/133, [ITAT Mumbai: ITA No.6202/Mum/2017], The Income Tax Officer Vs. Narshi Nenshi & Sons, 10/01/2020

Carried forward loss of unabsorbed depreciation of a proprietorship concern allowed to be set-off against profits of successor partnership firm. After the demise of the sole proprietor, his legal heirs continued the same business as a partnership firm and claimed set-off of unabsorbed depreciation (pertaining to earlier AYs) of the erstwhile proprietary concern against the income of the partnership firm. Succession by legal heirs held to be an inheritance of business and set-off held to be permissible under section 78(2).

LD/68/134, [ITAT Mumbai: ITA No.6602/Mum/2011], Ajay Indrajit Thakore Vs. The Asst. Commissioner of Income Tax, 08/01/2020

Assessee had sold a property in September 2008 and claimed that cost of acquisition of his tenancy rights as on 01.04.1981 be calculated by application of 'reverse indexation'. AO had considered cost of acquisition as Nil. However, the CIT(A) had considered FMV as on 1.4.1981 for indexation purposes. ITAT observed that reverse indexation method applied by the assessee was contrary to the statutory provisions and so cannot be accepted. ITAT noted that assessee himself furnished a valuation report of a registered valuer determining the FMV as on 1st April, 1981 and there was no reason to discard it and adopt the cost of acquisition as per reverse indexation method.

LD/68/135, [Karnataka High Court: W.P. No.18419/2018], Vaudev Adigas Fast Foods P. Ltd. Vs. The Central Board of Direct Taxes, 06/01/2020

CBDT's rejection order of condonation of delay in filing return by assessee for AY 2014-15, quashed by the High Court. While deciding the application for condonation of delay, CBDT had examined the return on merits and had held that since there was a reluctance of tax auditor to verify the veracity and correctness of the claim of the assessee the delay could not be condoned as per para 5(i) of Circular 9/2015. High Court held that while dealing with an application for condonation of delay, CBDT must satisfy itself with regard to the genuineness of the claim rather than examining the merits of the claim closely which can prejudice the case. Expression 'genuine hardship' should receive liberal consideration from Authority, as per High Court.

LD/68/136, [ITAT Ahmedabad: ITA No.964/Ahd//2017], Rakesh Bhikabhai Shah Vs. The Principal Commissioner of Income Tax, 31/12/2019

Order under section 263 wherein the sale of shares by a shareholder of a closely held company to another fellow-promoter of same company was held to be undervalued, quashed by ITAT. Principal Commissioner had held that undervaluation had resulted in under-assessment of long term capital gains. Assessee had sold shares to fellow-promoter at face value whereas on same day the assessee had sold some shares to a Mauritian company at over ₹87,000 per share. Assessee stated that the same

Legal Update

fellow promoter had liasoned the deal of sale of shares to Mauritian company and so out of gratitude some part of assessee's shares were sold to him at face value. ITAT accepted assessee's stand.

LD/68/137, [ITAT Indore: ITA No.397/Ind//2018], Smt. Ushadevi Mansinghka Vs. The Income Tax Officer, 26/12/2019

AO had made addition on account of bogus long term capital gains of assessee in AY 2014-15. AO had rejected assessee's contention that declaration filed under Income Declaration Scheme 2016 for AY 2013-14 declaring certain undisclosed income on which all taxes were paid, was actually the source of such capital gains offered in AY 2014-15. ITAT held that income declared in earlier assessment year can be taken into account to explain the transactions of subsequent year provided there is a nexus between the income declared and the transaction of the subsequent assessment year. ITAT deleted the bogus capital gains addition of AY 2014-15 and ruled in favour of assessee.

Transfer Pricing

LD/68/138, [ITAT Pune: ITA No.1960/Pun/2019], P.N. Gadgil Jewellers Private Ltd. Vs. The Assistant Commissioner of Income Tax 15/01/2020

When reference was made to TPO on the only issue of benchmarking Specified Domestic Transaction of Directors Remuneration, TPO cannot exceed the jurisdiction to benchmark other international transaction. Benchmarking of director's remuneration was unsustainable when aggregated results were accepted. When an entity level benchmarking is done, there is no need for any further adjustment as all the adjustments made by Revenue would get automatically subsumed.

LD/68/139, [ITAT Mumbai: ITA No.6201/Mum/2018], Hathway Cable and Datacom Ltd. Vs. The Deputy Commissioner of Income Tax, 10/01/2020

Ad-hoc addition made by DRP at 10% of income distributed by assessee with domestic related parties deleted by ITAT Mumbai. Accepts assessee's distribution which was made based on actual subscribers being commanded by the related parties, DRP was not justified in upholding 10% of the addition, in so far as the assessee has distributed income on the basis of actual subscribers being commanded by the related parties. ITAT observed that DRP made TP-addition without following any of the prescribed methods under section 92C (1) nor

had any benchmarking had been adopted in ALP-determination. Ad-hoc determination of ALP dehors Section 92C, was held unsustainable in law and thus quashed.



GST

LD/68/140, UOI Vs. Tax Bar Association & Ors [Supreme Court], 10/02/2020

In a SLP filed against the Rajasthan High Court's decision extending the due date of filing upto 12-02-2020 without late fees, the Hon'ble Supreme Court stayed the extension on the basis of statement made for and on behalf of UOI, that late fee is only ₹200 per day which will be refunded subject to outcome of the Petition. The Ld. Solicitor's General also assured that the authorities, both under the Central as well as State Acts, will not invoke any penal powers in this behalf.

LD/68/141, Tax Bar Association Vs. UOI [Rajasthan HC], 05/02/2020

The Hon'ble High Court passed an interim order that no late fee be charged on the returns GSTR-9 uploaded on the GSTN portal up to 12-02-2020. It further requested the UOI to direct service providers of the said portal to enhance its capacity to accept returns/forms, as it is well-settled that where the last date of submission has been prescribed by law, it would be incumbent on the part of the revenue to provide for adequate facility for accepting such declarations or returns or forms within the period stipulated.

LD/68/142, M/s Refex Industries Ltd Vs. ACGST & CE and ors., [Mad HC], 06/01/2020

The High Court [Single Member] held that proviso to Section 50(1) inserted on 01.08.2019 is retrospective in nature and hence the interest under section 50(1) can be levied only on the net demand i.e., a belated cash payment, but not on ITC available all the while with the Department to the credit of the assessee.

LD/68/143, ACGST & CE and ors. Vs. M/s Daejung Moparts Pvt. Ltd. [Madras HC], 19/12/2019

Though the liability fastened on the assessee to pay interest under section 50(1) of the CGST Act is an automatic liability, quantification of such liability certainly needs an arithmetic exercise after considering the objections if any, raised by the assessee.

LD/68/144, M/S Megha Engineering and Infrastructures Ltd. Vs. CCE and Ors. [Telangana HC], 18/04/2019

The High Court (single member) held that until a return is filed as self-assessed, no entitlement to credit and no actual entry of credit in the electronic credit ledger takes place. As a consequence, no payment can be made from out of such a credit entry. It further held that since ownership of such money (lying in electronic cash ledger and electronic credit ledger) is with the dealer till the time of actual payment, the Government becomes entitled to interest upto the date of their entitlement to appropriate it. Accordingly, when there is a delay in filing of the GST return, the interest will be applicable on the gross liability.

CUSTOMS

LD/68/145, [Madras High Court: C.M.A No.1699/2017], The Commissioner of Customs Vs. Medreich Sterilab Limited, 06/01/2020

The assessee had applied for registration under Rule 3 of Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules subsequent to import effected under Bill of Entry, Revenue had therefore, denied the exemption to assessee. CESTAT held that Rules 3 and 4 of these Rules are only procedural or directory in nature and thus allowed the exemption. High Court ruled in favour of Revenue by observing that the very initiation of procedure of registration and application was not undertaken and hence, there was no question of substantial compliance by the assessee. As per

High Court, to avail the exemption of duty under any Notification, the Rules, Regulations and conditions prescribed shall be strictly adhered by any assessee.

