

ANALYSIS OF DIRECT & INDIRECT TAX PROPOSALS

Finance Bill, 2026



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PREFACE

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Further, this e-booklet contains only the proposals and amendments as given in the Finance Bill, 2026, which may be modified before it receives the approval and assent of the Parliament and the President.

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Commonly used Abbreviations

AAR	Authority for Advance Rulings
ACIT	Additional Commissioner of Income Tax
ADIT	Additional Director of Income Tax
AE	Associated Enterprise
AI	Artificial Intelligence
AJP	Artificial Juridical Person
AO	Assessing Officer
AOP	Association of Persons
APA	Advanced Pricing Agreement
AY	Assessment Year
BMA	Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015
BOI	Body of Individuals
CBDT	Central Board of Direct Taxes
CCIT	Chief Commissioner of Income Tax
CGST Act	Central Goods and Services Tax Act, 2017
CIT	Commissioner of Income Tax
COA	Cost of Acquisition
DCIT	Deputy Commissioner of Income Tax
DDIT	Deputy Director of Income Tax
DIN	Document Identification Number
DRP	Dispute Resolution Panel
EM	Explanatory Memorandum
FA	Finance Act
FAO	Faceless Assessing Officer
FB	Finance Bill
FM	Finance Minister
FY	Financial Year
GST	Goods and Service Tax
HUF	Hindu Undivided Family

IFOS	Income from Other Sources
IFSC	International Financial Service Centre
IFSCA	International Financial Service Centre Authority
IGST Act	Integrated Goods and Service Tax Act, 2017
IT	Information Technology
ITA	Income Tax Act, 1961
ITA, 2025	Income Tax Act, 2025
JAO	Jurisdictional Assessing Officer
JCIT	Joint Commissioner of Income Tax
LLP	Limited Liability Partnership
LTCG	Long Term Capital Gains
MAT	Minimum Alternate Tax
NFAC	National Faceless Assessment Centre
NPO	Non-Profit Organisation
NR	Non Resident
OBU	Offshore Banking Unit
PAN	Permanent Account Number
PCIT	Principal Commissioner of Income-tax
PE	Permanent Establishment
PGBP	Profit and Gains from Business or Profession
PY	Previous Year
r.w.r	read with rules
r.w.s	read with section
RBI	Reserve Bank of India
RNOR	Resident but Not Ordinarily Resident
ROI	Return of Income
Rules	Income Tax Rules, 1962
S.	Section
Sch.	Schedule
SDT	Specified Domestic Transaction
SEBI	Securities and Exchange Board of India
SEZ	Special Economic Zone



SFT	Statement of Financial Transaction
SLP	Special Leave Petition
STCG	Short-term Capital Gains
STT	Securities Transaction Tax
TCS	Tax Collected at Source
TDS	Tax Deduction at Source
TP	Transfer Pricing
TPO	Transfer Pricing Officer
u/s.	under section
ULIP	Unit Linked Insurance Policy
w.e.f	with effect from

Rates of Income Tax & STT

Individual, HUF, AOP, BOI and AJP

Basic Rates

There has been no change in the rates of income-tax applicable for Individual, HUF, AOP and AJP for TY 2026-27.

(I) The rates of income-tax for TY 2026-27 are as follows:

The rates of income-tax for Individual, HUF, AOP and AJP as per S. 202 of the ITA, 2025 are as follows:

Slab	Applicable rate of tax
Upto Rs. 4,00,000/-	Nil
Rs. 4,00,001/- to Rs. 8,00,000/-	5%
Rs. 8,00,001/- to Rs. 12,00,000/-	10%
Rs. 12,00,001/- to Rs. 16,00,000/-	15%
Rs. 16,00,001/- to Rs. 20,00,000/-	20%
Rs. 20,00,001/- to Rs. 24,00,000/-	25%
Above Rs. 24,00,000/-	30%

Rebate u/s. 156 of the ITA, 2025

There has been no change in the amount of rebate u/s. 156 of the ITA, 2025 available to an individual for TY 2026-27. A resident individual whose total income does not exceed Rs. 12,00,000/- would be eligible to claim a rebate of an amount which is lower of Rs. 60,000/- or 100% amount of income-tax.

Further, if the total income exceeds Rs. 12,00,000/- and the income-tax payable on such total income exceeds the amount by which the total income exceeds Rs. 12,00,000/-, the assessee shall be entitled to a deduction from the amount of income-tax (as computed before allowing the deductions under Chapter IX of the ITA, 2025 dealing with Rebates and Reliefs) on their total income, of an amount equal to the excess of the income-tax payable on such total income over the amount by which the total income exceeds Rs. 12,00,000/-.

Further, S. 156(3) of the ITA, 2025 provides that the amount of rebate u/s. 156(2) shall not exceed the amount of income-tax payable as per the rates provided in S. 202(1) of the ITA, 2025.

Default Regime

New concessional tax regime shall continue to be the default regime and the assessee who does not wish to be assessed u/s. 202 of the ITA, 2025 would have to opt out of the said regime.

Surcharge

There has been no change in surcharge rates in case of Individual, HUF, AOP, BOI and AJP. The rates of surcharge in case of Individual, HUF, AOP, BOI and AJP for TY 2026-27 continue as follows:

Total Income	Income other than Dividend & Capital Gains covered u/s. 196, S. 197 and S. 198	Dividend & Capital Gains covered u/s. 196, S. 197 and S. 198
Upto Rs. 50 lakhs.	Nil	Nil
Income exceeds Rs. 50 lakhs but does not exceed Rs. 1 crore.	10%	10%
Income exceeds Rs. 1 crore but does not exceed Rs. 2 crores.	15%	15%
Income exceeds Rs. 2 crores but does not exceed Rs. 5 crores.	25%	15%
Income exceeds Rs. 5 crores.	25%	15%

For AOP consisting of only companies as its member:

Slab	Applicable rate of surcharge
Income exceeds Rs. 50 lakhs but does not exceed Rs. 1 crore.	10%
Income exceeds Rs. 1 crore	15%

(II) The rates of income-tax for TY 2026-27 for assessee opting out of the new regime u/s. 202 of the ITA, 2025 (i.e. falling under the old regime) is as follows:

a) For every individual (other than those mentioned in (b) and (c) below, HUF, AOP, BOI, AJP:

Slab	Applicable rate of tax
Upto Rs. 2,50,000/-	Nil
Rs. 2,50,001/- to Rs. 5,00,000/-	5%
Rs. 5,00,001/- to Rs. 10,00,000/-	20%
Above Rs. 10,00,000/-	30%

b) For resident individual, who is of the age of sixty years or more but less than eighty years at any time during the TY:

Slab	Applicable rate of tax
Upto Rs. 3,00,000/-	Nil
Rs. 3,00,001/- to Rs. 5,00,000/-	5%
Rs. 5,00,001/- to Rs. 10,00,000/-	20%
Above Rs. 10,00,000/-	30%

c) For resident individual, who is of the age of eighty years or more at any time during the TY:

Slab	Applicable rate of tax
Upto Rs. 5,00,000/-	Nil
Rs. 5,00,001/- to Rs. 10,00,000/-	20%
Above Rs. 10,00,000/-	30%

There has been no change in the amount of rebate u/s. 156 of the ITA, 2025 available to a resident individual for TY 2026-27 under the said regime. An individual whose total income does not exceed Rs. 5,00,000 would be eligible to claim a rebate of an amount which is lower of Rs. 12,500 or 100% amount of income-tax.

Surcharge

There has been no change in surcharge rates under the old regime in case of individual, HUF, AOP, BOI and AJP. The rates of surcharge in case of individual, HUF, AOP, BOI and AJP for TY 2026-27 are as follows:

Total Income	Income other than Dividend & Capital Gains covered u/s. 196, S. 197 and S. 198	Dividend & Capital Gains covered u/s. 196, S. 197 and S. 198
Upto Rs. 50 lakhs.	Nil	Nil
Income exceeds Rs. 50 lakhs but does not exceed Rs. 1 crore.	10%	10%
Income exceeds Rs. 1 crore but does not exceed Rs. 2 crores.	15%	15%
Income exceeds Rs. 2 crores but does not exceed Rs. 5 crores.	25%	15%
Income exceeds Rs. 5 crores.	37%	15%

For AOP consisting of only companies as its member:

Slab	Applicable rate of surcharge
Income exceeds Rs. 50 lakhs but does not exceed Rs. 1 crore.	10%
Income exceeds Rs. 1 crore	15%

Health and Education Cess

Health and Education cess remains same at the rate of 4% of the total of income-tax and surcharge.

Our Comments

The tax rates make the new tax regime lucrative as the tax benefit obtained under the said regime in most cases is likely to be higher than the tax on amount of deductions and exemptions that is required to be foregone by the assessee. The following chart shows amount of deductions/exemptions to be foregone at which the tax under both regimes will break-even:

Total Income in New Regime	Tax as per New Regime (including surcharge & health and education cess)	Deductions to be foregone at which the tax under both regimes will break-even	Total Income in Old Regime	Tax as per Old Regime (including surcharge & Health and Education Cess)
2,50,000	NIL	NIL	2,50,000	NIL
4,00,000	NIL	NIL	4,00,000	NIL
5,00,000	NIL	NIL	5,00,000	NIL
8,00,000	NIL	3,00,000	5,00,000	NIL
10,00,000	NIL	5,00,000	5,00,000	NIL
12,00,000	NIL	7,00,000	5,00,000	NIL
16,00,000	1,24,800	5,75,000	10,25,000	1,24,800
20,00,000	2,08,000	7,08,333	12,91,667	2,08,000
24,00,000	3,12,000	7,75,000	16,25,000	3,12,000
50,00,000	11,23,200	7,75,000	42,25,000	11,23,200
1,00,00,000	29,51,520	7,75,000	92,25,000	29,51,520
2,00,00,000	66,73,680	7,75,000	1,92,25,000	66,73,680
5,00,00,000	1,89,54,000	7,75,000	4,92,25,000	1,89,54,000
7,50,00,000	2,87,04,000	72,21,715	6,77,78,285	2,87,04,000
10,00,00,000	3,84,54,000	94,11,496	9,05,88,504	3,84,54,000

Companies

Domestic Companies

Basic Rate

There has been no change in tax rates in case of domestic companies except MAT rates (which has been discussed in separate Chapter). The rates of income-tax in case of domestic companies for TY 2026-27 are as follows:

Slab	Applicable rate of tax
Where its total turnover or the gross receipt in the TY 2024-25 does not exceed Rs. 400 crores;	25%
Companies covered by the provisions of S. 199 (subject to conditions provided therein)	25%

Slab	Applicable rate of tax
Companies covered by the provisions of S. 200 (subject to conditions provided therein)	22%
Companies covered by the provisions of S. 201 (subject to conditions provided)	15%
Other than those referred above	30%

Surcharge

There has been no change in surcharge rates in case of domestic companies. The rates of surcharge in case of domestic companies except such companies for TY 2026-27 whose income is chargeable to tax u/s. 200 or 201 of the ITA, 2025 are as follows:

Total Income	Applicable rate of surcharge
Income exceeds Rs. 1 crore but does not exceed Rs. 10 crore	7%
Income exceeds Rs. 10 crores	12%

Where domestic company opt for concessional tax rate u/s. 200 or 201 of the ITA, 2025, then rate of surcharge for TY 2026-27 will be 10%.

Health and Education Cess

Health and Education cess remains same at the rate of 4% of the total of income tax and surcharge.

Foreign Companies

Basic Rate

There has been no change in rates of income-tax of foreign companies except MAT rates (which has been discussed in a separate Chapter). The rates of income-tax in case of foreign companies for TY 2026-27 shall be of 35%.

Surcharge

There has been no change in surcharge rates in case of foreign companies. The rates of surcharge in case of foreign companies for TY 2026-27 are as follows:

Total Income	Applicable rate of surcharge
Income exceeds Rs. 1 crore but does not exceed Rs. 10 crore	2%
Income exceeds Rs. 10 crores	5%

Health and Education Cess

Health and Education cess remains same at the rate of 4% of the total of income tax and surcharge.

Firm and Local Authority

Basic Rate

There has been no change in tax rate of Firm and Local Authority. The rates of income-tax in case of firm and Local Authority for TY 2026-27 shall be of 30%.

Surcharge

There has been no change in surcharge rate of Firm and Local Authority. The rates of surcharge in case of firm and local Authority for TY 2026-27 shall be of 12%

on income tax if total Income exceeds one crore rupees.

Health and Education Cess

Health and Education cess remains same at the rate of 4% of the total of income tax and Surcharge.

Co-operative society

Basic Rate

There has been no change in tax rate of co-operative Society.

The rates of income-tax in case of co-operative society (not covered by S. 203 and S. 204) for TY 2026-27 are as follows:

Slab	Applicable rate of tax
Upto Rs. 10,000/-	10%
Rs. 10,001/- to Rs. 20,000/-	20%
Above Rs. 20,001/-	30%

The rates of income-tax in case of Co-operative society covered by S. 203 and S. 204 for TY 2026-27 are as follows:

Slab	Applicable rate of tax
Co-op Societies covered by the provision of S. 203 (subject to the conditions provided therein).	22%
Co-op Societies covered by the provision of S. 204 (subject to the conditions provided therein).	15%

Surcharge

There has been no change in surcharge rates in case of co-operative society. The rates of surcharge in case of co-operative society for TY 2026-27 whose income is not covered u/s. 203 or 204 of the ITA, 2025 are as follows:

Total Income	Applicable rate of surcharge
Income exceeds Rs. 1 crore but does not exceed Rs. 10 crore	7%
Income exceeds Rs. 10 crores	12%

Where co-operative society is covered by concessional tax rate u/s. 203 and 204 of the ITA, 2025, then rate of surcharge for TY 2026-27 will be 10%.

Health and Education Cess

Health and Education cess remains same at the rate of 4% of the total of income tax and Surcharge.

Revision of STT Rates [S. 98 (Chapter VII) of FA (No. 2), 2004]

Background

S. 98 of the FA (No. 2), 2004 provides a list of various taxable securities along with STT levied on their sale and purchase transactions.

As per the said section, STT is leviable on sale of an option in securities, sale of an option in securities, (where option is exercised) and sale of a future in securities.

Proposed Amendment

The FB proposes to increase the said rates on sale of an option and a future in securities. The table below enumerates the same:

Type of Transaction	Present rate	Proposed rate
Sale of an Option in securities	0.1% of the option premium	0.15 % of the option premium
Sale of an option in securities, where option is exercised	0.125% of the intrinsic price	0.15% of the intrinsic price
Sale of a Future in securities	0.02% of the price at which such "futures" are traded.	0.05% of the price at which such "futures" are traded

Our Comments

The increase in STT has been introduced to discourage individuals from entering into derivative transactions primarily for speculative purposes.

There has been no change in STT leviable on purchase and sale of Equity Share and Units of Equity Oriented Fund.

The above amendments will take effect from April 1, 2026.

Rationale of the Proposed Amendment

The trading in derivatives (Futures & Options) is now accounting for a large proportion of trading in stock exchanges. The said amendment has been made keeping in mind the exponential growth of derivative markets in recent times. The rates of STT have been revised periodically to reflect changes in market structure and trading behaviour, and in view of the scale and depth achieved by the derivatives market, it is considered appropriate to undertake a calibrated revision of the applicable rates of STT on options and futures transactions.

Corporate Restructuring

Buy-Back of Shares [S. 69 of the ITA, 2025]

Background

Presently, buy-back of shares in accordance with S. 68 of the Companies Act, 2013 is treated as dividend u/s. 2(40)(f) of the ITA, 2025. The entire consideration received is taxable in the hands of shareholder u/s. 92 of the ITA, 2025. No deduction u/s. 93 of the ITA, 2025 is available on such income.

The COA paid by the shareholder on the said shares is allowed to be carried forward or set off as capital loss.

Proposed Amendments Under ITA

No amendment made under the ITA.

Under ITA, 2025

In order to rationalise the taxation on buy-back of shares, the following amendments are proposed:

- ∞ To tax the gain on buy-back of shares as Capital Gains after allowing deduction of the COA paid by the shareholder.
- ∞ In addition to the capital gain tax, promoter shareholders are required to pay an additional tax on buyback of shares [substitution of sub-section (2) of S. 69 of the ITA, 2025]. The additional tax rates are as follows:

Income	Rate, where the promoter is a domestic company	Rate, where the promoter is other than a domestic company
STCG u/s. 196 of the ITA, 2025	2%	10%
LTCCG u/s. 197 or 198 of the ITA, 2025	9.5%	17.5%

- ∞ It is also proposed to substitute sub-section (3) of section 69 of the ITA, 2025, so as to incorporate the definition of the term “promoter”, which shall be as follows:

Company	Definition
Listed	As defined in regulation 2(k) of the SEBI (Buy-Back of Securities) Regulations, 2018 made under the SEBI Act.
Any other	(i) As defined u/s. 2(69) of the Companies Act, 2013; or (ii) A person who holds, directly or indirectly, more than 10% of the shareholding.

- ∞ S. 2(40)(f) of the ITA, 2025, treating buy-back of shares as dividend is proposed to be omitted.
- ∞ The proposed amendment will take effect from April 1, 2026, and shall apply from TY 2026-27 onwards.

Considering the distinct position and influence of promoters in buy-back transactions, an additional buy-back tax is proposed to be levied on the promoter shareholders. Accordingly, in the case of domestic promoter companies, the effective tax rate on buy-back of shares shall be 22%, while for all other promoter shareholders, the effective tax rate shall be 30%.

Rationale of the Proposed Amendments

As per the EM, it is proposed to rationalise the taxation on buy-back of shares.

Our Comments

- ∞ It would be interesting to look at the evolution of buy-back tax in India.
- ∞ Tax on buy-back was first introduced vide FA, 1999 w.e.f. April 1, 2000 where the gain on buy-back was taxed as capital gains in the hands of the shareholders and S. 2(22) specifically excluded buy-back from its ambit. Hence, for almost 15 years, the gain was subject to lower rate of tax.
- ∞ S. 115QA of the ITA was introduced by FA, 2013 as it was noted by the FM that companies were using buy-back as a mechanism read with treaty benefits to effectively pay out dividends without levy of DDT (applicable u/s. 115-O at that time).
- ∞ At the time of introduction, S. 115QA of the ITA was applicable only to unlisted companies. Later, vide FA, 2019, the same was extended to listed companies on the same premise that it was used as a mechanism to pay lower taxes. At this stage, DDT was payable by the company declaring dividend. The premise was to treat it at par with dividend income. However, even at this stage, deduction was allowed for the issue price and only gain was subjected to tax at the rate of 20%.
- ∞ However, DDT was abolished vide FA, 2020. With that, dividend became taxable in the hands of the recipients at applicable slab rates whereas buyback continued to be taxed at 20% in the hands of the company.
- ∞ In order to restore the equilibrium between taxation of dividend and buyback, amendments were introduced by the FA (No. 2), 2024. Under the amended provisions, the entire consideration received on buy-back was treated as deemed dividend u/s. 2(22)(f) of the ITA, and taxable as IFOS u/s. 56 of the ITA in the hands of the shareholders, at the full rate.
- ∞ Correspondingly, S. 46A of the ITA was amended to provide that, where a buy-back was taxed u/s. 2(22)(f) of the ITA, the consideration received was deemed to be nil. As a result, the COA of the shares so bought back gave rise to a capital loss in the hands of the shareholders. Such capital loss was eligible for set-off against capital gains in accordance with the provisions of the ITA.

- ∞ In order to rationalise the taxation on buy-back of shares, amendments are now proposed vide FB. On the amendment being effective, the entire consideration received on buy-back of shares would be taxable as capital gains. The COA paid by the shareholder on the share so bought back would be allowed as a deduction while computing the capital gains tax. Consequently, S. 2(40)(f) of the ITA, 2025, is proposed to be omitted. An additional buy-back tax is proposed to be levied on the promoter shareholders.
 - ∞ Consequently, no tax is required to be deducted u/s. 393 of the ITA, 2025, as the buy-back of shares is no longer treated as a dividend.
 - ∞ Further, where shareholder is a non-resident, the characterisation of buy-back in the relevant Double Tax Avoidance Agreement and the implications thereof, will have to be examined.
 - ∞ Implications of the proposed amendments where shares are held as stock-in-trade will have to be evaluated.
 - ∞ Further, implications in case of buy-back of shares by a wholly owned subsidiary from its holding company would also need to be evaluated in the context of exemption available for transfer of assets between holding company and wholly owned subsidiary u/s. 70(1)(c) of the ITA, 2025 (corresponding to S. 47(iv) of the ITA).
-

Nullifying Judicial Precedents

Time Limit for Completion of Assessment Involving TP Adjustments or in Case of NR Assessee [S. 144C of the ITA / S. 275 of the ITA, 2025]

Background

S. 144C of the ITA prescribes a special assessment procedure for eligible assessee, mainly when a variation occurs in transfer pricing cases or when the assessee is non-resident. As per the provisions of S. 144C of the ITA, the AO must initially issue a draft assessment order. The assessee can either accept the proposed variations or file objections before the DRP. If the assessee accepts the draft order, then AO must issue final order within one month from the end of the month in which acceptance is received. If objections are filed, the DRP must issue directions within nine months from the end of the month in which the draft order is forwarded to the assessee and the AO must complete the assessment within one month thereafter according to provisions of S. 144C(13) of the ITA. There existed a controversy as whether these provisions would be subject to the overall timelines provided in the provisions of S. 153 or S. 153B of the ITA., courts have held that even in cases of S. 144C of the ITA, the final order has to adhere to time limits as per S. 153 or S. 153B of the ITA.

In ITA, 2025, the corresponding provisions are laid down u/s. 275 and S. 286.

Proposed Amendments

Under ITA

- ∞ It is proposed to insert sub-sections (4A), (4B), (13A) and (13B) in S.144C, S. 153(10) and S.153B(1A) of the ITA to clarify that the time period available to the AO to complete assessment is to be governed solely as per provisions of S. 144C.
- ∞ It is also proposed to insert S. 153(10) and S. 153B(1A) of the ITA according to which, the draft assessment order proposed as per S.144C(1) of the ITA shall be made and shall be deemed to have been made any time up to the time limit of assessment, reassessment, or recomputation u/s. 153 or 153B of the ITA.
- ∞ The proposed amendment is applicable retrospectively w.e.f. April 1, 2009.

Under ITA, 2025

The amendment is in line with the proposed amendment to ITA and shall take effect from April 1, 2026.

Rationale of the Proposed Amendments

The proposed amendment is made so as to expressly clarify the legislative intent and to remove the existing ambiguity. Under the proposed amendment, the time limits prescribed u/s. 153 and 153B of the ITA

shall apply only up to the stage of issuance of the draft assessment order, and upon issuance of such draft order, all subsequent proceedings shall be governed exclusively by the timelines stipulated u/s. 144C of the ITA. This amendment is proposed to operate notwithstanding anything contained in any judgment, order, or decree of any court or tribunal.

Corresponding amendments are also proposed in ITA, 2025 to ensure consistency and to obviate future interpretational disputes. The amendment has been necessitated by divergent judicial interpretations regarding the legislative intent underlying the interplay between S. 144C and S. 153 of the ITA.

Our Comments

The proposed amendments seek to conclusively settle the pending controversy before the Supreme Court. It is pertinent to note that while there was split verdict in the case of **ACIT(IT) vs. Shelf Drilling Ron Tappmeyer Ltd [2025] 177 taxmann.com 262 (SC)**, in absence of any contrary judgement of any High Court, the Tribunal benches at Hyderabad and Delhi have decided the issue in favour of assessee, subject to final outcome at Supreme Court by following **CIT vs. Roca Bathroom Products (P.) Ltd [2022] 140 taxmann.com 304 (Madras HC)**.

Assessments Not to be Invalid on Ground of any Mistake, Defect or Omission on Account of Computer-Generated DIN, if Such Assessment is Referenced by Computer -Generated DIN in any manner [S. 292B of the ITA / S. 522 of the ITA, 2025]

Background

S. 292B of the ITA states that no ROI, assessment, notice, summons or other proceeding, shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such ROI, assessment, notice, summons or other proceeding if such ROI, assessment, notice, summons or other proceeding is in substance and effect in conformity with or according to the intent and purpose of this Act.

CBDT Circular 19 of 2019 dated August 14, 2019, states that for greater transparency, notices and orders are being generated electronically on the Income Tax Business

Application (ITBA) platform. However, there have been instances where notices were being issued manually. To prevent such cases, the CBDT decided that no communication shall be issued by any income tax authority relating to assessment, appeals, orders, statutory or otherwise, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval etc. to the assessee or any other person, on or after the October 1, 2019 unless a computer-generated DIN has been allotted and is duly quoted in the body of such communication.

In exceptional circumstances (such as technical difficulties, communication regarding enquiry, PAN migration delay, PAN not available and non-availability of functionality in system), the communication was allowed to be issued manually but only after recording reasons in the file with prior approval of CCIT/ DGIT. Any confirmation not as stated above shall be treated as invalid and deemed never to be issued.

In ITA, 2025, the corresponding provisions are laid down u/s. 522 of the ITA, 2025.

In view of the foregoing position, several litigations arose challenging notices and orders issued or passed by the income-tax authorities *de hors* the DIN.

