# Pre - Budget Memorandum 2026-27

# Direct Tax

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# AMCHAM India

## PRE BUDGET RECOMMENDATIONS 2026-27

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| **Direct Taxes** | | | |
| **Sl No** | **Area of challenge** | **Issue** | **Recommendation** |
| **Individual Taxation** | | | |
| 1 | Taxability of PF contribution<br><br>Budget 2020 provided that employer contribution to RPF, Superannuation and NPS exceeding INR 750,000 will be taxable in the year of contribution.<br><br>Section 17(1)(h) provides for taxability of funds received from Provident Fund if certain conditions are not complied with as mentioned in Fourth Schedule (i.e. not rendering continuous service of 5 years etc.)<br><br>Section 11 read with Schedule II (S. No. 8) of ITA 2025 provides exemption in respect of payment from a superannuation fund, subject to conditions. | In case of contributions by employer in excess of limits specified, the excess contribution and the accretions thereon is taxable in the hands of employee.<br><br>The same PF /superannuation balance when withdrawn would be subject to tax withholding if the conditions for exemption (for e.g. 5 years of continuous service) are not complied with and there is no specific exemption provided for excluding the income already taxed mentioned above. Hence, there could be double taxation, at the withdrawal stage to the extent the contribution/accretion has already been taxed. | It is recommended that there should be specific provision in the Act, providing exemption in respect of contributions/accretions which are already taxed under Section 17(1)h) of ITA 2025 at the time of PF/superannuation withdrawal. |
| 2 | National Pension Scheme (NPS)<br><br>Currently, at the contribution stage, deduction under Section 80CCD(2) is available to the extent of 14% of salary where contribution is made by the Central Government (CG) or State Government (SG) and 10% of salary | There is no parity between deductions allowed for NPS in respect of CG/SG employer,other employers opting for default tax regime under Section 202(1) and other employers.<br><br>The above is not in parity with other pension schemes such as provident fund, which is | It is recommended that there should be parity in the deduction allowed between employees employed by the CG/SG, any other employer opting for default tax regime under Section 202(1) and other employers . Therefore, in case any other employer [other than employees opting for default tax regime under Section 202(1)] contributes to NPS, deduction to the extent of 14% of salary should be allowed. |

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| | where contribution is made by any other employer in the account of the employee who has not opted for default tax regime under Section 202(1) of ITA 2025<br><br>Further, the pension received from NPS by way of annuity is taxable. | under the EEE regime. The government has positioned NPS as an alternative to PF.<br><br>Therefore, it is seen that individuals who are not entitled to 14% deduction are not very keen in contributing to NPS as the annuity received is taxable. | To bring in parity and incentivise the employees to be a part of NPS, annuity received should not be taxed. |
| 3 | Deduction in respect of interest on deposits in savings account<br><br>Section 80TTA of ITA 1961 was inserted by the Finance Act, 2012 to provide deduction of up to INR 10,000 in the hands of individuals and HUFs in respect of interest on savings account with banks, post offices and co- operative societies carrying on business of banking. | It is unlikely that salaried individuals would keep their entire savings in a savings bank account, which earns a much lower rate of interest as compared to term deposits. They are likely to transfer some portion of their savings to term deposits/recurring deposits in banks to earn comparatively better returns. | Interest on all types of bank deposits (eg. FDRs) should be included within the scope of Section 153 of ITA 2025 . Further, the limit should be increased from INR 10,000 to INR 50,000. |
| 4 | Deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc.<br><br>Currently deduction under Section 80C of the Act for payments/investments towards life insurance premia, contributions to provident fund, subscription to certain equity shares or debentures, etc. is capped at INR 150,000 | The current limit of INR 150,000 is low and has not been revisited since FY 2014-15 . Increasing the limit under Section 123 read with Schedule XV of ITA 2025 will have two-fold benefits, viz. the individual taxpayers would be willing to save more and in turn will benefit from a lower tax outgo | It is recommended that the government should increase the exemption limit on tax saving investment to atleast INR 2.5 lakhs considering the inflation rate, as this will also reduce the burden on taxpayers. |
| 5 | Taxation of Employee's stock options<br><br>Currently, stock options are subject to tax at the time of exercise of shares (excluding allotment of specified security | Since the Act does not specifically provide for pro-rata taxation in respect of mobile | It is recommended that the Act should specifically provide for pro-rata taxation during the vesting period in respect of mobile employees who qualify as NR or NOR. |

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| | by eligible start ups), taxable value being excess of fair value of shares over the exercise price.<br><br>In case of mobile employees who qualify as NR or NOR who exercise stock options, only pro-rata value in respect of days spent in India during the period grant to vest is subject to tax in India based on judicial precedent (ACIT v. Robert Arthur Keltz , ITA No.3452/ Del/ 2011 dated 24 May 2013) | employees, it leads to litigation with lower level authorities | |
| 6 | Loss from a house property<br><br>Currently, Section 71 of the Act provides for set off of any loss arising under the head "Income from House Property" against any other head of income.<br><br>However, it restricts to set off the losses to the extent of Rs 2,00,000 against any other head of income and the unabsorbed loss can be carried forward up to subsequent 8 assessment years. | Middle class people generally invest in property by obtaining loan from the banks. The initial amount of interest paid is always higher than the rental income earned against such property. | It is recommended to allow the house property loss to be set off against any other head of income in the same year without any limit in case of rented property as it was earlier. Alternatively, the limit of Rs 2 lakhs may be raised to at least Rs 5 lakhs. |
| 7 | Standard deduction enhancement | Enhancing the standard deduction u/s 16 | Consider enhancing the standard deduction u/s 16 of ITA 1961(section 19 of ITA 2025) from Rs 75,000/- to Rs 150,000/- or more to help salaried employees with inflation and increased costs of living. ( |
| 8 | Increase threshold limit **u/s 80C** of the Act | The overall deduction limit u/s 80C to at least Rs 350,000/- to increase tax savings for individuals, HUFs | Currently overall deduction u/s 80C of ITA 1961 (Section 123 of ITA 2025) is Rs 150,000/-. This is to be increased to 350,000/-. |

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| **Business Income** | | | |
| 9 | Special incentives for companies undertaking huge capex investments (such as setting up data centers, IT Parks, etc. in India)<br><br>The Government should consider providing tax holiday/ exemption to Indian companies which set up local data centers in India as these involves huge amount of capex as well as manpower. | There are currently no incentives under the Indian ITA 2025 / ITA 1961 which incentivize companies for undertaking capex investments like setting-up a data center, IT park, etc. These projects involve huge amount of capex and generate large number of employment opportunities. | Tax holiday/exemption should be provided for companies undertaking activities involving huge capex investment such as setting-up data center, IT park, etc. |
| 10 | Incentives and exemptions for investment and operating in renewable energy industry<br><br>Cost-effective energy storage is essential for adding more renewable energy to the grid and will increase the grid resiliency and stability supporting the energy transition and build-up for the future. New technology like large-scale battery storage, is a critical step on the path to a cleaner and more efficient energy future.<br><br>The general rationale behind the Tax incentives and exemptions sought for energy storage systems will put storage on a level playing field with other energy technologies. The incentives & exemptions if allocated will accelerate the investment in the energy storage industry thus accelerating the growth of jobs, and contributing to economic recovery. | There are currently less number of incentives under the Indian Act which incentivize companies to set up or operate in renewable energy sector | Concessional tax rate of 15% to be provided for projects with RE + ESS & Standalone Battery Energy storage using RE to charge the battery, Storage with Transmission element, & Storage with Renewable plants.<br><br>Firms developing Standalone Battery Energy storage, Storage with Transmission element, & Storage with Renewable plants to be provided with accelerated depreciation at 80 percent on a written down value (WDV) basis. |

