

## Income Tax & Wealth Tax 2012 - 13

FINANCE BILL (CLAUSE NO.)	SECTION	NEW LAW	APPLICABLE w.e f	EXECUTIVE SUMMARY
3	2(14)	Amendment of definition of property widen to include rights in or in relation to an Indian company including rights of management or control or any other rights whatsoever	1.4.1962	To be classified as capital asset under the act the precondition is that it has to be property of any kind held be the assessee. The amendment seems to overcome Vodafone Judgment in so far it alluded to distinction between legal or contractual rights to constitute property. It is being proposed in the amendment that property shall include and shall always deemed to have been included any rights in or in relation to an Indian company including rights of management or control or any other rights whatsoever. Noteworthy is the Fact that such deeming will not happen when such rights are held in the company but also when such rights are held in relation to an Indian Company. The implication of the amendment will abound not only for non residents assesses but for resident assesseees as well.
3	2(16)	'Commissioner' to include Director of Income-tax.	AY 1988-89	Definition of 'Commissioner' to include Director of Income-tax.
3	2(19AA)(iv)	Requirement to issue shares to shareholders of demerged company, relaxed	AY 2013-14	In case where demerged company is a subsidiary company and resulting company is a holding

		when resulting company is the holding company		company, it is not possible to satisfy the requirement of issue of shares to shareholders of demerged company, for obvious reasons. Accordingly, requirement to issue shares to shareholders of demerged company relaxed when resulting company is the holding company on demerger.
3	2(47)	Amendment of definition of transfer to include disposing of or parting with an asset or any interest therein or creating any interest in any asset in any manner whatsoever, directly or indirectly, absolutely or conditionally, voluntarily or involuntarily by way of an agreement ( whether entered into India or outside India) or otherwise, notwithstanding that such transfer of rights has been characterized as being effected or dependent upon or flowing from the transfer of rights of a company registered or incorporated outside India.	1.4.1962	<ul style="list-style-type: none"> <li>• <b>The stated objective of the amendment through insertion of the explanation is to remove the doubt and hence clarificatory in nature.</b></li> <li>• <b>The proposed explanation like the main definition is inclusive and thus wide enough to cover similar kinds and nature.</b></li> <li>• <b>The main section which defines transfer to include certain types of transaction has not been altered.</b></li> <li>• <b>What the explanation does is to widen the scope of transfer to include every mode and the manner of entering of the transaction in which the types of</b></li> </ul>

				<p>transactions mentioned in the main section will also get covered. The mode and manner of the transfer of the kinds mentioned in the main section is now being sought to be included are (i) directly or indirectly (ii) absolutely or conditionally (iii) voluntarily or involuntarily (iv) by way of agreement or otherwise (v) it is characterized as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India.</p>
4	9(1)(i)	Two new explanations number 4 and 5 are being inserted. By explanation 4, a clarification for removal of doubt is being made to the effect that term through for the purpose of clause shall mean and include and shall be deemed to have always meant and included “ by means of” “ in consequence of” or “ by reason of”.	1.4.1962	The amendment through explanation 4 aims at a major shift in tax policy moving from the concept of “look at” to “look through” in order to nullify effect of Vodafone judgment. Explanation 5 somewhat is conceptually lifted from DTC 2010 the introduction of which is still in limbo. Other than the far reaching implication of the intended insertions, what should be highly surprising is the introduction of the significant concepts through

		Through insertion of explanation 5 the situs of share or interest in a company incorporated outside India shall be in India if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.		explanations, case of tail wagging the dog, leaving these open to fragility of judicial challenge. One may also note that use of through in clause (i) is in relation to all limbs namely (a) business connection in India (b) property in India (c) any asset or source of income in India or ( d) transfer of capital situate in India. This artificial construction of the term through to mean and include “by means of” , “ in consequence of” or “ by reason of” is nothing but coining new taxonomies generally unknown in tax jurisprudence. It must also be underlined in the context of explanation 5 that the quantitative tests to determine “deriving, directly or indirectly its value substantially from the assets situate in India” is not provided unlike what is provided in DTC 2010.
4	9(1)(vi)	Three new explanations numbering 4, 5 and 6 are being inserted in this clause.	1.6.1976	
5, 6	10(23C), 13, 143	Non-availability of exemption to a Charitable Trust or Institution if it is engaged in an activity in the nature of trade, commerce or business	AY 2009-10	A charitable trust or Institution does not get the benefit of tax exemption in the year in which its receipts from commercial activities exceeds the threshold limit, whether or not the registration or approval granted is cancelled, withdrawn or

				rescinded.
5	10(10D)	Eligibility conditions for exempt life insurance policies	AY 2013-14	Exemption for insurance policies issued on or after 1 April 2012 would only be available for policies where the premium payable for any of the years during the term of the policy does not exceed 10% of the actual capital sum assured. In order to ensure that life insurance products are not designed to circumvent the prescribed limits by varying capital sum assured from year to year, it is proposed to provide that the capital sum assured would be the minimum of the sum assured in any of the years of the policy.
7	32	The units engaged in the business of generation or generation and distribution of power shall be allowed additional depreciation on the lines allowed to an assessee engaged in the business of manufacture or production of any article or thing.	1.4.2013	This amendment removes an obvious miss and in tune with the policy to provide boost to the infrastructure sector.
8	35	Weighted deduction equal to two times of the expenditure	1.4.2013	The objective of the amendment is to boost research and development

		incurred on scientific research or in house research and development facility to the business engaged in biotechnology or business of manufacture or production of specified article or thing is being extended to expenditure incurred up to 31.3.2017		activities in the country.
9	Section 35AD	Amendment to sub-section (5 & 8)	01.04.2013	Three new businesses – <ul style="list-style-type: none"> <li>(a) Setting up and operating an inland container depot or a container freight station</li> <li>(b) Bee-keeping and production of honey and beeswax</li> <li>(c) Setting up and operating a warehousing facility for storage of sugar.</li> </ul> Added to the definition of specified business and date of commencement of operations and business aforesaid three businesses on or after 01.04.2012.
		Sub-section (6A) and amendment to sub-section (5 & 8)		Three new businesses – <ul style="list-style-type: none"> <li>(d) Setting up and operating an inland container depot or a container freight station</li> <li>(e) Bee-keeping and</li> </ul>

