

**INCOME TAX
UPDATE**

**Amendments to
Finance Bill, 2021**



AMENDMENTS TO FINANCE BILL, 2021

The Lok Sabha & Rajya Sabha have passed the Finance Bill, 2021 with some amendments. Unless otherwise stated, amendments are effective from AY 2022-23.

Some of the key amendments are discussed below:

1. Definition of “liable to tax” u/s 2(29A) amended -

As per the new definition, a person shall be considered as ‘liable to tax’ in a country, if there is an income-tax liability on such person under the law of that country for the time being in force and shall also include a person who has subsequently been exempted from such liability under the law of that country.

Two major changes have been made herein. First, the liability shall be with reference to a country and second, there should be an income-tax liability.

[Applicable from A.Y. 2021-22]

2. Slump Sale – Section 50B(2) amended -The existing Section 50B does not contain any provision for the computation of the Full Value of Consideration in relation to the transfer of the undertaking under a slump sale.

Section 50B(2) has been amended to provide that the Fair Market Value (FMV) [manner of computation is yet to be prescribed] of the capital assets (being an undertaking or division transferred by way of slump sale) as on the date of transfer shall be calculated in the prescribed manner. Such FMV shall be deemed to be full value of consideration received or accruing as a result of transfer of such capital asset.

It is also provided that no benefit of indexation would be available and cost of acquisition and cost of improvement shall be deemed to be the net worth of the undertaking/division transferred in a slump sale.

Further, a new clause in Explanation 2 has been inserted to provide that the value of capital asset being goodwill, which has not been acquired by the

assessee by purchase from previous owner, shall be taken as NIL while computing net worth.

[Applicable from A.Y. 2021-22]

3. Written Down Value - Sec.43(6)(c)(ii) amended

defining written down value in case of block of assets to mean WDV in the immediately preceding previous year as reduced by the depreciation actually allowed in respect of that block of assets and further reduced by:

A. Increase or reduction referred to in clause (i), not being increase on account of goodwill of a business or profession, and

B. In respect of AY 2021-22, where goodwill of business or profession was part of block of assets on which depreciation was obtained by assessee, reduction by an amount equal to the actual cost of goodwill as decreased by:

a. Actual amount of depreciation allowed before April 1, 1988

b. Amount of depreciation allowable on such goodwill after April 1, 1988 as if the goodwill was the only asset in the relevant block.

However, the amount of such reduction shall not exceed the value of WDV.

[Applicable from A.Y. 2021-22]

4. Clarifications on Equalisation Levy - The term “consideration received or receivable from ecommerce supply or services” has been amended in relation to sale of goods to exclude consideration for sale of goods which are:

- (i) owned by a person resident in India or
- (ii) by a PE in India of a NR, if sale of such goods is effectively connected with such PE.

Likewise, in relation with provision of services, amends the term “consideration received or receivable from ecommerce supply or services” to exclude consideration for provision of services which are:

- (i) provided by a person resident in India or
- (ii) by a PE in India of a NR, if provision of such service is effectively connected with such PE.

[Applicable retrospectively from 1st April 2020]

5. Capital gains on transfer of assets upon dissolution of partnership firm - Section 45(4) amended to provide that the receipt of money or capital asset by specified person from the specified entity, at the time of its reconstitution, shall be taxable as capital gains in the hands of the specified entity.

The amount of capital gain would be total of fair market value of capital asset and money received reduced by the balance in the capital account of the specified person in the books of specified entity at the time of its reconstitution without giving effect to revaluation of assets, self-generated goodwill or any other self-generated asset.

If the amount of capital gain is negative then it shall be deemed to be zero. This provision shall apply in addition to the provisions of Section 9B.

[Applicable from A.Y. 2021-22]

6. Taxability of income on receipt of capital asset or stock-in-trade by specified person from specified entity – New Section 9B inserted to deem the receipt of capital asset or stock in trade in the hands of ‘specified person’ from a ‘specified entity,’ at the time of its dissolution or reconstitution, as taxable as capital gain or business income in the hands of the specified entity.

[Applicable from A.Y. 2021-22]

7. Exemption u/s 10:

- Section 10(4D) amended to include Category-I Foreign Portfolio Investors under SEBI Regulations for the purpose of investment division of offshore banking units.

[Applicable from A.Y. 2022-23]

- Section 10(11) & 10(12) amended - Second proviso to Section 10(11) and Section 10(12) inserted to provide that if an employee is

contributing to the fund but there is no contribution to such fund by the employer, then the interest income accrued during the previous year shall be taxable to the extent it relates to the contribution made by the employee to that fund in excess of Rs. 5,00,000 in a financial year.

[Applicable from A.Y. 2022-23]

- Section 10(23FF) amended to include capital gains of a non-resident or a 'specified fund', attributable to the units held by non-resident with no PE in India where transfer of shares is from the original fund or its SPV to resultant fund and capital gains are not taxable but for relocation.

[Applicable from A.Y. 2022-23]

- New Section 10(48D) inserted to exempt income of institutions established for financing infrastructure and development set up by an act of Parliament for the period of 10 consecutive years beginning from the year in which the institution is set up.

[Applicable from A.Y. 2022-23]

- New Section 10(48E) inserted to exempt the income of developmental financial institutions licensed by RBI for the period of 5 consecutive years beginning from the year in which the institution is set up, extendable by another 5 years.

[Applicable from A.Y. 2022-23]

8. Sec.112A amended - Section 112A amended to include the unit linked insurance policy where the amount of premium payable in any year exceeds Rs. 2.5 Lacs. Such policies are proposed to be treated at par with the equity-oriented fund.

