WADHWA CONSULTANCY SERVICES PRIVATE LIMITED
CIN: U74999DL2021PTC382154
W-107, GROUND FLOOR, GREATER KAILASH –I, New Delhi - 110048
Tel: 011- 41554222, 41554440, 41554243
Email: ajaywadhwatax@gmail.com, raginihandatax@gmail.com
Web: www.wadhwataxconsultant.com

SOME KEY PROVISIONS IN FINANCE ACT 2024

A. REOPENINGS

Earlier Provisions related to reopening of cases and record maintenance:

Cases could be reopened up to 10 years, requiring record maintenance for the same duration.

Current proposed Provisions (Finance Bill No. 2, 2024)

1. Assessments can now be reopened for a maximum of 5 years with specific conditions and in normal scenario, for up to 3 years.

   Specific Condition:

   Beyond 3 Years: Reopening requires evidence of escapement exceeding Rs. 50 lakhs.

2. **Process:** Assessing Officer must issue a show cause notice and provide detailed information, followed by order after the approval of the Additional/ JointCommissioner. Thereafter a notice under section 148 for reassessment will be issued.

3. **Reassessment completion time:** remains 12 months from the end of the financial year in which notice under section 148 is served.

4. **Record Retention:** Records prior to 01-04-2018 may not be required.

B. BUYBACK OF SHARES

1. **Previous Position:** Shareholders could deduct the cost of shares out of the money received from the company buying their shares.

2. **Current Position:** Entire amount received from buyback is taxed as deemed dividend under section 2(22)(f). The cost of shares held will be allowed as loss under the head

capital gains which can be set off against the capital gain income, if any, in the current years and in subsequent years in accordance with the relevant position of law.

3. **Recommendation:** Selling shares in the market to pay short/long-term capital gain tax at a lower rate may be preferable in certain cases.

C. <u>Prosecution for Non-Deposit of TDS</u>

1. **Previous Position:** Prosecution used to be launched for failure to deposit TDS in time i.e., month to month basis.

2. **Current Position:** No prosecution if taxes deducted are paid by the TDS return filing due date. Interest on delay will still be charged.

D. <u>VIVAD SE VISHWAS SCHEME, 2024</u>

Proposal:

1. Withdraw pending appeals at any level -Commissioner (Appeal), ITAT, High Court, Supreme Court.

2. Pay core tax on disputed addition for immunity from interest and penalty under the Act if appeal preferred by assessee.

3. **Department Appeals:** Settle by depositing 50% of the tax payable on the addition.

E. <u>SEARCH ASSESSMENTS</u>

<u>Earlier Provisions relating to assessments consequent to search</u>

1. **Automatic Reopening:** Upon a search, the last three previous years would automatically reopen, allowing the Assessing Officer to make addition based on evidence found or make assessment based on the return filed.

2. **Arbitrary Powers:** The Assessing Officer had significant powers to examine up to 10 years of records and make additions based on undisclosed income or balance sheet/profit and loss accounts.

3. **Extended Assessments:** Assessments could be prolonged, by making assessment year wise, year after year, leading to prolonged period for finalisation of assessment.

4. **High Penalties:** Disclosing income in return resulted in nearly 100% tax with interest and penalties, with no option for the Assessing Officer to accept surrender or disclosure of income.

<u>Current proposed Provisions (Finance Bill No. 2, 2024)</u>

1. **Block Period Assessment:** Assessment will cover a block period of the last six years prior to the search year and the truncated period of the current financial year up to the search date.

2. **Single Assessment:** Only one comprehensive assessment will be made for the entire block period, comprising primarily of undisclosed income found during search, eliminating separate year-wise assessments.

3. **No Immediate Disclosure Required:** Assessees are not required to make immediate disclosures or surrenders during the search. They can declare undisclosed income when filing their block return post-search.

4. **Reduced Tax Rate:** Undisclosed income declared by assessee suo-moto in the block return will be taxed at 60%, with no penalties, interest, or prosecution if filed timely.

5. **Penalties on Excess:** If the Assessing Officer finds additional undisclosed income beyond what the assessee declared, only the excess will attract a 60% tax plus a 50% penalty on that excess amount.

6. **Time Limit for Assessment:** Assessment of block period must be completed within 12 months from the end of the month in which the last search authorization was issued.

7. **Streamlined Process:** The investigation wing would have to finalise the appraisal report within the allotted time to give the Assessing Officer sufficient time for assessment, reducing harassment.

8. **Ease for Assessees:** Assessees have sufficient time post-search to declare undisclosed income, think through their situation, and arrange funds to pay the 60% tax, significantly reducing corruption and harassment.