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| | With the ACC PLI for batteries and a dedicated PLI scheme for Grid level Storage, it is imperative to promote the attempt to make Batteries in India by providing the tax incentives to accelerate the Battery Energy Storage Industry. While the Tax Holidays will boost the investment in the industry, the Tax incentives will support the industry for providing a reduced cost in a long run with domestic manufacturing.<br><br>Energy Storage System will play a vital role in the green energy transition. To support the grid balancing requirement with the increasing RE penetration in the Grid, CEA in the Draft National Electricity Plan has identified that 51 GW of Battery Energy Storage system will be required by 2031-32 to support the grid. India is already lagging behind the curve for deployment of Energy Storage project. To achieve the accelerated deployment status , it is necessary that exemptions should be facilitated to the Battery energy Storage Project to increase the investment in this sector. | | |
| 11 | Incentives for promotion of Electric Vehicles and set up of related infrastructure<br><br>With focus moving toward increase in investment, production and usage of electric vehicles, the Government could consider incentivizing industries engaged in manufacture of electric | There are currently no incentives under the Indian Act which incentivize companies that are into manufacture of EVs or installation of EV related infrastructure. | Concessional tax rate of 15% should be provided for undertaking activities such as manufacture of EVs, production of EV batteries, setting up charging stations etc. |

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| | vehicles and related infrastructure like installation of charging stations etc. | | |
| 12 | CSR Expenditure | Expenditure on CSR – Disallowed in tax computation | CSR spends should be tax deductible. CSR Expenditure is being mandated under law hence is a statutory financial obligation and should be claimable as tax deductible u/s 37(1) of ITA 1961 [section 34(1) of ITA 2025]. |
| 13 | Late deposit of the employee contribution to PF , by the employer – implications of recent Supreme Court judgement | As per the judgement passed in case of M/s Checkmate Services Pvt. Limited, any late deposit of PF contribution by employee shall be considered as income under section 36(1)(va) and no deductions permissible even in case of late deposit | With this judgement, the assessee would lose any deduction in case of late deposit of employee contribution even if late by a day, while the employer contribution would be deductible upon payment. This is causing unnecessary burden and is unforgiving on the assessee employers as the deduction is permanently lost. Is also denial of natural justice to the employers, as they need to pay interest etc. under the PF laws and yet do not entitle to any deduction<br><br>It is recommended that the govt removes this anomaly in treatment of employer vs employee PF contribution and brings them on same parity. There should be punitive interest on delay in deposit, but the amount as such should be deductible from the income of assessee. Necessary provisions to this effect may be introduced. |
| 14 | Allowability of Prior Period Expenses u/s 37(1) of the Act | Currently Prior Period expenses are not allowed as business expenditure in the year in which it's paid. | The prior period expenses should be allowed as deduction in the current year u/s 37(1) of ITA 1961 (section 34(1) of ITA 2025). However, a ceiling may be imposed as a % to turnover beyond which prior period expenses will not be allowed. This will ease out administrative difficulties for the Assesses to claim the same. |
| 15 | Significant Economic Presence (SEP) | The language of the SEP provisions is broad which may impact conventional transactions and activities carried on by foreign entities in India.<br><br>Such ambiguity in language of SEP provisions may bring non-digital transactions/activities | Clarity in respect of applicability of SEP provisions and guidance on its various practical aspects is suggested in the upcoming budget. |

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| | | carried on foreign companies within the ambit of nexus rules in India which is not aligned with intention of legislature for bringing SEP provisions to cover transaction and activities carried on by foreign entities in digital form. | |
| **Business Loss** | | | |
| 16 | Carry forward of loss in the case of amalgamation of company not owning 'industrial undertaking'<br>Under the existing provisions contained in Section 72A of ITA 1961, the benefit of carry forward of losses and unabsorbed depreciation is allowed in cases of amalgamation of a company owning an 'industrial undertaking' or a 'ship' or a 'hotel' with another company, or a 'banking company' with a specified bank, or 'one or more public sector company or companies engaged in the business of operation of aircraft' with one or more public sector company or companies engaged in similar business.<br>The term 'industrial undertaking' is defined to mean any undertaking which is engaged in the manufacture or processing of goods, manufacturing of computer software, the business of generation or distribution of electricity or any other form of power, the business of providing telecommunication services, whether basic or cellular, including radio paging, domestic satellite service, network of trunking, broadband network and internet services, mining or | Benefit of carry forward of losses and unabsorbed depreciation not available in the case of amalgamation of companies not owning an 'industrial undertaking'. | In order to promote restructurings and consolidations, it is recommended that the benefit under Section 116 of the ITA 2025 to carry forward of loss and depreciation on amalgamation should be extended to companies across all industries.<br>In any event, it is recommended that the scope of Section 116 of the ITA 2025 should be widened to include other capital intensive sectors such as Media/ Broadcasting and Entertainment, real estate / infrastructure / capital intensive service sectors such as Telecom Infrastructure Service Provider and Direct to Home operators. |

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| | the construction of ships, aircrafts and railway systems.<br><br>Generally, companies that fall within the meaning of an 'industrial undertaking' are capital intensive and have made huge investments at the time of set-up. However, there are various other capital-intensive industries which are not covered under this provision as they do not fall within the meaning of an 'industrial undertaking'.<br><br>Consolidation of entities within an industry will help in rapid growth and generation of substantial employment opportunities and faster digitisation, which will in turn aid with making India a competitive country for foreign investment. For the benefit of carry forward of losses in case of restructuring to be extended to the non-manufacturing sector, it is essential that the provisions be relooked to motivate the modern-day industries, including service industries such as information technology enabled services, e-commerce, start-ups and financial sector. | | |
| 17 | Carry forward of losses in case of intra group restructuring<br><br>As per the provisions of Section 116, brought forward losses and unabsorbed depreciation for specified industries are | Section 116 concession for merger/demerger should also apply to any intra group reorganization irrespective of industry, where the ultimate holding company of the assessee (i.e. private limited company) remains same. | It is recommended to enhance the scope of Section 116 so that it will apply to intra-group restructuring involving the same ultimate holding company. |

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| | allowed to be carried forward and set off in case of merger/demerger, etc.<br><br>In case of business groups (controlled by same parent entity), the intra group mergers/demergers do not result in transfer of value outside the group. | | |
| 18 | Clarification required for pass-through of losses incurred by Business trust (REIT/InvIT)<br><br>Currently, ITA 2025/1961 provides for pass through regime for business trust wherein, certain specified income at the trust level is taxable in the hands of investor. However, there is no guidance on the treatment of losses incurred by such business trust. | While, Finance Act 2019, amended Section 115UB of ITA 1961 (Section 224 of ITA 2025) to allow carry forward of losses, other than the losses under the head "Profits and gains of business or profession" at the investor level in case of Category I and II AIFs (which also follows similar pass through regime), no similar benefit is provided for business trust. | It is recommended that the benefit to carry forward the loss at investor level is extended to business trust as well under Section 223 of ITA 2025. |
| **Capital Gains** | | | |
| 19 | Cost of acquisition of shares in case of corporate reorganisations<br><br>Sale of equity shares of a listed company is taxable at a beneficial rate of 12.5 percent (plus applicable surcharge and cess) provided certain conditions are satisfied under Section 198 of ITA 2025 (Section 112A of ITA 1961).<br><br>Gains accrued up to 31 January 2018 have been grandfathered from taxation by providing that market price as on 31 January 2018 of such listed equity shares shall be considered as its cost for computing capital gains. | In case of merger of two listed companies after 1 February 2018, grandfathering provisions may not apply, and the shareholders of amalgamating company may have to pay capital gains tax on the entire gain computed with reference to their original cost.<br><br>In case of demerger between two listed companies after 1 February 2018, there is an ambiguity as regards applicability of grandfathering provisions in relation to the shares of the resulting company for the computation of cost of acquisition - whether cost of acquisition as per Section 73(14) of ITA 2025 (Section 49(2C) of ITA 2025) should be computed taking into account the fair market | It is recommended that Section 90(7) of ITA 2025 (Section 55(2)(ac) of ITA 1961) be amended to clarify that in case of merger of two listed companies, FMV of the amalgamating company's shares as on 31 January 2018 be considered for the purpose of deriving cost of acquisition of shares of the amalgamated company.<br><br>It is also recommended that Section 90(7) of ITA 2025 (Section 55(2)(ac) of ITA 1961) be amended to clarify that in case of demerger between two listed companies, the cost of acquisition of shares of the resulting company shall be computed in terms Section 73(14) of ITA 2025 (Section 49(2C) of ITA 2025) by taking the FMV of the shares of the demerged company as on 31 January 2018. |