[Applicable from A.Y. 2021-22]

9. Employee Provident Fund - Interest accruing in Employee Provident Fund on employee contributions exceeding INR 250,000 per annum is made taxable from April 1, 2021. The amended provision has increased this limit to INR 500,000 in

cases where no amount is contributed by the employer to the provident fund.

[Applicable from A.Y. 2022-23]

10. Sec.115AD amended [Tax on income of Foreign Institutional Investor (FII)] – Proviso inserted in Sec.115AD(1)(i) clarifying that the amount of tax calculated on income by way of interest u/s 194LD shall be @ 5%.

[Applicable from A.Y. 2022-23]

11. Faceless Assessment – New sub-section (10) inserted in Sec.144B to provide that the function of verification unit may be carried out by verification units of other faceless centres set up under provisions of this Act or any other scheme notified under the provisions of the Act.

The request for verification to such other verification units may be assigned by the National Faceless Assessment Centre (NFAC).

[Applicable from 1st April 2021]

12. Definition of ‘Global Depository Receipt’ u/s 115ACA amended

Expands the definition of ‘Global Depository Receipt’ u/s 115ACA by including instruments created by International Financial Services Centre within its ambit, in addition to instruments created by Overseas Depository Bank. International Financial Services Center will have the meaning assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005.

[Applicable from A.Y. 2022-23]

13. Section 115JB amended -Inserts sub-section (2D) of section 115JB to provide that if there is an increase in book profit of a previous year due to income of past year or years included in the book profit on account of an advance pricing agreement or on account of secondary adjustment, the assessee being a company can make an application before AO to recompute book profit of past years.

It is now proposed to insert a proviso clarifying that this sub-section will apply to AYs beginning on or before April 1, 2020 only if the assessee has not utilised the credit of tax paid u/s 115JB in any

subsequent AY u/s 115JAA. It is further clarified that no interest shall be payable on refund arising out of this subsection.

[Applicable from A.Y. 2021-22]

14. Section 115UB amended- Widens the scope of section 115UB by including investment funds established and regulated under ‘International Financial Services Centers Authority Act, 2019’

[Applicable from A.Y. 2022-23]

15. Timelines u/s 153/ 153B - Section 153 amended to restrict the time line for completion of assessment u/s 143 or 144 for assessment year commencing on or after April 1, 2021 to 9 months from the end of the assessment year in which income becomes first assessable.

Excludes the period commencing from date on which application is made and ending with the date of order rejecting application/ pronouncing an order by the ‘Board for Advance Ruling’ while computing period of limitation.

Similarly, excludes the period commencing from date on which application is made and ending with the date of order rejecting application/ pronouncing an order by the 'Board for Advance Ruling' in computing period of limitation u/s 153B.

Amends to insert fourth proviso u/s 153 to provide that when assessee exercises option to withdraw application u/s 245M (applicable to withdrawal of pending application before ITSC), the period of limitation available after exclusion of the period commencing from application being filed before the forum upto the date of withdrawal of application, will not be less than one year.

Similar proviso inserted for section 153B

[Applicable from 1st April 2021]

16. Reduction of late fee u/s 234F- Reduces late fee on delay in filing returns of income u/s 139(1) from Rs. 5,000 to Rs. 1,000 for persons whose total income does not exceed Rs. 5 lakhs.

[Applicable from A.Y. 2022-23]

17. Section 234H inserted- Introduces section 234H to levy fee for default relating to intimation of Aadhaar number by every person who has been allotted PAN number and who are eligible to obtain Aadhaar number and intimate such number to such authority within the time prescribed by Central Government in official gazette. The fee shall not exceed Rs. 1,000 and the person is required make the payment of fee at the time of intimation after the aforementioned date.

18. Section 263 amended - Section 263 amended to grant powers to revise orders prejudicial to revenue, to Pr. CCIT or CCIT w.e.f. 1st November 2020, in addition to Pr. CIT.

[Applicable from 1st November 2020]

19. Tax Audit: Transaction settled by way of a non-account payee cheque/draft is a cash transaction-
New proviso inserted that for computation of the threshold limit of Rs. 10 crores, the payment or receipt settled through a non-account payee cheque or non-account payee bank draft shall be

deemed to be cash payment or cash receipt respectively. Thus, the same shall be included while computing 5% cash transaction limit under section 44AB.

[Applicable from A.Y. 2021-22]

20. HUF is also not eligible for presumptive taxation scheme under section 44ADA – Lok Sabha has further restricted the scope of section 44ADA. Now an HUF shall also not be eligible for presumptive taxation scheme under section 44ADA.

Consequently, w.e.f. AY 2021-22, only a resident Individual and a resident partnership firm shall be eligible to compute the income under the said presumptive taxation scheme. An LLP, HUF, Company, AOP, BOI, etc. shall not be eligible to claim the benefit of Section 44ADA.

[Applicable from A.Y. 2021-22]

For details, please find below Link to notice of amendments to Finance Bill, 2021 .

<https://www.taxsutra.com/news/copy-amendments-finance-bill-2021-introduced-finance-minister-parliament>

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The information contained herein is in summary form based on interpretation of Amendment to Finance Bill, 2021 introduced in Lok Sabha on March 23,2021. For details, please refer Amendment to Finance Bill, 2021. While the information is believed to be accurate to the best of our knowledge, we do not make any representations or warranties, express or implied, as to the accuracy or completeness of this information. Recipient should conduct and rely upon their own examination and analysis and are advised to seek their own professional advice. This document is not an offer, invitation, advice or solicitation of any kind. We accept no responsibility for any errors it may contain, whether caused by negligence or otherwise or for any loss, howsoever caused or sustained, by the person who relies upon it.