

30th November, 2020/16688

To
Smt. Nirmala Sitharaman
The Hon'ble Union Minister of Finance,
Ministry of Finance,
Government of India,
North Block,
New Delhi - 110001

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer

Sub: Pre-Budget Memorandum 2021-22

Respected Madam,

At the outset, we would like to place on record our sincere appreciation to your good office and the government for comprehensive and robust response to the raging COVID-19 pandemic. The colossal efforts made towards prevention and containing the spread, including strengthening surveillance, laboratory capacity, contact tracing and isolation and risk communications are really commendable. We are confident that slew of taxpayer friendly measures planned by the Government will address several intricate problems relating to taxation, synchronously fulfil its vision of having more transparency in the system with minimal interaction between tax payers and tax authorities.

We take this opportunity to present a **Pre-Budget Memorandum** on Direct Taxes with a request to consider the same while framing proposals in the Finance Bill, 2021 for amendments to the Income-tax Act, 1961. The nation is looking forward to proposals aimed at **reducing litigation and compliances** in the field of Direct Taxes. We have enclosed below our suggestions in a tabular format for your kind perusal and consideration.

Pre Budget-Memorandum 2021-22

| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|----------------|--|--|---|
| 1. | Tax rates for non-corporate tax payers | Tax rates / MAT rates for corporates have been reduced post the implementation of Taxation Laws Amendment Act, 2019. | It is therefore suggested that the rate of tax (including Surcharge and cess) for all non-corporate |



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|--|--|
| | | <p>However, the tax rates, for non-corporates such as LLPs & AOPs and for individuals earning high income, continue to be exceedingly high. Capital gains, other than those under section 111A, 112A or 115AD, are also subject to high surcharge applicable to individuals.</p> | <p>entities (including LLPs and AOPs) should be brought down to 25%.</p> <p>The tax rates for individuals should be reduced, say to maximum 30% (including surcharge and cess). Also, the maximum rate excluding surcharge, which is presently applicable for income over Rs. 10 lakh should be triggered only at a much higher base, say Rs. 25 lakh.</p> |
| 2. | Reduction in rate of tax in case of Firms and LLPs engaged in the business of Infra Industry and Real Estate Sector | Infrastructure is the backbone of our Economy. The real estate sector is facing severe cash crunch, sales slowdown & liquidity issues, non-availability of labourers and delay in construction, increased cost of supply materials and heavy debts. The Infra Industry has to switchover its business premises starting from Metro to more remote rural places | It is suggested that reduction in rate of tax @ 22% plus applicable surcharge and cess for the firms and LLPs of real estate industry at par with the reduced Corporate tax rate will give boost to the |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer

| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|--|--|---|
| | | frequently. For establishing each work site, every time it has to put enormous efforts as well as resources. For construction contractors, major portion of profit is lying with departments in the form of withheld amount and deposits. To ease doing of business, this industry needs the support of the Government in direct monetary terms. | industry which is building the Nation. |
| 3. | Increase in limit of deduction under section 80C | It is pertinent to note that the limit of deduction under section 80C, was last increased from Rs 1 lakh to Rs 1.5 lakh in Budget 2014; which is almost six years ago. Accordingly, expanding the horizon and limits of the 80C deduction is the need of the hour. | The overall exemption limit under section 80C should at least be enhanced to Rs 3 lakhs, from the current Rs 1.5 lakhs. Similarly, while increasing the limits under 80C, concurrently the limit of investment under PPF may also be increased from existing Rs. 1.5 lakhs to Rs. 2.5 lakhs. |
| 4. | Section 37 - Corporate Social Responsibility expenditure incl. COVID care expenses | As per the Companies Act, 2013, it is mandatory for specified companies (as per Section 135) to spend 2% of their average profits towards Corporate Social | There is a strong need to revisit this provision and companies should be allowed 100% |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|--|---|--|
| | <p>Explanation 2 in sub-section (1) of section 37 provides that any expenditure incurred by an assessee on the activities relating to CSR referred to in section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee for the purposes of the business or profession and deduction shall not be allowed.</p> | <p>Responsibility. These expenses are all connected to social and charitable causes and not for any personal benefit or gain. It is, therefore, fair and equitable to allow the same as business expenditure. There is no bar on allowability of CSR expenditure falling under other sections like 35, 35AC etc.</p> <p>Granting a specific tax incentive in respect of such CSR expenditure incl. COVID care, vaccination for prevention of public at large, as also the employees of such company, would not only prove to be a welcome relief to companies during the challenging times of pandemic, but it would also go to lighten the burden on Government in regret to their obligation for incurring such expenditure.</p> | <p>deduction of CSR under section 37 so as to provide such CSR expenditure incl. COVID care and vaccination for effective prevention, for the benefit of the public at large, including employees of the respective companies and their families, shall be allowed as 100% tax deduction in the computation of taxable income of companies.</p> <p>If at all required, necessary safe guards may be incorporated.</p> |
| 5. | <p>Sections 43CA, 50C and 56(2)(x) – Deeming provisions w.r.t. real estate sector</p> | <p>Post COVID-19, the prices of real estate have fallen down by more than 30% throughout the country and in many cases the market prices are below the circle rates. Further, as mentioned in point no. 2 above, the industry is facing severe liquidity issues.</p> | <p>It is suggested that there should be timely suspension of Sections 43CA, 50C and 56(2)(x) of the Income Tax Act, 1961 from 1st April, 2020 till 30th</p> |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|---|--|
| | | <p>However, for the purpose of taxation as mentioned above, they have to pay tax considering the circle rates which are higher than the actual sales realization.</p> <p>The consideration at which the sale deeds are being executed is thus the actual market value of the immovable property whereas the buyers are constrained to pay stamp duty as per the prevalent circle rates, which are merely guidelines and do have no legal binding force.</p> <p>Thus the real estate developers & the buyers are forced to pay Income Tax on the notional income which none of them have earned. This is against the well settled principles of "Real Income" as propounded by the Apex Court in a number of cases</p> | <p>June, 2021, so that real estate developers and investors can sell their properties at reduced market prices and will get taxed on the realized consideration instead of deeming provision.</p> <p>This will reduce the tax burden on real estate sector by suspending taxability on unearned income</p> |
| 6. | Section 23(5) - Tax on unsold properties held as stock in trade | <p>Section 23(5) provides that in respect of unsold property that is held as stock-in-trade after a prescribed period, it is taxed on notional rental income basis.</p> <p>Mainly, it attracts builders and developers who are</p> | <p>It is suggested:</p> <p>(a) to amend section 71(3A) so as to exclude provisions of section 23(5).</p> <p>(b) that Real Estate business</p> |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|--|--|
