Compendium of Income Tax Amendments under Finance Act 2023

Office of Director General of Audit (Central), Mumbai

Preface

The Finance Act 2023 is a crucial financial document that outlines the tax proposals and budgetary allocations of the Indian government for the fiscal year 2023-24. The Act provides a comprehensive roadmap for how the government plans to allocate its financial resources and streamline the country's tax policies.

This compendium entails amendments made in various provisions of the Income Tax Act with the objective of continuing reforms in direct tax system through tax reliefs, removing difficulties faced by taxpayers and rationalization of various provisions. The major changes have been made in sphere of rates of income-tax, socio -economic welfare measures, ease of compliance, widening tax base/anti-avoidance, improving compliance and tax administration, rationalisation of provisions, and others.

All-out efforts have been made to compile all the amendments at one place along with explanatory notes so that staff can navigate the Compendium to understand the changes made through this Finance Act. This would also galvanise them into gathering further detailed information available in public domain regarding the issues highlighted in the Compendium.

This compendium has been designed to keep our staff abreast of the amendments made in arena of direct taxes. Besides, this would facilitate our staff during future audit to a significant extent, as these amendments will be applicable from 01 April 2023. Assessment orders passed by assessing officers will be examined by auditors to see whether these amendments have been correctively implemented or not.

This compendium is also a useful source of information to all the taxpayers who intend to have an insight in the latest tax proposals and changes made vide this Finance Act. This can also help them in future tax planning and a proper understanding of compliance issues which they face while dealing with the Income Tax Department.

I would like to place on record cooperation and inputs of my Group officers and staff especially Mr Iqbal Tahsildar and Mr Hemant Sharma in the preparation of this compendium.

Although sincere efforts have been made to avoid errors and omissions while formulating this compendium, I welcome your suggestions and feedback. These may be forwarded at the email address-yadawkp@cag.gov.in.

(KP Yadaw)
Director General of Audit, Mumbai

Finance Act 2023 and Amendment in Direct Taxes

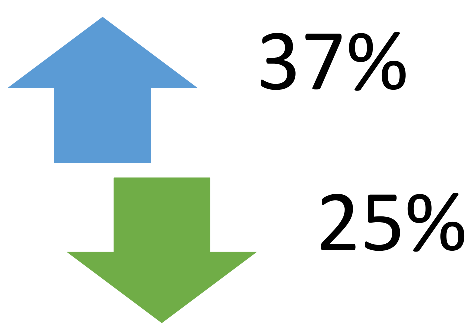
1.Amendments in Tax Rates

The following changes have been brought about in tax rates:

- ✓ In the alternate tax regime under Section 115BAC, a revision to the basic exemption limit and the number of slabs has been proposed. The revised basic exemption limit shall be INR 3,00,000 and for every additional INR 3,00,000 of income, the next slab rate will be applicable.

Net income range	***Income-tax rates***	***Health and Education Cess @ 4***	***Effective Rate of Tax***
Up to ₹ 3,00,000	Nil	Nil	Nil
₹ 3,00,001 - ₹ 6,00,000	5% of (total income minus ₹ 3,00,000)	4% of income-tax	5.20%
₹ 6,00,001 - ₹ 9,00,000	₹ 15,000 + 10% of (total income minus ₹ 6,00,000)	4% of income-tax	10.40%
₹ 9,00,001 - ₹ 12,00,000	₹ 45,000 + 15% of (total income minus ₹ 9,00,000)	4% of income-tax	15.60%
₹12,00,001 - ₹ 15,00,000	₹ 90,000 + 20% of (total income minus ₹ 12,00,000)	4% of income-tax	20.80%
Above ₹ 15,00,000	₹ 1,50,000 + 30% of (total income minus ₹ 15,00,000)	4% of income-tax	31.20%

- ✓ The highest slab rate of 30% shall continue to apply to income above INR 15,00,000.
- ✓ The threshold limit for total income eligible for rebate under Section 87A has been proposed to be increased from INR 5,00,000 to INR 7,00,000 for assessees opting for the new tax regime.
- ✓ Under the new tax regime, the highest surcharge rate of 37% on income above INR 5,00,00,000 has been reduced to 25%.



- ✓ The alternate tax regime of Section 115BAC is applicable to Association of Persons (AOP) [(other than a co-operative society], Body of Individuals (BOI), and Artificial Juridical Persons (AJP).
- ✓ Standard deduction from salary income and deduction from family pension is proposed to be extended to employees who opt for New Tax Regime.
- ✓ A new section 115BAE has been inserted, which stipulates reduced rate of tax of 15% (plus surcharge of 10% and cess) for Manufacturing co-operative societies established on or after April 1st, 2023, and commencing production on or before March 31st, 2024 [provided that specified incentives or deductions are not availed]. Further, income not derived or incidental to manufacturing or production of an article or thing shall be taxed at 22%.
- ✓ Section 115BBJ has been inserted which provides the tax rate of 30% on any winning from online gaming.
- ✓ Provisions of Alternate Minimum Tax (AMT) and credit thereof shall not apply to cooperative societies opting for an alternate tax regime under Section 115BAE.

Explanatory note 1 Alternate Minimum Tax

AMT is a minimum tax that is leviable alternative to normal tax. Rate of AMT is 18.5% of adjusted total income (plus applicable surcharge and cess).

If the person is a unit located in an International Financial Services Centre (IFSC) and receives income solely in convertible foreign currency, the AMT rate will be 9%.

From Assessment Year 2023-24, the rate of AMT is reduced from 18.5% to 15% in case of co-operative society.

AMT is a tax levied on 'adjusted total income' in a FY wherein tax on normal income is lower than AMT on Adjusted total income.

Individuals, Hindu Undivided Family (HUF), Association of Persons (AOP), Body of Individuals (BOI) or an artificial juridical person when their adjusted total income exceeds Rs.20,00,000. Every other person (other than an individual, HUF, AOP, BOI or artificial juridical person) irrespective of its income.

Difference between Regular and Alternative Minimum Tax (AMT	
✓ Regular Tax is to be paid by every eligible taxpayer above the normal exemption limit under the Income Tax Act.	✓ Alternative Minimum Tax (AMT) is to be paid by non-corporate taxpayers with an adjusted annual income of over Rs. 20 Lakhs.
✓ Regular Tax helps the government earn a steady inflow of revenue to fund the growth project of the country.	✓ AMT helps the government charge non-corporate taxpayers a fixed rate of tax on their income and hence earn a comparatively higher amount of tax against lowered amount via a regular tax system wherein they have claimed

	various deductions and reduced their tax liability.
✓ Regular Tax is a tax that has various income slabs wherein there are different rates of tax for various income slabs.	✓ AMT is a tax that has a fixed rate of tax i.e., 18.5% on the annual income of the taxpayer.
✓ Various deductions are available under the regular tax system.	✓ Only a few deductions are available under Alternative Minimum Tax.

2. Amendments w.r.t. Deductions and Exemption

The following amendments in Deductions and Exemptions have been provided vide Finance Act 2023:

- ✓ Receipts arising from life insurance policies issued on or after April 1st, 2023, shall be considered as income from other sources if the premium paid exceeds ₹ 5,00,000 in a given year. The exemption for receipts in the event of the insured person's death shall remain unchanged.
- ✓ To avail a deduction under Section 10AA, the assessee must submit a return of income on or before the due date specified under Section 139(1).
- ✓ Deduction under Section 10AA shall only be allowed if the proceeds from the sale of goods or provision of services are received in convertible foreign exchange within 6 months from the end of the previous year or within such further period as the competent authority may allow in this behalf.

Explanatory note 2 Deduction us 10AA

Section 10AA deals with deduction to the units established in special economic zones. The units, which have commenced manufacturing or producing articles or things or computer software in any SEZ on or after 2006 but before 01 April 2021 can claim 100% deduction of profits and gains derived from export of these items for 5 five consecutive assessment years with the assessment year relevant to the previous year in which the units start production.

They can claim deduction of 50% for another five assessment years, while they can further claim 50% for the next consecutive five years provided the amount is debited to the profit and loss account.

- ✓ Income distributed from offshore derivative instruments (ODI)[1] entered into with an offshore banking unit of an IFSC shall be exempt from tax under Section 10(4E). (The ***ODIs have been described in Annex-2***.)
- ✓ The exemption under Section 10(22B) for news agencies has been withdrawn.
- ✓ Tax exemption under Section 10(46A) is extended to 'non-corporate entities (Such as bodies, authorities, boards, trusts, or commissions), established by a Central or State Act for the purpose of providing housing, planning urban development, and regulating activities for the benefit of the public.