LD/68/146, [Gujarat High Court: Civil Application 5190/2019], Petronet LNG Limited Vs. Assistant Commissioner of Customs, 26/12/2019

Assessee's claim of refund filed within one year from date of favourable CESTAT order, held to be well-within period by Gujarat High Court. Revenue had preferred appeal against order of appellate order of Commissioner who had ruled in assessee's favour. High Court held that till CESTAT rendered its judgement and the order was received by assessee, it can be said that refund claim was not finally decided by the Court or Tribunal so as entitle the assessee to raise the refund claim. High Court noted that as per Section 27(1B)(b) of Customs Act limitation would start from date of receipt of the order. High Court thus ruled in favour of assessee.

Service Tax

GE T AND D INDIA LTD Vs. Deputy Commissioner of Central Excise. [Mad HC], 07/11/2019

The Court held that the notice pay, in lieu of sudden termination does not give rise to the rendition of service either by the employer or the employee and the same would not be covered by the provisions of Section 66E(e) of the Finance Act, 1994.

Disciplinary Case



Issuance of capital expenditure certificates by the Respondent without verifying the genuineness of the invoices through which

the machinery/materials were procured by the Company – Plea of Respondent that physical verification of assets and original bills are not his job – Issuance of certificates without mentioning such limitations, resulted in misleading the Bank while releasing the loan amounts – Held, Respondent Guilty of professional misconduct under Clauses (7) and (8) of the Part I of Second Schedule to the Chartered Accountants Act, 1949.

Held:

In the instant case, the Respondent had issued 12 expenditure certificates based on the false and fabricated invoices produced by the Company. Based

on the expenditure certificates, the Bank released the loan amounts which were diverted by the Company and the same lead to default in the re-payment of the loan to the tune of ₹ 26 crores. The Committee noted that as per the Guidance Note on Audit Report and Certificates for Special Purpose, "a certificate is a written confirmation of accuracy of the facts stated therein and does not involve any estimate or opinion". It is further noted that the Respondent is required to disclose his limitations/assumptions in his certificates, so as not to mislead the users of the said certificate(s) but he failed to do so. On overall consideration of the same, the Committee was of the view that the Respondent while issuing the certificates ought to have exercised due diligence. Hence, in the opinion of the Committee, the Respondent was grossly negligent in conduct of his professional duties and has thus violated the requirements of Clause (7) and (8) of Part I of the Second Schedule to the Chartered Accountants (Amendment) Act, 2006.

Circulars/Notifications

Given below are the important Circulars and Notifications issued by the CBDT, CBIC-GST, FEMA and MCA issued since the publication of the last issue of the journal, for information and use of members. Readers are requested to use the citation/website or weblink to access the full text of desired circular/notification. Feedback and suggestions on this column can be submitted at eboard@icai.in



A. CBDT

I. NOTIFICATIONS

1. Insertion of new Rule 6ABBA and amendment in Rule 6DD vide the Income-tax (3rd Amendment) Rules, 2020 - Notification No. 08/2020, dated 29.01.2020

This notification has specified following 'other electronic modes' under the Income-tax law:

- (a) Credit Card;
- (b) Debit Card;
- (c) Net Banking;
- (d) IMPS (Immediate Payment Service);
- (e) UPI (Unified Payment Interface);
- (f) RTGS (Real Time Gross Settlement);
- (g) NEFT (National Electronic Funds Transfer), and
- (h) BHIM (Bharat Interface for Money) Aadhar Pay

2. Procedure of PAN allotment through Common Application Form (CAF) along with registration of Foreign Portfolio Investors (FPIs) with SEBI under Department of Economic Affairs and KYC for opening Bank and Demat Account - Notification No. 11/2020, dated 07.02.2020

This notification has laid down the classes of persons to which CAF will apply, applicable forms, format and procedure for Permanent Account Number (PAN).

3. CBDT notifies forms for exercising option under section 115BAA and 115BAB - Notification No. 10/2020, dated 12.02.2020

This notification has inserted Rule 21AE in the Income-tax Rules, 1962 providing for furnishing of Form No. 10-IC electronically. Further, this notification has also inserted Rule 21AF in the Income-tax Rules, 1962 providing for furnishing of Form No. 10-ID electronically.

4. CBDT notifies rules regarding manner of making PAN inoperative under section 139AA(2) - Notification No. 11/2020, dated 13.02.2020

This notification has inserted Rule 114AAA in the Income-tax Rules, 1962 providing for manner of making PAN inoperative.

II. PRESS RELEASES / INSTRUCTIONS / OFFICE MEMORANDUM / ORDER

1. CBDT issues clarification on the new provision pertaining to residence in India – Press Release, dated 02.02.2020

This Press Release has provided that the new proposed provision is not intended to include in tax net those Indian citizens who are bonafide workers in other countries. In order to avoid any misinterpretation, it is clarified by the CBDT that in case of an Indian citizen who becomes deemed resident of India under this proposed provision, income earned outside India by him shall not be taxed in India unless it is derived from an Indian business or profession.

2. CBDT issues clarification on the applicability of TDS provisions on Mutual Fund dividend – Press Release, dated 04.02.2020

It is clarified by the CBDT vide this Press Release that under the proposed section, a Mutual Fund shall be required to deduct TDS @ 10% only on dividend payment and no tax shall be required to be deducted by the Mutual Fund on income which is in the nature of capital gains.

B. CBIC-GST



1. GST

Extension of the last date for FORM GSTR-9/ GSTR-9C for the period from 01.07.2017 to 31.03.2018

The Central Government vide Notification No. 06/2020-Central Tax dated 3rd February, 2020 has extended the time limit for furnishing of the annual

¹ Matter on Direct Taxes, Indirect Taxes, MCA Updates is contributed by Direct Taxes Committee, GST & Indirect Taxes Committee and Corporate Laws & Corporate Governance Committee of ICAI respectively. FEMA updates by CA. Manoj Shah, CA Hinesh Doshi and CA. Sudha G. Bhushan)

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Legal Update

return and audit, in respect of the period from the 1st July, 2017 to 31st March, 2018, for the class of registered person till 5th / 7th Feb, 2020 on the basis of State registration segregation.

Due dates for filing of return in FORM GSTR-3B in a staggered manner

The Central Government vide Notification No.07/2020-Central Tax dated 3rd February, 2020 has provided the due date for filing of return in Form GSTR-3B in a staggered manner for the months of January, February and March, 2020 on the basis of turnover / State as 20/22nd/24th of the following month.

[Notification No. 07/2020-Central Tax, dated 03.02.2020]

Standard Operating Procedure (SOP)– detailed scrutiny of selected exporters claiming refund

With a view to mitigate the risk of bogus refund by exporters, the CBIC vide Circular No. 131/1/2020-GST dated 23rd January 2020 has issued a SOP for detailed scrutiny of exporter selected based on data analytics and Artificial Intelligence.

[Circular No. 131/1/2020-GST dated 23.01.2020]

Extension of time limit for submitting the declaration in FORM GST TRAN-1 in certain cases

The CBIC vide Order No.01/2020-GST dated 7th February, 2020 has extended time limit for submitting the declaration in FORM GST TRAN-1 under rule 117(1A) of the CGST Rules, 2017 till 31st March, 2020 for the class of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and whose cases have been recommended by the Council.

[Order No.01/2020-GST dated 07.02.2020]

2. CUSTOM

Implementation of automated clearance on pilot basis

The Central Government vide Circular No.05/2020-Customs dated 27th January, 2020 clarified that the facility of automated clearance as envisaged in 1st proviso to Section 47(1) of the Customs Act, 1962 will be initially rolled out on a pilot basis at two customs station. Thereafter, the facility will be reviewed and further expanded on PAN India basis at all Customs EDI locations where RMS is enabled and functional.

[Circular No.05/2020-Customs dated 27.01.2020]

Valuation of second hand machinery

The Central Government vide Circular No. 07/2020- Customs dated 5th February, 2020 clarified the procedure for valuation of second hand machinery. All imports of second-hand machinery/used capital goods shall be ordinarily accompanied by an inspection/appraisal report issued by an overseas Chartered Engineer or equivalent, or report of any one of the Chartered Engineers empanelled locally by the respective Custom Houses.

[Circular No. 07/2020-Customs dated 05.02.2020]
Streamlining export data to include District level details in Shipping Bills

The Central Government vide Circular No. 09/2020- Customs dated 5th February, 2020 clarified the incorporation of additional attributes in the Shipping Bill to enable the Customs System to capture the Districts and States of Origin for goods being exported, with effect from 15th February 2020.