| | | <p>struggling with various practical issues inclusive of having a large unsold property. Section 23(5) providing for deemed rental income and making it taxable after two years of property construction appears to be harsh to genuine developers who are unable to dispose off their stock in the slump. Therefore, once a builder demonstrates that he has not been able to sell despite genuine efforts to sell, the deeming provisions may not be made applicable.</p> <p>In many cases, the builders pay interest on funds borrowed for construction. Further, Section 71(3A) provides for ceiling of Rs. 2 lakhs for set off of loss under the head house property against any other head of income. Combined effect of application of sections 23(5) and 71(3A) is proving double sufferings for the builders/ developers.</p> | <p>entities be exempted from the provisions of sections 23(5) and 71(3A) for at least five years.</p> <p>(c) that for the purpose of section 54 and 54F, the time limit for construction of a house may be increased from 3 years to 5 years. If the funds are regularly paid by the buyer and construction of the house is in progress, the delay beyond 5 years may also be allowed.</p> <p>(d) that provisions of section 72A allowing set off of unabsorbed losses and unabsorbed depreciation be allowed to real estate sector also to enable consolidations and mergers.</p> |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|---|---|
| 7. | Section 44AD - relating to presumptive taxation applies only to businesses run by resident Individual, HUF and Firms excluding LLP. | <p>Tax on presumptive basis should be extended to all taxpayers, including LLP. Only section 44AD excludes LLP, for which there appears to be no cogent reason. No intelligible differentia which has a rational nexus to the object sought to be achieved is perceptible.</p> <p>Otherwise under the Act, a LLP and a Firm are treated at par. Even section 44ADA does not exclude LLP.</p> | <p>The benefit of section 44AD should also be made available to LLP.</p> |
| 8. | <p>Section 54EC -</p> <p>a) Time Limit for investment in specified bonds</p> <p>b) The section restricts exemption for investment in capital gains bonds up to Rs. 50 Lakhs</p> | <p>a) Time limit for investment in specified bonds is presently 6 months from the date of transfer.</p> <p>❖ In many cases, taxpayers are not aware about exemption provision and comes to know about it only when they approach their tax consultant at the time of filling of ITR. By this time, 6 months period is already over and thus the taxpayer inadvertently loses the benefit of exemption.</p> <p>❖ Present time limit expires exactly at 6 months from the date of transfer. Due to this, even an otherwise knowledgeable taxpayer is also forced to be very</p> | <p>a) It is suggested to amend section 54EC so that time limit for investment in specified bonds may be allowed upto the due date of filing of ITR.</p> <p>b) The ceiling for making investment in specified assets be increased from Rs. 50,00,000 to Rs. 1,50,00,000.</p> |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|--|-------------|
| | | <p>cautious about exact date and sometimes he may miss it unintentionally.</p> <ul style="list-style-type: none"> ❖ Bringing the time limit upto the due date of filling of ITR shall also bring parity with section 54/54B/54F etc. where taxpayer is permitted to deposit the money in Capital Gains Account upto the due date of filing of ITR. ❖ In number of transactions, there is some difference in dates of actual handing over of possession, submission of documents for registration of transfer, actual date of registration and even a subsequent modification of registered document due to demand of additional stamp duty. All these dates, though may fall in the same year but still may differ from each other, creating an unnecessary dispute regarding actual date of transfer and thereby time limit of 6 months. If the date of investment in specified bonds is made up to the due date of | |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|--|---|---|
| | | <p>filling of ITR, such disputes can be saved.</p> <p>b) This will also help the Government in generating funds at much lesser cost, especially when the government is burdened with high cost of borrowing. This step will also will provide impetus to the infrastructure sector. Further, since the lock in period has now been increased to 5 years, if the limit is also increased, the government will have more funds for a longer period at lower cost.</p> | |
| 9. | <p>Clause (xiiib) to section 47 excludes the conversion of private limited companies to LLP from the definition of transfer – subject to certain conditions.</p> <p>One of the conditions is that the total sales, turnover or gross receipts in the business of the company in any of the</p> | <p>Such small limits are a big hindrance on the conversion of the company into a LLP.</p> <p>Provisions of the Companies Act 2013 have created various restrictions as well as complications for doing business. FDI restrictions in LLPs have also been relaxed by Central Government.</p> <p>Continuing with the restriction of turnover is against the concept of ease of doing business in India.</p> | <p>The said limits should be removed or else increased substantially.</p> <p>Turnover limit may be increased to Rs. 10 crores and the total assets limit may be increased to Rs. 20 crores.</p> |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|---|---|
