

Deloitte.



Income Tax Policy Survey

Assessing industry perceptions and future expectations

December 2024

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Foreword – Journeying towards a Viksit Bharat

India has actively embarked on the ambitious trajectory of becoming the third-largest global economy by 2030 and attaining a developed country status by 2047. Realising the aim of a Viksit Bharat (developed India) would hinge on multiple factors, such as building institutional capacities; making India a global manufacturing and innovation hub; improving overall infrastructure; digitising the Indian economy, as well as revamping economic and commercial legislations.

Addressing the nation on India's 75th Independence Day, Hon'ble Prime Minister Narendra Modi said that the time is right for India to undertake measures for propelling growth. **"Yahi samay hai, sahi samay hai, Bharat ka anmol samay hai..." (this is the time, this is the right time, this is India's precious time...)**. Bold reforms in the past [the Insolvency and Bankruptcy Code in 2016, introduction of Goods and Services Tax (GST) in 2017], coupled with the ongoing digitisation drive (whereby systems from taxation up to incorporating a company are being transitioned to digital platforms under the e-governance initiative) and regulatory reforms, such as the changes in the Foreign Direct Investment (FDI) regime, are strides in the right direction.

Alluding to the sentiment of the time being right for India to drive remarkable growth and shine globally, the Union Finance Minister Nirmala Sitharaman, while presenting Budget 2024, announced a comprehensive review of the Income-tax Act of 1961 (the Act) within six months. The purpose of the transformational tax review exercise is to make the Act concise, lucid, easy to read and understand. This would reduce disputes and litigation, providing tax certainty to taxpayers and bring down demand embroiled in litigation).

A simplified tax law, coupled with tax certainty and lesser compliance burden, will boost investor sentiment and promote ease of doing business in India. It will also help in charting a positive narrative towards a Viksit Bharat.

A major initiative towards income-tax law simplification was undertaken recently with the introduction of alternative simplified tax regimes with lower tax rates but fewer exemptions and deductions, to make compliance easier. Budget 2024 pointed out that about 58 percent of corporate tax collection came from the simplified tax regime for the financial year 2022-23. Another notable initiative is the recent amendment in capital gains taxation that brings parity in taxes for differential asset classes and taxpayers, and streamlines multiple holding periods, significantly reducing the erstwhile inherent complexities in computing capital gains.

In light of this background, Deloitte India ran a survey gathering responses from over 320 participants to understand the industry outlook on the complexities perceived under the existing income-tax law and the desired outcomes from the comprehensive review of the Act. We hope this survey allows businesses and policymakers to develop a clearer picture of the tax environment in India, pose fundamental questions for policy design and look at how the recommendations can be applied to improve the existing policy.

Introduction

- Objective and methodology
- Respondents' profile

Introduction

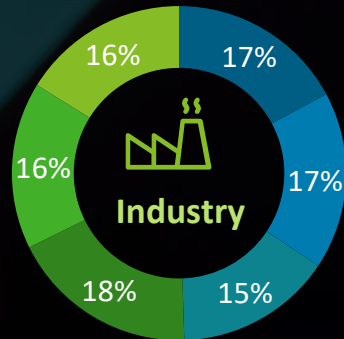
Objectives of the study

- Examine and assess the industry's perception of various aspects of the existing income-tax policy and key expectations from future direct tax policy reforms.
- Identify key areas of improvement and reforms necessary to enhance the effectiveness of the income tax policy framework and support economic growth.

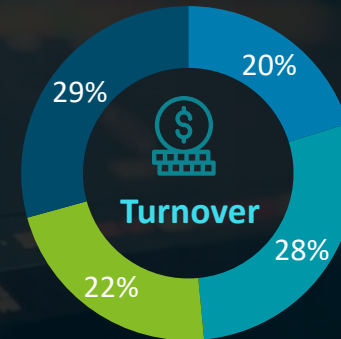
Methodology

- Primary research involving an online survey of over 320 respondents in organisations across industries and revenue profiles, including :
- C-suite, Directors and Presidents from the finance and tax functions
 - General managers (finance/tax), and Vice-presidents (finance/tax)
 - Finance and taxation managers

Respondents' profile



- Consumer
- Energy, resources & industrials
- Lifesciences & healthcare
- Technology, media and telecommunication (TMT)
- Financial services
- Government & public services



- Less than INR 500 crore (Small)
- INR 500 - 3,000 crore (Medium)
- INR 3,000 - 6,500 crore (Large)
- Above INR 6,500 crore (Very large)

Executive summary

Executive summary (1/3)



Assessing the status quo

A major population of almost 94 percent of the respondents spanning across industries and revenue profiles unanimously agree on the need for simplification of the current income tax law in India.

