



Decoding the Income Tax Bill 2025

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Introduction

Background

In July 2024, the Indian Finance Minister announced the decision of the Government of India to undertake a comprehensive review of the existing Income-tax Act, 1961 ("IT Act") with four principles, viz. simplifying language, reducing litigation, compliance reduction, and removing redundant provisions.

Pursuant thereto, the new Income Tax Bill, 2025 ("IT Bill") was tabled in the Parliament (Lok Sabha). In our view, the IT Bill focuses on simplification, consolidation of the provisions, and omitting obsolete / redundant provisions as well as references; however, largely maintaining the continuity and stability.

The IT Bill will be effective from April 1, 2026 (i.e., Tax Year 2026-27 onwards).

Numerical Changes / Differences

Parameter	IT Act	IT Bill
Words	~5.12 Lakhs	~2.60 Lakhs
Sections (referred as Clauses in IT Bill)	819	536
Chapters	47	23
Tables	18	57
Provisos	~1,200	-
Explanations	~900	-
Schedules	14	16
Formulae	6	46

Framework of the Chapters

Chapter	Coverage	Chapter	Coverage
I	Preliminary (incl. Definitions)	XVII-A	Assessment of Special Persons
II to VIII	Taxable Income (inc. exemption, deductions, etc.)	XVII-B	Special Provisions for registered NPO
IX	Rebate and Reliefs	XVIII to XX	Dispute Resolution, Collection & Recovery, Refund
X to XIII	Transfer Pricing and Anti-Avoidance	XXI to XXII	Penalties, Offences and Prosecutions
XIII	Special Tax Regime, Tax Rates	XXIII	Miscellaneous
XIV to XVI	Administration and Assessment	-	-

Introduction



Transition, Repealing and Savings

- **Current IT Act** is proposed to be repealed from the same date, i.e., April 01, 2026.
- **Transitional measures** included to enable **continuity** w.r.t availability of tax credits, carry forward of losses and unabsorbed depreciation, MAT and AMT, amortization or deferral of expenses across various years, etc.
- **Continuity of Pending Proceedings:** Assessments, Appellate, and other proceedings initiated under the IT Act will continue, ensuring the validity of tax demands, refunds, penalties, and interest.
- **Departmental Notifications:** Directions, Instructions, Notifications, Orders, or Rules issued under the IT Act to continue in force to the extent consistent with corresponding provisions of the IT Bill.
- Options, Elections, or Declarations made by the Assessee under the IT Act will be deemed to be made under the IT Bill.

Fundamental Shift

- The concepts of “Previous Year” and “Assessment Year” have been done away with and replaced with the word “Tax Year”. Tax Year is a period of 12 months starting from 1st of April every financial year.
- **Substitution of the word “Notwithstanding” with “Irrespective”**
 - The IT Act contains several references to the word “Notwithstanding”, to signify precedence over other provisions of the Chapter/ Act etc. However, this has now been replaced with the phrase “irrespective of” to achieve a similar result.
 - There are various case laws on the meaning of “notwithstanding” but with the introduction of the phrase “irrespective of”, interpretation issues could arise going forward.

International Taxation



Income from Business Connection in India

Under the IT Act, in the case of a business where all the operations are not carried in India, income reasonably attributable to Indian operations is deemed to accrue or arise in India. However, the IT Bill explicitly provides that business connections in India includes any business carried out in India and has removed the subjectivity of “reasonable attribution”.

Refinement in Indirect Transfer Provisions

The IT Act provided that income accruing or arising through the transfer of capital assets in India was deemed to accrue or arise in India. The IT Bill has now provided that income accruing or arising “through or from” transfer of capital asset in India as being deemed to accrue or arise in India.

Also, similar to business connection, the attribution of income does not contain the phrase “reasonably” in determination of income.

Expanded Scope for Interpretation of Undefined Terms in DTAA

The scope of undefined terms has been enhanced under the IT Bill. If a term is not defined in the Agreement, the Act, or any Notification issued by the Central Government, its meaning may be derived from (i) Any Central Government Act related to taxation, or (ii) In other cases, any other law enacted by the Central Government.

M&A and Capital Gains

Definition of Demerger

Reference to fast-track merger under Section 233 of the Companies Act has not been provided under the definition of Demerger, as only arrangements under Section 230 to Section 232 are currently covered. It is to be seen if the scope would be expanded by the Select Committee.

Capital Gains

The benefit of foreign currency fluctuation appears to be made available to non-residents on the sale of Indian shares. It is to be seen if the same is intentional or would be reverted to current status while the Select Committee reviews the IT Bill.

Deduction w.r.t inter-corporate dividends

Rollover benefit of dividend exemption not granted to companies opting for concessional rate of tax (under Section 115BAA of IT Act).