[Circular No. 09/2020-Customs dated 05.02.2020]
Electronic sealing - Deposit in and removal of goods from Customs bonded Warehouses

The Central Government vide Circular No. 10/2020- Customs dated 7th February, 2020 clarified that RFID sealing shall be extended to transport of goods for deposit in a warehouse as well as removal therefrom.

[Circular No. 10/2020- Customs dated 07.02.2020]
Notification of Inland Container Depots

The Central Government vide Notification No. 12/2020- Customs (N.T.) dated 11th February, 2020 notified the Vemgal Industrial Area as Inland Container Depot.

[Notification No. 12/2020- Customs (N.T.) dated 11.02.2020]



FEMA

Relaxations in Voluntary Retention Route for Investment in Debt Markets by Foreign Portfolio Investors

A.P. DIR (Circular Series) No. 19 dated 23.01.2020

Reserve Bank vide A.P. DIR Circular 34 dated May 24, 2019 had introduced, separate channel called “Voluntary Retention Route – VRR” to enable FPIs to invest in debt markets in India. The features of route were directed in said circular hereinafter

referred to as “Directions”. Following changes have been made to the said directions:

- Investment cap is increase to ₹ 1,50,000 crores. Previously it was ₹ 75,000 crores.
- FPIs are allowed to transfer their investments made under General Investment Limited to VRR.
- Presently FPIs can invest under VRR in any Corporate Debt Instruments listed under Schedule 1 of Debt Instrument Regulations other than those specified at 1(a) and 1(d) of the said schedule.

FPIs are now also allowed to invest in Exchange Traded Funds which are investing only in debt instruments. For complete text of the notification, please refer the link: https://resource.cdn.icaai.org/58388icaai_committees_list2020.pdf

Revision in Merchanting Trade Transactions (MTT) Guidelines

A.P. (DIR Series) Circular No.20 dated 23.01.2020

With a view to further facilitate merchanting trade transactions, the existing guidelines have been reviewed by the Reserve Bank of India and the revised guidelines have issued. These guidelines are in supersession of A.P. (DIR Series), Circular No.115 dated March 28, 2014 containing directions relating to merchanting trade. <https://rbidocs.rbi.org.in/rdocs/notification/PDFs/PDIR20395627F10EB645FA8641A0A0B966B593.PDF>

C. MCA

1. Nidhi (Second Amendment) Rules, 2020

In the Nidhi Rules, 2014, in Rule 23A, for the words “six months” the words “nine months” shall be substituted. They shall come into force on February 15, 2020

For complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/rule_14022020.pdf

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2. Companies (Issue of Global Depository Receipts) Amendment Rules, 2020

The Ministry of Corporate Affairs has issued Companies (Issue of Global Depository Receipts) Amendment Rules, 2020 which shall come into force on the date of their publication in the Official Gazette.

Amendments are carried out to insert a new proviso in Rule 7 has been inserted which states that the proceeds of the issue of depositories receipts maybe remitted in an IFSC banking unit and utilised in accordance with the instructions issued by the RBI on time to time. Further, the depository receipts can be issued by way of a public offering or private placement or in any other manner prevalent in the concerned jurisdiction and may be listed or traded on the listing or trading platform in the concerned jurisdiction.

For complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/notices_13022020.pdf

3. Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2020

The MCA has notified the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2020, which shall come into force on the date of their publication in Official Gazette that is February 3, 2020.

The amendment includes a provision for majority shareholders to buy out minority stockholders. Additionally, the amendment prescribes that the whole process has to be carried out under the scheme of arrangement mechanism.

For complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Rules1_04022020.pdf

4. National Company Law Tribunal (Amendment) Rules, 2020

The Ministry of Corporate Affairs has published the National Company Law Tribunal (Amendment) Rules, 2020 to insert new Rule 80 A to deal with grievances with respect to the takeover offer of Unlisted Companies.

The Application fees in case of takeover offer of companies which are not listed shall be ₹ 5000.

For complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Rules3_04022020.pdf

5. Nidhi (Amendment) Rules, 2020

The Ministry of Corporate Affairs has notified the Nidhi (Amendment) Rules, 2020 which shall come into force on 10th February, 2020. Amendments are made to substitute new Form NDH-1, NDH-2 and NDH-3 in place of the existing forms.

For complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Rules2_04022020.pdf

6. Relaxation of additional fees and extension of last date in filing of forms MGT-7 (Annual Return) and AOC-4 (Financial Statement) under the Companies Act, 2013- UT of J&K and UT of Ladakh

The Ministry of Corporate Affairs has been decided to further extend the due date for filing of e-forms AOC-4, AOC-4 (CFS) AOC4 XBRL and e-form MGT-7 upto 31.03.2020, for companies having jurisdiction in the UT of J&K and UT of Ladakh without levy of additional fee.

For complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Circular_31012020.pdf

7. Relaxation of additional fees and extension of last date of filing of AoC -4 NBFC (Ind AS) and AoC-4 CFS NBFC (Ind AS) for FY 2018-19 under the Companies Act, 2013

The two new forms AoC-4 NBFC (Ind AS) and AoC-4 CFS NBFC (Ind AS) are likely to be deployed on 31st January, 2020 and 17th February 2020, respectively. The last day for filing of the forms for all eligible companies for the FY 2018-2019 extended without payment of additional fee till 31st March, 2020.

For complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Circular_30012020.pdf

8. Notification of under section 67 of Limited Liability Partnership Act, 2008

The Ministry of Corporate Affairs has issued

a notification the Central Government hereby directs that the provisions of Section 460 of the Companies Act, 2013 shall apply to a limited liability partnership from the date of publication of this notification in the Official Gazette.

For complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/NotificationLLP_31012020.pdf

9. Companies (Accounts) Amendment Rules, 2020

In the Companies (Accounts) Rules, 2014 in Rule 12, after sub-rule (1), the sub-rule "(1A)" shall be inserted.

For complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Rules_31012020.pdf

10. Companies (Winding Up) Rules, 2020

In exercise of the powers conferred by sub-sections (1) and (2) of Section 468 and sub-sections (1) and (2) of Section 469 of the Companies Act, 2013, the Central Government hereby makes the rules, which have been divided into various parts. It shall come into force on April 1st, 2020.

For complete text of the notification, please refer the link: http://www.mca.gov.in/Ministry/pdf/Rules_28012020.pdf

Message of MCA to all the Stakeholders

a. Regarding the changes made in the process of Incorporation of Companies:

Stakeholders may please note that as part of Government of India's Ease of Doing Business (EODB) initiatives, the Ministry of Corporate Affairs would be shortly notifying & deploying a new Web Form christened 'SPICe+' (pronounced 'SPICe Plus') replacing the existing SPICe form.

b. Regarding deployment of Spice forms:

The proposed changes to RUN web service (for companies), Resubmission Option for name reservation which will not be available for forms processed by CRC from 1st February, 2020 onwards for approximately 15 days.

D. SEBI

1. Non-compliance with certain provisions of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and the Standard Operating Procedure for suspension and revocation of trading of specified securities

SEBI has specified the uniform structure for imposing fines as a first resort for non-compliance with LODR regulations and the standard operating procedure for suspension and revocation of trading of specified securities.

For complete text of the notification, please refer the link: https://www.sebi.gov.in/legal/circulars/jan-2020/non-compliance-with-certain-provisions-of-the-sebi-listing-obligations-and-disclosure-requirements-regulations-2015-and-the-standard-operating-procedure-for-suspension-and-revocation-of-trading-of-_45752.html



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https://resource.cdn.icai.org/58388icai_committees_list2020.pdf



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CA. Nihar Niranjana Jambusaria	
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CA. Chandrashekhar Vasant Chitale	

¹ This Board will take care of students' related activities including soft skills courses, conferences and related matters.

