

AMENDMENTS TO THE INCOME TAX ACT, 1961 FOR A.Y 2024-25

By Manith, Anagha, Aaron R & Calisha

FINANCE ACT, 2023

- The Finance Act contains necessary amendments in the direct taxes and indirect taxes signifying the policy decisions of the Union Government.
- The provisions of Finance Act, 2023 relating to direct taxes seek to amend the Income Tax Act, 1961 to continue reforms in direct tax system through tax reliefs, removing difficulties faced by taxpayers and rationalization of various provisions.

I. Restriction on Claiming exemption U/S 10(10D)

- Applicable for Life Insurance Policy issued on or after 01-04-2023.
- Premium Payment Shall not exceed Rs.5 Lakh towards a Single Life Insurance Policy for any previous year.
- Aggregate amount of Premium towards all the Life Insurance policy issued on or after 01/04/2023 shall not be more than Rs.5 Lakh.
- Tax Under the Head, “ Income from Other Sources” u/s 56(2)(xiii). (Rule 11UACA notified vide. Notification No. 61/2023 & Circular No. 15 of 2023 dt. 16-08-2023)

Computation of Income Chargeable to Tax U/S 56(2)(xiii)

- where the sum is received for the first time under the life insurance policy during the previous year, the income chargeable to tax in the first previous year shall be computed in accordance with the formula $A-B$, where
- A = the sum or aggregate of sum received under the life insurance policy during the first previous year; and
- B = the aggregate of the premium paid during the term of the life insurance policy till the date of receipt of the sum in the first previous year that has not been claimed as deduction under any other provision of the Act


- where the sum is received subsequent to the first previous year, the income chargeable to tax in the subsequent previous year shall be computed in accordance to the formula C-D Where,
- C-The sum or aggregate of sum received under the life insurance policy during the subsequent previous year.
- D-the aggregate of the premium paid during the term of the life insurance policy till the date of receipt of the sum in the subsequent previous year not being premium which has been claimed as deduction under the act is included in amount 'B' or amount 'D' of this rule in any of the previous year or years

2. Computation of Capital Gain in case of Market Linked Debenture & Specified Mutual Fund (Section 50AA)

- Acquired After 01-04-2023
- Taxed at Applicable Rate
- No Indexation Benefit
- Deemed to be treated as capital gains arising from transfer of short-term capital asset

3. Payment to MSME bought under the Ambit of Section 43B

- Newly inserted clause (h) to Section 43B
- Payment to be made to the Micro and Small vendor within 15 days (without agreement)
- Payment to be made to the Micro and Small vendor within 45 days (with agreement)
- Applicable only to Payment made to registered Micro and Small Enterprise Engaged In Manufacturing or Provision of Services.

- 
- Wholesale and Retail Traders - included in MSME Definition vide Office Memorandum No. 5/2(2)/2021-E/P & G/Policy dt. 02-07-2021 - only for the purpose of Priority Sector Lending. Therefore they will not be benefited from insertion of this amendment. However, CBDT clarification is required.
 - If payment for expenses which is outstanding as on 31st March and not done within the stipulated time, Expense will be disallowed in Current year.
 - No deduction in the current previous year even if the payment is made within the due date for filing income tax returns.
 - Deduction will be allowed in subsequent year in which payment is made.
 - Disallowance under section 43B even when Section 40(a)(ia) is applicable.

MSME Definitions

- **Micro Enterprise:** Where the investment in Plant and Machinery or Equipment does not exceed **one crore rupees** and turnover does not exceed **five crore rupees**.
- **Small Enterprise:** Where the investment in Plant and Machinery or Equipment does not exceed **ten crore rupees** and turnover does not exceed **fifty crore rupees**.
- **Medium Enterprise:** Where the investment in Plant and Machinery or Equipment does not exceed **fifty crore rupees** and turnover does not exceed **two hundred and fifty crore rupees**.