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| | Above language seems to suggest that grandfathering provisions shall apply only in a situation where the shares sold are the same shares which were held as on 31 January 2018 not acquired by way of merger or demerger. | value ('FMV') of the shares of demerged company as on 31 January 2018. | |
| 20 | Deemed sale consideration for transferor on receipt of shares etc. for acquirer<br><br>The resolution plan approved under the Insolvency & Bankruptcy Code, 2016 (IBC), may require that the acquirer take over the management of the company. The purpose of the resolution process is to encourage acquirers to take over debt ridden companies and turn them around thus saving jobs and infrastructure and support the economy.<br><br>Many a times the value of such companies has been eroded substantially but there is still a case for continuing profitable operations if appropriately managed. In such a situation, the deeming provisions to tax capital gains on the basis of book values of assets and liabilities could be a dampener.<br><br>Further, acquirers may need to acquire shares, debt, receivables, etc. at nominal consideration to make the proposition interesting for the acquirer to commit more time and resources to turn the company around. If such acquisition of | Under Section 79 of ITA 2025 (Section 50CA of ITA 1961), if the consideration received or accruing as a result of the transfer of capital asset, being shares of unlisted companies, is less than the prescribed value determined as per the Rule 11UAA read with Rule 11UA of the Rules, the prescribed value is to be treated as the sale consideration for the purposes of computing capital gains.<br><br>Under Section 92(2)(m) of ITA 2025 (Section 56(2)(x) of ITA 1961), where any person receives any property at a value which is less than the prescribed value, the difference between the prescribed value (which exceeds fifty thousand rupees) and the value at which such property is received would be treated as other income in the hands of the recipient. | It is recommended that the transactions effected pursuant to a resolution plan approved by the National Company Law Tribunal ('NCLT') constituted under Section 408 of the Companies Act, 2013 under the IBC be kept outside the purview of above provisions from Sections 79 and 92(2)(m) of ITA 2025) (Sections 50CA and 56(2)(x) of ITA 1961). |

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| | shares is taxed in the hands of the acquirer, it would make the resolution process inefficient and unattractive. | | |
| 21 | Deeming income in case of inter-group transactions and transactions with relatives<br><br>The provisions of Sections 79 and 92(2)(m) of ITA 2025) (Sections 50CA and 56(2)(x) of ITA 1961) do not exempt below mentioned transactions from deeming income provisions:<br><br>Where companies forming part of the same group need to enter into transactions for realignment of shareholding due to number of reasons such as synergies of business, consolidation of shareholding etc. - The only exemption provided is for transfer of a capital asset between holding company and its wholly owned subsidiary. If transfer is done at price lower than fair market value ('FMV'), then differential of FMV and transfer price will become taxable both in the hands of transferor under Section 79 of ITA 2025 (Section 50CA of ITA 1961) and transferee under Section 56(2)(x) of the Act.<br><br>Transfer of shares to a 'relative' for consideration lower than FMV (even though such receipts are exempted in the hands of transferee relative) - If transfer is done at price lower than FMV, then differential of FMV and transfer | Transactions between group companies for realignment of shareholding is not given specific exemption from provisions of Section 79 of ITA 2025 (Section 50CA of ITA 1961) and Section 92(2)(m) of ITA 2025 (Section 56(2)(x) of ITA 1961).<br><br>Transfer of shares to a 'relative' for consideration lower than FMV even though such receipts are exempted in the hands of transferee relative under Section 56(2)(x) of the Act may still be taxable in the hands of transferor relative under Section 79 of ITA 2025 (Section 50CA of ITA 1961).<br><br>Applicability of provisions of Section 92(2)(m) of ITA 2025 (Section 56(2)(x) of ITA 1961) for transfer of listed shares in off-market transaction for which Takeover Code is applicable.<br><br>Minority shareholders may not have access to confidential information and hence, may not be able to compute the FMV according to the rules. | Transfer of shares amongst ultimate holding and any step-down subsidiary or amongst fellow subsidiaries should be exempted from the applicability of Section 79 of ITA 2025 (Section 50CA of ITA 1961) and Section 92(2)(m) of ITA 2025 (Section 56(2)(x) of ITA 1961) . For consistency, the definition of holding company and subsidiary company should be defined as per the Companies Act, 2013.<br><br>Transfer of shares between relatives for consideration lower than FMV or on account of family settlement should be exempted from the applicability of Section 79 of ITA 2025 (Section 50CA of ITA 1961) and Section 92(2)(m) of ITA 2025 (Section 56(2)(x) of ITA 1961) .<br><br>Transfer of shares of a listed company through an off-the-exchange transaction at a pre-determined value where Takeover Code applies should be the value quoted on stock exchange prior to making public announcement.<br><br>It may be considered to exempt valuation of unquoted equity shares at FMV if the transferor holds less than 25% of the shares. |

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| | price will become taxable in the hands of transferor relative Section 79 of ITA 2025 (Section 50CA of ITA 1961). Further, the Section does not exempt the transfer of assets between relatives on account of family settlement.<br><br>Transfer of shares of a listed company through an off-the-exchange transaction at a pre-determined value – Anti-abuse gains shall arise in case the traded price is higher than the pre-determined price on the date of transfer. This would create an unnecessary hardship for the acquirer by taxing notional gains arising from such transactions. | | |
| 22 | Contingent Consideration<br><br>India is considered to be an attractive market by international investors.<br><br>With a focus on balancing profitable exits and correct valuations, most private equity players are increasingly introducing a combination of clauses in the shareholders agreement, including consideration payable in a contingent manner based on certain performance milestones being achieved by the promoters.<br><br>In essence, such clause incentivizes a promoter for good performance. | There is no clarity on whether such contingent consideration is to be taxed in the year of transfer or in the year of receipt once the consideration crystalizes. | It may be clarified by way of an explanation or clarificatory provision to Section 67 and Section 72 of ITA 2025 (Section 45 and Section 48 of ITA 1961), that in case of contingent consideration, the contingent portion should be chargeable to tax as capital gains only in the year in which the same is crystalized, irrespective of the year in which the transfer takes place (in line with the accrual concept – Section 5 of the Act). |

| Tax deducted at source (TDS) | | | |
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| 23 | TDS on purchase of goods – clarity required for unlisted securities and listed securities traded off-market<br><br>Section 393(1) of ITA 2025 [Section 194Q of ITA 1961] provides that any person responsible for paying to any resident for purchase of goods shall deduct tax at source at the rate of 0.1% of such sum exceeding INR 50 lakh in the FY.<br><br>Since shares/ other securities which are dematerialized are transacted through demat accounts, such demat accounts is linked to Permanent Account Number ('PAN') of the seller/ buyer. Further, with respect to unlisted securities not transacted through demat accounts, the Act already mandates quoting of PAN in the securities purchase agreement (rule 114B(6) of the Rules). Hence, if the tax department would want to track these transactions, there is already a trail available to track this.<br><br>Further, if transaction is exempt under the tax treaty, no withholding is required under Section 195. Further, the Act prescribes reporting mechanism under Section 195 of the Act in relation to transactions between non-residents/ between non-resident and resident (in Forms 15CA and 15CB), thereby, information relation to such sale of share will be available with the tax department. | Clarity required on applicability of Section 393(1) of ITA 2025 [Section 194Q of ITA 1961] to unlisted securities or securities traded off the market.<br><br>Considering that the intent of Section 393(1) of ITA 2025 [Section 194Q of ITA 1961] is to track high value transactions, applying the said Sections to unlisted securities would lead to repetition of trail already available with the department. | It is recommended that CBDT amend the Section suitably to keep sale transaction of any kind of securities outside the ambit of Section 393(1) of ITA 2025 [Section 194Q of ITA 1961]. |