3. Tax Benefits to Agniveers

- ✓ Receipts from the 'Agniveer Corpus Fund' by a person enrolled under the 'Agnipath Scheme 2022' shall be exempt from tax under Section 10(12C).
- ✓ Section 80CCH provides for deductions to Individuals enrolled in Agnipath Scheme on or after 01st November 2022. The deduction shall be equal to the amount of contributions made to the Agniveer Corpus Fund. This deduction is available in old as well as new tax regime.
- ✓ The Central Government's contribution to the Agniveer Corpus Fund account of an individual enrolled in the Agnipath Scheme shall be considered as salary in accordance with the provisions of Section 17. A corresponding deduction shall be allowed under Section 80CCH for the same.

4. Amendments w.r.t. Income from Business or Profession

- ✓ Under Section 43B, deductions for sums payable to Micro, Small, and Medium Enterprises (MSMEs) shall be allowed on payment basis. This amendment has been contemplated to promote timely payments to micro and small enterprises.

  A deduction for such payments, thus, would be allowed only when they are actually paid.

  The other provisions relating to MSMEs are as follows:

  - *The Income Tax Act mandates to disallow the Interest expense against payment to micro and small enterprises beyond due dates as mentioned in section 15 of the MSMED Act.*

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[1] Offshore derivatives instruments (ODIs) are investment vehicles used by overseas investors for an exposure in Indian equities or equity derivatives. These investors are not registered with SEBI, either because they do not want to, or due to regulatory restrictions.

Read more at:
https://economictimes.indiatimes.com/what-are-offshore-derivatives-instruments/articleshow/2468970.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

- *The Companies Act mandates separate disclosure of outstanding balance and interest thereon due to MSE in the financial statements.*
- *GST provisions mandate payments to vendors (MSE or not) within 180 days. If the payment is not made within 180 days, the Input tax credit is required be reversed along with applicable interest.*

Explanatory Note- 3 section 43B.

Section 43B of Income Tax Act deals with certain deductions on **actual payment** basis. Certain expenses such tax, duty, cess or fee, employer contribution to any provident fund, superannuation fund or gratuity fund, interest on any loan or borrowing from any public financial institution, provision for leave encashment, any bonus or commission payable to employees etc shall be allowed as deduction in the previous year in which they are **actually paid by assessees**.

- ✓ For sugar co-operatives societies, for years prior to A.Y. 2016-17, if any deduction claimed for expenditure made on purchase of sugar has been disallowed, an application may be made to the Assessing Officer, who shall recompute the income of the relevant previous year after allowing such deduction up to the price fixed or approved by the Government for such previous year.
- ✓ Non-Banking Financial Companies (NBFCs) are also notified for the purposes of Sections 43B and 43D.

Explanatory note- 4 Non-banking Finance Companies

NBFC stands for Non-Banking Financial Company and is registered under the Companies Act, 2013 and managed by RBI with activities very similar to the bank except for some major differences. NBFC is known to provide financial support and services to businesses and individuals.

The NBFC Registration comes under the Companies Act 2013 and the RBI Act 1934. In India, The Reserve Bank of India is the supreme regulator of the NBFC. An NBFC is different from the Traditional Banks in the following ways:

- A Bank is registered under the Banking Regulation Act, 1949, whereas an NBFC is registered under the Companies Act 2013 or 1956 and RBI Act, 1934.
- NBFC Provides Banking services to People without holding a Bank license.
- Unlike Banks, NBFCs cannot accept and lend deposits. An NBFC cannot accept Demand Deposits i.e., NBFCs are not allowed to accept deposits, which must be refund on demand. The RBI gives no guarantee of the repayment of deposits by the NBFCs.

The top 10 NBFCs are illustrated below:

1.	Power Finance Corporation Limited
2.	Shriram Transport Finance Company Limited
3.	Bajaj Finance Limited
4.	Mahindra & Mahindra Financial Services Limited
5.	Muthoot Finance Ltd
6.	HDB Finance Services
7.	Cholamandalam
8.	Tata Capital Financial Services Ltd
9.	L&T Finance Company
10.	Aditya Birla Finance Ltd

- ✓ The benefit in cash for taxability under section 28 of the Act and for tax deduction at source under section 194R of the Act.
- ✓ No set off of losses and unabsorbed depreciation by the assessees who opt for presumptive tax schemes under Sections 44BB and 44BBB.
- ✓ The threshold limits for presumptive taxation schemes under Section 44AD and Section 44ADA have been increased to INR 3 crores and INR 75 lakhs respectively, provided at least 95% of receipts and payments are made through non-cash methods.
- ✓ Section 35D has been amended to remove the condition of activity in connection with these expenses to be carried out by a concern approved by the Board. Instead, the assessee shall be required to furnish a statement containing the particulars of this expenditure within prescribed period to the prescribed income-tax authority in the prescribed form and manner.

Explanatory note 5 Section 35D

Section 35D deals with amortisation of certain preliminary expenses such as feasibility study, project report, legal expenses. An Indian company and a person other than company who is resident can claim deduction of these expenses in five equal instalments.

- ✓ The threshold limit for opting for the presumptive taxation scheme under section 44AD and section 44ADA has been increased to ₹ 3 crores or ₹ 75 lakhs, respectively, where 95% of the transaction are made in non-cash mode. The consequential amendments have been made under section 44AB to remove the tax audit requirement for persons opting for such presumptive schemes.
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Explanatory note 6 Presumptive taxation

To give relief to small taxpayers from the tedious job of maintenance of books of account and getting the books of account audited, the Income tax Act has framed the Presumptive Taxation Scheme under sections 44AD, 44ADA and 44AE of the Income Tax Act, 1961. The taxpayer adopting the Presumptive Taxation scheme can declare income at a prescribed rate instead. An Individual, Hindu undivided family or a partnership firm is eligible for this scheme.

5. Amendments w.r.t. Capital Gains

- ✓ The transformation of physical gold into Electronic Gold Receipts and vice versa by a Vault Manager registered with the Securities and Exchange Board of India (SEBI) shall not be considered as a transfer for purposes of capital gains taxation.
- ✓ The cost of any intangible assets and rights shall be considered as nil for which no consideration has been paid for acquisition.
- ✓ An individual or HUF can claim a maximum exemption of ₹ 10 crores under Sections 54 and 54F. *These sections have been discussed in **Annexure-3***
- ✓ No tax shall be imposed on the transfer of capital assets in connection with the relocation of an offshore fund to an International Financial Services Centre (IFSC). The deadline for this relocation has been extended to 31-03-2025.
- ✓ For aligning the provisions of Joint Development Agreement with the TDS provisions under section 194-IC, amendment is proposed in section 45 to provide that the full value of consideration shall be taken as the stamp duty value of the property received as increased by any consideration received in cash or by a cheque or draft or by any other mode. *Taxation of Joint Development Agreement has been described in **Annexure-4.***
- ✓ The gains derived from the transfer, redemption, or maturity of Market Linked Debentures shall be taxed at applicable rate as short-term capital gains under Section 50AA from 01 April 2023.

Explanatory note-7 Market Linked Debentures

- Market Linked Debentures are debentures wherein the returns are not fixed, but they are linked to the market. The returns are determined on the performance of the underlying index.
- The underlying index could be equity benchmark, government yield, gold index etc. Market Linked Debentures are generally issued for a tenure ranging from 13 months to 60 months.
- Market Linked Debentures (MLDs) are debt instruments wherein the investors are generally sophisticated investors as this product is complex and has a high investment value.
- Unlike a bond that pays a fixed interest either monthly, quarterly, half yearly or annually, MLDs do not pay any regular income; the payment is made only at maturity. MLDs may be listed/unlisted or secured/unsecured. They are liquid instruments which are bought back by the issuers at times.
- Further the exemption available in respect of TDS deduction on interest income earned on listed debt securities including MLDs, has been discontinued with by omission of clause (ix) of proviso to section 193, and accordingly, TDS will now be deducted @ 10% on interest income earned on listed debt securities including MLDs.