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Convenor	CA. Nihar Niranjan Jambusaria, Vice-President
Deputy Convenor	CA. Pramod Jain

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Deputy Convenor	CA. Manu Agrawal
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Deputy Convenor	CA. Pramod Kumar Boob
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Convenor	CA. Dayaniwas Sharma
Deputy Convenor	CA. Rajendra Kumar P

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Disciplinary Committee (under section 21 B) Bench 2 (Western Region)	
Presiding Officer	CA. Atul Kumar Gupta, President
Disciplinary Committee (under section 21 B) - Bench 3 (Southern Region and MAF Cases)	
Presiding Officer	CA. Atul Kumar Gupta, President
Disciplinary Committee (under section 21 B) - Bench 4 (Northern Region)	
Presiding Officer	CA. Nihar Niranjan Jambusaria, Vice-President

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Accounting Software

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- AI-Based Bank Reconciliations, Inventory Valuation and Fixed Asset Management
- Seamless Integration with Bank Account

GST Software and E-way Bill

- Seamless GST Return Filing and Import of GSTR-2A and reconciliation

- Tally Integration and Auto-OTP Verification
- Integrated with E-Way Bill and Quick Data Import
- Multi GSTIN Management and Multi-currency
- LUT Enabled
- Seamless E-Way Bill Generation and Real-time Integration

TDS Software

- Seamless filing of Forms 24Q, 26Q 27Q, 27EQ, 27A and ITNS 281
- Automatic Data Validation and Auto Calculation of TDS/TCS
- OLTAS Challan Validation and Real-time Integration with TRACES
- Easy Data Import/Export

Income Tax Software

- Hassle-free login to the e-filing website and Computation of Total Income, Tax Payable, Computation of Adv. and Self-Assessment Tax
- Download of ITR-V, Acknowledgement, ITR and ITR upload and e-verification
- Auto mapping of Income from one head to another head and Auto set-off of HP loss as per under section 71(3A)

Please visit the website <http://bit.ly/HostBooksforCA> for Sign up on 'All-in-One accounting' software.

For support and help write to the Company concerned on helpline@hostbooks.com or call at 911482 8282.

For other details, please contact at Committee secretariat at ccbcaf@icai.in.

Chairman,
Committee for Members in Practice (CMP), ICAI

Compendium of Standards on Internal Audit (as on February 1, 2020)



Internal Audit to be effective must be conducted in accordance with a set of recognised Standards. Standards on Internal Audit (SIAs), as issued by the Institute, are aimed at increasing the overall credibility, consistency, clarity and comparability of the work performed by the Internal Auditors.

The Standards on Internal Audit, in addition to

outlining fundamental principles for the guidance of the members, also serve as performance benchmarks. The Institute has initiated the process of revising SIAs and making them mandatory for certain class of companies in a phased manner. Mandatory status of SIAs will act as a starting point for ICAI to chalk out a road map for enhancing relevance of internal audit profession. Revised Standards have been re-numbered and classified in the categories: Standards on Key Concepts (100 series), Standards on Internal Audit

Management (200 series), Standards on the Conduct of Audit Assignments (300-400 series), Standards on Specialised Areas (500 series), Standards on Quality Control (600 series) and Standards on Miscellaneous Matters (700 series).

These principle-based Standards provide a framework for internal audit activities, establish the basis for evaluation of internal audit performance, and foster improved organisational processes and operations.

The Board is bringing out this Compendium of Standards on Internal Audit containing revised Preface, Framework (including revised definition of Internal Audit), Basic Principles of Internal Audit and all Standards on Internal Audit which are currently applicable (including new and revised).

This Compendium is available for free download on link: https://www.icaai.org/new_post.html?post_id=6623&c_id=357.

Internal Audit Standards Board of ICAI

Arrangement of CORDL Practice Management Software for Practitioners/CA Firms of ICAI

The Committee for Members in Practice (CMP) of ICAI has taken an initiative for providing the CORDL Practice Management Software for the benefit of the Practising Members of ICAI/CA firms of ICAI and enhancement of the Practice Portfolio.

Pricing of CORDL Practice Management software as under:

Slab - Users per firm	Current market price - Per-user per annum	Year I		Year II		Year III	
		Discount %	Subscription amount	Discount %	Subscription amount	Discount %	Subscription amount
Up to 3	3,300	100%	-	100%	-	100%	-
4 - 10	3,300	70%	990	60%	1,320	55%	1,485
11 - 30	3,000	70%	900	60%	1,200	55%	1,350
31 - 80	2,700	70%	810	60%	1,080	55%	1,215
> 81	2,100	70%	630	60%	840	55%	945

This offer is available for all the CA Firms/Practising Members of ICAI. For details please visit www.cordl.in. To avail this offer, kindly contact: ccbmpsals@cordl.in. For assistance, please contact ccbmpsals@cordl.in or 080-43709328 or +91 8861839774.

For other details, please contact to the Committee secretariat at ccbcaf@icaai.in

Chairman,
Committee for Members in Practice (CMP), ICAI

Certificate Course on Concurrent Audit of Banks

The concurrent audit system of banks has become very crucial and important for banks. The main objective of the system is to ensure compliance with the audit systems in banks as per the guidelines of the Reserve Bank of India and importantly, to ensure timely detection of lapses/ irregularities. In view of the core competence of the chartered accountants in the area of finance and accounting, risk management, understanding of the internal functioning and controls of banks, etc., the banking sector has been relying extensively on them to comply with these requirements of the regulator. The Internal Audit Standards Board of ICAI conducts six days

Certificate Course on Concurrent Audit of Banks. The purpose of the *Certificate Course on Concurrent Audit of Banks* is to provide an opportunity to the members to understand the intricacies of concurrent audit of banks thereby improving the effectiveness of concurrent audit system in banks, and also the quality and coverage of concurrent audit reports.

The course is open for the members of the Institute of Chartered Accountants of India as well as the students who have cleared CA final examinations. However, the students who have qualified their CA final examinations but yet to obtain the membership number of the Institute shall be eligible

for examination/evaluation only after getting their membership number from the ICAI. None other than the above are eligible for participating for any of the certificate course.

Please refer link for further details of the Course: https://www.icai.org/post.html?post_id=8236

Online payment links for the Course: <https://ccm.icai.org/>.

FEES DETAILS (w.e.f January, 2020)	Metro Cities	Non-metro Cities
For Members of ICAI born before 01.01.1990	₹ 12,390 (₹ 10,500 per participant +18% GST)	₹ 11,800 (₹ 10,000 per participant +18% GST)
For Members of ICAI born on or after 01.01.1990*	₹ 11,800 (₹ 10,000 per participant +18% GST)	₹ 11,800 (₹ 10,000 per participant +18% GST)

I. The members who are suffering from permanent disability of 50% and above be treated at par with young members and all those concessions which are available to the young members may be extended to such members provided such member is not a partner in a firm.

The details of the forthcoming batches of the Certificate Course on Concurrent Audit of Banks, organised by the Internal Audit Standards Board at various places are as follows:

Location	Scheduled Dates	Course Structure and other details
Gautam Budh Nagar (Noida)	March 7 & 8, 14 & 15 and 21 & 22, 2020	https://resource.cdn.icai.org/58124iasb47450noida.pdf
Nagpur	April 4 & 5, 11 & 12 and 18 & 19, 2020	https://resource.cdn.icai.org/58122iasb47450n.pdf

Chairman
Internal Audit Standards Board, ICAI
E-mail: cia@icai.in

FORM IV (SEE RULE 8)

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I, Rakesh Kumar Sehgal hereby declare that the particulars given above are true to the best of my knowledge and belief.

Date: sd/-
February 22, 2020 Rakesh Kumar Sehgal
Signature of publisher

National Financial Reporting Authority

7th Floor, Hindustan Times Building,
K.G Marg, New Delhi-110001

Empanelment of Firms (Partnership /Limited Liability Partnership/Proprietary Concern) of Practicing Chartered Accountants as Technical Reviewers (TRs)

Online applications are invited of firms (Partnership /Limited Liability Partnership/ Proprietary Concern) of Practicing Chartered Accountants for empanelment as Technical Reviewers (TRs) with the National Financial Reporting Authority (NFRA) for Empanelment as per details given on its website https://nfra.gov.in/sites/default/files/Tender%20Document_0.pdf. Interested Firms/ Proprietary Concern may apply accordingly in stipulated format within the stipulated time frame. E-procurement Portal will be opened for application after the pre- bid clarifications issued.

Sd/-
Executive Director



The Institute of Chartered Accountants of India

GST Software (Annual Returns)

Cloud Solution for GST Annual Returns

An Arrangement of the Committee for Members in Practice (CMP), ICAI

The Committee has worked an arrangement for 'GST Software (Annual Returns)' for Members in Practice and CA Firms.

