Pre - Budget Recommendations 2025-26

Direct Taxes

American Chamber of Commerce in India
PHD House, 4th Floor, 4/2, Siri Institutional Area, August Kranti Marg, New Delhi - 110 016
Tel: 91-11-2654 1200 | Fax: 91 11-2654 1222
E-mail: amcham@amchamindia.com | Website: www.amchamindia.com

INPUTS / SUGGESTIONS FOR PRE BUDGET MEMORANDUM 2025 - 26

Direct Taxes

Contents

S.No.	Issue/Area of Challenge	Suggestions	Justification/Remarks
Personal Taxation			
1.	Standard deduction enhancement	Increase the standard deduction under Section 16 of the Income-tax Act, 1961 ('the Act') to INR 150,000 or more for all salaried taxpayers	• Section 16 of the Act provides for a standard deduction for salaried employees. • Enhancing the standard deduction will provide relief to salaried employees facing inflation and increased living costs. This change will improve disposable income and support economic growth.
2.	Revision of Tax Slab Rates for Personal tax	Revision of tax slab rates to provide relief to taxpayers and align with global standards.	• The current income-tax provisions require individuals to pay taxes based on slab rates, with the very high slab rates • Revising the tax slab rates will provide more purchasing power to individuals and relief to employed taxpayers. • This change will align India's tax rates with those of neighboring countries, making India more competitive and attractive for talent.
3.	Increase threshold limit under Section 80C of the Act	Raise the overall deduction limit under Section 80C of the Act to at least Rs 350,000.	• Section 80C of the Act provides for deductions on various investments and expenditures. • The current limit of Rs 150,000 has not been revised for several years, leading to reduced tax savings for individuals. Increasing the threshold limit will encourage savings and investments, supporting economic growth. • This change will provide relief to taxpayers and improve financial planning.
4.	Exemption in respect of Provident Fund ('PF') contribution already taxed	There should be a specific provision in the Act providing exemption **in respect of contributions/accretions already taxed under section 17(2)(vii) of the Act at the time of PF withdrawal.**	• Section 17(3) of the Act provides for the taxability of funds received from Provident Fund if certain conditions are not met. • The Finance Act, 2020, introduced a provision where employer contributions to

			recognized provident funds exceeding INR 750,000 are taxable in the year of contribution. • Without a specific exemption, there could be double taxation at the withdrawal stage for contributions/accretions already taxed. This change will prevent double taxation and provide clarity, ensuring fair treatment of PF contributions.
5.	Bengaluru to be considered as metro city for the purpose of 10(13A) of the Act	Include "Bengaluru" in the metro city list for the purpose of House Rent Allowance ('HRA') exemption.	• Section 10(13A) of the Act, provides for HRA exemption, with higher limits for metro cities. • Currently, only Delhi, Mumbai, Chennai, and Kolkata are considered metro cities for HRA exemption purposes. • Including Bengaluru as a metro city will reflect its status as a major economic hub and provide equitable tax benefits to residents. • This change will support the growing workforce in Bengaluru and improve the overall business environment.
6.	Parity in treatment of employer vs. employee PF contribution	Remove the anomaly in the treatment of employer vs. employee PF contribution and bring them on the same parity.	• Section 36(1)(va) of the Act, disallows deductions for late deposit of employee PF contributions. • The Supreme Court judgment in the case of M/s Checkmate Services Pvt. Limited highlighted the issue of disallowing deductions for late deposits of employee contributions while allowing them for employer contributions. • Aligning the treatment of employer and employee PF contributions will prevent undue burden on employers and ensure fairness. This change will support compliance with PF laws and improve the ease of doing business.

7.	Grant of Double Taxation Avoidance Agreement ('DTAA') at withholding stage for salaried individuals	Section 192 of the Act should be amended to expressly provide that while computing TDS at the time of payment of salary, benefit under DTAA should be provided for.	• Section 192 of the Act provides for tax deduction at source on taxable salary by the employer. • The current provisions do not explicitly allow claiming DTAA benefits while calculating TDS, leading to higher tax deposits and cash flow challenges. Allowing DTAA benefits at the withholding stage will prevent cash flow issues and administrative challenges in refund follow-ups. • This change will align with favorable judicial rulings and improve the ease of doing business for employers and employees.
8.	Revised/ Belated Return	There is a requirement to extend the due date of filing the revised/ belated return at least till 31st March instead of 31st December.	• Due date for filing the revised return or belated returns have been kept as 31 December of the following financial year. • In a situation where the assessee is ROR in India claiming foreign tax credit, it will be difficult to finalise the FTC to be claimed in his India tax return when the return for the calendar year is not yet finalised in overseas jurisdiction (for e.g. in US, 2024 return would be finalised only in April 2025. However, the revised/belated returns can be filed for FY 2023-24 only till 31 December 2024 to claim the credit for taxes paid for the period Jan-March 2024). • If there will not be extension of due date for belated/revised return filing, then the FTC claimed on the return may not be final one as it would be claimed on estimated basis or basis the taxes withheld at source in overseas jurisdiction
Withholding Tax and Tax Collected at Source			
1.	Alignment of TDS rate on Professional services and Technical Services	A standard TDS rate of 2% should be made applicable for both professional and technical services.	• Currently, there are two rates of TDS prescribed under the Act for professional services