Proposed Amendments Under ITA

- ∞ It is proposed to insert S. 292BA of the ITA to clarify that notwithstanding anything contained in any judgment, order or decree of court, no assessment in pursuance of any of the provisions of the ITA shall be invalid or shall be deemed to have

Our Comments

The Circular issued by CBDT had a good governance intent by maintaining an audit trail. While the intent of the amendment appears to nullify favourable decisions in the case of **Ashok Commercial Enterprises vs. ACIT [2023] 459 ITR 100 (Bom. HC)**, **Siemens Ltd vs. DCIT [2025] 181 taxmann.com 448 (Bom. HC)**, etc, yet it mandates that a DIN should be quoted in the assessment order but in any manner. Thus, in cases where DIN is not mentioned at all in the assessment order or where a separate communication is issued intimating the DIN, the favourable judgements may still apply. However, if the notices were issued with reference to DIN, the same can now be regularised in the final assessment order has a DIN. The said amendment would dilute and water down the laudable objective of creating an effective and verifiable audit trail.

Further, the aforesaid circular applies to all communications issued by the department whereas the amendments seek to address mistakes, omissions, defects in notices/summons issued in course of assessment proceedings which would be ignored, if final assessment order mentions DIN in any form. However, in other cases like revision, penalty order, reassessment proceedings, etc., the assessee may continue to challenge the same based on judicial pronouncements.

been invalid on the ground of any mistake, defect or omission in respect of quoting of a computer generated DIN, if such assessment order is referenced by such number in any manner.

- ∞ This amendment will take effect retrospectively from October 1, 2019.

Under ITA, 2025

The amendment is in line with the proposed amendment to ITA and shall take effect from April 1, 2026

Rationale of the Proposed Amendments

In light of divergent judicial pronouncements on the subject matter, the legislature has introduced a curative amendment to cure the procedural infirmity arising from the failure to quote the DIN and thus, ensure that proceedings remain valid even though there is mistake, defect or omission related to DIN in notices/summons issued in the course of passing the assessment order, and thereby settle the litigation on this matter.

Clarification Regarding Jurisdiction of JAO/FAO to Issue Notice u/s. 148 Where Income has Escaped Assessment and For Carrying Out Pre-Assessment Procedure u/s. 148A. [S. 148 of the ITA, S. 148A of the ITA / S. 279, S. 280 of the ITA, 2025]

Background

ITA provides a two-step procedure for carrying out reassessment u/s. 147 of the ITA. This first step starts with a notice u/s. 148A of the ITA which enables the AO to carry out enquiries so as to determine whether the case is fit for issuance of notice u/s. 148 of the ITA. The notice u/s. 148 of the ITA is accompanied with a reasoned order u/s. 148A(3) of the ITA passed by the AO.

Further, exercising the powers given u/s. 151A of the ITA, the Central Government formulated a scheme for assessment / reassessment / re-computation in a faceless manner. Accordingly, the said scheme vide notification S.O. 1466(E) [NO. 18/2022/F. NO. 370142/16/2022-TPL(PART1)] dated March 29, 2022, stated that assessment, reassessment and re-computation u/s. 147 and issue of notice u/s. 148 shall be done through automated allocation in accordance with risk management strategy formulated by the CBDT as referred to in S. 148 of the ITA for issuance of notice, and in a faceless manner, to the extent provided in S. 144B of the ITA.

Courts have adopted divergent interpretations, with some decisions holding that the pre-enquiry can be conducted by JAO while others have held that even such pre-enquiries have to be carried out by NFAC/FAO. These matters

are pending before Hon'ble Supreme Court.

In the ITA, 2025, the corresponding provisions are laid down u/s. 279, 280, 281 and 284.

Proposed Amendments Under ITA

- ∞ It is proposed to insert S. 147A in the ITA so as to remove doubts and to clarify that notwithstanding anything contained in any judgement, order or decree of any court or in S. 151A of the ITA or in any scheme framed thereunder, the AO for the purposes of S. 148 and 148A of the ITA shall mean and shall always be deemed to have meant to be an AO other than the NFAC or any assessment unit referred to in sub-section (3) of S. 144B of the ITA.
- ∞ The clarification in the ITA shall come into force with retrospective effect from April 1, 2021.

Under ITA, 2025

The amendment is in line with the proposed amendment to the ITA and shall take effect from April 1, 2026

Rationale of the Proposed Amendments

The proposed amendment has reiterated the legislative intent of demarking the line between pre-assessment enquiry process which culminates in issuing of notice u/s. 148 of the ITA and reassessment

proceedings. The first part is within the domain of JAO and thereafter, the

reassessment proceedings are to be carried out in a faceless manner by NFAC.

Our Comments

While the amendment is evidently intended to nullify favorable judicial pronouncements in **Hexaware Technologies Ltd. vs. ACIT [2024] 162 taxmann.com (Bom. HC)**, **Smt. Prameela Pasumarthi vs. DCIT [2025] 180 taxmann.com 131 (Andhra HC)**, etc, wherein it was held that the pre-enquiry process up to the issuance of notice u/s. 148 are to be conducted by NFAC in a faceless manner, how would such amendment be implemented is questionable. For instance, cases where the writ petitions were decided in favour of assessee and the department did not challenge the same before the Supreme Court; cases where effect has already been given to Income Tax Appellate Tribunal/High Court orders and cases where alternative ground to challenge the reopening were raised but have been kept open – in such cases, it remains unclear whether the writ petitions would stand automatically revived or whether fresh writ petitions would be required to adjudicate the alternative grounds. Lastly, how would the timelines to complete reassessment in such cases be computed.

Reference to the TPO [S. 92CA of the ITA / S. 166 of the ITA, 2025]

Background

S. 92CA of the ITA applies where an assessee, has entered into an international transaction or SDT in any PY, and the AO refers the computation of the Arm's Length Price in relation to the said international transaction or SDT to the TPO. The section provides that an order u/s. 92CA(3) of the ITA may be made at any time before sixty days prior to the date on which the period of limitation prescribed in S. 153 of the ITA, or as the case may be, in S. 153B of the ITA for completing the assessment, reassessment, recomputation or fresh assessment, as the case may be, expires.

In ITA, 2025, the corresponding provisions are laid down u/s. 166.

Proposed Amendment Under ITA

- ∞ After sub-section (3A), it is proposed to insert sub-section (3AA) so as to

remove doubts and to clarify that notwithstanding anything contained in any judgment, order or decree of any court, for the purposes of making order under sub-section (3), the calculation of sixty days shall be made and shall always be deemed to have been made in the following manner:

Sr. No.	Date on which period of limitation expires	Order u/s. 92CA(3) may be made upto
1.	March 31 of any year (not being a leap year)	January 30 of that year
2.	March 31 of any year (being a leap year)	January 31 of that year

Sr. No.	Date on which period of limitation expires	Order u/s. 92CA(3) may be made upto
3.	December 31 of any year	November 1 of that year

- ∞ The proposed amendment will have a retrospective effect from June 1, 2007.

Under ITA, 2025

While the amendment is in line with the proposed amendment to ITA and shall take effect from April 1, 2026, the language is simplified to use the expression 'month' instead of 'days'.

Our Comments

The Judiciary interprets the law enacted by the Legislature. The Courts had unanimously interpreted the language u/s. 92CA(3A) of the ITA and hence, undoing of the same by making a retrospective amendment is not reasonably justified.


The assessee would have to evaluate its pending litigation, the stage at which order of TPO was quashed and determine the way forward.

Concluding thoughts in respect of all the foregoing proposed amendments which seek to nullify judicial pronouncements with retrospective effect.

- ∞ The Supreme Court has time and again reiterated that while the legislature has the power to make retrospective amendments, the same should be tested on the following basis:
 - Express or Implied Retrospectivity: The law must explicitly state or clearly imply its retrospective nature.
 - Reasonableness: The retrospective application should not be unreasonable, excessive, or harsh in its impact.
 - Statutory Basis for Overruling: The amendment should not aim to override judicial decisions without addressing the statutory provisions that underpinned those decisions.
 - Retrospective amendments that heavily affect vested rights acquired under existing laws are strictly scrutinized, as they must not violate Article 14 or Article 19(1)(g) of the Constitution.
 - A judicial pronouncement is always binding unless the very fundamentals on which it is based are altered and the decision could not have been given in the altered

Rationale of the Proposed Amendment

There has been considerable litigation on the mode of computation of the sixty-day period prescribed u/s. 92CA(3A) and which date should be construed from deciding the date of limitation for passing final order. The Madras High Court in **DCIT vs. Saint Gobain India (P.) Ltd. [2022] 444 ITR 636 (Mad HC)** and **Pfizer Healthcare India (P.) Ltd. [2021] 433 ITR 28 (Mad HC)** and the Karnataka High Court in **PCIT vs. Tata Power Solar Systems Ltd. [2024] 166 taxmann.com 16 (Kar HC)** has excluded the date of limitation and worked backwards, and quashed orders u/s. 92CA(3). The same has been followed by Tribunals across the country. However, as per the EM, the legislative intent has always been to include the date of limitation while computing the period.



circumstances. The Legislature cannot, by way of introducing an amendment, overturn a judicial pronouncement and declare it to be wrong or nullity. What the Legislature can do is to amend the provisions of the statute to remove the basis of the judgment.

- ▶ The legislature can change the basis on which a decision is given by the Court and thus change the law in general, which will affect a class of persons and events at large. It cannot, however, set aside an individual decision inter partes and affect their rights and liabilities alone. Such an act on the part of the legislature amounts to exercising the judicial power of the State and to functioning as an Appellate Court or Tribunal.

In view of the above, the proposed amendments when enacted may be tested based on the above parameters before Constitutional Courts.

Attracting Global Business and Investment

Exemption to a Foreign Company on Any Income Arising in India from Procuring Data Centre Services from a Specified Data Centre [S. 11 r.w. Sch. IV of the ITA, 2025]

Background

S. 11 read with Sch. IV of the ITA, 2025, specifies categories of eligible income which shall not be included in the total income of specified non-residents, foreign companies and other such persons subject to the fulfilment of the conditions mentioned therein.

Under the current provisions, a foreign company deriving income from cloud services to customers may be exposed to potential taxation under the domestic India law on account of possible Significant Economic presence in India.

Proposed Amendments

It is proposed to insert following item as Sr. No. 13C in Sch. IV of the ITA, 2025:

Any income accruing or arising in India or deemed to accrue or arise in India by way of procuring data centre services from a specified data centre shall not be included in the total income of a foreign company, subject to the following conditions:

- (a) The foreign company is notified by the Central Government in this behalf;
- (b) The foreign company does not own or operate any physical infrastructure

or resources of the specified data centre;

- (c) All sales by such foreign company to users located in India are made through a reseller entity being an Indian company;
- (d) The foreign company maintains and furnishes such information, in such form and manner, as may be prescribed.

Definitions of 'data centre', 'data centre services' and 'specified data centre' have been provided.

Notably, "specified data centre" is proposed to mean a data centre which is:

- (i) set up under an approved scheme and is notified in this behalf by the Central Government in the Ministry of Electronics and Information Technology; and
- (ii) owned and operated by an Indian company.

This amendment is applicable from April 1, 2026 i.e. TY 2026-27 onwards.

The exemption shall be available up to the TY ending March 31, 2047.

In the Budget Speech, the FM further proposed to provide a safe harbour margin of 15% on cost in cases where the

company providing data centre services from India is a related entity. This measure would be implemented separately through an amendment to the Income-tax Rules.

promote an AI-ready data centre ecosystem and position India as a global hub for digital infrastructure.

Rationale of the Proposed Amendments

This proposed amendment recognises the need to enable critical digital infrastructure and to boost investment in data centres in India. The amendment also aims to

Our Comments

- ∞ The proposed tax holiday is likely to accelerate large-scale investments by global cloud and AI players in Indian data centre infrastructure¹.
- ∞ Encouraging localisation of data centres in India, aligns with Digital Personal Data Protection Act, 2023 which mandates storage of sensitive and critical personal data within India.
- ∞ It provides tax certainty and mitigates potential PE/SEP exposure for foreign companies, encouraging them to expand India-centric service delivery models.
- ∞ However, Indian cloud and data centre service providers do not receive parallel incentives, creating an imbalance in the incentive framework. A more holistic incentive structure covering domestic infrastructure providers could further strengthen India's data centre and AI ecosystem.
- ∞ The language describing the income eligible for exemption is ambiguous. A foreign company, being the recipient of data centre services, would not ordinarily earn income from procuring such services. Instead, the provision may be suitably reworded as: *“any income accruing or arising in India or deemed to accrue or arise in India, from sale of services procured through data centre services.”*
- ∞ It is unclear whether the requirement that “all sales” to Indian users be made through an Indian reseller applies only to sales of services procured from the specified data centre or to all sales by the foreign company in India.
- ∞ The benefit of this provision can be effectively examined after the issuance of schemes and notifications under the proposed provision.

¹ As per news reports, Microsoft has pledged USD 17.5 billion for AI projects in India, Amazon plans to invest USD 35 billion in AI-driven operations, Google has committed USD 15 billion towards developing data centres in partnership with Adani Group and Bharti Airtel, and Meta Platforms is developing a 500 MW data centre facility in India.

Exemption to a Foreign Company on Income Arising on Account of Providing Capital Equipment, etc. to an Electronic Goods Manufacturer Located in a Custom Bonded Area [S. 11 r.w. Sch. IV of the ITA, 2025]

Background

S. 11 read with Sch. IV of the ITA, 2025, specifies categories of eligible income which shall not be included in the total income of specified non-residents, foreign companies and other such persons subject to the fulfilment of the conditions mentioned therein.

Proposed Amendment

It is proposed to insert following item as Sr. No. 13A in Sch. IV of the ITA, 2025:

Any income arising on account of providing capital goods, equipment, or tooling to a contract manufacturer, being a company resident in India, shall not be included in the total income of a foreign company, subject to the following conditions:

- (a) The foreign company provides capital goods, equipment, or tooling for use in electronic manufacturing in India;
- (b) Ownership of such capital goods, equipment or tooling remains with the foreign company;
- (c) Such capital goods, equipment or tooling are under the control and

direction of the contract manufacturer;

- (d) The contract manufacturer is located in a custom bonded warehouse specified u/s. 65 of the Customs Act, 1962;
- (e) The contract manufacturer produces electronic goods on behalf of the foreign company for a consideration.

The exemption shall be available up to TY 2030–31.

This amendment is applicable from April 1, 2026 i.e. TY 2026-27 onwards.

Rationale of the Proposed Amendment

To provide a fillip to toll manufacturing in India, the proposed amendment seeks to promote electronics manufacturing by contract manufacturers and to provide tax certainty in respect of income arising to foreign companies from providing of capital goods, equipment, or tooling to such manufacturers.

Our Comments

This measure is intended to facilitate cross-border manufacturing arrangements and support the development of India's electronics manufacturing ecosystem.

The proposed amendment may not cover sale of goods by the foreign company. Instead, it appears more relevant for cases where equipment is provided on a lease or right-to-use basis, which could otherwise be construed as royalty, but for the proposed exemption.

Exemption to Non-Residents for Rendering Services Under a Notified Scheme in India [S. 11 r.w. Sch. IV of the ITA, 2025]

Background

S. 11 read with Sch. IV of the ITA, 2025, specifies categories of eligible income which shall not be included in the total income of specified non-residents, foreign companies and other such persons subject to the fulfilment of the conditions mentioned therein.

Proposed Amendment

It is proposed to insert following item as Sr. No. 13B in Sch. IV of the ITA, 2025, thereby granting exemption from taxation in respect of any income which accrues or arises outside India and is not deemed to accrue or arise in India, to an individual who:

- (a) Has been a non-resident for five consecutive tax years immediately preceding the tax year during which he visits India for the first time;

- (b) Renders services in India in connection with any scheme notified by the Central Government;
- (c) Claims the exemption for a period not exceeding five consecutive tax years, commencing from the first tax year in which he visits India in connection with such scheme; and
- (d) Fulfils such other conditions as may be prescribed.

This amendment is applicable from April 1, 2026 i.e. TY 2026-27 onwards.

Rationale of the Proposed Amendment

The amendment seeks to encourage vast pool of global talent to work in India for a longer period by provide tax certainty in relation to taxation of foreign-sourced income.

Our Comments

Ordinarily, an individual who stays in India beyond the prescribed thresholds in S. 6 of the ITA, 2025 becomes a resident, rendering his global income taxable in India. The proposed amendment creates a specific carve-out by granting a five-year exemption for foreign-sourced income, even if the individual otherwise attains resident status during this period.

However, an interpretational issue may arise where such foreign-sourced income is received in an Indian bank account. An explicit clarification would be desirable to avoid potential disputes.

Further, the benefit of this provision can be effectively examined after issuance of the scheme yet to be notified.

Expanding List of Critical Minerals Eligible for Deduction [S. 51 & Sch. XII of the ITA, 2025]

Background

S. 51 of the ITA, 2025 provides for tax deductibility of specified expenditure incurred by an Indian company or resident taxpayers (other than companies) engaged in any operations relating to prospecting or extraction or production of the minerals mentioned in Part A and Part B of the Sch. XII thereto.

At present, only minerals specifically listed in Sch. XII of the ITA, 2025 qualify for this benefit.

Proposed Amendment

It is proposed to expand the list of minerals in Part A of Sch. XII of the ITA, 2025 to include following minerals:

- ∞ Beryllium bearing minerals;
- ∞ Glauconite

- ∞ Graphite
- ∞ Indium bearing minerals
- ∞ Lithium bearing minerals
- ∞ Niobium bearing minerals
- ∞ Potash
- ∞ Rhenium bearing minerals
- ∞ Tantalum bearing minerals

This amendment is applicable from April 1, 2026 i.e. TY 2026-27 onwards.

Rationale of the Proposed Amendment

With a view to incentivize the prospecting and exploration of the critical minerals, the list of minerals in Sch. XII of the Act is proposed to be expanded, thereby making expenditure incurred in respect of such critical minerals also eligible for deduction u/s 51 of the ITA, 2025.

Exclusion of Additional Specified Non-Resident Businesses under Presumptive Taxation from Applicability of MAT [S. 206 of the ITA, 2025]

Background

Under the existing provisions, certain foreign companies are excluded from the applicability of MAT. Further, in respect of non-residents opting for presumptive taxation, income derived from certain specified businesses is already excluded from MAT.

However, not all businesses covered presumptive taxation provisions u/s 61 of the ITA, 2025, presently enjoy such exclusion, resulting in differential treatment

among non-resident taxpayers who are otherwise subject to presumptive taxation.

Proposed Amendment & Rationale of Proposed Amendment

To ensure uniform treatment, it is proposed to exclude certain other specified businesses of non-residents, where income is computed on a presumptive basis u/s. 61 of the ITA, 2025 from the applicability of MAT. Please refer the Chapter on MAT for further details.

Extension of Period of Deduction for Units in IFSC and Rationalization of Tax Rate [S. 147 and S. 218 of the ITA, 2025]

Background

S. 147 of the ITA, 2025 [corresponding to S. 80LA of the ITA] provides for a deduction of 100% of specified income to:

- (a) A scheduled bank or a foreign bank having an OBU in an SEZ; or
- (b) A unit of an IFSC.

Period of deduction currently provided:

- (a) OBU - 10 consecutive tax years from relevant tax year;
- (b) IFSC Unit - 10 consecutive tax years out of 15 years, at assessee's option.

Upon expiry of the tax holiday period, the income of IFSC units and OBUs would be chargeable to tax at the normal corporate tax rates of 25% or 30%, as applicable. Further, such units may be liable to MAT, with IFSC units deriving income solely in convertible foreign exchange being subject to a concessional MAT rate of 9% of book profits, as against the general rate of 15% (now proposed to be amended to 14% by the FB).

Proposed Amendment

Irrespective of anything contained in S. 80LA of the ITA, it is proposed to increase

Our Comments

IFSCs compete with established international financial hubs that offer long tax holidays, stable tax regimes, low post-incentive tax rates. Extending the tax holiday aligns India's IFSC regime with global best practices.

Financial services businesses typically involve long gestation periods, heavy regulatory capital, long-term contracts. A twenty-year deduction window offers planning certainty and improves investment viability.

the period of deduction u/s. 147 of the ITA, 2025 as under:

- (a) OBU - 20 consecutive tax years from relevant tax year;
- (b) IFSC Unit - 20 consecutive tax years out of 25 years, at assessee's option.

For OBUs and IFSC Units commencing operations on or after April 1, 2026, deduction shall be available only if the unit is not formed by splitting up or reconstruction or reorganisation, or transfer of a business already in existence in India.

Further, it is proposed to substitute S. 218² of the ITA, 2025 to provide that the business income of IFSC units and OBUs after the expiry of tax holiday period will be taxed at rate of 15% under the normal provisions.

These amendments are applicable from April 1, 2026 i.e. TY 2026-27 onwards.

Rationale of the Proposed Amendment

These amendments are proposed to increase competitiveness of IFSC.

²The existing provision u/s 218 (corresponding to S. 115-I of the ITA) is proposed to be consolidated with S. 217.

The newly anti-reorganisation condition ensures that only genuinely new operations receive benefits, and existing Indian businesses cannot simply migrate or restructure to claim the deduction.

Rationalisation of Deemed Dividend Exclusion for Cross-Border Inter-Group Financing in IFSC sector [S. 2(40) of the ITA, 2025]

Background

S. 2(40) of the ITA, 2025 defines “dividend”. Clause (v) presently excludes certain inter-company advances/loans related to IFSC units from being treated as dividend.

Any advance or loan between two group entities is not treated as dividend if:

- (a) One of the group entity is a Finance Company or Finance Unit, and
- (b) The parent entity or principal entity of the group is listed on a stock exchange outside India, in a country/territory notified by the CBDT.

Proposed Amendment

The proposed amendment substitutes clause (v) to provide that any advance or loan is not dividend if:

- (a) One entity is a Finance Company or Finance Unit;
- (b) The other group entity is located in a country or territory outside India; and
- (c) The parent or principal entity is listed on a stock exchange in a country or territory outside India

The foreign country or territory outside India for (b) and (c) shall be notified by the Central Government.

It is proposed to introduce following statutory definitions:

- (i) “Group entity” shall have same meaning as in Regulation 2(1)(m) of the International Financial Services Authority (Payment Services) Regulations, 2024 made under the IFSCA Act, 2019.
- (ii) “Parent / principal entity” in relation to one or more other group entities, shall be an entity of which other group entities are subsidiaries and which:
 - ▶ Controls > 50% voting power (alone or with subsidiaries), or
 - ▶ Controls the composition of the Board of Directors.

These amendments are applicable from April 1, 2026 i.e. TY 2026-27 onwards.

Rationale of the Proposed Amendment

The EM states the amendments are proposed to rationalisation of certain terms for treasury centres in IFSC.

Our Comments

Under current provisions, even purely domestic group loans could technically qualify if the parent is foreign listed. This created scope to route funds within India through finance

subsidiaries, and escape deemed dividend taxation. The proposed amendment ensures only cross-border group financing structures are eligible for exclusion.

By importing the definition of “group entity” from IFSCA Payment Services Regulations, the ITA, 2025 aligns with financial-sector regulatory architecture and promotes consistency for entities operating in IFSCs/GIFT city.

Income Not to be Included in Total Income of Certain Eligible Persons in IFSC [S. 10 of the ITA / S. 11 of the ITA, 2025]

Background

S. 10(4D) of the ITA exempts income earned by a Specified Fund from eligible transactions carried out in an IFSC from total income. Explanation (c)(i)(III) excludes the following from the definition of a Specified Fund:

- ∞ where units are held by a sponsor/manager being an NR, or
- ∞ where an NR unitholder becomes resident u/s. 6(1) or 6(1A) of the ITA in a subsequent year, provided units held by such resident unitholder do not exceed 5% of total units.

The corresponding provisions are contained in Note 1(g) to Sch. VI of S. 11 under ITA, 2025.

Further, Explanation (c)(ii) to S. 10(4D) of the ITA includes the investment division of an OBU registered as a Category-I Foreign Portfolio Investment, which has commenced its operations on or before March 31, 2030, in the definition of specified fund. In the corresponding provisions under ITA, 2025, this date was modified by replacing the commencement date from “on or before March 31, 2030” to “on or before March 31, 2025” under Note 1(g) to Sch. VI of S. 11 of the ITA, 2025.

Proposed Amendments Under ITA

No amendment is proposed in the ITA.

Under ITA, 2025

The amendments proposed under the ITA, 2025, are as follows:

- ∞ It is proposed to amend Sch. VI, Note 1(g)(i) of the ITA, 2025 by inserting a separate item (C) to streamline the provisions by setting out the exception to Specified Funds in an independent item. Earlier, these conditions were contained in item (B) of Note 1(g)(i) of the ITA, 2025.
- ∞ Further, it is also proposed to amend item (A) of Sch. VI, Note 1(g)(ii) to substitute the year “2025” with “2030”.
- ∞ The proposed amendment will take effect from April 1, 2026, and will accordingly apply in relation to TY 2026-27 onwards.

Rationale of the Proposed Amendments

As per the EM, the proposed amendment is intended to clarify the exception to the definition of “Specified Funds” and to align the definition under the ITA, 2025, with that provided u/s. 10(4D) of the ITA.



Our Comment

The proposed amendment is for ensuring the alignment of provisions of the ITA and ITA, 2025 to avoid the drafting anomalies.

Transfer Pricing

Exclusion of Transaction by SEZ Units from TP Framework for SDT [S.162, 164 & 165 of the ITA, 2025]

Background

Under the present provisions of S. 162 r.w.s. 164 of the ITA, 2025, transactions undertaken by an SEZ unit claiming deduction u/s. 144 of the ITA, 2025 (corresponding to S. 10AA of the ITA) are expressly covered within the scope of SDT. Accordingly, other units or businesses of the same assessee, or persons referred to in S. 140(13) of the ITA, 2025, are treated as AEs for such transactions, resulting in TP provisions becoming applicable. Further, in terms of S. 165(7) of the ITA, 2025, no deduction u/s. 144 of the ITA, 2025 is allowable in respect of income enhanced pursuant to TP adjustments, thereby linking SEZ deductions directly with the SDT and TP framework.

