

EY Tax Alert

**Revised Income tax (No.2) Bill
2025 and The Taxation Laws
(Amendment) Bill 2025
approved by Parliament**

Executive summary

EY Alerts cover significant tax news, developments and changes in legislation that affect Indian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor.

This Tax Alert summarizes the key changes introduced by the Government of India (GoI) in the Revised Income Tax (No. 2) Bill 2025 (Revised ITB 2025) tabled in and approved by the Lok Sabha¹ on 11 August 2025. Further, the alert also captures details about The Taxation Laws (Amendment) Bill 2025 (Amendment Bill) which was introduced to bring about certain changes to Income Tax Act, 1961 (ITA 1961). Alongside the Revised ITB 2025, the Amendment Bill is also approved by both Lok Sabha and Rajya Sabha and awaiting presidential assent. Once the assent is received, the Revised ITB 2025 will be enacted into law effective from 1 April 2026, replacing the ITA 1961, whereas Amendment Bill will be effective from 1 April 2025 or earlier.

¹ The lower house of the Indian Parliament



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Background

The ITB 2025 was tabled in the Lok Sabha on 13 February 2025 focusing on simplifying the complex language of the ITA 1961 and eliminating redundant provisions without affecting policy changes. On the same day, a Parliamentary Select Committee (PSC) was formed to review the ITB 2025. The PSC submitted its detailed report dated 16 July 2025, exceeding 4500 pages, containing recommendations and an amended version of the ITB 2025 (Amended ITB 2025), which was presented to the Lok Sabha on 21 July 2025².

The GoI accepted largely all of the PSC's recommendations as also the feedback from other stakeholders to convey the correct legislative meaning. This necessitated corrections in the nature of drafting, phrase alignment, consequential changes and cross-referencing. Hence, the GoI withdrew the ITB 2025 from the Lok Sabha to replace it with a fresh bill. The intent was to avoid confusion by multiple versions of the Bill and provide a clear and updated version with all changes incorporated.

Consequently, the GoI tabled a new/updated bill (viz. the Revised ITB 2025) before the Lok Sabha on 11 August 2025 which Lok Sabha approved on the same date. Further, the Rajya Sabha also approved it on 12 August 2025. The Revised ITB 2025 now awaits presidential assent. Once such assent is received, the bill will be enacted into law effective from 1 April 2026, replacing the ITA 1961.

Separately, the GoI also introduced The Taxation Laws (Amendment) Bill 2025 (Amendment Bill) to bring about certain changes to ITA 1961 with effect from 1 April 2025 or earlier. Alongside the Revised ITB 2025, the Amendment Bill is also approved by both Lok Sabha and Rajya Sabha and awaiting presidential assent. Revised ITB 2025 incorporates all the changes introduced by the Amendment Bill.

This alert captures the key amendments in the Revised ITB 2025 under the following categories:

- ▶ Changes introduced by the Amendment Bill in both ITA 1961 and Revised ITB 2025
- ▶ Recommendations of PSC which are not incorporated in the Revised ITB 2025
- ▶ PSC suggestions accepted by Ministry of Finance (MoF) which were inadvertently missed in the Amended ITB 2025 now incorporated in Revised ITB 2025.
- ▶ New amendments incorporated in Revised ITB 2025 to align with ITA 1961
- ▶ Other amendments incorporated for the first time in Revised ITB 2025 in deviation from ITA 1961

Changes introduced by the Amendment Bill in both ITA 1961 and Revised ITB 2025

(i) Personal taxation

▶ Anomaly in higher standard deduction for concessional tax regime addressed

Under ITA 1961, Finance Act (FA) 2025 lowered the tax rates with higher rebate under the default concessional tax regime for, *inter alia*, individuals such that the tax payable is NIL up to total income of INR 1.2M by inserting a separate clause in relevant provision with effect from tax year 2025-26.

However, consequential amendment in provision granting higher standard deduction up to INR 75,000 from salary income was inadvertently left out resulting in ambiguity whether standard deduction from salary income will be restricted to normal limit of INR 50,000.

The Amendment Bill addresses this anomaly by clarifying the applicability of higher standard deduction (although curiously the amendment is made with effect from tax year 2024-25 instead of 2025-26).

▶ Parity of tax treatment for subscriber to Unified Pension Scheme with New Pension Scheme

In July 2025, MoF issued Press Release stating that in case of existing employees of Central Government (CG) who have opted for Unified Pension Scheme (UPS) under National Pension Scheme (NPS), the tax benefit available for NPS shall apply equally to subscribers of UPS.

To codify the above announcement, the Amendment Bill proposes to insert specific provisions in the ITA 1961 dealing with tax treatment of withdrawal from NPS, with effect from tax year 2024-25. The new provision applies in case of withdrawal from UPS account if the taxpayer had earlier claimed deduction of employee's and employer's contribution to NPS account. It states that if such taxpayer or his/her nominee receives any amount standing to the credit of the taxpayer representing the amount allowed as deduction in the past together with the amount accrued thereon, on account of his/her superannuation, retirement or voluntary retirement, then it shall be treated as income in hands of such taxpayer or nominee. However, if such amount is transferred to pool corpus from individual corpus then it shall not be treated as income in the year of transfer.

The Amendment Bill also proposes to insert exemption provision for subscribers of UPS akin to NPS. The new provision applies in case of receipt of amount from NPS by subscriber of

² Refer EY Tax Alert on Parliamentary Select Committee's Report on the Income Tax Bill 2025 to closely align it with the Income Tax Act, 1961 dated 24 July 2025

UPS at the time of superannuation, retirement or voluntary retirement and such payment does not exceed 60% of the individual corpus account under UPS. Also, lumpsum payment to employees under UPS on retirement, voluntary retirement or superannuation shall also be exempt.

(ii) Relaxation from statutory and procedural conditions for exemption for investments in infrastructure sector by Public Investment Fund of Saudi Arabia

Under ITA 1961, a wholly owned subsidiary (WOS) of Abu Dhabi Investment Authority (ADIA)³, a notified Sovereign Wealth Fund (SWF), and a notified Pension Fund ("PF") are eligible to claim exemption in respect of income in the nature of dividend, interest, and long-term capital gains arising from investments made in India between 1 April 2020 and 31 March 2030 in the form of debt, shares and units of Infrastructure Investment Trusts (InvITs) or specified entities.

For an SWF to be eligible to claim the aforesaid exemption, it is required to satisfy following statutory conditions (statutory conditions) on cumulative basis :-

- (i) The SWF must be wholly owned and controlled, whether directly or indirectly, by the Government of a foreign country
- (ii) SWF must be established and regulated under the laws of such foreign country
- (iii) All earnings of the SWF must be credited to the account of the foreign Government or to an account designated by such Government
- (iv) No portion of its earnings shall inure any benefit to any private person
- (v) Upon dissolution, all assets of the fund must vest in the foreign Government
- (vi) SWF must not participate in the day-to-day operations of any investee company⁴
- (vii) It is notified by CG by notification in Official Gazette

and fulfil conditions specified in such notification.