Example

- XYZ Limited purchased goods worth Rs. 5 lakhs from AMC enterprise (Micro enterprise). Date of Invoice is 01-03-2024 with the following terms of payment as specified in the agreement (30 Days) between the parties. Date of Actual Payment 05-04-2024. Whether Disallowance under 43B is Applicable?

Answer

- Yes, Since the due date for payment was on 30-03-2024 i.e as per the agreement between the party but the actual payment was made on 05-04-2024. Hence the Rs. 5 lakh will be disallowed in the Current A.Y 2024-25. Consequently, the same shall be allowed as an expense in A.Y 2025-26.

4. Amendments in Threshold Limit for Presumptive Taxation

- Increased from Rs. 2 crore to Rs. 3 Crore Under Section 44AD.
- Increased From Rs. 50 lakhs to Rs. 75 lakhs under section 44ADA.

*Provided that where the amount or aggregate of the amounts received during the previous year, in cash, does not exceed **five per cent** of the total turnover or gross receipts of such previous year.*

5. Rs. 10 crore limit on deduction under section 54 and 54F

Section 54:

- An individual or HUF selling a residential property can avail tax exemptions from Capital Gains if the capital gains are invested in purchase or construction of residential property.
- The seller should purchase a residential house either 1 year before the date of sale/transfer or 2 years after the date of sale/transfer. In case the seller is constructing a house, the seller has an extended time, ie. the seller will have to construct the residential house within 3 years from the date of sale/transfer.
- There was no restriction to the investment amount. However, w.e.f 1st April 2023, the maximum investment has been restricted to Rs. 10 Crore.

Section 54F:

- An individual or a Hindu undivided family, the capital gain arises from the transfer of any long-term capital asset, not being a residential house and the assessee has, within a period of one year before or two years after the date on which the transfer took place purchased, or has within a period of three years after that date constructed, one residential house in India, the capital gain shall be dealt with in accordance with the following provisions of this section, that is to say,—
 - (a) if the cost of the new asset is not less than the net consideration in respect of the original asset, the whole of such capital gain shall not be charged
 - (b) if the cost of the new asset is less than the net consideration in respect of the original asset, so much of the capital gain as bears to the whole of the capital gain the same proportion as the cost of the new asset bears to the net consideration, shall not be charged
- There was no restriction to the investment amount. However, w.e.f 1st April 2023, the maximum investment has been restricted to Rs. 10 Crore.

SUMMARY

<u>Amended Section</u>	<u>Sale of</u>	<u>Sale amount invested in</u>	<u>Maximum Investment</u>
Section 54	Residential property	New residential property	10 Crores
Section 54F	Any long term asset other than residential property	New residential property	10 Crores

Tax Slabs under Old Regime

Income tax slabs for individuals under old tax regime

Income tax slabs (Rs)	Income tax rates (%)
From 0 to 2,50,000	0
From 2,50,001 to 5,00,000	5
From 5,00,001 to 10,00,000	20
From 10,00,001 and above	30

Rebate u/s 87A is Rs. 12,500

Tax Slabs under New Regime (Section 115BAC)

Income tax slabs under new tax regime for FY 2023-24, FY 2024-25

Income tax slabs (Rs)	Income tax rate (%)
From 0 to 3,00,000	0
From 3,00,001 to 6,00,000	5
From 6,00,001 to 9,00,000	10
From 9,00,001 to 12,00,000	15
From 12,00,001 to 15,00,000	20
From 15,00,001 and above	30

Rebate u/s 87A is Rs. 25,000

6. New Tax Regime – Individual and HUF

- New tax regime by default.
- With effect from FY 2023-24 and onwards, a professional or a proprietor businessman, opting for the old regime with available deductions is required to file an electronic declaration in prescribed form (Form 10-IEA) before the due date of filing of return of income, and such person will have just one opportunity to switch back to the new regime, in subsequent years. (Rule 21AGA)