Offer

- Preparation of GST Annual Returns (GSTR-9 & 9C)
- GST Invoicing for Practitioners / Firms for "Free"

Key Features of 'GST Software'

- Preparation of GST Annual Returns (GSTR-9 & 9C)
- No Need to enter OTP multiple times with longer duration of GSTN OTP
- Consolidate different branch / location data of Tally companies under one GSTIN
- 20% more data Auto-Population compared to GSTN Portal including complex tables of Amendment i.e. 10 & 11
- GSTR-9 Filing is significantly Faster and Better

Members in Practice and CA firms desirous to avail the aforesaid software may please visit

<https://icai.expressgst.com> and [Sign up](#).

Price for CA and CA Firms

- 5 (Five) GSTIN would be free of cost for One Year
- ₹ 450/- Per GSTIN for additional GSTIN's
- One License would be available Per MRN/FRN

**Voucher Code
KDKICAI**

Apply at the time of Subscription

Scan to more info



XBRL Software

An Arrangement of the Committee for Members in Practice (CMP), ICAI

The Committee has worked an arrangement for 'XBRL Filing Software (C&I and Cost & Accounting)' for Members in Practice and CA Firms

Offer

- Preparation of XBRL Returns for C&I and Cost & Accounting
- Free for all practitioners & CA firms (For New Subscribers) upto 10 Filings

Members and CA firms desirous to avail the aforesaid Software, may Subscribe on below link.

<http://bit.ly/icai-xbrl>

**If you require any support, please contact gst@kdksoftware.com
0141-4123456 | 0141-3812345**

Committee for Members in Practice

The Institute of Chartered Accountants of India



Committee for Member in Practice (CMP), ICAI

Revised Minimum Recommended Scale of Fees for the Professional Assignments done by the Chartered Accountants

The Committee for Members in Practice (CMP) of ICAI as a part of its commitment to strengthen the Practitioners has initiated the Revised Minimum Recommended Scale of Fees for the professional assignments done by the members of ICAI. The recommendation is about the fee to be charged as per the work performed for various professional assignments. The fee has been recommended separately for Class A, Class B and Class C cities.

PARTICULARS		Revised minimum Recommended scale of Fees		
		Class 'A' Cities (₹)	Class 'B' Cities (₹)	Class 'C' Cities (₹)
1) ADVISING ON DRAFTING OF DEEDS/AGREEMENTS				
(a)	i) Partnership Deed	15,000/- & Above	10,000/- & Above	8,000/- & Above
	ii) Partnership Deed (With Consultation & Tax Advisory)	20,000/- & Above	15,000/- & Above	10,000/- & Above
(b)	Filling of Forms with Registrar of Firms	7,000/- & Above Per Form	5,000/- & Above Per Form	3,000/- & Above
(c)	Supplementary / Modification in Partnership Deed	12,000/- & Above	9,000/- & Above	6,000/- & Above
(d)	Joint Development Agreements / Joint Venture Agreements	12000 & Above (See Note-1)	9000 & Above (See Note-1)	6,000/- & Above (See Note-1)
(e)	Others Deeds such as Power of Attorney, Will, Gift Deed etc.	5000 & Above	4000 & Above	3,000/- & Above
2) INCOME TAX				
A. Filling of Return of Income				
I)	For Individuals/HUFs etc.			
(a)	Filling of Return of Income with Salary/Other Sources/Share of Profit	8,000/- & Above	6,000/- & Above	4,000/- & Above
(b)	Filling of Return of Income with detailed Capital Gain working			
	i) Less than 10 Transactions (For Shares & Securities)	11,000/- & Above	8,000/- & Above	5,000/- & Above
	ii) More than 10 Transactions (For Shares & Securities)	17,000/- & Above	12,000/- & Above	8,000/- & Above
(c)	Filling on Return of Income for Capital Gain on Immovable property	32,000/- & Above	22,000/- & Above	15,000/- & Above
(d)	Filling on Return of Income with Preparation of Bank Summary, Capital A/c & Balance Sheet.	12,000/- & Above	9,000/- & Above	6,000/- & Above
II)	(a) Partnership Firms/Sole Proprietor with Advisory Services	15,000/- & Above	10,000/- & Above	8,000/- & Above
	(b) Minor's I.T. Statement	8,000/- & Above	6,000/- & Above	4,000/- & Above
	(c) Private Ltd. Company:			
	i) Active	25,000/- & Above	18,000/- & Above	12,000/- & Above
	ii) Defunct	12,000/- & Above	9,000/- & Above	6,000/- & Above
	(d) Public Ltd. Company			
	i) Active	65,000/- & Above	45,000/- & Above	30,000/- & Above
	ii) Defunct	25,000/- & Above	18,000/- & Above	12,000/- & Above
B. Filling of Forms etc. (Quarterly Fees)				
(a)	Filling of TDS/TCS Return (per Form)			
	i) With 5 or less Entries	4,000/- & Above	3,000/- & Above	2,000/- & Above
	ii) With more than 5 entries	9,000/- & Above	7,000/- & Above	5,000/- & Above

PARTICULARS		Revised minimum Recommended scale of Fees		
		Class 'A' Cities (₹)	Class 'B' Cities (₹)	Class 'C' Cities (₹)
(b)	Filling of Form No. 15-H/G (per Set)	4,000/- & Above	3,000/- & Above	2,000/- & Above
(c)	Form No. 49-A/49-B	4,000/- & Above	3,000/- & Above	2,000/- & Above
(d)	Any other Forms filed under the Income Tax Act	4,000/- & Above	3,000/- & Above	2,000/- & Above
C. Certificate				
	Obtaining Certificate from Income Tax Department	14,000/- & Above	10,000/- & Above	7,000/- & Above
D. Filling of Appeals etc.				
(a)	First Appeal Preparation of Statement of Facts, Grounds of Appeal, Etc.	32,000/- & Above	22,000/- & Above	15,000/- & Above
(b)	Second Appeal (Tribunal)	65,000/- & Above	45,000/- & Above	30,000/- & Above
E. Assessments etc.				
(a)	Attending Scrutiny Assessment/Appeal			
	(i) Corporate	See Note 1	See Note 1	See Note 1
	(ii) Non Corporate	32,000/- & Above	22,000/- & Above	15,000/- & Above
(b)	Attending before Authorities	10,000/- & Above Per Visit	7,000/- & Above Per Visit	5,000/- & Above Per Visit
(c)	Attending for Rectifications/ Refunds/Appeal effects Etc.	7,000/- & Above Per Visit	5,000/- & Above Per Visit	3,000/- & Above Per Visit
(d)	Income Tax Survey	80,000/- & Above	55,000/- & Above	35,000/- & Above
(e)	T.D.S. Survey	50,000/- & Above	35,000/- & Above	25,000/- & Above
(f)	Income Tax Search and Seizure	See Note 1	See Note 1	See Note 1
(g)	Any other Consultancy	See Note 1	See Note 1	See Note 1
3) CHARITABLE TRUST				
(a)	(i) Registration Under Local Act	25,000/- & Above	18,000/- & Above	12,000/- & Above
	(ii) Societies Registration Act	32,000/- & Above	22,000/- & Above	15,000/- & Above
(b)	Registration Under Income Tax Act	25,000/- & Above	18,000/- & Above	12,000/- & Above
(c)	Exemption Certificate under section 80G of Income Tax Act	20,000/- & Above	15,000/- & Above	10,000/- & Above
(d)	Filing Objection Memo/other Replies	10,000/- & Above	7,000/- & Above	5,000/- & Above
(e)	Filing of Change Report	10,000/- & Above	7,000/- & Above	5,000/- & Above
(f)	Filing of Annual Budget	10,000/- & Above	7,000/- & Above	5,000/- & Above
(g)	Attending before Charity Commissioner including for Attending Objections	8,000/- & Above per visit	6,000/- & Above per visit	4,000/- & Above
(h)	(i) F.C.R.A. Registration	35,000/- & Above	25,000/- & Above	18,000/- & Above
	(ii) F.C.R.A. Certification	8,000/- & Above	6,000/- & Above	4,000/- & Above
4) COMPANY LAW AND LLP WORK				
(a)	Filing Application for Name Approval	8,000/- & Above	6,000/- & Above	4,000/- & Above
(b)	Incorporation of a Private Limited Company/LLP	35,000/- & Above	25,000/- & Above	18,000/- & Above
(c)	Incorporation of a Public Limited Company	65,000/- & Above	45,000/- & Above	30,000/- & Above
(d)	Advisory or consultation in drafting MOA, AOA	15,000/- & Above	11,000/- & Above	8,000/- & Above