(Note - Conditions (iii), (iv) and (v) do not apply to payment made to creditors or depositors for loan taken or borrowing for the purposes other than for making investment in India)

The notification under which SWFs are notified generally prescribe certain additional compliance conditions (compliance conditions), for instance:

- o Timely filing of the return of income
- o Maintenance of books of account, audit of such books and timely furnishing of the audit report
- o Furnishing of quarterly statements in respect of investments made during the quarter
- o Maintenance of a segmented account of income and expenditure relating to investments that qualify for the exemption

It is pertinent to note that an WOS of ADIA is not required to fulfil the above referred statutory and compliance conditions in order to avail the exemption.

Public Investment Fund of Saudi Arabia (PIF) was notified by CG as SWF vide Notification No. 125/2022⁵ dated 16 November 2022 for investment made on or before 31 March 2024. Thus, unlike WOS of ADIA, PIF was required to fulfil statutory and compliance conditions to avail the aforesaid exemption and was eligible for exemption only for investment made between 16 November 2022 and 31 March 2024

Pursuant to an amendment by the Amendment Bill, PIF is not required to comply with statutory and compliance conditions to avail the aforesaid exemption w.e.f. tax year 2024-25 onwards. Furthermore, this relaxation is also extended to WOS of PIF which is a resident of Saudi Arabia and makes investment, directly or indirectly, out of the fund owned by Saudi Arabian Government. This grants PIF and its WOS same status as WOS of ADIA.

(iii) Anomaly in block assessment for search cases addressed

Under ITA 1961, the block assessment framework for search cases for searches made on or after 1 September 2024 mandates abatement of any pending proceedings of the regular assessment or reassessment for the

³ WOS of ADIA should be resident of United Arab Emirates (UAE) and make investment, directly or indirectly, out of funds owned by UAE Government to be eligible for the exemption.

⁴ It is clarified that monitoring mechanism to protect the investment with the investee including right to appoint

directors or executive director shall not be considered as participation in day-to-day operations of the investee.

⁵ F. No. 500/SWF2/S10(23FE)/FT&TR-II(Pt.1)

years falling with block period on the date of initiation of a search or making of a requisition. However, a gap existed in respect of proceedings which are initiated for any of the years covered by block period, by issue of notice, after the date of initiation of search or requisition.

The Amendment Bill proposes to address this gap by amending the FA 2025 which in turn amends ITA 1961, to extend the abatement related provision to proceedings for all years within block period for which notices are issued on or after the initiation of a search or requisition and ending on the date of passing of the block assessment order.

Considering that block assessment regime restricts the assessment only with respect to total undisclosed income, the intent of abating regular assessment proceedings completely for all years falling within block period is not clear.

Recommendations of PSC which are not incorporated in the Revised ITB 2025

(i) Computation of income

► Capital gains clawback provisions on conversion

Under ITA 1961, conversion of (i) a proprietary or a partnership firm into a company; or company into a Limited Liability Partnership (LLP) is tax neutral subject to satisfaction of a certain specified conditions. Violation of the specified conditions results in the capital gains tax foregone on conversion arising in the year of breach. In this regard, Amended ITB 2025 sought to consider such capital gains tax as arising retrospectively in the year in which the conversion took place which could have resulted in deviation from ITA 1961. Revised ITB 2025 now reinstates the position under ITA 1961 and provides for capital gains tax to arise in the year in which conditions are not complied with.

► Consistency restored: Beneficial Owner vs. Beneficially Held for Set Off of losses

Under ITA 1961, set off and carry forward of losses is prohibited in case of change of shareholding in a closely held company beyond 49% from the last day of the tax year of incurrance of loss vis-à-vis the shareholding on the last day of the tax year in which the loss is sought to be set off.

ITB 2025 restricted set off of loss if there is change of "beneficial owners" of shares beyond 49%. Thus, ITB 2025 replaced phrase "beneficially held" used in ITA 1961 with the phrase "beneficial owner". Further, in view of

ambiguity of the phrase "beneficial owner", the Amended ITB 2025 defined it to mean an individual who derives benefits directly or indirectly from the shares. As per PSC Report, the intention to define the term "beneficial owner" is to align the interpretation with the term "beneficially held" as used in ITA 1961. However, the new definition of "beneficial owner" raised several ambiguities.

Revised ITB 2025 replaces phrase "beneficial owner" with "beneficially held" thereby restoring the language at par with ITA 1961. This removes any ambiguity surrounding interpretation of term "beneficial owner". However, existing controversy on interpretation of term "beneficially held" will continue due to divergent judicial precedents interpreting this term differently.

Furthermore, the PSC had also recommended an amendment to allow carry forward and set off of losses for closely held companies where the shareholding pattern, though altered temporarily beyond 51%, is restored in subsequent years. This suggestion was favorable to the taxpayers as compared to current ITA 1961. However, neither Amended ITB 2025 nor Revised ITB 2025 incorporates this recommendation.

(ii) TDS/TCS

► TDS on benefit or perquisite arising from business/profession

ITA 1961 requires a person to deduct taxes at the rate of 10% on payment of benefit or perquisite wholly or partly in cash/kind arising from business/profession. ITB 2025 also contained parallel provision. PSC recommended to clarify that such TDS would also apply even in cases where benefit or perquisite is paid through modes of payment other than cash, such as cheque/ demand draft/bank draft etc. However, Amended ITB 2025 as well as Revised ITB 2025, does not incorporate this recommendation.

(iii) Procedural aspects

► New enabling provision for allowing video conferencing/ physical appearance at first appellate level

PSC noted stakeholders' representations for the need to conduct hearings at the first appellate level through video conferencing and to allow physical appeals in cases meeting certain thresholds (as applicable in search and seizure cases) for speedy disposal of appeals. PSC Report states that MoF noted these suggestions. The Amended ITB 2025 contained a new enabling provision empowering the GoI to notify such scheme. Revised ITB 2025 does not contain the new enabling provision. However, it may here be highlighted that the

existing ITA 1961 as well as the ITB 2025 permit administrative measures to address the stakeholder suggestion even without the need for a legislative amendment.

(iv) **Charity taxation and related aspects**

► **Exit tax for Non-Profit Organisations (NPOs)**

ITB 2025 provided for different conflicting dates for payment of exit tax by charitable institutions which resulted in ambiguity. Despite the recommendations of PSC to remove ambiguity, the same has not been addressed in the Revised ITB 2025.

PSC suggestions accepted by MoF which were inadvertently missed in the Amended ITB 2025 now incorporated in Revised ITB 2025

(i) **Computation of income**

► **Standard deduction on income from house property**

ITA 1961 allows the taxpayer to claim a standard deduction of 30% of house property income, post deduction of property taxes (including services taxes). In contrast, ITB 2025 inadvertently permitted higher standard deduction claim at 30% of gross income (before property tax deduction). In this respect, while the PSC had recommended restoration of the computation of standard deduction as per ITA 1961 after deduction of property taxes, the text of change appearing in the Amended ITB 2025 appeared to inadvertently refer to allowing the standard deduction before deduction of property taxes. Revised ITB 2025 has aligned 30% standard deduction with ITA 1961 in line with the PSC recommendation by providing that the deduction shall be allowed from net income after deduction of property tax.