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| 24 | TDS on purchase of goods – clarity required for electricity charges<br>Section 393(1) of ITA 2025 [Section 194Q of ITA 1961] provides that any person responsible for paying to any resident for purchase of goods shall deduct tax at source at the rate of 0.1% of such sum exceeding INR 50 lakh in the FY.<br><br>The various judicial precedents including the Constitution bench Hon'ble Apex Court in State of A.P. etc. v. National Thermal Power Corpn. Ltd. and Ors. etc. held that electricity is 'goods' and hence, payment towards electricity to State Electricity Board is subject to TDS under Section 393(1) of ITA 2025 [Section 194Q of ITA 1961]<br><br>The Electricity Board of various states have floated electricity distribution companies which are Public Sector Enterprises and do not enjoy exemption from TDS as per Section 196 of the Act. However, such PSU require payment of electricity bill in full without deduction of tax thereon. | Clarity required on applicability of Section 393(1) of ITA 2025 [Section 194Q of ITA 1961] to electricity charges | Clarifications may be issued to exempt TDS on payment towards such electricity charges under Section 393(1) of ITA 2025 [Section 194Q of ITA 1961] |
| 25 | TDS on dividend paid to Investor Education Protection Fund<br>With effect from April 1, 2020, Dividend Distribution Tax ("DDT") levied on domestic companies under Section 115-O of the Act has been abolished and | As per Section 124(6) of the Companies Act 2013, all shares in respect of which dividend has not been paid or claimed for seven consecutive years or more, are required to be transferred by the company to Investor Education Protection Fund ("IEPF"). | It is recommended that the dividend payments made to IEPF should be specifically excluded from the provisions of Section 393(1) of ITA 2025 [Section 194 of ITA 1961] |

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| | taxes are now required to be withheld as per the provisions of the Act. | On account of the above, IEPF becomes the 'registered shareholder' in the register of members of the Company and dividend on shares held by IEPF is required to be paid to the IEPF.<br><br>On account of the above situation and the interplay between the aforesaid two provisions, there are practical challenges with regard to the position to be taken for deducting TDS on dividend paid to IEPF i.e. whether TDS to be deducted considering IEPF as the shareholder or the preceding shareholder (i.e. the person whose name appeared on the register of members, prior to transfer of shares to IEPF). | |

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| 26 | Foreign Tax Credit (FTC) to be considered by employer while withholding tax under Section 392 of ITA 2025<br><br>As per Rule 128 of the Income-tax Rules, 1962, a resident taxpayer is eligible to claim credit for any foreign tax paid, in a country or specified territory outside India. The credit shall be allowed only if the assessee furnishes the required particulars in Form 67 within the specified timelines. However, in practice, FTC is not being allowed in some cases while processing the return in spite of filing required particulars in Form 67 within the specified timelines. This results into cash flow issues for the taxpayer on account of deduction of taxes in both the countries. | There is no specific mention in Section 392 of ITA 2025 [Section 192(1) of ITA 1961] about providing credit for taxes paid outside India. Moreover, Form No.24Q does not contain appropriate columns for the disclosure of foreign tax credit. | It is recommended that the employer should be enabled to provide credit for taxes paid outside India while estimating salary income and withholding taxes on same under Section 392 of ITA 2025 and disclose FTC at the time of filing 24Q. |
| 27 | **Streamlining the withholding tax (WHT) rates for goods and services to simplify the current complex structure** | Instead of the present vast WHT structure, a simplified approach of having the following three categories can be considered:<br><br>1. WHT on goods related transactions: 0.1% similar to the TDS rate for 194Q.<br><br>2. WHT on services (and other residual categories):- 2%, majority of the services under 194C and 194J are already at 2%, so extending this rate across all other residual categories will ensure stability and also reduce disruption.. | To comply with TDS provisions, the deductors are first required to identify the relevant transactions, undertake a thorough analysis of the relevant sections applicable, which may have an overlap with each other, navigate through various sections to decide the precedence of one section over the other and verify the PAN and return filing status of the deductees in order to determine the correct rate of TDS applicable on any particular transaction. Such multiple-level checks and inter-operability of various sections requires the deductors to maintain complex software/ ERP systems and significantly invest in resources in order to comply with the TDS related provisions |

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| | | 3. GOI should also consider prescribing a parity in the exemption threshold on which WHT is applicable, so that threshold limits can be easily tracked using automation, rather than through manual means. | |
| 28 | **Simplifying reporting compliances for TDS under section 194-O of the Act.** | Date-wise reporting of transactions in e-TDS return in Form 26Q under section 194-O makes returns highly voluminous which increases the time needed for each stage, including preparation, uploading, processing, generating TDS certificates in Form 16A, and revising the e-TDS return. In order to ease such compliance burden, the following recommendations are provided:<br><br><u>1. Allowing consolidation of TDS entries deductee /seller wise:</u><br><br>We recommend allowing deductors to consolidate TDS entries on a monthly basis, summarizing all transactions with a single line item for each e-commerce participant /vendor. However, transactions with delayed TDS deductions should be reported separately with their actual dates to track defaults and ensure accurate interest payments.<br><br><u>2. Separate TDS statement form for 194-O transactions:</u><br><br>Bulky data requirements for section 194-O transactions (specially for e-commerce | Currently, the excel utility used for uploading the data in e TDS return, does not allow line items above 10.48 Lacs. However, for the e-commerce marketplaces, typically the transactions range thrice the limit allowed by the utility. Using multiple files for uploading data creates complexity and confusion.<br><br>While uploading the above bulky data, the deductors face many challenges like TRACES website (tdscpc.gov.in) taking substantial time, unexpected downturn, user being logged out etc.<br><br>Enabling a separate TDS statement for reporting 194-O transactions and allowing consolidation of entries shall streamline reporting and improve efficiency to a greater extent. |

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| | | marketplaces), a dedicated TDS statement should be introduced, as the current Form 26Q becomes voluminous to file or revise. A separate form shall be similar to how separate forms are used for other TDS reports, such as Form 24Q for salary payments under section 192 and Form 26QB for property sales under section 194IA. | |
| 29 | **Issues faced in revising e-TDS returns** | It is suggested to implement a mechanism for adding negative entries, this would significantly simplify the revision of e-TDS return. Instead of manually locating and correcting specific entries among thousands of line items, deductors could simply input a negative entry in subsequent quarterly filing/return to adjust the total credited amount or TDS payable.<br><br>For example, if a company incorrectly deducted INR 50,000 instead of INR 30,000 from a contractor, the current process requires finding and modifying the specific entry, which is time-consuming and error-prone. With a negative entry mechanism, the company could instead enter a negative INR 20,000 in the subsequent quarter's return, effectively correcting the total TDS deducted without altering the original data. | Large corporations and e-commerce platforms that report thousands of line items monthly face significant challenges in managing sales returns, reversals, and credit notes. Updating TDS statements accurately requires frequent revisions, which involves amending original returns and adjusting specific line items.<br><br>This process is time-consuming due to the difficulty in locating and maintaining an audit trail for individual entries that need correction. It is pertinent to note that the reversals are currently reported in the consolidated FVU file and Form 26AS in similar method i.e., corrections do not replace original line items rather they are shown as a negative line item.<br><br>Further, reference can also be drawn to GST returns in which while filing a credit note, instead of revising the original return/period to which the credit note pertains, there is a separate option to report the particular credit note in the returns for the subsequent period without the need of modifying the return of the original period.<br><br>Enabling similar mechanism for filing e-TDS returns will save a lot of time and effort of deductors, ensuring smooth compliance and tax friendly mechanism. |