Capital Gains Exemption

Clause 85 of the IT Bill (present Section 54EC) dealing with capital gains exemption on investments in certain bonds provides that exemption will be available only for long-term capital gains whereas, in the existing Section it was for long-term capital assets. This, in effect, implies that exemption may not be available on short-term capital gains arising in Section 50 on transfer of depreciable long-term capital assets, as the exemption is now restricted to long-term capital gains and does not include short-term capital gains.

Tax NOC

Requirement to obtain tax NOC extended to transfer of Virtual Digital Asset (“VDA”) – Non-stock-in-trade.

Definition of “Relative”

The definition of Relative has been clarified to include both maternal and paternal lineal ascendants and descendants. This makes the definition clearer.

For the purposes of Gift Tax, Virtual Digital Assets have now been included in the definition of ‘Property’ under corresponding Clause 92 of the IT Bill.



Expanded Scope Under New Section 147

The wording of Section 147 of the IT Bill is broader compared to Section 80LA of the IT Act. Section 80LA refers to "certain income," whereas Section 147 covers "**income**" suggesting a wider scope of tax benefits.

Definition of Eligible Income

The Section 147(3)(c) of the IT Bill states - *"Income from the approved business activities of a unit of IFSC set up in SEZ."*

The use of "**approved business activities**" instead of "approved business" is wider term and may indicate that all income, including non-business income, could be eligible for a tax holiday. Further clarification is expected to remove any ambiguity on restrictive applicability of tax holiday to a unit in IFSC

MAT Applicability for Foreign Reinsurance Branches

MAT may still be applicable during the tax holiday period for branches of foreign reinsurance companies operating in GIFT-IFSC, even under the IT Bill.

While certain adjustments may be possible, a detailed analysis is required to assess the extent of relief available.

Transfer Pricing

Change in Terminology from 'Computation' to 'Determination' of ALP

Under the IT Bill, 'computation of ALP' has been replaced with 'determination of ALP'. Further, the heading of Section 92 under the IT Act vs. corresponding Section 161 of the IT Bill remains the same i.e., Computation of income, however, the heading of Section 92C under the IT Act vs. corresponding Section 165 of the IT Bill has been changed from 'computation of ALP' to 'determination of ALP'.

Transfer Pricing is economics and arriving at the arm's length price is the end result. The proposed modification of word from computation to determination is more towards aligning the title from just performing mathematical calculations to reaching a conclusion or outcome based on reasoning, analysis, or facts.

It has to be observed whether such change may have any impact on the position settled by the judicial precedents that 'Transfer Pricing Provisions is a machinery / computation provision and not charging provision.'

Interplay Between General Conditions and Objective Thresholds for AE Relationship

The IT Bill intends to clarify the ambiguity regarding the controversy on the interplay between general conditions in sub-section (1) and objective thresholds under sub-section (2) for the purposes of determining AE relationship. It is held by the Judicial Courts that sub-section(1) and sub-section(2) should be read together in conjunction. However, such proposed change may unsettle the judicial precedents and increase interpretational issues.

ALP Determination and Potential Changes

- The IT Bill specifically provides the mechanism for determining the ALP in case **one price** is determined by most appropriate method. Further, the concept of tolerance range of +/- 3% will be applicable in case there is only one price / comparable company or transaction.
- The mechanism for determining ALP in case **more than one price** is determined by most appropriate method will be prescribed. In such scenario, it may be interesting to observe if the existing concept of arithmetic mean or arm's length range would be changed. Also, it may be pertinent to observe if arm's length range (35th percentile - 65th percentile) is revisited and enhanced in line with the OECD / international standards (inter-quartile range of 25th percentile - 75th percentile).
- The conditions in Section 165(4) of the IT Bill for determining the ALP by AO seem to wrongly include reference to APA under Section 168(1) instead of information and documents specified under Section 171(1) of the IT Bill.

Uniformity between IT Act and IT Bill

Under the IT Bill, the thresholds for deemed AE relationship, conditions of deemed international transactions, transaction coverage and threshold for SDT, provisions for TP Compliances, APA provisions, etc., continue to remain the same.

Business Income / Presumptive Taxation Scheme

Depreciation

Presently, under the IT Act, depreciation is considered to be an allowance. The IT Bill, considers depreciation to be a deduction and thereby an expenditure.

Consolidation of Presumptive Taxation Provisions

The IT Bill consolidates multiple Sections governing presumptive taxation:

- Section 58 merges the provisions of **Sections 44AD, 44ADA, and 44AE** of the IT Act into a single framework.
- Section 61 merges the provisions of **Sections 44B, 44BB, 44BBA, 44BBB and 44BBC** of the IT Act and the proposed **Section 44BBD (to be inserted via the Finance Bill, 2025)** into a unified framework.

A significant change under Section 61 of the IT Bill allows non-residents engaged in the business of operating ships, cruise ships, or aircraft to **declare profits below the prescribed percentage under the presumptive taxation scheme**, subject to compliance with specified conditions.