7. Surcharge Restricted to 25% (New Regime)

Net Taxable Income Limit	Surcharge rate	Surcharge rate (amended)
Less than Rs. 50 Lakh	Nil	Nil
More than Rs. 50 Lakh \leq Rs. 1 Cr	10%	10%
More than Rs. 1 Cr \leq Rs. 2 Cr	15%	15%
More than Rs. 2 Cr \leq Rs. 5 Cr	25%	25%
More than Rs. 5 Cr	37%	25%

8. Interest on borrowed capital – Cost of Acquisition (proviso after clause (ii) of the section 48)

- Section 48:- The income chargeable under the head "Capital gains" shall be computed, by deducting from the full value of the consideration received or accruing as a result of the transfer of the capital asset the following amounts, namely :—
 - (i) expenditure incurred wholly and exclusively in connection with such transfer;
 - (ii) the cost of acquisition of the asset and the cost of any improvement thereto;

- **Insertion by amendment:-**

Provided that the cost of acquisition of the asset or the cost of improvement thereto shall not include the deductions claimed on the amount of interest under clause (b) of section 24 or under the provisions of Chapter VI-A.

9. Applicability of Section 56(2)(viib) for Investment by Non-resident


- The Finance Act, 2023, brought in an amendment to bring the consideration received from non-residents for issue of shares by an unlisted company within the ambit of section 56(2)(viib) of the Income Tax Act, 1961, which provides that if such consideration for issue of shares exceeds the Fair Market Value (FMV) of the shares, it shall be chargeable to income tax under the head 'Income from Other Sources'

10. Increase of leave encashment exemption limit to Rs. 25 lakhs

- In pursuance to the proposal in the Budget Speech, 2023, by the FinMin, the Central Government has notified the increased limit for tax exemption on leave encashment on retirement or otherwise of non-government salaried employees to Rs. 25 lakh (from Rs. 3 lakhs earlier) w.e.f. 01.04.2023. (*Notification No.31/2023 dated 24.05.2023*)

Leave Encashment Exemption

- Exemption u/s 10(10AA) is calculated as least of the following:
 1. Leave salary actually received
 2. 10 months' salary (on the basis of average salary of last 10 months preceding retirement)
 3. Cash equivalent of unavailed leave standing to the credit at the time of retirement (based on last 10 months average salary, restricted to 30 days per year)
 4. Rs. 25,00,000

- 
- The aggregate amount exempt from income-tax under section 10(10AA)(ii) of the Act shall not exceed the limit of Rs. 25 lakh where any such payments are received by a non-government employee from more than one employer in the same previous year.
 - Further, the amount exempt from income-tax under section 10(10AA)(ii) of the Act shall not exceed the limit of Rs. 25 lakh as reduced by the tax exemption already allowed in the total income of the employee under section 10(10AA)(ii) of any previous year or years.

11.TCS on Foreign Remittances under LRS [Section 206C(1G)]

- Under the **Liberalised Remittance Scheme (LRS)**, all resident individuals, including minors, are allowed to freely remit up to USD 2,50,000 per financial year (April – March) for any permissible current or capital account transaction or a combination of both.

Earlier and new TCS rates are summarised as under:

Nature of payment (1)	Earlier rate before Finance Act, 2023 (2)	New rate w.e.f 1st October, 2023 (3)
LRS for education, financed by loan from financial institution	Nil upto Rs 7 lakh 0.5% above Rs 7 lakh	Nil upto Rs 7 lakh 0.5% above Rs 7 lakh
LRS for Medical treatment/ education (other than financed by loan)	Nil upto Rs 7 lakh 5% above Rs 7 lakh	Nil upto Rs 7 lakh 5% above Rs 7 lakh
LRS for other purposes	Nil upto Rs 7 lakh 5% above Rs 7 lakh	Nil upto Rs 7 lakh 20% above Rs 7 lakh
Purchase of Overseas tour program package	5% (without threshold)	5% till Rs 7 lakh, 20% thereafter

*Note: (i) TCS rate mentioned in column 2 shall continue to apply till 30th September, 2023.