			(10%) and technical services (2%). The different rates lead to ambiguity and higher chances of litigation due to interpretational issues. • Aligning the TDS rates will reduce disputes and provide clarity to taxpayers. This change will simplify compliance and improve the ease of doing business.
2.	Tax Collection at Source ('TCS') on sale of goods	Where the eligible buyer has defaulted in deducting TDS on the purchase of goods, the seller should be absolved from undertaking TCS compliances on such transactions.	• Currently, the liability to deduct TDS lies with the buyer of goods, but if the buyer defaults, the seller must comply with TCS provisions. The overlapping TDS and TCS provisions create compliance challenges and disputes between buyers and sellers. • Absolving the seller from TCS compliance in case of buyer default will simplify compliance and reduce litigation. This change will provide ease of doing business and improve the efficiency of tax administration.
3.	Repeal of prosecution related provisions	All prosecution-related provisions should be repealed.	• TDS provisions are in the nature of advance tax and ensure that the tax net is stronger. The current prosecution-related provisions create compliance challenges for taxpayers. • Replacing prosecution provisions with penalties will improve ease of doing business. This change will deter non-compliance and support the government's objective of simplifying tax administration.
4.	Rationalisation of tax rate for FTS/Royalty paid to non-residents and foreign companies.	The increased tax rate of 20% on FTS/Royalty payments should be reconsidered/rolled back.	• The Finance Act, 2023, increased the applicable base tax rate on gross payments received by foreign companies (being in the nature of FTS/Royalty) from 10% to 20%. • The increased tax rate can negatively impact foreign companies conducting business in India. Rolling back

			the increased tax rate will encourage foreign investment and improve the ease of doing business. This change will align with global best practices and support economic growth.
5.	Removal of either 194Q or 206C(1H)	Either Section 194Q or Section 206C(1H) of the Act may be retained to remove practicaldifficulties.	• Section 194Q of the Act mandates TDS on the purchase of goods, while Section 206C(1H) of the Act requires TCS on the sale of goods. The overlapping TDS and TCS provisions create compliance challenges and increase the administrative burden for businesses. • Retaining only one of these provisions will simplify compliance and reduce administrative burdens. This change will align with the government's objective of improving the ease of doing business and reducing litigation.
6.	Modification of TDS Return Form to capture invoice-wise details	Modify the TDS Return Form to capture invoice-wise details for amount paid/credited and TDS/TCS made thereon, which then also gets reflected in the Form 26AS.	• The current TDS Return Form does not include references to invoice numbers, leading to challenges in tracking and reconciling tax credits. • Unlike GST returns, the TDS Returns only capture the date of credit or payment as per the books of the deductor, making it difficult for deductees to reconcile credits with their books of accounts. • Including invoice-wise details in the TDS Return Form will simplify tracking and claiming of tax credits, easing revenue reconciliation between Form 26AS and financials & GST returns. This change will improve compliance and reduce administrative burdens for taxpayers.
7.	Rationalizing the provisions of Chapter XVII of the Act	Simplify the withholding tax provisions by consolidating them into two broad categories tangible goods and services	• Chapter XVII of the Act deals with the collection and recovery of taxes at source, with multiple sections and various exemptions/thresholds. The current provisions are

			cumbersome and lead to confusion and litigation. • Consolidating the provisions will simplify compliance and reduce administrative burdens. This change will align with the government's objective of improving the ease of doing business and reducing litigation.
8.	TDS on promotional goods/services and promotional credits.	Issue a clarification on the non-applicability of withholding tax under Section 194R of the Act on promotional goods/services and promotional credits.	• Section 194R of the Act mandates TDS on benefits or perquisites provided to a resident. The provision aims to tax non-monetary benefits, but its application to promotional goods/services and credits has led to practical challenges. • Clarifying the non-applicability will prevent undue costs to suppliers and customers, supporting business promotion activities. This change will align with commercial practices and improve the ease of doing business.
9.	Rate of TDS under Section 194R of the Act	Lower the TDS rate from 10% to 5% and increase the threshold from INR 20,000 to INR 50,000.	• Section 194R of the Act, mandates a 10% TDS on benefits or perquisites provided to a resident if the value exceeds INR 20,000 in a year. The current rate and threshold lead to working capital issues and increased compliance burdens. • Lowering the TDS rate and increasing the threshold will reduce the financial burden on taxpayers and simplify compliance. • This change will support business operations and improve the ease of doing business.
10.	TDS on consideration for the sale, distribution, or exhibition of cinematographic films, including those released on OTT platforms.	Apply the reduced TDS rate of 2% under Section 194J of the Act to consideration for the sale, distribution, or exhibition of cinematographic films, including those released on OTT platforms.	• Section 194J of the Act deals with TDS on fees for professional or technical services, with a reduced rate of 2% for royalty on cinematographic films. • The term 'cinematographic films' is not defined, leading to ambiguity regarding its

			application to films released on OTT platforms. Clarifying the application of the reduced rate to OTT platforms will align with industry practices and reduce litigation. • This change will support the growth of the digital entertainment industry and improve compliance.
11.	Rationalisation of TCS provisions for non-resident investors under Section 206C(1H)	Relax the application of TCS provisions under Section 206C(1H) of the Act for non-resident investors without a permanent establishment in India.	• Section 206C(1H) of the Act mandates TCS on the sale of goods, including transactions involving non-resident investors. • The current provisions create compliance challenges for non-resident investors, leading to liquidity issues and the need to file income-tax returns in India. Relaxing the TCS provisions will reduce the compliance burden on non-resident investors and improve the ease of doing business. • This change will attract foreign investment and support economic growth.
12.	Amendment to provisions of Section 197 of the Act	Include Sections 194Q and 194R of the Act in sub-section (1) of Section 197 of the Act to enable taxpayers to obtain NIL withholding certificates.	• Section 197 of the Act allows taxpayers to apply for NIL or lower withholding certificates for certain sections. The current provisions do not include • Sections 194Q and 194R of the Act limiting the ability of taxpayers to obtain NIL withholding certificates for these sections. Including these sections will provide flexibility to taxpayers and reduce the compliance burden. • This change will align with practical business needs and improve the ease of doing business.
13.	Amendment to TCS provisions under section 206C(1G)	Clarify that the provisions of Section 206C(1G) of the Act would not be attracted in the case of a non-resident seller of overseas tour packages.	• Section 206C(1G) of the Act mandates TCS on the sale of overseas tour packages. The current provisions do not provide clarity on the applicability of TCS to non-