				production of honey and beeswax (f) Setting up and operating a warehousing facility for storage of sugar.
	Section 35AD	Insertion of sub-section 6A	01.04.2011	Transferred the operation of 2 star or above category hotel by the owner to another person. The owner shall deemed to be carrying on the specified business of building and hotel.
10	Section 35CCC	Insertion of new section 35CCC	01.04.2013	Deduction equal to one and a half times of the expenditure on agriculture extension project notified by the board shall be allowed to the assessee. No other deduction for the above said expenditure in the same or any other assessment year.
11	Section 40	Insertion of new proviso to sub clause (1a)	01.04.2013	It shall be deemed that the Assessee has deducted and paid the tax on such sum on the date of furnishing of the return of Income by the Resident payee referred to in the set proviso and meaning thereby no disallowance will be made on non deduction of TDS if the Resident payee has furnished the return of the Income in hands of the deductor
12	S. 40A	Amendment to section	01/04/2013	1. Proviso inserted so

		40A and insertion of new proviso.		<p>as to provide that no disallowance under this clause shall be made , on account of any expenditure being excessive or unreasonable having regard to the fair market value, in respect of a specified domestic transaction referred to in section 92BA, if such transaction is at arm's length price as defined in clause (ii) of section 92F.</p> <p>2. Clause (b) of S. 40A(2) amended so as to include therein any other company carrying on a business or profession in which the company referred to in sub-clause (b)(ii) has substantial interest.</p>
13	44AB	Extension of time limit for furnishing tax audit report by assesses who have undertaken international transaction	AY 2012-13	Due date for furnishing tax audit report would be same as due date for furnishing return of income under section 139.
14	44AD	Presumptive taxation not to apply to professionals etc.	AY 2011-12	Presumptive taxation not to apply to professionals, persons earning commission or brokerage income, persons carrying on agency business.
15	47(vii)	Requirement to issue shares to shareholders	AY 2013-14	In case where subsidiary company amalgamates into



		of amalgamating company, relaxed when subsidiary company amalgamates into holding company		holding company, it is not possible to satisfy the requirement of issue of shares to shareholders of amalgamating company, for obvious reasons. Accordingly, requirement to issue shares to shareholders of amalgamating company relaxed when subsidiary company amalgamates into holding company.
16	49(1)(iii)(e)	Cost of acquisition in case of conversion of sole-proprietor / firm into company	AY 1999-00	In case of conversion of sole proprietor / firm into company which is not regarded as transfer of capital asset, cost of acquisition of asset in hands of company would be the same as that in hands of sole proprietor / firm.
17	50D	FMV of capital asset to be considered where sales consideration cannot be determined	AY 2013-14	Where in the case of transfer of capital asset, value of consideration is not determinable, FMV of the asset shall be taken to be full value of consideration received for the purpose of computing capital gains.
18	54B(1)	Exemption available to HUF	AY 2013-14	Rollover relief under section 54B on transfer of land is available not only to individual, but HUF also.
19	Section 54GB	Insertion of new Section 54GB	01.04.2013	Exemption of Long term Capital Gain Tax to an Individual or HUF on transfer of residential property (a house or a plot

				of land) on or before 31 <sup>st</sup> March, 2017 upon reinvestment of sale consideration before the due date of furnishing the return of income as specified section 139 (1) in the Equity of ELIGIBLE BUSINESS (a new start up SME company in the manufacturing sector which is utilized by the company for the purchase of new plant & machinery as specified in the section in section in which in hold more than 50% share capital or voting rights).
20	55A	Reference to Valuation Officer in connection with fair market value of asset as on 1 April 1981	1 July 2012	If AO is if the opinion that value taken by assessee as on 1-04-1981 is higher than FMV of the asset on that date, AO would be enabled to make a reference to Valuation Officer for determining FMV of the property.
21	Section 56 (2) (A) (vii)	Amendment of clause (e) of explanation	01.10.2009	Hitherto there was a confusion as to who are the relatives of an individual or HUF. There had been certain judicial pronouncements including of Ahmadabad ITAT Bench wherein it has been held that the list contained in the said clause is duly applicable to the members

				<p>of HUF also.</p> <p>Through this amendment it has been specifically provided as to who are the relatives of individual and who are the relatives of an HUF.</p> <p>Any sum or property received without consideration or for inadequate consideration by HUF from its members would be excluded from taxation.</p>
22	Section 68	Insertion of New Proviso	01.04.2013	<p>The Theory of Shifting Onus presently requires the assessee, in receipt of share capital/share application, etc, to prove the identity, creditworthiness and genuineness of the Share Subscriber. There is presently, based on catena of current and old case Laws, no requirement to prove the Source of the amount in the hands of Share Applicant, ie Source of Source is not required to be proved. [refer Gauhati HC in Nemi Chand Kothari, Orissa HC in Sarogi Credits, Delhi HC in Dwarkadhish Investments Ltd.].</p> <p>By virtue of new</p>

				<p>amendment, the onus u/s 68 shall not be discharged unless the share applicant also furnishes the source of the amount out of which it/he has contributed in the share capital of the assessee company AND the AO is satisfied about the said source of the share subscriber.</p>
23	S. 80A	New clause inserted after clause (ii) to explanation in sub section (6).	01/04/2013	<p>The existing provision of the <i>Explanation</i> to sub-section (6) of section 80A provides the definition of expression</p> <p>“market value” in relation to any goods or services sold or supplied and in relation to goods or services acquired.</p> <p>Amendment has been made to said <i>Explanation</i> so as to</p> <p>provide that “market value” in relation to any goods or services sold, supplied or acquired, in case of a transaction being a domestic transaction referred to in section 92BA shall be the arm’s length price as defined in clause (ii) of section 92F</p>
24	80C	Eligibility condition for deduction in respect of life	AY 2013-14	Deduction for life insurance premium on insurance policies issued on or after 1

