Blue Consulting Pvt. Ltd.

A CRISP ANALYSIS OF

FINANCE BILL 2021

related to Income Tax Provisions

F&A Outsourcing | Consulting | Internal Audit

Index

1. Tax benefits

Title	Section	Changes proposed	Effective from
Incentive for affordable rental housing and extension in approval date for affordable housing projects	80-IBA	▪ To promote the **affordable rental for migrant labourers**, deduction shall be provided under this section for the projects which will be notified by the central government and which fulfils certain conditions to be prescribed. ▪ Further, the sunset clause for approval of affordable housing projects has also been **extended by one more year** till 31 March 2022.	Assessment Year 2022-23
Extension in time limit of date of incorporation of a start up for eligible exemption	80-IAC	▪ Presently, an eligible start up can avail 100% tax exemption for 3 consecutive Assessment Years **out of 10 years** only if the start up has been incorporated on or before 1st April,2021. ▪ To continue support more start up under this provision, above time limit of incorporation has been **extended by one more year** till 1st April'2022.	Assessment Year 2022-23

Title	Section	Changes proposed	Effective from

Incentives for units located in IFSC	9A, 10 (4D), 10 (4F), 47, 80LA &115AD	▪ Various provisions have been introduced to incentivise global financial service players to set up units at International Financial Services Centre (IFSC), if the operation of such units gets commenced **on or before 31st March'2024**.
		▪ Incentives would be as below:
		  ▪ tax holiday for capital gains for aircraft leasing companies
		  ▪ tax exemption for aircraft lease rentals paid to foreign lessors
		  ▪ tax incentive for relocating foreign funds in the IFSC
		  ▪ tax exemption to the investment division of foreign banks located in IFSC
			Assessment Year 2022-23

2. Rationalisation measures

Title	Section	Changes proposed	Effective from
“Slump sale” definition widened	2(42C)	▪ Now, **any kind of transfer of capital asset would be covered** under the definition of **slump sale**, hence taxable under section 50C. ▪ This amendment is clarificatory in nature and has been proposed mainly to curb the tax avoidance schemes which were being drawn to tag a ”slump sale” transaction in “slump exchange” transaction to avoid tax liability. ▪ However, this clarificatory nature of amendment **may lead to opening of pervious cases** or existing cases which are going on before 1st April’2020.	Assessment Year 2021-22
Definition of “liable to tax” introduced	New section 2(29A)	▪ The Income Tax Act,1961 currently does not define the term —"liable to tax” though this term is used in section 6, in clause (23FE) of section 10 and various agreements entered into under section 90 or section 90A of the Act. ▪ Hence, it is proposed to insert clause (29A) to section 2 of the Act providing its definition. ▪ The term —**liable to tax**” in relation to a person means that there is a liability of tax on that person under the law of any country and will include a case where subsequent to imposition of such tax liability, an exemption has been provided.	Assessment Year 2021-22

Title	Section	Changes proposed	Effective from
No deduction of employee's contribution for delay in deposit	36(1)(va) & 43B	▪ Section 36(1)(va) allows deduction for the amount of employee's contribution if the same is deposited by or before the due date. ▪ Further, section 43B covers only deduction of employer's contribution to a welfare fund on the basis of actual payment till the filing of tax return, but some courts have applied the provision of section 43B on employee's contribution as well. ▪ Since, employee's contribution is from their hard earned money and delay in deposit by employer's till the time of filing of their income tax return, result in loss of interest for them. ▪ Now, to clarify the intention behind provision of Section 36(1)(va), and to avoid litigation on the subject, it has been proposed to provide that if the employer **fails to deposit** the employee's contribution **in timely manner** as per the relevant Act, then same **shall not be allowed as a deduction** in any year even if such contributions are deposited subsequently. ▪ Consequential amendment is also proposed in Section 43B of the Act.	Assessment Year 2021-22

....contd. [2. Rationalisation measures]

