



Amendments to the Finance Bill, 2021 as passed by both houses of the parliament

26 March 2021

In brief

The Finance Bill, 2021 (Bill)¹ was passed by the Lok Sabha on 23 March 2021 with amendments to the original Bill that was tabled before the Lok Sabha on 1 February 2021 (Original Bill). Subsequently, the Bill was affirmed by the Rajya Sabha on 24 March 2021, without any further amendments.

This Tax Insight explains the key amendments.

In detail

Clause No. as per the Bill	Section as per the Income-tax Act, 1961 (the Act)	Proposal made in the Bill as tabled on 1 February 2021	Amendments made/ passed by both houses of the parliament and brief comments
Clause 3	Section 2(29A)	“liable to tax”, in relation to a person, means that there is a liability of tax on such person under any law for the time being in force in any country, and shall include a case where subsequent to imposition of tax liability, an exemption has been provided;	This definition, along with the changes made earlier in provisions relating to ‘residence in India’ may, in certain situations, deem Indian citizens staying overseas but exempt from Income-tax in all other countries to be ‘not ordinarily resident’ in India and taxed accordingly. Beneficial provisions of any applicable tax treaty should, however, continue to be available.
Clause 5	Sections 10(11) and 10(12)	No exemption shall be available for the interest accrued during the previous year in the recognised/ statutory provident fund (PF) of the employee, to the extent that it relates to the contribution made by him/ her in excess of INR 0.25m, during any FY.	The Amended Bill increased the threshold from INR 0.25m to INR 0.5m in cases where there is no employer contribution to the PF. The amendment appears to provide benefits for Government employees where the Government does not make any contribution to the PF as an employer.

¹ Bill No. 15 of 2021

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Clause 5	Section 10(4D)	The investment division of an Offshore Banking Unit (OBU) located in the International Financial Services Centre (IFSC) would need to be registered as a Category-III Alternative Investment Fund (AIF) to qualify as a 'specified fund'.	The investment division of an OBU in the IFSC is now required to be registered as a Category-I Foreign Portfolio Investor (FPI) to qualify as a 'specified fund'.
Clause 5	New section 10(4F)	Any income by way of royalty on account of lease rentals paid to foreign enterprises will be tax exempt if the IFSC unit is eligible for the tax holiday and has commenced operations on or before 31 March 2024.	The ambit of the tax exemption has been widened to include income by way of 'interest' on account of lease rentals paid to foreign enterprises. Additionally, the condition for the IFSC unit to be eligible for tax holiday has been removed. Further, 'aircraft' has now been defined to include aircraft or a helicopter, or an engine of an aircraft or a helicopter, or any parts thereof.
Clause 5	New section 10(23FF)	Grandfathering benefit to be provided to non-residents of Category-I and II AIF in the IFSC on capital gains arising on transfer of shares of an Indian company by the said AIF.	Grandfathering benefit on future sale of shares of Indian company now extended to the specified fund in the IFSC to the extent of income attributable to the units held by a non-resident with no permanent establishment (PE) in India.
Clause 5	Section 10(23FE)	The Bill had proposed to extend the ambit of eligible investments made by specified persons in an (i) AIF having minimum 50% (reduced from 100%) of its investments in entities engaged in notified infrastructure businesses or an Infrastructure Investment Trust (InvIT); (ii) a domestic holding company (set up on or after 1 April, 2021) having minimum 75% investments in notified infrastructure businesses; and (iii) Non-Banking Financial Company - Infrastructure Finance Company/ Infrastructure Debt Fund (NBFC – IFC/ IDF) with	The amendments proposed in the Bill have further extended the ambit of eligible investments by allowing AIFs to invest in domestic holding companies (set up on or after 1 April 2021) and NBFC – IFCs/ IDFs, in addition to InvIT and entities engaged in notified infrastructure businesses. Further, the amendment provides that exemption under this clause shall be calculated proportionately if the aggregate investment of an AIF in eligible infrastructure businesses, InvIT, domestic holding companies and NBFC - IFC/ IDF is less than 100%. The mechanism for determining the proportionate exemption is yet to be prescribed.