6. Amendments w.r.t. Charitable & Religious Trusts

- ✓ The utilization of corpus, loans or borrowings by a charitable or religious trust prior to 01-04- 2021 will not be considered an application for charitable or religious purposes if the amount is subsequently deposited back into the corpus or the loan is repaid.
- ✓ The repayment of a loan or investment into the corpus will only be considered an application for charitable or religious purposes if it occurs within 5 years of the initial utilization.
- ✓ The donations made by one trust or institution to another trust or institution shall be deemed to be an application of up to 85% of the donated amount.
- ✓ The Jawaharlal Nehru Memorial Fund, Indira Gandhi Memorial Trust, and Rajiv Gandhi Foundation have been excluded from the list of eligible funds for deductions under Section 80G.
- ✓ Trusts and institutions that have initiated their activities must apply directly for regular registration, rather than provisional registration.
- ✓ The submission of an application for registration containing false, inaccurate, or incomplete information is considered a designated violation and may result in the revocation of the registration of trusts or institutions by the Principal Commissioner of Income Tax/Commissioner of Income Tax.
- ✓ The provisions for tax on accreted income as specified in Section 115TD have been extended to trusts or institutions if they fail to apply for re-registration.
- ✓ To claim the accumulation of income, trusts or institutions must file Form 9A and Form 10 at least two months prior to the deadline for filing the return of income.
- ✓ Time provided for furnishing a return of income for claiming exemption by trusts or institutions under Section 10(23C) or Section 11 or Section 12 shall not include the time provided for furnishing an updated return. In other words, the exemption shall be allowed if the return of income is furnished within the time allowed under Section 139(1) or Section 139(4) and not Section 139(8A).
- ✓ The second, third and fourth proviso to Section 12A (2) allows trusts and institutions to claim an exemption under sections 11 and 12 for the previous year in which application for registration is made even though registration is granted in the subsequent year. However, under the new registration rules proposed by the Finance Bill 2023, provisional registration must be applied before the commencement of the activities. So, these rollback provisions are removed.

Keynote:

CBDT have tightened reporting and disclosure norms for Charitable Trusts from October 2023. The charitable trusts are required to mention whether activities carried out by them are religious or charitable or both for claiming exemption's amendment also entail a declaration under which the Charitable institutions must

furnish details of donations above 2 lakhs received on a single day. The details to be furnished include the name of the payer, address, payment amount and PAN.[2]

It is worth noting that the income of a charitable organisation is exempt subject to fulfilment of certain conditions.

7. Amendments w.r.t. Assessment & Appeals

- ✓ Assessee can file an appeal against the penalty orders imposed by the Commissioner (Appeals) under Sections 271AAB, 271AAC, and 271AAD and revision orders passed by the Principal Chief Commissioner or Chief Commissioner under Section 263. The amendment also allows for the filing of a memorandum of cross-objections in all cases that are appealable to the Appellate Tribunal.
- ✓ A new appellate authority, the Joint Commissioner (Appeal), has been introduced for specific categories of taxpayers, such as individuals and HUFs, to speed up the resolution process in appeal proceedings.
- ✓ Where any direction has been issued to give the effect to faceless schemes and e-proceedings before the expiry of the limitation period, the relevant provisions are proposed to be amended to empower Central Government to make amendments in such directions at any time by notification in the Official Gazette.
- ✓ Time limit for disposing of pending rectification applications by "Interim Board for Settlement" has been extended. If the time-limit for amending an order by it or for making an application to it expires on or after 01.02.2021 but before 01.02.2022, such time-limit shall stand extended to 30.09.2023.
- ✓ The deadline for completing the scrutiny and best judgment assessment has been extended from 9 months to 12 months, starting from Assessment Year 2022-23.
- ✓ A provision has been proposed to empower the Assessing Officer to require a cost audit for inventory valuation before assessment.
- ✓ Return in response to a notice under Section 148 shall be furnished within 3 months from the end of the month in which such notice is issued or within such further time as may be allowed by the Assessing Officer on a request made in this behalf by the assessee.
- ✓ Specified authority for granting approval for issuance of notice under Section 148 and Section 148A shall be Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General, where more than three years have elapsed from the end of the relevant assessment year.

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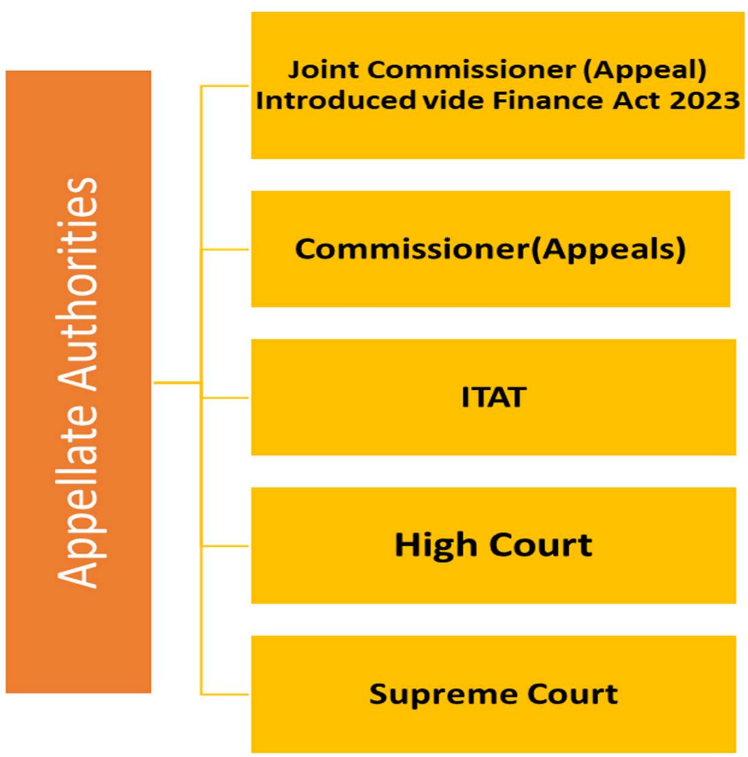
[2] Business Standard. *Charitable or religious? Trusts have to disclose to avail tax benefits.27 June 2023.*

- ✓ Where search related information is available after 15th March of any financial year, an additional period of fifteen days shall be allowed for the issuance of the notice, for assessment/reassessments etc., under section 148 of the Act.
- ✓ The time limit for completion of any pending assessment or reassessment is proposed to be extended by 12 months, where a search is initiated under Section 132 or requisition is made under Section 132A. The extension shall be applicable for the assessee being searched and to whom any seized or requisitioned items (money, bullion, jewellery, valuable articles, books of account, documents) belong or pertain.
- ✓ The amendment proposed to Section 132 allows the authorized Officer to receive assistance from approved professionals, such as digital forensic experts and registered valuers, during the search and seizure process.
- ✓ The timelines for completing assessment or reassessment in search cases are linked to the execution of the last of the authorizations during such procedure.

The legal framework for various assessments made by the ITD is illustrated below:

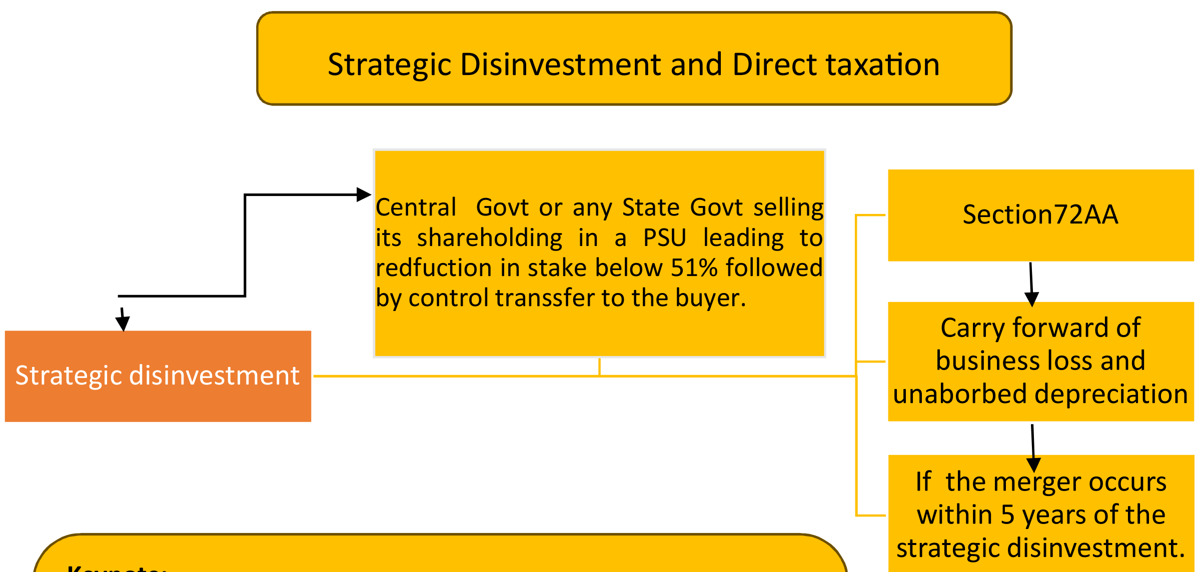
Assessment	**Section**	**Mandatory Notice**
Scrutiny assessment	143(3)	Notice us 143(2)
Best Judgement	144	Show cause notice us 144
Reassessment	147	Notice us148
Search and Seizure	153A	Notice 153A



The legal provisions relating to appeal filing and timeframe for their disposal in Income Tax is exhibited in ***Annexure-5***

8. Amendments w.r.t. Set-off and Carry Forward of Losses

- ✓ The definition of 'strategic disinvestment' in Section 72A has been modified to include the sale of shares by the Central or State Governments, or by a public sector company in another public sector company resulting in a reduction of its shareholding below 51% and transfer of control to the buyer.
- ✓ Section 72AA has been amended to allow the carry forward of accumulated losses and unabsorbed depreciation in the case of the amalgamation of a banking company with another banking company within five years of the strategic disinvestment.
- ✓ Eligible startups will be able to set off and carry forward losses incurred during their first ten years of incorporation, even if there has been a change in shareholding, as long as all shareholders continue during the relevant period. The previous time limit of seven years has been proposed to be increased to ten years.