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| 30 | **Clarification on applicability of WHT exemption under Circular 20, 2023 extending to Storage fees, Fulfillment fees and such other fees.**<br><br>CBDT Circular 20, 2023 clarified that fees charged by an E-Commerce Operator (ECO) on seller is exempt from withholding tax (WHT/TDS) , if it is in connection with the seller's online sale through the ECO's marketplace and the sale has been subjected to 1% WHT under section 194-O.<br><br>An E-commerce marketplace levies variety of fees on the seller for facilitating the sale on the marketplace, which includes storage fees, fulfillment fees, labelling fees, etc. While such fees satisfy the exemption requirement under the Circular, certain sellers apply WHT on the fees basis that the Circular does not explicitly provide for such fee types, and illustratively only refers to commission / convenience fees. | To clarify that the reference to applicability of WHT exemption to convenience fees and commission is only illustrative and the exemption is also applicable to such other fees such as Storage, labelling and fulfilling, since they are incurred in connection with the sellers online sale through the marketplace, which has been subjected to 1% WHT under Section 194-O.<br><br>Also, extend the benefit of the TDS exemption to advertisement income, since the same is also inextricably linked to the underlying sales on which 1% TDS applies, and consequently the fee to the ECO should be exempt from TDS | A specific reference to such other fees such as storage fees, listing fees, labelling fees etc. also being covered by the exemption would provide certainty to the sellers WHT position and in turn reduce their WHT compliance burden. |
| | Further Advertisement fees are also excluded from the scope of the exemption. It may be noted that Advertisement fees also are intrinsically linked to the sales on the marketplace | | |

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| | and therefore our ask is to extend the exemption to such fees as well. | | |
| 31 | **Change of Point of applicability of WHT from Accruals to Payments**<br><br>Under Indian tax laws, WHT liability is applied on accrual or payment, whichever is earlier, unlike other countries where it applies only on actual payment. This poses challenges due to complexities like accrual reversals, invoice cancellations, estimation errors leading to overpayment of TDS, disputes with payees/authorities, and cumbersome tracking of invoices against accruals for businesses with large vendor bases, requiring significant resources. | To address the challenges posed by the current system of applying withholding tax on accruals, it is recommended to shift the application of WHT from the accrual stage to the actual payment stage, aligning with the practice followed in other countries. | Shifting the application of withholding tax (WHT) from the accrual stage to the actual payment stage would save significant time and resources in a) reconciliation efforts in tracking of actual invoices against accrual for a large vendor base b) simplified remittance and reporting process without necessitating adjustments for cancellations/ reversal, estimations c) reduced vendor disputes.<br><br>For GOI, it would be mere timing difference in the collection of taxes without any revenue loss. |
| 32 | **Filing of WHT Return from quarterly to semi-annually**<br><br>Businesses are currently required to file WHT returns on a quarterly basis. This frequent filing cycle translates into higher costs associated with preparing, reviewing, and submitting returns. The higher costs arise from the need for dedicated resources, time, and effort required to ensure compliance with each quarterly deadline. Moreover, the higher filing frequency often leads to delays in critical business decisions as the tax team's focus shifts towards meeting the compliance deadlines. This | A semi-annual filing schedule would provide tax team with a longer lead time, allowing to plan and execute the TDS return filing process more effectively. This could result in improved accuracy, reduced errors, and enhanced overall quality of the returns submitted. | A semi-annual filing schedule would provide tax team with a longer lead time, allowing to plan and execute the TDS return filing process more effectively. This could result in improved accuracy, reduced errors, and enhanced overall quality of the returns submitted. |

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| | potentially hinders ability to respond promptly to business changes or seize emerging opportunities, as resources are diverted towards TDS return preparation and submission. | | |
| 33 | **Enhancement of TRACES functionality** | Provide an export option (e.g., CSV or XLS) for ease of access and review. Additionally, consider increasing the page size from 10 lines per page to 50 or 100. | As an overall comment, to streamline manual activities and recurring tasks for large tax deductors, implementing standardized reports on TRACES would be beneficial. These reports could be made available on a request basis, accompanied by standard TRACES KYC validation or DSC (Digital Signature Certificate) validation processes.<br>By doing so, the effort and time required for fetching information from TRACES can be significantly reduced. |
| | **a. "Enhancing TDS Data Retrieval on TRACES** | With the ever-changing tax provisions related to TDS and the increasing number of vendors falling under its purview, retrieving specific data from TRACES can be cumbersome and time-consuming. | With the ever-changing tax provisions related to TDS and the increasing number of vendors falling under its purview, retrieving specific data from TRACES can be cumbersome and time-consuming. |
| | **1. Viewing TDS/TCS Credit for Deductee PAN:** | Currently, deductors scroll through different pages on TRACES to view lines reported for a particular PAN. With thousands of transactions associated with a single PAN, this process becomes lengthy. | Currently, deductors scroll through different pages on TRACES to view lines reported for a particular PAN. With thousands of transactions associated with a single PAN, this process becomes lengthy. |
| | **b. Unconsumed Challan Details:** | The overview tab on TRACES displays unconsumed challan details. However, viewing related information requires knowing the challan amount to access the unconsumed amount. For large organizations with hundreds of unconsumed challans, manual data retrieval is extremely time-consuming | Offer a complete unconsumed challan report download option with KYC validation to save time. |
| | **c. LDC (Lower Deduction Certificate) Information:** | The downloads tab on TRACES allows checking LDC information and copying PDF files. | Provide a separate report summarizing all LDCs issued during the year, streamlining the process. Additionally, we also request |

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| | | However, there's no consolidated summary report for all LDCs issued in a year, including total thresholds and utilized thresholds. Currently, creating this summary report involves manual effort. | for improving the LDC validation tab by retaining filter criteria for PAN, FY, and certificate number. |
| | **Addressing High Volume Data Challenges** | Currently on TRACES, to view information with high volume data files ranging in millions of transactions either takes a substantial time in loading or shows an error while loading the data. This becomes a blocker in performing critical tasks on TRACES such as PAN correction, Default correction, Conso Generation, Challan corrections.<br><br>Loading such data can be time-consuming or even result in errors, hindering critical tasks on TRACES. These tasks include PAN correction, default correction, consolidation generation, and challan corrections. | Enhancing TRACES Performance: Addressing High Volume Data Challenges. To improve TRACES usability, consider implementing strategies to optimize data retrieval and enhance system responsiveness.<br><br>This could involve optimizing database queries, improving indexing, and leveraging caching mechanisms.<br><br>Additionally, monitoring system performance and addressing bottlenecks promptly will contribute to a smoother experience for users. |
| | **Streamlining Large TDS Return Filing: Addressing Upload Errors** | Currently, for Large volume entities TDS Return filing files (FVU) are generated in file size more than 100 MB and up to few GB per file, however while trying to upload the file, E-filing portal gives error and fails to upload the return files. Such errors would result in delay in filing of TDS Return on or before the due date and also creates hardship during the upload process. | It is recommended that E-filing should enhance its capabilities in large data processing and efficient memory management. By doing so, it can display the required information promptly, execute tasks seamlessly, and prevent failures during critical activities on the platform. |
| 34 | **Lack of dedicated and clear channels for disputing TDS matters causes long delays in resolving TDS proceedings.** | Separate CIT(A) to address TDS related disputes and appeals | TDS officers function as a specialized unit focused on TDS regulations. Consequently, it is essential to establish a separate forum and appeal mechanism tailored specifically for TDS issues, which includes a distinct CIT(Appeal) authority separate from |

