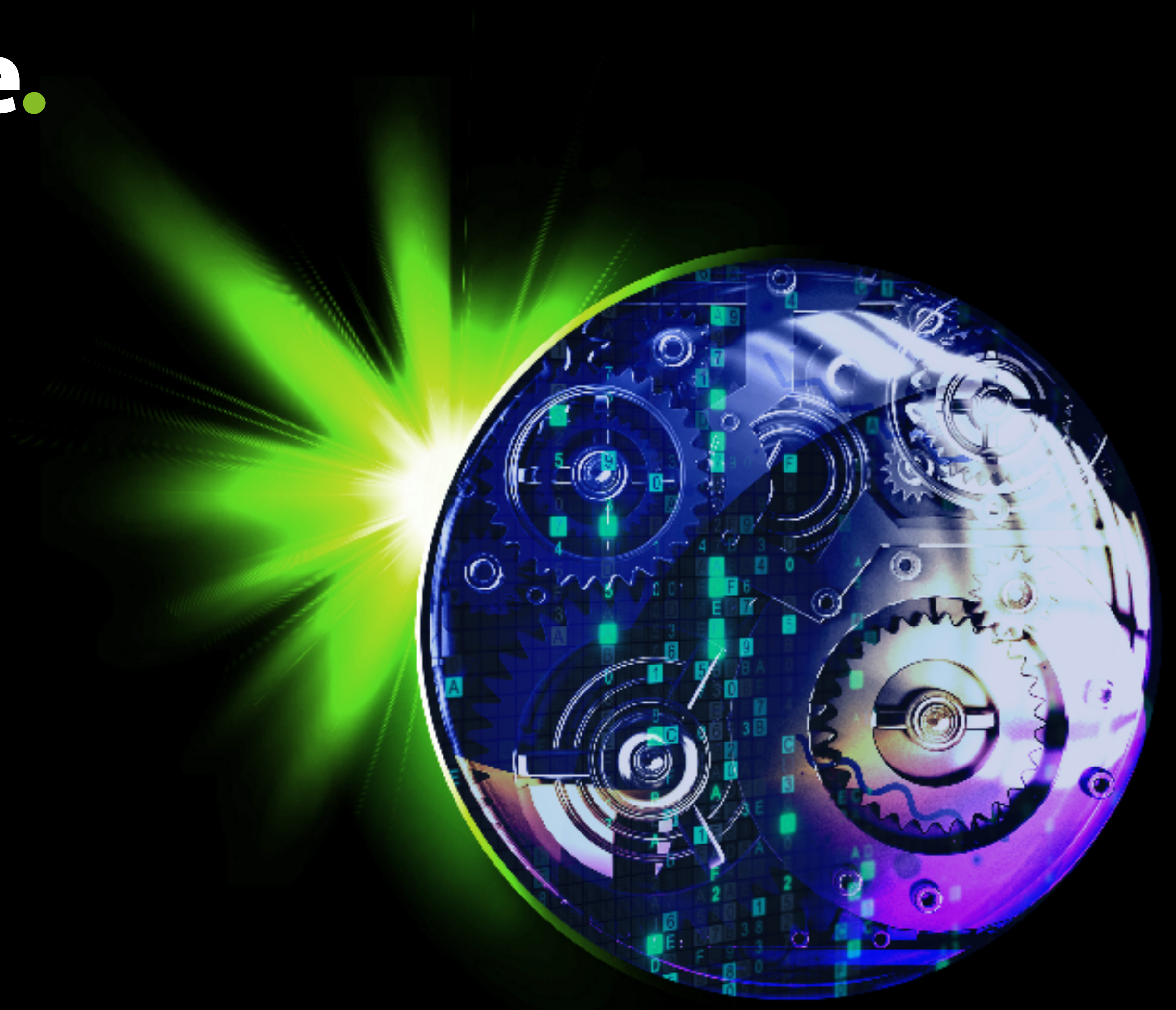
Deloitte.



Union Budget 2021

Towards a thriving India

Key tax proposals – corporate and individual taxation

No change in tax rates

- Tax rates for corporates and individuals remain same as last year.