Title	Section	Changes proposed	Effective from
Goodwill is not an asset	2(11), 32, 50, 55	▪ At present, Goodwill is neither specifically covered as an asset under the definition of "block of assets" nor under section 32 which deals with depreciation on block of assets. ▪ However, Hon'ble Supreme Court in the case **Smiff Securities Limited [(2012)348 ITR 302 (SC)]** held that Goodwill of a business or profession is a depreciable asset under section 32 of the Act. ▪ Goodwill, as a depreciable asset, has always been an area of controversy, specifically in case of M&As with in a corporate group. Tax authorities have strongly felt that fictitious asset (read Goodwill) are created just to lower the tax liabilities through claiming depreciation on Goodwill. ▪ Now, it has been clarified by amending various provisions that **Goodwill is not an asset.** ▪ This **may lead to opening up of previous cases** or impact the ongoing M&A cases where tax department has disputed the depreciation on goodwill. ▪ This change **will lead to increase in transaction cost** for corporates in M&A deals.	Assessment Year 2021-22

....contd. [2. Rationalisation measures]

Title	Section	Changes proposed	Effective from
Increase in tax audit limit for SMEs	44 AB	▪ To promote the ease of doing business for SMEs and also to promote digital transactions, **the tax audit limit** has been **increased** from the existing limit of Rs. 5 crore **to Rs. 10 crore**. ▪ This exemption from tax audit will be available to those businesses whose aggregate of all receipts and payments in cash does not exceed 5% of total receipt and payments during the previous year.	Assessment Year 2021-22
Excess amount now can be refunded under Income Declaration Scheme (IDS)	191	▪ Under the current provisions of IDS, any amount of tax, surcharge and penalty paid in pursuance of a declaration made under the Scheme shall not be refundable. ▪ This resulted in genuine hardship for assessee who paid huge excess amount under the scheme. ▪ Now, to rectify this anomaly, it has been proposed that he **excess amount of tax, surcharge or penalty paid** in pursuance of a declaration made under the Scheme **shall be refundable** to the specified class of persons without payment of any interest.	1st June, 2016

....contd. [2. Rationalisation measures]

Title	Section	Changes proposed	Effective from
Rationalisation of MAT provisions	115JB	▪ Based on various representations received, book profit calculation has been been proposed to be amended to give effect following: ▪ Adjustment for additional income in cases where earlier year income is included in books of account of current year on account of an APA entered u/s 92CC or a secondary adjustment u/s 92CE. ▪ In such cases, AO will recompute the book profit of the past year(s) and tax payable, if any, during the previous year, on application made by Assessee under Section 154. ▪ Adjustment for dividend income and expenses related thereto in case of foreign companies where such income is taxed at lower rate than Section 115JB due to DTAA.	Assessment Year 2021-22

Title	Section	Changes proposed	Effective from
Reduction in time limit for completion of assessment procedure	153	▪ In the present system, the person-to-person interface between the taxpayer and the Department has been virtually eliminated for assessment process. ▪ This has resulted in faster processing of information with jurisdiction less system. ▪ Accordingly, to pass on the benefit of faster assessment proceedings, it is now being proposed to **reduce the time limit for completion of assessment procedure** and revised time limits are as below:	1st April'2021

Particulars	Existing time limit	New time limit
Selection of Scrutiny Assessment	6 months from the end of the financial year in which the return of income is furnished	3 months from the end of the financial year in which the return of income is furnished
Completion of assessment	12 months from the end of relevant assessment year	9 months from the end of assessment year

....contd. [2. Rationalisation measures]

Title	Section	Changes proposed	Effective from
Advance tax payment relaxation in case of dividend income	234C	▪ Dividend income is now taxable in the hands of shareholder and it's advance tax liability on dividend income can be known only after payment of dividend by the companies. ▪ This resulted in payment of interest under section 234C. ▪ To rectify this anomaly, it has been proposed to charge interest under section 234C only when there is a mismatch between instalment of advance tax and actual tax only after receipt of dividend income. ▪ However, deemed dividend under section 2(22) is excluded from this rationalisation.	Assessment Year 2021-22
Provisional attachment power to AO in fake invoice cases	281B	▪ In the previous Finance Bill, a section 271AAD was inserted to penalise an assessee who make a false entry or omit an entry from his books of accounts. ▪ To safeguard the revenue's interest, AO has been **vested with power to attach** the property under section 281B **if the penalty** imposable under section 271AAD is **likely to exceed Rs. 2crore.**	1st April'2021