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| | | | the standard CIT(Appeal). This structure would guarantee that TDS matters receive prioritized attention and are addressed in a dedicated manner. |
| 35 | **Standard rate of TDS in case of PE (no royalty / FTS)** | In case where PE is constituted and the transactions is not in the nature of FTS or royalty, a simplified rate of WHT should be applicable within the range of 5-10% instead of requiring the deductor to withhold taxes at the rate of 35% (plus surcharge and cess) on a net basis. | The deductor should not be burdened with the liability of computing net income of the deductee for the purposes of undertaking the withholding tax compliances. It is therefore recommended that a simplified rate of WHT should be applicable within the range of 5-10%. This is based on an assumption that even if the net profit margin of a non-resident is 20%, the effective tax rate on the revenues shall be 7.5% (i.e. 38.22% of 20%). |
| 36 | Section 194-O should not be applicable on the E-commerce Operator ('ECO') where such ECO is not involved in billing and collection | Similar to the exemption provided in case of e-auction services in circular no.20/2021, the exemption should also be provided to the ECO who is merely facilitating the buy-sell transaction between end user and the seller using its platform and is not involved in the billing and collection. | There are certain ECOs who are merely operating a platform which only brings together the buyer and sellers. The ECO is not involved in the billing and collection related to the transaction. Compliances under section 194-O is a burdensome process for such ECO as no money flows from ECO. These compliance burden disincentivizes the ECO to operate such business models and consequently hampers the ease of doing business in India. |
| 37 | Consistency in section 201 and section 40(a) | The provision of the Act should be amended to clarify the interplay of provision of section 201 of ITA 1961 (section 398 of ITA 2025) and section 40(a) of ITA 1961 (section 35B of ITA 2025). Where the tax authorities or assessee suo moto disallow expenses under section 40(a) on account of default in tax withholding on such expenses, the tax authorities should not initiate the proceedings under section 201 and vice-versa. | Currently, the applicability of section 201 and section 40(a) on same default results in dual impact on the taxpayer i.e., I) disallowance of expenditure and ii) imposition of interest and penalty under TDS proceedings. The provisions of the Act should only trigger one set of negative consequence in case of failure of a compliance. Triggering of multiple proceedings / multiple fines or penalties under multiple sections on same default, creates undue hardships for the taxpayer. |
| 38 | Parity on the rate of interest under section 220 and the rate of interest under section 244A | The provision of the Act should be amended to bring parity on the rate of interest charged by the tax authorities on the tax payable by the taxpayer under section 220 of ITA 1961 | At present, the tax authorities are charging the interest rate of 1% on the tax payable by the taxpayer, however, on the contrary, the taxpayer is receiving interest on tax refunds at the rate of 0.5% only. This seems to be unjust for the taxpayer. Due |

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| | | (section 411 of ITA 2025) and the rate of interest received by the taxpayer on the income tax refund under section 244A of ITA 1961 (section 437 of ITA 2025) | to such disparity in the Indian tax laws, the taxpayer's confidence on the Indian tax system gets weaken. |
| 39 | Intimation issued under section 143(1) of the Act does not provide entire credit of TDS as per Form 26AS. It restricts TDS credit in proportion of revenue appearing in Form 26AS *vis-à-vis* reported in income-tax return | Entire credit of TDS as appearing in Form 26AS of a taxpayer should be allowed in intimation issued under section 143(1) of the Act while processing income-tax return. | Revenue and costs are reported in financial statements as per Indian Accounting Standards which are duly audited by statutory auditors. In some cases, costs incurred by a taxpayer are subsequently reimbursed which is reduced from the total costs (credit to the PL Account) for reporting in financial statements, instead of reporting it as revenue. Even otherwise, it has a neutral effect to PL Account. At times, a person responsible to reimburse cost deducts taxes on reimbursement which is then reported in Form 26AS. This creates a difference in gross amount appearing in Form 26AS with revenue as per financials.<br><br>Considering that reducing total costs by the reimbursement received has a neutral effect on the PL Account, entire credit of TDS as appearing in Form 26AS should be allowed while computing tax liability. |
| 40 | Specify a lower rate of TDS on gross payments made by Indian resident to NR having PE in India | A gross rate of TDS@ of 8-10% of the gross amount could be introduced for making payments to NR having a PE in India. | Currently, the rate of TDS on NR having a PE in India is 35% on Net basis (i.e. after allowing the deductions of the expenses incurred by NR). However, for the Indian deductor, it becomes quite impossible to estimate the expenses actually incurred by the NR to arrive at net profit figure. To overcome this, the Indian deductors are bound to resort deducting 35% on gross figure instead of net figure which becomes a matter of dispute or to approach the assessing officer for obtaining a Lower Deduction Certificate.<br><br>A gross rate of WHT of around 8-10% is justified in the sense that the normal net profit % for a business in today's scenario is around 20-25% of the total receipts. A rate of 8-10% on gross basis would be effectively same to a rate of 35% on Net basis. |

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| 41 | Tax Deduction at Source rules | Threshold limit in case of concessional TDS certificate | Since it is practically very difficult for large organisations to keep tab on the payments in excess of threshold for concessional TDS, it is recommended that The threshold limit should be done away with, and rather there should be only one concessional TDS rate for all payments during one fiscal |
| 42 | Tax Deduction at Source related to providing any benefit or perquisite to a resident **(Section 194R of The Income Tax Act)** | Compliance challenge in respect of implementing the provision on product samples issued and on usage of business assets as part of product trial | Issuance of samples to Doctors is a well-established practice and is in the best interest of patients. The samples issued to Doctors are marked as "not for sale" and accordingly there is no income accruing to Doctor on use of the samples for their patients. Accordingly, such samples that are marked as "not for sale" should be excluded from the coverage of these provisions as this would result in undue cost to the suppliers/customers. Similarly, the demo equipment is used by Doctor as a normal customer to take a purchase decision, and as such use of demo equipment should not be covered under the provisions under "use of business asset" and specific clarification should be released by CBDT under FAQ to clear Industry doubts and hardships.<br>Hence recommended that transactions related to samples issued to Doctors and usage of Demo assets should be specifically excluded from the application of this section |
| 43 | **TDS on Medical Samples under the provisions of 194 R** | This new mandate issued w.e.f 1st July 2022, prohibits ability to train as well as reskill clinicians/ other healthcare professionals | It may be noted that no two medical devices are same and they vary in usage technique significantly. Hence for medical devices, it is absolutely essential to train the entire surgical, ICU, laboratory team with hands-on training before they start using the medical devices and also to upgrade their skill from time to time. This is a regulatory mandate as well and the onus to train lies with the manufacturers of innovative devices. To conform with the same, the industry provides samples marked ' Physicians Samples- not for sale", whereby there is a minimal chance to monetise the same and earn something thereof.<br>Other than training samples are essentially provided for clinical evaluation as well.<br>The mandate to deduct 10 % TDS on the samples provided to hospitals/ individual consultants, above 20000 INR ( which may |

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| | | | be just a few catheters/ consumables/ disposables where medical devices are concerned ), will affect clinical up-skilling , re-skilling and also affect medical research. It would also cause undue complications to the tax assessment and can be prone to litigation.<br><br>Revoking the order of TDS deduction under 194 R may please be considered for this category. |
| 44 | Tax Deduction at Source | Decriminalization of provisions and improving ease of doing business | The tax deduction at source is in the nature of advance tax (pay as you earn) and to ensure that the tax net is stronger. The assessee that deducts and deposits tax is doing a service to the tax collection and support the efforts towards ensuring that no income escapes tax. This being an economic levy, the govt may like to consider replacing the existing prosecution related provisions with penalties and compounding provisions. This will help to deter the assessee from non-compliance and would also improve ease of doing business for the Industry in long run. For the newly introduced sections, there a moratorium period as deemed apt may be also considered, before any prosecution related provisions are applicable on these.<br>It is also recommended that there could be provisions on compounding of violations and all prosecution related provisions should be repealed. |
| 45 | Alignment of TDS rate on Professional services and Technical Services | - Currently, there are two rates of TDS prescribed under ITA for professional services (i.e.10%) and technical services (2%) on domestic transactions which lead to ambiguity and higher chances of litigation due to interpretational issues for the taxpayers. | A standard TDS rate of 2% should be made applicable for both professional and technical services. |