			resident sellers, leading to compliance challenges. • Clarifying the non-applicability will reduce the compliance burden on non-resident sellers and support the ease of doing business. This change will align with practical business realities and improve compliance.
14.	Withholding tax on cloud-based transactions	Provide clarification that no TDS should be applicable on cloud-based transactions as these are pure services not amounting to technical services or royalties.	• The current provisions lead to ambiguity regarding the applicability of TDS on cloud-based transactions. The advent of equalization levy has further complicated the tax treatment of cloud services, leading to litigation. • Clarifying the non-applicability of TDS will reduce litigation and provide certainty to taxpayers. This change will support the growth of the digital economy and improve the ease of doing business.
Transfer pricing related suggestions			
1.	Time limit on resolving matters under Mutual Agreement Procedure ('MAP')	Specifying a time limit for resolving MAP cases will provide certainty to the dispute resolution process.	• MAP is a special procedure under tax treaties that allows competent authorities of treaty partners to resolve disputes on tax adjustments. • Currently, there is no prescribed time limit for resolving MAP cases, leading to prolonged disputes. • Introducing a time limit will ensure timely resolution of transfer pricing disputes, providing certainty to taxpayers and reducing the backlog of pending cases. • This will enhance the efficiency of the dispute resolution process and improve taxpayer's confidence.
2.	Broadening of comparable range	The comparable range should be amended from the 35th-65th percentile to the 25th-75th percentile.	• Transfer pricing regulations require the use of comparable data to determine arm's length prices.

			• The current range of 35th-65th percentile is narrower compared to global practices. • Broadening the range to 25th-75th percentile will align with international standards and reduce litigation. This change will provide a more accurate reflection of market conditions and improve the reliability of transfer pricing analyses.
3.	Standardization of benchmarking approach by Transfer Pricing Authority	A standardized benchmarking approach should be adopted to reduce litigation and conflicting positions.	• Transfer Pricing Officers use various approaches for benchmarking, leading to inconsistencies. • Different jurisdictions adopt different methods, such as Forex earnings, Employee Cost Ratio, and Turnover Limits, causing multiple litigations. • Standardizing the benchmarking approach will ensure uniformity and reduce disputes. This will provide clarity to taxpayers and improve the efficiency of transfer pricing assessments.
4.	Removing TP compliance burden on flip side entity	Non-resident taxpayers should be excluded from the ambit of TP compliance in India, provided their Indian associated enterprise has undertaken the required compliances.	• Sections 92D and 92E of the Act require a non-resident taxpayer to undertake TP compliances. • The TP compliance requirement for non-resident taxpayers leads to an unnecessary burden, considering that the Indian associated enterprise already complies with the relevant regulations. • Excluding non-resident taxpayers from TP compliance will reduce administrative burdens and improve the ease of doing business. This change will align with global best practices and support foreign investment in India.
5.	Block Transfer Pricing assessment to be considered for some issues	Implement block transfer pricing assessments for 3-5 years for cyclical transactions such as royalty and intra-group services.	• The current transfer pricing framework requires annual assessments, leading to repetitive compliance burdens.

			• Certain transactions have cyclical impacts and do not require annual assessments. • Implementing block assessments will reduce compliance burdens and align with global best practices. This change will improve the efficiency of transfer pricing assessments and reduce litigation.
6.	Keeping regular assessment in abeyance till Advance Pricing Agreement ('APA') conclusions	Suspend the assessment process until the APA process is concluded or withdrawn, whichever is earlier.	• Section 143 of the Act deals with the assessment of income. • The current provisions do not provide for the suspension of regular assessments during the APA process, leading to parallel compliance burdens. • Suspending regular assessments will streamline the APA process and reduce compliance burdens. This change will align with global best practices and improve the efficiency of tax administration.
7.	Removal of restriction under section 92(3) of the Act for unilateral APAs	Carve out APAs and MAPs from the restrictive effect of Section 92(3) of the Act.	• Section 92(3) of the Act restricts the reduction of taxable income or increase in losses due to transfer pricing adjustments. • The current provisions limit the benefits of APAs and MAPs, leading to higher tax costs for taxpayers. • Removing the restriction will enhance the effectiveness of APAs and MAPs, providing certainty and reducing litigation. This change will support international tax cooperation and improve compliance.
8.	Adjustment for withholding tax on conclusion of APA	Allow AEs to claim refunds for excess withholding tax by the Indian entity upon conclusion of the APA.	• Section 92CD of the Act deals with the modified return of income upon conclusion of an APA. • The current provisions do not provide a mechanism for refunding excess withholding tax, leading to additional tax burdens.

			• Allowing refunds will align with the legislative intent and provide fairness to taxpayers. This change will support the APA process and improve compliance.
9.	No 3CEB filing for taxpayers exempt from filing income-tax return – Section 92E of the Act	Amend Section 92E of the Act to exempt non-resident taxpayers from filing Form 3CEB if they are exempt from filing income-tax returns under Section 115A(5) of the Act.	• Section 92E of the Act requires the filing of Form 3CEB for international transactions, while Section 115A(5) of the Act exempts certain non-residents from filing returns. • The current provisions create an anomalous situation where non-residents are exempt from filing returns but still need to file Form 3CEB. Providing an exemption will reduce compliance burdens and align with the legislative intent. This change will support foreign investment and improve the ease of doing business.
Industry-Specific Recommendations			
Financial Services			
1.	Higher deduction of provision for bad and doubtful debt for Non-Banking Finance Companies (NBFCs)	Amend Section 36(1)(viia) of the Act to provide additional deduction for provision for bad and doubtful debts relating to rural advances of NBFCs similar to that provided for banks.	• Section 36(1)(viia) of the Act allows banks a deduction for provision for bad and doubtful debts not exceeding 8.5% of the specified total income and 10% of the aggregate average rural advances. • NBFCs are currently allowed a deduction of up to 5% of the total income for provision for bad and doubtful debts. • Harmonizing the deduction available to NBFCs with that of banks will support financial lending to rural areas and Tier 3 cities. This change will encourage NBFCs to extend more credit to underserved regions, promoting financial inclusion and economic growth.
2.	Amendments for Offshore Derivative Instruments ('ODI') issued by IFSC Banking Unit ('IBU')	Provide an exemption to non-resident ODI holders for all incomes distributed by the IBU, regardless of whether the income is taxable in the hands of the IBU.	• Section 10(4E) of the Act, provides an exemption for income distributed by an IBU to ODI holders, only if the income is taxable in the hands