► **Reduction of subsidy from actual cost of asset**

Under ITA 1961, any portion of the actual cost of an asset acquired by the taxpayer, that has been met directly or indirectly by the government/authority in the form of a subsidy, is excluded from the actual cost of such asset. Further, where such subsidy is not directly relatable to an asset, such subsidy is pro-rated amongst all the assets in respect of or with reference to which the subsidy is so received, to be excluded from the actual cost of such assets (pro-rata formula).

ITB 2025 also contained similar provision but the reference to “directly or indirectly” was missing. PSC recommended that the phrase “directly or indirectly” be added in the main provision as also in the pro-rata formula for

better clarity, and to preserve the original intent while simplifying the text.

Revised ITB 2025 provides that “any subsidy relatable to the acquisition of an asset, received, directly or indirectly, by the taxpayer from the government/authority” shall be reduced from the actual cost along with pro-rata formula.

While ITA 1961 refers to subsidy having both direct or indirect nexus with acquisition of an asset (it says ‘met directly or indirectly by government’), Revised ITB 2025 appears to cover subsidy which has direct nexus with acquisition of an asset while such subsidy may be received directly or indirectly from the government. This change creates a slight deviation from ITA 1961 resulting in ambiguity

► **Linkage of definitions of “micro” and “small” enterprises with notifications issued under MSMED Act**

ITA 1961 as also ITB 2025 allows deduction of sum payable to micro and small enterprise (MSEs) beyond the time limit specified in Micro, Small and Medium Enterprises Development Act (MSMEDA), 2006 only in the tax year in which such sum is actually paid.

For this purpose, MSEs are defined based on the specified investment thresholds stated in MSMEDA. The specified investment thresholds are revised on a periodic basis through notifications issued by the CG.

In this regard, in deference to stakeholder representations PSC recommended that the existing definitions can be better rephrased by dynamically linking them to the notification of the CG, instead of linking them to the static (and redundant) thresholds under MSMEDA. Revised ITB 2025 incorporates this suggestion.

► **Restoration of foreign currency conversion rule for tax withholding**

ITA 1961 includes a provision enabling prescription of Rule for determining the applicable conversion rate in a case where salary is payable in foreign currency so as to compute the amount on which taxes have to be deducted at source. There was no corresponding provision in ITB 2025. Revised ITB 2025 incorporates this provision to align with ITA 1961.

► **Alternate Minimum Tax (AMT)/Minimum Alternate Tax (MAT) provisions**

Revised ITB 2025 incorporates several suggestions made by PSC in relation to

AMT/MAT provisions⁶ which were left out in Amended ITB 2025. Notably, provision clarifying non-applicability of AMT to firms/LLPs not claiming specified deductions is inserted.

(ii) TDS/TCS

► Disallowance of expenses in case of tax deduction at source (TDS) compliance defaults

- ITA 1961 provides for disallowance of 100% of the sum payable to a non-resident (NR) (30% in case sum is payable to a resident) in case there is a default in TDS compliance as follows -
 - Scenario A - In case TDS is not deducted during the tax year in which expense is incurred.
 - Scenario B - TDS is deducted during the tax year in which expense is incurred but not paid before the due date of filing the tax return.

However, deduction of such expenses is granted in the subsequent tax years when the TDS compliance is made good.

- ITB 2025 provided that if TDS is deducted and paid during any subsequent tax year, deduction will be allowed in the year in which TDS is paid. It did not envisage a situation where the TDS is deducted during the tax year in which expense is incurred but paid after the due date of filing the return (Scenario B). This could have resulted in permanent disallowance of such expenses.
- Recognizing this anomaly, Amended ITB 2025 included the above-mentioned scenario as well and explicitly provided that if the TDS is deducted in the year in which expense is incurred and is paid after the due date of filing of return, the expense deduction will be available in the year in which TDS payment is made. However, such recommendation was inadvertently incorporated only in the context of payments to residents, and not for payments to NRs.
- Revised ITB 2025 now incorporates the aforesaid amendment in respect of payments made to NR as well thus fully aligning with ITA 1961.

► Missing notes for TDS rates now included

In some of the provisions relating to TDS, ITB 2025 provided for the applicable rates by

making reference to notes. However, in certain cases such notes were missing in the ITB 2025. While PSC recommended insertion of the missing notes, they were missing in the text of the Amended ITB 2025. Revised ITB 2025 incorporates such missing notes along with corresponding cross-referencing in penalty and prosecution provisions pertaining to TDS/TCS default.

For instance, ITA 1961 provides the rate of withholding in respect of mutual fund income paid to a NR as being the lower of: (i) 20%; or (ii) treaty rate. Parallel provisions in ITB 2025 contained references for the withholding rate on mutual fund income as being provided in "Note 2". However, Note 2 was missing in the text of ITB 2025. Revised ITB 2025 provides for this note aligning the rate of withholding with ITA 1961.

► TCS exemption on LRS remittance for education purpose

Revised ITB 2025 includes provision to exempt Liberalised Remittance Scheme (LRS) remittances for the purposes of education out of a loan obtained from specified financial institutions from levy of tax collection at source (TCS) in line with similar provisions under ITA 1961. This was inadvertently missed in ITB 2025.

(iii) Procedural aspects

► Aligning scope of aggregation of receipts/payments for evaluating higher threshold for applicability of tax audit for businesses

- Under ITA 1961, higher threshold for tax audit is applicable for taxpayers carrying on business where (i) the total sales, turnover or gross receipts of business exceeds INR 100M during the tax year and (ii) the receipts and payments in cash do not exceed 5% of aggregate of all receipts and payments (including receipts and payments related to business) during such tax year. Hence, for the purpose of testing 5% cash transactions limit, all receipts and payments are considered even if they are not related to business. Otherwise, the normal threshold for applicability of tax audit is if the total sales, turnover or gross receipts of business exceeds INR 10M during the tax year (unless taxpayer opts for presumptive taxation).
- ITB 2025 proposed to revise cash transaction limit for higher threshold for tax audit by providing that higher threshold will apply if at least 95% of aggregate of all receipts and payments

⁶ Refer EY Tax Alert on Parliamentary Select Committee's Report on the Income Tax Bill 2025 to closely align it with the Income Tax Act, 1961 dated 24 July 2025

from the business during the tax year are through specified banking or online mode. The PSC recommended redrafting of the clause to align with ITA 1961 and remove any ambiguity. However, Amended ITB 2025 did not incorporate this recommendation.

- Revised ITB 2025 has reinstated the language of ITA 1961.