Proposed Amendment

It is proposed to substitute S. 162(2)(c) of the ITA, 2025 and essentially delete the reference to S. 144 of the ITA, 2025. Further, it is proposed to omit the reference to S. 144 in S. 164(d) and S. 165(7) of the ITA, 2025.

Post-amendment, transactions relevant to deduction u/s. 144 of the ITA, 2025 will:

- ∞ No longer be treated as SDTs;
- ∞ Not require benchmarking as SDTs; and
- ∞ Not suffer denial of deduction merely because of income enhancement under transfer pricing.

These amendments are applicable from April 1, 2026 i.e. TY 2026-27 onwards.

Our Comments

The amendment decouples S. 144 of the ITA, 2025 (SEZ unit deductions) from the SDT and TP framework, thereby reducing compliance burden and protecting SEZ tax incentives.

IT-Enabled Services (“IT-ES”)

Proposed Amendments

- ∞ All IT and IT-ES including software development services, knowledge process outsourcing services, contract research & development services relating to software development are proposed to be

clubbed under a single category of “Information Technology Services”, with a uniform safe harbour margin of 15.5% applicable across such services.

- ∞ The turnover threshold for availing the safe harbour is proposed to be

substantially increased from Rs. 300 crores to Rs. 2,000 crores.

- ∞ Once exercised, an IT services company may continue to apply the same safe harbour for a block of five consecutive years, at its option.

These measures would be implemented separately through an amendment to the Income-tax Rules.

Additionally, a fast-track unilateral APA process is proposed for IT services, with an endeavour to conclude such APAs within two years, thereby providing greater certainty and reduced compliance burden for taxpayers.

Our Comments

The proposed measures are expected to significantly reduce transfer pricing litigation in the IT/IT-ES sector.

Further, extending these simplified and uniform frameworks on a retrospective basis, where feasible, could help de-clog large volumes of pending disputes at various appellate levels, thereby improving overall tax administration efficiency.

Other Amendments to Attract Global Business and Investment

- ∞ It is proposed to provide a safe harbour margin of 15% on cost in cases where the company providing data centre services from India is a related entity.
- ∞ It is proposed to provide a safe harbour regime to non-residents in

respect of component warehousing in bonded warehouses, with a deemed profit margin of 2% of the invoice value.

These measures would be implemented separately through an amendment to the Income-tax Rules.

Facility to AE of APA Applicant to File Modified Return [S. 169 of the ITA, 2025]

Background

The existing provisions of S.169(1) of the ITA, 2025 allow filing of modified return only by person who has entered into the APA.

There is presently no enabling provision for an AE, which is not a party to the APA, but whose income and tax liability are correspondingly impacted, to file a return or modified return.



Proposed Amendment & Rationale of the Amendment

In order to rationalise the aforesaid provision, it is proposed to amend S. 169(1) of the ITA, 2025 that where any income is modified as a result of an APA entered into with any person, then such person or any

other person being an AE may, furnish a return or a modified return, in accordance with and limited to the agreement.

This amendment is applicable from April 1, 2026 i.e. TY 2026-27 onwards.

Black Money Act (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015

Introduction of the Foreign Assets of Small Taxpayers Disclosure Scheme, 2026 ('FAST Disclosure Scheme, 2026')

Background

In 2015, the Government enacted the BMA to address the issue of undisclosed foreign income and assets held by resident taxpayers.

Over the years, the Government has observed that non-compliance under the BMA is particularly prevalent in cases involving legacy or inadvertent non-disclosures by small taxpayers. Such cases commonly arise from foreign employment benefits (such as ESOPs or RSUs), dormant or low-value foreign bank accounts maintained by former students, savings or insurance policies held by returning non-residents, and assets held during overseas deputations. Further, information received under the Automatic Exchange of Information framework indicates non-disclosure of foreign financial assets by a significant number of PAN holders.

In this backdrop, the Government has proposed to introduce FAST Disclosure Scheme, 2026 to enable voluntary declaration of foreign assets and foreign-sourced income and to facilitate resolution

of such legacy cases involving small taxpayers.

Eligible Assessee

An assessee eligible to make a declaration under the scheme includes:

- ∞ A person resident in India as per S. 6 of the ITA in relevant PY.
- ∞ A person who is an NR or RNOR as per S. 6(6) of the ITA in relevant PY but was resident in India in PY to which undisclosed foreign income relates or in which undisclosed asset located outside India was acquired.

Circumstances in which declaration may be filed

An eligible assessee may file a declaration under the scheme in the following cases:

- ∞ Failure to furnish ROI u/s. 139 of the ITA.
- ∞ Failure to disclose foreign income or assets located outside India in the ROI filed before the start date of this scheme.
- ∞ When such income or asset has escaped assessment u/s. 147 of the ITA.

Amount payable under the scheme

A bird's eye view of the amount proposed to be payable under this scheme has been tabulated as under:

Particulars	Amount payable	Conditions
(a) Undisclosed asset located outside India. (b) Undisclosed foreign income.	Aggregate of- i) Tax @ 30% of value of such asset as on March 31, 2026; ii) Tax @ 30% of such income and iii) 100% of tax determined under (i) and (ii) above.	Aggregate value of undisclosed asset located outside India and the undisclosed foreign income ≤ Rs. 1 crore.
Asset located outside India not declared in ROI which was acquired from income: (a) earned outside India when the declarant was non-resident. (b) offered to tax under the ITA.	Fee of Rs. 1 lakh.	Value of asset located outside India ≤ Rs. 5 crores.

Cases to which the scheme shall not apply

The scheme shall not apply in respect of –

- ∞ Any income or asset representing proceeds of crime which is a subject matter under the PMLA.
- ∞ Any income or asset relating to AY for which proceedings have already been completed under the BMA.

Other points to consider

- ∞ Any income or asset declared under the scheme shall not be included in total income for any AY under the ITA or the BMA.
- ∞ Any income or asset declared under the scheme shall not disturb the finality of assessments already completed under the ITA or the BMA. However, in respect of assessments pending as on the date of

declaration, the AO shall consider such declaration while finalising the assessment.

- ∞ A declarant making a valid declaration under the scheme shall be granted immunity from the levy of any further tax or penalty and from prosecution under the BMA in respect of income or asset so declared, for PY ending on March 31, 2026 or any earlier PY.

Rationale of the Proposed Amendments

The scheme seeks to promote voluntary compliance under the BMA by providing a calibrated and proportionate mechanism for regularisation of historical non-disclosures by small taxpayers, particularly where non-compliance has arisen due to oversight, lack of awareness or complexities relating to residential status and disclosure requirements.

It is proposed that the start date and end date of the scheme shall be notified.

Our Comments

- ∞ While the BMA entails a total liability of 120% on undisclosed foreign assets and income (S. 3 r.w.s. 41 of the BMA), the scheme limits the outgo to 60%, resulting in a saving of 50%. This concessional framework is a welcome relief that is likely to encourage voluntary disclosures without the fear of huge penal consequences.
- ∞ However, certain ambiguities remain under the scheme, particularly in relation to:
 - Whether the fee of Rs. 1 lakh under the scheme is payable asset-wise for each asset located outside India, being valued at Rs. 5 crores or less or based on the aggregate value of all assets located outside India not exceeding Rs. 5 crores.
 - Whether the declaration with respect to value of undisclosed asset located outside India would be required to be made for each year of default with separate payment to be made for each year.
- ∞ Further, as the rules governing the scheme are yet to be notified, clarity on the operational aspects will have to await the issuance of the prescribed rules.
- ∞ The scheme is aligned with India's commitments under the Automatic Exchange of Information framework, offering taxpayers an opportunity to regularise their positions before potential enforcement action based on third-party information. At the same time, appropriate safeguards have been retained by excluding cases involving proceeds of crime and matters already concluded under the BMA.
- ∞ Overall, the scheme is expected to enhance voluntary compliance, reduce litigation and provide a one-time resolution window for small taxpayers with historical gaps in foreign asset disclosures.

Relaxation of Conditions for Prosecution under the BMA [S. 49 and 50 of the BMA]

Background

S. 49 and S. 50 of the BMA prescribe prosecution, including rigorous imprisonment and fine, where a resident who at any time during a PY, held any asset (including financial interest in any entity) located outside India or had income from a source outside India, wilfully:

- ∞ Fails to furnish ROI within the time prescribed u/s. 139 of the ITA or
- ∞ Furnishes ROI but wilfully omits to disclose such foreign asset or foreign income therein.

Presently, these prosecution provisions apply irrespective of the value of the foreign assets or income and therefore, even minor and inadvertent non-disclosures attract these consequences.

Proposed Amendment

It is proposed to insert a new proviso to S. 49 and S. 50 of the BMA to provide that these prosecution provisions shall not apply in respect of foreign assets, other than immovable property, where the aggregate value of such assets does not exceed Rs. 20 lakhs.

Our Comments

The proposed amendment is a positive step that addresses long-standing concerns regarding the disproportionate application of prosecution provisions under the BMA largely involving cases of inadvertent non-disclosure of small-value foreign assets.

The retrospective application of the amendment further reinforces the legislative intent to provide immediate and meaningful relief and is likely to reduce unnecessary litigation and prosecution in pending and future.

The proposed amendment shall apply with retrospective effect from October 1, 2024.

Rationale of the Proposed Amendments

The proposed amendment seeks to provide relief in cases of minor and inadvertent non-disclosures of foreign assets and to bring parity between the prosecution provisions with the penalty framework under the BMA, which already incorporate monetary thresholds of Rs. 20 lakhs.

Minimum Alternate Tax

Rationalization of MAT Provisions [S. 115JB of the ITA / S. 206 of the ITA, 2025]

Background

The provisions of S. 115JB under the ITA provide for the MAT at the rate of 15% for corporates (other than units located in an IFSC) on the Book profit of the assessee. In cases where MAT is higher than the income-tax payable on the company's total income computed under normal tax provisions, the assessee pays MAT and the excess amount paid is allowed as a tax credit. This credit can be carried forward up to 15 years and set off in future years, where the company's regular tax liability exceeds the MAT liability. The MAT regime is presently in place only for companies under the old tax regime.

The corresponding provision is laid down u/s. 206 of the ITA, 2025.

Proposed Amendments Under ITA

No amendments made under the ITA.

Under ITA, 2025

The following amendments are proposed to be made in S. 206 of the ITA, 2025:

- ∞ The rate of 15% is proposed to be reduced to 14% of the book profit.
- ∞ For TY 2026-27 and onwards, MAT is proposed to be made as the final tax

payable. In other words, no credit shall be allowable for any MAT

payable for TY 2026-27 and onwards.

- ∞ For MAT credit that was available to companies as on March 31, 2026, the mechanism to allow or deny credit for the same, is proposed to be as under:
 - ▶ For domestic companies continuing under the old tax regime, no tax credit would be available in respect of MAT credit brought forward till March 31, 2026.
 - ▶ For domestic companies who opt for new tax regime u/s. 200(5) of the ITA, 2025 (i.e. new regime equivalent to S. 115BAA of the ITA) and S.201(2)³ of the ITA, 2025 (i.e. new regime equivalent to S. 115BAB of the ITA) for a TY, beginning on or after April 1, 2026, it is proposed to amend S. 206(3) of the ITA, 2025 to provide that set – off of MAT credit available till March 31, 2026 would be allowed to the extent of 25% of the tax liability⁴. Such companies would,

³ Purpose of inserting S. 201(2) of the ITA, 2025 is not clear

⁴ If MAT Credit is to be allowed to the extent of 25% of liability, a collateral evaluation from the accounting stand point would have to be done to the effect that based on 25% of allowability, whether the entity would be in position to set-off the MAT Credit entitlement within the time frame available, else such MAT Credit would

however, be allowed to carry forward and set-off such MAT credit only for the residual period out of 15 years remaining, beginning with the year of payment of MAT.

- ▶ In the case of foreign companies, the existing mechanism of claiming the set-off for MAT credit is proposed to be continued i.e. set – off of MAT credit would be allowed to the extent of the difference between the tax on the total income and the MAT, for the TY in which normal tax is more than MAT. The balance credit shall be allowed to be carried forward and set - for the residual period out of 15 years remaining, beginning with the year of payment of MAT.

- ∞ As a consequence of removal of provisions regarding carry forward and set-off of MAT credit and

modification of grant of MAT credit for transition to new regime, several other sections of the ITA, 2025 have been amended. For eg. S. 423 of the ITA, 2025 (computation of tax on which interest for late filing of return is calculated), S. 424 of the ITA, 2025 (computation of tax on which interest for shortfall in payment of advance tax is calculated), S. 425 of the ITA, 2025 (computation of tax on which interest for deferment in payment of advance tax is calculated), etc.

Rationale of the Proposed Amendments

As per the EM, these amendments will allow companies to make a smooth transition from the old tax regime (with deductions and exemptions) to the new tax regime.

The proposed amendments will take effect from April 1, 2026 and will apply in relation to TY 2026-27 and thereafter.

Our Comments

While the companies who opt for the new regime in TY 2026-27 and thereafter would be eligible to claim MAT credit for the residual period, the companies who had already opted for new regime under the ITA for AY 2026-27 or earlier shall not be allowed any MAT credit under the amended law. The benefit is therefore intended to incentivise the companies who have brought forward MAT credit because of which they are not opting for the new regime. Incidentally, the companies who had already opted for new regime under the ITA for AY 2026-27 or earlier and who happen to breach any of the conditions for the new regime in or after TY 2026-27, may also not be eligible for MAT credit. Similarly, companies who opt for the new regime in or after TY 2026-27 and who subsequently breach any of the conditions for the new regime, may also not be entitled to claim the benefit u/s. 206(3) of the ITA, 2025.

lapse. If that was to be the case, if the entity has recognized any Deferred Tax Assets in this regard, the same may have to be pruned down based on expected set-off of such MAT Credit.

Exclusion of Certain Foreign Companies from Applicability of MAT [S. 115JB of the ITA / S. 206 r.w.s. 61 of the ITA, 2025]

Background

The provisions of MAT in the ITA, 2025 are not applicable to certain foreign companies specified in S. 206(1)(l) of the ITA, 2025 namely:

- (i) Foreign company being a resident of a Treaty Country which does not have a PE in India;
- (ii) Foreign company being a resident of a non-treaty Country which does not require any registration under any corporate law in India ; and
- (iii) Foreign companies covered under presumptive taxation u/s 61(2) of the ITA, 2025 and engaged in the following businesses:
 - a) Operation of ships (other than cruise)
 - b) Operation of aircrafts
 - c) Certain turnkey projects approved by Central Government
 - d) Business of providing prospecting, extraction or production of mineral oils

Proposed Amendments

Under ITA

No amendments made under the ITA.

Under ITA, 2025

To the above referred list of exempted foreign companies, following two categories have been added namely foreign companies engaged in:

- (i) Business of operation of cruise ships (subject to prescribed conditions)
- (ii) Business of providing services or technology in India to a resident of India for the purpose of setting up an electronic manufacturing facility or in connection with manufacturing of electronic goods etc.

Rationale of the Proposed Amendments

As per the EM, these amendments are made so as to ensure similar treatment among all the different types of specified businesses of non-residents opting for presumptive taxation.

The proposed amendments will take effect from April 1, 2026 and will apply in relation to the TY 2026-27.

Charitable Trust and Co-Operative Societies

Application for Registration [S. 332 of the ITA, 2025]

Background

In the ITA, 2025, S. 332(1) provides for the persons who are eligible to make application for registration as a registered NPO, in such form and manner as may be prescribed to PCIT or CIT

Proposed Amendment Under ITA

No amendment made under the ITA.

Under ITA, 2025

It is proposed to amend S. 332(1)(f) of the ITA, 2025 whereby "Sch. VII (Table: Sl. No. 10) to (Table: Sl. No. 19)" to be substituted by "Sch. VII [Table: Sl. Nos. 17 to 19]".

Rationale of the Proposed Amendment

S. 332 of the ITA, 2025, *inter alia*, specifies the persons who may apply for registration

Our Comments

This amendment acts as a corrective measure to exempt specific entities from the compliance burden of seeking registration u/s. 332 of the ITA, 2025. It draws parallel exemption to such entities under certain clauses of S. 10 of the ITA.

as a registered NPO. The said provision also includes persons referred to in "Sch. VII (Table: Sl. No. 10 to Table: Sl. No. 16)", who were not required to obtain registration under the ITA in order to claim exemption u/s. 10 of the ITA.

In order to align the said provision with the ITA and to provide clarity, it is proposed to remove the reference to the aforesaid persons from clause (f) of sub-section (1) of S. 332 of the ITA, 2025, so that such persons are not required to obtain registration u/s. 332 of the ITA, 2025.

This amendment will take effect from April 1, 2026 and shall accordingly, apply to the TY 2026-27 and subsequent tax years.

ROI [S. 349 of the ITA, 2025]

Background

Under the ITA, 2025, S. 349 of the ITA, 2025 provides that where the total income of a registered NPO exceeds the maximum amount not chargeable to income-tax for any TY, such organization shall be

mandatorily required to furnish its ROI for that TY in accordance with S. 263(1)(a)(iii) read with S. 263(2) of the ITA, 2025, within the time limit prescribed u/s. 263(1)(c) of the ITA, 2025, (i.e., the original due date).

Proposed Amendment Under ITA

No amendment made under the ITA.

Under ITA, 2025

It is proposed to amend S. 349 of the ITA, 2025. The Bill proposes that after the word, figures, brackets and letter “S. 263(1)(c)”, the word, figures and brackets “or 263(4)” shall be inserted. This amendment will take effect from April 1, 2026 and shall accordingly, apply to TY 2026-27 and subsequent tax years.

Our Comments

This amendment seeks to rectify an inadvertent error, which omitted provision for furnishing of belated returns by registered NPOs.

Rationale of the Proposed Amendment

Existing S. 349 of the ITA, 2025 *inter alia* provides furnishing of return by a registered NPO within the time limit allowed u/s. 263(1)(c) of the ITA, 2025. In order to enable furnishing of belated return by registered NPO, it is proposed to amend the provisions of S. 349 of the ITA, 2025 to provide reference of S. 263(4) of the ITA, 2025, (i.e, belated return) in the said section.

Specified Violation [S. 351 of the ITA, 2025]

Background

Presently, S. 351 of the ITA, 2025 defines “specified violation” by a registered NPO, the occurrence of which can lead to cancellation of registration by the PCIT or CIT.

Currently, clause (b) of sub-section (1) includes a reference to S. 346 of the ITA, 2025 (relating to commercial activities by an NPO with objects of general public utility). Furthermore, clause (c) of the said sub-section contains the word “ensure”.

Proposed Amendment Under ITA

No amendments made under the ITA.

Under ITA, 2025

The following amendments to S. 351(1) of the ITA, 2025 are proposed:

- ∞ in clause (b), the word and figures “or 346” shall be omitted;

- ∞ in clause (c), for the word “ensure”, the word “enure” shall be substituted.

Rationale of the Proposed Amendment

The proposed amendment intends to rationalize S. 351 of the ITA, 2025 by removing the general violation referred to in S. 346 of the ITA, 2025 from S. 351 of the ITA, 2025 and thereby bringing parity between similar provisions and consequences under ITA.

Further, the proposed amendment intends to replace “ensure” with “enure” that likely corrects a typographical error to clarify that the income or assets must *be for the benefit of* (enure to) the intended charitable purpose or beneficiaries, rather than the entity guaranteeing (ensuring) a specific outcome.

This amendment will take effect from April 1, 2026 and shall accordingly, apply to the TY 2026-27 and subsequent tax years.

Our Comments

The amendment is significant and beneficial for NPOs with objects of General Public Utility (GPU) where a temporary violation would not trigger the harsh consequence of cancellation of its registration u/s. 351 of the ITA, 2025.

Further, the amendment also rectifies a clerical error by replacing "ensure" with the correct term "enure".

Merger of Registered NPO in Certain Cases [S. 352 of the ITA, 2025]

Background

Presently, the existing provisions of S. 352(4) [Table: Sl. No. 8] of the ITA, 2025 provides that the specified person shall be liable to pay the tax on accreted income where it has merged with any other entity other than a registered NPO having the same or similar objects and the said merger does not fulfil the conditions, as may be prescribed.

Proposed Amendment Under ITA

No amendment made under the ITA.

Under ITA, 2025

As per Clause 69 of FB, 2026, it is proposed to amend S. 352(4) [Table: Sl. No. 8] of the ITA, 2025 so as to provide that the specified person shall be liable to pay the tax on accreted income where it has merged with, any other:

- (a) entity other than a registered NPO; or

- (b) registered NPO having objects same or similar to it but the said merger does not fulfil such conditions, as may be prescribed; or
- (c) registered NPO that does not have same or similar objects.

Rationale of the Proposed Amendment

In order to align the existing provisions of the ITA, 2025 with the provisions of the ITA and to provide clarity on when the liability to pay tax on accreted income arises during a merger with a registered NPO, it is proposed to amend the said Sl. No. 8. This ensures that such tax is applicable if the merger is with a non-registered entity, a registered entity with dissimilar object, or a registered entity where prescribed conditions are not fulfilled.

This amendment will take effect from the April 1, 2026 and shall accordingly, apply to TY 2026-27 and subsequent tax years.

Our Comments

This amendment brings the provisions of the ITA, 2025 in line with the corresponding provisions of the ITA and strengthens regulatory consistency.

Merger of Registered NPO in Certain Cases [S. 354A of the ITA, 2025]

Background

In ITA, 2025, S. 352 provides for the levy of tax on accreted income (Exit Tax) in specified circumstances; however, the said Act does not expressly incorporate a corresponding exemption from said Exit Taxes in case of eligible mergers between registered NPO.

Proposed Amendment Under ITA

No amendment made under the ITA.

Under ITA, 2025

It is proposed to insert S. 354A of the ITA, 2025 after S. 354 of the ITA, 2025, to provide that the provisions of S. 352 of the ITA, 2025 shall not apply where any registered NPO merges with any other registered NPO, if, —

- (a) the other registered NPO has same or similar objects; and
- (b) the said merger fulfils such conditions as may be prescribed.

Rationale of the Proposed Amendment

The existing provisions of S. 352(4) [Table: Sl. No. 8] of ITA, 2025 implied liability but did not clearly provide specific provision for mergers between registered NPOs with similar objects. In order to provide for provisions similar to S. 12AC of the ITA, Clause 70 of the FB, 2026 proposes to insert S. 354A if ITA, 2025.

This amendment ensures that the tax on accreted income would not trigger if the merger is between two registered non-profit organisations sharing same or similar objects and satisfying conditions as may be prescribed.

Our Comments

The rationale for the proposed amendment appears to ensure consistency between the ITA, 2025 and the ITA. This insertion is a beneficial provision that restores the specific exemption available u/s. 12AC of the ITA, allowing non-profit organisations to restructure or merge without attracting the "Exit Tax" on their accreted income on fulfillment of specified conditions.

Expansion of Scope of Co-operative Society [S. 2(32) of the ITA, 2025]

Background

Presently, S. 2(32) of the ITA, 2025 defines a co-operative society to mean any co-operative society registered under Co-operative Societies Act, 1912, or any other State or Union territory specific law.

Proposed Amendment Under ITA

No amendments made under the ITA.

Under ITA, 2025

It is proposed to amend the said definition to even include the co-operative societies

registered under the Multi-State Co-Operative Societies Act, 2002.

Deduction in Respect of Income of Co-operative Societies [S. 149 of the ITA, 2025]

Background

Presently, S. 149 of the ITA, 2025 specifies the business activities from which income earned by the co-operative society is allowable as deduction while computing the total income of such co-operative society.

Proposed Amendment Under ITA

No amendments made under the ITA.

Under ITA, 2025

- ∞ It is now proposed that in addition to the activities referred in S. 149(2)(b) of the ITA, 2025, supply of cotton seed and cattle feed will also be included.
- ∞ Further, the wordings of the S. 149(2)(d) of the ITA, 2025 are redrafted to insert sub clauses (i) – ‘interest’ and (ii) – ‘dividends’.

- ∞ It is further proposed that a new sub-section (6) be inserted which will incorporate provisions of S. 150 of the ITA, 2025. The sub-section (6) would now include the definition of “consumers’ co-operative society”, “primary agricultural credit society” and “primary co-operative agricultural and rural development bank” for the interpretation of S. 149 of the ITA, 2025.

Rationale of the Proposed Amendment

The proposed amendment aims to expand the scope of S. 149(2)(b) of the ITA, 2025 to include co-operative societies engaged in supplying of cotton seed and cattle feed.

The wordings of the S. 149(2)(d) of the ITA, 2025 are redrafted to facilitate easy referencing from other sections (i.e. S. 203 and 204 of the ITA, 2025).

Deduction in Respect of Income of Federal Co-operative [S. 150 of the ITA, 2025]

Background

Presently, S. 150 of the ITA, 2025 included certain definitions for the purpose of interpretation of S. 149 of the ITA, 2025.

Proposed Amendments Under ITA

No amendments made under the ITA.

Under ITA, 2025

- ∞ The definitions hitherto contained in S. 150 of the ITA, 2025 has been shifted to S. 149 of the ITA, 2025 and the current S. 150 of the ITA, 2025 is proposed to be substituted to provide deduction to federal co-operative

societies in respect of their dividend income in certain cases.

- ∞ The deduction will be applicable in respect of dividend income earned from the investment with any company, recorded in its books of account on or before January 31, 2026 and distributed to its members at least one month before the due date for filing ROI u/s. 263(1) of the ITA, 2025.
- ∞ For the purposes of this section, “federal co-operative” has the same meaning as defined in S. 3(k) of Multi State Co-operative Societies Act, 2002.
- ∞ The provisions of this section shall not apply for TY on or after April 1, 2029.