			of the IBU under Section 115AD of the Act. • The current provisions create a disadvantage for FPIs set up in IFSC compared to those in jurisdictions like Singapore or Mauritius. • Providing a comprehensive exemption will level the playing field for IFSC-based FPIs and attract ODI business to India. This change will enhance the competitiveness of IFSC and support the growth of the financial services sector.
3.	Benefits to be provided to foreign Fund Managers moving to IFSC.	Treat foreign fund managers and other foreign employees moving to IFSC as non-residents and tax their income at a lower rate, similar to other offshore jurisdictions.	• The current tax framework does not provide specific incentives for foreign fund managers moving to IFSC. • Jurisdictions like Singapore offer a concessionary tax rate of 10% for income derived by fund managers from managing or advising qualifying funds. • Providing similar tax incentives will encourage the relocation of fund managers to IFSC, boosting the financial services sector and enhancing India's position as a global financial hub. This change will attract talent and investment to IFSC.
4.	Exemption from TDS under section 196 of the Act for certain other banks	Amend Section 196 of the Act to grant exemption from TDS to all banks.	• Section 196 of the Act provides for TDS exemption on interest income other than on securities for certain banks. Indian banks face significant administrative challenges due to TDS on various income streams, requiring them to collect and reconcile numerous TDS certificates. • Granting a blanket TDS exemption to banks will streamline administrative processes and improve cash flow management. This change will reduce compliance burdens and support the efficient functioning of the banking sector.

5.	Amendment to Section 9A of the Act	The conditions mentioned in section 9A(3)(e), 9A(3)(f), and 9A(3)(g) of the Act should be deleted as it is not feasible to verify these conditions.	• Section 9A of the Act was introduced to provide a safe harbor to offshore funds managed by fund managers in India. • The conditions under Section 9A(3) of the Act are stringent and include requirements such as having a minimum of twenty-five members who are not connected persons, participation interest limits, and restrictions on Indian residents' holdings. • Section 9A of the Act aim to attract offshore funds to India by providing clarity on tax implications. However, the stringent conditions have made compliance challenging. • The definition of connected persons is extremely wide and out of sync with commercial realities, leading to unintended consequences. Deleting these conditions will align the provisions with practical fund management scenarios and encourage more offshore funds to operate from India.
6.	Extending the tax holiday period of IFSC-GIFT City units	Amend section 80LA to extend period of deduction to units set up in an IFSC, from the existing 10 years to a longer period (say 20 years).	• Section 80LA provides for a deduction in respect of income of International Financial Service Centre [IFSC] Units/ its investors in accordance with the provision of this section. • The income-tax holiday available to units in IFSC can be extended to make it lucrative for foreign players, as the current tax holiday is for a very short-term period. (Just to compare, Dubai International Financial Centre provides tax holiday for 50 years). • Extending the tax holiday to IFSC units likely to make GIFT City competitive with other overseas financial centres, leading to growth in India's GDP, job creation, increase in

			foreign currency reserves, and related economic benefits.
Education Sector			
1.	Clarification in relation to tax implications/incentives to foreign universities	Provide express clarification that setting up International Branch Campuses (IBC) or Offshore Education Centres should not be covered under the purview of Section 9 of the Act.	• Section 9 of the Act deals with the income deemed to accrue or arise in India. • The current provisions create uncertainty for foreign universities setting up campuses in India, particularly regarding Permanent Establishment (PE) exposure. • Clarifying the tax implications will encourage top foreign universities to establish campuses in India, supporting the growth of the education sector and enhancing India's global educational standing. This change will attract international talent and investment in education.
Healthcare Sector			
1.	Anomaly in depreciation rates for healthcare equipment	Increase the rate of depreciation for critical healthcare equipment from 15% to 40%.	• Section 32(1) of the Act provides depreciation rates for various assets, with certain life-saving medical equipment eligible for a higher rate of 40%. • The current depreciation rate for many critical healthcare equipment is 15%, leading to discrimination between different categories of healthcare equipment. Increasing the depreciation rate for all critical healthcare equipment will align with the government's objective of promoting healthcare infrastructure. • This change will encourage investment in healthcare equipment and improve the availability of advanced medical technologies.
2.	TDS on medical samples	Revoke the order of TDS deduction under Section 194R of the Act for medical samples provided to hospitals and individual consultants	• Section 194R of the Act mandates TDS on benefits or perquisites provided to a resident.

			• The provision aims to tax non-monetary benefits, but its application to samples and demo assets has led to practical challenges. Excluding samples and demo assets from the scope of Section 194R of the Act will prevent undue costs to suppliers and customers. • This change will support the healthcare industry and promote the use of medical samples for patient care.
Manufacturing			
1.	Inclusion of trading activities which are ancillary or related to manufacturing entity under Section 115BAB of the Act	Clarify the provisions of Section 115BAB of the Act to include trading activities ancillary or related to manufacturing, with a prescribed threshold of gross turnover.	• Section 115BAB of the Act, provides a lower tax rate for new manufacturing companies but excludes other income not derived from manufacturing. The current provisions do not accommodate trading activities that are ancillary to manufacturing, leading to higher tax rates for such income. Including ancillary trading activities will support the growth of manufacturing companies and align with commercial practices. • This change will reduce the tax burden and promote investment in the manufacturing sector.
2.	Accelerated depreciation benefit for advanced biofuel units.	Include 'advanced biofuel units' for accelerated depreciation benefit under Section 32 of the Act	• Section 32 of the Act provides accelerated depreciation for renewable energy devices but does not include advanced biofuel units. • The current provisions do not provide specific incentives for advanced biofuel production, which is essential for sustainable energy. Including advanced biofuel units for accelerated depreciation will encourage investment in biofuel technologies and support the growth of the renewable energy sector. This change will promote environmental sustainability and energy security.