► **Relaxation from tax audit to NRs covered under presumptive tax regime providing services to electronic manufacturing business in India**

- Under ITA 1961, a new presumptive taxation regime was introduced by FA 2025 for NRs engaged in providing services or technology to resident companies engaged in electronic manufacturing. It deems 25% of amounts paid/received by NR for providing such services or technology as business income of such NR from the specified activity. However, unlike similar presumptive taxation for NRs for other activities, there is no exemption from applicability of tax audit.
- ITB 2025 contained similar provision as ITA 1961. PSC recommended modification of the language to exempt such NRs from tax audit compliance since they are not permitted to offer lower income by maintaining books and getting them tax audited. However, Amended ITB 2025 did not incorporate this recommendation.
- Revised ITB 2025 incorporates PSC recommendation by exempting NR taxpayers covered by above referred presumptive tax regime from tax audit compliance. This is a welcome relief for such NR taxpayers.

► **Issue of show cause notice for initiating reassessment proceedings**

- Under the ITA 1961, before initiating reassessment proceedings, the tax authority is required to issue a pre-inquiry notice granting the taxpayer an opportunity of being heard and requiring them to show cause why such notice for reopening the assessment should not be issued.
- While the ITB 2025 incorporated a similar provision, it modified the language and omitted the specific phrase “show cause why such notice...”.
- Various stakeholders recommended adopting the ITA 1961 language, which was accepted by the Select Committee; however, the Amended ITB 2025 did not incorporate this recommendation. The Revised ITB 2025 now incorporates the

ITA 1961 language, thereby aligning the requirement with the existing law.

► **Extent of liability of legal representative:**

Under ITA 1961, the legal representative of a deceased person is personally liable for “any tax payable” in his/her capacity as a legal representative. ITB 2025 made legal representative liable for “any sum payable” in his/her capacity as a representative assessee. PSC identified this as a drafting error which was accepted by MoF but was not included in Amended ITB 2025. Revised ITB 2025 now rectifies the error and aligns with ITA 1961 to restrict the legal representative’s liability to tax liability only.

► **Extent of liability of representative assessee (RA):**

Under the ITA 1961, every RA is subjected to same duties, responsibilities and liabilities as if the income is received by or accruing to the RA beneficially and shall be liable to “assessment” on such income. ITB 2025 expanded the liability to not just assessment on income but also to “any other proceedings” which, while recommended to be deleted by the PSC, was retained in the Amended ITB 2025. Revised ITB 2025 now removes the reference to ‘any other proceedings’, thus aligning with ITA 1961.

(iv) **Charity taxation and related aspects**

► **Rationalization of Non-Profit Organisation (NPO) taxation:**

- Definition of regular income which provided for taxation on gross receipt basis in ITB 2025 is modified in Revised ITB 2025 to reintroduce the term “income” as provided in ITA 1961.
- Definition of Anonymous donation (AD) is amended to provide exclusion from taxation to ADs received by registered NPOs having mixed objects (religious and charitable) unless such donation is specifically directed towards education or medical institution run by such NPO, along the lines of ITA 1961.
- The Amended ITB 2025 had an error which led to overlap of provisions meant for non-General Public Utility (GPU) registered NPOs carrying on commercial activities with another provision meant for GPU NPOs. The Revised ITB 2025 corrects the inadvertent error to align with ITA 1961.
- Revised ITB 2025 rectifies certain obvious mistakes in incorrect referencing in Schedule XVI which provides for list of permitted investments by registered NPOs.

(i) Capital gains

▶ **Capital gain computation on transfer of depreciable asset**

ITA 1961 provides a special mechanism to compute the capital gains arising on transfer of depreciable asset. One of the items of deduction in computing capital gains is expenditure incurred 'wholly and exclusively in connection with such transfer'. ITB and Amended ITB 2025 provided deduction of 'wholly and exclusively for such transfer'. Revised ITB 2025 amends the provision to retain the same language as the ITA 1961.

▶ **Year of taxability of capital gain on conversion of capital asset into stock in trade -**

Under ITA 1961, on conversion of capital asset into stock in trade, the full value of consideration is equal to fair market value of capital asset as on the date of conversion. However, the charge under the head capital gains is triggered in the year in which such capital asset is '*sold or otherwise transferred*'. Amended ITB carried language that capital gains charge is triggered in the year in which such capital asset is 'sold or otherwise transferred by any other means'. Revised ITB 2025 amends the language to align with ITA 1961.

▶ **Taxability on contribution of capital asset by partner/member to firm/association of persons (AOP)/body of individuals (BOI)**

As per ITA 1961, contribution of capital asset by partner to firm or by member to AOP/BOI, triggers capital gains taxation in the hands of the partner/member in the tax year in which the capital asset is transferred. However, such provision does not specifically mention that taxation of such gains will be under the head capital gains. Amended ITB 2025 carried a reference that such gain is taxable under the head 'capital gains'. Revised ITB 2025 deletes aforesaid phrase and aligns with ITA 1961.

▶ **Capital gains exemption on deposit of "net consideration"**

ITA 1961 provides exemption to an individual or Hindu undivided family under the head capital gains on transfer of any capital asset (other than residential property) where the net consideration is utilized for purchasing a residential property subject to fulfilment of certain conditions. Where net consideration is not fully utilized till the date of filing of return of income, the *net consideration* is required to be deposited in capital gains account scheme. ITB 2025 and Amended ITB 2025 made reference

to deposit of "capital gains" instead of "net consideration". Revised ITB 2025 aligns the same with ITA 1961.

▶ **Bonds of NHAI and REC to qualify for capital gains reinvestment without need for notification**

The provision in ITA relating to capital gains exemption for reinvestment in certain bonds (referred as long-term specified asset) defines it to mean any bond redeemable after five years issued on or after 1 April 2018 by the National Highways Authority of India (NHAI) or Rural Electrification Corporation Ltd (REC) or any other bond notified in the Official Gazette by the CG in this behalf.

ITB 2025 as well as Amended 2025 modified the definition to mean any bond, redeemable after five years and as notified by the CG for the purposes of this section with such conditions (including a condition for providing a limit on the amount of investment by taxpayer in such bond). This resulted in requirement of even bonds issued by NHAI or REC to be specifically notified by CG to qualify for exemption.

Revised ITB 2025 aligns the definition with ITA 1961 by specifically referring to bonds issued by NHAI and REC which will not be required to be notified by CG to qualify for exemption.

(ii) Computation of income

▶ **Set-off and carry forward of losses:**

ITB 2025 modified the language of set-off and carry forward of losses under different heads of income with intent of textual simplification but retaining the scheme and policy under ITA 1961. While PSC did not specifically recommend reversion to ITA 1961 language, Revised ITB 2025 reverts to ITA 1961 language perhaps to avoid any unintended interpretational issues.

▶ **Commuted value of pension received from a fund set up by LIC of India or any other life insurer under a pension scheme**

Under ITA 1961, commutation of pension received from a fund set up by LIC or any other life insurer under a pension scheme approved by Indian insurance regulator is exempt. ITB 2025 provides for deduction (instead of exemption) from income chargeable under the head "salaries" in the hands of employees for commutation of pension received, *inter alia*, from a fund set up by LIC or any other insurer under a pension scheme. However, no such deduction was granted to non-employees for commutation of pension received from such fund.