Keynote:

Section 72A (1) provides that the amalgamating company's accumulated loss and unabsorbed depreciation shall be deemed to be the amalgamated company's accumulated loss and unabsorbed depreciation for the previous year in which the amalgamation was implemented.

9.Amendments w.r.t. TDS & TCS

- ✓ The threshold limit for TDS under Section 194N has been proposed to be raised from INR 1 crore to INR 3 crore for recipients who are cooperative societies.
- ✓ The rate of TCS for foreign remittances, for other purposes under Liberalised Remittance Scheme (LRS) and purchase of overseas tour program has been increased from 5 % to 20 %.

  *LRS as well as other issues are discussed in **Annexure-I***
- ✓ TDS on winning from online gaming shall be without any threshold benefit. The tax will be deducted either upon withdrawal or at the end of financial year.
- ✓ The exemption from TDS available on interest payments on listed debenture has been removed.
- ✓ If the recipient of EPF withdrawal does not provide his PAN, TDS on the withdrawal will be 20%, instead of the maximum marginal rate.
- ✓ Section 197 is amended to include section 194LBA in its scope. Thus, unit holders receiving income from business trusts can obtain lower or nil deduction certificates.
- ✓ Sections 206AB and 206CCA have been amended to exclude certain persons from the scope who are not required to file a return of income and are notified by the government.
- ✓ For certain income paid to non-residents or foreign companies, TDS will be deducted at a rate of 20% or the rate specified in a tax treaty, whichever is lower. This relief will be available if the payee provides a tax residency certificate.
- ✓ Section 155 is amended to solve a TDS mismatch problem. When a taxpayer reports income using the accrual method, it may be taxed before the TDS is deducted. It causes a TDS mismatch and prevents the taxpayer from claiming TDS credit. The amendment in section 155 allows taxpayers to apply to the assessing Officer within two years of the financial year in which the tax was withheld. The Assessing Officer will then amend the assessment to allow the taxpayer to claim TDS credit. Section 244A is also amended to provide that the interest on refund arising out of the above rectification shall be for the period from the date of the application to the date on which the refund is granted.
- ✓ ***Procedural aspects relating to TDS and TCS have been discussed below:***

Procedural Aspects of TDS

Deductor deducts tax as per the provisions of 192-196D.

Deductor deposits such tax to the credit of Central Government.

Deductor furnishes quarterly return of TDS intimating PAN of the deductee and details of TDS deducted and paid.

Deductor generates and issues TDS certificate to Deductee.

Prescribed income tax authority updates such information in general account of the deductee [Section 285BB] in Form 26AS.

Deductee files return of income & claims credit of TDS without the need of producing TDS certificate [Section 199].

Procedural Aspects of TCS

Collector collects tax as per the provision of section 260C.

Collector deposits such tax to the credit of Central Government.

Collector furnishes quarterly return of TCS intimating PAN of the collectee and details of TCS collected and paid.

Collector generates and issues TCS certificate to Collectee.

Prescribed income-tax authority updates such information in general account of the collectee [Section 285BB] in the Form 26AS.

Collectee files return of income & claims credit of TCS without the need of producing TCS certificate [Section 206C(5)].

10.Amendments w.r.t. Penalties and Prosecutions

- ✓ A penalty of ₹ 5,000 will be imposed on financial establishments for submitting inaccurate SFTs as a result of incorrect information provided by account holders. The financial institution has the right to recover the fine from the account holder.
- ✓ Amendments have been made in section 271C and section 276B to provide for penalty and prosecution where deductor fails to ensure that tax has been paid under Section 194R, Section 194S and Section 194BA.
- ✓ Certain acts of omission of liquidators have been decriminalized under section 276A of the Act with effect from 1st April 2023.

276A → Provision for prosecution with rigorous imprisonment up to two years in the case of a person, being a liquidator who fails to give notice in accordance with subsection (1) of section 178 or fails to set aside the amount as required by sub- section (3) of the said section or parts with any of the assets of the company or the properties in contravention of the provisions of the section.

11.Other Proposed Amendments

- ✓ Central Government will prescribe a uniform method for the valuation of perquisites arising from rent free or concessional accommodation provided by an employer to an employee.
- ✓ Distributions by business trusts to unit holders that are classified as debt repayment proposed to be taxed in the hands of unit holders.
- ✓ The authorities can adjust the Income tax refunds with any outstanding tax due after written intimation only. In the case of pending assessment/ reassessment, written reasons must also be provided for withholding the refund. In such cases, the additional interest on the refund will not be payable from the time of withholding until the assessment is made.
- ✓ Primary Agricultural Credit Societies (PACS) and Primary Co-Operative Agricultural and Rural Development Banks (PCARD) can now accept deposits or offer loans to their members in cash up to ₹ 2 lakhs.
- ✓ This increased limit of ₹ 2 lakh also applies to the repayment of these loans or deposits.
- ✓ The provisions for thin capitalization in Section 94B will not apply notified NBFCs.

- ✓ The interest calculation for updated tax returns will be based on the difference between the assessed tax and the advance tax claimed in the earlier returns.
- ✓ Double deductions by claiming interest on housing loan under Section 24 and including it as part of the cost of acquisition shall not be allowed.
- ✓ The eligibility period for tax deductions for start-ups under Section 80-IAC is proposed to be increased by one year. The start-ups incorporated before 01-04-2024 shall be eligible for deduction.
- ✓ The proposed amendment to Section 92D shortens the deadline for submitting information or documents in tax proceedings related to international or domestic transactions from 30 days to 10 days, with an option to extend by another 30 days.
- ✓ Section 56(2)(viib) has been amended to make it applicable to share application money/premium received from any person, regardless of their residential status. It means the angel tax may also be levied on receiving excess share application money or premium from non-resident investors.
- ✓ Section 92BA is amended to include the transaction between the cooperative society (opting for an alternate tax regime under section 115BAE) and the other person with a close connection within the purview of 'specified domestic transaction'.
- ✓ Section 9 is amended to provide that gifts received by an RNOR shall also be deemed to accrue or arise in India.
- ✓ Section 88 is abolished to simplify the act and remove redundant provisions. Consequential amendments have been made to sections 80C, 80CCC, 80CCD, 54EA, 54EB, 54EC, 54ED, 111A and 112.
- ✓ The International Financial Services Centres Authority has made the International Financial Services Centres Authority (Fund Management) Regulations, 2022 to regulate fund management entities. A corresponding amendment is made in sections 115UB, 56(2)(viib), 47(viiad), 10(4D) to provide that the AIFs should be regulated under the said regulation.

Expandatory note-8 International Financial Services Centres Authority

The IFSCA is a unified authority for the development and regulation of financial products, financial services, and financial institutions in the International Financial Services Centre (IFSC) in India. At present, the GIFT IFSC is the maiden international financial services centre in India. Prior to the establishment of IFSCA, the domestic financial regulators, namely, RBI, SEBI, PFRDA and IRDAI regulated the business in IFSC.

The IFSCA has been established with a holistic vision in order to promote ease of doing business in IFSC and provide world class regulatory environment, with the objective of developing a strong global connect and focusing on the needs of the Indian economy as well as to serve as an international financial platform for the entire region and the global economy as a whole.

References

Highlights of Finance Bill 2023.

Available at https://incometaxindia.gov.in/news/finance-bill-2023-highlights.pdf

Finance Bill 2023, As Introduced in Lok Sabha, Government of India.