| | <p>three preceding previous year should not exceed Rs. 60 Lakhs. Another condition is that the total assets during the previous 3 years should not exceed Rs. 5 crores.</p> | | |
| 10. | <p>Payment of Advance Tax - Section 209</p> | <p>The Finance Act (No. 2), 2009 raised the limit to pay advance tax to Rs. 10,000. Considering the inflation in the economy, there is a need to increase this limit to a more practical and realistic figure.</p> <p>Further, the requirement to pay 15% advance tax for non-corporate assesses by 15th June causes unnecessary hardship, since it is extremely difficult to estimate the total income for the entire year within a mere 75 days from the commencement of the financial year. The hardship is further compounded by the levy of interest u/s. 234C for shortfall in the instalment of advance tax paid.</p> | <p>The threshold for payment of advance tax should be increased from the present Rs. 10,000 to Rs.1,00,000.</p> <p>The requirement to pay 15% advance tax by 15th June for non-corporate assesses should be removed.</p> |
| 11. | <p>Section 206C - Concerns arising</p> | <p>Clarification regarding the amount/sale consideration</p> | <p>It is suggested that suitable</p> |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|---|---|
| | <p>due to inclusions in TCS provisions to be addressed</p> | <p>on which TCS is to be collected/charged under provisions of section 206C(1H).</p> <p>Section 206C(1H) provides that every person, being a seller, who receives any amount as consideration for sale of any goods of the value or aggregate of such value exceeding Rs 50,00,000 in any previous year shall, at the time of receipt of such amount, collect from the buyer, a sum equal to 0.1 % of the sale consideration. Clarification is required in case of receipts when sale and purchase is made from a same person.</p> <p>There is a possibility that certain two taxpayers say "A" and "B" are buyer and seller of each other's goods. Eg let's assume A has sold goods worth Rs 5 crore to B and B has also sold some other goods worth Rs 4.75 crores to A. Now, in this case, clarity is required regarding the amount on which tax is to be collected at source by seller A i.e. on sale consideration of Rs 5 crore or net remittance of Rs 25 lakhs or not required at all</p> | <p>clarification be issued, or legislative amendment be made so as to clearly specify the amount on which tax is to be collected by the seller especially in a case when sale and purchase takes place to and from a same person.</p> |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|--|---|
| | | as receipt during the year is less than Rs. 50 lakhs. | |
| 12. | Section 206C(1H) - certain other concerns | <p>Issue I: While section 206C(1H) of the Act is inserted, the provision does not define key terms such as "goods", "turnover", etc. and this has resulted into interpretational issues. The term 'goods' is defined under various acts (such as Sale of Goods Act, GST Act etc) and hence will lead to litigation.</p> <p>Issue II: While the key terms are not defined, CBDT has issued a circular clarifying various queries. One of the clarifications given by the CBDT is that the provision of section 206C(1H) would not apply to listed securities. Thus, it appears that unlisted securities could get covered by section 206C(1H) of the IT Act. Only listed securities have been carved out of section 206C(1H).</p> | <p>(i) It is suggested that key terms referred in section 206C(1H) are defined to mitigate the risk of protracted litigation.</p> <p>(ii) It is suggested that securities whether listed or not may be made out of the purview of section 206C(1H).</p> |
| 13. | Section 23 - Deduction of interest from house property | As per section 23, pre EMI interest is allowed for deduction in five equal installments from the year of completion of construction. | It is suggested to remove the said hardship by allowing deduction of pre-EMI interest in the year of |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|---|--|
| | | Thus, while on the one hand, buyer is suffering from delay in construction and on the other hand, interest paid by him is not allowed as deduction. | payment of interest u/s 23. |
| 14. | Section 80-IBA - Incentive to affordable housing | The Finance Act, 2016 granted benefits for affordable housing to housing projects approved on or after 01.06.2016. The Finance Act, 2017 has further relaxed some of the relevant conditions. | <p>It is suggested:</p> <p>(a) that applicability of section 80-IBA be extended to affordable housing projects to give benefit to first house holding owners by way of extending the higher carpet area criteria to achieve the Government's mission for housing for all.</p> <p>(b) that the time line for deduction u/s. 80-IBA be increased to 31.03.2022 to enable planning investments in real estate developments and the MAT/AMT be removed from such projects.</p> |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|--|--|