Rationale of the Proposed Amendments

This amendment is proposed to take effect from April 1, 2026 and will, accordingly, apply in relation to TY 2026-27 to TY 2028-29.

The section is proposed to be amended to allow deduction for dividends received by federal co-operatives in respect of old investments in companies made on or before January 31, 2026 for a short period of 3 years, subject to the same being distributed to their members in the said period. The said deduction shall be available both under the old regime as well as new regime, for which S. 203 of the ITA, 2025 is proposed to be amended (discussed below).

Tax on Income of Resident Co-operative Societies [S. 203 & S. 204 of the ITA, 2025]

Background

S. 203 of the ITA, 2025 provides an option for taxation at a lower rate to co-operative societies. The section specifies the conditions and method of calculation of total income for this section.

S. 204 of the ITA, 2025 provides an option for taxation at a lower rate for co-operative societies registered on or after April 1, 2023 and commenced manufacturing on or before March 31, 2024, subject to the conditions specified therein.

Proposed Amendments

Under ITA

No amendments made under the ITA.

Under ITA, 2025

- ∞ S. 203(1)(a)(i) and S. 204(3)(a)(i) of the ITA, 2025 specify the deductions which are not allowable to the assessee opting for taxation at lower rate under said sections. The said negative list has specific carve-outs. It is proposed that to include the deduction u/s. 150 of the ITA, 2025 (i.e. newly introduced deduction for certain dividend income earned by federal co-operative societies) in the carve out. As a result of this, co-operative societies under the new regime shall also be eligible to claim deduction u/s. 150 of the ITA, 2025.
- ∞ S. 203(7) and S. 204(5) of the ITA, 2025 are proposed to be inserted to widen the scope of S. 203(1) and S. 204(3) of the ITA, 2025 to include the

deduction claimed u/s. 149(2)(d)(ii) of the ITA, 2025 (newly inserted) as allowable deduction for taxation at lower rate subject to certain conditions.

Rationale of the Proposed Amendments

The section is proposed to be amended to allow deduction on dividend received by co-operative society for the calculation of total income u/s. 203 & 204 of the ITA, 2025 subject to the same being distributed by it to its members at least one month before the due date for filing the ROI u/s. 263(1) of the ITA, 2025.

Our Comments

This is a welcome amendment for co-operative societies. The proposed amendments aim to widen the scope of co-operative societies to promote ease of doing business.

Exemptions & Deductions

Deductions Related to Employee Welfare [S. 36(1)(va) of the ITA / S. 29(1)(e)(i) of the ITA, 2025]

Background

'Income' as defined u/s. 2(24)(x) of the ITA provides that when an employer receives any sum from his employees as contributions to any provident fund or superannuation fund or any fund set up under the provisions of Employee's State Insurance Act, 1948 or any other fund for the welfare of such employees, then the said amount is treated as income of the employer.

Further, S. 36(1)(va) of the ITA allows deduction under the head PGBP for such employee contribution, provided that the employer deposits this amount into the respective employee provident or welfare fund on or before the prescribed due date.

'Due Date' for the purpose of this section is defined under Explanation 1 to S. 36(1)(va) of the ITA as the date by which the employer is required to deposit the employee's contribution under the relevant Act, rule, order or notification issued under it or under any standing order, award, contract of service or otherwise.

In ITA, 2025, the corresponding provisions are contained u/s. 2(49)(o), S. 29(1)(e)(i) and S. 29(1)(e)(ii).

Our Comments

By virtue of the proposed amendment, the effect of the decision of Hon'ble Supreme Court in **Checkmate Services (P.) Ltd. vs. CIT [2022] 143 taxmann.com 178 (SC)** would virtually be nullified. However, as no corresponding amendment has been proposed in the ITA, the

Proposed Amendment

Under ITA

No amendment is proposed under the ITA.

Under ITA, 2025

It is proposed to amend the definition of "Due Date" u/s. 29(1)(e)(ii) of the ITA, 2025 prospectively as the "due date of filing the return of income" u/s. 263(1) of the ITA, 2025 (corresponding to S. 139(1) of the ITA).

The proposed amendment shall take effect from April 1, 2026 and will accordingly apply in relation to TY 2026-27 and onwards.

Rationale of the Proposed Amendment

As per Frequently Asked Questions released by the CBDT, the amendment is proposed to align the due date for deposit of employee contribution with that of employer contribution for the purpose of claiming deduction, as there is no such distinction in the relevant Provident Fund, Employee State Insurance Acts. Further, there are adequate compliance provisions embedded in the respective Acts to persuade compliance on the part of the employer.

decision in the case of Checkmate Services (P.) Ltd⁵. (supra) would still apply in relation to the assessment years upto AY 2026-27.

Transactions not Regarded as Transfer [S. 47 of the ITA / S. 70 of the ITA, 2025]

Background

S. 47 of the ITA provides for certain transactions that are not regarded as “transfer” for the purposes of charging capital gains u/s. 45 of the ITA. S. 47(viic) of the ITA provides that the transfer of Sovereign Gold Bond (‘SGB’) issued by the RBI under the Sovereign Gold Bond Scheme, 2015, by way of redemption by an individual, shall not be regarded as a transfer.

S. 70 of the ITA, 2025 contains provisions corresponding to those in S. 47(viic) of the ITA.

Proposed Amendment Under ITA

No amendment is proposed under the ITA.

Under ITA, 2025

- ∞ It is proposed to substitute S. 70(1)(x) of the ITA, 2025 to provide as under:
 - ▶ The exemption shall be extended to **all SGBs issued by the RBI** and shall not be restricted only to bonds issued under the SGB Scheme, 2015.
 - ▶ The exemption shall be available only if the SGBs are subscribed

by the subscriber at the time of the **original issue**.

- ▶ The bonds must be **held continuously** by such original subscriber **till maturity**.
- ▶ The existing conditions that the transfer must be by way of redemption, and the transferor must be an individual shall continue to apply.

The proposed amendment shall take effect from April 1, 2026, and shall apply in relation to the TY 2026-27 onwards.

Rationale of the Proposed Amendment

As per the EM, the proposed amendment seeks to ensure uniform application of the capital gains exemption to the redemption of all SGBs issued under schemes subsequent to and including the SGBs Scheme, 2015, subject to fulfilment of specified conditions. Further, the proposed amendment aims to align with its original intent by restricting the benefit of exemption only to the individual investors who subscribe to the SGB at the time of original issuance by the RBI and continue to hold them till maturity.

Our Comments

The proposed amendment seeks to address a couple of purposes. Firstly, the proposed amendment provides clarity to the individual subscribers of SGBs about their entitlement to

⁵ SLP has been admitted by the Supreme Court in the case of Woodland (Aero Club) Private Limited vs. ACIT [SLP (C) No. 1532/2026]

exemption u/s. 70(1)(x) of the ITA, 2025 even in respect of SGBs subscribed under SGB Schemes floated by the RBI post '2015 SGB Scheme'. Secondly, the condition of holding onto the SGBs throughout the Scheme tenor, although a new and stricter condition, it aims to protect the individual subscribers from the current global uncertain market scenarios underlining the significance of a safe-haven investment. However, the said new condition would impact investors who have already acquired SGBs from the secondary market based on the existing provisions in law with the understanding that the gain on redemption would have been tax exempt. Therefore, the said amendment, though prospective, would have retroactive impact on such investors. Viewed from that perspective, the proposed amendment appears to be unreasonable in as much as it would amount to a breach of the sovereign promise of not taxing the redemption of SGBs before maturity. Although there are decisions holding that the doctrine of promissory estoppel does not apply to the Parliament, the proposed amendment may require reconsideration.

The tax treatment under different situations for transfers after April 1, 2026 is summarised below:

Sr. No.	Conditions	Existing provision	Amended provision
(a)	If purchased at the time of original issue and held continuously till maturity	Exempt	Exempt
(b)	If not purchased at the time of issue and held till maturity	Exempt	Taxable
(c)	If purchased at the time of issue but not held till maturity	Taxable	Taxable
(d)	If neither purchased at the time of original issue and nor held till maturity but purchased and held during the interregnum	Taxable	Taxable
(e)	If purchased at the time of original issue, transferred and then subsequently bought back and held till maturity	First transfer – taxable. Second transfer - exempt	Both transfers taxable

In light of the proposed amendment, the investors can avail the benefit of the exemption only if they are able to redeem the SGBs before March 31, 2026, as the amendment is applicable from April 1, 2026.

Exemption for Disability Pension to Armed Force Personnel [Sch. III of the ITA, 2025]

Background

Disability pension is payable to members of the armed forces who are invalided out of

service due to a bodily disability attributable to, or aggravated by, military, naval, or air

force service, and consists both, a service element and a disability element.

The exemption was originally introduced under the Income Tax Act, 1922, and has been carried forward under the repeal and saving clause of the ITA. The exemption has been implemented through notifications, administrative instructions, and clarificatory circulars thereafter.

Proposed Amendment Under ITA

No provision exists under the ITA.

Under ITA, 2025

- ∞ It is proposed to insert a new entry in Sch. III to ITA, 2025, to provide for exemption of disability pension including both the service element and the disability element, only in cases where the individual has been invalided out of military, naval or air force service on account of a bodily disability attributable to, or aggravated by, such service.

- ∞ The exemption shall not be available where the individual has retired on superannuation or otherwise.
- ∞ It is also proposed that this exemption will be made available to paramilitary personnel.

The said provisions shall apply from April 1, 2026 and will accordingly apply to TY 2026-27 onwards.

Rationale of the Proposed Amendment

The exemption under the ITA was provided through repeal and savings clause, whereby the exemption provided under the Income Tax Act, 1922 and relevant circulars continued to apply.

With the impending repeal of the ITA, the provisions therein relevant to disability pension will not apply anymore. Therefore, it is proposed to explicitly provide for exemption for disability pension in the ITA, 2025. Moreover, the scope for exemption has been increased to include paramilitary forces as well.

Exemption for Interest Income Under the Motor Vehicles Act, 1988 [Sch. III of the ITA, 2025]

Background

The provisions of Motor Vehicles Act, 1988, *inter alia*, provides for grant of compensation and interest on such compensation by the Tribunal under said Act, to an individual or his legal heir, on account of death, permanent disability, or bodily injury under the said Act.

Proposed Amendment Under ITA

No provision exists under the ITA.

Under ITA, 2025

It is proposed to insert a new entry in Sch. III to ITA, 2025 (r.w.s. 11); to provide for an exemption to an individual or his legal heir, on any income in the nature of interest on compensation under the Motor Vehicles Act, 1988.

The said provisions shall apply from April 1, 2026 and will accordingly apply to TY 2026-27 onwards.

Rationale of the Proposed Amendment

As per the EM, the said exemption is proposed to prevent any hardships to the

aggrieved person and their family and in order to alleviate sufferings of victims of such accident and their family.

Our Comments

Different High Courts have taken a divergent view as regards taxability of interest on compensation paid under the Motor Vehicles Act, 1988, especially in light of provisions contained u/s. 194A of the ITA wherein TDS is required to be deducted in case of payment of interest on compensation exceeding Rs. 50,000/-. However, the Bombay High Court in the case of **Rupesh Rashmikant Shah vs. UOI [2019] 417 ITR 169 (Bom)** has held that such interest on compensation is not in the nature of 'income' and that S. 194A not being a charging provision but merely provision for deduction of TDS, the taxability of interest on compensation under Motor Vehicle Act, 1988 cannot be fastened under the said section. The proposed amendment seeks to clarify this position that such interest on compensation awarded under Motor Vehicle Act, 1988 is not chargeable to tax. However, the same is proposed to take effect only prospectively, thereby still leaving the past position unclear and subject to litigation.

Exemption of Income on Compulsory Acquisition of Any Land Under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [Sch. III of the ITA, 2025]

Background

S. 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('RFCTLARRA, 2013'), *inter alia*, provides that income tax shall not levied on any award or agreement made, other than those made u/s. 46, under the said Act.

To remove any ambiguity, the CBDT vide Circular No. 36/2016 dated October 25, 2016, clarified that compensation received pursuant to an award or agreement exempted from income tax u/s. 96 of the aforesaid Act shall also not be taxable under the provisions of the ITA, even in the absence of specific exemption provisions for such compensation.

Proposed Amendment Under ITA

No provision exists under the ITA.

Under ITA, 2025

It is proposed to insert a new entry in Sch. III to ITA, 2025; to provide for an exemption on any income in respect of award or agreement made on account of compulsory acquisition of any land, carried out on or after the April 1, 2026, under the RFCTLARRA, 2013 other than the award or agreement made u/s. 46 of said Act.

The proposed amendment exempts the aforementioned income in hands of an individual or HUF.

The said provisions shall apply from April 1, 2026 and will accordingly apply to TY 2026-27 onwards.

Rationale of the Proposed Amendment

As per the EM, the proposed amendment seeks to align the provisions of the ITA,

2025 with the provisions in the RFCTLARRA, 2013.

Our Comments

The current provisions of Sch. III to the ITA, 2025 read with S. 11 provide exemption to certain eligible persons on their total income. The said Schedule, *inter alia*, provides exemption to an individual or a HUF on any income chargeable under the head “Capital gains” arising from the transfer by way of compulsory acquisition of agricultural land. However, the RFCTLARRA, 2013 does not make any distinction between compensation received for compulsory acquisition of agricultural land and non-agricultural land in the matter of providing exemption from income tax. Therefore, the proposed amendment seeks to bring more clarity and align the provisions of the ITA, 2025 with corresponding provisions of the RFCTLARRA, 2013.

However, under the RFCTLARRA, 2013 as well as the aforesaid Circular, the exemption is available to all types of assessees and not only individual and HUF whereas the proposed amendment seeks to provide the benefit only to individuals and HUF. The same needs to be rectified to properly align the law with the provisions of RFCTLARRA, 2013.

Penalties and Prosecution

Procedure for Levy of Penalty [S. 274 of the ITA/ S. 471 & 532 of the ITA, 2025]

Background

Presently, S. 274 of the ITA prescribes the procedure for imposing penalties. The provision requires granting opportunity of being heard to the assessee and, in specified cases, mandates prior approval of higher authorities before levy of penalty.

In ITA, 2025 the corresponding provisions are in S. 471.

Proposed Amendments

Under ITA

It is proposed to amend S. 274 of the ITA, by inserting the requirement of issuing show cause notice to the assessee. It is further proposed to provide that penalty for misreporting or under-reporting of income leviable u/s. 270A of the ITA shall be imposed as part of the assessment order made on or after April 1, 2027, for AY 2026–27 or any earlier AY.

Our Comments

- ∞ For assessments made in respect of AY 2026-27 or earlier AYs, on or before April 1, 2027, the provisions of S. 274 of the ITA before the proposed amendments shall be applicable.
- ∞ With common order, there will be single appeal against the assessment additions as well as penalty.
- ∞ In the absence of any proposed amendment to S. 275 of the ITA, the prescribed time limits for passing penalty orders will continue to apply for orders passed before April 1, 2027.
- ∞ The proposed amendment raises certain questions, such as:

The proposed amendments shall come into force in the ITA from March 1, 2026.

Under ITA, 2025

The amendments u/s. 471 of the ITA, 2025 are in pari materia with S. 274 of the ITA except that the amendments to S. 274 are applicable to the specified assessments made on or after April 1, 2027 only **in respect of AY 2026-27 or earlier AYs**. For the assessments made on or after April 1, 2027 for TY 2026-27 and onwards provisions of S. 471 of the ITA, 2025 will be applicable.

Rationale of the Proposed Amendments

As per EM, the proposed amendments ensure avoiding multiplicity of proceedings which in turn would reduce the compliance of the taxpayers apart from providing consistency in levying of penalty.

- ▶ Prior to the FB, 2026, penalty appeals used to be argued also on grounds independent of merits, for e.g., *bonafide* belief, no *malafide* intention, debatable nature of claim, non-application of mind by the AO, etc. Will these arguments be diluted in appeal proceedings with the integration of penalty order into the assessment order?
- ▶ Will the assessment notices specifically require the Assessee to show cause as to why penalty should not be levied on proposed disallowances which, hitherto was separately done under penalty proceedings?
- ▶ Does the limitation u/s. 275(1)(a) of the ITA / 472(1)(a) of the ITA, 2025 for passing the penalty order become redundant?

Payment and Recovery of Tax Demand [S. 220 of the ITA / S. 411 of the ITA, 2025]

Background

Presently, S. 220(1) of the ITA provides that any amount payable in a notice of demand shall be paid within a period of 30 days of service of notice of demand. S. 220(2) of the ITA requires the assessee to pay simple interest at 1% per month or part of the month, in case the amount mentioned in the notice of demand is not paid within the prescribed time limit.

In ITA, 2025, the corresponding provisions are in S. 411 of the ITA, 2025.

Proposed Amendments

Under ITA

It is proposed to amend sub-section (2) of S. 220 of the ITA by inserting fourth proviso to the effect that interest u/s. 220(2) of the ITA shall be waived on any demand raised by way of penalty u/s. 270A of the ITA up to the date of passing of the following orders:

- ∞ Order u/s. 250 of the ITA.
- ∞ Order u/s. 254 of the ITA, in case assessment or reassessment is made in accordance with the

directions of DRP u/s. 144C of the ITA.

The proposed amendment will come into force from March 1, 2026.

Under ITA, 2025

Correspondingly, it is proposed to substitute sub-section (3) of S. 411 of the ITA, 2025 by inserting clauses (a) & (b) to the effect that the interest shall be waived till the date of passing of the following orders:

- ∞ Order u/s. 359 of the ITA, 2025.
- ∞ Order u/s. 363 of the ITA, 2025 in case assessment or reassessment is made in accordance with the directions of DRP u/s. 275 of the ITA, 2025.

The proposed amendment will take effect from April 1, 2026.

Rationale of the Proposed Amendments

The FB proposes to introduce a common order for assessment and penalty, by amending S. 270A of the ITA with a view to reduce multiplicity of proceedings and

reduce compliance burden for assesseees.
The proposed amendment appears to be

consequential to such “common order”
proposal.

Our Comments

S. 220(2) of the ITA provides for adjustment of interest on outstanding demand depending on the outcome of CIT(A)/ITAT orders. With the “common order” proposal, the main provision needed tweaking which is why it is proposed.

As per the EM, the said amendments both under the ITA as well as the ITA, 2025 shall be effective from April 1, 2027 where any draft order, assessment order or re-assessment order is passed on or after April 1, 2027. However, the language of the said amendment does not support the said intention, which could lead to anomalies.

DRC [S. 245MA of the ITA / S. 379 of the ITA, 2025]

Background

S. 245MA of the ITA gives power to the Central Government to constitute DRC to resolve disputes of specified small and medium taxpayers in a cost-effective and expeditious manner. DRC is empowered to reduce/waive any penalty or grant immunity from prosecution for any offence under the ITA.

In ITA, 2025, the corresponding provisions are in S. 379 and S. 532.

Proposed Amendments Under ITA

Sub-section (2) of section 245MA of the ITA is proposed to be amended by substituting the words “waive any penalty

imposable” to “waive any penalty imposed or imposable”.

The proposed amendment will take effect from March 1, 2026.

Under ITA, 2025

The amendment u/s. 379 of the ITA, 2025 is in line with the ITA. The proposed amendment will take effect from April 1, 2026.

Rationale of the Proposed Amendments

The proposed amendment is consequential to the amendment proposed u/s. 274 of the ITA providing for common order.

Tax on Income Referred to in S. 102 to 106 [S. 195 of the ITA, 2025]/Tax on Income Referred to in S. 68 or S. 69 or S. 69A or S. 69B or S. 69C or S. 69D [S. 115BBE of the ITA]

Background

S. 195 of the ITA, 2025 levies tax at the rate of 60% on income brought to tax by AO u/s. 102 to 106 of the ITA, 2025. The said provisions tax unexplained credits, unexplained investment, unexplained asset, unexplained expenditure and amount borrowed or repaid through negotiable instrument, hundi, etc.

Proposed Amendment Under ITA

No amendment is proposed

Under ITA, 2025

It is proposed to amend S. 195 of the ITA, 2025 to reduce the tax rate from 60% to 30%.

This amendment will take effect from April 1, 2026 and shall apply for TY 2026-27 and subsequent TYs

Rationale of the Proposed Amendment

The tax rate of 60%, which is currently charged on income referred to in S.102 to 106 as per S. 195 of the ITA, 2025, is not proportionate and therefore, to rationalise the same, the tax rate of 30% is proposed u/s. 195.

Our Comments

- ∞ Although the tax rate on income referred to in S. 102 to S. 106 as per S. 195 of the ITA, 2025 is reduced from 60% to 30%, the penalty on the said income is increased from 10% u/s. 443 of the ITA, 2025 to 200% u/s. 439 of the ITA, 2025.
- ∞ Consequently, the apparent benefit of proposed tax reduction from 60% to 30% is converted into rigorous tax blow on the assesses.

Enhancement of Penalty on Income Brought to Tax by the AO u/s. 102 to 106 [S. 443 of the ITA, 2025] by Including the Same in the List of Cases Involving Misreporting.

Background

Presently, S. 443 of the ITA, 2025 levies penalty at the rate of 10% of tax payable u/s. 195(1)(i) of the ITA 2025. S. 195(1)(i), as it stands today, charges tax at the rate of

60% on income determined by the AO u/s. 102,103,104, 105 or 106 of the ITA, 2025.

Proposed Amendment Under ITA, 2025

It is proposed to omit S. 443 of the ITA, 2025 and integrate the penalty on income determined u/s. 102 to S. 106 of the ITA, 2025 with the existing provisions on penalty for misreporting levied u/s. 439 of the ITA, 2025 at the rate of 200% of the tax payable on the under-reported income.

The proposed amendment takes effect from April 1, 2026 and applies for TY 2026-27 and subsequent TYs.

Rationale of the Proposed Amendment

As per EM, it is proposed to bring the penalty rate on income determined by AO

which is in nature of income referred to in S. 102 to 106 of the ITA, 2025, at par with the rate charged for “misreporting of income” u/s. 439 of the ITA, 2025. Accordingly, penalty provision u/s. 443 of the ITA, 2025 (penalty for income referred to in sections 102 to 106 of the ITA, 2025) are proposed to be omitted and in lieu thereof, penalty is proposed to be included in the cases of under-reporting of income in consequence of misreporting u/s. 439(11) of the ITA, 2025.

This is also in line with the amendment in S. 195 of the ITA, 2025, whereby the rate of tax on such income is proposed to be reduced to 30% from the existing 60%.

Penalty for Under-Reporting and Misreporting of Income [S. 270A of the ITA / S. 439 of the ITA, 2025]

Background

S. 270A of the ITA deals with penalty on under-reported and mis-reported income. The terms “under-reporting” and “misreporting” are defined in sub-sections (2) and (9), respectively. The penalty on each of them is computed at 50% and 200%, respectively, of the amount of tax payable.

In ITA, 2025 the corresponding provisions are in S. 439.

Proposed Amendments Under ITA

It is proposed to insert sub-section (11A) to S. 270A of the ITA, effective from March 1, 2026, to exclude the income on which additional income-tax paid u/s.140B(3A),

from the basis of imposition of penalty u/s. 270A of the ITA.

Under ITA, 2025

- ∞ Correspondingly, it is proposed to insert sub-section (13A) to S. 439 of the ITA, 2025, to exclude the income on which additional tax is paid u/s. 267(5)(ii) from the basis of imposition of penalty u/s. 439 of the ITA, 2025.
- ∞ It is also proposed to expand the definition of “misreporting” by adding clause (g) to S. 439(11) of the ITA, 2025, which covers income referred to in S.195(1)(b)⁶ of the ITA, 2025.

Rationale of the Proposed Amendments

As per EM, where additional income-tax is paid as per proposed additional income-tax u/s. 140B(3A) of the ITA, 2025 in cases of

⁶ Charges tax @60% (now proposed at 30%) on income charged to tax by the AO u/s. 102 to 106 of the ITA, 2025

reopening of assessment, the income on which such additional income-tax is paid shall not form the basis of imposition of penalty u/s. 439 of the ITA, 2025.

Further, as per EM, it is proposed to bring the penalty rate on income determined by AO which is in nature of income referred to in S. 102 to 106 of the ITA, 2025, at par with the rate charged for “misreporting of

income” u/s. 439 of the ITA, 2025. Accordingly, penalty provision u/s. 443 of the ITA, 2025 (penalty for income referred to in sections 102 to 106 of the ITA, 2025) are proposed to be omitted and in lieu thereof, penalty is proposed to be included in the cases of under-reporting of income in consequence of misreporting u/s. 439(11) of the ITA, 2025.

Our Comments

- ∞ Exclusion of income on which additional tax is paid u/s. 140B(3A) of the ITA from the basis to levy penalty for misreporting or under-reporting of income is a welcome provision and brings clarity to the taxpayers. As per the proposed amendments, now the tax payers shall have an option in case of reopening to file update return and pay additional tax as per S. 140B of the ITA, as a result of which they shall not be subject to the penalty provisions u/s. 439 of the ITA, 2025.
- ∞ By bringing income taxed by the AO u/s. 102 to S.106 of the ITA, 2025 within the net of S. 270A of the ITA / S.439 of the ITA, 2025, the apparent benefit of proposed tax reduction from 60% to 30% are converted into rigorous tax blow on the assesses.

Waiver of Penalty and Immunity from Prosecution [S. 270AA of the ITA / S. 440 of the ITA, 2025]

Background

Presently, an assessee can apply for immunity from levy of penalty u/s. 270A of the ITA or initiation of prosecution u/s. 276C or 276CC of the ITA subject to payment of tax and interest and non-filing of appeal against the order u/s. 270A of the ITA. However, immunity can only be granted where penalty u/s. 270A of the ITA is levied in the cases of under reporting of income and not in the case where it is levied for under-reporting of income in consequence of misreporting [S. 270A(9)]

In ITA, 2025, the corresponding provisions are in S. 440.