F. <u>Appeal Limits</u>

1. **Previous Position:** Appeals used to be filed to High Court against Tribunal decisions with tax effect over Rs. 1 crore i.e. addition of Rs. 3 crores approx.

2. **Current Position:** Increased limit to Rs. 2 crores i.e. addition of Rs. 6 crores approx reducing appeals to High Court and ensuring Tribunal decision finality.

G. <u>Angel Tax</u>

1. **Previous Position:** Premium on shares issue taxed as income from other sources if face value of shares of the company was lower than the premium.

2. **Current Position:** Section 56(2)(viib) abolished, promoting capital raising for new or loss-making, but reputable companies whose book value of shares may be far lower than the premium charged by them on issuance of shares.

H. <u>Tax on Rental Income</u>

<u>Clarification:</u>

1. Rental income from residential property has to be taxed under income from house property.

2. Commercial property, though registered as residential, rental can be treated as business income if given for office or retail purposes.

I. Tax clearance Certificate

There were cases where names of certain people having tax dues and leaving the Country were forwarded to the immigration department at the airport. They had to obtain a clearance certificate before leaving the Country. Earlier 'tax dues' meant liability under the Wealth-tax Act or the Gift-tax Act or the Expenditure-tax Act. Now it also consists of liabilities under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015. There is really no change and this only effects those who are in the list of the department as huge tax defaulters.

J. TCS on luxury goods

1. Earlier no TCS on luxury goods

2. Now TCS of 1% on luxury goods isproposed to be collected on items to be listed later by the Government. This could be a damper for people wanting to buy luxury goods as their information will now be available with the department.

K. CAPITAL GAINS

A. Period of Holding:

1. **Previous Position:**
   - Capital asset classified as short term capital asset ("STCA") if held for 36 months or less and long term capital asset ("LTCA") if more than 36 months
   - Listed security/ shares classified as STCA if held for 12 months or less and LTCA if more than 12 months
   - Unlisted share of company/ unit of mutual fund transferred between 1 April 2014 to 10 July 2014 classified as STCA if held for 12 months or less and LTCA if held for more than 12 months

- Unlisted Share of company or immovable property (land or building or both) classified as STCA if held for 24 months or less and LTCA if held for more than 24 months

2. **Current Position:**

- Listed securities/ shares held for less than 12 months classified as short term and held for 12 months or more classified as Long term
- Other assets held for less than 24 months classified as short term and held for 24 months or more classified as Long term
- Holding period of immovable property and unlisted shares remains unchanged classified as short term if held for 24 months or less and long term if more than 24 months

B. Rate:

1. **Previous Position:**

Section	Nature of Asset	Nature of Capital Gain	Rate
112A	Eligible listed securities/ shares	LTCG	10%
112	Any other long term capital asset except those covered u/s. 50AA (market linked debentures)	LTCG	20%
111A	Eligible listed securities	STCG	15%

Further, an exemption upto Rs. 1 lakh is available from LTCG covered u/s. 112A.

3. **Current Position:**

Section	Nature of Asset	Nature of Capital Gain	Rate

112A	Eligible listed securities	LTCG	12.5%
112	Any other long term capital asset except those covered u/s. 50AA	LTCG	12.5%
111A	Eligible listed securities	STCG	20%

- LTCG: universal tax rate of 12.5% without indexation in case of all LTCG, irrespective of whether the asset is listed or unlisted, STT paid or not, Indian or foreign, held by resident or non-resident, except for certain assets which fall u/s 50AA of the ITA.

- Remove the benefit of indexation available for calculation of LTCG wherever hitherto available, such as on sale of property, gold and other unlisted assets as per provisos to S. 48. However, the same shall be available on sale of the said assets before July 23, 2024.

- The limit of exemption from LTCG covered u/s. 112A is proposed to be increased from Rs 1 Lakh to Rs. 1.25 lakhs (aggregate).

- **Properties purchased before 1 April 2001-Taxpayers can choose the option that results in a lower taxable capital gain**

  For properties purchased before 1 April 2001, there are two options to determine the cost of acquisition:
  Original Purchase Price: The actual cost incurred while purchasing the property.
  Fair Market Value (FMV): The property's value as on April 1, 2001, but not exceeding the stamp duty value paid at the time of purchase.
  Taxpayers can choose the option that results in a lower taxable capital gain.

For further queries or information, please contact us at
ajaywadhwatax@gmail.com
raginihandatax@gmail.com

AJAY WADHWA **RAGINI HANDA**