Available at **https://incometaxindia.gov.in/budgets%20and%20bills/2023/finance_bill.pdf**

Gupta, Vinod, *TDS, Chapter VI-A and Taxation of Various Entities (New Delhi: VG Learning Destination (India) Pvt Ltd,* 2022)

Gupta, Vinod, Income *from capital gains and Other Sources, (New Delhi: VG Learning Destination (India) Pvt Ltd,* 2022)

Income tax on Joint Development Agreement [Section 45(5A)] Of Income Tax Act. Available athttps://cleartax.in/s/income-tax-on-joint-development-agreement

The Economic Times. What are offshore derivatives instruments? (2007, October 18).

Available at https://economictimes.indiatimes.com/what-are-offshore-derivatives-instruments/articleshow/2468970.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst.

Business Standard. *Charitable or religious? Trusts have to disclose to avail tax benefits.27 June 2023.*

Annexure-I

A. TIME LIMITS FOR FURNISHING QUARTERLY RETURNS OF TDS/TCS

The Quarterly returns of TDS and TCS must be filed by following due date:

S.NO.	Date of ending of the quarter of the financial year	Due date for TDS	Due date for TCS
1.	30th June	31st July of the financial year	15th July of the financial year
2.	30th September	31st October of the financial year	15th October of the financial year
3.	31st December	31st January of the financial year	15th January of the financial year
4.	31st March	31st May of the financial year immediately following the financial year in which deduction is made	15th May of the financial year immediately following the financial year in which deduction is made

B. TIME LIMIT FOR ISSUE OF TDS CERTIFICATE

The TDS Certificates should be furnished by following due date:

Particulars	TDS on Salary (Section 192 or 194P)	TDS on Non-Salary
Form	Form 16	Form 16A
Periodicity	Annual	Quarterly
Due Date upto which TDS Certificate should be issued	15th June of the following relevant Financial Year	15 Days from the due date of furnishing of TDS return i.e., 15th Aug. 15th Nov.,15th Feb., and 15th June

NB:

- All deductors (including Government deductors) shall issue TDS certificates in Form No. 16/ 16A/ 16B/ 16C/ 16D/ 16E as the case may be, generated through TRACES portal having unique TDS certificate number in respect of all sums deducted and shall also authenticate such TDS certificates by either using digital signature or manual signature.
- If a person fails to furnish the TDS certificate to payee within the prescribed time, then there is a penalty of 100 per day per certificate not furnished, for every day during which the failure continues. However, such penalty shall not exceed the amount of TDS in each certificate not furnished. **[Section 272A].**

TCS on Remittance under LFRS &
Sale of Overseas Tour Programme Package
(Introduced by Finance Act, 2020)

Every person, -

(a) being an authorised dealer, who receives an amount, for remittance out of India from a buyer, being a person remitting such amount out of India under the Liberalised Remittance Scheme of the Reserve Bank of India,

(b) being a seller of an overseas tour program package, who receives any amount from a buyer, being the person who purchases such package,

shall, at the time of debiting the amount payable by the buyer or at the time of receipt of such amount from the said buyer, by any mode, whichever is earlier, collect from the buyer, a sum equal to 5% of such amount as income-tax:

Provided that the authorised dealer shall not collect the sum, if the amount or aggregate of the amounts being remitted by a buyer is less than 7 lakhs in a financial year and is for a purpose other than purchase of overseas tour program package:

ANALYSIS OF SECTION 206C(1G) ADDED BY FINANCE ACT, 2020.

REMITTANCE UNDER LIBERALISED FOREIGN REMITTANCE SCHEMES			
S.No.	**Purpose of the Remittance**	**Rate of TCS to be collected by Authorised Dealer**	**Threshold Limit**
1.	**Purchase of Overseas tour program package:** Assessee purchases foreign tour package from travel agent abroad and remits him money in foreign exchange	5% of amount remitted (10% if PAN not given or if buyer is a "specified person" in terms of section 206CCA (3))	Any Amount
2.	**Pursuing Foreign Education Abroad and money remitted abroad out of loan obtained from any Financial Institution**	0.5% of the amount in Excess of ₹ 7,00,000 remitted during the financial year (5% if PAN not given or if buyer is a "specified person" in terms of section 206CCA (3))	No TCS if remittance during the financial year is less than ₹ 7,00,000
3.	**Pursuing foreign Education Abroad and money reemitted abroad.** Remittance not out of loan obtained from financial institution	5% of amount in excess of ₹ 7,00,000 remitted during the financial year (10% if PAN not given or if buyer is a "specified person" in terms of section 206CCA (3))	No TCS if remittance during the financial year is less than ₹ 7,00,000

4.	Any other remittance abroad under LFRS	5% of amount in excess of ₹ 7,00,000 remitted during the financial year (10% if PAN not given or if buyer is a "specified person" in terms of section 206CCA(3))	No TCS if remittance during the financial year is less than ₹ 7,00,000

OVERSEAS TOUR PROGRAM PACKAGE FROM INDIA

If buyer buys overseas tour program package from a seller, then seller will collect 5% TCS from buyer being 5% of overseas tour program package price.

Note 1: TCS will be 10% if buyer does not give PAN or if buyer is a "specified person" in terms of section 206CCA (3).

Note 2: Buyer could be resident / non-resident. Buyer could be company / firm / individual / any form of organization.

Note 3: There is no threshold and even if package is for say ₹ 15,000, TCS needs to be collected.

Note 4: Seller need not necessarily be in the business of selling overseas tour program package.

Note 5: If a company buys overseas tour program and deducts TDS under section 194C, then no TCS shall be collected from the company.

Note 6: Overseas Tour program package includes cost of air tickets, visa, hotel accommodation, city tours, meals, guides etc. if included in tour package.

Annexure-2 Offshore derivatives instruments (ODIs)

Offshore derivatives instruments (ODIs) are investment vehicles used by overseas investors for an exposure in Indian equities or equity derivatives. These investors are not registered with SEBI, either because they do not want to, or due to regulatory restrictions.[3]

These investors approach a foreign institutional investor (FII), who is already registered with SEBI. The FII makes purchases on behalf of those investors and the FII's affiliate issues them ODIs. The underlying asset for the ODI could be either stocks or equity derivatives like Nifty futures.

Participatory notes (PN) are one of the categories of ODIs. At a basic level, the underlying asset class could be stocks, and returns would be directly related to the appreciation in prices of those stocks. In some complex forms, returns could be linked to the appreciation in Nifty over a given time frame and could be even linked to a combination of change in Nifty and a basket of stocks. For instance, the holder of a P-Note may be promised a return of 10% if Nifty rises by 5% within a month.

Sub-accounts are special purpose vehicles floated by foreign funds in which they manage money on behalf of their overseas clients.

FIIs also form proprietary sub-accounts to invest their own money. There are fears that P-Notes are being used as a vehicle by promoters, market operators, politicians to repatriate illegitimate funds parked abroad. Quite a few promoters are said to be using this route to ramp up their stocks. Then there is also a concern that terrorist organisations could be channelling money through ODIs and using profits to fund their nefarious activities.

As per SEBI rules, the FII issuing ODIs/P-Notes should know the eventual beneficiary to whom the instruments are being issued to. But through multiple layering, it is possible to conceal the identity of the original client.

[3] https://economictimes.indiatimes.com/what-are-offshore-derivatives-instruments/articleshow/2468970.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

Annexure-3 Section 54 and section 54F

		Section 54	Section 54F
1	NATURE	Transfer of residential house (Income from such house assessable under "Income from House Property")	Transfer of long-term capital asset other than house property.
2	AVAILABLE TO	Individual, HUF (Including Non-Residents)	Individual, HUF (Including Non-Residents)
3	CONDITIONS FOR PERIOD OF HOLDING OF ASSET	Long term	Long term
4	AMOUNT OF EXEMPTION (LIMITED TO CAPITAL GAIN)	Cost of new house purchased/constructed. As per Finance Act, 2019, if long term Capital Gains do not exceed ₹ 2 crores, the assessee has option to purchase or construct two residential houses in India. This option is available once in a lifetime.	If cost of new house > Net consideration of assets transferred $\rightarrow$ whole capital gain exempt. If cost of new house < Net consideration of asset transferred, then exemption $\rightarrow$ CG x $\frac{Cost\ of\ new\ house}{Net\ consideration}$
5	NEW ASSET TO BE PURCHASED AND OTHER CONDITIONS	One residential house property in India either. • Purchased within 1 year before the date of transfer or • Purchased within 2 years after the date of transfer or • Constructed within 3 years after the date of transfer • House property cannot be transferred for 3 years after acquisition or construction. As per Finance Act, 2019, if long term Capital Gains do not exceed ₹ 2 crores, the assessee has option to purchase or construct two residential houses in India. This option is available once in a lifetime.	Exempt if invested in one residential house in India within the time limits specified in Sec 54. Assessee owns not more than one other house property on the date of transfer (excluding new house) Assessee cannot purchase for 2 years or construct for 3 years any other house property. Otherwise, Capital Gains exempted will be taxable in year of purchase construction as LTCG. New house should not be transferred for 3 years from the date of its acquisition.
6	IF AMOUNT NOT UTILISED TILL DUE	Deposit in Nationalized bank under the capital gains deposit A/C Scheme.	Deposit in Nationalized bank under the capital gains deposit A/C Scheme.