Proposed Amendments Under ITA

- ∞ It is proposed to extend the immunity u/s. 270AA of the ITA to cases where penalty is levied for misreporting of income in the cases specified u/s. 270A(9) of the ITA, subject to payment of additional tax amounting to 100% of tax payable on under-reported income within the time specified in the notice of demand.
- ∞ It is also proposed to insert subsection (3A) to S. 270AA of the ITA to exclude from scope of immunity, the cases in which prosecution proceedings are initiated under Chapter XXII.

Under ITA, 2025

- ∞ It is proposed to extend the immunity u/s. 440 of the ITA, 2025 to cases where penalty is levied for misreporting of income in the cases specified u/s. 439(11)(a) to (f) of the ITA, 2025 subject to payment of additional tax amounting to 100% of tax payable on under-reported income within the time specified in the notice of demand.
- ∞ The immunity u/s. 440 of the ITA, 2025 is also extended to cases where penalty is levied u/s. 439(11)(g) of the ITA, 2025 subject to payment of additional tax at 120% of

the tax payable on under-reported income within the time specified in the notice of demand.

- ∞ It is proposed to insert sub-section (4) to S. 440 of the ITA, 2025 to exclude the cases in which prosecution proceedings are initiated under Chapter XXII.

Rationale of the Proposed Amendments

The amendments are proposed so as to extend the scope of immunity to cases where penalty is initiated for under-reporting of income in consequence of misreporting and exclude cases where prosecution has already been initiated.

Our Comments

The extension of the scope of immunity to the cases where penalty is initiated for under-reporting of income in consequence of misreporting is a welcome provision for the taxpayers. However, cases where penalty is levied u/s. 439(11)(g) of the ITA, 2025, reduction in tax rate u/s. 195(1)(b) of the ITA, 2025 is more than “off set” by additional tax payable at 120%. This is illustrated in the following table:

Particulars	Pre-amendment (S. 115BBE r.w.s. 271AAC of ITA)		Post-amendment (Without immunity) S. 195 r.w.s. 439 of ITA, 2025		Post-amendment (with immunity) S. 195 r.w.s. 440 of ITA, 2025	
	Rate	Amt. (in Rs.)	Rate	Amt. (in Rs.)	Rate	Amt. (in Rs.)
Income referred to in S. 102 to S. 106	-	100	-	100	-	100
Tax	60%	60	30%	30	30%	30
Surcharge	25%	15	25%	7.5	25%	7.5
Cess	4%	3	4%	1.5	4%	1.5
Tax payable	-	78	-	39	-	39
Penalty	10%	6 ⁷	200%	78 ⁸	120%	46.8 ⁷
Effective tax rate		84%		117%		85.8%

⁷ Penalty is computed in strict adherence to S. 271AAC

⁸ Penalty is computed on tax inclusive of surcharge and cess

Penalty for Failure to Furnish Information or for Furnishing Inaccurate Information on Transaction of Crypto-Asset [S. 446 of the ITA, 2025]

Background

Presently, S. 446 of the ITA, 2025 contains provisions for levy of penalty for failure to get accounts audited.

Proposed Amendments

It is proposed to substitute the penalty for failure to get accounts audited into a fee by amending the provisions of S. 428 of the ITA, 2025 (discussed later.)

Further, the current S. 446 of the ITA, 2025 is proposed to be substituted with new provisions for levy of penalty for failure to furnish information or for furnishing inaccurate information on transaction of crypto-asset as under:

- ∞ If the statement in respect of a transaction of a crypto- asset is not furnished within the time prescribed u/s. 509(1) of the ITA, 2025, a penalty of Rs. 200/- per day may be levied for the period of default.
- ∞ A higher penalty of Rs. 50,000/- may be levied if the person:

- ▶ Furnishes inaccurate information in the statement and does not correct it as required u/s. 509(4) of the ITA, 2025, or
- ▶ Fails to comply with due-diligence requirements u/s. 509(5) of the ITA, 2025.

The amendment shall take effect from April 1, 2026 and shall apply from TY 2026-27 and onwards.

Rationale of the Proposed Amendments

As per EM, levy of penalty for failure to get accounts audited is omitted and convert to fee u/s. 428 of the ITA, 2025. It also proposes to replace S. 446 of the ITA, 2025 to levy penalty for failure to furnish information or for furnishing inaccurate information on transaction of crypto-asset to ensure compliance to the provisions of S. 509 of the ITA, 2025 and create a deterrence for non-furnishing of such statement or for sharing inaccurate information in such statement, it is proposed to introduce penalty provision.

Our Comments

Recognizing the inherent risks in dealing in digital assets, the FB has proposed specific penalty on reporting entities for non-compliance u/s. 509 of the ITA, 2025.

Removal of Penalty for Failure to Furnish Report u/s. 172 of the ITA, 2025 [S. 447 of the ITA, 2025]

Background

S. 447 of the ITA, 2025 contains provisions to levy penalty of Rs. 1,00,000/- for failure to furnish a report u/s. 172⁹ of the Act.

Proposed Amendment

It is proposed to omit S. 447 of the ITA, 2025.

The amendment will take effect from April 1, 2026, and shall apply to TY 2026-27 and subsequent TYs.

Rationale of the Proposed Amendment

Deletion of penalty u/s. 447 of the ITA, 2025 is consequential to conversion of the said penalty into fee u/s. 428(4) of the ITA, 2025.

Penalty for Failure to Furnish Statement of Financial Transaction or Reportable Account [S. 454 of the ITA, 2025]

Background

S. 454 of the ITA, 2025, levies penalty for failure to furnish statement of financial transaction or reportable account as under:

- ∞ Rs. 500/- per day for the period of default.
- ∞ Rs. 1,000/- per day for each day of default after expiry of time specified in the notice u/s. 508(7) of the ITA, 2025.

Proposed Amendment

It is proposed to substitute S. 454 of the ITA, 2025 to levy uniform penalty of Rs.

1,000/- per day, from the day after the expiry of the period u/s. 508(7) and cap it at Rs. 1,00,000/-. Further, the penalty of Rs. 500/- per day for the period of default is proposed to be deleted from the substituted section.

The amendment will take effect from April 1, 2026 and will apply for TY 2026-27 and subsequent TYs.

Rationale of the Proposed Amendment

Deletion of penalty of Rs. 500 per day u/s. 454(1) of the ITA, 2025 is consequential to conversion of the said penalty into fee u/s. 427(3) of the ITA, 2025 (discussed later).

Our Comments

The proposal to cap the fee u/s. 454(2) of the ITA, 2025 to Rs. 1,00,000/- is a welcome move.

⁹ Report of an accountant on international transactions or specified domestic transactions

Penalty for Failure to Comply With the Provisions of S. 254 [S. 466 of the ITA, 2025]

Background

S. 254 of the ITA, 2025 empowers income-tax authorities to collect information at business or professional premises by directing the proprietor, employee, or any other person present and involved in the business to furnish prescribed information.

S. 466 of the ITA, 2025 authorizes the JCIT, DDIT, ADIT, or AO to impose a penalty of up to Rs. 1,000/- if a person fails to comply with S. 254 of the ITA, 2025.

Proposed Amendment

The amount of penalty u/s. 466 of the ITA, 2025 has been enhanced from Rs. 1,000/- to Rs. 25,000/-.

This amendment will take effect from April 1, 2026 and shall apply for TY 2026-27 and subsequent TYs.

Rationale of the Proposed Amendment

As per the EM, the increase in the amount of penalty will ensure adequate deterrence and voluntary compliances.

Penalty Not to be Imposed in Certain Cases. [S. 470 of the ITA, 2025]

Background

S. 470 of the ITA, 2025 has an overriding provision that penalty u/s. 441 or 442 or 446 or 447 or 448 or 449 or 450 or 451 or 452 or 453 or 454 or 455 or 456 or 457 or 458 or 459 or 460 or 461 or 462 or 463 or 465(1)(c) or 465(1)(d) or 465(2) or 466 or 467 or 468 of the ITA, 2025 is not to be levied on a person or an assessee where there was a "reasonable cause" for failure under the relevant provision.

Proposed Amendment

The FB proposes to omit a reference to S. 447 of the ITA, 2025 which levies penalty for non-furnishing of accountant's report u/s. 172¹⁰ of the ITA, 2025.

Rationale of the Proposed Amendment

Omission of reference to S. 447 of the ITA, 2025 is consequential to the proposed deletion of S. 447 of the ITA, 2025 under the FB and conversion of the said penalty into fee u/s. 428(4) of the ITA, 2025.

¹⁰Report of an accountant on international transactions or specified domestic transactions

Fee Default Furnishing Statements, ROI, Audited Accounts and Reports [S. 427 and S. 428 of the ITA, 2025]

Background

S. 427 of the ITA, 2025 provides that where a person fails to furnish TDS/TCS statements within the prescribed time u/s. 397(3)(b) of the ITA, 2025, then he shall be liable to pay a fee of Rs. 200/- per day until the failure continues. However, this fee cannot exceed the amount of tax deductible or collectible, and it must be paid before the statement is finally submitted.

S. 428 of the ITA, 2025 provides that a person who fails to file the ROI within the prescribed time shall be liable to pay the following fees:

- ∞ Up to Rs. 1,000/-, if the person's total income does not exceed Rs. 5,00,000/-.
- ∞ Rs. 5,000/-, in all other cases.

Proposed Amendment Under ITA, 2025

It is now proposed to insert sub-section (3) in S. 427 of the ITA, 2025 to convert penalty on failure to furnish SFT into fees and expand the scope of S. 428 of the ITA, 2025 to include fees for various failures as tabulated hereunder:

Proposed amendment in S.	Failure	Present provision	Existing provision – penalty	Proposed Amendment - Fee
427(3)	Furnishes SFT or reportable account u/s. 508(1) within time prescribed u/s. 508(2)	S. 454(1) of the ITA, 2025	Rs. 500/- per day until the failure continues	Rs. 200/- per day until the failure continues subject to a maximum limit of Rs. 1,00,000/-
428(b)	Furnishes a ROI u/s. 263(5) beyond nine months from the end of relevant TY	-	-	Total income does not exceed Rs. 5,00,000/-: Rs. 1,000/- Any other case: Rs. 5,000/-
428(c)	Failure to get his accounts audited for any TY or years and furnish the report of such audit as required u/s. 63	S. 446 of the ITA, 2025	Lower of: 0.5% of the total sales, turnover, or gross receipts in business, or the gross receipts in profession for such TY or years; or	Delay upto one month: Rs. 75,000/- After one month: Rs.1,50,000/-

Proposed amendment in S.	Failure	Present provision	Existing provision – penalty	Proposed Amendment - Fee
			Rs. 1,50,000/-	
428(d)	Failure to furnish a report from an accountant as required by S.172	S. 447 of the ITA, 2025	Rs. 1,00,000/-	Delay upto one month: Rs. 50,000/- After one month: Rs. 1,00,000/-

The amendment will take effect from April 1, 2026 and apply to TY 2026-27 and subsequent TYs.

Rationale of the Proposed Amendment

The amendment aims to convert penalties to fees to ensure compliance and reduce litigation.

Our Comments

Penalty imposed by Income-tax authority are discretionary, but the fee charged will be automatic.

Further, order levying penalty are appealable whereas order charging fees are not. In genuine cases, where there are delays in filing reports, statements, etc., Assessee will have no remedy to defend its case.

Rationalization of Prosecution Proceedings [Chapter XXII of ITA & ITA, 2025]

Background

Presently, Chapter XXII of the ITA and ITA, 2025 imposes imprisonment, including rigorous imprisonment, for various offences committed by the assessee or public servants, with terms ranging from three months to seven years.

Proposed Amendments

Under ITA

With a view to rationalize and decriminalize prosecution proceedings, it is proposed to amend the nature and terms of the imprisonment under various provisions of ITA as under w.e.f March 1, 2026:

S. No.	Existing Provision (Up to February 28, 2026)	Proposed Amendment (On or after March 1, 2026)
275A - Contravention of order made u/s. 132(1)	Rigorous imprisonment which may extend to 2 years and fine .	Simple imprisonment for a term up to 2 years and fine . The section is reworded as Contravention of order made during search action .

S. No.	Existing Provision (Up to February 28, 2026)	Proposed Amendment (On or after March 1, 2026)												
275B - Failure to comply with the provisions S.132(1)(iib).	Rigorous imprisonment which may extend to 2 years and fine.	Simple imprisonment for a term up to 6 months, or fine, or both. The section is reworded as Failure to afford facility for inspection of books of accounts during search.												
276 - Removal, concealment, transfer or delivery of property to thwart tax recovery.	Rigorous imprisonment which may extend to 2 years and fine.	Simple imprisonment for a term up to 2 years and fine.												
276B - Failure to pay tax to the credit of Central Government under Chapter XII-D or XVII-B.	Rigorous imprisonment between 3 months to 7 years and fine	<table border="1"> <thead> <tr> <th>Amount of tax</th> <th>Punishment</th> </tr> </thead> <tbody> <tr> <td>> Rs. 50 lakhs</td> <td>Simple Imprisonment upto 2 years or fine or both</td> </tr> <tr> <td>> Rs. 10 lakhs but ≤ Rs. 50 lakhs</td> <td>Simple Imprisonment upto 6 months or fine or both</td> </tr> <tr> <td>Other cases</td> <td>fine</td> </tr> </tbody> </table>	Amount of tax	Punishment	> Rs. 50 lakhs	Simple Imprisonment upto 2 years or fine or both	> Rs. 10 lakhs but ≤ Rs. 50 lakhs	Simple Imprisonment upto 6 months or fine or both	Other cases	fine				
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276BB - Failure to pay the TCS.														
276C(1) - Wilful attempt to evade tax	<table border="1"> <thead> <tr> <th>Amount evaded or tax on under-reported income</th> <th>Punishment</th> </tr> </thead> <tbody> <tr> <td>> Rs. 25 lakhs</td> <td>Rigorous imprisonment between 6 months to 7 years and fine;</td> </tr> <tr> <td>Other cases</td> <td>Rigorous imprisonment between 3 months to 2 years and fine</td> </tr> </tbody> </table>	Amount evaded or tax on under-reported income	Punishment	> Rs. 25 lakhs	Rigorous imprisonment between 6 months to 7 years and fine;	Other cases	Rigorous imprisonment between 3 months to 2 years and fine	<table border="1"> <thead> <tr> <th>Amount evaded or tax on under-reported income</th> <th>Punishment</th> </tr> </thead> <tbody> <tr> <td>> Rs. 50 lakhs;</td> <td>Simple Imprisonment upto 2 years or fine or both</td> </tr> <tr> <td>> Rs. 10 lakhs but ≤ Rs. 50 lakhs</td> <td>Simple Imprisonment upto 6 months or fine or both</td> </tr> </tbody> </table>	Amount evaded or tax on under-reported income	Punishment	> Rs. 50 lakhs;	Simple Imprisonment upto 2 years or fine or both	> Rs. 10 lakhs but ≤ Rs. 50 lakhs	Simple Imprisonment upto 6 months or fine or both
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S. No.	Existing Provision (Up to February 28, 2026)	Proposed Amendment (On or after March 1, 2026)							
		Other cases	fine						
276C(2) - Wilful attempt to evade tax	Rigorous imprisonment between 3 months to 2 years and fine at the discretion of the court.	Amount evaded	Punishment						
		> Rs. 50 lakhs	Simple Imprisonment upto 2 years or fine or both						
		> Rs. 10 lakhs but ≤ Rs. 50 lakh	Simple Imprisonment upto 6 months or fine or both						
		Other cases	Fine						
276CC - Failure to furnish ROI.	<table border="1" data-bbox="528 1081 997 1485"> <thead> <tr> <th>Amount of tax evaded</th> <th>Punishment</th> </tr> </thead> <tbody> <tr> <td>> Rs. 25 lakhs</td> <td>Rigorous imprisonment between 6 months to 7 years and fine</td> </tr> <tr> <td>Other cases</td> <td>imprisonment between 3 months to 2 years and fine</td> </tr> </tbody> </table>	Amount of tax evaded	Punishment	> Rs. 25 lakhs	Rigorous imprisonment between 6 months to 7 years and fine	Other cases	imprisonment between 3 months to 2 years and fine	Amount of tax evaded	Punishment
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Other cases	imprisonment between 3 months to 2 years and fine								
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		> Rs. 10 lakhs but ≤ Rs. 50 lakhs	Simple Imprisonment upto 6 months or fine or both						
		Other cases	fine						
276CCC - Failure to furnish in search cases.	Imprisonment for a term not less than 3 months but may extend to 3 years and fine	Amount of tax	Punishment						
		> Rs. 50 lakhs;	Simple Imprisonment upto 2 years or fine or both						
		> Rs. 10 lakhs	Simple Imprisonment						

S. No.	Existing Provision (Up to February 28, 2026)	Proposed Amendment (On or after March 1, 2026)														
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276D - Failure to produce accounts and documents.	Rigorous imprisonment for a term which may extend to 1 year and fine.	Simple imprisonment up to 6 months, or fine, or both.														
277 - False statement in verification.	<table border="1"> <thead> <tr> <th>Amount of tax evaded</th> <th>Punishment</th> </tr> </thead> <tbody> <tr> <td>> Rs. 25 lakhs</td> <td>Rigorous imprisonment between 6 months to 7 years and fine;</td> </tr> <tr> <td>Other cases</td> <td>Rigorous imprisonment between 3 months to 2 years and fine</td> </tr> </tbody> </table>	Amount of tax evaded	Punishment	> Rs. 25 lakhs	Rigorous imprisonment between 6 months to 7 years and fine;	Other cases	Rigorous imprisonment between 3 months to 2 years and fine	<table border="1"> <thead> <tr> <th>Amount of tax evaded</th> <th>Punishment</th> </tr> </thead> <tbody> <tr> <td>> Rs. 50 lakhs;</td> <td>Simple Imprisonment upto 2 years or fine or both</td> </tr> <tr> <td>> Rs. 10 lakhs but ≤ Rs. 50 lakhs</td> <td>Simple Imprisonment upto 6 months or fine or both</td> </tr> <tr> <td>Other cases</td> <td>Fine</td> </tr> </tbody> </table>	Amount of tax evaded	Punishment	> Rs. 50 lakhs;	Simple Imprisonment upto 2 years or fine or both	> Rs. 10 lakhs but ≤ Rs. 50 lakhs	Simple Imprisonment upto 6 months or fine or both	Other cases	Fine
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Other cases	Fine															
277A - Falsification of books of account or document.	Rigorous imprisonment between 3 months to 2 years and fine.	Simple imprisonment up to 2 years and fine.														
278 - Abetment of false return.	<table border="1"> <thead> <tr> <th>Amount of tax, penalty, interest evaded</th> <th>Punishment</th> </tr> </thead> <tbody> <tr> <td>> Rs. 25 lakhs</td> <td>Rigorous imprisonment between 6 months to 7 years and fine;</td> </tr> <tr> <td>Other cases</td> <td>Rigorous imprisonment between 3 months to 2 years and fine</td> </tr> </tbody> </table>	Amount of tax, penalty, interest evaded	Punishment	> Rs. 25 lakhs	Rigorous imprisonment between 6 months to 7 years and fine;	Other cases	Rigorous imprisonment between 3 months to 2 years and fine	<table border="1"> <thead> <tr> <th>Amount of tax, penalty, interest evaded</th> <th>Punishment</th> </tr> </thead> <tbody> <tr> <td>> Rs. 50 lakhs;</td> <td>Simple Imprisonment upto 2 years or fine or both</td> </tr> <tr> <td>> Rs. 10 lakhs but ≤ Rs. 50 lakhs</td> <td>Simple Imprisonment upto 6 months or fine or both</td> </tr> </tbody> </table>	Amount of tax, penalty, interest evaded	Punishment	> Rs. 50 lakhs;	Simple Imprisonment upto 2 years or fine or both	> Rs. 10 lakhs but ≤ Rs. 50 lakhs	Simple Imprisonment upto 6 months or fine or both		
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S. No.	Existing Provision (Up to February 28, 2026)	Proposed Amendment (On or after March 1, 2026)	
		Other cases	fine
278A - Punishment for second and subsequent offences.	Rigorous imprisonment between 6 months to 7 years and fine.	Simple	imprisonment between 6 months to 3 years and fine.
280 - Disclosure of particulars by public servants.	Imprisonment which may extend to 6 months and fine.	Simple	imprisonment up to 1 month, or fine or both.

Under ITA, 2025

With a view to rationalize and decriminalize prosecution proceedings, it is proposed to

amend the nature and terms of the imprisonment under various provisions of ITA, 2025 as under w.e.f April 1, 2026:

S. No.	Existing Provision	Proposed Amendment	
473 – contravention of order u/s. 247(4)	Rigorous imprisonment which may extend to 2 years and fine.	Simple	imprisonment for a term up to 2 years and fine.
474 – contravention of order u/s. 247(1)(ii)	Rigorous imprisonment which may extend to 2 years and fine.	Simple	imprisonment for a term up to 6 months, or fine, or both.
475 – Removal, concealment, transfer or delivery of property to prevent tax recovery.	Rigorous imprisonment which may extend to 2 years and fine.	Simple	imprisonment for a term up to 2 years and fine.
476 – Failure to pay tax to credit of Central Government under Chapter XIX-B	Rigorous imprisonment between 3 months to 7 years and fine.	Amount of tax	Punishment
477 – Failure to pay TCS		> Rs. 50 lakhs	Simple Imprisonment upto 2 years or fine or both
		> Rs. 10 lakhs but ≤ Rs. 50 lakhs	Simple Imprisonment upto 6 months or fine or both
		Other cases	Fine

S. No.	Existing Provision		Proposed Amendment	
478(1) – Wilful attempt to evade tax	Amount evaded or tax on under-reported income	Punishment	Amount evaded or tax on under-reported income	Punishment
	> Rs. 25 lakhs	Rigorous imprisonment between 6 months to 7 years and fine	> Rs. 50 lakhs	Simple Imprisonment upto 2 years or fine or both
	Other cases	Rigorous imprisonment between 3 months to 2 years and fine	> Rs. 10 lakhs but ≤ Rs. 50 lakhs	Simple Imprisonment upto 6 months or fine or both
			Other cases	Fine
478(2) – Wilful attempt to evade tax	Rigorous imprisonment between 3 months to 2 years and fine at the discretion of the court.		Amount evaded	Punishment
			> Rs. 50 lakhs	Simple Imprisonment upto 2 years or fine or both
			> Rs. 10 lakhs but ≤ Rs. 50 lakhs	Simple Imprisonment upto 6 months or fine or both
			Other cases	Fine
479 – Failure to furnish ROI	Amount of tax evaded	Punishment	Amount of tax evaded	Punishment
	> Rs. 25 lakhs	Rigorous imprisonment between 6 months to 7 years and fine	> Rs. 50 lakhs	Simple Imprisonment upto 2 years or fine or both
	Other cases	Imprisonment between 3 months to 2 years and fine	> Rs. 10 lakhs but ≤	Simple Imprisonment upto 6

S. No.	Existing Provision	Proposed Amendment							
		Rs. 50 lakhs	months or fine or both						
		Other cases	Fine						
480 – Failure to furnish ROI in search cases	Imprisonment for a term not less than 3 months but may extend to 3 years and fine	Amount of tax	Punishment						
		> Rs. 50 lakhs	Simple Imprisonment upto 2 years or fine or both						
		> Rs. 10 lakhs but ≤ Rs. 50 lakhs	Simple Imprisonment upto 6 months or fine or both						
		Other cases	Fine						
481 – Failure to produce accounts and documents	Rigorous imprisonment for a term which may extend to 1 year and fine.	Simple imprisonment up to 6 months, or fine, or both.							
482 – False statement in verification, etc.	<table border="1" data-bbox="528 1234 994 1720"> <thead> <tr> <th>Amount of tax evaded</th> <th>Punishment</th> </tr> </thead> <tbody> <tr> <td>> Rs. 25 lakhs</td> <td>Rigorous imprisonment between 6 months to 7 years and fine</td> </tr> <tr> <td>Other cases</td> <td>Rigorous imprisonment between 3 months to 2 years and fine</td> </tr> </tbody> </table>	Amount of tax evaded	Punishment	> Rs. 25 lakhs	Rigorous imprisonment between 6 months to 7 years and fine	Other cases	Rigorous imprisonment between 3 months to 2 years and fine	Amount of tax evaded	Punishment
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		> Rs. 10 lakhs but ≤ Rs. 50 lakhs	Simple Imprisonment upto 6 months or fine or both						
		Other cases	Fine						
483 – Falsification of books of account or document, etc.	Rigorous imprisonment between 3 months to 2 years and fine.	Simple imprisonment up to 2 years and fine.							