12. Disclosure of Foreign Assets

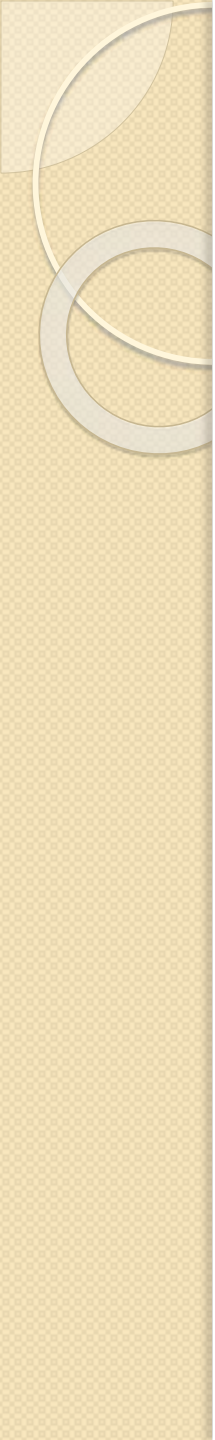
- Disclosure of foreign assets in ITR (Schedule FA) is mandatory for **resident (ROR) taxpayers** who own specified foreign assets at any time during the entire accounting year.
- For this purpose, the calendar year followed is considered to be the accounting period for reporting the assets.
- For F.Y 2023-24, period to be considered for disclosure is January 1, 2023 to December 31, 2023

Consequences of Non-Disclosure of Foreign Assets

- Covered under **The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015**
- You might have to pay a penalty of **INR 10 lakhs** for every year that you fail to disclose your foreign assets. *(Not applicable if foreign bank balances do not exceed Rs. 5 lakhs in equivalent value)* **[Section 42]**
- Any non-reporting of foreign assets while filing the ITR is considered a willful evasion of tax and you might have to face imprisonment of up to **7 years**. **[Section 49]**

13. Section 194BA – TDS on Winning from Online gaming

- The new section mandates a person, who is responsible for paying to any person any income by way of winnings from any online game during the financial year to deduct income-tax on the net winnings in the person's user account.
- Tax is required to be deducted at the time of withdrawal as well as at the end of the financial year.
- Taxable under the head “Other Source of Income” @ 30% - Section 115BBJ

- 
- Net winning is required to be computed in the manner as may be prescribed. (Rule 133 of Income Tax Rules, 1962 issued vide notification no. 28/2023 & Circular No. 5 of 2023 dt. 22nd May 2023)

14. Section 192A – Relaxation provided for employees not having a PAN

- With effect from 1st April 2023, employees to receive accumulated balance of provident fund post tax deduction at the rate of 20% as against the existing Maximum Marginal Rate **in case PAN is not furnished.**
- The lower tax deduction rate will provide relief to many employees who do not have/furnish their PAN to employers. Additionally, this will lead to reduced number of tax refund claims, thereby bringing down the administrative burden of the government.

15. Section 194B and 194BB – Clarification on threshold limit for winning income from lottery, crossword puzzle and horse racing


- Income from game shows and lotteries is counted separately from the rest of one's income for taxation purposes. Winnings from such sources fall under the head 'Income from other sources'.
- The person paying the prize money, which is usually the organizer of the lottery, crossword puzzle, game shows, dance competitions, etc., is liable to deduct TDS under Section 194B, provided the value of the prize or earnings exceeds ₹10,000.

Rate of TDS Under Section 194B

- The rate of TDS applicable on income under Section 194B is 30% on the actual winning amount or value. After considering surcharge and cess, the applicable tax deducted at source becomes 30%.