	DATE OF FILING OF RETURN U/S 139(1)		
7	IF DEPOSIT NOT UTILISED	Unutilized amount taxable as LTCG in the PY in which 3 years from the date of transfer of original asset expires.	Unutilized amount taxable as LTCG in the PY, which 3 years from the date of transfer of original asset expires.
8	CONSEQUENCES OF TRANSFER BEFORE 3 YEARS	The cost of new asset shall be reduced by the amount of capital gains exempted earlier. Therefore, amount of Capital Gain on sale of new property and capital gains exempted earlier shall be chargeable to tax in the year of sale of house property.	Amount of capital gains exempted earlier taxable as LTCG in the PY in which new property sold Capital Gains on new property shall be computed normally.

KEY TAKEAWAYS FOR SECTION 54

- ✓ The residential house property sold can be in India or outside India. But the residential house property purchased or constructed should be in India.
- ✓ Assessee can purchase or construct ONLY ONE RESIDENTIAL HOUSE IN INDIA. However, as per Finance Act, 2019, an assessee shall have the option to purchase or construct 2 residential houses instead of 1 provided that the amount of capital gains before such exemption do not exceed 2 crores. However, such option is available once in a lifetime.

JUDICIAL DECISIONS (SECTION 54).

1. CIT v. T.N. Aravinda Reddy (SC)

Where a property is owned by more than one person and the other co-owner or co-owners release his or their respective share or interest in the property in favour of one of the co-owners, it can be said that the property has been purchased by the releasee. Such release also fulfils the condition of section 54 as to purchase so far as releasee assessee is concerned.

2. CIT v. Narasimhan (PV) (Mad.)

The assessee sold his residential property and invested the capital gain within the stipulated time in the construction of a new floor on another house owned by him by demolishing the existing floor, it was held that he was entitled to deduction under section 54.

3. CIT v Shahzada Begum (AP)

If the assessee has paid the full consideration and obtained the possession of the house within the specified period, he is eligible for deduction, even if, the sale deed has not been registered in his favour.

4. CIT v. Kamal Wahal (Delhi)

The assessee sold a capital asset and invested the sale proceeds in purchase of a new house in the name of his wife. He claimed deduction under section 54 in respect of the new residential house purchased by him in the name of his wife.

The Delhi High Court observed that the assessee had not purchased the new house in the name of a stranger or somebody who is unconnected with him, but had purchased it in the name of his wife. The entire investment for purchase of new residential house had come out of the sale proceeds of the capital asset (of the assessee) and there was no contribution from his wife. The assessee is entitled to claim deduction under section 54 in respect of utilization of sale proceeds of capital asset for investment in residential house property in the name of his wife.

5. Gouli Mahadevappa v. ITO (Kar.)

Where the stamp duty value under section 50C has been adopted as the full value of consideration, can the reinvestment made in acquiring a residential property, which is in excess of the actual net sale consideration, be considered for the purpose of computation of deduction under section 54F, irrespective of the source of funds for such reinvestment?

In this case, actual sale price was ₹ 20 Lakhs and stamp duty value of ₹ 36 lakhs was deemed as sales price as per section 50C. Assessee invested ₹36 lakhs in new residential house property by taking a loan of ₹ 16 lakhs.

On the issue of deduction under section 54F, the High Court held that when capital gain is assessed on notional basis as per the provisions of section 50C, and the higher value i.e., the stamp duty value of ₹ 36 lakhs under section 50C has been adopted as the full value of consideration, the entire amount of ₹ 36 lakhs reinvested in the residential house within the prescribed period should be considered for the purpose of deduction under section 54F, irrespective of the source of funds for such reinvestment.

6. CIT v. J.R. Subramanya Bhatt (Karn.)

The construction of the new house may start before the date of transfer, but it should be completed within 3 years from the date of transfer of the original house.

7. Would the cost of purchase of land and cost of construction of residential house thereon incurred by the assessee prior to transfer of previously owned residential house property, qualify for exemption under section 54?

CARYAMA SUNDARAM [2018] (MAD)

Facts of the Case: The assessee sold a residential house property for a consideration of ₹ 12.5 crores on January 15th, 2021. Long-term capital gains arising to the assessee on sale of such property was ₹ 10.48 crores. In May 2018, the assessee had purchased a property with a superstructure thereon for a total consideration of ₹15.96 crores and after demolishing the existing superstructure, the assessee constructed a residential house at a cost of ₹ 18.74 crores. For the A.Y. 2021-22, the assessee had claimed exemption of the entire long-term capital gains of ₹ 10.48 crores under section 54 since it was lower than the cost of construction of ₹ 34.70 crores.

Assessing Officer's view: The Assessing Officer opined that only that part of the construction expenditure incurred after the sale of the original asset was eligible for exemption under section 54. Based on records, the Assessing Officer calculated the cost of construction incurred after the sale of the original asset, amounting to ₹ 1.15 crores and accordingly, allowed exemption only to that extent.

Issue: The issue under consideration is whether the cost of purchase of land and cost of construction of residential house thereon incurred by the assessee prior to transfer of previously owned residential house property would qualify for exemption under section 54.

High Court's Decision: According to section 54, capital gains exemption is available in respect of the cost of new residential house purchased or constructed, Section 54 is specific and clear in that it mentions cost of new residential house and not just the cost construction of the new residential house. The cost of the new residential house would necessarily include the cost of the land, materials used in the construction, labour and any other cost relatable to the acquisition or construction of the residential house. Also, in this case, the assessee's construction of new house is within the timeline stipulated in section 54(1).

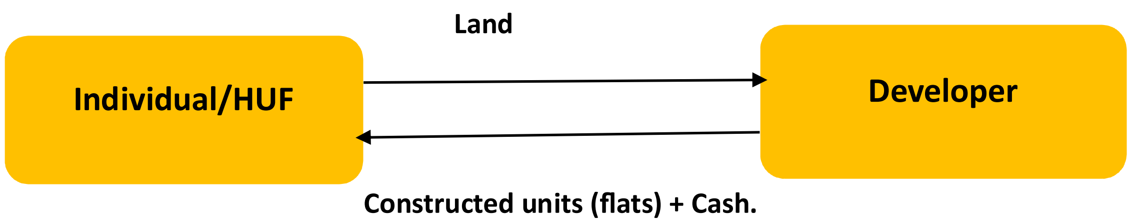
Section 54 does not lay down that construction could not have commenced prior to the date of transfer of the asset that resulted in capital gains. Also, section 54 does not contemplate that the same money received from the sale of a residential house should be used in the acquisition of new residential house. This is apparent as section 54 also provides exemption in respect of property purchased one year prior to the transfer of residential house property, which give rise to the capital gains.

The High Court, accordingly, held that, in this case, the cost of land and cost of construction incurred thereon prior to transfer of residential house property also have to be considered for all purpose of capital gains exemption under section 54. The entire capital gains are therefore exempt.

Annexure-4 Joint Development Agreement (JDA)

Joint Development Agreement (JDA) is a kind of agreement between a landowner and a builder. The landowner gives his land to the builder without transferring the ownership. The builder will build apartments or flats on that land and takes care of everything like marketing the property, getting legal permission, and registering the flats in the buyer's name.

Once the flats are built, the landowner will get a certain number of flats as agreed upon or a share of the money earned by selling the flats. This arrangement is beneficial for both the landowner and the builder because the landowner doesn't have to spend any money on construction, and the builder doesn't have to spend money on buying land, which can be used for construction instead. This helps in value creation for both parties.[4] This arrangement can be illustrated below:



As per Section 45(5A), the capital gain arises to the assessee (individual/ HUF) from the transfer of capital asset, being land or building or both, under a specified agreement, and the capital gain shall be chargeable to income tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.

For the purpose of section 48, the Stamp Duty Value (SDV) of his share, on the date of issue of said certificate, as increased by the consideration received in cash, if any, shall be deemed to be the full value of consideration.