Pursuant to stakeholder suggestion accepted by MoF as a drafting error, PSC recommended

insertion of similar provision in Income from other sources to grant deduction for similar receipts for non-employees. Accordingly, Amended ITB 2025 and Revised ITB 2025 provides deduction (instead of exemption) from income chargeable under the head "Income from other sources" in the hands of non-employees for commutation of pension received from a fund set up by LIC or any other insurer under a pension scheme approved by Indian insurance regulator. While there appears to be lack of charging provision to capture such receipts, the grant of such specific deduction clarifies their non-taxability beyond any doubt.

► **Gratuity received by legal heirs of deceased employee**

Under ITA 1961, gratuity received by employees or their legal heirs (on death of employee) is exempt fully in case of government employees and up to specified monetary limits in case of other employees. CBDT vide Circular No 573 dated 21 August 1990 had clarified that a lump sum payment made gratuitously or by way of compensation or otherwise, to the widow or other legal heirs of an employee, who dies while still in active service is not taxable.

ITB 2025 and Amended ITB 2025 provides for deduction (instead of exemption) in the hands of employees for gratuity received with limits same as ITA 1961 - fully in case of government employees and up to specified monetary limits in case of other employees. Revised ITB 2025 has further inserted a provision in computation of Income from other sources to grant deduction for gratuity received by legal heirs of deceased government employees. However, no similar deduction is granted for gratuity received by legal heirs of other employees. This results in ambiguity and potential for litigation in hands of legal heirs of non-government employees - more particularly, in absence of charging provision for including such capital receipt in the total income of the legal heir.

(iii) **TDS/TCS**

► **Threshold for TDS on purchase of goods exceeding INR 5M**

Under ITA 1961, resident buyers are required to deduct taxes at the rate of 0.1% only on the amount exceeding INR 5M while making payment to a resident seller for purchase of goods. However, there was ambiguity in comparable provision of ITB 2025 in application of threshold limit. The PSC recommended to clarify deduction of tax only on the sum exceeding INR 5M to align with ITA 1961.

But, the language used in the Amended ITB 2025 created an ambiguity on whether the taxes are required to be deducted on whole of

the amount if the total payment made exceeds INR 5M or only on the amount exceeding INR 5M. Revised ITB 2025 resolves the ambiguity by incorporating language similar to ITA 1961 and clarifies that TDS is required to be deducted only on the sum exceeding INR 5M.

► **TDS on withdrawal from National Savings Scheme (NSS)**

ITA 1961 allows deduction to an individual or a HUF, for any amount deposited in the National Savings Scheme (NSS) while computing total income chargeable to tax. However, prior to FA 2025 amendment, any withdrawal from the NSS (including interest accrued thereon) was chargeable to tax in the year of withdrawal. Pursuant to FA 2025 amendment, withdrawal by an individual subscriber on or after 29 August 2024, is exempt from tax. However, despite such amount being exempt from tax, any withdrawal by an individual subscriber from NSS is subject to TDS at the rate of 10%. ITB 2025 proposed to exempt levy of TDS on withdrawal from NSS by an individual subscriber. The Revised ITB 2025 has reinstated the provision as per existing ITA 1961 and has removed the exemption from TDS on amounts withdrawn by individual subscriber from NSS.

► **Withholding obligation on NR not having taxable presence in India on payment to another NR**

ITA 1961 contains a clarification (inserted retroactively in 2012) that an NR payer is required to deduct tax while making payment to another NR even if the payer NR does not have residence, place of business, business connection or any other presence in India. This clarification was missing in both ITB 2025 and Amended ITB 2025. Revised ITB 2025 has reinstated this provision aligning with ITA 1961.

(iv) **International taxation aspects**

► **Rationalization of source rule for taxability of income in India:**

- Under the ITA 1961, income from a business connection in India is deemed to accrue or arise in India resulting in that portion of income which is "reasonably" attributable to operations in India as taxable in India.
- ITB 2025 omitted the term "reasonably," raising concerns that tax authorities could have unfettered discretion to attribute income on an ad hoc basis. While MoF initially justified the omission of the term before PSC but subsequently agreed to restore it to align with ITA 1961. The Revised ITB 2025 reinstates the word "reasonably," reaffirming the existing scope and settled principles for income attribution under the ITA 1961.

- Additionally, under the ITA 1961, income from royalties or fees for technical services (FTS) paid by a resident is deemed to accrue or arise in India, except when payment is made “in respect of any right, property or information used or services utilised for the purposes of a business or profession” conducted outside India or for earning income “from any source outside India”.
- The ITB 2025 omitted the phrase “in respect of any right, property or information used or services utilised for the purposes of a business or profession” and replaced it with a single word “for” creating ambiguity about whether the carve-out applies in all cases where payments relate to business conducted outside India or a source outside India, regardless of the situs of utilization of rights, property, or services. The Revised ITB 2025 resolves this ambiguity by reinstating the original language of the ITA 1961.

► **Undefined terms in the treaty but defined in ITA 1961**

- ITA 1961 contains specific provisions dealing with interplay of tax treaty entered into by India with other countries as per which any term which is not defined in a tax treaty (undefined term) but defined in ITA 1961 is to be understood as per the meaning of such term in ITA 1961 and any explanation, if any, given to it by the CG. However, the said provision does not specify the date from which such meaning needs to be applied in interpreting a treaty undefined term but defined in ITA 1961 (especially in cases where the corresponding definition under ITA 1961 was inserted much after the treaty came into force).
- ITB 2025, while incorporating a similar provision, provided that the meaning of the term in ITA 1961 and any explanation given to it by the CG would apply retrospectively from the date the relevant treaty comes into force.
- In deference to the stakeholder representations, Revised ITB 2025 has now reinstated the provisions as existing in ITA 1961 by removing the reference to the effective date from which the meaning of the treaty undefined term but defined in the ITA 1961 will apply.