| Transfer Pricing | | | |
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| 46 | **Review of existing TP audits and litigation process**<br><br>'1. Every year cases are selected for scrutiny after a process of risk assessment of transfer pricing issues witnessing large number of litigation over the last 2 decades. This has led to multiple years under litigation at various appellate levels and courts, with longer periods for resolution .<br><br>'2. Different position taken by the authorities for same/similar issue within same location as well as other location. Jurisdictional order by Tribunal typically not applied by field officers.<br><br>'3. IT/ITES Captives routinely face high pitched transfer pricing assessments with mark-ups of 25 to 30 percent being asserted by tax officers at lower levels, as against mark-ups of 15-18 consistently concluded in APAs & MAPs across the years and resolved at the higher levels of appeal. | - The mechanism for selection of cases for scrutiny under CASS could be reviewed such as usage of inter-quartile range v. the current 35th to 65th percentile range, allocation of cases to field level officers based on industry / common issues criteria than on an alphabetical order, maintaining consistent positions for issues with a particular jurisdiction or even other jurisdiction, taking cognizance of jurisdictional Hon'ble High Court and Hon'ble Tribunal rulings and expand the scope of dispute resolution schemes like "Vivad se Vishwaas scheme" to settle such disputes. | A rational TP assessment process should result in reduction of litigation burden on the appellate forums. Under the current litigation structure, the appellate forums have tremendous pressure on closure of litigation matters. As the pendency of cases has been increasing, dispute resolution exercise takes a lot of time and it creates unnecessary pressure on the taxpayers in case of high demand matters.<br><br>Legislative and Administrative change may be considered. |
| 47 | Review of existing APA program<br><br>'1. Parallel continuation of litigation for the covered years till the APA is signed.<br><br>'2. Significant time lag between the filing of the APA and closure of the APA and Increase in average time taken to conclude APA. | Incorporating suitable provisions to enable keeping regular TP audits in abeyance for years covered under an APA which has been filed and in process. Simultaneous audits often lead to differential positions adopted by the field level TPO and APA, which causes hardship on the tax payer. There are some countries where such practice is being followed. | The review of the existing APA program and the suggested changes would result in more success of APA program and more taxpayers willing to achieve tax certainty while avoiding unjust tax litigations. This would also result in reducing pressure on the existing litigation system.<br><br>Administrative change may be considered. |

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| | '3. Exhaustive list of questions posed as part of questionnaire. Certain questions may not be relevant for the international transactions proposed to be covered in the APA. Multiple times same information sought, though already available in application.<br><br>'4. Revisiting the agreed positions in renewal application even in cases where there have been no changes in the facts and circumstances from the original APA. | In addition from an administrative standpoint, the APA team size could be expanded. Also a fixed tenure of officers could help in continuity of cases. All these could ensure faster closure of APA.<br><br>Further, from an APA structural standpoint having one APA authority instead of the current structure of an APA and CA office could expedite the cases. As per the current process while the CA office negotiates, it is the APA office that does the fieldwork and prepares the position paper. Further, as an alternative and to balance workload at APA office, only the APA office could only be involved in the unilateral APAs, where there is not much involvement of the CA office.<br><br>With regard to renewal application where there is no material change in facts adopting a simplified approach on similar lines as roll-back provisions. Further, clear timelines to close APAs (akin to DRP) could help a faster resolution.<br><br>Validation of APA terms and conditions through a term test than on an annual basis, could help increase efficiencies and reduce burden on the tax payers. | |
| 48 | Non-resident companies - Removing TP compliance burden | The TP compliance requirement for non-resident taxpayers leads to an unnecessary burden on the non-resident taxpayers to undertake compliances and undergo audit, with no incremental value-add to the tax governing machinery, considering that the Indian associated enterprise already has the | It is recommended that non-resident taxpayer i.e. foreign entities be excluded from the ambit of TP compliance in India, provided its Indian associated enterprise has undertaken the required compliances, including maintenance of TP documentation, with respect to same set of international transactions under consideration. |

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| | | onus of complying with the relevant regulations for the same set of international transactions from an Indian TP perspective. | |
| 49 | Review of safe harbour rules to make it more efficient | The rates set for captive services such as IT and ITeS services in the Safe Harbour Rules are often deemed excessively high, leading to a scenario where most captive taxpayers in India choose not to opt for them. | It is recommended to reduce the mark-ups and bring them closer to market rates to increase acceptability. It would result in substantial reduction in compliance and audit efforts for taxpayers and administration. |
| **Others** | | | |
| 50 | Deduction in respect of employment of new employees | Currently, Section 146 of the ITA 2025 (Section 80JJAA of the ITA 1961) is available for new employees – Employees with salary of more than INR 25,000 per month are not included for determining new employees. As per the Code on Wages, 2019, there is an increase in the minimum wages payable. Further, as per the Code on Wages, 2019, the definition of employee includes managerial and administrative persons. Therefore, as the employee includes managerial person, the limit of INR 25,000 per month may not be in accordance with the industry standards.<br><br>Considering the fact that the minimum wages payable has increased and also the definition of employee is widened by including managerial and administrative persons, the limit with respect to salary i.e. INR 25,000 prescribed under Section 146 of the ITA 2025 (Section 80JJAA of the ITA 1961) for claiming deduction will limit the ability of the company to claim deductions in respect of additional employees that have been added. | To cover additional employees, it is recommended to increase the salary limit in line with inflation to widen the scope of deduction that a tax ayer can claim under Section 146 of the ITA 2025 (Section 80JJAA of the ITA 1961). This is likely to reduce tax for the enterprise, which may be a minimal cost to the exchequer as additional employment could result in increment in individual income-tax collections. |

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| | | Increment in the ceiling will enable the enterprise to claim weighted deduction, enabling increment in cash flow, which may be utilized for meeting other funding needs. | |
| 51 | Simplified income tax return ('ITR') Form for foreign companies having NO PE in India and earning only royalty, FTS, dividend and capital gains. | It is recommended that a new simplified income tax return form should be introduced for foreign companies which do not have a PE / business connection in India similar to the SAHAJ form for individuals. This will help reduce compliance burden by removing collation of voluminous information. | The Government has made a very welcome amendment in section 115A of the Act vide Finance Act 2020 by exempting foreign companies from filing their ITR in India, only earning royalty / FTS, and where TDS is deducted as per the rates specified in that section. However, foreign companies availing beneficial rates under the DTAA's are still required to file the ITR.<br><br>Under the currently notified ITR Forms for companies, there is a single form for all companies (i.e. Indian as well foreign) which have extensive details like balance sheet, P&L, depreciation schedule, business losses schedule, MAT schedule, directors information, investment/ subsidiary details, etc.<br><br>Therefore, it is humbly submitted that such a detailed form is not required for foreign companies, particularly companies that do not have a PE or business connection in India. Accordingly, a new simplified form can be introduced for foreign companies similar to SAHAJ form applicable for individuals which would reduce compliance burden of the foreign companies. For foreign companies having a PE in India may continue with the existing forms as applicable to Indian companies as well. |
| 52 | Parity on tax treatment of Renewable Energy Certificates in line with tax treatment prescribed for carbon credits | It is recommended that beneficial tax treatment prescribed for carbon credits should also cover RECs. As per Section 115BBG of ITA 1961 (section of 94 ITA 2025), any gains from transfer of carbon credits is taxable at a beneficial rate of 10%. Thus, similar beneficial provision should be introduced for RECs. | Globally, renewable Energy Certificates are treated at par with carbon credits as they serve the same purpose. Thus, the treatment prescribed for carbon credits should be equally applicable for RECs. |