| 15. | Section 80-IBA – Need to prescribe a form/ certificate | <p>Under section 80-IBA, inserted by the Finance Act, 2016 from 1.4.2017, deduction of 100% of profits derived from development of affordable housing projects approved on or after 1st June 2016 is available, subject to fulfillment of specified conditions.</p> <p>It prescribes multiple conditions to be fulfilled by taxpayer in order to claim deduction under this section. However, no monitoring mechanism has been prescribed to determine the correctness of claims made by the concerned taxpayer. This may ultimately lead to leakage of revenue.</p> | <p>It is suggested that a monitoring mechanism i.e. a form may be prescribed under section 80-IBA to be certified by an Accountant so that taxpayers claiming deduction under this section may be checked for correctness of claims made as well as fulfilment of conditions prescribed i.e form to be prescribed to be incorporated in the section itself.</p> <p>This will also give a comfort to the trade and industry that if a qualified Chartered Accountant is certifying the facts, the claim is also in order.</p> |
| 16. | Section 115BBE – Need to reconsider the high rate of tax | Section 115BBE was amended during the demonetization period where if income was assessed u/s 68 to 69D, tax | It is suggested that rate of tax u/s 115BBE be restored to 30% and surcharge |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|---|--|
| | | <p>would be charged @ effective rate of 78%.</p> <p>In the current scenario, the rate is very high / harsh and needs to be reconsidered. It is not required now to tax at such high rate.</p> | <p>thereon be reduced as per applicable total income levels/slab rates.</p> |
| 17. | <p>Section 2(42A) – Reduction in holding period in case of immovable property, being land or building or both, to qualify as long-term capital asset – Consequential amendments to be made in sections 54, 54B, 54D and 54F</p> | <p>Consequential amendments for reducing the holding period of immovable property from 3 to 2 years is required to be made in sections 54, 54B, 54D and 54F in line with the amendment in section 2(42A). At present, these sections restrict transfer of new assets purchased for 3 years.</p> | <p>It is suggested that consequential amendments may be made in sections 54, 54B, 54D & 54F so as to enable the holding period of the new asset purchased to be reduced to 2 years from 3 years in case of land and/or building.</p> |
| 18. | <p>Section 10(38) – grandfathering provisions for shares received by way of inheritance, amalgamation and demerger</p> | <p>While grandfathering as on 31 January 2018 is available for listed shares acquired prior to 1 February 2018, there is no clarity where shares are received by way of inheritance, amalgamation and demerger.</p> | <p>It is suggested that all shares received by virtue of transactions covered under section 49 should be eligible for grandfathering under section 55(2)(ac) [Such as shares received on</p> |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|--|---|
| | | | inheritance, shares acquired on merger/ demerger]. |
| 19. | Income Computation and Disclosure Standards (ICDS) | <p>The introduction of ICDS has only added to the compliance burden on certain tax payers without actually increasing the tax revenue collection. Conceptually, tax should be paid on income and logically the income should be that which is in the books of accounts, especially if they are audited and maintained in accordance with generally accounting principles.</p> <p>ICDS has only succeeded in introducing significant complexity in the computation of income. Further, the ICDS are inconsistent with the concept of real income. In most cases, the main objective behind enacting the ICDS seems to be to prepone the taxation of income.</p> | <p>The ICDS should be scrapped with immediate effect.</p> <p>Instead of having separate computation standards in the form of ICDS, it would be advisable to identify items under Ind AS that do not meet the criteria of real income or accrued expense or loss and the relevant section(s) in the Act could be modified to require adjustments to the declared profits for all items as identified above, so as to reflect only real income.</p> |
| 20. | Section 12AA – Status of registration application | If the order for granting or refusal of application for registration of trust or institution u/s. 12A is not passed within 6 months, | It is suggested to insert a proviso to section 12A/12AA such that non-disposal of |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|--|---|
| | | <p>status of registration cannot be defined.</p> <p>Some judgments pronounced that it will be considered as deemed registration, while some judgments are against this view. To minimize litigation, certain amendment needs to be made in existing provisions.</p> | <p>application for registration u/s. 12A within prescribed period will be considered as deemed registration.</p> |
| 21. | <p>Section 12AB – Process of registration/ renewal of registration be completely digital without any human intervention</p> | <p>The Finance Act 2020 inserted a new section 12AB providing for procedure for fresh registration after every 5 years. The intent as well as the proposed provision are welcome as these measures will keep in check the activities of exempt entities after every 5 years.</p> <p>However, in order for its successful implementation and to avoid any malpractices and/or corruption in case of fresh registration after every 5 years, the process needs to be completely digitised free from any human intervention. This is also in line with the intent of the government to have minimal interaction between the tax payers and the tax authorities.</p> | <p>It is suggested that process of seeking fresh registration after every 5 years be completely IT based/digitized so as to keep human intervention at the minimal.</p> |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|--|--|--|