3.	Tax holiday for advanced biofuel units.	Provide a tax holiday for a period of 10 years on profits earned by advanced biofuel units, similar to the benefits under Sections 80IA-IE of the Act.	• Sections 80IA-IE of the Act, provide tax holidays for specific industries but do not include advanced biofuel units. • The current provisions do not provide specific tax incentives for advanced biofuel production, which is critical for sustainable energy. Providing a tax holiday will support the development of advanced biofuels and create an ecosystem for accelerated deployment. • This change will attract investment in biofuel projects and promote environmental sustainability.
Leasing Sector			
1.	Leasing Industry	Create certainty through the issuance of Guidance to ensure an objective and unified approach within the Tax Department.	• The tax department has been recharacterizing transactions from operating lease to finance lease, leading to ambiguity and inconsistency in tax treatment. • The lack of clear guidelines has led to disputes and adverse tax implications for lessors. • Issuing guidance will provide clarity and consistency in tax treatment, reducing litigation. This change will encourage investment and enhance the attractiveness of GIFT City by extending benefits to non-resident lessors.
Green Energy and addressing Climate Change			
1.	Tax benefits for entities involved in mitigating climate change/environment protection	Allowance of deduction of expenditure revenue or capital on efforts in mitigating climate change and environment conservation on the lines of Section 35 “Expenditure on scientific research” may be provided.	• Currently, there is no provision in the Act for providing tax benefits to entities making expenditures towards efforts in mitigating climate change and environment conservation. • Though environment conservation is covered under the Schedule VII of CSR provision of Companies Act, 2013, expenditure in respect of that is not allowed under Section 37(1) of the Act.

			• Providing tax incentives for expenditures on climate change and environment conservation will encourage entities to contribute to national commitments under the Paris Agreement and UN Sustainable Development Goals. This change will support environmental sustainability and align with global best practices.
Suggestions under International Tax			
1.	Significant economic presence (SEP) - Clarity around the method in determining / attribution of profits / income in respect of significant economic presence in India.	**It is suggested that new rules should be determined for attribution of profits / income in respect of SEP.** Increase SEP thresholds to mirror those agreed to as a part of the Pillar 1 framework. Provide exemption from return filing requirements for NRs having SEP in India as long as they are entitled to the benefits of a tax treaty. **It is suggested to exempt procedural requirements (like obtaining PAN, filing return, etc.) where SEP is triggered but treaty protection is available.**	• CBDT vide notification dated 3rd May 2021 had prescribed thresholds for provisions of SEP through insertion of Rule 11UD under the Income tax Rules, 1962 which is effective from financial year 2021-22. The notifications provide that the transactions in respect of any goods, services or property carried out by a non-resident with any person in India including provision of download of data or software in India shall fall under the ambit of SEP if the aggregate of payments arising from such transaction or transactions during the previous year exceeds INR 2 crores. • However, **no clarity has been provided with respect to the methodology to be followed for computing of profit attributable for a non-resident in India.** • Attribution of profits has been a complex issue wherein diverse methodologies are followed by tax officers leading to uncertainty for taxpayers. As a result, CBDT had formed a committee to examine existing scheme of profit attribution to Permanent Establishment (PE) and recommend changes in current domestic tax laws. The Report of the Committee was released by CBDT in April 2019 for public consultation. However, there has not been

			any further development on this front yet. • The revenue thresholds for triggering SEP are currently set at INR 2 crores. Considering that the threshold under the Pillar 1 consensus is set at EUR 1 million, the government could consider increasing the threshold under domestic law to mirror the EUR 1 million threshold under Pillar 1 • Once the income is not taxable in India by virtue of a tax treaty, the same may not fall within the charging sections of the Act. Thus, Section 139 which requires filing of return of income may not have application, once charging provisions itself are not applicable. Given the wide applicability of SEP, a specific exemption from tax return filing should be granted. • Separately, while SEP provisions may not extend to non-residents from tax treaty jurisdictions, but tax authorities may insist that such taxpayer should comply with various procedural requirements of the Act. • Hence, to avoid unwarranted compliance burden for non-resident entities and promote ease of doing business in India, it may be explicitly provided that the taxpayers on whom SEP provisions apply but they are eligible for applicable tax treaty protection, will not be required to undertake procedural compliances under domestic law.
2.	SEP Condition prescribed in Section 9 for normal material imports and service imports	**A plain reading of the SEP provisions could cover within its ambit even normal import of goods or services, causing undue hardships.** Moreover, this may defeat the basic intent behind introducing these	• As per the memorandum explaining Finance Bill 2018 which brought the concept of SEP in business connection definition, the intention for SEP is to cover emerging business models such as

		provisions, i.e. to tap digital transactions. Thus, express exclusion of normal import from the definition of SEP could be provided.	digitized businesses, which do not require physical presence to operate in India. Therefore, this may defeat the basic intent behind introducing these provisions. • It is causing undue hardship to NRs payee and sometimes payers as well for **normal imports** in below cases: - (i)In cases wherein NRs are covered by treaty PE provisions, the NRs are required to obtain a PAN in India and file returns in India to obtain the treaty benefits. It overall **defeats the whole purpose of representing India as ease of doing business jurisdiction.** (ii) In cases wherein NRs are not covered through a treaty, it may put in additional tax burden on NRs and in case of specific raw materials / services required, which is not otherwise available through any other jurisdiction, residents as a payer may even be required to gross up and pay the withholding. This may make the whole thing unviable to procure and hampers the objective for make-in-India or ease of doing business in India.
3.	Exports promotion	Income from exports should be exempt from tax to make Indian exports competitive in the international market.	• Currently, there are no specific tax benefits for export income under the Act. The lack of tax incentives for exports has contributed to a decline in India's export performance. Exempting export income from tax will attract investment in export-oriented sectors and boost India's competitiveness. This change will support the government's objective of promoting exports and improving the balance of trade.
4.	Pass-through taxation structure for Category III AIFs	Grant complete pass-through status for taxation to Category III AIFs, similar to Category I and Category II AIFs.	• Currently, Category I and Category II AIFs have been granted complete pass-through status for taxation, but