		insurance policies		April 2012 shall be allowed for only so much of the premium payable as does not exceed 10% of the actual capital sum assured.
25	Section 80D	Amendment	01.04.2013	Additional rebate of Rs. 5000/- for expenditure on preventive health checkup of self, spouse, dependent children or parents.  Payment by any other mode other than cash is now eligible for paying health insurance premium
26	Section 80DDB	Amendment	01.04.2013	The age of Senior Citizen is specified in section 80DDB is reduced to 60 years in place of 65 years
27	80G	Prohibition of deduction of cash donations exceeding Rs.10,000.	AY 2013-14	Any payment exceeding Rs.10,000 shall be allowed as deduction only if paid by any mode other than cash.
28	80GGA	Prohibition of deduction of cash donations exceeding Rs.10,000.	AY 2013-14	Any payment exceeding Rs.10,000 shall be allowed as deduction only if paid by any mode other than cash.
29	Section 80-IA(4)(iv)	Amendment	01.04.2013	1.Terminal date extended for the further period of 1 year i.e. upto 31 <sup>st</sup> March, 2013.  2. The existing <i>Explanation</i> to sub-section (8) of section 80-IA provides for the definition of “market value” in relation to goods or services.

				3. The same is substituted so as to include the arm's length price as defined in clause (ii) of section 92F, where the transfer of such goods or services is "specified domestic transaction" referred to in section 92BA within the definition of "market value" in relation to any goods or services
30	Section 80TTA	Insertion of new section	01.04.2013	Deduction of interest on Saving Account with banking companies/Co-operative Societies engaged in banking business includes Co-operative Land Mortgage or development bank/post office to an individual or HUF
31, 32	90 & 90A	New insertion - Sub section (2A), (4) & explanation 3 to S. 90 and New insertion - Sub section (2A), (4) & explanation 3 to S. 90A	Sections inserted w.e.f 01/04/2013, explanation inserted w.e.f 01/10/2009	<p>1. A new sub-section (2A) has been inserted in the section 90 so as to provide that the provisions of newly inserted</p> <p>Chapter X-A shall apply even if such provisions are not beneficial to the assessee.</p> <p>2. A new sub-section (4) has been inserted in the aforesaid section so as to provide that an assessee, not being a resident, to whom an agreement referred to in sub-section (1) applies, shall not be entitled to claim any</p>

				<p>relief under such agreement unless a certificate, containing prescribed particulars, of his being a resident in any country outside India or specified territory outside India, as the case may be, is obtained by him from the Government of that country or specified territory.</p> <p>3. Section 90 of the Act has been amended to provide that any meaning assigned through notification to a term used in</p> <p>an agreement but not defined in the Act or agreement, shall be effective from the date of coming into force of the agreement. Similar amendment is also made u/s 90A.</p>
33	S. 92	Amendment to section 92 and insertion of section (2A)	01/04/2013	<ol style="list-style-type: none"> <li>1. New sub-section (2A) inserted so as to provide that any allowance for an expenditure or interest or allocation of any cost or expense or any income in relation to the specified domestic transaction shall be computed having regard to the arm's length price.</li> <li>2. Sub section (2) and (3) of section 92 are further amended to</li> </ol>

				substitute the expression “international transaction or specified domestic transaction” in place of “international transaction” so as to include therein the specified domestic transaction and apply the provisions of sub-sections (2) and (3) to specified domestic transactions also.
34	92B	New explanation to sub section (2) inserted.	01/04/2002	<i>Explanation</i> to s. 92B inserted so as to clarify the definition of the expressions “international transaction” and “intangible property.
35	92BA	New insertion	01/04/2013	New section 92BA inserted to provide for the meaning of specified domestic transaction with reference to which the income is computed under section 92 having regard to arm’s length price
36	92C	Two amendments are carried out through this clause. One relates to the proviso to sub section 2 inserted by finance act 2002 and now stands substituted by the finance (No 2) Act 2009. The controversy	First amendment applies to AY 2002-03 and subsequent assessment years till substituted proviso came	The amendments being proposed are to override the judicial controversies on the application of new and substituted proviso in order to cap some sort of stability on the issues on account of several conflicting decisions particularly at the level of the tribunal. It is a different



		<p>with regard to assessment years to which this proviso applied was whether or not the tolerance band of five percent linked to arithmetical mean arrived at as per the proviso is a standard deduction. The amendment clarifies that the intent of the law was never to allow this tolerance band to work as standard deduction.</p> <p>Second amendment also resolves a controversy with regard to applicability of the proviso to sub section 2 of section 92C as substituted by the Finance Act 2009 as to all pending proceedings as on 1.10.2009, the date on which this proviso became effective or to assessment year following the said date. Through an explanation to section 2 of section, it is clarified that substituted proviso shall apply to all pending assessment years.</p>	<p>into being.</p> <p>The second amendment shall apply to all assessments pending as on 1.10.2009</p>	<p>matter however that all clarifications, as is usual, lean in favor of the department.</p>
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37	92C, 92D & 92E	Amendment	01/04/2013	Amendment made to respective sections to substitute the words “international transaction or specified domestic transaction”, for the words “international transaction” wherever they occur so as to extend the provisions of the aforesaid sections to the specified domestic transaction.
38	92CA	<p>This amendment empowers the TPO on reference by AO to determine ALP of the international transactions noticed by him in the course of proceeding0s.</p> <p>-*/ before him provided that the assessee has not furnished a report u/s 92E of the Act. But no reopening/rectification of assessment shall be undertaken by AO on account of this amendment for any assessment year proceedings for which has been completed before 1.7.2012</p>	1.6.2002	The careful reading of the clause reveal that such power can be exercised by TPO only when no report u/s 92E is filed and such transaction comes to his notice in the course of proceedings referred to him by AO. The explanatory memorandum however goes to suggest that this power can be exercised in all those cases in which such transactions are omitted from being reported.
39	92CC & 92CD	New Section inserted	01/07/2012	1. Board is empowered to enter into an advance pricing agreement