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| 53 | Exports promotion | There is a need for incentive for exports | Currently, there are no tax benefits on export income. Export being a growth engine for the economy it is important that efforts should be made to make it competitive in the international market. If we take a look at the India exports performance in recent past, this has been on a continuous decline and also impacting balance of trade. One of export incentive measure related to direct tax exemption for the export profits would attract investment to export competitive sectors and will provide impetus to this sector.<br><br>Hence, a methodology for exemption of income from exports is recommended. |
| 54 | No suspension of limitation u/s 153(5) to pass order giving effect (OGE) when appeals filed by the Tax Dept | Amend sec 153(5) of ITA 1961 (section 286 of ITA 2025) to clarify that filing -of an appeal by the Tax Dept should not suspend the time limit for order giving effect to the appellate authority's order<br><br>Introduce a mechanism where the OGE is automatically passed, but it is subject to modification if the higher court reverses or modifies the decision | Currently, there is a practice where the tax officer might not pass the OGE if an appeal is filed by the Tax Dept to higher court |
| 55 | Strict timeline for refunds u/s 240 | A strict time limit for issuing refunds (e.g., 30 to 60 days from the date of the appellate or revisional order) | Currently, section 240 provides for refunds if an order is reversed, but there is no specific timeline mentioned for processing refunds. |
| 56 | No need to file repetitive appeals on the identical issue | Amend Sec 158 AB of ITA 1961 (section 376 of ITA 2025) to include no need to file appeal either by the Assessee or Tax Dept in the case of identical matters already decided either in favour or against the Assessee | Section 158AB was introduced to prevent repetitive appeals by the Tax Dept on identical questions of law that are already pending before the higher courts. The same can be further extended in case an issue has been decided either in favour or against the assessee in an earlier year, no appeal needs to be filed by the Dept or Assessee if the issue is identical in later years. |
| 57 | Scrapping of ICDS | All ICDS should be scrapped | Tax should be paid on income as per the audited books of accounts maintained in accordance with generally accepted accounting principles. ICDS introduces a significant element of complexity. |

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| 58 | Leasing Industry | Inconsistent approaches are being taken by different tax officers within tax department. The tax department has been recharacterizing transactions from operating lease to finance lease resulting in ambiguity and inconsistency in tax treatment.<br><br>Tax department also continues to challenge tax treaty benefits for lessors leading to uncertainty and adverse tax implications as per Indian domestic law.<br>Supreme Court ("SC") recently passed a decision denying lower rates and narrower scope of taxation to non-residents claiming benefits under Most Favoured Nation clauses (MFN) if the third state was not an OECD member when India signed the tax treaty.<br>SC ruled that in such case a taxpayer can only avail benefits of the MFN clauses, after the Indian government has issued a notification<br>In the absence of notification, MFN benefit will not be available to the lessors from OECD countries<br>Although GIFT city may be effective from Indian lease perspective, it still lacks tax efficiency for leases to overseas jurisdictions, mainly due to lack of better treaty language / network which India has with other countries.<br>The aforesaid issues impact the ease of doing business in India for NR lessors which needs to be streamlined. | Create certainty through issuance of Guidance to ensure objective and unified approach within the Tax Department.<br><br>Issuance of the required notification under Section 90 of the Income Tax Act 1961 – aligned with intention of the tax treaty entered into with tax treaty partner to extend the benefit of MFN clause<br><br>Encourage investment to enhance attractiveness of GIFT City by extending benefits to non-resident lessors. |
| 59 | Rationalisation of tax rate for FTS/Royalty | Finance Act 2023 increased the applicable base tax rate on gross payments received by foreign companies (being in nature of FTS/Royalty) from 10% to 20%. | Considering the impact of increased tax rate on foreign companies and their ease of doing business in India, the increased tax rate of 20% on FTS/Royalty payment should be reconsidered/rolled back. |

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| | | Such increased tax rate can negatively impact the non-resident/foreign companies conducting business in India. | |
| 60 | Maintenance, Repair & Operations (MRO) industry | In order to make the Indian MRO industry attractive, the Government should consider tax concessions/benefits in the direct tax area. | Reduced corporate tax rate of 15% to be extended to MROs keeping at par with manufacturing companies; lower rate of withholding @ 2% on payments made by Indian operators to MRO, similar to contractor payments in order to address cash-flow issue. |
| 61 | Binding timelines on appeals and litigation - No mandatory time frame for Appellate Commissioners and Income Tax Tribunals to provide their rulings | The tax litigation process in India generally takes a long time to reach conclusive stages. The delay in dispute resolution, costs involved, along with the increasing magnitude of cases call for an efficient policy of litigation. Time-bound litigation will provide relief to taxpayer as well as Tax department.<br><br>Time limit in processing the refund will give taxpayer more liquidity. The improved cash flows will indirectly lead to better supply chains and faster economic growth.<br><br>A non-resident taxpayer has an added exposure to currency fluctuations with respect to any refunds that he may be pursuing in the courts. In the past, gradual but steady depreciation of the rupee against all leading currencies of the world, has resulted in significant economic loss to non-resident taxpayers even in cases where the rulings have been adjudged in their favour. | Prescribe binding timelines for disposal of appeals filed before CIT(A) and ITAT, instead of recommendatory timelines prescribed under the erstwhile tax provisions. |
| 62 | Streamlining process for issuance of refund | Currently, the process of issuance/processing of refund is unclear in terms of timelines, adjustment of refund with demand and crediting of refund. | Specific timeline for additional interest should be prescribed in case of any delay in issuance/processing of refund post their |

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| | | While there are specific provision for additional interest in case of delay in processing of refund pursuant to appeal effect, there are no such similar provisions in case the refund determined pursuant to return processing (intimation) and rectification applications is not issued/processed for prolonged period.<br><br>Also, there have been frequent cases where refund determined is adjusted against erroneous outstanding demand even though the same is not collectible or stayed by formal stay order.<br><br>The aforesaid issues results in compliance cost and efforts for the taxpayer apart from the impending blockage of funds. | determination in the return intimation and rectification order and such timelines should be strictly enforced.<br><br>Strict monitoring on adjustment of refund against any outstanding demand which are subject to any stay order or pending rectification/appeal effects. |
| 63 | Ease of doing business in India by Foreign Companies. | As a general comment, companies would welcome any move to reduce the barriers to doing business in India by Foreign Companies whilst at the same time supporting the local Indian workforce and the Indian economy. Also, international tax rules in line with global consensus would be welcome. | Pillar Two rules i.e. IIR and QDMTT may be introduced as draft legislation for implementation. This would help Indian MNE groups to plan for the forthcoming implementation of these rules and also for public consultation with Indian tax authorities before IIR / QDMTT is implemented in final form.<br><br>Participating countries in the IF have agreed to incorporate Pillar 2 rules in their domestic tax legislation for their tax years beginning on or after 1 January 2024. More than 50 countries have already implemented this in their domestic tax legislation. India is a member of IF and accordingly the Pillar 2 rules may be incorporated in India’s domestic tax legislation. Government may consider forming a committee to deliberate on implementation of Pillar 2 rules i.e. IIR and QDMTT in India as well, to address complications which may arise after their incorporation in the tax law. |

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| 64 | Beneficial tax treatment in relation to income from sale of Renewable Energy Certificates (RECs) – New Section recommended.<br><br>Currently, the ITA 2025 includes beneficial provisions [i.e., Section 194(1), table sr.no.3 of ITA 2025 (Section 115BBG of ITA 1961)] in relation to income from transfer of carbon credits. However, there are no similar provisions in relation to RECs. | RECs are similar to carbon credits. | Concessional or NIL tax should be proposed in relation to income earned from sale/transfer of RECs. |
| 65 | Language in Defence Procurement Manual is inconsistent in relation to exchange rates at the time of bids. | Currently - full Exchange Rate Variance (ERV) protection for foreign vendors versus only minimal protection for Indian vendors. | ERV application should include Buy (Indian) and Buy and Make (Indian) categories of bids, to ensure level playing field between foreign and indigenous tenders |
| 66 | Draft Defence Acquisition Procedure (DAP) 2020 includes title clause whereby title transfer is expected to occur in India. | For foreign OEMs, having title transfer occur in India will not ease doing business in India.<br><br>It will likely create additional compliance burden for foreign OEMs – which translates into additional costs/resources. | Recommend to retain an option with contracting agency to accept transfer of title outside of India in case of Foreign Sellers. In such cases, the risk of loss or damage to Goods shall continue to remain with the Seller till acceptance of Goods by the Buyer.<br><br>This will promote ease of doing business in India whilst continuing to meet compliance and regulatory requirements with regard to licensing and local permits for import of Defence Goods in-country.<br><br>Additionally, title transfer outside of India aligns with the general language of the Tax Clause that Seller and Buyer paying taxes in their respective countries. |