PARTICULARS		Revised minimum Recommended scale of Fees		
		Class 'A' Cities (₹)	Class 'B' Cities (₹)	Class 'C' Cities (₹)
(e)	(i) Company's/LLP ROC Work, Preparation of Minutes, Statutory Register & Other Secretarial Work	See Note 1	See Note 1	See Note 1
	(ii) Certification (Per Certificate)	15,000/- & Above	11,000/- & Above	8,000/- & Above
(f)	Filing Annual Return Etc.	10,000/- & Above per Form	7,000/- & Above per Form	5,000/- & Above
(g)	Filing Other Forms Like : F-32, 18, 2 etc.	5,000/- & Above	4,000/- & Above per Form	3,000/- & Above
(h)	Increase in Authorised Capital Filing of F-5, F-23, preparation of Revised Memorandum of Association/Article of Association/LLP Agreement	25,000/- & Above	20,000/- & Above	14,000/- & Above
(i)	DPIN/DIN per Application	4,000/- & Above	3,000/- & Above	2,000/- & Above
(j)	Company Law Consultancy including Petition drafting	See Note 1	See Note 1	See Note 1
(k)	Company Law representation including LLP before RD and NCLT	See Note 1	See Note 1	See Note 1
(l)	ROC Representation	See Note 1	See Note 1	See Note 1
5) AUDIT AND OTHER ASSIGNMENTS				
Rate per day would depend on the complexity of the work and the number of days spent by each person				
	(i) Principal	18,000/- & Above per day	12,000/- & Above per day	8,000/- & Above per day
	(ii) Qualified Assistants	10,000/- & Above per day	7,000/- & Above per day	5,000/- & Above per day
	(iii) Semi Qualified Assistants	5,000/- & Above per day	4,000/- & Above per day	3,000/- & Above per day
	(iv) Other Assistants	3,000/- & Above per day	2,000/- & Above per day	1,000/- & Above per day
Subject to minimum indicative Fees as under:				
	(i) Tax Audit	40,000/- & Above	30,000/- & Above	22,000/- & Above
	(ii) Company Audit			
	(a) Small Pvt. Ltd. Co. (Turnover up to ₹ 2 crore)	50,000/- & Above	35,000/- & Above	25,000/- & Above
	(b) Medium Size Pvt. Ltd. Co./ Public Ltd. Co.	80,000/- & Above	55,000/- & Above	35,000/- & Above
	(c) Large Size Pvt. Ltd. Co./ Public	See Note 1	See Note 1	See Note 1
	(iv) Review of TDS Compliance	25,000/- & Above	18,000/- & Above	12,000/& Above
	(v) Transfer Pricing Audit	See Note 1	See Note 1	See Note 1
6) INVESTIGATION, MANAGEMENT SERVICES OR SPECIAL ASSIGNMENTS				
Rate per day would depend on the complexity of the work and the number of days spent by each person				
(a)	Principal	35,000/- & Above + per day charge	25,000/- & Above + per day charge	18,000/- & Above per day charge
(b)	Qualified Assistant	18,000/- & Above + per day charge	12,000/- & Above + per day charge	8,000/- & Above per day charge
(c)	Semi Qualified Assistant	10,000/- & Above + per day charge	7,000/- & Above + per day charge	5,000/- & Above per day charge

PARTICULARS	Revised minimum Recommended scale of Fees		
	Class 'A' Cities (₹)	Class 'B' Cities (₹)	Class 'C' Cities (₹)
7) CERTIFICATION WORK			
(a) Issuing Certificates under the Income Tax Act i.e. U/s 80IA/80IB/10 A/10B & other Certificates	See Note 1	See Note 1	See Note 1
(b) Other Certificates For LIC/Passport/ Credit Card/Etc.	10,000/- & Above	7,000/- & Above	5,000/- & Above
(c) Other Attestation (True Copy)	3,000/- & Above per form	2,000/- & Above per form	1,000/- & Above
(d) Net worth Certificate for person going abroad	18,000/- & Above	12,000/- & Above	8,000/- & Above
8) RERA			
(a) Audit of Accounts	10,000/- & Above	7,000/- & Above	5,000/- & Above
(b) Appearance Before Appellate Tribunal of Regulatory Authority or Adjudicating Authority	50,000/- & Above	35,000/- & Above	25,000/- & Above
(c) Advisory & Consultation	See Note 1	See Note 1	See Note 1
(d) Certification for withdrawal of amount	See Note 1	See Note 1	See Note 1
9) CONSULTATION & ARBITRATION			
Rate per hour would depend on the complexity of the work and the number of hours spends by each person			
(a) Principal	35,000/- & Above (initial fees) + additional fees @ 8,000/- & Above per hour	25,000/- & Above (initial fees) + additional fees @ 6,000/- & Above per hour	18,000/- & Above (initial fees) + additional fees @ 4,000/- & Above per hour
(b) Qualified Assistant	6,000/- & Above per hour	4,000/- & Above per hour	3,000/- & Above per hour
(c) Semi Qualified Assistant	3,000/- & Above per hour	2,000/- & Above per hour	1,000/- & Above per hour
10) NBFC/RBI MATTERS			
(a) NBFC Registration with RBI	See Note 1	See Note 1	See Note 1
(b) Other Returns	18,000/- & Above	12,000/- & Above	8,000/- & Above
11) GST			
(a) Registration	20,000/- & Above	15,000/- & Above	10,000/- & Above
(b) Registration with Consultation	See Note 1	See Note 1	See Note 1
(c) Tax Advisory & Consultation i.e. about value, taxability, classification, etc.	See Note 1	See Note 1	See Note 1
(d) Challan/Returns	15,000/- & Above + (4,000/- Per Month)	10,000/- & Above + (3,000/- Per Month)	8,000/- & Above + (2,000/- Per Month)
(e) Adjudication/Show Cause notice reply	30,000/- & Above	20,000/- & Above	15,000/- & Above
(f) Filing of Appeal / Appeals Drafting	30,000/- & Above	20,000/- & Above	15,000/- & Above
(g) Furnish details of inward/outward supply	See Note 1	See Note 1	See Note 1
(h) Misc services i.e. refund, cancellation/revocation registration, maintain electronic cash ledger etc.	See Note 1	See Note 1	See Note 1
(i) Audit of accounts and reconciliation Statement	40,000/- & Above	20,000/- & Above	12,000/- & Above
(j) Any Certification Work	10,000/- & Above	7,000/- & Above	5,000/- & Above

PARTICULARS		Revised minimum Recommended scale of Fees		
		Class 'A' Cities (₹)	Class 'B' Cities (₹)	Class 'C' Cities (₹)
12) FEMA MATTERS				
(a)	Filing Declaration with RBI in relation to transaction by NRIs/OCBs	35,000/- & Above	25,000/- & Above	18,000/- & Above
(b)	Obtaining Prior Permissions from RBI for Transaction with NRIs/OCBs	50,000/- & Above	35,000/- & Above	25,000/- & Above
(c)	Technical collaboration: Advising, obtaining RBI permission, drafting and preparing technical collaboration agreement and incidental matters	See Note 1	See Note 1	See Note 1
(d)	Foreign collaboration: Advising, obtaining RBI permission, drafting and preparing technical collaboration agreement and incidental matters (incl. Shareholders Agreement)	See Note 1	See Note 1	See Note 1
(e)	Advising on Non Resident Taxation Matters including Double Tax Avoidance Agreements including FEMA	See Note 1	See Note 1	See Note 1
13) PROJECT FINANCING				
(a)	Preparation of CMA data	See Note 1	See Note 1	See Note 1
(b)	Services relating to Financial sector	See Note 1	See Note 1	See Note 1
14) ACCOUNTANCY SERVICES (New Heading)				
	Book Keeping and the preparation of financial statements			See Note 1
	Other Services			See Note 1
15) Other Services not listed above				See Note 1

Notes:

- 1) Fees to be charged depending on the complexity and the time spent on the particular assignment.
- 2) The above recommended minimum scale of fees is as recommended by the Committee for Members in Practice (CMP) of ICAI
- 3) The aforesaid table states recommendatory minimum scale of fees works out by taking into account average time required to complete such assignments. However, members are free to charge varying rates depending upon the nature and complexity of assignment and time involved in completing the same.
- 4) Office time spent in travelling & out-of-pocket expenses would be chargeable. The Committee issues for general information the above recommended scale of fees which it considers reasonable under present conditions. It will be appreciated that the actual fees charged in individual cases will be matter of agreement between the member and the client.
- 5) GST should be collected separately wherever applicable.
- 6) The Committee also recommends that the bill for each service should be raised separately and immediately after the services are rendered.
- 7) Classification of Class A, Class B & Class C Cities are given in **Annexure 'A'**
- 8) The amount charged will be based on the location of the service provider.