				<p>with any person undertaking an international transaction.</p> <ol style="list-style-type: none"><li>2. Such APAs shall include determination of the arm's length price or specify the manner in which arm's length price shall be determined, including method those provided in subsection (1) of section 92C.</li><li>3. The APA shall be valid for such previous years as specified in the agreement which in no case shall exceed five consecutive previous years.</li><li>4. The APA shall be binding only on the person and the Commissioner (including income-tax authorities subordinate to him).</li><li>5. The Board is empowered to declare, with the approval of Central Government, any such agreement to be void ab initio.</li><li>6. For computing period of limitation under the Act, the period beginning with the date of such APA and ending on the date of order declaring the</li></ol>
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				<p>agreement void ab-initio shall be excluded. However if after the exclusion of the aforesaid period, the period of limitation is less than sixty days, such remaining period shall be extended to sixty days.</p> <p>7. The person entering in to such APA shall necessarily have to furnish a modified return within a period of three months from the end of the month in which the said APA was entered</p> <p>8. Where the assessment or reassessment proceedings for an assessment year relevant to the previous year to which the agreement applies are pending on the date of filing of modified return, the Assessing Officer shall proceed to complete the assessment or reassessment proceedings in accordance with the agreement taking into consideration the modified return so filed and normal period of limitation of completion of proceedings shall be</p>
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				<p>extended by one year.</p> <p>9. In case assessment proceedings already completed, before the expiry of period allowed for furnishing of modified return, the Assessing Officer shall, in a case where modified return is filed, proceed to assess or reassess or recompute the total income of the relevant assessment year having regard to and in accordance with the APA and to such assessment.</p>
40	Chapter X -A	New chapter inserted	1 <sup>st</sup> April, 2013	General Anti Avoidance Rule
41	111A	Clerical error pertaining to rate of tax in the Proviso rectified.	AY 2009-10	In case of equity shares / units on which STT is paid, Short term capital gains tax rate is 15%. In the Proviso, the rate is erroneously mentioned as 10%. It is accordingly proposed to amend the Proviso.
42	Section 115A	Insertion of new sub clause and amendment of existing clauses	01.07.2012	The interest payable to a non resident by an Indian company engaged in certain specified business relating to generation or distribution of power, operation of aircraft, manufacture or production of fertilizer, construction of road, toll road, bridge, port, inland

				port, shipyard, ship or dam shall be taxed under section 115A under newly inserted clause (iiaa) of sub section(1). Consequential amendment to provide the tax rate at the rate 5% has been carried out u/s 115A (1)(BA).
43	S. 115BBA(1)	Amendment of sub section (1) & (2) and insertion of clause (c)	01/04/2013	<p>Concessionary tax regime as applicable to non citizen and non resident sportsperson available under Section 115BBA of the Income Tax Act has been extended to a non-resident entertainer. In a view that similar tax regime i.e. taxation on basis of gross receipts rather than net income would simplify the process of taxation in the case of entertainer. Further the rate of tax applicable u/s 115BBA has been increased from 10% to 20%.</p>
44	Section 115BBD	Extension of concessional taxed on Dividend Income of Indian Companies received from Foreign Companies	Extended till 31.03.2013	The concessional tax on Dividend Income received from Foreign Companies by Indian Companies continues till 31.03.2013.
45	Section 115BBE	New Section Inserted	01.04.2013	Incase of incomes/additions made u/s 68, 69, 69A, 69B,

				<p>69C and 68D, presently the addition was being subjected to normal rates of taxation and the assessee (incase of Indl and HUF) could claim benefit of maximum amount not chargeable to tax.</p> <p>By virtue of this new section, it has been provided that the incomes of the nature as referred in the said section shall be taxes at flat rate of 30% and no allowance of any expense/exemption limit shall be permitted.</p>
46	115JB	<p>Book profit in cases of companies not required to prepare P/L a/c as per Companies law.</p> <p>Gain on revaluation of asset subject to MAT liability.</p>	AY 2013-14	<p>For companies not required to prepare P/L a/c as per Schedule VI of Companies Act, P/L a/c prepared as per their respective regulatory Act shall be taken as basis for computing MAT.</p> <p>Book profits for the purpose of section 115JB shall be increased by the amount standing in revaluation reserve relating to the revalued asset which has been disposed, if the same has not been credited to P/L a/c.</p>

47	Chapter –XII-BA	Amendment to chapter heading	01.04.2013	Hitherto the provisions of AMT were applicable to LLP's only, the Chapter heading has been changed to 'Persons other than a company', ie. Firms, HUF's, Sole proprietorship, AOP's, BOI's, etc fulfilling certain conditions of the said Chapter.
48	Section 115JC	Substitution of the Old Section	01.04.2013	The extent and scope of the AMT provisions have been extended to all persons other than companies, enjoying profit based incentive deductions under Chapter VI-A (part-C). To this extent the newly substituted section has engulfed more Persons.
49	Section 115JD(1)	Substitution of New Words	01.04.2013	The words, 'LLP u/s 115JC shall be allowed to it', has been replaced by 'A person u/s 115JC, other than a company shall be allowed to him'. The amendment intends to permit the tax credit of AMT to all entities, who have been made liable/subjected to AMT as per newly substituted section 115JC.
50	Section 115JE	Substitution of New Words	01.04.2013	The words, 'A LLP', has been replaced by 'A Person', meaning thereby



				that subject to the provisions of Chapter XII-BA, other provision of the Act shall also be applicable to entities/persons made subjected to payment of AMT.
51	Section 115JEE	Insertion of New Section	01.04.2013	<p>Under the existing provisions of Chapter XII-BA, though the meaning and applicability of the provisions were clear, yet there was no express provision as to who are the assessee's to whom this chapter applies to and the provisions were applicable to all LLP's despite any restriction to the Adjusted Total Income.</p> <p>Henceforth, all Individuals, Huf's, APO's, BOI's, having Adjusted Total Income Upto Rs.20 Lakhs, would not be liable to pay AMT.</p>
52	Section 115JF	Omission of Clause (c) and amendment to Clause (d)	01.04.2013	By Omission of Clause (c) the definition of LLP has been Omitted. Also in Clause (d) defining "Regular Income Tax", the Words "A LLP on its total income" has been substituted with "A person on his total income", in accordance with the change in Extent and Scope of the