| 22. | Section 17 - Expenses incurred due to COVID19/lockdown/ Work from home | <p>Due to lockdown, many companies have implemented work from home policy which is still in force. Since the employees may not have proper set up at home for carrying out official duties, the employer provides necessary set up so that the employees can execute their work efficiently and effectively.</p> <p>Provision of desk, chairs and other set up at employees' residence in light of work from home could be taxed as perquisite in the hands of the employees</p> | <p>It is suggested that expenses incurred towards furniture / other set-up cost may be specifically exempted.</p> |
| 23. | Section 35D - Amount paid for increase in authorized capital | <p>Currently, amount paid for increase in authorized capital is not allowed as deduction. After a company is incorporated with a minimum paid up capital (for which there is no minimum limit now), and it wishes to increase its authorised capital, the company is required to pay registration fee to Registrar of Companies. This is also required for expansion of capacity and also many times as per the insistence of bankers for new term loans.</p> <p>Fee on incorporation of a company is allowed as per specified limits in 5</p> | <p>It is suggested that fee paid to Registrar of companies for increase in authorized capital may be allowed as revenue expenditure in 5 equal installments u/s 35D.</p> |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|--|---|---|
| | | installments u/s 35D, however amount paid for increase in authorized capital is not allowed as deduction at all, though the amount is paid to government as a fee. | |
| 24. | Calculation of the Interest u/s 201(1A) of the Act for the delay in deposit of TDS | <p>The current provision u/s 201(1A) states that interest is payable from the date of deduction to the date of payment. Even a part of the month is to be considered as a month.</p> <p>Even in a situation where the delay is of 1 day (i.e. TDS deposited on 8th of the succeeding month instead of 7th), at present, interest will be calculated for 2 months.</p> <p>There is need to bring out clarity on this issue since even a single day's delay leads to a 2 months' period instead of 1 month which is penal in nature.</p> <p>Interest being compensatory in nature, it ought to be charged only for the period of delay and should not be excessive (penal) in nature.</p> | <p>Sec 201(1A) should be amended to provide interest only for the period of delay. Suitable changes may also be made in the TDS utility adopted by the Central Processing Centre (CPC).</p> |
| 25. | Section 234F - Fee for default in furnishing the return of income | U/s 239(2)(c), a return claiming refund can be filed within one year from the end of the assessment year. | No fee should be charged from a person who files the return of |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|---|---|
| | | <p>As per section 234F, even such cases are covered and are liable to the fee u/s 234F.</p> <p>This results in such persons having to unnecessarily pay a fee even though the revenue is not adversely affected by the late filing of the return.</p> | <p>income beyond the normal time limit and in whose case, a refund is due as per the return filed.</p> |
| 26. | <p>Section 194N - Practical difficulties to be faced and clarifications required regarding implementation of provision of TDS @ 2% on cash withdrawals exceeding Rs 1,00,00,000</p> | <p>The Finance (No. 2) Act, 2019 has introduced a new section 194N which is further substituted by the Finance Act 2020 in order to discourage cash transactions by levying TDS @ 2% on cash withdrawals exceeding Rs 1 crore from banks including co-operative banks or post offices subject to certain exceptions as provided therein.</p> <p>Issue: In the budget speech, it was referred that this provision is to discourage 'business' payments in cash. Payments for business are usually made from 'current account' maintained with banks. However, the text of the section 194N as per Finance (No. 2) Act, 2019 levies TDS on withdrawal from all types of accounts, be it current or saving or any</p> | <p>It is suggested that the intent expressed in the budget speech w.r.t discouraging making of business payments in cash for introducing section 194N may be suitably incorporated in the text of section 194N i.e. withdrawals from only current account may be taken into account for TDS purposes. This will also align with provisions of seventh proviso to section 139(1) (mandatory ITR filing for deposits exceeding Rs 1</p> |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|--|---|
| | | other account maintained with the specified authority. | crore in current account). |