S No	STATES / UNION TERRITORIES	CITIES CLASSIFIED AS "A"	CITIES CLASSIFIED AS "B"	CITIES CLASSIFIED AS "C"
1.	ANDAMAN & NICOBAR ISLANDS	_____	_____	All cities
2	ANDHRA PRADESH	_____	Vijayawada, Greater Visakhapatnam, Guntur, Nellore	Other Cities
3	A R U N A C H A L PRADESH	_____	_____	All cities
4	ASSAM	_____	Guwahati	Other Cities
5	BIHAR	_____	Patna	Other Cities
6	CHANDIGARH	_____	Chandigarh	_____
7	CHHATTISGARH	_____	Durg-Bhilai Nagar, Raipur	Other Cities
8	DADRA & NAGAR HAVELI	_____	_____	All cities
9	DAMAN & DIU	_____	_____	All cities
10	DELHI	Delhi	_____	_____
11	GOA	_____	_____	All cities
12	GUJARAT	Ahmedabad	Rajkot, Jamnagar, Bhavnagar, Vadodara Surat	Other Cities
13	HARYANA	_____	Faridabad, Gurgaon	Other Cities
14	H I M A C H A L PRADESH	_____	_____	All cities
15	JAMMU & KASHMIR	_____	Srinagar, Jammu	Other Cities
16	JHARKHAND	_____	Jamshedpur, Dhanbad, Ranchi, Bokro Stell City	Other Cities
17	KARNATAKA	Bengaluru	Belgaum, Hubli-Dharwad, Mangalore, Mysore, Gulbarga	Other Cities
18	KERALA	_____	Kozhikode, Kochi, Thiruvananthapuram, Thrissur, Malappuram, Kannur, Kollam	Other Cities
19	LAKSHADWEEP	_____	_____	All cities
20	MADHYA PRADESH	_____	Gwalior, Indore, Bhopal, Jabalpur, Ujjain	Other Cities
21	MAHARASHTRA	Greater Mumbai, Pune	Amravati, Nagpur, Aurangabad, Nashik, Bhiwandi, Solapur, Kolhapur, Vasai-Virar City, Malegaon, Nansws-Waghala, Sangli	Other Cities
22	MANIPUR	_____	_____	All cities
23	MEGHALAYA	_____	_____	All cities
24	MIZORAM	_____	_____	All cities
25	NAGALAND	_____	_____	All cities
26	ODISHA	_____	Cuttack, Bhubaneswar, Rourkela	Other Cities
27	PUDUCHERRY	_____	Puducherry/ Pondicherry	_____
28	PUNJAB	_____	Amritsar, Jalandhar, Ludhiana,	Other Cities
29	RAJASTHAN	_____	Bikaner, Jaipur, Jodhpur, Kota, Ajmer	Other Cities
30	SIKKIM	_____	_____	All cities
31	TAMIL NADU	Chennai	Salem, Tiruppur, Coimbatore, Tiruchirappalli, Madurai, Erode	Other Cities
32	TELANGANA	Hyderabad	Warangal	Other Cities
33	TRIPURA	_____	_____	All cities
34	UTTAR PRADESH	_____	Moradabad, Meerut, Ghaziabad, Aligarh, Agra, Bareilly, Lucknow, Kanpur, Allahabad, Gorakhpur, Varanasi, Saharanpur, Noida, Firozabad, Jhansi	Other Cities
35	UTTARAKHAND	_____	Dehradun	Other Cities
36	WEST BENGAL	Kolkata	Asansol, Siliguri, Durgapur	Other Cities



Indian Institute of Insolvency Professionals of ICAI (IIPI)

IIPI invites ONLINE applications from competent professionals for the position of **EDITOR** on contract basis. The details for Job Description for the position are as follows:

Position	Editor
Qualifications & Experience	<ul style="list-style-type: none"> CA with graduation in print and electronic Journalism/Mass Media, preferably with a strong background in Business Journalism having at least 5 years' experience in a Business Journal, Newspaper, Magazine or other publication, etc.
Age	<ul style="list-style-type: none"> 30 -35 years
Skill Sets required	<ul style="list-style-type: none"> Identify and follow-up of story leads/ideas, create writers' groups, knowledge of IBC and latest trends in the field, handling correspondence, excellent writing skills, etc.
Job Profile	<ul style="list-style-type: none"> Administrative experience in running a publications unit. Should have excellent writing skills in English and a record of published articles. Should be able to launch a publication schedule and prepare a format for Technical, Regulatory and Professional publications. Identify and develop potential contributors to the publications vested with the Editor. Manage experienced writers for ensuring a flow of articles, etc. Establish and support the Editorial Board and help set up sub-boards at other Centres. Ensure quality assurance for publications of IIPI. Follow-up on assigned issues till closure, etc.
Administrative	<ul style="list-style-type: none"> Accounts, administration, obtention of financial approvals and maintenance of records, etc. To ensure all statutory compliances/obligations
CTC	₹ 6 lakhs per annum

Note: All terms and conditions are subject to change by IIPI and its decision in this regard shall be final. Eligible person may submit their CV's at: ip_recruitment@icai.in

Last date for Application: 15-03-2020.

MoU between ICAI and IIM, Jammu

Indian Institute of Management Jammu (IIM Jammu) has recognised CA qualification equivalent to Post-graduate for pursuing Ph.D. The IIM, Jammu invites application for admission in Ph.D programme for the year 2020. For further details, please visit <http://www.iimj.ac.in> and for other queries write to admissions@iimj.ac.in; chairpersondp@iimj.ac.in.

Classifieds

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- 5797** FCA with 35 years of professional experience in all forms of Company Audits wishes to associate as a consultant with CA firms wishing to expand their audit practice at Bangalore. Please contact: ramachandran.gp@gmail.com
- 5798** CA firm having 38 years standing with audit and taxation assignments requires CAs (Partners), to head Delhi, Bengaluru, Nashik and Mumbai branches E-mail: secretaryjvd@gmail.com
- 5799** Required CA firms for merger with our 15 year old CA firm based in Delhi. Contact - Phone: 9350255937, E-mail:- infomb79@gmail.com
- 5800** UCC & Associates LLP, Delhi based CA firm requires 3 CAs for Delhi, 3 CAs for Gandhidham, and Semi-Qualified(s). Candidate should have exposure in Accounts, Direct Taxation and Indirect Taxation. Interested candidate may e-mail their CV at jobs@uccglobal.in



ICAI in Media : Glimpses of February 2020

live**mint**

ICAI wants companies to be more open on welfare goals

Gireesh Chandra Prasad, 2 min read . Updated: 13 Feb 2020

- ICAI to set up an in-house 'Sustainable Accounting Standards Board' to frame suggestions on greater disclosures by the companies
- ICAI to also share board's recommendations with the global accounting rule maker IASB

Accounting standard setter Institute of Chartered Accountants of India (ICAI) is set to recommend greater disclosure by companies on how they are helping to meet sustainable development goals, ICAI president Atul Kumar Gupta said at a briefing here.

ICAI will first set up an in-house 'sustainable accounting standards board' with members from all economic regulators to frame suggestions regarding what more disclosure should companies make in this context and will share that with the global accounting rule maker International Accounting Standards Board (IASB) for adoption, explained Gupta.

It is a slightly adapted version of IASB's International Financial Reporting Standards (IFRS) that is implemented in India under the name 'Ind AS' for financial reporting by companies.

"The (in-house) board will work on identifying what needs to be reported to achieve sustainable development goals," said Gupta. Once the global accounting rule setter adopts these recommendations, it will come into effect in India and elsewhere, explained Gupta.