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		at least 90% lending to companies/ entities in notified infrastructure businesses.	
Clause 5	New sections 10(48D) and 10(48E)	NA	<p>In the Budget Speech, the Finance Minister had announced setting up of Developmental Financial Institutions (DFIs) for long-term debt financing of the infrastructure sector.</p> <p>In this regard, a new provision has been inserted to grant exemption to any income accruing or arising to a DFI (licensed by the Reserve Bank of India). The said exemption is proposed to be provided for a period of five consecutive FYs beginning from the year in which the institution is set up.</p> <p>A similar provision has been inserted to grant exemption for 10 consecutive years on income accruing or arising to an institution set up under an Act of the Parliament for financing infrastructure and development.</p>
New Clause 8A	Section 43(6)(c)(ii)	NA	<p>The Union Budget proposed to exclude goodwill from the term 'block of assets'. Consequential amendments are now proposed to adjust the written down value (WDV) of the block of asset by the actual cost of goodwill net of depreciation claimed.</p> <p>This has provided clarity on computation of WDV where the block of assets includes goodwill.</p>
Clause 14	Sections 45(4), 45 (4A) and new section 9B	Section 45(4) was amended, and section 45(4A) was added to tax the transfer of a capital asset, money or any other asset to a partner/ member at the time of dissolution or reconstitution of a firm/ association of persons (AOP)/ body of individuals (BOI), as capital gains in the hands of such firm/ AOP/ BOI.	<p>New section 9B introduced to tax the transfer of any capital asset or stock-in-trade by firm/ AOP/ BOI to its partner/ member on its dissolution or reconstitution, wherein tax would be levied in the hands of the firm/ AOP/ BOI as capital gains or profits and gains of business or profession, as the case may be.</p> <p>Section 45(4) has been amended to define the term 'reconstitution' and has stipulated the mechanism for the computation of capital gains in case</p>

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			<p>of transfer of capital asset by firm/ AOP/ BOI to its partner/ member on reconstitution.</p> <p>Further, section 45(4A) has been omitted.</p> <p>Provisions relating to the taxability of receipt of money/ capital assets/ other asset at the time of reconstitution or dissolution of firm/ AOP/ BOI have been modified.</p> <p>Gains on transfer of stock-in-trade are now covered under profits and gains from business/ profession, and the method of computation of capital gains has now been prescribed.</p>
Clause 15	47(viiac) and 47(viiad)	<p>The relocation of assets from offshore/ original fund to the resultant fund to be a tax-neutral event.</p> <p>Additionally, the transfer of units of the resultant fund in the hands of the unitholders of the original fund to be exempt.</p>	<p>The tax neutral relocation has now been expanded to include wholly owned special purpose vehicles of the offshore/ original fund.</p> <p>The units issued to the unitholders of the original fund can now be in lieu of the units in the original fund.</p> <p>Additionally, units of the resultant fund can now be issued to the original fund under the tax-neutral relocation.</p>
Clause 15	New sections 47(viiiae) and 47(viiiaf)	NA	<p>A new provision has been inserted to provide for exemption on capital gains tax on the following:</p> <ul style="list-style-type: none"> • Transfer of capital asset by a public sector company (PSC) to another PSC or Central Government or State Government. • Transfer of capital asset by India Infrastructure Finance Company Limited to an institution set up under an Act of the Parliament for financing infrastructure and development. <p>Consequent amendment has also been proposed, to provide that the cost of acquisition of the previous owner should be allowable to the transferee.</p>

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New Clause 18A	Section 50B	NA	<p>Currently, the law does not provide the value at which slump sale has to be executed.</p> <p>Section 50B has been amended to provide that fair market value [computed in a prescribed manner] shall be deemed as consideration for the transfer of an undertaking. Further, the value of self-generated goodwill shall be NIL for the purpose of computing the net worth (cost of acquisition) of the undertaking.</p> <p>With this amendment, prescribed valuation would need to be considered for the purpose of slump sale.</p>
Clause 27	Section 80LA	Any transfer arising on the sale/ disposal of an aircraft leased by an IFSC unit to a domestic company to be eligible for 100% deduction if the unit has commenced operations on or before 31 March 2024.	The condition to lease to a domestic company to avail the 100% deduction has been removed.
Clause 29	Section 112A	Definition of 'equity-oriented fund' to include ULIPs for which exemption under section 10(10D) of the Act would not be available.	ULIPs shall be regarded as an 'equity-oriented fund', if the investment criteria of 90%/ 65% are satisfied throughout the term of such insurance policy.
New Clause 29A	Section 115ACA	NA	The definition of Global Depository Receipt is expanded to include instruments created in an IFSC and instruments created against the ordinary shares of the company incorporated outside India; the same is listed or traded on the IFSC.
Clause 31	Section 115JB	Where there is an increase in the book profit of the previous year due to the income of a past year(s) included in the book profit on account of an Advance Pricing Agreement or secondary adjustment, an	<p>It has been clarified that such amendment shall apply to the assessment year (AY) beginning on or before 1 April 2020 as well.</p> <p>A proviso has been inserted to clarify that such amendment would only</p>