				Chapter.
53	Section 115O	Amendment to existing section.	01.07.2012	In order to reduce the cascading effect on dividend distribution tax in respect of dividends received by a domestic company, the existing stipulation u/s 115O(1A) have been clearly spelled out so as to remove the ambiguity, if any.
54	Section 115U	Amendment to existing section	01.04.2013	The provision of section 115U have been amended so as to make a reference to the expression income accruing or arising to or received by a venture capital fund.
55	Section 115VG	Substitution to the Table	01.04.2013	Amount of presumptive daily tonnage income of ships increased.
56	S. 139	Amendments made to S. 139 and insertion of new proviso.	01/04/2012	1. Fourth Proviso inserted to provide that a person, being a resident, who is not required to furnish a return under this sub-section and who during the previous year has any asset (including any financial interest in any entity) located outside India or signing authority in any account located outside India, shall furnish, on or before the due date, a return in

				<p>respect of his income or loss for the previous year in such form and verified in such manner and setting forth such other particulars as may be prescribed.</p> <p>2. Clause (a) and (aa) of explanation 2 to Section 139 amended so as to extend due date of filing return of income in case of all assessee to who needs to furnish report under section 92E..</p>
57	Section 140A	Amedment in sub-sections	01.04.2013	Presently, there were no enabling provision u/s 140A, relating to payment of self assessment tax, wherein the credit of AMT paid u/s 115JD would be admissible. By virtue of amendments in present clause, credit of AMT paid u/s 115JD, would also be permissible u/s 140A.
58	143 (3)	Third proviso inserted to S. 143(3).	01/04/2009	Consequential changes made to s. 143(3) to enable AO to frame assessment overriding the first and second proviso where , charitable trust or Institution does not get the benefit of tax exemption in the year in which its receipts from commercial activities exceeds the threshold limit, whether or not the

				registration or approval granted is cancelled, withdrawn or rescinded as provided under clause 5 & 6 here in above.
	143(1D)	Processing of return not necessary where notice has been issued u/s 143(2)	1 July 2012	Some returns of income are selected for scrutiny which may lead to raising a demand for taxes although refunds may have been issued earlier at the time of processing. Accordingly, processing of return is not necessary where process for scrutiny is initiated by way of issue of notice u/s 143(2).
59	95 to 102, 14, 144BA	General Avoidance Rule (GAAR)	Anti Rule	AY 2013-14
				GAAR introduced to deal with 'aggressive tax planning'. Where an arrangement is held to be an 'impermissible avoidance arrangement', consequences in relation to benefit under a tax treaty can be determined keeping in view circumstances of the case, with certain illustrative steps having been specified in the Act. Procedure for invoking GAAR to include reference by AO to Commissioner, who will further make reference to an 'Approving Panel' (consisting of atleast 3 members of the rank of Commissioner or above). Final order to be passed by AO only after obtaining

				approval of Commissioner.
60	144C	DRP empowered to consider a matter not covered by draft assessment order	AY 2009-10	DRP's power to enhance income to include considering any matter, whether or not such matter was raised by the assessee.
61	Section 147	Insertion of Second Proviso	01.07.2012	Enabling amendment to provide for reopening of assessments incase of residents having assets (including financial interest in any entity) located abroad, <b>disregarding</b> the fact that the details may have been disclosed by such assessee earlier in his/its return of income fully and truly or any assessment u/s 143[3] may have taken place, provided the AO has reasons to believe.
62	Section 149	Insertion of clause (c) to sub-section [1]	01.07.2012	A new Clause has been provided so as to enable the reopening of assessments incase of discovery of any asset (including financial interest )located outside India by a person, for and upto 16 years from the end of the relevant assessment year
	Section 149	Amendment to sub-section (3)	01.07.2012	The present time limit of two (02) years for issuance of notice u/s 148 in order to

				treat a assessee, an agent of Non Resident, has been extended to Six (06) years.										
	Section 149	New Explanation 3	01.07.2012	The provision of sub-section (1) & (3), as amended by Finance Act 2012, shall be applicable for any assessment year beginning on or before 01.04.12.										
63, 65	153, 153B	Time limits for completion of assessments and reassessments increased by 3 months	1 July 2012	<table border="1"> <thead> <tr> <th>Proceedings</th> <th>Extended time period</th> </tr> </thead> <tbody> <tr> <td>Assessment in non TP cases</td> <td>24 months from end of FY</td> </tr> <tr> <td>Assessment in TP cases</td> <td>36 months from end of FY</td> </tr> <tr> <td>Reassessment in non TP cases</td> <td>12 months from end of FY in which notice is issued</td> </tr> <tr> <td>Reassessment in TP cases</td> <td>24 months from end of FY in which</td> </tr> </tbody> </table>	Proceedings	Extended time period	Assessment in non TP cases	24 months from end of FY	Assessment in TP cases	36 months from end of FY	Reassessment in non TP cases	12 months from end of FY in which notice is issued	Reassessment in TP cases	24 months from end of FY in which
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Reassessment in TP cases	24 months from end of FY in which													

					notice is issued
					Assessment pursuant to order of CIT(A) / ITAT / CIT (erroneous and prejudicial to interests of Revenue) in non TP cases
					12 months from end of FY in which order is received
					Assessment pursuant to order of CIT(A) / ITAT / CIT (erroneous and prejudicial to interests of Revenue) in TP cases
					24 months from end of FY in which order is received
64, 66, 108	153A, 153C, 296	Notification of a class of search cases where compulsory reopening of past 6 years not required	1 July 2012	Central Govt. is empowered to notify cases in which Assessing Officer shall not issue notice for initiation of proceedings for preceding 6 AYs. However, action for completion of assessment proceedings for the year in which search or requisition has been made, would be taken.	
67	Section 54	Insertion of new clause C in sub	01.07.2012	The Income Tax Authority may amend any intimation issued under sub section (1)	

		section 1		<p>of sub section 200A</p> <p>The words “by the Assessee” in sub section (2) will be substituted by the words “by the Assessee or by the deductor”</p> <p>The words “the Assessee” in sub section (3) will be substituted by the words “the Assessee or the deductor”</p> <p>Enabling Assessing Officer to refund as may be due to the deductor if the rectification have the effect of reducing the liability of the deductor (Sub section 5)</p> <p>Enabling Assessing Officer to serve notice of demand u/s 156 as may be payable by the deductor if the rectification have the effect of increasing the liability of the deductor (Sub section 6)</p> <p>The words “the Assessee” in sub section (8) will be substituted by the words “the Assessee or the deductor”</p>
68	Section 156	Substitution of words	01.07.2012	<p>Enlarging the scope by insertion of the words deductor and or sub section (1) of section 200A. Meaning thereby intimation u/s 200A (1) will also be</p>