....contd. [2. Rationalisation measures]

Title	Section	Changes proposed	Effective from
Royalty & FTS excluded from Digital Tax	Section 163 of Finance Act,2016	▪ Equalisation levy or digital tax was levied in last Union Budget on foreign companies providing goods or services in India. ▪ In the lack of clarification, royalty and fee for technical services (FTS) was either getting taxed twice or some companies only paying 2% digital tax instead of 10% under DTAA. ▪ Now, it has been clarified that royalty and FTS would be out of purview of digital tax. ▪ Further, it has been further proposed to levy digital tax on the entire amount of transaction, not only the commission part, even if the goods or services were not sold directly by foreign e-commerce operators.	Assessment Year 2021-22

3. Other amendments

Title	Section	Changes proposed	Effective from
Increase in safe harbour limit for home buyers and builders	43CA & 56(2)(x)	▪ In order to boost demand in the real-estate sector and to enable the real- estate developers **liquidate their unsold inventory** of residential houses to buyers, it has been proposed to **increase the tolerable difference** in valuation of property as per Stamp Valuation Authority and transaction value **from earlier 10% to 20%** of the transaction value subject to following conditions: ▪ The transfer of residential unit takes place during the period from 12th November, 2020 to 30th June, 2021; ▪ The transfer is by way of first time allotment; ▪ The consideration does not exceed Rs.2 Crores. ▪ Consequential amendment is also proposed in Section 56(2)(x) of the Act to give relief to buyer of house.	Assessment Year 2021-22

....contd. [3. Other amendments]

Title	Section	Changes proposed	Effective from

Reform of Income escaping assessment and search assessments	147,148, 149 & a New Section 148A	▪ A completely new system is being proposed by replacing the existing provisions related to income escaping assessment and search cases. This new system is expected to result in less litigation and would provide ease of doing business to taxpayers.
		▪ Time limit for issuance of notice for income escaping assessment has been proposed to be reduced as per following detail:
		  ▪ If amount involved is less than Rs. 50 lacs, then time limit for issuance of notice is **with in 3 years** from the end of the relevant assessment year. Presently, the time limit is 4 years.
		  ▪ However, if the amount involved is Rs. 50 lacs or more, then this period will be **10 years** from the end of the relevant assessment year. Presently, the time limit is 6 years and 16 years (in case of income related to asset outside India).
		▪ One major change is introduction of **new section 148A** which requires an AO to provide the opportunity of being heard before initiating the income escaping assessment proceedings. In addition, AO needs to pass an order to this effect.
			1st April'2021

….contd. [3. Other amendments]

Title	Section	Changes proposed	Effective from

TDS on purchase of goods	New section 194Q	▪ New rate and category of TDS has been proposed for purchase of goods.
		▪ Main intention is to collect important information which can be used to track tax evaders or tax payers who do not file their return of income.
		▪ The buyer of goods would be required to deduct a **TDS@0.1%** with following conditions:
		    ▪ Buyer is defined to mean a person whose total sales, gross receipts or turnover from business carried on in previous year exceed Rs.10 Crores.
		    ▪ TDS to be done by buyer if value or aggregate value of goods purchased from a person exceed Rs. 50 lacs in a year.
		    ▪ This section is not applicable if TDS required to be done under other provisions or if TCS is to be done.
		    ▪ If PAN of seller is not available, then TDS to be done @5%.
			1st July'2021