			Category III AIFs follow general trust taxation principles. • The lack of pass-through status for Category III AIFs creates uncertainty and serves as a disincentive for new investors. • Providing pass-through taxation status will reduce compliance burdens and attract more foreign investors to Category III AIFs. This change will support the growth of the PE/VC industry and enhance investment in India.
5.	Enabling receipt of tax refunds by non-residents not having bank account in India	Build a mechanism to issue refunds to non-resident taxpayers directly to their foreign bank accounts.	• The current tax framework does not provide a clear mechanism for issuing refunds to non-residents without an Indian bank account. Non-residents face difficulties in obtaining refunds directly in their foreign bank accounts, often requiring them to open bank accounts in India solely for this purpose. • Enabling refunds to foreign bank accounts will reduce compliance burdens and improve the ease of doing business for non-residents. • This change will attract foreign investment and support international business operations.
6.	Exempt return requirement if withholding is Done Under Act or Treaty	Exempt non-resident taxpayers from filing income tax returns in India if tax has been withheld at source under the Act or DTAA	• PAN and the withholding tax details (information trail) is already available with the tax Department, ensuring that the necessary information is accessible for tax administration purposes. • This exemption will reduce the compliance burden on non-resident taxpayers, making India a more attractive destination for foreign investment and business operations

			• It will streamline the tax administration process by eliminating redundant filings, thereby allowing the Tax Department to focus on more critical compliance and enforcement activities.
7.	Streamlining of administrative procedures	Introducing a functionality to enable all non-residents not having a PAN for filing electronic Form-10F and not limited to Non-residents who do not have PAN and are not required to obtain a PAN in India	• Recently, e-filing portal has been updated to enable compliance relating to furnishing e-Form 10F for companies not holding and not required to have a PAN in India. • This non-PAN based functionality is a welcome move, however, this functionality should be updated to cover all non-residents not having a PAN to cover the cases for grossing up contracts where the TDS liability is borne by the resident payer. This will ensure that there is no unwarranted burden on the payer given that the TDS liability is borne by such payer and not the non-residents.
Suggestions Under M&A Tax			
1.	Amendment to Section 47 of the Act – Amalgamation of foreign companies, resulting in transfer of shares of Indian company	Provide specific provisions to exempt shareholders of the amalgamating foreign company from capital gains tax, similar to domestic company amalgamations.	• Section 47(via) and 47(viab) of the Act provide exemptions for the amalgamating foreign company but not for its shareholders. • The current provisions create a tax burden for shareholders of foreign companies involved in amalgamations. Extending the exemption to shareholders will align with the treatment of domestic amalgamations and support cross-border mergers. • This change will encourage foreign investment and business restructuring.
2.	Exemptions for internal group structuring	Introduce exemptions for domestic group restructuring to enable the carry forward of business losses where the beneficial ownership remains the same.	• Section 79 of the Act restricts the carry forward of losses in the event of a change in shareholding of a closely held company. The current provisions create barriers for legitimate business restructurings within a group.

			• Providing exemptions will support business restructuring and align with global best practices. This change will encourage consolidation and growth within business groups.
3.	Clarity on taxation of conversion of LLP to Company	It is suggested that section 47(xiii) be brought in line with provisions of section 47(xiiib) by providing specific exemption to partners pursuant to conversion.	• Section 47(xiii) provides for exemption in the hands of the LLP transferring its capital asset to a company on conversion. Similarly, Section 47(xiiib) provides for exemption in the hands of company and its shareholders upon transfer of capital assets and shares (respectively) to LLP on conversion. • Exemption is provided to the shareholders when a company is converted into LLP, however no specific exemption is provided to partners of the LLP when LLP is converted into company. • As a result, it appears that partners of the LLP are liable to capital gains tax upon receiving shares from the company
4.	Contingent consideration	Clarify that contingent consideration should be taxed as capital gains only in the year it is crystallized.	• Sections 45 and 48 of the Act deal with the computation of capital gains. The current provisions create ambiguity regarding the taxation of contingent consideration. • Clarifying the tax treatment will align with the real income theory and provide certainty to taxpayers. This change will support business transactions and reduce litigation.
5.	Section 50B of the Act Rationalization of Slump sale provisions.	Provide tax neutrality to intra-group slump sales under Section 47 of the Act provided the undertaking is not subsequently disposed of within 3 years.	• Section 50B of the Act deals with the taxation of slump sales, while Section 47 of the Act provides exemptions for certain transfers. • The current provisions do not provide specific exemptions for intra-group slump sales, leading to potential tax burdens.