Definition of Profession

The new provisions explicitly include **Information Technology** and **Company Secretary** within the statutory definition of a specified profession. Previously, these professions were notified through a separate notification but were not included within the Section.

The above amendment is specifically not included in the definition of profession provided under Section 402 of the IT Bill for the purpose of TDS.

Books of Account and Tax Audit

- Currently, Individual or HUF are required to maintain books of account if the income exceeds INR 2.50 Lakhs or total sales, turnover, or gross receipts from businesses or professions exceed INR 25 Lakhs. The IT Bill has retained the income threshold of INR 2.50 Lakhs but the threshold for total sales, turnover, or gross receipts has been reduced from INR 25 lakh to INR 2.5 lakh. This may be an oversight which may be corrected when the bill is reviewed by the Select Committee.
- Assessee opting for presumptive taxation is not required to maintain books of accounts and undergo a tax audit where it declares profits below the prescribed percentage under the presumptive taxation scheme **and total income exceeds the basic exemption limit**. This condition relating to basic exemption limit has been additionally included to reduce the obligation in a case where the income does not exceed basic exemption limit.

Tax Deduction at Source

TDS on Winning from Online Games

The TDS on winning from online games is required to be withheld on net amount of winnings. The table gives reference to Note 1 for determining net winnings. However, no note is given below the relevant table. This may be an oversight which may be corrected when the bill is reviewed by the Select Committee.

Nil or Lower Tax Deduction Certificate

- The provision for obtaining a nil tax deduction certificate has been removed.
- Under the IT Bill, lower tax deduction certificate can be applied for all types of income which are subject to TDS.
- In case of Residents, only the payee is permitted to make an application for a lower tax deduction certificate.
- The Assessing Officer ('AO') is now explicitly required to provide an opportunity to be heard before canceling a lower tax deduction certificate.

Return of Income



Mandatory Return Filing for Taxpayers Claiming Refund

The IT Bill appears to mandate the filing of return of income for taxpayers who intend to claim tax refund due to the fact that Clause 263 of the IT Bill specifically mandates the same, although Clause 433 of the IT Bill provides that the refund could be claimed by filing the return under Clause 263 of the IT Bill which also covers a belated return.

Board Empowered to Specify Mandatory Return Filing Conditions

The IT Bill currently does not include conditions / circumstances such as deposit of a specified amount in the current account, electricity consumption, foreign travel, turnover or gross receipt exceeding the threshold limit, etc., under which filing the return of income was mandatory to any Person other than the Company and Firm. However, the Board has been given the power to specify the conditions upon which the return filing will become mandatory.

Deletion of 15% Interest Levy on non-filing or delay in filing the return

Under the IT Bill, the provision for levy of interest at the rate of 15% p.a. in case of non-filing or delay in filing the return of income has been deleted.

Assessment / Re-assessment Proceedings

Revised Time Limit for Special Audit

The extension of time limit for special audit under Clause 268 of the IT Bill changed from 180 days of the date of direction to "**6 months from the end of the month in which direction has been received by the Assessee**".

GAAR Related Proceedings

The directions of the Approving Panel in relation to impermissible avoidance arrangement under GAAR and findings / directions in the order passed by any Authority, Tribunal or Court in the proceedings under any provision of the law is now specifically included in the meaning of income escaping assessment for the purpose of re-assessment proceedings. Now, the Assessing Officer has been given the power in the above cases to issue the notice for re-assessment proceedings with approval from the specified authority.

As per Section 148A of the IT Act, the AO is mandatorily required to issue the notice and provide opportunity for hearing to the Assessee to show cause why a notice of re-assessment proceedings should not be issued under Section 148 of the IT Act. Now, as per the corresponding Clause 281 of the IT Bill, such opportunity or show cause notice is not required in case of directions of the Approving Panel in relation to impermissible avoidance arrangement under GAAR and findings / directions in the order passed by any Authority, Tribunal or Court in the proceedings under any provision of the law.

Minimum Timeframe for Issuance of Re-assessment Notice

The notice of re-assessment proceedings under the IT Bill can be issued only after 1 year from the end of relevant tax year.

The IT Bill does not provide any time limit for initiating re-assessment proceedings based on the directions of the Approving Panel regarding an impermissible avoidance arrangement under GAAR or on findings and directions issued in an order by any Authority, Tribunal, or Court under any legal provision.

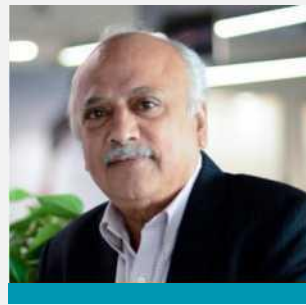
Consolidation of Faceless Scheme Provisions

The provisions for faceless schemes under different Sections of the IT Act w.r.t proceedings at different levels are now consolidated and unified into one Clause under the IT Bill.



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