Title	Section	Changes proposed	Effective from

TDS/TCS on non-filers at higher rate	New section 206AB & 206CCA	▪ Presently, Section 206AA of the Act provides for higher rate of TDS for non-furnishing of PAN. Similarly section 206CC of the Act provides for higher rate of TCS for non-furnishing of PAN.
		▪ Now, to ensure filing of income-tax return by persons who have suffered TDS/ TCS, it has been proposed to insert a new section requiring higher rate of TDS and TCS to be done by Deductor/Collectee from, payments made to specified person.
		▪ The specified person is a person:
		  ▪ who has not filed the returns of income for both of the two last assessment years, prior to the current year and
		  ▪ in whose case aggregate amount of TDS/TCS in each of the last two assessment years have been Rs. 50,000 or more.
		▪ Specified person shall not include a non-resident who does not have a permanent establishment in India.
		....contd.
			1st July'2021

....contd. [3. Other amendments]

Title	Section	Changes proposed	Effective from

....contd. [TDS/TCS on non-filers at higher rate]	New section 206AB & 206CCA	▪ The rate of TDS/TCS from amounts payable to specified person is higher of the followings rates:
		  ▪ twice the rate specified in the relevant provision of the Act; or
		  ▪ twice the rate or rates in force; or
		  ▪ the rate of 5%
		▪ In case, the specified person does not provide PAN, then TDS would be required to be done @20% and TCS @5% being higher of rates as per Section 206AB and 206AA.
		▪ From now onwards, service receivers making payments would not only have to ensure to collect PAN of other person but also ensure filing of return for earlier years.
		▪ The above requirement only extends Assessee's compliance burden and costs.
		▪ However, it would benefit Income Tax Department to chase non-filers of returns.
			1st July'2021

....contd. [3. Other amendments]

Title	Section	Changes proposed	Effective from
Board of Advance Ruling (BAR) replaces Authority of Advance Ruling (AAR)	Various sections under Chapter XIX-B	▪ Presently, rulings of AAR are binding on applicants and tax department. ▪ However, due to stringent requirement of eligible persons for the 3 benches of AAR, posts of Chairman and Vice Chairman remain vacant for a long time. ▪ This has seriously hampered the working of AAR and a large number of applications are pending since last many years. ▪ In this Finance Bill, it has been proposed to look for an alternative method of providing advance ruling which can give rulings to taxpayers in timely manner. ▪ Board of Advance Ruling (BAR) has been proposed to be introduced to replace AAR. ▪ **AAR will cease to operate** and exist from the notified date. ▪ Each BAR shall consist of **2 members** as against the 3 members in the AAR. ▪ BAR will be constituted only by revenue officials as compared to current system being headed by a retired judge of High Court or Supreme Court. ▪ Advance rulings of **BAR shall not be binding** on the applicant or the Department and if aggrieved, the applicant or the Department may appeal against the ruling or order passed by the Board before the High Court.	1st April'2021

….contd. [3. Other amendments]

Title	Section	Changes proposed	Effective from

DRC for Small and medium taxpayers	New Section 245MA	▪ In order to provide early tax certainty to small and medium taxpayers, a new scheme has been proposed for preventing new disputes and settling the issue at the initial stage.
		▪ It's being called Dispute Resolution Committee.
		▪ Important features of DRC are:
		  ▪ The assessee would have an option to opt for or not opt for the dispute resolution through the DRC.
		  ▪ Only those disputes where the returned income is Rs. 50 lacs or less and the aggregate amount of variation proposed in specified order is Rs. 10 lacs or less shall be eligible to be considered by the DRC.
		  ▪ The DRC shall have the powers to reduce or waive any penalty imposable under this Act or grant immunity from prosecution for any offence under this Act.
			1st April'2021

....contd. [3. Other amendments]