| 27. | Rule 31 - TDS credit should be allowed solely on the basis of Form No. 26AS and procedural requirements for issuance of TDS certificates (Form No. 16 / 16A) should be dispensed with | Regulation in force Section 203 of the Act requires the deductor of tax to issue the TDS certificate to the deductee to the effect that tax has been deducted and specifying the amount so deducted. The deductor has to log in to the TDS CPC website and download the certificate of the deductee and then send such certificate to the deductee. The procedural compliance apparently looks easy however, in reality, the deductors and deductees face numerous difficulties in practically complying with the same. Also once the entry is reflected in Form 26AS, there is no need to separately issue a TDS certificate. | It is suggested that TDS credit should be allowed purely on the basis of Form 26AS (irrespective of the fact whether the same has been claimed in the return or not) and the procedural requirement for issue or obtaining of TDS certificate in the Form 16A should be dispensed with. Further, deductee be provided facility to download Form no. 16/16A himself instead of depending/waiting on deductor to issue the same. Also, generation of form no. 16/16A be made optional and not mandatory for the deductor. |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|--|---|
| | | | This will save huge amount of time and resources from deductor' point of view. |
| 28. | For salaried tax payers, various exemptions need to be revisited. The current exemption limits for various allowances granted by an employer to the employee are extremely low. | <p>The exemption limits for these allowances are considerably low as the same were set decades ago. The limits need to be enhanced, so as to bring them in line with the rising inflation and cost of living.</p> <p>By linking the upper limits of the exemptions to the Cost Inflation Index, the need to amend the sections time and again will be done away with. Tax payers would automatically get advantage of increased limits in line with inflation.</p> | The exemption limits for these allowances may be substantially increased. Also, in all the cases, the sections may be suitably amended to state that the upper limit would be linked to the Cost Inflation Index on the same lines as the computation of long term capital gains. |
| 29. | Section 139 - Due date to file ITR for taxpayers required to file transfer pricing report u/s 92E to be extended to 31st December of the AY in line with the extension of due date for taxpayers liable to tax audit to 31st October of | <p>The Finance Act 2020 amended section 139(1) inter alia so that due date to file ITR form for specified assesseees has been extended to 31st October of the AY from 30th September of the AY.</p> <p>Also, distinction between a working and a non-working partner of a firm has been removed with respect to the due date as specified above. Issue The due date of filing</p> | It is suggested that the clause (aa) to Explanation 2 to section 139(1) be suitably amended so that due date to file ITR form for taxpayers who is required to furnish a report referred to in section 92E be extended to 31 st |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|--|--|
| | the Assessment Year (AY) | <p>return of income of taxpayers subject to tax audit is extended from 30th September to 31st October of the AY.</p> <p>However, an assessee who is required to furnish a report referred to in section 92E are required to file their ITR forms by 30th November of the AY.</p> <p>It is suggested that the current gap of 2 months may be maintained between filing of ITR forms for taxpayers subject to tax audit and taxpayers liable to transfer audit. Accordingly, the due date for furnishing return for taxpayers required to file a report under section 92E may be extended to 31st December of the AY from current 30th November of the AY.</p> | <p>December of the AY from 30th November of the AY in line with amendment in section 139(1) vide the Finance Act 2020.</p> |
| 30. | Tax Residency Certificate | <p>An Indian resident is required to give a TRC to the non-resident for receiving income from the non-resident. It takes about 2 months or more for getting a TRC.</p> | <p>A TRC should be given on automatic basis. An application can be made online and after basic checks, a TRC can be issued within 24 hours.</p> <p>Suitable amendment may be made in the</p> |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer



| Sr. No. | Existing provision under the Income-tax Act, 1961 ("the Act") | Difficulties / Obstacles / Hurdles faced | Suggestions |
|---------|---|--|---|
| | | | law / rules. Providing a TRC to Indian residents is directly beneficial to India. A person is not seeking any exemption. By giving a TRC, the other country will levy less tax. Resident will get more funds. |

Natubhai Patel
President

Hemant N. Shah
Sr. Vice President

K. I. Patel
Vice President

Pathik S. Patwari
Hon. Secretary

V. P. Vaishnav
Hon. Secretary (R)

Sachin K. Patel
Hon. Treasurer

We request your honour to consider this memorandum favourably. We will be happy to present ourselves for any explanation and clarification that may be required by your honour.

With warm regards,

Sincerely,

Natubhai Patel
President

Jainik Vakil
Chairman, Direct Tax Committee