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		application may be made by the taxpayer to the tax officer to recompute the book profit of the past year(s) and the tax liability.	apply if the taxpayer has not utilised the Minimum Alternate Tax (MAT) credit with respect to such adjustments in any subsequent AY. Further, no interest shall be paid to the taxpayer on account of re-computation of MAT liability of prior years.
New Clause 31A	Section 115UB	NA	The scope of section 115UB is extended to include Category-I and II AIFs established and regulated under the International Financial Services Centers Authority Act, 2019.
Clause 32	Section 234F	The late filing fee is charged when a person fails to furnish a return of income (ROI) within the prescribed due date. The Bill proposed to reduce the time limit of filing a belated/ revised ROI by three months i.e. by 31 December of the relevant AY.	A consequential amendment has been made by reducing the maximum late filing fee to INR 5,000 in view of the reduction in time limit to file the return by 31 December only. Furthermore, where the total income of the person does not exceed INR 0.5m, the late filing fee shall not exceed INR 1,000.
Clause 38	Section 149	Where the tax officer has in his/ her possession, books of accounts or other documents or evidence revealing that the income escaping assessment, represented in the form of asset, amounts to INR 5m or more, a notice under section 148 can be issued upto 10 years from the end of the relevant AY.	The term 'asset' has now been defined to include immovable property, being land or building or both, shares and securities, loans and advances, and deposits in bank account.
Clause 41	Section 153	Income-tax Settlement Commission (ITSC) has been proposed to be discontinued from 1 February 2021. With respect to the pending applications, the taxpayer has been given an option to withdraw such application.	A proviso has been inserted to provide that where the taxpayer withdraws the application filed before the ITSC, the time limit for making order of assessment, reassessment or re-computation shall exclude the period commencing from the filing of application till the date of withdrawal of application. If such period is less than one year, then such period should be extended to one year.

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New Clause 53B	New section proposed in Amended Bill [section 234H]	NA	<p>An individual who has permanent account number (PAN) and is eligible to obtain Aadhaar number is required to obtain the same and link it with the PAN on or before a date notified in this regard. The due date for such linking of Aadhaar with PAN has been notified and extended on various occasions and the latest notified due date is 31 March 2021.</p> <p>Furthermore, reporting of Aadhaar number in the ROI is also required where the individual has obtained the Aadhaar or is eligible to obtain the same.</p> <p>A new section 234H in the Act has been introduced, levying a maximum fee of INR 1,000 for default in intimating the Aadhaar number. This fee is in addition to the other consequences the person may have to face if PAN becomes inoperative due to non-linking of Aadhaar with PAN.</p>
Clause 159	Chapter VIII to Finance Act, 2016	The expression 'consideration received or receivable from e-commerce supply or services' has been defined to include consideration for the sale of goods and provision of services, even where the goods are not owned, or the services not provided by an e-commerce operator.	<p>It has been clarified that consideration from e-commerce supply or services shall not include consideration for the sale of such goods and for the provision of such services owned/ provided by (a) resident in India or (b) non-resident constituting a PE in India, and such sale of goods or provision of services are effectively connected with such PE.</p> <p>This amendment has excluded the applicability of equalisation levy on the consideration received from the sale of goods or provision of services owned or provided by an Indian resident or PE of non-resident.</p>
New Clause 161	Sections 115AD and 4 of the Taxation and Other Laws (Relaxation and amendment of certain	As per the amendment made by TOLA there was an unintentional deletion of the rate of 5% on specified interest income earned by FPIs. The Ministry of Finance, in a recent Press Release, had affirmed that the	This anomaly has now been rectified, and the rate of 5% on specified interest income earned by FPIs would remain unchanged till 30 June 2023.

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	provisions) Act, 2020 (TOLA)	concessional rate of 5% on interest income by FPIs will continue to be applicable.	

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