			• Providing tax neutrality will support business restructuring and align with global best practices. This change will encourage intra-group transactions and improve compliance.
6.	Outbound Merger	Provide a specific exemption for the merger of an Indian company into a foreign company.	• The Companies Act, 2013, permits the merger of an Indian company into a foreign company, but the Act does not provide a specific exemption. • The lack of a specific exemption creates tax uncertainties for outbound mergers. Providing an exemption will support cross-border mergers and align with global business practices. This change will encourage foreign investment and business restructuring.
7.	Definition of demerger under Section 2(19AA) of the Act to cover investment/shares of operating subsidiary	Amend Section 2(19AA) of the Act to include shares of operating subsidiaries as eligible undertakings capable of being demerged in a tax-neutral manner.	• Section 2(19AA) of the Act defines demerger for tax purposes but does not explicitly include shares of operating subsidiaries. • The current provisions create uncertainty for business groups with operating subsidiaries. Including operating subsidiaries will support business restructuring and align with commercial practices. This change will encourage demergers and improve compliance.
8.	Section 72A – Carry forward of loss and unabsorbed depreciation	It is suggested that the definition of 'Industrial Undertaking' should be done away with, so that all mergers including of service sector are eligible for carry forward of losses. Bring parity on period available for carry forward of losses with unabsorbed depreciation for amalgamation and demerger of companies. This would facilitate better reorganization of businesses.	• Carry forward of business losses on merger is limited to companies owning 'Industrial undertakings". • The definition of Industrial Undertaking is extremely narrow and restricted. Thus, a number of sectors are impacted as their ability to carry forward losses is significantly compromised.

Suggestion for Assessment, Appeals and Refund			
1	No suspension of limitation under Section 153(5) of the Act to pass order giving effect ('OGE') when appeals filed by the Tax Department	Amend Section 153(5) of the Act to clarify that filing of an appeal by the Tax Department should not suspend the time limit for order giving effect to the appellate authority's order.	• Section 153(5) of the Act deals with the time limit for passing orders giving effect to appellate authority's orders. The current practice of suspending the time limit when an appeal is filed by the Tax Dept leads to delays. • Clarifying this provision will ensure timely issuance of orders and reduce litigation. This change will improve the efficiency of the tax administration and provide certainty to taxpayers.
2	Strict timeline for refunds under Section 240 of the Act	A strict time limit for issuing refunds (e.g., 30 to 60 days from the date of the appellate or revisional order) should be prescribed.	• Section 240 of the Act provides for refunds if an order is reversed, but there is no specific timeline mentioned for processing refunds. The lack of a specific timeline for issuing refunds leads to delays and compliance challenges. • Prescribing a strict timeline for refunds will improve taxpayer confidence and liquidity. This change will support the government's objective of enhancing the ease of doing business and improving cash flows.
3	Amendment to section 158AB of the Act	Amendment of Section 158AB if the Act to include no need to file an appeal either by the Assessee or Tax Department in the case of identical matters already decided either in favor or against the Assessee.	• Section 158AB of the Act was introduced to prevent repetitive appeals by the Tax Dept on identical questions of law. The current provision does not extend to cases where an issue has been decided in favor or against the assessee in an earlier year. • Extending this provision will reduce litigation and compliance burdens. This change will provide clarity and certainty, encouraging more efficient resolution of tax disputes.
4	Binding timelines on appeals and litigation	Prescribe binding timelines for disposal of appeals filed before Commissioner of Income tax Appeals ['CIT(A)'] and Income Tax Appellate Tribunals ('ITAT'), instead of recommendatory	• Currently, there is no mandatory time frame for CIT and ITAT to provide their rulings.

		timelines prescribed under the erstwhile tax provisions.	• The tax litigation process in India generally takes a long time to reach conclusive stages, leading to delays and increased costs for taxpayers. • Introducing binding timelines will expedite the resolution of tax disputes, reduce the backlog of cases, and improve taxpayer confidence. This change will enhance the efficiency of the tax administration and support economic growth by providing timely relief to taxpayers.
5	Faceless Assessments & Appeals under the Act	Fix a threshold based on income or tax payment criterion for giving an option to taxpayers to have their assessment in person or faceless.	• The current scope of faceless assessments and appeals under the Act, is broad, covering all assessees irrespective of their income or tax payment. • Certain taxpayers with highly voluminous data and/or complex facts find it challenging to represent their matters fairly in a faceless manner. Providing an option for in-person assessments will allow taxpayers to articulate their tax positions and provide necessary documents, improving the fairness and efficiency of the assessment process. • This change will enhance taxpayer confidence and compliance.
Other Suggestions			
1.	Interpretation issues in Section 94B of the Act	Provide clarification under Section 94B of the Act to address existing interpretational issues and uncertainties.	• Section 94B of the Act deals with the limitation on interest deduction in certain cases. • The provisions of Section 94B of then Act are ambiguously defined, causing interpretational issues and uncertainties, particularly regarding the expression 'expenditure by way of interest or of similar nature' and the definition of EBITDA. • Clarifying these provisions will mitigate unnecessary

			litigations and provide certainty to taxpayers. This change will align with global best practices and improve the ease of doing business by providing clear guidelines on interest deduction limitations.
2.	Corporate Social Responsibility ('CSR') expenditure	CSR spends should be tax-deductible as they are mandated under law and represent a statutory financial obligation.	• Section 37(1) of the Act disallows CSR expenditure as a business expense. The Finance Act, 2014, introduced an explanation to Section 37(1) of the Act to disallow CSR expenses. Allowing CSR expenses as tax-deductible will encourage companies to invest in social initiatives. This change will align with the government's objective of promoting corporate social responsibility and improve the overall business environment.
3.	Timeline for disposal of applications filed under Section 119 of the Act	Introduce an online mechanism for filing applications under Section 119 of the Act and specify a timeline for their disposal	• Section 119 of the Act provides for applications for exemptions, deductions, refunds, or other reliefs in cases of genuine hardship. • The lack of timelines leads to prolonged delays in processing applications, reducing their effectiveness. Providing an online mechanism and specific timelines will improve the efficiency of tax administration and provide timely relief to taxpayers. • This change will support the ease of doing business and enhance taxpayer confidence.
4.	Amendment under the provisions of section 80JJAA of the Act	Increase the threshold of total emoluments for additional employees from INR 25,000 to INR 50,000 per month to qualify for deduction under Section 80JJAA of the Act.	• Section 80JJAA of the Act provides a deduction to incentivize businesses to employ additional employees, with a threshold of INR 25,000 per month. • The current threshold excludes a significant portion of the workforce, reducing the practical significance of the provision. Increasing the threshold will support employment generation and reduce hiring costs for companies.