Sustainable development goals are the welfare targets of the United Nations that India and 192 other nations embraced in 2015 to be met by 2030. India, with 17% of world population, holds the key to global SDG achievement. The goals cover areas like healthcare, gender equality, clean energy, infrastructure, education, peace and building strong and accountable institutions.

At present, the law mandates that companies with a net worth of at least Rs 500 crore or revenue of Rs1,000 crore or net profit of Rs 5 crore should spend at least 2% of their net profit on corporate social responsibility and any lapse in this regard should be explained in the annual financial statement. The proposed new norms that the ICAI will recommend disclosure of specific details about the spending that companies make towards SDG goals in columns to be provided in financial statements. Indian companies spend around Rs15,000 crore a year on CSR, as per official estimates.

millennium**post**
NO HALF TRUTHS

New Delhi, Feb 13, 2020

ICAI elects new President & Vice-President for 2020-21

ICAI elects new President, Vice-President

OUR CORRESPONDENT

The Institute of Chartered Accountants of India (ICAI) today elected its new President and Vice-President for the term 2020-2021.

CA Atul Kumar Gupta has been elected as the President, ICAI and CA Nihar Niranjan Jambusaria has been elected as the Vice-President, ICAI w.e.f. February 12, 2020.

CA Atul Kumar Gupta
Having served the profession for about two decades, CA Atul Kumar Gupta joined the Central Council of ICAI in 2013 wherein he remained a member for two consecutive terms, i.e. 2013-16 and 2016-19. He got elected as Vice-President in February, 2019 for the term 2019-2020.

A commerce and a law graduate by education, Gupta has led the cause of profession through various committees of the Institute, serving as Chairman of Digital Accounting and Assurance Board, Board of Studies, IT Committee and Indirect Taxes Committee, among others. He is known and appreciated widely for his key contribution as facilitator of the Goods and Service Tax regime, particularly in its formative years. Under his stewardship at Board of Studies, the New Scheme of Education and Training that was benchmarked with the revised International Education Standards, was launched in 2017, with thorough revision of the content of the study materials of Intermediate and Final level courses.

He, earlier, has been the Chairman of SAFA Committee on Education, Training & CPD and Director of XBRL India and ICAI Accounting Research Foundation (ARF) in the past.

Through ICAI-ARF, he is credited for the

CA Atul Kumar Gupta has been elected as the President, ICAI and CA Nihar Niranjan Jambusaria has been elected as VP

promotion of the agenda of research in profession. After anchoring the ICAI-ARF team in the project of preparation of accrual-based financial statements of the North-Western Zonal Railways for the year 2014-15, Gupta has mentored the team in the project of preparation of accrual-based financial statements of the Indian Railways for the years 2015-16 and 2016-17.

As Vice-President of the Institute, CA Gupta acted as Vice-Chairman of all Standing Committees including Executive, Finance and Examination Committee, besides being the ex-officio member of all Non-Standing Committees and Joint Editor of ICAI Journal, The Chartered Accountant. He is a Director in the Governing Board of Indian Institute of In-



veny Professionals of ICAI. CA. Gupta is also Vice Chairman on the Board of the Extensible Business Reporting Language (XBRL) India and Director in ICAI Accounting Research Foundation.

CA Nihar Niranjan Jambusaria is a man of professional wisdom, vision and strong organisational skills with a firm belief in all round inclusive growth of Indian Chartered Accountancy profession. A seasoned professional from Mumbai and currently associated in Industry, Jambusaria qualified as a Chartered Accountant in 1984 and was in practice for nearly 27 years.

Jambusaria has represented ICAI in many important committees constituted by the Government Ministries/Regulators. He has been nominated as a Member of the e-Commerce Committee formed by the Ministry of Finance and Peer Review Committee of the Central Board of Direct Taxes.

Also, he made contributions as the Chairman of - IndAS Implementation Committee, ICAI, International tax Committee and various other important Committees/Board of ICAI. He has also served as a Member of SAFA Committee on Professional Accountants in Business (PAIB).

The Statesman

ICAI to set up Sustainability Accounting Standards Board to help companies in Achieving SDGs

New Delhi, February 13, 2020

ICAI to set up Sustainability Accounting Standards Board

PRESS TRUST OF INDIA
NEW DELHI, 13 FEBRUARY

Chartered accountants' apex body ICAI will set up a Sustainability Accounting Standards Board to help companies in achieving sustainable development goals.

ICAI president Atul Kumar Gupta today said the board would be launched on Friday and discussions would be held with stakeholders to take the process forward.

With the proposed standards, there would be disclosure requirements for companies in terms of "sustainability part" or sustainable development goals of the United Nations (UN).

"We will be developing reporting requirements for companies to comply with...there will be columns in the balance sheet where you have to report," Mr Gupta said, adding that the institute will seek guidance from the corporate affairs ministry in this regard.

The board, which would be part of ICAI, would take a month or so to stabilise. It would be a "coordinated and unified" exercise, Mr Gupta added.

Once the board develops some kind of reporting requirements, the same would

be sent to the IFRS Foundation.

International Financial Reporting Standards (IFRS) are set by the IFRS Foundation's standard-setting body, the International Accounting Standards Board.

In September 2015, the UN General Assembly adopted the 2030 Agenda for Sustainable Development, that includes 17 Sustainable Development Goals (SDGs).

Mr Gupta, who took over as the president on Wednesday, also said efforts are continuing to strengthen the institute's disciplinary mechanism, including faster disposal of disciplinary cases.

The Institute of Chartered Accountants of India (ICAI) has more than 3 lakh members.

विराट वैभव

New Delhi, Feb 14, 2020

05 ट्रिलियन डॉलर की अर्थव्यवस्था बनाने में इंस्टीट्यूट ऑफ चार्टर्ड अकाउंटेंट्स की भूमिका अहम: अतुल कुमार

एजेंसी ■ नई दिल्ली

देश की अर्थव्यवस्था को साल 2024 तक 5 ट्रिलियन डॉलर बनाने का लक्ष्य हासिल करने और प्रधानमंत्री के सपनों को पूरा करने में इंस्टीट्यूट ऑफ चार्टर्ड अकाउंटेंट्स ऑफ इंडिया (आईसीएआई) अहम भूमिका निभा रहा है। यह बात यहां होटल ली मेरिडियन में आयोजित प्रेस कॉन्फ्रेंस के दौरान आईसीएआई के चुने गए नए अध्यक्ष सीए अतुल कुमार गुप्ता ने कही।

उन्होंने स्वाददाताओं को बताया कि साल 1949 में संसद के एक अधिनियम द्वारा स्थापित इस संस्था

की जिम्मेदारी पारदर्शिता, जवाबदेही और अखंडता के मूल्यों को बनाए रखना है, जिसमें निरंतर ये संस्था आगे बढ़ रहा है। साथ ही यह एक समर्पित और बेहतर संस्थान के तौर पर अपनी पहचान को साबित भी किया है। आईसीएआई के नवनिर्वाचित अध्यक्ष अतुल कुमार गुप्ता ने छात्रों के एकेडमिक कलेंडर और एग्जाम को भी पारदर्शी बनाए जाने की बात भी कही। उन्होंने कहा कि संस्थान की जवाबदेही एक बेहतर चार्टर्ड अकाउंटेंट देश को देना है, जिसमें संस्थान खरा उतरा है। आईसीएआई अध्यक्ष ने कहा कि हमारे यहां के छात्र विश्व के अन्य देशों में भी कार्यरत हैं, जिनकी संख्या

लगभग 30 हजार है। उन्होंने बताया कि यहां केवल 65 हजार रुपये की फीस देकर चार्टर्ड अकाउंटेंट बनकर निकलने वाले छात्र 9.3 लाख रुपये से लेकर 22 लाख रुपये तक की सैलरी पा रहे हैं। गुप्ता ने कहा कि हम 'स्किल डेवलपमेंट के साथ-साथ सरकार की नीतियों को बनाने में भी सहयोग करते हैं। आईसीएआई अध्यक्ष ने बताया कि हम देश के लिए बेहतर चार्टर्ड अकाउंटेंट बनाने के साथ सरकार की योजनाओं खासकर वस्तु एवं सेवाकर और भारत सरकार द्वारा शुरू की गई ग्राम पंचायत और अर्बन एरिया के लिए डबल इंटी सिस्टम को विकसित करने की दिशा में भी काम कर रहे हैं।

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