► **Meaning of ‘associated enterprise’ (AE):**

- ITA 1961 provides for criteria to determine AE relationship between two enterprises. In this regard, AE is defined under two parts. The first part Section (S.) 92A(1)) defines the broad contours of the term and is based on participation in “management” or “control” or “capital”. The second part (S. 92A(2)) lists certain conditions which if satisfied “at any time during the year” would result in an AE relationship.
- The second part begins with the phrase “for the purposes of sub-section (1)”. There are contrary views taken by judiciary on the interplay of S. 92A(1) and 92A(2) in light of the scope of the phrase “for the purposes of sub-section (1)”. Certain courts have taken a view that the conditions specified in S. 92A(2) has to be satisfied for two enterprises to qualify as AEs⁷. Similarly, there are also rulings⁸ which seem to have taken a view that S. 92A(1) can apply independent of S. 92A(2).
- While the ITB 2025 retained the structure of the S. 92A similar to ITA 1961, it proposed to replace the phrase “for the purposes of sub-section (1)” with the phrase “without affecting the generality of the provisions of sub-section (1)”.
- Stakeholders represented that the change may expand the scope of AE and make the two parts mutually exclusive, contrary to the court rulings which held them to be conjunctive. On the other hand, the MOF explained the intent of the change to bring clarity that the first part is a general definition while the second part is a specific definition.
- However, considering the views of the stakeholders and having regard to the unintended impact of the change, PSC recommended to retain the original language as contained in existing S. 92A of ITA 1961.
- However, the Amended ITB 2025 did not make any reference to either of the aforesaid two phrases. Instead, the structure of the provision was modified so as to combine both sections 92A(1) and 92A(2) into one with an intent to make all the clauses as alternative conditions for testing AE relationship. Further while combining the two limbs, the phrase “at

⁷ Illustratively, refer Page Industries [2016] 71 taxmann.com 172 (Bang ITAT) (as upheld by Karnataka High Court (HC) in TS-19-HC-2021 (KAR) and Special Leave Petition dismissed by Supreme Court (SC) in Petition No. 11465/2021, Veer Gems (2017) 77 Taxmann.com 127 (Ahmedabad ITAT) (Affirmed by

Gujarat HC (2017)(83 taxmann.com 271). SLP filed by revenue against HC decision was dismissed in [2018] 256 Taxman 298 (SC)

⁸ Illustratively, refer Kaybee Pvt. Ltd. [TS-233-ITAT-2015(Mum)-TP]

any time during the year” was missed to be included in Amended ITB 2025.

- While Revised ITB 2025 follows Amended ITB 2025, but it has incorporated the phrase “at any time during the year” in the limb relating to AE relationship arising from 26% shareholding criteria alone. Unlike ITA 1961 which generically makes the condition applicable for all the limbs of S.92A(2), this phrase is not inserted in other limbs of comparable AE definition in Revised ITB 2025 with respect to other objective criteria specified therein like advancing loan not less than 51% of the book value of the total assets of other enterprise, guaranteeing not less than 10% of total borrowings of other enterprise, etc. This can lead to certain interpretational issues on temporal condition for determining AE relationship.

(v) **Procedural aspects:**

► **Central Board of Direct Taxes (CBDT) empowered to prescribe transactions requiring application for permanent account number (PAN):**

- Under ITA 1961, a taxpayer is required to apply for PAN in specified circumstances. Further, in the interest of revenue, the CBDT is empowered to prescribe transactions undertaken by a taxpayer that would require mandatory application for PAN.
- While ITB 2025 replicated the existing provisions, it omitted the specific power of the CBDT to prescribe such transactions. Revised ITB 2025 reinstates this power, thereby aligning the provision with the existing provisions under ITA 1961.

► **Filing of return of income**

- Under ITA 1961, every taxpayer (company, firm, individual, etc.) is required to furnish a return of its own income or the income of any other person in respect of which it is assessable during the relevant tax year. The provisions also mandate filing a return of income or loss on or before the due date, except in cases of taxpayers who are not required to furnish return if income does not exceed the basic exemption limit.
- In ITB 2025, the obligation to furnish a return of income of any other person in respect of whom the taxpayer is assessable was restricted to taxpayers other than companies or firms. This led to omission of enabling provisions for taxpayers such as companies and firms to file returns on behalf of other persons. Further, it omitted the specific mandate to

file a return of income or loss on or before the due date in respect of certain taxpayer including firm and company.

- Revised ITB 2025 addresses these gaps by reinstating the provisions enabling all taxpayers (including companies and firms) to furnish a return of their own income or the income of any other person in respect of which they are assessable, thereby realigning with existing provisions of ITA 1961. It also reintroduces the requirement to file a return regardless of income or loss on or before the due date in respect of different taxpayers (like firms and companies) along the lines of existing provisions of ITA 1961.

► **Updated return of income**

- Under ITA 1961, where a taxpayer files an updated return of income that results in a reduction of carried-forward loss, unabsorbed depreciation or tax credit in any tax year, the taxpayer is required to file an updated return for each subsequent year as well so as to reflect the corresponding impact in those years.
- ITB 2025 omitted this provision, leading to uncertainty regarding the obligation to file updated returns for subsequent years in such cases. Revised ITB 2025 reintroduces this requirement, thereby aligning with ITA 1961 and removing the anomaly created by the inadvertent omission.

► **Processing of return of income (ROI): Allowing adjustments for inconsistencies with earlier tax year's ROI**

- Under ITA 1961, while processing a return of income, the tax authorities are permitted to make specified adjustments in computing the taxpayer's total income or loss. The FA 2025 amended these provisions to allow adjustments for inconsistencies (as may be prescribed) in information with reference to the any preceding tax year's return. ITB 2025 did not contain this provision as inserted by FA 2025.
- Revised ITB 2025 now adopts this amendment by FA 2025, thereby aligning the provision with the corresponding section of ITA 1961.

► **Alignment of exclusion of period for interest on refund**

- Under ITA 1961, to protect the interest of the Revenue, the tax authorities are empowered to withhold refunds pertaining to a particular tax year if assessment or reassessment proceedings for that or subsequent tax years are pending. The

refund can be withheld up to a period of 60 days from the date of completion of assessment or reassessment. Accordingly, for the purpose of computing additional interest @ 3% p.a. on delayed refunds on order giving effect to appellate orders, the period commencing from the date the refund is withheld by the tax authority until the date of its release from withholding is excluded from the interest calculation.

- Under ITB 2025, the exclusion period for interest computation was limited to the duration from the date the refund was withheld until the completion of the relevant assessment or reassessment proceedings instead of up to 60 days from the date of completion of assessment or reassessment.
- However, Revised ITB 2025 has reinstated the extended exclusion period for which the refund remains withheld, thereby realigning with ITA 1961.

► **No Appeal to Tribunal against Rectification Order passed by Principal Commissioner/ Commissioner of Income Tax (PCIT/CIT) in all cases**

Under ITA 1961, only certain specific rectification orders passed by the PCIT/CIT (such as rectification of revision orders, registration as a charitable entity, etc.) were subject to direct appeal to the Tribunal. As against this, under ITB 2025 all rectification orders passed by PCIT/CIT could be directly appealed before the Tribunal. Revised ITB 2025 now restores the position under ITA 1961.

► **Initiation of penalty proceedings along with assessment order for faceless assessment**

- Under the faceless assessment provisions of ITA 1961, the tax authority is required to pass an assessment order after considering all relevant material after providing the taxpayer with a reasonable opportunity of being heard. Along with such order, the authority is also required to initiate penalty proceedings, if applicable.
- In ITB 2025, the specific provision requiring initiation of penalty proceedings along with the assessment order was missing. Revised ITB 2025 reinstates this provision, thereby realigning with provisions of ITA 1961.