S. No.	Existing Provision	Proposed Amendment														
484 – Abetment of false return, etc.	<table border="1"> <thead> <tr> <th>Amount of tax, penalty, interest evaded</th> <th>Punishment</th> </tr> </thead> <tbody> <tr> <td>> Rs. 25 lakhs</td> <td>Rigorous imprisonment between 6 months to 7 years and fine</td> </tr> <tr> <td>Other cases</td> <td>Rigorous imprisonment between 3 months to 2 years and fine</td> </tr> </tbody> </table>	Amount of tax, penalty, interest evaded	Punishment	> Rs. 25 lakhs	Rigorous imprisonment between 6 months to 7 years and fine	Other cases	Rigorous imprisonment between 3 months to 2 years and fine	<table border="1"> <thead> <tr> <th>Amount of tax, penalty, interest evaded</th> <th>Punishment</th> </tr> </thead> <tbody> <tr> <td>> Rs. 50 lakhs</td> <td>Simple Imprisonment upto 2 years or fine or both</td> </tr> <tr> <td>> Rs. 10 lakhs but ≤ Rs. 50 lakhs</td> <td>Simple Imprisonment upto 6 months or fine or both</td> </tr> <tr> <td>Other cases</td> <td>Fine</td> </tr> </tbody> </table>	Amount of tax, penalty, interest evaded	Punishment	> Rs. 50 lakhs	Simple Imprisonment upto 2 years or fine or both	> Rs. 10 lakhs but ≤ Rs. 50 lakhs	Simple Imprisonment upto 6 months or fine or both	Other cases	Fine
Amount of tax, penalty, interest evaded	Punishment															
> Rs. 25 lakhs	Rigorous imprisonment between 6 months to 7 years and fine															
Other cases	Rigorous imprisonment between 3 months to 2 years and fine															
Amount of tax, penalty, interest evaded	Punishment															
> Rs. 50 lakhs	Simple Imprisonment upto 2 years or fine or both															
> Rs. 10 lakhs but ≤ Rs. 50 lakhs	Simple Imprisonment upto 6 months or fine or both															
Other cases	Fine															
485 – Punishment for second and subsequent offences	Rigorous imprisonment between 6 months to 7 years and fine.	Simple imprisonment between 6 months to 3 years and fine.														
494 – Disclosure of particulars by public servants.	Imprisonment which may extend to 6 months and fine.	Simple imprisonment up to 1 month, or fine or both.														

Rationale of the Proposed Amendments

As per the EM, to further the exercise of decriminalization and make punishment of various offences proportionate to the crimes, various amendments are proposed which *inter alia* addresses the following aspects:

- ∞ Nature of imprisonment;
- ∞ Reduction of maximum term of imprisonment;
- ∞ Introduction of new graded structure based on the amount of tax evaded.

Our Comments

Presently, all the cases of prosecution imposed a 'rigorous imprisonment'¹¹ regardless of the seriousness of the contravention involved. Under the FB, it is proposed that only a 'simple imprisonment'¹² be imposed. These are welcome amendments as they align with the policy of promoting ease of doing business.

¹¹ Refer S. 4 of the Bharatiya Nyaya Sanhita, 2023

¹² Refer S. 4 of the Bharatiya Nyaya Sanhita, 2023

Even the CBDT through its instructions¹³ have laid down a principle that prosecution under the Direct Tax Laws is a significant provision requiring due regard to amount of tax evasion. The proposed amendments wherein punishments under various section have been graded taking into consideration the amount of tax evasion in a way codifies the said CBDT instructions. This amendment also takes into account the decisions¹⁴ rendered by various courts wherein it was held that prosecution need not be launched in small cases.

Further, u/s. 276B of ITA / S. 476 of the ITA, 2025 contraventions for S. 194B / 194R of ITA / S.393 / 402 of ITA, 2025 where the winnings / benefit is wholly in kind or partly in cash, and such cash component is not sufficient to meet the tax deduction liability have been decriminalised. However, it seems that such a rationale has not been drawn for S. 194BA and S. 194S of the ITA / S. 393 / 402 of ITA, 2025 where the winnings / benefit are partly in kind and partly in cash.

Lastly, the proposed amendments under the ITA is to be effective from March 1, 2026 and that in ITA, 2025 is to take effect from April 1, 2026. As regards prosecution, the effective date needs to be applied to the date when the offence is committed. Hence, for offence committed before March 1, 2026, the old law shall apply.

¹³ Instruction 255/339/79-IT (Inv) dated 28 May 1980, Instruction No. 5051 dated 7 February 1991

¹⁴ (2023) 454 ITR 59 (SC); (1996) 218 ITR 155 (P&H)

Procedural Provisions

Rationalizing the Due Dates for Filing ROI [S. 139 of the ITA/ S. 263 of the ITA, 2025]

Background

S. 139 of the ITA / S. 263 of the ITA, 2025 lays down the provisions for filing ROI by assessees. The said section deals with the comprehensive framework that lays down class of persons who are required to file a ROI, the due dates, and the different types of ROIs that may be furnished. It includes filing of original ROI, belated ROI, revised ROI and the updated ROI.

Proposed Amendments

Under ITA

The due date for filing the ROI in case of all assessees having income under the head PGBP and whose accounts are not required to be audited and in case of partners of partnership firm having income under the head PGBP and whose accounts are not required to be audited is presently July 31 of the AY. This date has been extended to August 31 of the AY. There are no changes in due dates for filing original ROI for other types of assessees.

A summary of the due date for filing the ROI under various categories is as follows:

Person	Condition	Existing due date	Proposed due date
Assessee, including the partners of the firm or the spouse of such partner (if S. 5A applies to such spouse).	Where the provisions of S. 92E apply.	November 30	November 30
Company	Where the provisions of S. 92E do not apply.	October 31	October 31
Assessee (other than a company) whose accounts are required to be audited under this Act or under any other law for the time being in force.			
Partner of a firm whose accounts are required to be audited under this Act or under any other law for the time being in force or the spouse of such partner (if S. 5A applies to such spouse).			
Assessee having income under the head PGBP whose accounts are not required to be audited under this Act or under any other law for the time being in force.	Where the provisions of S. 92E do not apply.	July 31	August 31

Person	Condition	Existing due date	Proposed due date
Partner of a firm whose accounts are not required to be audited under this Act or under any other law for the time being in force or the spouse of such partner (if S. 5A applies to such spouse).			
Any other assessee.	-	July 31	July 31

The above due-dates will apply to ROI for AY 2026-27.

Under ITA, 2025

Similar amendment is proposed in S. 263 of the ITA, 2025. The above due-dates will apply to ROI for TY 2026-27 and thereafter.

Rationale of the Proposed Amendments

In order to facilitate the taxpayers who are engaged in business or profession and

partners of a firm who do not require to get their books of account audited, it is proposed that more time should be made available to them to prepare their books of account to make the necessary compliances. Accordingly, rationalisation of due dates for filing of ROI in such non-audit business cases is envisaged to facilitate taxpayers and reduce grievances.

Our Comments

The EM in para 2 and para 4 on page 22, mentions that the amendment is carried out “in such non-audit business cases and trusts”. The language used in the EM creates confusion as to applicability of the proposed amendment to trusts, which are neither subject to audit nor have business income. On a plain reading of the text of the FB, 2026, the due-date of all trusts requiring audit would continue to be October 31 and those not subject to audit and not having business income, would continue to be July 31. Only non-audit trusts carrying on business will now have due-date of August 31.

Extending the period of filing revised ROI [S. 139(5) of the ITA/ S. 263(5) of the ITA, 2025 and S. 234-I of the ITA/ S. 428(b) of the ITA, 2025]

Background

- ∞ S. 139(5) of the ITA provides for filing of the revised ROI. It permits a person who has already furnished a ROI u/s. 139(1) and (4) of the ITA to file a revised ROI, if any omission or wrong statement is discovered in the original or belated ROI. Such revised ROI is required to be furnished within

9 months from the end of the relevant previous year or before completion of assessment whichever is earlier.

- ∞ The corresponding provisions are laid down u/s. 263(5) of the ITA, 2025.

Proposed Amendments Under ITA

- ∞ u/s. 139(5) of the ITA, the prescribed time limit for filing the revised ROI has been increased from 9 months to 12 months from the end of the relevant previous year.
- ∞ A new S. 234-I has been inserted in the ITA, which levies a fee for filing revised ROIs beyond 9 months but before 12 months from the end of the relevant AY. The fees for the same is as under:

Particular	Fees
Total Income ≤ Rs. 5,00,000/-	Rs. 1,000/-
In any other case	Rs. 5,000/-

- ∞ Thus, the ROI for AY 2026-27 can now be revised on or before March

31, 2027. If it is revised on or after January 1, 2027, the above fees would be payable.

Under ITA, 2025

Similar amendments are made in S. 263(5) and S. 428(b) of the ITA, 2025. These amendments will apply to the ROIs filed for TY 2026-27 and subsequent years.

Rationale of the Proposed Amendments

Since timeline for revised and belated ROI coincides with each other which is 9 months from the end of the relevant previous/tax year, the extension of time limit for filing revised ROI of income will allow the taxpayers to file revised ROI even where belated ROI is filed.

Our Comments

In practice, the need for filing revised ROI is often felt at the time when ROI for next year is being prepared when the errors and omissions in the earlier year's ROI is observed. The proposed extension of date still does not give enough time for revision at that stage. The necessity of the taxpayer being vigilant to critically review his ROI after having filed the same still continues. Only a further period of 3 months is now allowed.

Updated ROI [S. 139(8A) of the ITA / S. 263(6)(a) of the ITA, 2025 and S.140B of the ITA / S. 267 of the ITA, 2025]

Background

- ∞ S. 139(8A) of the ITA deals with the updated ROI. It allows a taxpayer, whether or not a ROI was furnished earlier, to file an updated ROI within 48 months from the end of the relevant AY. However, there are certain circumstances under which updated ROI is not permitted to be filed. One such circumstance is that the updated ROI shall not be a ROI

of loss. Also, this provision requires payment of additional income-tax, as prescribed.

- ∞ Updated ROI is not permitted also in cases where assessment, reassessment, search, survey or prosecution proceedings are pending or completed.
- ∞ S. 140B of the ITA provides for the payment of taxes in case of an updated ROI.

- ∞ In ITA, 2025 the corresponding provisions are laid down u/s. 263(6) and S. 267.

Proposed Amendments Under ITA

- ∞ By amending the first and sixth proviso of S. 139(8A) of the ITA, it is proposed to allow filing of updated ROI even where taxpayer reduces the amount of loss compared to the loss claimed in the ROI filed within the due date under sub-section (1).
- ∞ Further, by way of amendment to the third proviso and insertion of eighth proviso to S. 139(8A) of the ITA, it is proposed that an updated ROI may be furnished by a person for the relevant AY, in pursuance of a notice u/s. 148 of the ITA, within such period as specified in the said notice and in such a case assessee shall be precluded from filing ROI of income in pursuance of notice u/s. 148 of the ITA in any other manner.
- ∞ A new sub-section 3(A) has been proposed to be inserted u/s. 140B of the ITA which prescribes that where an updated ROI is filed in pursuance of a notice issued u/s. 148 of the ITA within the period specified in the said notice, the additional income-tax payable shall be increased by a further sum of 10 % of the aggregate of tax and interest payable on account of furnishing the updated ROI.

Our Comments

- ∞ Granting opportunity for filing updated ROI for reduction of losses refers only to losses of current year and not of the earlier years.
- ∞ In cases where updated ROI is filed for reduction of losses, no additional tax may be required to be paid. In a way, this provides an extended time limit for filing revised ROI in such cases.

- ∞ It is further proposed to amend S. 270A of the ITA, by insertion of sub-section (11A) of the ITA to provide that where such additional income-tax is paid as per proposed additional income-tax, the income on which such additional income-tax is paid shall not form the basis of imposition of penalty u/s. 270A of the ITA.
- ∞ The above amendment will enable an assessee to file updated ROI in a loss situation as well as in cases where reopening u/s 148 of the ITA is initiated for any of the past years where the 48 months period for filing updated ROI has not expired and where reopening u/s 148 of the ITA is possible whether before or after April 1, 2026.

Under ITA, 2025

The amendments are in line with the ITA.

Rationale of the Proposed Amendments

The amendments are proposed in response to the suggestions received from stakeholders to permit filing of updated ROI even where there is reduction in losses in comparison to the amount of loss claimed in the original ROI of loss furnished within the due date specified under sub-section (1) and, with a view to reduce litigation, permit furnishing of an updated ROI even in cases where reassessment proceedings have been initiated and a notice has been issued u/s. 148 of the ITA.

- ∞ As far as the provision enabling the filing of updated ROI in cases where reopening is initiated is concerned, the period of 48 months from the end of financial year succeeding the relevant tax year appears to be the final time limit for filing updated ROI under the ITA, 2025. However, as far as amendment to ITA is concerned, it appears that the updated ROI can be filed even where a notice u/s 148 is issued after the expiry of 48 months from the end of the AY. This appears to be an unintended drafting issue.
-

Undisclosed Income of Any Other Person [S. 295 of the ITA, 2025]

Background

S. 295 of the ITA, 2025 provides the manner of handling undisclosed income of a person other than the one originally searched or whose records were requisitioned.

Under the current provisions, the block period is same for the specified person as well as such other person, who was not originally searched or whose records were not originally requisitioned.

Proposed Amendments Under ITA

No amendment is proposed.

Under ITA, 2025

It is proposed to insert clauses (c) and (d) in S. 295(2) of the ITA, 2025:

- ∞ Clause (c): Irrespective of S. 301(a) of the ITA, 2025, if other person's undisclosed income relates only to

Our Comments

The proposed amendment is a welcome move.

Presently, u/s. 301(a) of the ITA, 2025, the 'block period' is defined to mean the aggregate of:

- the period comprising six TYs preceding the TY in which the search was initiated or any requisition was made; and
- the period starting from the 1st April of the TY in which search was initiated, or requisition was made and ending on the date of the execution of the last of the authorisations for such search or such requisition.

the year before the search/requisition up to the search/requisition date, their block period will cover that preceding year and the period from April 1 of the search/requisition year to the date of the last authorization.

- ∞ Clause (d): Irrespective of S. 301(a) of the ITA, 2025, if other person's undisclosed income relates to only one TY out of five years preceding the specified year, their block period will include only that single TY.

The amendment will take effect from April 1, 2026 and apply to TY 2026-27 and subsequent TYs.

Rationale of the Proposed Amendments

As per EM, the amendment was proposed to reduce the compliance burden on the other person against whom no search or requisition was initiated.

The proposed amendment would reduce the foregoing period in cases as specified in the proposed clauses (c) and (d) above.

Time-limit for Completion of Block Assessment [S. 296 of the ITA, 2025/S. 158BE of the ITA]

Background

S. 296(1) of the ITA, 2025 provides that the time limit to pass an order u/s. 294 of the ITA, 2025 is within 12 months from the end of the quarter in which the last search or requisition was executed. If the time to file ROI u/s. 294(1)(a)(v) of the ITA, 2025 is extended by 30 days, the deadline for passing the order is also extended from 12 months to 13 months.

Proposed Amendment Under ITA, 2025

It is proposed to substitute S. 296(1) of the ITA, 2025 to extend the time limit to pass order u/s. 294 of the ITA, 2025 to 18 months from the end of the quarter in which the search was initiated or requisition was made, irrespective of the provisions of S. 286 of the ITA, 2025.

The amendment will take effect from April 1, 2026 and apply to TY 2026-27 and subsequent TYs.

Rationale of the Proposed Amendment

The proposed amendment shifts the limitation trigger from the execution of the last authorization to the initiation of the search to ensure uniformity across group cases. Previously, varying dates for the conclusion of different authorizations within the same group created inconsistent assessment deadlines, complicating coordinated investigations. To balance this earlier starting point and provide sufficient time for comprehensive assessment in complex group-wide searches, the limitation period is extended from twelve to eighteen months from the end of the quarter in which the search was initiated.

TDS / TCS

Enabling Electronic Verification and Issuance of Certificate for Lower Deduction or No Deduction [S. 197 of the ITA / S. 395 of the ITA, 2025]

Background

Background of the section under ITA:

S. 197 of the ITA was introduced as a remedial provision to mitigate the hardship caused by mechanical deduction of tax at source in cases where the payee's actual tax liability is lower or nil.

Currently, the payee has to apply before the AO for obtaining deduction of tax at a lower or nil rate based on estimated income and tax liability.

In ITA, 2025, the corresponding provisions are laid down u/s. 395.

Proposed Amendments Under ITA

No amendment made under the ITA.

Under ITA, 2025

- ∞ The FB proposes to provide an option to the payee to file the application for issuance of certificate for lower or nil deduction of income

Our Comments

This electronic facility is expected to significantly reduce the compliance time and procedural burden on taxpayers.

tax electronically to the prescribed Income Tax Authority.

- ∞ The Income Tax Authority may issue the certificate after electronic verification of the contents of the application subject to fulfilment of conditions as may be prescribed, or reject the application if prescribed conditions are not fulfilled or the application is incomplete.
- ∞ The category of taxpayers and other related conditions, along with the Income Tax Authority to whom application can be made will be prescribed by the CBDT by making rules in this regard.
- ∞ The amendment will take effect from April 1, 2026.

Rationale of the Proposed Amendment

The proposed amendment seeks to ease the compliance burden on small taxpayers by enabling the payee to submit the application electronically, thereby eliminating the requirement to approach the AO for obtaining such certification.

Rationalizing Provisions for Other than Life Insurance Business [Part B of Sch. I of the ITA / Part B of Sch. XIV of the ITA, 2025]

Background

Part B of Sch. I under ITA provides the Computation of profits and gains of other than life insurance business.

In ITA, 2025, the corresponding provisions are laid down under Part B of Sch. XIV.

Proposed Amendment Under ITA

No amendment under ITA.

Under ITA, 2025

It has been proposed to insert sub-paragraph (3) after sub-paragraph (2), to the effect that “The amount not deductible u/s. 35(b)(i) or (ii) of the ITA, 2025 which is added under Para 4(1)(a) of Sch. XIV of the ITA, 2025, shall be allowed subsequently as a deduction in a TY in accordance with the provisions of the said sub-clause, as the case may be.”

Our Comments

This is a welcome amendment, as it would allow non-life insurance companies to claim the deduction of the expense in the TY in which the TDS is actually deposited in accordance with the provisions of S. 35(b)(i) and (ii) of the ITA, 2025.

The proposed amendment will take effect from April 1, 2026.

Rationale of the Proposed Amendment

As per the EM, paragraph 4(2) of Sch. XIV of the ITA, 2025 allows deduction of amounts payable u/s. 37 of the ITA, 2025 (corresponding to S. 43B of the ITA relating to certain deductions allowed on actual payment basis only).in the TY of actual payment, whereas no corresponding provision exists for amounts relating to S. 35(b)(i) and 35(b)(ii) of the ITA, 2025 (corresponding to S. 40(a)(i) and S. 40(a)(ia) of the ITA pertaining to disallowance of expense on failure to deduct/deposit TDS, which is allowed in the year in which the TDS is actually deposited). In order to remove this anomaly and rationalise the provisions, it is proposed to insert a new sub-paragraph in paragraph 4 to provide for allowance of such amounts as deduction in a subsequent TY.

Relaxation of TAN Requirement for Resident Individuals or HUFs on Deduction of Tax in Respect of Transfer of Immovable Property by an NR [S. 203A of the ITA / S. 397 of the ITA, 2025]

Background

Background of the section under ITA:

- ∞ S. 203A of the ITA requires a person responsible for deduction or collection of tax at source to obtain Tax Deduction and Collection Account Number ("TAN").

In ITA, 2025, the corresponding provisions are laid down u/s. 397(1)(a) of the ITA, 2025 and exceptions from obtaining TAN are provided u/s. 397(1)(c) of the ITA, 2025.

Proposed Amendment Under ITA

No amendment made under the ITA.

Under ITA, 2025

- ∞ The FB proposes that the requirement to obtain a TAN shall not apply where a resident individual or HUF deducts tax on consideration for

transfer of immovable property u/s. 393(2) [Table: SI. No. 17] of the ITA, 2025.

- ∞ Hence, a resident individual or HUF buying immovable property from an NR will now not be required to obtain TAN. The buyer will deduct tax using his PAN and report it by quoting the seller's PAN in the challan-cum-statement, thereby making the tax deduction and reporting process uniform for both resident and NR sellers.
- ∞ The amendment will take effect from October 1, 2026.

Rationale of the Proposed Amendment

The proposed amendment seeks to reduce the compliance burden on the resident individuals and HUFs as they will not be required to obtain TAN for such transaction and can deduct income tax based on PAN.

Our Comments

The proposed amendment is a welcoming step to reduce unnecessary compliance for resident individuals and HUFs in one-time property transactions with NR sellers, while continuing to safeguard tax collection. Though uniform process is made for both resident and NR sellers, deduction of tax will be as per S. 393(1) and (2) of the ITA, 2025 respectively.

TDS in respect of Interest Income from any Co-operative Society [S. 194A(3) of ITA / S. 393(4) of the ITA, 2025]

Background

S. 194A(3)(iii)(a) under ITA contains the provision that no tax shall be deductible at

source in respect of any interest income credited or paid to any banking company or any co-operative society engaged in

carrying on the business of banking (including a co-operative land mortgage bank).

In ITA, 2025, the corresponding provisions are laid down u/s. 393(4) [Table: Sl. No. 7, column C(a)(i)]. However, the reference to co-operative society is missing in the said entry.

Proposed Amendment Under ITA

No amendment under ITA.

Under ITA, 2025

The proposed amendment seeks to insert the words “or any co-operative society engaged in carrying on the business of

banking (including a co-operative land mortgage bank)” after the words “banking company” in S. 393(4) [Table: Sl. No. 7, column C(a)(i)] of the ITA, 2025.

The proposed amendment shall take effect from April 1, 2026.

Rationale of the Proposed Amendment

As stated in the EM, the amendment is proposed in order to align ITA 2025 with the provisions of the ITA, wherein interest income credited or paid to co-operative banking institutions, including co-operative land mortgage banks, is not subject to TDS, thereby ensuring uniform application of the law.

Our Comments

This amendment assumes significance for deductors making interest payments to co-operative banking institutions. In the absence of an explicit reference u/s. 393(4) of the ITA, 2025, interest credited or paid to co-operative societies carrying on the business of banking could have been subjected to TDS, notwithstanding the settled position under the ITA.

TDS [S. 197A of ITA / S. 393(6) of the ITA, 2025]

Background

S. 197A(1A) under ITA provides for certain cases where tax is not to be deducted at source where a declaration is furnished by the assessee.

In ITA, 2025, the corresponding provisions are laid down u/s. 393(6). As per the provisions of the said section, a written declaration is to be filed by the assessee for no deduction of tax at source to the person responsible for paying any income or sum of the nature as specified in Column C of the Table in S. 393(6) of the ITA, 2025. The said income includes dividend, interest from securities and income from units of mutual fund.

Proposed Amendments Under ITA

No amendment under ITA.

Under ITA, 2025

∞ It is proposed to provide that the declaration required to be furnished by the assessee may also be furnished electronically to a depository, as defined in S. 2(e) of the Depositories Act, 1996, where the following conditions are satisfied, namely:

- (a) the income is from units, interest on securities, or dividends, as referred to in S. 393(1) [Table: Sl. Nos. 4(i), 5(i) or 7];

- (b) such units or securities are held with the said depository; and
- (c) such units or securities are listed on a recognised stock exchange, and such declaration shall be furnished in accordance with such procedure and manner as may be prescribed.

- ∞ It is also proposed that the person responsible for paying any income or sum of the nature as referred to in sub-section (6) or the depository, shall deliver the declaration received by them to prescribed income-tax authority on or before the 7th day of the month immediately following the end of each quarter.

Our Comments

These are welcome amendments, as they would ease and reduce the compliance burden on investors. As a result of the amendment, the need for repetitive submissions by individual deductors would be eliminated.

Further, the shift of the due date from a monthly basis to a quarterly basis for the purpose of delivering the declaration by the deductor/depository to the prescribed income-tax authority would reduce compliance requirements for the deductor or the depository, as the case may be.

- ∞ The proposed amendments shall take effect from April 1, 2027.

Rationale of the Proposed Amendments

- ∞ As per the EM, the amendments are proposed to reduce the compliance burden on investors who earn income from multiple units and securities and are presently required to submit separate forms to multiple entities, resulting in a cumbersome compliance process. Under the proposed mechanism, the investor would submit the form to the depository, which would, in turn, make the same available to the deductor.

TDS in respect of Interest on Compensation amount awarded by the Motor Accidents Claims Tribunal [S. 194A(3) of ITA / S. 393(4) of the ITA, 2025]

Background

S. 194A(3)(ixa) under ITA contains a provision that no tax shall be deductible at source in respect of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal, if the amount or the aggregate of the amounts of such income does not exceed Rs. 50,000/- during the PY.

In ITA, 2025 the corresponding provisions are laid down u/s. 393(4) [Table: Sl. No. 7, column C(c)(iv)].

Hence, under the existing provisions, TDS is deductible on the interest on compensation awarded to all types of assesseees, if the amount exceeds Rs. 50,000/-.

Proposed Amendment Under ITA

No amendment under ITA.

Under ITA, 2025

The proposed amendment seeks to exclude the interest on compensation amount awarded by a Motor Accidents Claims Tribunal to an individual from the obligation to deduct TDS.

The proposed amendment shall take effect from April 1, 2026.

Rationale of the Proposed Amendment

The proposed amendment, as stated in the EM, is to provide relief to the individual and to alleviate the hardship caused due to accident.

Our Comments

This is a welcome amendment that would benefit individuals.

Changes in TCS Rates [S. 206C of ITA / S. 394 of ITA, 2025]

Background

S. 206C of ITA contains provisions relating to collection of TCS.

In ITA, 2025, the corresponding provisions are laid down u/s. 394.

Proposed Amendments Under ITA

No amendment made under the ITA.

Under ITA, 2025

These amendments will take effect from April 1, 2026.