				deemed to be notice of demand for the purpose of this section.
69	Section 193	Increase in Threshold limit	01.07.2012	The present limit of Rs. 2500 has been announced to Rs. 5000
70	194E	Amendment to section 194E	01/07/2012	Consequential amendment with respect to amendment in S. 115BBA is made in section 194E to provide for withholding of tax at the rate of 20% from income payable to non-resident, non-citizen, entertainer, or sportsmen or sports association or institution.
71	Section 194J	Amendment to Section 194J	01.07.2012	TDS @10% on any remuneration, fees or commission other than those on tax is deductible u/s 192 to director.
72	Section 194LA	Substitution of limit	01.07.2012	The limit raised to Rs. 2,00,000/- from Rs. 1,00,000 for non deduction of tax.
73	Section 194LAA	Insertion of New Section	01.10.2012	TDS @1% on transfer of immovable properties exceeding 50 lacs in specified urban area and 20 lacs in other areas by the transferee on the consideration or value assessable under state stamp

				duty whichever is higher. No need to obtain TAN by transferee. New single page challans having details including PAN of transferor and transferee. No registration without submission of payment proof of TDS before the registering authority.
74	Section 194LC	Insertion of new section	01.07.2012	<p>The interest payable to a non resident by an Indian company engaged in certain specified business relating to generation or distribution of power, operation of aircraft, manufacture or production of fertilizer, construction of road, toll road, bridge, port, inland port, shipyard, ship or dam shall be subjected to withholding tax @ 5% at the time of payment or accrual whichever is earlier.</p> <p>Also refer clause 42 so as to appreciate the taxation of the said interest u/s 115A.</p>
75	195	<p>Two amendments are brought through this clause in section 195.</p> <ul style="list-style-type: none"> <li>• <b>As per the first</b></li> </ul>	The first amendment will apply from 1.4.1962 and	The first amendment aims to remove ambiguity cropped up by way of the concurring judgment of Vodafone by incorporating

		<p><b>amendment non residents are being specifically brought in the ambit of section 195 whether or not such non-resident has a residence or place of business or business connection in India or any other presence in India.</b></p> <ul style="list-style-type: none"> <li>• <b>A new sub section 7 is being proposed by which board is empowered to notify a class of persons or cases where application to the AO for determination of proportion of income chargeable in the payments made to persons specified has to be made and tax at source has to be deducted under this</b></li> </ul>	<p>the second one from 1.7.2012</p>	<p>reference Eli Lilly case with regard to applicability of section 195 to non residents especially in case their presence in India is altogether missing. Despite this, one must note that in the absence of machinery and procedural mechanism to effectuate implementation of the section to non –residents, the larger difficulty still looms large.</p>
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		<b>section accordingly.</b>		
76	Section 197A	Amendment	01.07.2012	The age of Senior Citizen is specified in section 197A is reduced to 60 years in place of 65 years
77	Section 201	Insertion of new proviso in sub-section(1)	01.07.2012	<p>The Deductor will not to be treated as assessee in Default provided the resident payee has furnished his return u/s 139 and has taken into account such amount for computing income in such Return of Income and has paid the Tax Due on the income declared by him in such return of income and furnishes a certificate to this effect, duly certified by a CA, in the prescribed form. This form is yet to be notified.</p> <p>However, the interest for not deducting tax would be payable from the date on which such tax was collectible till the date of furnishing of return of income by the resident payee.</p> <p>The limit of passing orders under sub section (1) increased from 2 years to 6 years (retrospective amendment wef 1-04-2010)</p>

78	Section 204	Insertion of new clause	01.07.2012	The drawing and disbursting or any other person by whatever name called, responsible for crediting, or as case may be, paying such sum (in case of payment of any sum chargeable under the provision of this Act made by Central or State Govt.) will be treated as “person responsible for paying”
79	Section 206C	Amendment to section 206C	01.07.2012	TCS @ 1% on Sale of Coal, Lignite, Iron ore and Bullion or jewellery in cash above 2 Lakh Rupees. The Collector of TCS not to be treated as assessee in Default except incase of Sale of Bullion or Jewellery above Rs. 2,00,000/- in cash, provided the buyer or licensor or licensee has furnished his return u/s 139 and has taken into account such amount for computing income in such Return of Income and has paid the Tax Due on the income declared by him in such return of income and furnishes a certificate to this effect, duly certified by a CA, in the prescribed form. This form is yet to be notified.

				<p>However, the interest for not collecting the TCS would be payable from the date on which such tax was collectible till the date of furnishing of return of income by such buyer or licensee or lessee.</p> <p>Also by not treating the collector of TCS as assessee in default the Revenue intends to accept placidly the ratio of Supreme Court in Hindustan Coco-Cola Beverage Pvt. Ltd. in 293 ITR 226.</p>
80	Section 207	Renumber of existing section and insertion of new sub section	01.04.2012	By virtue of insertion of sub section 2 it has been provided that a senior citizen (being of the age of 60 year or more at any time during the previous year) and not having income chargeable under the head PGBP shall not be liable to pay advance tax.
81	209	Advance tax payable where income is received without deduction or collection of tax at source	AY 2013-14	It has been held by Courts that a person is not liable to pay advance tax to the extent tax is deductible or collectible at source. To negate this position, it is proposed that advance tax is payable where income is received without deduction

				or collection of tax at source.
82	Section 234A	Amedment in sub-sections	01.04.2013	Presently, there is no enabling provision u/s 234A, wherein before charging of interest, the credit of AMT paid u/s 115JD would be admissible. By virtue of amendments in present clause, credit of AMT paid u/s 115JD, would also be permissible as prepaid tax before computing the interest u/s 234A.
83	Section 234B	Amedment in sub-sections	01.04.2013	Presently, there is no enabling provision u/s 234B, wherein before charging of interest, the credit of AMT paid u/s 115JD would be admissible. By virtue of amendments in present clause, credit of AMT paid u/s 115JD, would also be permissible as prepaid tax before computing the interest u/s 234B.
84	Section 234C	Amedment in sub-sections	01.04.2013	Presently, there is no enabling provision u/s 234C, wherein before charging of interest, the credit of AMT paid u/s 115JD would be admissible. By virtue of amendments in present clause, credit of AMT paid u/s 115JD,