► **Equating “tax year” references with “previous year” under ITA**

As a significant step towards simplification, ITB 2025 proposes to replace the dual concept of “previous year” and “assessment year” with

single concept of “tax year”. For instance, instead of previous year 2026-27 for which assessment year is 2027-28 under ITA 1961, it will be called as tax year 2026-27.

A specific provision is added to clarify that references in Revised ITB 2025 to tax year/s which commenced on or before 1 April 2025 shall be construed as reference to the corresponding “previous year” under ITA 1961. This provision ensures that Revised ITB 2025 provisions which rely or get impacted by tax provisions and parameters falling under ITA 1961 regime will be interpreted by equating reference to “tax year” as at par with corresponding “previous year”.

(vi) **Charity taxation and related aspects**

► **Fixing liability on trustees for oral trust income:**

Under ITA 1961, any trustee who is entitled to receive income on behalf or for the benefit of any person under an oral trust, tax is charged at Maximum Marginal Rate. Under ITB 2025 and Amended ITB 2025, instead of trustee, the person liable was any person appointed under oral trust. Revised ITB now amends to align with ITA 1961 and fixes such liability on trustee of oral trust.

Other Amendments incorporated for first time in Revised ITB 2025 in deviation from ITA 1961

(i) **Capital gains**

► **Exclusion from charging provision for exemption for reinvestment in certain bonds**

Under ITA 1961 and ITB 2025, the charging section of capital gains provides that profits or gains arising from transfer of capital asset is chargeable under the head capital gains but specifically provides an exclusion for various exemption provisions under capital gains chapter. However, reference to exemption provision dealing with reinvestment in certain bonds does not exist resulting in drafting lacuna. Revised ITB 2025 addresses this lacuna by specifically including the reference to this exemption provision.

► **Cost of acquisition to firm on receipt of capital asset by partner**

Under ITA 1961 and ITB 2025, a firm is subjected to capital gains if partner receives any capital asset or money from firm. In such case, the amount charged to capital gains is allowed as cost of other assets remaining with firm.

By adding the phrase “in addition to deductions under sub-section (1)”, Revised ITB 2025 clarifies that the amount charged to capital gains will be allowed as cost in addition to

components covered under sub-section (1) i.e. cost of acquisition, cost of improvement and expenditure incurred in connection with transfer.

► **Set-off of capital losses:**

Under the ITA 1961 and ITB 2025, a taxpayer can set off losses under the head 'income from capital gains' only against capital gains income. But both ITA 1961 and ITB 2025 provide for a condition that the income against which such loss can be set off should be arrived at under a "similar computation".

This phrase led to a controversy as to whether the set-off of losses under capital gains head is allowed only against income computed under similar mechanism and may not apply when different computational provisions are applied for determining capital gains (e.g. indexation benefit, depreciable assets, slump sale etc). The Mumbai ITAT⁹ held that set-off of capital losses computed after availing indexation benefit cannot be restricted merely because capital gains are computed without indexation benefit.

Revised ITB 2025 now deletes such phrase thereby potentially resulting in reduced litigation on this aspect.

(ii) **Computation of income**

► **Change from "Persons" to "Person" in loss carry forward and set-off provisions**

Under the ITA 1961, set-off and carry-forward of losses are not permitted¹⁰ for a closely held company unless, on the last day of the relevant tax year, shares carrying at least 51% of the voting power of the company are beneficially held by the same "persons" who held such shares in the year in which the loss was incurred. Revised ITB 2025 replaces plural form of "persons" with singular form "the person". This raises ambiguity on applicability of the provision on inter-se transfer of shares within the same shareholder group which continues to hold 51% voting power on collective basis but where single shareholder holding 51% or more ceases to hold controlling stake.

Section 13(2) of the General Clauses Act 1897 provides that words in singular shall include the plural and vice versa unless there is anything repugnant in the subject or context. Also, there is a clear intent expressed by GoI and accepted by PSC of continuity of policy between ITA 1961 and ITB 2025. However, a change in the language of Revised ITB 2025 as compared to ITA 1961 can have potential for litigation.

► **Definition of relative for exemption from gift taxation under income from other sources (IFOS):**

Under ITA 1961, gift received from relative is not chargeable to tax. The definition of "relative" under ITA 1961 covers lineal ascendants and lineal descendants of individual and spouse of the individual. In order to provide clarity, Revised ITB 2025 provides that lineal ascendant, maternal as well as paternal, of individual or spouse will be covered within definition of "relative". Unlike ITB 2025 or Amended ITB 2025, Revised ITB 2025 does not provide reference to maternal or paternal in the context of lineal descendant.

(iii) **Procedural aspects**

► **Representative assessee:**

ITA 1961 provides for instances where a person in India can be treated as agent of NR taxpayer. This provision is relevant for the purpose of assessment and recovery of tax of NR from its agent in India. The provision, inter-alia, states an agent of NR includes a person in India who has business connection with NR. For this purpose, under ITA 1961 as well as amended ITB 2025, business connection covered only agency business connection.

Revised ITB 2025 amends the scope of business connection for this provision to cover all forms of business connection including significant economic presence (SEP). However, it must be noted that the definition of agent, under a separate limb, continues to include a person in India from or through whom the NR is in receipt of any income, whether directly or indirectly.

► **Extension of time limit for CBDT to issue guidelines for block assessment of transfer pricing (TP)**

- Assessment of arm's length price (ALP) determined by the taxpayers with respect to international transaction/specified domestic transaction (SDT) is based on specific reference to the transfer pricing officer (TPO) by the assessing officer (AO) for each tax year.
- Post amendment by FA 2025, ITA 1961 provides an elective scheme wherein taxpayers are allowed to opt for TP assessments to be made for a block period of three years, provided such option is exercised by the taxpayer within such time frame and in such form as may be prescribed. Once the option exercised is declared to be valid, the ALP determined for the initial year is applied to the

⁹ Vipul A Shah [2011] 47 SOT 189

¹⁰ Barring certain exceptions like death of shareholder or gift between relatives, etc

subsequent two consecutive tax years for the same/ similar transactions.

- Further, as per ITA 1961, CBDT is empowered to issue guidelines (subject to approval of CG and laying before both Houses of Parliament) to remove any difficulty that may arise, in giving effect to the elective scheme. However, such guidelines can be issued only until 31 March 2028.
- Revised ITB 2025 also contains parallel provision for incorporating the elective scheme. However, Revised ITB 2025 has removed the sunset date for issuance of guidelines to remove difficulties in giving effect to the elective scheme. This permits the CBDT to issue guidelines for removal of difficulties on perpetual basis.

► **Avoidance of repetitive appeals where appeal before High Court (HC)/ Supreme Court (SC) was filed under ITA 1961**

Both ITA 1961 and ITB 2025 contain specific provisions for avoiding repeated appeals on the same question of law already in dispute before a HC or SC. However, in this respect, under ITB 2025, such provision applied only to cases where the appeal before the HC/SC was filed under the ITB 2025 (thus perhaps inadvertently leaving out cases where the appeal was filed under the comparative provision of ITA 1961). Revised ITB 2025 addresses this by incorporating specific reference to appeals filed under ITA 1961.