The proposed amendments in the Table u/s. 394(1) of the ITA, 2025, are summarised hereunder:

Sr. No.	Nature of Receipt	Current Rate of TCS	Proposed Rate of TCS
1.	Sale of alcoholic liquor for human consumption.	1%	2%
2.	Sale of tendu leaves.	5%	2%
4.	Sale of scrap.	1%	2%
5.	Sale of minerals, being coal or lignite or iron ore.	1%	2%
7.	Remittance under Liberalised Remittance Scheme of an amount or aggregate of the amounts exceeding ten lakh rupees- (a) For purposes of education or medical treatment	(a) 5%	(a) 2%

Sr. No.	Nature of Receipt	Current Rate of TCS	Proposed Rate of TCS
	(b) For purposes other than education or medical treatment	(b) 20%	(b) 20%
8.	Sale of "overseas tour programme package" including expenses for travel or hotel stay or boarding or lodging or any such similar or related expenditure- (a) For amount or aggregate of amounts up to ten lakh rupees (b) For amount or aggregate of amounts exceeding ten lakh rupees	(a) 5% (b) 20%	(a) 2% (b) 2%

Power of Central Government for Relaxation of Provisions [S. 194BA(4), 194O(5), 194Q(4), of ITA / S. 400(2) of the ITA, 2025]

Background

Under ITA, S.194BA(4), 194O(5), 194Q(4) contains provisions relating to power of Central Government to relax provisions TDS/TCS.

In ITA, 2025, the corresponding provisions are laid down u/s. 400(2).

Proposed Amendment Under ITA

No amendment made under the ITA.

Under ITA, 2025

It is proposed to amend S. 400 of ITA, 2025 to provide that the guidelines issued by the CBDT under said section shall be binding

on the income tax authorities and on the person liable to deduct or, as the case may be, collect income tax.

This amendment will take effect from April 1, 2026.

Rationale of the Proposed Amendment

The EM seeks to align the ITA, 2025 with the existing provisions of the ITA, by expressly providing that such guidelines shall be binding on the income-tax authorities as well as on persons liable to deduct or collect income tax, thereby ensuring clarity and uniform application of the law.

TDS on Payments to Contractors [S. 194C and S. 194M of ITA / S. 402 of ITA, 2025]

Background

Under the ITA, the corresponding sections are S. 194C, 194M.

In ITA, 2025, the corresponding provisions are laid down u/s. 393(1) [Table: Sl. No. 6(i)/(ii)] which provides that tax shall be deducted at source on any sum paid for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract.

The expression “work” is defined u/s. 402(47) of the ITA, 2025. While the said definition of work does not expressly include supply of manpower, S. 393(1) of the ITA, 2025 mandates deduction of tax on any sum paid for carrying out any work, including supply of labour.

Proposed Amendment Under ITA

No Amendment has been made in ITA.

Under ITA, 2025

The FB proposed to amend S. 402(47) of the ITA, 2025 by insertion of clause (f), whereby the definition of “work” has been

expanded to expressly include supply of manpower to a person working under his supervision, control or direction.

The proposed amendment shall take effect from April 1, 2026.

Rationale of the Proposed Amendment

The amendment seeks to extend the definition of “work” to expressly include supply of manpower within its ambit.

S. 393(1) of the ITA, 2025 provides separate TDS entries for payments to contractors for carrying out any work under Table Sl. No. 6(i) and 6(ii), and for professional or technical services under Table Sl. No. 6(iii), each with different rates of deduction. Since supply of manpower involves carrying out work through provision of labour, but may also be viewed as technical services, ambiguity arises regarding whether Sl. Nos. 6(i)/(ii) or Sl. No. 6(iii) applies. This results in uncertainty determining the applicable TDS rates. The said amendment seeks to put this uncertainty at rest.

Our Comments

Although supply of manpower is proposed to be specifically included within the scope of “work” to address the ambiguity between S. 194C and 194J [i.e. S. 393(1) Table: Sl. No. 6(i)/(ii) – works contract or Table: Sl. No. 6(iii) – FTS of ITA 2025], the continuing exclusion of sums covered u/s 393(1) [Table Sl. No. 6(iii)] from the definition of “work” prima facie suggests that the controversy between works contract and FTS (if any) may still persist.

However, in view of the operative part of S. 393(1) [Table Sl. No. 6(i) & (ii)] under which TDS is applicable even under the existing law to payments for carrying out any work (including the supply of labour for carrying out any work), read with **Q.12 of Circular No. 715 dated 8-8-1995** and the decisions in **Associated Cement Co. Ltd. vs. CIT [1993] 67 Taxman 346 (SC)** and **SRF Finance Ltd. vs. CBDT [1994] 76 Taxman 432 (Delhi)**, the supply of manpower would fall within the scope of a works contract even under the current provisions.

Supply of manpower where the underlying services are technical nature would even hitherto attract TDS at rate of 2%, even it is regarded as falling u/s. 194J of ITA / S. 393(1) [Table SI. No. 6(iii)] of the ITA, 2025. Hence, the proposed amendment shall benefit only cases where there was a risk of supply of manpower being regarded as professional services (where the applicable rate is 10%) or where the payee is individuals or HUFs (to whom the rate applicable shall be 1%).

TDS on Payments to NRI on transfer of foreign asset [S. 204 of ITA / S. 402 of ITA, 2025]

Background

Under the ITA, S. 204(ia) and under ITA, 2025, S. 402(27)(c), the authorised person responsible for paying the consideration on transfer of certain foreign exchange asset to an NRI is regarded as the 'person responsible for paying' for the purpose of compliance with the TDS provisions.

The term "authorised person" used in the above provision has not been defined in the ITA, 2025.

Proposed Amendments Under ITA

No Amendment has been made in ITA.

Our Comments

The amendment is clarificatory in nature and removes ambiguity regarding the identification of the person responsible for compliance u/s. 402(27)(c) of the ITA, 2025, to facilitate clarity and reduce interpretational issues.

Under ITA, 2025

The FB proposes that in S. 402(27)(c) of the ITA, 2025, for the words "authorised person responsible", the words "authorised person, referred in clause (c) of section 2 of the Foreign Exchange Management Act, 1999, responsible" shall be substituted.

The proposed amendment shall take effect from April 1, 2026.

Rationale of the Proposed Amendments

The proposed amendment seeks to provide statutory clarity by expressly identifying the meaning of the term "authorised person" for the purposes of the said section.

Tonnage Taxation Scheme

Tonnage Taxation

Background

Chapter XII-G containing S. 115V to 115VZC of the ITA was inserted vide FA, 2004 providing for special provisions relating to taxation of the income of shipping companies. The Scheme was introduced to promote Indian shipping industry wherein the qualifying shipping companies were given an option to choose either the tonnage tax regime or continue to remain within the normal corporate tax regime.

The corresponding provisions are laid down in Chapter XIII-G from S. 225 to 235 in the ITA, 2025.

It is proposed to amend the following section under the ITA, 2025:

- ∞ S. 227 relating to computation of tonnage income
- ∞ S. 228(3)(b)(ii)(A) which provides that on-board or on-shore activities of passenger ships would be included in the core activities of a tonnage company.
- ∞ S. 232(12) which states that a tonnage tax company shall comply with the minimum training requirement in respect of trainee officers as per the guidelines issued by the Director-General of Shipping and notified by the Central Government.
- ∞ S. 232(13) which provides that a tonnage tax company is required to furnish a copy of the certificate issued by the Director-General of

Shipping to the effect that such company has complied with the minimum training requirement as per the relevant guidelines along with the ROI u/s. 263.

- ∞ S. 232(17) which provides that the average of net tonnage shall be computed in the manner prescribed, in consultation with the Director-General of Shipping.
- ∞ S. 235 relating to interpretation for certain expressions in Part G of Chapter XIII.

Proposed Amendments Under ITA

No amendments made under the ITA.

Under ITA, 2025

- ∞ The following amendments to S. 227 of the ITA, 2025 are proposed:
 - ▶ The word “certificate” mentioned u/s. 227(4)(a) of the ITA, 2025 to be substituted by the term “valid certificate”.
 - ▶ The word “certificate” mentioned u/s. 227(9)(b)(iii) of the ITA, 2025 will be substituted by the term “certificate of registration”.
- ∞ The FB proposes to amend S. 228 of the ITA, 2025, dealing with computation of shipping income. The provision is now amended to expand the scope of core activities of a tonnage tax company to include “inland vessels”.

- ∞ The following amendments to S. 232 of the ITA, 2025, providing certain conditions for applicability of tonnage tax scheme, are proposed:
 - ▶ It is proposed to amend the S. 232(12) of the ITA, 2025 so as to insert reference to Inland Waterways Authority of India, in case of inland vessels.
 - ▶ S. 232(13) of the ITA, 2025 is proposed to be amended so as to insert reference to designated authority as appointed by the respective State Governments under the Inland Vessels Act, 2021.
 - ▶ S. 232(17) of the ITA, 2025 is proposed to be amended so as

to insert reference to the Inland Waterways Authority of India.

- ∞ S. 235 of the ITA, 2025 is amended to include the definition of “Inland Waterways Authority of India”.

The proposed amendments will take effect from April 1, 2026 i.e. TY 2026-27 and subsequent years.

Rationale of the Proposed Amendments

As per the EM, certain modifications are required in provisions of the ITA, 2025 for aligning them with the Inland Vessels Act, 2021, and rules made thereunder in order to give effect to Tonnage tax scheme extended to inland vessels last year.

Our Comments

Based on above rationale, it appears that the amendment is curative in nature so as to give effect to tonnage tax scheme extended to inland vessels last year vide FA, 2025 w.e.f AY 2026-27. However, there is no amendment proposed in ITA under FB, 2026 as a result these curative provisions shall apply only from TY 2026-27. Therefore, there could be cases of genuine hardships faced in AY 2026-27.

Miscellaneous

Determination of Annual Value [S. 23 of the ITA / S. 21 of the ITA, 2025]

Background

S. 23 of the ITA provides for determination of the annual value for the purpose of computing income chargeable under the head “Income from House Property”. Further, S. 23(5) of the ITA grants tax relief to real estate developers in respect of unsold properties held as stock-in-trade, by providing that the annual value (and consequently, the notional rental income) of such properties shall be taken as “Nil” upto a period of two years from the end of the FY in which the completion certificate is obtained from the competent authority.

S. 21 of the ITA, 2025 contains provisions corresponding to those in S. 23 of the ITA; however, instead of the phrase ‘upto two years’, the same states ‘for two years’, which could lead to diverge interpretation.

Our Comments

The proposed amendment is for ensuring the alignment of provisions of the ITA and ITA, 2025 to avoid the drafting anomalies.

Proposed Amendment

Under ITA

No amendment is proposed under the ITA.

Under ITA, 2025

Under S. 21 of the ITA, 2025, it is proposed to substitute the words “Nil for” with the words “Nil up to”. Accordingly, the annual value of the property shall be considered as “Nil up to” a period of two years from the end of the FY in which the completion certificate is obtained from the competent authority.

The proposed amendment will take effect from April 1, 2026, and will accordingly apply in relation to TY 2026-27 and onwards.

Rationale of the Proposed Amendment

As per the EM, the proposed amendment seeks to align the said provision pertaining to determination of the annual value u/s. 21 of the ITA, 2025 with the corresponding provision u/s. 23 of the ITA.

Deduction from Income from House Property [S. 24 of the ITA / S. 22 of the ITA, 2025]

Background

S. 24 of the ITA provides that in case of a self-occupied property, acquired or constructed with borrowed capital, the aggregate amount of deduction in respect of interest on such borrowed capital shall not exceed Rs. 2 lakhs. The said section further permits deduction of interest relating to the pre-construction period, which is allowable in five equal annual instalments commencing from the year in which the acquisition or construction of the property is completed. Accordingly, the limit of Rs. 2 lakhs apply to the aggregate deduction of interest on borrowed capital, inclusive of pre-construction period interest.

S. 22 of the ITA, 2025 contains the provision corresponding to those in S. 24 of the ITA.

Proposed Amendment Under ITA

No amendment is proposed under the ITA.

Our Comments

The proposed amendment is for ensuring the alignment of provisions of the ITA and ITA, 2025 to avoid the drafting anomalies.

Under ITA, 2025

S. 22(2) of the ITA, 2025 presently provides for deduction in the case of self-occupied property, whereby the interest payable during the relevant TY is allowed as a deduction, subject to an annual cap of Rs. 2 lakhs.

It is proposed to include the interest payable for the pre-construction period on borrowed capital within the overall cap of Rs. 2 lakhs while claiming deduction under the said head, so as to align the provision with the corresponding provisions of the ITA.

The proposed amendment will take effect from April 1, 2026, and will accordingly apply in relation to TY 2026-27 and onwards.

Rationale of the Proposed Amendment

As per the EM, the proposed amendment seeks to align the said provision pertaining to deduction of interest on borrowed capital u/s. 22 of the ITA, 2025 with the corresponding provision u/s. 24 of the ITA.

Special Provision for Computing PGBP on Presumptive Basis in Case of Certain Residents [S. 44AD of the ITA / S. 58 of the ITA, 2025]

Background

S. 44AD of the ITA deals with special provisions for computing PGBP on

presumptive basis for certain residents. Clause (a) of Explanation to S. 44AD defines “eligible assessee” as resident

individual, HUF, partnership firm other than LLP, who have, *inter alia*, not claimed deduction u/s. 10AA of the ITA.

In ITA, 2025 the corresponding section containing the definition of “eligible assessee” under ITA, 2025 is S. 58(11)(a)(i) which includes a reference to a person who has not claimed deduction u/s. 144 of the ITA, 2025 (corresponding to S. 10AA of the ITA) which in turn provides for special provisions in respect of newly established units in SEZs. S. 58(11)(a)(ii) of the ITA, 2025 further provides that presumptive taxation would be available to those assesseees who have not claimed any deduction under Chapter VIII-C of the ITA, 2025.

Proposed Amendment Under ITA

No amendment is proposed under the ITA.

Under ITA, 2025

It is proposed to omit S. 58(11)(a)(i) from the ITA, 2025.

The proposed amendment will take effect from April 1, 2026.

Rationale of the Proposed Amendment

Currently, S. 144 is directly referred to in S. 58(11)(a)(i) and indirectly referred to in S. 58(11)(a)(ii) since it forms part of Chapter VIII-C of the ITA, 2025. Although the EM is silent as regards the rationale for the proposed amendment, the elimination of sub-clause (i) of S. 58(11)(a) is to avoid reference to S. 144 of the ITA, 2025 twice.

Certain Interpretations in Relation to Business Income [S. 36 & S. 43(5) of the ITA / S. 66 of the ITA, 2025]

Background

S. 36 of the ITA provides for deductions available (other than those specified elsewhere) while computing income chargeable under the head PGBP. S. 36(1)(xvi) of the ITA defines the term “commodities transaction tax” by adopting the meaning assigned to it under Chapter VII of the FA, 2013.

S. 43 of the ITA provides for definitions for certain terms relevant to PGBP. Explanation 2 to S. 43(5) defines the term “commodity derivative” by adopting the meaning assigned to it under Chapter VII of the FA, 2013.

S. 66 of the ITA, 2025 provides for certain definitions for the purpose of Part D of Chapter – IV and S. 66(4) contains

definition of the term “commodities transaction tax” by adopting the meaning assigned to it under Chapter VII of the FA, 2013. This corresponds to provision contained in S. 36(1)(xvi) of the ITA.

Proposed Amendment Under ITA

No amendment is proposed under the ITA.

Under ITA, 2025

It is proposed to amend S. 66(4) of the ITA, 2025 to additionally define the term “commodity derivative”, so as to assign to it the same meaning as provided in Chapter VII of the FA, 2013.

The proposed amendment will take effect from April 1, 2026, and will accordingly

apply in relation to TY 2026-27 and onwards.

Rationale of the Proposed Amendment

As per the EM, the proposed amendment seeks to align the said provision of S. 66(4)

Our Comments

The proposed amendment is for ensuring the alignment of provisions of the ITA and ITA, 2025 to avoid the drafting anomalies.

of the ITA, 2025 pertaining to definition of the term “commodity derivative” with the corresponding provision of S. 43(5) of the ITA.

Deduction from IFOS [S. 57 of the ITA / S. 93 of the ITA, 2025]

Background

S. 57 of the ITA provides for deduction of any reasonable sum paid by way of commission or remuneration to a banker or any other person, where such payment is incurred wholly and exclusively for the purpose of realizing taxable dividends or interest on securities. Further, the proviso to S. 57 of the ITA restricts the deduction of interest expenditure from (i) dividend income, (ii) income from specified mutual fund units under Sch. VII or (iii) income from units of a specified company referred to in S. 2(h) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 not exceeding 20% of such income included in the total income for the year, before allowing deduction under this section.

S. 93(1)(a) and S. 93(2) of the ITA, 2025 contain provisions corresponding to those in S. 57 of the ITA.

Proposed Amendment Under ITA

No amendment is proposed under the ITA.

Under ITA, 2025

The amendments proposed under the ITA, 2025, are as follows:

- ∞ It is proposed to exclude reference to “dividend income” from S. 93(1)(a) of the ITA, 2025 such that no deduction for any commission or remuneration paid for the purpose of realizing such dividend income would be allowed. Accordingly, such deduction shall be allowable only in respect of income by way of interest on securities.
- ∞ The FB further proposes to amend S. 93(2) of the ITA, 2025 to provide that no deduction of any interest expenditure incurred for earning dividend income or income from units of mutual funds or income from units of a specified company referred to in S. 2(h) of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 would be allowed.
- ∞ The proposed amendment will take effect from April 1, 2026, and will accordingly apply in relation to TY 2026-27 onwards.

Rationale of the Proposed Amendment

As per the EM, dividend income and income from units of mutual funds are in the nature of passive investment receipts. Accordingly, with a possible view to rationalize tax benefits, a stricter approach

has been adopted with respect to the allowance of commission or remuneration paid to bankers for realizing such income as well as interest deductions against such passive investment income.

Our Comments

This amendment is expected to primarily impact leveraged investment strategies, as it withdraws the limited interest deduction earlier available against dividend income, thereby simplifying the tax treatment of investment income.

However, if the shares on which dividend is received / units of mutual fund are held as stock-in-trade, the company may claim interest expense u/s. 32(b) of the ITA, 2025, which falls under the scheme of PGBP.

It may also be noted that while the deduction of expenditure including interest expenditure incurred on borrowings for making investment in shares of a company/ units of mutual fund (being capital assets) will not be allowed as a deduction u/s. 93 of the ITA, 2025, the said expenditure may be available as "COA" while computing capital gains u/s. 72 of the ITA, 2025 (corresponding to S. 48 of the ITA) at the time of sale of such investments.

The **Karnataka HC** in **CIT vs. Maithreyi Pai [1985] 152 ITR 247 (Karnataka)** has held that the interest paid by the assessee for acquisition of shares on the money borrowed for that purpose, undoubtedly, is an expenditure incurred for the acquisition of the shares and hence constitutes COA for purposes of S. 48 of the ITA (which corresponds to S. 72 of the ITA, 2025).

Further, the **Delhi Tribunal** in **Zuari Investments Ltd. vs. ITO [2022] 139 taxmann.com 92 (Delhi Trib.)** held that interest on borrowings utilized for acquisition of shares, where not claimed as a business deduction, is allowable u/s. 48 of the ITA (which corresponds to S. 72 of the ITA, 2025). Such interest forms part of the COA for computing capital gains on sale of shares.

Income of Individual to Include Income of Spouse, Minor Child, etc. [S. 64 of the ITA / S. 99 of the ITA, 2025]

Background

S. 64 of the ITA deals with the clubbing of income for individual taxpayers. It provides that in computing the total income of an individual, certain incomes that arise directly or indirectly to specified persons (like a spouse, minor child, etc.) are to be included in the individual's total income to

prevent tax avoidance through artificial transfer of income-producing assets or arrangements.

S. 99 of the ITA, 2025 contains provisions corresponding to those in S. 64 of the ITA.

- ∞ S. 99(1)(a)(i) of the ITA, 2025 provides the income of an individual

to include income of spouse by way of salary, commission, etc. from a concern in which the individual has a substantial interest.

- ∞ S. 99(1)(a)(ii) of the ITA, 2025 provides the income of an individual to include income arising to the spouse from assets transferred otherwise than for an adequate amount or in connection to live apart.
- ∞ S. 99(2) of the ITA, 2025 deals with proportion of income to be included in the hands of the individual where the asset transferred is invested by the individual's spouse or son's wife.

Proposed Amendment Under ITA

No amendment is proposed under the ITA.

Our Comments

The proposed amendment is for ensuring the alignment of provisions of the ITA and ITA, 2025 to avoid the drafting anomalies.

Permanent Account Number [S. 139A of the ITA / S. 262 of the ITA, 2025]

Background

S. 139A of the ITA provides for the allotment of a PAN to persons specified therein. S. 139(5)(c) of the ITA provides that the PAN shall be quoted in all documents pertaining to transactions that are prescribed by CBDT.

In the ITA, 2025, the corresponding provisions are contained in S. 262 of the ITA, 2025. While laying down the corresponding provision u/s. 262(10)(c) of the ITA, 2025, the categories of documents wherein PAN is to be quoted are restricted

Under ITA, 2025

It is proposed to amend S. 99(2) of the ITA, 2025 by substituting the words “sub-section (1)(a)(i) or (b)” with “sub-section (1)(a)(ii) or (b)”.

The proposed amendment shall take effect from April 1, 2026.

Rationale of the Proposed Amendment

S. 99(2) of the ITA, 2025 deals with clubbing of income arising to an individual from the asset transfer by the spouse or son's wife which is contained in S. 99(1)(a)(ii) and S. 99(1)(b) of the ITA, 2025 respectively. The proposed amendment seeks to rectify the referencing error in S. 99(2) of the ITA, 2025 wherein, originally the reference was to sub-section “(1)(a)(i)” instead of the correct sub-section “(1)(a)(ii)”.

to the documents being in relation to business or profession.

Proposed Amendment Under ITA

No amendment is proposed under the ITA.

Under ITA, 2025

It is proposed to substitute the words “pertaining to business or profession” with the words “pertaining to, business or profession, or **other transactions**”.

The proposed amendment will take effect from April 1, 2026, and will accordingly apply in relation to TY 2026-27 onwards.

Rationale of the Proposed Amendment

As per the EM, the proposed amendment seeks to align the said provision u/s. 262 of the ITA, 2025 with the corresponding provision u/s. 139A(5)(c) of the ITA.

Our Comments

The proposed amendment is for ensuring the alignment of provisions of the ITA and ITA, 2025 to avoid the drafting anomalies.

Repeal and Savings [S. 297 of the ITA / S. 536 of the ITA, 2025]

Background

S. 536 of the ITA, 2025 deals with the repeal of the ITA and savings clauses thereof. S. 536(3) of the ITA, 2025 states that any reference to a TY commencing on April 1, 2025 or any earlier TY, shall be construed as a reference to the corresponding PY under the repealed ITA.

Further, S. 536(4) of the ITA, 2025 states that without prejudice to S. 536(2) of the ITA, 2025, provisions of S. 6 of the General Clauses Act, 1897 shall apply with regard to the effect of repeal.

S. 536(2)(h) of the ITA, 2025 presently provides that if any deduction has been allowed or any amount not included in the total income of any person under ITA, subject to the fulfilment of certain conditions, for any TY beginning on or before April 1, 2026 and if there is a violation of such conditions in any TY beginning on or after April 1, 2026, such sum will be deemed to be the income of the TY in which the violation takes place and shall be included in the total income of the said person under the same head of income as it would have been included under the repealed ITA.

Further, S. 536(2)(l) of the ITA, 2025 provides that in respect of tax paid, if credit u/s. 115JAA or 115JD of the ITA is allowed to be carried forward under the repealed ITA for any TY beginning on or before April 1, 2026, the said credit will also be deemed to be an eligible credit under the corresponding provisions of the ITA, 2025.

Proposed Amendment Under ITA

No amendment is proposed in the ITA.

Under ITA, 2025

In the opening portion of S. 536(2) of the ITA, 2025, it is proposed to change the reference to “sub-section (4)” from “sub-section (3)”.

It is further proposed to substitute the entire S. 536(2)(h), wherein, after referring to fulfilment / violation of “certain conditions”, the phrase “for any other reason” is also proposed to be added.

It is also proposed to introduce S. 206(3) & 206(4) of the ITA, 2025, which deal with the credit of tax paid under the MAT provisions

from TY 2026-27 onwards¹⁵. Therefore, sub-clauses (i) and (ii) of S. 536(2)(l) of the ITA, 2025 are also proposed to be amended to add reference to “S. 206(3) & 206(4) of this Act”, such that eligible credit u/s. 115JAA and 115JD of the repealed ITA shall be deemed to be the credit under the corresponding provisions of the ITA, 2025 or S. 206(3) or S. 206(4) of the ITA, 2025.

These amendments shall apply from April 1, 2026, and shall apply to TY 2026-27 and subsequent TYs.

Our Comments

Presently, S. 536(2)(h) of the ITA, 2025 provides that where deduction has been allowed or any income has not been included in the total income under the repealed ITA due to fulfilment of conditions in the respective sections of the ITA, then on violation of such conditions, it will be deemed to be the income under the ITA, 2025 in the year in which violation takes place. Therefore, the section only covers the scenarios where income would have to be taxed on violation of certain prescribed conditions.

By virtue of the proposed amendment, situations where as per the provisions of the repealed ITA, an amount is required to be added to the total income, even if no conditions are violated, are sought to be included. In other words, the scope of S. 536(2)(h) of the ITA, 2025 is being enlarged such that income would be taxed in any subsequent TY not only on violation of prescribed conditions but also for any other reason, such as retrospective amendments introduced in the repealed ITA or any subsequent decision of the Supreme Court.

Insofar as the proposed amendment in S. 536(2)(l) of the ITA, 2025 is concerned, the same is to align the provisions of the said section of the ITA, 2025 with the other proposed amendments in ITA, 2025.

Rationale of the Proposed Amendment

In the opening portion of S. 536(2), the erroneous reference to sub-section (3) is proposed to be corrected.