Goodwill not an intangible asset for tax depreciation

- Goodwill (including existing goodwill) not to be eligible for tax depreciation
- Where goodwill forms part of an asset block on which tax depreciation has been claimed, the asset block's written down value and the short-term capital gains on goodwill will be determined in a manner to be prescribed
- Acquisition cost of acquired goodwill will be the purchase price (as reduced by obtained tax depreciation); it will be nil for other cases
- The amendment is proposed to be effective from FY20–21

Employee's contribution to welfare funds

- To provide that an employee's contribution to welfare funds, which is deemed to be an employer's income, will be tax deductible only if such sum is credited to the relevant fund on or before the prescribed due date per the law.
- A deduction for such contribution will not be available on a payment basis.
- These amendments are proposed to be effective from FY 20-21.

Other key proposals

- To tax the interest accrued on employee contributions to provident fund/other provident funds exceeding INR 250,000 in a year, subject to conditions

Highlights

Employee's contribution to welfare funds to be deposited before the due date provided under law for claiming deduction

Tax depreciation not available on goodwill

Slump exchange now taxable

International taxation – Equalization levy

Equalisation levy

- To provide ‘online sale of goods’ and ‘online provision of services’ to include one or more of the following online activities:
  - Acceptance of offer for sale
  - Placement of purchase order
  - Acceptance of purchase order
  - Payment of consideration
  - Supply of goods or provision of services, partly or wholly
- The consideration will include the following:
  - For sale of goods irrespective of whether the e-commerce operator owns the goods; or
  - For provisions of services irrespective of whether the service is provided or facilitated by the e-commerce operator

- The consideration liable for equalisation levy shall not include consideration, which is taxable as royalty or fees for technical services in India
- To make the following changes with respect to the income-tax exemption:
  - The exemption will not apply to consideration, which is taxable as a royalty or fees for technical services in India
  - The exemption will apply from 1 April 2020
- These amendments are proposed to be effective from FY20-21

Highlights

Any ‘online element’ of a transaction may trigger equalisation levy

Dispute Resolution

Board for Advance Ruling (BFAR)

- AAR was non-functional for substantial time because of non-availability of eligible person to fill the post of Chairman and Vice Chairman
- AAR is being replaced by one or more BFAR each comprising of two members not below the rank of Chief Commissioner
- The Government has retained an option to allow faceless functioning of BFAR
- BFAR orders are appealable, strict deadlines
  - Appeal can be filed within 60 days;
  - High Court allowed power to extend it by another 30 days

Dispute Resolution Committee

- For eligible small taxpayers, a new voluntary mechanism is being activated
- Returned income below 5 million; and Variation in income less than 1 million
- Other disqualifications mentioned
- Committee has powers to reduce or waive penalty, grant immunity from prosecution
- Faceless scheme for this committee may be notified

Faceless Tribunal appeals

Faceless scheme may be notified on or before 31 March 2023

- All communication shall be electronic
- Where personal hearing is needed, it shall be done through video-conferencing
- Optimisation of resources and achieve functional specialisation

Compliance and procedural matters

TDS on purchase of goods

- TDS of 0.1 % on purchase of goods from a resident exceeding INR 5 million in an FY proposed to be introduced from 1 July 2021; other conditions applicable as well

Tax filing and assessment time limits

- Belated or revised return to be filed within 9 months (at present 12 months) after the end of the FY, or before the completion of assessment, whichever is earlier
- Time limit reduced for processing tax returns to 9 months from the end of year in which tax return is filed
- Time limit lowered for initiating an assessment to 3 months from the end of the year in which return of income is filed
- Time limit is reduced for the completion of assessment proceedings to 21 months from the end of the FY for tax returns filed for FY20-21 and onwards

Re-assessment proposed to be revamped

- Entire concept of re-assessment revamped; concept of ‘reason to believe’ dropped
- Reopening to happen only if AO is in possession of information, which suggests that the income chargeable to tax has escaped assessment
- Time limit to re-open reduced to three years; time limit is 10 years where AO has books of account or other documents or evidence revealing that income, represented in the form of asset, has escaped assessment of INR 5 million or more
- Process for passing an order before issuing a re-opening notice

Highlights

TCS on sale of goods effectively replaced with TDS on purchase of goods

Reduced timelines for filing return, processing of return, completion of assessment, etc.

Points to ponder

Amend the internal control systems in order to comply with the TDS on purchase of goods along with TCS.

Questions

Hemal Zobalia
Partner
Deloitte Haskins & Sells LLP
One International Center, Tower 3, 28th floor,
Senapati Bapat Marg, Mumbai 400013, India
D: +91 (022)6185 4390 | M: +91 9892 400 400 |
hzobalia@deloitte.com