Things to Note about TDS under Section 194B

- The threshold limit is for the financial year **INR 10,000**.
- Earlier, by splitting the winning income into multiple transactions below **INR 10,000**, the payers could circumvent the requirement to withhold tax. The amendment seeks to curb the existing loophole of the sections.
- TDS is applicable in full (i.e. **at 30%**) regardless of the winner's tax bracket.
- No income tax deductions can be claimed on the winning amount.
- When a prize has both cash and a non-cash component, TDS is deducted from the cash component only.
- If the prize money is paid in installments, a TDS deduction will take place at a proportionate rate on each installment.


- 
- Participants and players in these games must provide their PAN and bank account details to the organizer.
 - You cannot claim refunds against TDS payments made u/s 194B.
 - If the prize is in the form of a gift in kind, the organizer of the show, contest, or game is liable to withhold the winnings until such time as the winner has paid the amount equivalent to their TDS obligations to the organizer or the winner has settled the TDS directly and submitted the proof of the same to the organizer.
 - Section 194BB of the Act provides for similar provisions for deduction of tax at source for horse racing in any race course or for arranging for wagering or betting in any race course.

16. Section 194N – Enhanced limit for co-operative society

- The provisions of the said section provide that a banking company or a co-operative society engaged in carrying on the business of banking or a post office, which is responsible for paying any sum, being the amount or the aggregate of amounts, in excess of **one crore rupees** in cash during the previous year to any person (referred to as the recipient) from one or more accounts maintained by the recipient with it shall, at the time of payment of such sum, deduct an amount equal to **two per cent** of such sum, as income-tax.


- 
- Provided that in case of a recipient **who has not filed the returns of income for all of the three assessment years relevant to the three previous years**, for which the time limit of file return of income under sub-section (1) of section 139 has expired, immediately preceding the previous year in which the payment of the sum is made to him, the provision of this section shall apply with the modification that—
 - (i) the sum shall be the amount or the aggregate of amounts, as the case may be, in cash exceeding **twenty lakh rupees** during the previous year; and

- (ii) the deduction shall be—
- (a) an amount equal to **two percent** of the sum where the amount or aggregate of amounts, as the case may be, being paid in cash exceeds **twenty lakh rupees** during the previous year but does not exceed **one crore rupees**; or
- (b) an amount equal to **five percent** of the sum where the amount or aggregate of amounts, as the case may be, being paid in cash exceeds **one crore rupees** during the previous year

- 
- It is amended to insert a third proviso in the said section so as to provide that where the recipient is a co-operative society, the provisions of this section shall have effect, as if for the words “**one crore rupees**” the words “**three crore rupees**” had been substituted.
 - This amendment will take effect from 1st April, 2023.

17. Section 194R – Clarification for tax deductibility on benefits/ perquisites

- any person responsible for providing to a resident, any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession, by such resident, shall, before providing such benefit or perquisite, as the case may be, to such resident, ensure that tax has been deducted in respect of such benefit or perquisite at the rate of **10%** of the value or aggregate of value of such benefit or perquisite
- Threshold Limit- **INR 20,000** in a financial year

- 
- Insertion of new **Explanation 2** to the said section so as to clarify that the provisions of subsection (1) shall also apply to any benefit or perquisite, **whether in cash or in kind or partly in cash and partly in kind.**
 - This amendment will take effect from 1st April, 2023.

18. Amendment u/s 28(iv)

- 'The value of any benefit or perquisite arising from business or the exercise of a profession, whether—
(a) convertible into money or not; or (b) in cash or in kind or partly in cash and partly in kind;".
- **Even monetary perquisites will come under the ambit of Section 28(iv).**

19. Introduction of Section 155(20) – TDS credit in the year in which income is offered to tax

- Where a taxpayer reports income on accrual basis in a year and tax on the same is deducted in the subsequent year, it results in tax credit mismatch.
- With effect from 1st October, 2023 can make an application to claim the credit in the year in which the income is offered to tax.
- The application is to be made in **Form No. 71** to the assessing officer (AO) within two years of a FY in which tax credit is reflected.