			• This change will align with economic realities and promote job creation.
5.	Integration between income-tax portals (i.e., Income-tax e-filing portal, reporting portal, TRACES portal, etc.)	Grant APIs for integration with income-tax portals to streamline compliance and reporting processes.	• The current tax framework requires taxpayers to log in to multiple portals for compliance and reporting. The lack of integration leads to delays, inaccuracies, and increased compliance burdens. Providing APIs will streamline compliance processes and improve the efficiency of tax administration. • This change will support the ease of doing business and enhance taxpayer confidence.
6.	Incentives for Data Centers	Just like manufacturing companies, the reduced tax rate of 15% may be extended to the Indian companies providing Data Centre services. Similarly, there could provision of reduced custom duties on import of Servers/ hardware for Data Centre and energy taxes etc. Given that the Data Centre (owned and operated by an Indian affiliate of foreign digital company) would enable provision of products/ services of the digital players to Indian residents, the technology/ process to run the Data Centre is provided by Foreign digital companies, the companies expect that there should be tax certainty such that there is a single entity taxation (in the hands of the Indian affiliate) based on the functions performed and assets/ risk based on arm's length principle. Once that is achieved, based on established principles, there should not be any further taxation on the foreign company	• The demand for Data Centres will grow manifold in the years to come as the country further develops, mobile infrastructure transitions to 5G, and fibre to enable high bandwidth connections. • The global players are apprehensive of setting up Data Centres in India due to uncertainty of taxation on operation of data centres. Further, given the huge capex in setting up Data Centres, employment opportunities in setting up the operation centres etc, as an incentive, the reduced corporate tax rate of 15% may be considered.
7.	ICDS schedule of ITR needs to be synchronized	It is suggested that ICDS schedule of ITR needs to be synchronized with Clause 13(e) of Tax Audit. Hence, in ICDS schedule of ITR three columns can be mentioned – "Increase in profit", "Decrease in profit" and	• The CPC while processing ITR u/s 143(1) of the Act make ICDS adjustment of differential amount of first column of Tax Audit (i.e., "Increase in profit") and first column of ITR (i.e. "Net effect").

		"Net effect" (similar to Tax Audit). This will reduce mistake apparent from record in 143(1) order processed by the CPC due to technical issues.	
8.	Draft Defence Acquisition Procedure ('DAP') 2020 includes title clause whereby title transfer is expected to occur in India	Recommend retaining an option with the contracting agency to accept the transfer of title outside of India in the case of Foreign Sellers.	• The current draft DAP 2020 requires title transfer to occur in India, creating additional compliance burdens for foreign OEMs. • The requirement for title transfer in India may lead to increased costs and compliance challenges for foreign sellers. • Allowing title transfer outside of India will promote ease of doing business for foreign OEMs while meeting compliance and regulatory requirements. This change will support the government's objective of attracting foreign investment in the defence sector and enhancing India's defence capabilities.
9.	Provisions for filing of updated return	A lower incremental tax (say 10% and 20%) should be considered, and issuance of intimation under Section 143(1) of the Act should not debar the taxpayer from filing the updated return.	• The current provisions impose an incremental tax of 25% and 50% for filing updated returns and debar taxpayers from filing if intimation under Section 143(1) of the Act is issued. The high incremental tax rates and restrictions on filing updated returns limit the effectiveness of the provisions. • Lowering the incremental tax rates and allowing updated returns even after intimation will encourage voluntary compliance and reduce litigation. This change will provide flexibility to taxpayers and improve tax administration.
10.	Rectification order	Provide rectification rights to the CPC for mistakes apparent from the record in Section 143(1) of the Act orders due to technical issues.	• Section 154 of the Act allows rectification of mistakes apparent from the record, but the current framework limits this to the assessing officer. • The lack of rectification rights for the CPC leads to prolonged delays in correcting

			errors in Section 143(1) of the Act orders. Providing rectification rights to the CPC will expedite the correction of errors and improve the efficiency of tax administration. This change will support the ease of doing business and enhance taxpayer confidence.
11.	Deemed valuation provisions (such as Section 50B, Section 50C of the Act and other similar provisions) need to be treated only as anti-abuse measures	Allow taxpayers to use the actual transaction value in cases of genuine commercial transactions, rather than the deemed value prescribed under provisions such as Sections 50B, 50C of the Act and other similar provisions	• The primary intent of provisions of Sections 50B, 50C of the Act and other similar provisions is to prevent tax evasion through undervaluation of the assets. However, these provisions sometimes result in unfair tax burdens for genuine commercial transactions where the actual transaction value is lower than the deemed value. • The current provisions often lead to disputes and litigation due to the discrepancies between deemed values and actual transaction values. Allowing the use of actual transaction values will reduce the scope for disputes and litigation, thereby improving the efficiency of tax administration. • Also, allowing the use of actual transaction values in genuine commercial transactions will ensure fair treatment of taxpayers. This change will prevent undue tax burdens and align the tax treatment with the economic realities of the transactions. This will encourage compliance and improve the ease of doing business.
12.	Increase the interest rate under Section 244A of the Act.	Amend Section 244A of the Act, to increase the interest rate payable to taxpayer on refunds to match the interest rate charged by the tax department on delayed payments	• Under the existing provisions of Section 244A of the Act, the interest rate payable to the taxpayer on refunds is 0.5% per month (or 6% per annum). In contrast, the interest rate charged by the tax department on delayed payments by taxpayers under Section 220(2) of the Act is

			1% per month (or 12% per annum). • This disparity creates an inequitable situation where taxpayers are penalized at a higher rate for delays, while the government compensates them at a significantly lower rate for delays in issuing refunds. • The current interest rate for refunds is lower than the interest rate charged by the tax department on delayed tax payments • Aligning the interest rates will ensure fairness and equity in the tax administration process • This change will incentivize timely processing of refunds and improve taxpayer confidence.