Title	Section	Changes proposed	Effective from
Faceless proceeding before ITAT	255	▪ In the last few years, Income Tax department has already introduced faceless assessment scheme, faceless appeal scheme and faceless penalty scheme. ▪ As a next logical step, a faceless scheme is being introduced for ITAT proceedings on the same line as faceless appeal scheme. ▪ This will not only reduce cost of compliance for taxpayers, increase transparency in disposal of appeals but will also help in achieving even work distribution in different benches resulting in best utilisation of resources. ▪ This faceless scheme will start an era of an appellate system with dynamic jurisdiction. ▪ The details of the Faceless ITAT scheme are not yet notified.	1st April’2021

4. Personal taxation

Title	Section	Changes proposed	Effective from
LTC cash allowance exemption	10(5)	▪ Most of the people could not travel in Financial Year 2020-21 due to COVID pandemic. Now, to help them in claiming LTC exemption, a cash allowance up to maximum of Rs. 36,000/- per person will be allowed as Deemed LTC subject to fulfilment of following conditions: ▪ Exemption allowed is lower of 1/3rd of the specified expenditure or Rs. 36,000/- per person; ▪ Specified expenditure shall mean expenditure incurred by an individual or a member of his family through digital mode during the period 12th October 2020 to 31st March 2021 on goods or services which are subject to GST @12% or above and the goods are purchased or services procured from GST registered vendors/service providers; ▪ The employee exercises the option for the deemed LTC fare in lieu of the applicable LTC in the Block year 2018-2021.	Assessment Year 2021-22 only

....contd. [4. Personal taxation]

Title	Section	Changes proposed	Effective from
Restriction of exemption on sum received from ULIP	10(10D)	▪ Presently, any sum received under ULIP is exempt from tax u/s 10(10D) where the premium payable during the term of the policy does not exceed 10% of capital sum assured. ▪ Now, this **exemption is being restricted to Rs. 250,000** during a financial year, otherwise the amounts received on sale/ maturity would be taxed as capital gain either as short term/ long term capital asset. ▪ However, the amount received on death of policy holder will continue to be exempt.	1st February' 2021
Restriction of exemption on Interest earned on Provident Fund	10(11) & (12)	▪ To curb the malpractice of availing tax exemption on interest earned on employee's contribution to provident fund by HNI's, **the exemption is being restricted to Rs. 250,000 in a financial year.** ▪ It means that if an employee contribute more than Rs. 250,000 to it's provident fund, then interest income on amount exceeding Rs. 250,000 would be fully taxable.	Assessment Year 2022-23

Title	Section	Changes proposed	Effective from
Extension of loan sanction date for affordable housing property	80EEA	▪ As per the existing provisions, this deduction for affordable housing property- is up to 31st March 2021. ▪ Now, this outer date has been **extended by one more year** from 31st March 2021 to 31st March 2022.	Assessment Year 2022-23

Exemption from filing of tax return for specified senior citizen	New Section 194P	▪ To give relief to senior citizens having only pension and interest income, it has been proposed to exempt Senior Citizen from requirement of filing ITR, if the following conditions are satisfied:
		  ▪ The senior citizen is resident in India and of the age of 75 or more;
		  ▪ They should only have Pension Income and Interest Income both from the which is credited in a single specified bank (which would be notified by Government);
		  ▪ They shall be required to furnish a declaration to the specified bank.
			1st April’2021

5. About us

Served more than **135 clients** since **2005**

Strong team of **125+ energetic** people

100% data security and confidentiality

Impressive client retention period : **>7 years**

10 million+ transactions per year

99.87% adherence to SLA’s

....contd. [5. About us]

01

F&A Outsourcing

From standalone services like P2P, O2C, R2R to end to end outsourcing

02

Consulting

Due diligence, Structuring, SEIS, India Entry, SOP's, XBRL

03

Internal Audit

Internal Audit with a focus to add value through evaluation of internal control system

Our services

For more information about our services, visit us at www.blueconsulting.co.in

Blue Consulting Pvt Ltd

CHANDAN GOYAL
CO-FOUNDER

Mobile:+91 98104 10421
Ph:+91 120 4113075

chandan.goyal@blueconsulting.co.in

G-1, 3rd Floor,Sector-11
Noida-201301.