A. Taxability in the hands of owner of the property

Capital Gains taxation consists of three aspects such as full value of consideration, cost of acquisition and the year for determination of taxability.

a) Full Value of Consideration

FVC shall be the stamp duty value of his share in the developed property as on the date of issue of Completion Certificate plus cash consideration received, if any.

[4] https://cleartax.in/s/income-tax-on-joint-development-agreement

b) Cost of Acquisition

Cost of acquisition shall be the price at which such property was acquired by the owner. If the land is held for more than 2 years, the cost must be indexed up to the year in which land is transferred to the developer.

c) Year of transfer

Year of transfer is the year in which land is transferred under JDA.

d) Year of taxability i.e., the year in which owner has to pay tax.

As per the provisions of Section 45(5A), the taxability of JDA arises in the year in which the certificate of completion is issued for the whole or part of the property.

However, this provision shall not apply if such property is transferred by the owner before such completion certificate is issued.

e) Eligibility for exemption under Section 54 to 54F

Where the owner buys a part of property after the redevelopment of such property and makes a payment for the same, he shall be entitled to claim exemption under Section 54 to 54F depending on the nature of such property.

Full Value of Consideration	SDV of owner's share in project + consideration received in cash
Less: Indexed Cost of Acquisition	Purchase Price (COA) x Cost Inflation Index of the year of transfer ÷ Cost Inflation Index of the first year in which asset was held by the you or for the year 2001-02, whichever is later*
Capital Gains	xxxx

Computation of capital gain is guided by the following key points:

- Section 45(5A) applies where the JDA is registered.
- The property should be held as capital assets in the books of the owner and not as stock-in-trade of business.
- The owner shall be an individual or HUF.
- The property should not be transferred by the owner before the completion certificate is received.
- This benefit cannot be availed in case the entire sale consideration is received as cash/in monetary terms instead of share in such property.

B. Taxability In the Hands of Developer Of The Property

For the builder/developer, such property built by them will be considered as stock-in-trade. Therefore, the nature of income from the sale of such property shall be 'Income from business and profession'.

The income will include proceeds from sale of such property, and he shall be allowed to deduct the business expenses incurred on development of such property. The balance will be taxable.

C. Liability to deduct TDS on payment made under Joint Development Agreement (Section 194-IC)

Under JDA, where the real estate developer pays any monetary consideration in form of cash or any other mode in addition to the share in the project, then the developer shall be liable to deduct TDS @10% on such payment. However, if the PAN of the owner is not available, then, such TDS shall be done @20%.

Annexure-5 Appeal filing and disposal time limit in Income Tax

Section of Income Tax	Nature of Compliance	Limitation of time
246(2)/(3) 249(2)/(3)	Filing appeal to Joint Commissioner (Appeals)/Commissioner (Appeals)— (a) relating to tax deducted at source under section 195(1) (b) relating to any assessment/ penalty (c) in any other case	 Within 30 days from date of payment of tax or within extended time Within 30 days from date of service of demand notice or within extended time Within 30 days from date of communication of order or within extended time
250(6A)	Disposal of appeal by Commissioner (Appeals)	One year from end of financial year in which appeal is filed (where it is possible)
253(3)/(5)	Filing appeal to Tribunal	Within 60 days from date on which order sought to be appealed against is communicated or within extended time [30 days in case of appeal against order u/s 158BC(*c*), in respect of search initiated u/s 132 or requisition made u/s 132A, after 30-6-1995, but before 1-1-1997]
253(4)/(5)	Filing memo of cross-objections to Tribunal	Within 30 days of receipt of notice of filing appeal or within extended time
254(2)	Rectification of apparent mistake by Tribunal	Within 6 months from the end of the month in which the order was passed [Inserted by the Finance Act, 2016 w.e.f. 1-6-2016]
254(2A)	Disposal of appeal by Appellate Tribunal filed under sub-section (1)/(2) of section 253	4 years from end of financial year in which appeal is filed (where it is possible). Where an order of stay is made in proceedings relating to appeal filed under section 253(1), Tribunal shall dispose of appeal within 180 days from date of such order or within extended time not exceeding 365 days including original period of 180 days, failing which stay order shall stand vacated; this will be so even if delay in

		disposing of the appeal is not attributable to assessee.
256(1)	***(i)*** Filing application to Tribunal requiring it to refer to High Court any question of law. ***(ii)*** Drawing up statement of case and referring it to High Court by Tribunal	Within 60 days of service of Tribunal's order under section 254 or within extended period not exceeding 30 days Within 120 days of receipt of application
256(2)	Filing application to High Court if Tribunal refuses to state case	Within 6 months from date of service of notice of refusal to state case
260A	Filing appeal to High Court against order of Tribunal	Within 120 days of date of communication of order. (High Court can admit an appeal after the expiry of the said period of one hundred and twenty days if it is satisfied that there was sufficient cause for not filing the appeal within the said period.)
263(2)	Revising orders prejudicial to revenue by Principal Commissioner/Commissioner	Within 2 years from end of financial year in which order sought to be revised was passed
263(3)	Revision by Principal Commissioner/Commissioner of orders passed pursuant to any finding or direction by Tribunal, National Tax Tribunal, High Court or Supreme Court	No time limit
264(2)	Revision of orders by Principal Commissioner/Commissioner on his own motion (not prejudicial to assessee)	Within 1 year of order sought to be revised

SUMMARY OF PENALTIES

Section	Nature of default	Penalty leviable
1	**2**	**3**
140A(3)	Failure to pay wholly or partly. (a) Self-assessment tax, or (b) interest, or (c) both under section 140A(1).	Such amount as Assessing Officer may impose but amount not exceeding tax and interest in arrears [Penalty under section 221(1) for being an assessee in default].
221(1)	Default in making payment of tax or interest or any demand.	Such amount as Assessing Officer may impose but not exceeding tax and interest in arrears. [Penalty under section 221(1) for being an assessee in default].
270A	- Under Reporting of income -- Misreporting of income	50% of tax on under-reported income 200% of the tax on misreported income
271A	Failure to keep, maintain, or retain books of account, documents, etc., as required by section 44AA or failure to retain such books of accounts. or documents for the period specified in section 44AA.	₹ 25,000
217AA	(1) In respect of international transaction or specified domestic transaction: (i) Failure to keep and maintain any such information and document as required by section 92D(1) or section 92D(2). (ii) Failure to report such transaction which he is required to do so. (iii) Maintains or furnishes an incorrect information or document. (2) If any person fails to furnish the information and the document as required under section 92D(4).	2% of the value of each international transaction or specified domestic transaction entered into by such person. **₹ 5,00,000**
271AAB	Undisclosed income found during search and such income relates to the previous year in which search has been initiated or previous year whose due date of filing of ROI has not expired before the date of search..	(a) 30% of undisclosed income of the specified previous year if assessee admits the undisclosed income; substantiates the manner in which it was derived; and on or before the specified date, pays the tax/interest and furnishes the return of income for the specified previous year declaring such undisclosed income.

		(b) 60% of undisclosed income of the specific previous year in any other case.
271AAC	Where income determined includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D for any previous year. No penalty shall be levied in respect of income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D to the extent such income has been included by the assessee in the return of income furnished under section 139 and the tax in accordance with the provisions of clause (i) of sub-section (1) of section 115BBE has been paid on or before the end of the relevant previous year.	In addition to tax payable under section 115BBE, a sum computed at the rate of ten per cent of the tax payable under clause (i) of sub- section (1) of section 115BBE.
271AAD(1)	**Where the books of account maintained by any person includes a false entry or any entry relevant for computation of total income has been omitted to evade tax liability**	**Aggregate amount of such false or omitted entry** **(Finance Act, 2020)**
271AAD(2)	**A person causes the person referred under 271AAD(1) to make a false entry or omits or cause to omit any entry**	**Aggregate amount of such false or omitted entry** **(Finance Act, 2020)**
271AAE	Any fund/ institution referred in section 10(23C)/11 violates provisions of section 13(1)(c).	(a) Sum equal to aggregate amount of income applied directly or indirectly by such institution for benefit of any person referred in section 13(3) for first violations; (b) 200% of the sum as referred above for subsequent violations. **(Finance Act, 2020)**
271B	Failure to get accounts audited or furnish a report of audit as required under section 44AB.	½ % of total sales, turnover, or gross or receipts, etc., ₹ **1,50,000**, whichever is less.
271BA	Failure to furnish a report from an accountant as required by section 92E	₹ 1,00,000