As per the EM, the existing S. 536(2)(h) covers only the deductions allowed or exclusions from total income on account of violation of certain conditions mentioned in the respective sections of the ITA. However, there may be scenarios under repealed ITA that warrant the addition to the total income of the assessee even without any violation of any conditions. The proposed amendment covers such other scenarios.

¹⁵ Discussed separately

Recognised Provident Funds, Approved Superannuation Funds and Gratuity Funds [Sch. IV of the ITA / Sch. XI of the ITA, 2025]

Background

S. 17 of the ITA, 2025 deals with 'Perquisites' wherein clause (h) of sub-section (1) states that if the aggregate amount of contribution by the employer to the account of the employee exceeds Rs. 7,50,000/- in a TY, then it will be treated as perquisites.

Sch. XI of the ITA, 2025 is divided into 3 parts, which deal with the following:

- ∞ Part A: Recognised Provident Funds ('RPF')

- ∞ Part B: Approved Superannuation Funds ('ASF') and Gratuity Funds ('GF')
- ∞ Part C: Power to make rules for Provident Funds, Superannuation Funds & Gratuity Funds

Proposed Amendment Under ITA

No amendment is proposed in the Sch. IV of the ITA.

Under ITA, 2025

It is proposed to omit the following existing paragraphs in Part A of Sch. XI:

Para of Part A	Existing provision
4(c)	Employer's contribution shall not exceed the employee's contribution in a year, and it also mandates an annual credit of such contributions by the employer.
5(4)	The approving authority may relax the provision of para 4(c) in specified cases.
6(a)	Contribution to RPF by the employer exceeding 12% of the employee's salary is deemed to be income of the employee.

FB also proposes to substitute para 4(f) of Part A as follows:

Existing Provision	Proposed Amendment
<p>The fund shall be the fund of an establishment—</p> <p>(i) to which the provisions of S. 1(3) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) apply; or</p> <p>(ii) notified by the Central Provident Fund Commissioner u/s. 1(4) of the said Act,</p> <p>and such establishment shall be exempted from the operation of all or any of the</p>	<p>The fund shall be a fund—</p> <p>(i) of an establishment to which the provisions of S. 1(3) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 apply; or</p> <p>(ii) of an establishment notified by the Central Provident Fund Commissioner u/s.1(4) of the said Act,</p> <p>and such establishment shall obtain exemption u/s. 17 of the said Act from the</p>

Existing Provision	Proposed Amendment
provisions of any scheme mentioned in S. 17 of the said Act;	operation of all or any of the provisions of any scheme as referred to in that section.

Further, amendments are proposed in following Paras of Part C of Sch. XI:

Para of Part C	Existing provision
1(d)	The CBDT has the power to make rules to limit the contributions to an RPF by employees who are shareholders in the company.
1(e)	The CBDT has the power to make rules to regulate the investment or deposit of money of recognised or approved funds. However, no rule shall require more than 50% of the fund's money to be invested in Government securities.

Para 1(d) is proposed to be omitted, thereby waiving the power to limit the contributions to RPF by employees who are shareholders in the company. Further, Para 1(e) of Part C above is proposed to be amended to allow investment of more than 50% of the fund's money in government securities.

These amendments shall apply from April 1, 2026, and shall apply to TY 2026-27 and subsequent TYs.

Rationale of the Proposed Amendment

As per the EM, since a unified monetary ceiling of Rs. 7,50,000/- on aggregate employer contributions has already been prescribed u/s.17(1)(h) of the ITA, 2025, therefore limits prescribed in paras 4(c), 5(4) and 6(a) of Part A overlap or are parallel in nature and therefore these limits are proposed to be omitted.

Further, the amendment in para 4(f) of Part A is being proposed to clarify that only provident funds that have obtained exemption u/s. 17 of the Employee Provident Fund ("EPF") Act may apply for recognition under the ITA, 2025.

Furthermore, as per the EM, since the EPF Act or the EPF Scheme does not make any distinction as to whether the employees are shareholders or not, and S.17(1)(h) of the ITA, 2025 already prescribes a unified limit on contribution irrespective of the specific type of employees, para 1(d) of Part C is

proposed to be omitted.

In respect of the amendment in para 1(e) of Part C, the EM states that since the investment norms under the EPF Act prescribe higher exposure, i.e. investment even more than 50% in government securities, the limit of 50% under ITA, 2025 is proposed to be removed.

Our Comments

S. 17(1)(h) of the ITA, 2025 gives an overall aggregate limit on contributions to funds by the employer to the account of the employee; such amendments simplify the law by removing other multiple parallel or overlapping limits under paras 4(c), 5(4) and 6(a) of Part A for contributions by the employers.

The amendment in para 4(f) of Part A wherein it is being proposed to clarify that only provident funds that have obtained exemption u/s. 17 of the EPF Act may apply for recognition under the ITA, 2025, is being made to align it with Para 4(ea) of Sch. IV of the ITA.

Further, certain conditions, such as a distinction of employees as shareholders or not and a limit on investment of fund's money in government securities, which are not present in the EPF Act but present in ITA 2025 is proposed to be removed to align both the laws.

The Ministry of Labour and Employment vide notification number S.O. 3034(E) dated September 22, 2016, had prescribed a higher limit of 65% for investment in government securities. Since the EPF Act already governs the limit on investments, therefore, the cap of a maximum 50% investment in government securities under ITA, 2025 is proposed to be removed.

Goods and Services Tax

Pre-Agreed Discount Condition Removed Under GST [S. 15(3)(B) & S. 34 of the CGST Act]

Background

S. 15(3) of the CGST Act stipulates that the value of supply shall exclude discounts, subject to prescribed conditions. While discounts offered on the face of the tax invoice are expressly permitted as deductions, post-supply discounts are allowed only if such discounts are established pursuant to an agreement entered into at or before the time of supply, and the recipient reverses the input tax credit attributable to the discount.

Proposed Amendments

- ∞ It has been proposed to substitute S. 15(3)(b) of the CGST Act to remove the requirement that post-supply discounts must be established by

way of an agreement entered into 'at or before' the time of supply.

- ∞ It has also been proposed to amend S. 34 of the CGST Act so as to include an express reference to S. 15 of the CGST Act for the purposes of issuance of credit and debit notes.

Rationale of the Proposed Amendments

The condition requiring post-supply discounts to be pre-agreed and linked to invoices has been a frequent source of litigation, owing to the strict interpretation adopted by tax authorities. The proposed amendment seeks to address this issue by providing greater flexibility in the treatment of post-supply discounts and reducing avoidable disputes.

Our Comments

The proposed amendment is a welcome and expected step and should help ease long-standing interpretational issues relating to post-supply discounts under GST.

Omission of Place of Supply Provisions for Intermediary Service Providers [S. 13(8)(B) of the IGST Act]

Background

Under the IGST Act, 2017, one of the essential conditions for a supply to qualify as an "export of services" is that the place of supply must be outside India. However, S. 13(8)(b) of the IGST Act, 2017 deems the place of supply for intermediary services to be the location of the supplier of

services. As a result, intermediary services are effectively disqualified from being treated as exports under GST. This position was carried forward from the erstwhile Service Tax regime.

Proposed Amendment

- ∞ It is proposed to omit clause (b) of sub-section (8) of S. 13 of the IGST Act, 2017. Consequent to such omission, the place of supply for intermediary services will be determined in accordance with the default rule u/s. 13(2) of the IGST Act, 2017 i.e., the location of the recipient of services.
- ∞ Accordingly, intermediary services provided to recipients located outside India would qualify as exports and be eligible for the benefits available to exports under GST. Conversely, intermediary services provided by

overseas intermediaries to Indian recipients would qualify as import of services and would be liable to GST under the reverse charge mechanism.

Rationale of the Proposed Amendment

The proposed omission seeks to address long-standing disputes and litigation concerning the taxability of intermediary services, particularly in cross-border transactions. The amendment aims to align the place of supply provisions with the principle of destination-based taxation and to remove the artificial deeming fiction that resulted in denial of export benefits.

Our Comments

This is a welcome amendment for taxpayers, particularly in light of the wide and ambiguous definition of “intermediary services” under GST. In practice, tax authorities have sought to classify a broad range of facilitative and support services as intermediary services, resulting in frequent disputes and denial of export benefits. The omission of S. 13(8)(b) of the IGST Act, 2017 removes the artificial deeming fiction relating to place of supply and brings much-needed certainty by aligning the law with the destination-based principle of taxation.

However, since the amendment is prospective in nature, the litigation for the past is likely to continue.

Enabling Provision to Hear Advance Ruling Appeals Pending before Constitution of National Appellate Authority [S.101A of the CGST Act]

Background

S. 101A of the CGST Act provides for the constitution of the National Appellate Authority for Advance Ruling (“NAAAR”) to hear appeals against conflicting rulings issued by Appellate Authorities of different States or Union Territories. However, in the absence of a constituted NAAAR, appeals u/s. 101B of the CGST Act have remained unheard, leading to a gap in the appellate

mechanism and prolonged uncertainty for taxpayers.

Proposed Amendment

It is proposed to insert sub-section (1A) in S. 101A of the CGST Act to empower the Central Government to authorize an existing Authority to hear appeals u/s. 101B of the CGST Act, pending the constitution of the NAAAR.

Rationale of the Proposed Amendment

The amendment seeks to address the absence of a functional NAAAR by enabling an interim appellate mechanism,

thereby reducing pendency and ensuring access to an effective appellate remedy in cases of conflicting advance rulings.

Our Comments

The insertion of sub-section (1A) of S. 101A the CGST Act is a pragmatic interim measure that operationalises the advance ruling appellate framework. Empowering an existing Authority ensures continuity in dispute resolution until the NAAAR is constituted.

Provisional Refund Extended to Refunds Arising from Inverted Duty Structure [S. 54(6) of the CGST Act]

Background

S. 54 of the CGST Act governs the provisions relating to refunds of tax, interest or any other amount paid under GST. S. 54(6) of the CGST Act provides for grant of provisional refund of ninety-five per cent of the refundable amount in case of any refund claim on account of zero-rated supply of goods or services or both, subject to prescribed conditions, limitations and safeguards.

S. 54 of the CGST Act governs GST refunds. Sub-section (6) provides for a provisional refund of 90% of the refundable amount in cases of zero-rated supplies, subject to prescribed conditions. However, refunds arising from an inverted duty structure, though eligible u/s. 54(3), have so far been excluded from the scope of provisional refund.

The benefit of provisional refund is restricted to refunds arising on account of zero-rated supplies. Thus, refunds arising due to inverted duty structure, though eligible u/s. 54(3), are excluded from the

scope of provisional refund under the said section.

Proposed Amendment

It is proposed to amend S. 54(6) of the CGST Act to extend the benefit of provisional refund to refund claims arising on account of inverted duty structure.

Rationale of the Proposed Amendment

Accumulation of input tax credit under an inverted duty structure, particularly following recent GST rate revisions effective from September 22, 2025, represents a legitimate credit build-up and is not attributable to taxpayer non-compliance. The absence of provisional refunds in such cases has led to significant working capital constraints, especially for businesses with high input tax incidence.

The amendment seeks to place inverted duty structure refunds on par with zero-rated supplies by enabling early release of a substantial portion of the refundable amount.



Our Comments

The proposed extension of provisional refunds to inverted duty structure cases is a positive and long-awaited measure. Once implemented, eligible taxpayers would be entitled to provisional refund of up to 90% of the refundable amount, easing cash flow pressures caused by delays in refund processing.

Customs

Amendments to Existing Customs Framework for Promoting Fishing and Related Activities Beyond the Territorial Waters [S. 1(2), S. 2 & S. 56A of the CTA, 1962]

Background

The CTA, 1962 presently extends to the whole of India, including its territorial waters. However, fishing and fishing-related activities undertaken by Indian vessels beyond territorial waters, particularly in the Exclusive Economic Zone and high seas, were not governed by a clear customs framework.

This absence of explicit statutory provisions led to practical challenges in determining the customs treatment of fish harvested beyond territorial waters, including uncertainty on duty liability, import/export classification, and procedural requirements when such fish was brought into India or landed at foreign ports.

Proposed Amendments

- ∞ It is proposed to amend S. 1(2) of the CTA, 1962 to extend the jurisdiction of the Act beyond the territorial waters of India, for the purpose of fishing and fishing related activities by Indian-flagged fishing vessel.
- ∞ A new clause is proposed to be inserted in S. 2 of the CTA, 1962 to define the expression “Indian-flagged fishing vessel.”
- ∞ A new S. 56A of the CTA, 1962 is proposed to be inserted to provide a special legal framework for fishing and fishing-related activities carried

out by an Indian-flagged fishing vessel beyond the territorial waters of India, including:

- ▶ permitting fish harvested beyond territorial waters to be brought into India free of customs duty;
- ▶ treating fish landed at a foreign port as export of goods, in the manner to be prescribed; and
- ▶ empowering the Government to frame regulations governing declaration, custody, examination, assessment, clearance, transit or transshipment of such fish.

Rationale of the Proposed Amendments

The proposed amendments seek to encourage Indian fishing vessels to operate beyond territorial waters and engaged in legitimate economic activity, and without subjecting their catch to import duties upon entry into India. Further, by extending customs jurisdiction and introducing a dedicated framework, the amendments aim to bring clarity on tax treatment, align domestic law with maritime and trade practices, and provide legal certainty for Indian fishing operators. Treating fish landed at foreign ports as exports also enables recognition of foreign exchange earnings and supports India's marine export ecosystem.

Our Comments

The introduction of S. 56A of the CTA, 1962 represents a substantive and well-calibrated reform in customs law. It provides clarity on the duty-free treatment of fish harvested beyond territorial waters and removes ambiguity in classifying such transactions as imports or exports. Thus, with an aim to unlock the untapped potential of the marine sector, the changes brought in through these amendments will strengthen the framework for enabling sustainable harnessing of fisheries and fish related activities.

Recharacterization of Penalty Paid on Voluntary Payment of Differential Duty as a 'Charge' [S. 28(6) r.w s. 28(5) of the CTA, 1962]

Background

S. 28(5) of the CTA, 1962 permits an importer or exporter to voluntarily pay the differential duty, along with applicable interest and a reduced amount equal to 15% of the duty, within 30 days of receipt of a show cause notice issued u/s. 28(4) of the CTA, 1962. Where such payment is made and the proper officer is satisfied that the amount paid is full and complete, the proceedings are deemed to be concluded u/s. 28(6) of the CTA, 1962.

Proposed Amendment

It is proposed to amend clause (i) of section 28(6) of the CTA, 1962 to recharacterize the amount payable as "penalty" u/s. 28(5) of the CTA, 1962 as a 'charge' for non-payment of duty.

Our Comments

The amendment reflects a facilitative and taxpayer-friendly approach to dispute resolution under the Customs law. By recharacterizing the amount paid u/s. 28(5) of the CTA, 1962 as a charge, the provision encourages voluntary compliance without diluting revenue safeguards or the finality of proceedings u/s. 28(6) of the CTA, 1962.

Importantly, the change enables taxpayers to opt for voluntary settlement without apprehension of adverse accounting treatment, reputational impact, or other collateral objections.

Rationale of the Proposed Amendment

While the mechanism u/s. 28(5) of the CTA, 1962 is intended to encourage voluntary compliance, the use of the term "penalty" has often carried unintended adverse implications, including accounting, reputational, and collateral consequences. This has, in several cases, deterred taxpayers from opting for voluntary settlement.

The proposed amendment seeks to remove this disincentive by clarifying that the amount paid u/s. 28(5) of the CTA, 1962 is a charge for non-payment of duty rather than a punitive penalty.

However, considering that the amendment is prospective, pending cases may not automatically get covered. Companies may accordingly consider if any representation or clarification is required.

Extension of Validity of Advance Rulings to five years [S. 28J(2) of the CTA, 1962]

Background

S. 28J of the CTA, 1962 provides for the validity period of an advance ruling issued by the AAR. Currently, such advance rulings are valid for a period of three years from the date of issuance.

Proposed Amendment

- ∞ It is proposed to amend sub-section (2) of section 28J of the CTA, 1962 by substituting the words “three years” with “five years”. Accordingly, advance rulings issued by the authority will remain valid for a period of five years.

Our Comments

The extension of validity to five years is a positive step aimed at easing compliance and encouraging taxpayers to rely on advance rulings for long-term business planning.

- ∞ Further, it is proposed to amend the proviso to provide that, in respect of advance rulings issued prior to the date on which the FB, 2026 receives the assent of the President, the authority shall, upon an application by the applicant, extend the validity of such rulings to five years from the date of issuance.

Rationale of the Proposed Amendment

The amendment seeks to provide greater certainty and predictability to taxpayers by extending the validity period of advance rulings.

Requirement of Prior Approval Removed for Warehouse-to-Warehouse Transfers [S. 67 of the CTA, 1962]

Background

S. 67 of the CTA, 1962 presently permits the owner of warehouse goods to move such goods from one warehouse to another only with the permission of the proper officer, subject to prescribed conditions.

Proposed Amendment

It is proposed to substitute S. 67 of the CTA, 1962 to allow the owner of warehoused goods to remove such goods

from one warehouse to another without requiring prior permission of the proper officer, subject to such conditions as may be prescribed.

Rationale of the Proposed Amendment

The proposed substitution seeks to simplify and streamline the warehousing process by eliminating the requirement of prior approval for transfer between one warehouse to another.

Our Comments

This is a welcoming measure intended to reduce administrative delays, improve ease of doing business, and enable faster movement of goods.

Introduction of New Baggage Framework Under Customs Law [Baggage Rules, 2026]

Background

The baggage provisions under Customs law were earlier governed by the Baggage Rules, 2016 along with various exemption notifications issued from time to time. Over the years, multiple amendments and overlapping notifications led to procedural complexity and interpretational issues for passengers as well as Customs authorities.

Proposed Amendments

- ∞ Notification No. 14/2026-Customs (N.T.) dated February 1, 2026, notifies the Baggage Rules, 2026, replacing the erstwhile Baggage Rules, 2016.
- ∞ Notification No. 15/2026-Customs (N.T.) dated February 1, 2026, notifies a new regulation namely, the Customs Baggage (Declaration & Processing) Regulations, 2026, prescribing procedures for declaration, assessment and clearance of baggage.
- ∞ Notification No. 04/2026-Customs dated February 1, 2026, amends Notification No. 26/2016-Customs dated March 31, 2016, to align baggage-related regulations with the new Baggage Rules, 2026.

- ∞ Notification No. 05/2026-Customs dated February 1, 2026, rescinds Notification No. 11/2004-Customs dated January 8, 2004 and Notification No. 27/2016-Customs dated March 31, 2016, as the exemptions covered therein are now subsumed under the new Baggage Rules, 2026.

Rationale of the Proposed Amendments

Baggage Rules, 2016 is being superseded by the Baggage Rules, 2026 to rationalize the baggage provisions and address passenger related concerns at airports and resolution of interpretational issues; provide clarity in temporary carriage of goods brought in or taken out to avoid unnecessary detention of goods, and restructure transfer of residence benefits for Indian residents and foreign professionals based on duration of stay. The earlier baggage regime relied on multiple standalone exemption notifications and procedural instructions, resulting in duplication and lack of clarity.

The introduction of the Baggage Rules, 2026 seeks to consolidate and modernize the protocols for baggage regulations in India.

Our Comments

The introduction of the Baggage Rules, 2026 marks a comprehensive and structural reform of the baggage-related customs framework. The consolidation of substantive rules, procedural regulations and exemption notifications into a unified regime is expected to significantly improve passenger experience and operational efficiency.

Introduction of New Class of Eligible Importers and Extension of Duty Deferral Facility for Payment of Import Duty and [S. 47 of the CTA, 1962 | Notification No.12/2026-Customs (N.T.) | Notification No. 13/2026-Customs (N.T.)]

Background

S. 47 of the CTA, 1962 deals with clearance of imported goods for home consumption upon payment of applicable duty. To facilitate ease of doing business and improve cash flow for compliant importers, the Deferred Payment of Import Duty Rules, 2016 were introduced, allowing eligible importers notified therein to defer payment of customs duty. Only two class of importers, i.e., Tier- Two and Tier- Three Authorized Economic Operators (AEOs) and authorized public undertaking were allowed to take advantage of deferred payment of import duty.

Rule 4 of the Deferred Payment of Import Duty Rules, 2016 earlier provided a deferral period of 15 days for payment of deferred duty by notified class of eligible importers.

Proposed Amendment

- ∞ Notification No. 12/2026-Customs (N.T.) dated February 1, 2026, seeks to notify a new class of eligible importers, namely “Eligible Manufacturer Importers”, u/s. 47 of the CTA, 1962 for the purpose of availing the duty deferral facility, who will be allowed to use deferred payment facility, but only for a

defined window up to March 31, 2028.

- ∞ Notification No. 13/2026-Customs (N.T.) dated February 1, 2026, seeks to amend Rule 4 of the Deferred Payment of Import Duty Rules, 2016 to extend the duty deferral period from 15 days to 30 days for eligible notified importers. The change brought herein will be effective from March 1, 2026.

Rationale of the Proposed Amendment

The amendment aims to extend the benefit of deferred duty payment to manufacturing entities engaged in regular and compliant import activities. By recognizing ‘Eligible Manufacturer Importers’ as a separate class, the Government seeks to support domestic manufacturing, improve liquidity, and align customs procedures with the broader policy objective of promoting ease of doing business.

The extension of the duty deferral period is intended to provide greater operational flexibility and liquidity to trusted importers with a proven compliance track record. Longer deferral aligns customs processes with commercial payment cycles and reduces immediate cash outflows at the time of import.

Our Comments

The inclusion of ‘Eligible Manufacturer Importers’ within the duty deferral framework is a positive and industry-friendly measure. It provides significant cash flow relief to manufacturing

entities without compromising revenue safeguards, as the benefit is available only to notified and compliant importers.

The extension of the duty deferral period to 30 days is a practical and facilitative reform. It offers meaningful cash flow benefits to eligible importers and further strengthens India's trade facilitation framework.

Major Rationalization of Customs Tariff Structure

Proposed Amendment

- ∞ Basic Customs Duty (BCD) has been revised for certain goods mentioned

in Sch. I of Customs Tariff Act, 1975 as well Notification No. 45/2025-Customs dated October 24, 2025, as listed below:

Heading/ Subheading/ Tariff item	Description of Goods	Existing Rate	Revised Rate	Effective Date
6601 91, 6601 99	Umbrellas (other than garden umbrellas)	20%	20% or Rs. 60 per piece, whichever is higher	February 2, 2026
6603 20, 6603 90. 6603 90	Parts, trimmings and accessories of articles of heading 6601 to 6602	10%	10% or Rs. 25 per kg., whichever is higher	February 2, 2026
9804	All dutiable goods, imported for personal use	20%	10%	April 1, 2026
2612 20	Monazite	2.5%	Nil	February 2, 2026
2841 90	Sodium antimonate for use in manufacture of solar glass	7.5%	Nil	February 2, 2026
2815 20	Potassium hydroxide	Nil	7.5%	February 2, 2026
8401 30	All goods for generation of nuclear power	7.5%	Nil	February 2, 2026
8401 40	Control and Protector Absorber Rods, and Burnable Absorber Rods, for generation of nuclear power	7.5%	Nil	February 2, 2026
8501 10, 8504 31, 8516 80, 8516 90	Specified goods for use in the manufacture of Microwave Ovens falling under tariff item 85165000	As applicable	Nil	February 2, 2026

- ∞ The Sch. I to the Customs Tariff Act, 1975 has been amended to introduce new tariff lines to enable more accurate product classification. These changes are intended to improve product identification, capture transaction-level data for precursor chemicals to support effective monitoring, facilitate export tracking, and aid policy formulation for plant-based extract products. The amendments will come into effect from May 1, 2026, unless otherwise specified. Illustrative products covered include krill, pecan nuts, cranberries, blueberries, shea nuts, certain chemicals, wood pulp, parts of electronic equipment, and battery separators.
- ∞ Other amendments brought in Customs Notification No. 45/2025-Customs dated October 24, 2025, w.e.f. February 2, 2026:
 - ▶ BCD exemption on capital goods used for manufacturing Lithium-ion cells has been extended to include batteries manufactured for Battery Energy Storage Systems (BESS).
 - ▶ BCD exemption has been extended to raw materials used in the manufacture of aircraft parts for maintenance, repair or overhaul (MRO), including engines, when imported by Public Sector Undertakings under the Ministry of Defence, subject to prescribed conditions.
 - ▶ BCD exemption has also been extended to components and parts of aircraft, including engines, subject to specified conditions.
- ▶ BCD exemption has been expanded to cover 17 additional drugs and medicines.
- ▶ BCD exemption for goods required for setting up specified Nuclear Power Projects has been modified to apply irrespective of project capacity, subject to certification by the Department of Atomic Energy. The validity of this exemption has been extended from September 30, 2027 to September 30, 2035.
- ∞ Review and rationalisation of exemptions under Customs Notification No. 45/2025-Customs dated October 24, 2025:
 - ▶ Exemptions or concessional duty rates for 102 entries (including meat, plating materials, gold ores, pharmaceutical reference standards, tags, etc.) have been extended up to March 31, 2028.
 - ▶ Exemptions for 22 entries (such as naphtha used in fertiliser manufacture, LPG, silicon, metal parts, pipes, etc.) will lapse on March 31, 2026.
 - ▶ Unconditional exemptions for 11 entries (including animals and birds imported by zoos, alpha-pinene, coffee, potassium sulphate, etc.) have been withdrawn w.e.f. February 2, 2026.
 - ▶ Sunset clauses for 3 entries have been removed w.e.f. February 2, 2026. However, new sunset clauses have been prescribed for specified entries, including gold or silver dore

bars (up to March 31, 2027)
and works of art or antiques

intended for public exhibition
(up to March 31, 2028).

Trust you find the above useful.

Best Regards

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