				would also be permissible as prepaid tax before computing the interest u/s 234C.
85	234D	Interest applicable to any proceeding which is completed on or after 1 June 2003	1 June 2003	Interest u/s 234D is applicable to any proceeding which is completed on or after 1 June 2003, irrespective of the AY to which it pertains.
86	Section 234E	Insertion of new sub heading "G and insertion of new section 243E	01.07.2012	<p>New sub-heading "G-levy of fee in certain cases" inserted failure to deliver statement within a time prescribed in section 200 (3) or the proviso to sub-section (3) of section 206C make the person liable to pay by way of fee a sum of Rs. 200 per day or which the failure continues subject to maximum limit of the amount tax deductible or collectible, as the case may be.</p> <p>This fee shall be paid before delivering the afforsaid statement.</p>
87	245C	Related person for the purpose of making application before Settlement Commission	1 July 2012	A person shall be deemed to have substantial interest in a business or profession if such person is a beneficial owner of not less than 20% of shares / share in profits



				on the date of search.
88	245Q	Increase in fee for filing application before AAR	1 July 2012	Fee for filing application before AAR increased from Rs.2500 to Rs.10000 or such fee as may be prescribed, whichever is higher.
89	Section 246A(b)(j)	Insertion of new clause	01.07.2012	Words Section 271AAB has been added meaning thereby order imposing penalty u/s 271AAB can be appealed.
89	Section 246A	Amendment	01.07.2012	<p>Order of assessment or reassessment passed with approval of Commissioner under sub-section (12) of newly inserted section 144BA or any order under section 154/155 passed in relation to such an order shall not be appealable before Commissioner (Appeals) w.e.f. 01.04.2013</p> <p>An order of assessment under sub-section (3) of section 92CD made appealable</p> <p>Deductor also allowed to file appeal w.e.f. 01.07.2012</p> <p>Retrospective amendment w.e.f. 01.10.2009 - an order pass in pursuance of the</p>

				direction of the dispute Resolution Panel is directly appealable to the ITAT.
	Section 246A	Amendment of existing clauses and insertion of new clauses	Different dates	<p>The existing provisions of section 246A provides for orders appealable before CIT(A).</p> <p>Sub section (1) of section 246A till now only permitted an assessee aggrieved to prefer and appeal before CIT(A). An amendment vide clause (i) of clause 89 of Finance Bill, 2012 has enlarged the scope of appeals before CIT(A) in so far as now any assessee or any deductor aggrieved against the order (s) as provided therein may now appeal CIT(A). We understand that there being a specific provision u/s 248 in respect of tax deduction on account of payment to non residence u/s 195, the inclusion of expression 'any deductor' refers to deductors making payment of TDS under various section of chapter XVII-B other than section 195.</p> <p>Similar amendment permitting filing of appeal in respect of orders u/s 200A(1) relating to processing of TDS statements have also been</p>

			<p>made appealable before CIT(A).</p> <p>Since a new section 144BA relating to reference of certain transactions to CIT in certain cases have been inserted, the appeals against the orders passed in pursuance of directions u/s 144BA(12) shall not be permissible before CIT(A) (the same is appealable before ITAT – refer clause 90 of Finance Bill 2012.</p> <p>Similarly search assessment orders passed u/s 153A, in pursuance of DRP directions shall not be appealable before CIT(A) retrospectively w.e.f. 01.10.2009.</p> <p>Orders of assessment or reassessment u/s 92CD(3) on account of advance pricing agreement have been made appealable before CIT(A) w.e.f. 01.07.2012.</p> <p>Lastly, the order of penalty 271AAB (newly inserted vide clause no. 96) have</p>
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				also been made appealable before CIT(A) w.e.f. 01.07.2012.
90	Section 253	Amendment to existing section and insertion of new clauses	Different dates	<p>Sub clause (d) of section 253(1) provides that an order of passed by an AO in pursuance of directions of DRP, u/s 143(3) or 147, is appealable before ITAT directly.</p> <p>Vide clause (a) of the existing clause, the orders of search assessment passed u/s 153A or 153C in pursuance of directions of DRP have been made directly appealable before ITAT and not CIT(A).</p> <p>A new clause (e) is proposed to be inserted u/s 253(1) so as to provide that orders passed with the approval of CIT u/s 144BA(12) read with section 143(3) or 147 or 153A or 153C or 154 or 155 in respect of such orders shall be directly appealable before ITAT.</p> <p>Presently only an assessee can file an appeal before</p>

				<p>ITAT against an order passed in pursuance of directions of the DRP u/s 144C. w.e.f. 01/07/12, a new sub section (2A) is proposed to be inserted so as to provide that even the department can prefer an appeal in case the CIT objects to any direction issued by DRP.</p> <p>Sub section (3A) has also been similarly inserted so as to provide that the appeal by the department against the directions issued by the DRP should be furnished within a period of 60 days of the date on which the orders sought to be appeal against is passed by the AO in pursuance of the direction of DRP. It is interesting to note here that the time limit in case of filing of an appeal generally commences with the date on which the order sought to be appeal against is received / served on the aggrieved party whereas in this case the time limit begins from the date on which the order is passed and not served.</p> <p>Lastly the existing sub section (4), relating to filing</p>
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				of cross of objections within 30 days of the intimation of receipt of notice of filing of appeal by the other party before ITAT, has been substituted w.e.f. 01.07.2012, so as also to include a reference to the orders passed in pursuance of directions of DRP.
91	Section 254	Amendment to existing section	01.07.2012	Sub section 2A of section 254 has been amended so as to provide a reference to the departmental appeals filed against the directions issued by the DRP (refer clause 90 supra also).
92	Section 271(1) Explanation 7	Amendment to existing explanation	01.04.2013	The scope of explanation has been enlarged so as to cover not only the international transactions define u/s 92B but also specified domestic transactions as defined in section 92BA(see clause 35 for meaning of specified domestic transaction)  Penalty to include domestic transactions subject to TP regulations
93, 94	271AA	Penalty for failure to maintain adequate documentation to cover domestic transactions subject to TP regulations	AY 2013-14	Penalty for failure to keep and maintain adequate documentation to cover domestic transactions subject to TP regulations also, besides International transaction.