271C	– Failure to deduct the whole or part of tax deducted at source tax at source (TDS) – Failure-to-pay or ensure payment of the whole-or part of Corporate-Dividend Tax under section 115-O. – Failure to pay the whole or part of tax on winnings from lotteries, crossword puzzles etc. where such winnings are wholly or partly in kind under proviso to section 194B.	Amount equal to tax not deducted or paid.
271CA	Failure to collect the whole or any part of the tax as required by or under the provisions of Section 206C.	Amount of tax, which such person failed to collect.
271D	Taking or accepting certain loans and deposits or specified sum in contravention of the provisions to section 269SS.	Amount equal to loan or deposit or specified sum taken or accepted.
271DA	Taking or accepting cash in contravention of the provisions to section 269ST.	Amount equal to such receipt.
271DB	Failure to provide facility for accepting payment through prescribed modes as per section 269SU	₹ 5000 for everyday during which failure continues. **(Finance Act, 2019)**
271E	Repaying any loan or deposit or specified advance specified in section 269T in contravention of its provisions.	Amount equal to loan or deposit or specified advance repaid.
271FA	Failure to furnish Statement of Financial Transaction or Reportable Account (SFTRA) [Earlier known as Annual Information Return] as required under section 285BA within the prescribed under section 285BA.	₹500 per day for everyday during which the failure continues. ₹1000 per day from the date assessee notice under section 285BA(5).
271FAA	Inaccurate information in statement of financial transaction or reportable account under section 285BA.	₹ 50,000
271FAB	Failure to furnish statement or information or document by an eligible investment fund within the time prescribed under section 9A.	₹ 5,00,000
271G	Failure to furnish information or documents in pursuance of a notice under section 92D(3).	2% of the value of the international transaction or specified domestic transactions for each such failure.

271GA	Failure by any Indian concern to furnish information or document as required under section 285A	(a) 2% of the value of the transaction in respect of which such failure has taken place, if such transaction had the effect of directly or indirectly transferring the right of management or control in relation the Indian concern, (b) ₹ 5,00,000, in any other case.
271GB	Failure to furnish report under section 286(2) Failure to produce information and documents within period allowed under section 286(6) Continual failure after any order directing the person to pay by way of penalty any sum has been served on the entity Providing inaccurate information in the report furnished under section 286(2)	₹ 5000 for every day for which failure continues (if period of failure does not exceed 1 month) and ₹ 15000 for every day for which failure continues beyond the period of 1 month ₹ 5000 for every day for which failure continues ₹ 50,000 for every day for which failure continues ₹ 5,00,000 in certain cases
271H	(i) Failure to deliver the quarterly returns of TDS/TCS within the time prescribed (ii) Furnishing incorrect information in the quarterly returns to TDS/TCS	Penalty minimum ₹ 10,000 and maximum upto ₹ 1,00,000. **Note:** No penalty for failure to deliver quarterly returns of TDS/TCS in time, if quarterly return submitted before the expiry of one year from section prescribed and Fees under section 234E and interest under section 201(1A) paid.
271-I	Failure to furnish information or furnishing inaccurate information under section 195(6)	₹ 1,00,000
271J	Furnishing of incorrect information in reports or certificates issued by accountant or a merchant banker or a registered valuer.	₹ 10,000 for each report or certificate.
271K	**Default in furnishing statement or certificate of donations as referred to in section 35 or section 80G**	**Penalty shall not be less than ₹ 10,000 but may extend to ₹ 1,00,000** **(Finance Act, 2020)**
272A(1)	(a) Refusal to answer any question put to by an Income tax Authority. (b) Refusal to sign any statement made in the course of proceedings under the Act. (c) Failure to attend or produce books of account or documents required under a summon issued under section 131.	**₹ 10,000** for each failure or default.

	(d) Failure to comply with a notice under section 142(1) or section 143(2) or failure to comply with a direction issued under section 142(2A)	
272A(2)	(a) Failure to give notice of discontinue of business or profession under section 176. (b) Failure to furnish in due time the information required under section 133. (c) Failure to furnish the return of income under section 139(4A) or under section 139(4C) or to furnish within the time allowed therein. (d) Failure to deliver in due time a copy of declaration in section 197A. (e) Failure to furnish TDS or TCS certificate. (f) Failure to deliver or cause to be delivered a statement within the time as may be prescribed under section 200(2A) or section 206C(3A)	₹ ~~100~~ **500** for every day during which the failure continues. However, in respect of penalty for failures in relation to declaration mentioned in section 197A, furnishing of TDS/TCS certificate, returns under section 206 and 206C and statement under section 200(2A) and 200(3) and 206C(3A), the penalty shall not exceed amount of TDS/TCS. **(Amended by Finance Act, 2022)**
272AA	Failure to comply with section 133B	Not exceeding ₹ 10,000
272B(1)	Failure to comply with the provisions section 139A. i.e. PAN	₹ 10,000
272B(2)	(a) Failure to quote permanent account number or Aadhaar number in any document required; or (b) Failure to authenticate PAN or Aadhaar number; or (c) To quote or intimate PAN or Aadhaar number which is false and which he either knows or believes to be false or does not believe to be true.	₹ 10,000 for each such failure
272BB	Failure to comply with section 203A i.e. Failure to: (i) Failure to obtain Tax Deduction and collection Account Number (TDCAN). (ii) Failure to quote TDCAN in the challans, certificates, returns of TDS and TCS and prescribed documents.	₹ 10,000 for each failure/default.

OFFENCES AND PROSECUTIONS

Section	Nature of offence	Minimum period of rigorous imprisonment	Maximum period of rigorous imprisonment
(1)	**(2)**	**(3)**	**(4)**
275A	Dealing with seized assets in contravention of the order made under section 132(3) by the officer conducting search	Any period up to 2 years and fine	2 years and fine
275B	Failure to afford necessary facility to the authorized officer to inspect books of account or other documents as required under section 132(1)(iib)	Any period up to 2 years and fine	2 years and fine
276	Removal, concealment, transfer or delivery of property to thwart tax recovery	Any period up to 2 years and fine	2 years and fine
276A	Failure to comply with the provisions of section 178(1), (3) by liquidator of a company	Any period up to 2 years. Imprisonment shall not be less than 6 months unless special and adequate reasons are recorded in the judgement of court.	2 years
276B	Failure to pay to the Governments treasury deducted tax at source or tax payable under proviso to section 194B	3 months and fine	7 years and fine
276BB	Failure to pay to the credit of Central Government tax collected under section 206C	3 months and fine	7 years and fine
276C(1)	Under reporting of Income	If tax on under reported income exceeds ₹ 25,00,000: 6 months and fine *otherwise* 3 months and fine. **Nore:** No prosecution for failure to furnish the return in due time under section 139(1) if: (i) the return is filed before the expiry of the assessment year or a return is furnished under section 139(8A) within	If tax on under reported income exceeds ₹ 25,00,000: 7 years and fine. In any other case: 2 years and fine **Nore:** No prosecution for failure to furnish the return in due time under section 139(1) if: (i) the return is filed before the expiry of the assessment year or a return is furnished under section 139(8A) within

		specified time; or (ii) the tax payable by such person, not being a company, on regular assessment, as reduced by TDS, advance tax and self assessment tax does not exceed ₹ 10,000	specified time; or (ii) the tax payable by such person, not being a company, on regular assessment, as reduced by TDS, advance tax and self assessment tax does not exceed ₹ 10,000
276D	Wilful failure to produce books of account and documents under section 142(1) or wilful failure to comply with a direction to get the accounts audited under section 142(2A)	Any period upto 1 year and fine	1 year and fine
277	Making a false statement in verification or delivering a false account or statement	If tax evaded exceeds ₹ 25,00,000: 6 months and fine: otherwise: 3 months and fine.	If tax evaded exceeds ₹ 25,00,000: 7 years and fine: otherwise: 2 years and fine.
277A	Falsification of books of account or document, etc. to enable any other person to evade any tax, penalty or interest chargeable/leviable	Any period upto 3 months and fine	2 years and fine
278	Abetment to make a false statement or declaration relating to any income.	If tax evaded exceeds ₹ 25,00,000: 6 months and fine: otherwise: 3 months and fine.	If tax evaded exceeds ₹ 25,00,000: 7 years and fine: otherwise: 2 years and fine.
278A	Punishment for second and subsequent offences u/s 276B, 276BB, 276C(1), 276CC, 277 or 278	6 months for every offence	7 years for every offence
280(1)	Disclosure of particulars by public servants in contravention of Section 138(2) (prosecution to be instituted with the approval of Central Government)	Upto 6 months and fine	6 months and fine