



ગુજરાત વેપારી મહામંડળ

Gujarat Chamber of Commerce & Industry



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Date: 25th February, 2022 / 15237

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

Sub: Post-Budget Memorandum 2022-23

Respected Madam,

We compliment you for the focused and the forward-looking Budget that was presented on 1st February, 2022. We also whole heartedly support the various initiatives taken by the government in trying to establish a robust mechanism to boost the economy. We have analysed the provisions of the Finance Bill 2022 and found that there are few aspects that need to be addressed in the best interest of the tax payers. We take this opportunity to make certain suggestions (per the below table) for rationalization of law, rectification of certain anomalies in the proposed amendments as also clarifying certain ambiguities so that the amendments meet the intended objectives of the government.

Sr No.	Relevant clause of the Finance Bill/ Section of Income-tax Act, 1961	Provision and Issues	Rationale and Recommendations
1	Section 68 of the Income tax Act, 1961	<p>Presently, taxpayer is required to explain identity and credit worthiness of creditor and genuineness of the transaction in respect of credits in the books of accounts. Based on many judicial precedents, the taxpayer was not required to explain the source of funds in the hands of creditor.</p> <p>It is proposed to amend the provisions of section 68 of the Act so as to provide that the</p>	<p>In the current form, the Income Tax Act only mentions that investment from Securities and Exchange Board of India (SEBI)-registered venture capital funds or companies would not need such disclosure. So technically, even if a bank gives loan to the customers, they have the right to go to the bank and ask them their source of income. That is really absurd, so ideally borrowings from banks and NBFCs should be carved out as an exception.</p>

		nature and source of any sum, whether in form of loan or borrowing, or any other liability credited in the books of an assessee shall be treated as explained only if the source of funds is also explained in the hands of the creditor or entry provider.	Startups have emerged as a driver of growth for our economy, but the latest amendment is being seen as a set back to the same ecosystem. The regulation is basically urging the startups to ask for the investor's income tax returns when the government can simply track it with a pan card number. The onus of this sort of verification should be with the income tax authorities and not on the startups.
2	Addition of clause XIII to Section 56(2)	Clause XIII at present provides that payment received by family members is not taxable, when cause of death of such person is illness related to COVID-19.	Clause should not cover death due to COVID-19 only. It should be made applicable in the event of death in all cases. Employee may die due to other illness / accident etc.
3	Clause 10 (23C)	Application of income to be reckoned only on 'payment' basis - Currently, there is no explicit provision determining the manner of reckoning the application of income (i.e., on accrual basis in case of trusts/institutions following the mercantile system of accounting or on payment basis). Now, it is proposed that the application of income shall be reckoned only on 'payment' basis.	With these proposed changes, the trusts/institutions may have to ensure that expenses pertaining to/accrued in the current year be paid latest by 31 March 2022 for such expense to be treated as application of income in the current year. However, there are cases where genuine expenses pertaining to and incurred in current year are paid post the current year. Hence there should also be consideration for expenses incurred during the current year but paid later due to genuine reasons.
	Section 44AA of Income Tax Act, Rule 6F (2)	carbon copies of bills, serially numbered and carbon copies or counterfoils of receipts issued in respect of sums exceeding Rs 25, original bills for expenses	(1) This Amounts should be increased to Rs. 1,000/-, And / Or, it should be linked with turnover in terms of Percentage. (2) For presumptive business, if no books of accounts are required to

		<p>exceeding Rs. 50 and payment vouchers for petty expenses. However in a case where the cash book maintained by the person contains adequate particulars in respect of the expenditure incurred, then vouchers are not necessary in respect of expenses up to Rs 50</p>	<p>be maintained, then it should be clarified why Amounts of Balance Sheet are required to be filled in ITR form like, Sundry Debtors, Creditors, Cash on Hand, Bank Balance, Capital, Investments Etc. Presumptive provisions should be drafted in a simple and clear manner.</p> <p>(3) Define Turnover in specific industries, like trading in Stocks and futures and have provision to insert the same in the ITR Forms. To remove non-important required from law, to have complete clarity regarding all types of assessees.</p>
4	Section 194 IA of the Income Tax Act, 1961	<p>As per section 194 IA of the Income Tax Act, the buyer was required to deduct TDS only on the value of the consideration paid, which includes all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property. The stamp duty value of the immovable property was not considered while deducting TDS on sale.</p> <p>It is proposed to amend section 194-IA of the Act, such that the TDS is to be deducted on the amount of consideration or the stamp duty value of such property, whichever is higher.</p>	<p>While the provision is a welcome step to remove inconsistency within the Act as far as Capital gains and TDS provisions are concerned, there should be safe harbour of 10% as also provided in sections 43CA, 50C and 56 of the Act. This will provide a consistency in the provisions in its true sense.</p>



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5	Section 11 of the Income Tax Act, 1961	<p>The provisions dealing with withdrawal of the registration/approval of a trust/institution have been revamped. Notably, the new provisions enumerate certain 'specified violations' that will lead to a withdrawal of the registration/approval—amongst them is having a business that is not incidental to the attainment of its objectives, material non-compliances in other legislations, etc.</p> <p>One of the violations stated is "Trust for charitable purposes and created after commencement of this Act, has applied any part of the income for the benefit or any particular religious community or cast.</p>	<p>This particular clause should be withdrawn as there might be instances where certain amount directly or indirectly might be used for the benefit of the particular religious community.</p>
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We would be happy to personally explain the suggestions if we are presented with an opportunity to do so.

Thanking you and with best regards,

Hemant Shah
President.

Jainik Vakil
Chairman, Direct Tax Committee