95	Section 271AAA(1)	Sun-set Clause	01.07.2012	<p>Under the present provisions, incase of searches, no penalty u/s 271AAA is impossible @ 10% of Undisclosed Income.</p> <p>Since new section 271AAB is sought to be inserted by clause 96, providing for a new regime of penalty in case of searches conducted on or after 01.07.2012, the provisions of section 271AAA would be redundant.</p>
96	Section 271AAB	New-Section	01.07.2012	<p>Under the present provisions, incase of searches, no penalty u/s 271AAA is impossible @ 10% of Undisclosed Income. Incase, the additional income is offered during the course of search (i.e on or before conclusion of last panchanama), there would not be any penalty, subject to certain conditions u/s 271(1)(c.) Explanation (5A).</p> <p>Inorder to strengthen the penal provisions, it has been provided in newly inserted section 271AAB that incase</p>

				<p>additional income is admitted during course of search, penalty would be 10% of undisclosed income.</p> <p>Incase additional income is not admitted during course of search but is disclosed in return of income filed after search, penalty would be 20% of undisclosed income.</p> <p>Incase other case, (where the additional income is not admitted during course of search nor is disclosed in return of income filed after search), penalty would vary between 30% to 90% of undisclosed income.</p>
97	Section 271G	Amendment	01.07.2012	<p>Under the existing provisions of section 271G, penalty on account of failure to furnish information or documents u/s 92D in respect of international transaction under taken by a person is imposable.</p> <p>The expression</p>



				<p>‘International Transaction’ has been substituted at each place wherein it occurs in the said section by the expression ‘International Transaction and specified Domestic Transaction’ so as to make the person entering into specified domestic transactions also liable for penalty for not furnishing the details of transaction.</p>
98	Section 271H	Insertion of new Section	01.07.2012	<p>Failure to deliver statement within time prescribed u/s 200 (3) or to the proviso to sub-section (3) of section 206C may liable to penalty which shall not be less than Rs. 10,000/- but which may extend to Rs. 1,00,000/-. No penalty if payment of tax deducted or collected alongwith fee or interest and delivering the statement afforsaid before the expiry of 1 year from the time prescribed for delivering the such statement.</p>
99	Section 272A	Insertion of new proviso	01.07.2012	<p>No penalty under clause a of section 272A (2) if the statement relates to the period commencing on or after 01.07.2012 Consequential to amendment of newly inserted section 271H</p>
100	Section 273B	Amendment	01.07.2012	<p>No penalty shall be imposed</p>

				u/s 271H if the person proves that there was reasonable cause for the failure.
101, 102, 103, 104 and 105	Section 276C, 276CC, 277, 277A and 278	Scope of Section Enlarged	01.07.2012	<p>Under these sections, the monetary limits determining the period of imprisonment (in case the prosecution get sanctions and confirmed) was Rs.1 Lac. The said limit has now been revised w.e.f. 01/07/2012 to Rs.25 Lacs.</p> <p>It is also being provided that the maximum term of imprisonment which was earlier 3 years in each of these sections, be reduced to 2 years.</p>
106		Insertion of new sections.	01.07.2012	These new sections (4 in nos.) have been inserted so as to provide for a speedy, quicker, prosecution mechanism through constitution of special courts of law, conducting of summons trials and also for appointment of public prosecutors.
107	Section 292CC	Insertion of new section	01.04.1976 (retrospective amendment)	In order to curtail and nullify various judicial pronouncements lying that joint panchnamas or search authorization in joint names are invalid, it has been

				<p>provided by way of clarificatory retrospective amendment that</p> <p>a) Joint panchnama does not refers that it has been issued in the name of AOP or BOI consisting such persons</p> <p>b) Notwithstanding Authorisation or Requisition u/s 132 or 132A in more than one name, assessment shall be made separately in name each of the such persons.</p>
108	Section 296	Insertion of new words	01.07.2012	Whereas clause 64 of the finance bill 2012 provides that the Central Govt. may by rules specify the class or classes of cases (subjected to search u/s 132 and in whose case assessment is pending u/s 153A), in which the AO shall not be required to issue the notice for assessing or reassessing the total income for six assessment years, enabling provisions for making rules and notifications in this regard, which are to be placed before the Parliament, have been referred by way of the amendment vide instant clause.
109	2(ea)(i)(1)	Exclusion of house from purview of	1 April 2013	Definition of 'assets' for the purpose of Wealth-tax not

	(WT Act)	'assets'		to include a house meant exclusively for residential purposes and which is allotted by a company to an employee or an officer or a director who is in whole-time employment, having a gross annual salary of less than ten lakh rupees;
110	Section 17 of Wealth Tax Act		01.07.2012	Amendments analogous to enable reopening of income tax assessments in respect of assets located abroad as contained in clauses 61 and 62, also made under Wealth Tax Act.
111	17A (WT Act)	Extension of time limit for assessment and reassessment	1 July 2012	Consequential amendment for increasing time limit by three months for completion of assessment / reassessment proceedings.
112	45	Wealth tax not applicable for RBI	1 April 1957	Wealth tax not applicable in respect of net wealth of RBI.
113	-	Validation clause - Validation of demand etc. under Income-tax Act in certain cases	Coming into force of Finance Act, 2012	Any notice sent or purporting to have been sent, taxes levied, demanded, assessed or collected during any period prior to coming into force of the validating clause shall be deemed to have been validly made. Such notice or levy of tax shall not be called in question on the ground that tax was not chargeable or that it is a tax on capital gains arising out

				<p>of transactions which have taken place outside India. The validating clause shall operate notwithstanding anything contained in any judgment, decree or order of any Court of Tribunal or Authority.</p>
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