► **Information maintained in electronic form presumed to be true for the purpose of prosecution proceedings**

Under both the ITA 1961 and ITB 2025, in a case where money, bullion, jewellery, virtual digital assets, or other valuable items (collectively referred to as "specified assets"), books of account, documents (collectively referred to as evidence), are found in a person's control or possession in the course of search proceedings (including for the purpose of prosecution proceedings), then it is presumed that:

- Such evidence is true, and any signatures/handwriting therein belongs to the person having control or possession over the evidence.
- Such assets or evidence belongs to the searched person in whose possession they were found; and

In the Revised ITB 2025, the above presumption is extended in prosecution cases to include information controlled and possessed by a person in electronic form and information on a computer system controlled and possessed by the searched person.

(iv) **Charity taxation and related aspects**

- Amended ITB 2025 provided for regular income to include income derived from property or investment held by registered NPO - whether capital or revenue. Following four amendments are made by the Revised ITB 2025:
 - (i) Reference to capital or revenue receipt is omitted.
 - (ii) Reference to income from "deposits" is added alongside property or investment by way of correction of unintended error.
 - (iii) Reference to "held by registered NPO" in existing clause is substituted by "held wholly for charitable or religious purposes by such registered NPO".
 - (iv) By way of new clause, new entry is provided for income derived from property, deposit or investment "held in part for charitable or religious purposes by such registered NPO".
- Revised ITB 2025 incorporates provisions along the lines of existing provisions under ITA 1961 regarding deemed application of income in relation to one year accumulation option as also on acquisition of another capital asset from capital gains income.
- Language used in the Amended ITB 2025 required computation of accreted income by the tax authority. Under the Revised ITB 2025, reference to tax authority is omitted and now even the NPO itself can also compute the accreted income.
- ITA 1961 as well as the Amended ITB 2025 allowed charity registration to persons incorporated or constituted or registered in India for carrying out one or more charitable purposes or one or more public religious purposes, or both. However, while providing for requirement of such NPOs to hold properties for the benefit of general public under an irrevocable trust, Amended ITB provided reference to only wholly for charitable purposes or religious purposes in India. Reference to 'both' was missing. On representations made by stakeholders to incorporate 'both', the PSC as also MOF agreed to insert expression 'both' to avoid any ambiguity. However, contrary to this, in the Revised ITB, the words "or both" have been deleted from main provision itself, thereby raising ambiguity regarding the very eligibility for registration of NPOs under Revised ITB 2025 having mixed objects (charitable and religious).

Although MOF before PSC clarified that wholly charitable or wholly religious purposes would include trust with mixed purposes as well, it would have been better if the same was inserted specifically in the Revised ITB 2025 to avoid any scope for ambiguity and litigation.

- Under the ITA 1961 as well as the Amended ITB 2025, the time limit available to tax authority for passing an order in respect of fresh registration application was three months from the end of the month in which application was made. The time limit under the Revised ITB 2025 is now reduced to one month.

- Taxability of Tainted Investment:

Under the ITA 1961, any investment held in impermissible modes was taxable as specified income @30% in the year after the cooling period of one year provided therein is over. Taxation is to the extent of amount of impermissible deposit or investment.

Under ITA 1961, it was possible to contend that said provision covers voluntary deposits or investments in impermissible modes as also those received by way of donation and held by registered NPOs beyond the cooling period of one year. There was ambiguity in the Amended ITB 2025 wherein impermissible deposit or investment was proposed to be taxed in the year of such deposit or investment while ITB 2025 continued to provide for cooling period of one year for holding on such deposit or investment.

Under the Revised ITB, while year of taxability in respect of impermissible deposit or investment continues to be the year of deposit or investment made, the Revised ITB 2025 has inserted an additional entry bringing to tax the fair market value of any asset which is not held in permissible forms or modes, as specified income of the year following the expiry of one-year cooling period. Intent of amendment in Revised ITB 2025 seems to provide for year of taxability differently for cases of voluntary deposit or investment in impermissible modes and for cases involving receipt of impermissible deposit or investments by way of donation. Benefit of cooling period of one year is available only in latter case.

to be granted continuity. However, with respect to schemes issued under ITA 1961, only the schemes pertaining to various faceless proceedings were expressly included. Revised ITB 2025 now broadens this scope by explicitly encompassing any "scheme" framed under these categories, thereby ensuring comprehensive coverage and continuity of all relevant directives such as the Dispute Resolution Scheme, etc.

- ▶ As a part of transitional provisions under the ITB 2025, it was stated that the provisions of the ITA 1961 would continue to apply to any proceedings in respect of tax years beginning before 1 April 2026. This raised concerns about whether ITA 1961 would apply only to proceedings in respect of the subject tax years pending as of 1 April 2026 or also to those initiated thereafter. Revised ITB 2025 now expressly clarifies that the provisions of ITA 1961 will apply to any proceedings pending on the date of commencement of Revised ITB 2025, as well as to any proceedings initiated after 1 April 2026.

- (vi) In addition to the above, the Revised ITB 2025 also modifies the language of various provisions without changing its meaning for better readability, clarity and simplicity. Illustratively, this includes:

- Substituting amounts hitherto mentioned in words with their corresponding numerical formats (For E.g. Rs. 200000 for "two lakh rupees")
- Use of phrase "For the purpose of this section" in place of "In this section", etc.

(v) Further rationalization of transitional provisions

- ▶ The ITB 2025 specifically granted continuity to the directions, instructions, notifications, orders or rules issued under the ITA 1961, provided they are not inconsistent with the corresponding provisions of the ITB 2025. Amended ITB 2025 also specifically clarified that even Circulars issued under ITA 1961 are

Comments

Revised ITB 2025 incorporates almost all the PSC recommendations as also amendments by Amendment Bill to put Revised ITB 2025 at par with ITA 1961 in terms of policy while carrying out textual and structural simplification with an intent to make the new income tax law concise, lucid, easy to read and understand. Barring a few exceptions like limitation on carry forward and set off of losses for closely held companies, definition of “associated enterprise” for transfer pricing compliance, relaxation from tax audit compliance for NRs providing services or technology for electronic manufacturing, certain aspects on charity taxation, Revised ITB 2025 maintains parity with policy and compliances with ITA 1961.

The amendment in relation to definition of “demerger” to exclude fast-track demerger and MOF’s views on taxation of waiver of loans have raised concerns for stakeholders. The Government is parallelly reviewing the income tax rules and forms to align with Revised ITB 2025. Hence, stakeholders are encouraged to engage with the government to capitalize on this rare opportunity to overhaul the six decades-old income tax framework. Their continued inputs can help shape future provisions aimed at minimizing disputes and compliance challenges, as well as address any remaining gaps not resolved by the Revised ITB 2025. It is also hoped that the GoI leverages on the extensive stakeholder consultation made by PSC to address the meritorious policy issues highlighted by stakeholders as part of next Budget exercise.

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