- Interpretation of tax law and computing taxable income/tax payable are highlighted as the key areas in need of reform.
- A vast majority (64 percent) rated transfer pricing law as complex/extremely complex, with the law for penalties and prosecution (63 percent) and assessment/reassessments (61 percent), following closely. Anti-avoidance (GAAR and SAAR) rules received the highest votes in the category of being extremely complex.
- Simplification in the ease of preparing and filing individual Income Tax Return (ITR)/Corporate ITR/tax audit report form is a key ask from more than 70 percent of respondents.
- Time and cost commitments to pursue tax litigation emerged as a top concern for conduct of business.



Recent simplification initiatives

An overall consensus among respondents regarding the effectiveness of recent simplification initiatives

- Respondents are highly appreciative of the recent initiative of the use of technology, along with AIS and TIS, to aid taxpayers in the ITR filing.
- About 57 percent of the respondents lauded the recent changes to the capital gains tax regime as a success in simplifying inherent complexities in the former regime.
- The introduction of simplified tax regimes with lower tax rates for specific corporate taxpayers is also perceived as a fairly successful simplification initiative receiving the support of 54 percent of the respondents.



Business/Industry improvements: Augmenting growth with tax reforms

Suggestions to make the Act forward-looking to align with the socio-economic environment of the future

- Respondents advocated for a reduction in interpretation issues by offering guidance / examples, as a top priority for future tax reforms.
- The second priority is to simplify the language and reduce the use of provisos to make the Act easy to read and understand and minimise litigation due to miscomprehension.
- The third priority is incorporating principles laid down by the Supreme Court into the law. This would bring stability, certainty, and consistency in the application of the law and thereby boost investment and trade in India.



**Future expectations
and reforms:
An insight into
suggestions for the
future of tax law
in India**

Key expectations from the revamped law

Process reforms

- **Withholding tax regime** - Key recommendations emphasize the need for eliminating redundant documentation, instituting a better tracking mechanism through enhanced automated reporting and clarity for ambiguities related to year-end provisions.
- **Income tax returns (ITR)**- Automated reconciliations and simplification through consolidation of ancillary Forms are the top preferences for revamping the ITR filing process.
- **Faceless assessments** – For more comprehensive and qualitative assessments it is suggested to enhance communication between the tax department and taxpayers, provide taxpayers with an option to seek independent reviews and access to expert support for assessment units.
- **Dispute resolution** - Timely disposal of appeals, avoiding litigation efforts for repetitive issues and a taxpayer-only right to appeal against the First Appellate Authority [CIT(A)] order are among the most preferred suggestions.
- **Optimising Advance Pricing Agreements (APA)** by keeping transfer pricing assessments for covered years in abeyance; allowing corresponding adjustments in taxable income of associated enterprises (AEs) and allowing term reviews under APA for cyclical businesses are the top priorities to reduce litigation and boost APA.



**Future expectations
and reforms:
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Tax policy framework

- **Transfer pricing (TP)** – Respondents emphasize clarity in rules, procedures and documentation; defining AE relationship for new structures, and adoption of best global practices to rationalise TP regulations.
- **Business restructuring** – Clear SOPs for certainty on transfer/ continuity of credits, incentives and deductions between transferor and transferee entities and allowance of carry-forward and set-off of losses in service industry restructuring are priorities to aid restructuring efforts.
- **Incentives** – Clarity on availing the patent regime, simplifying the conditions for new hirings incentive and a clear framework for existing tax incentives are the key priorities to improve their effectiveness.
- **New-age value creators** – Strong industry support for tax laws that promote manufacturing in India, advance ESG aspects and foster an innovation/ R&D culture.
- **New personal tax regime** – Respondents advocate for increased deductions, and further rationalisation and simplification of law to make the new regime more attractive and appealing.

Survey findings and Deloitte's perspective

Assessing the status quo

- Need for simplification
- Key areas requiring simplification
- Effectiveness of recent simplification initiatives
- Tax complexity perceived in the current law
- Primary concerns for the conduct of business

Need for simplifying the income tax law

Respondents strongly advocate simplification of existing income tax law

An overwhelming majority of 94 percent acknowledged that the existing income tax law needs to be simplified.



- All industries and revenue profiles demonstrate alignment with the overall trend of seeking a more simplified tax law.
- India Inc's long overdue call for tax simplification is finally a part of the fiscal policy agenda.
 - The Government has initiated a major reform in the Union Budget of 2024 to simplify direct tax law, reduce litigation and provide certainty; suggestions have been invited from the private sector and from tax experts.
- Respondents advocate the need for:
 - Revamping tax laws to streamline the tax regime and ensure certainty for taxpayers.
 - Laws to be articulated in clear, concise and easily understandable language to reduce disputes and litigation.
 - Better taxpayer services, support and streamlining of tax rates.
 - Use of digitalisation and automation to ease tax compliances.

QA.5. Do you think the income tax law requires simplification?

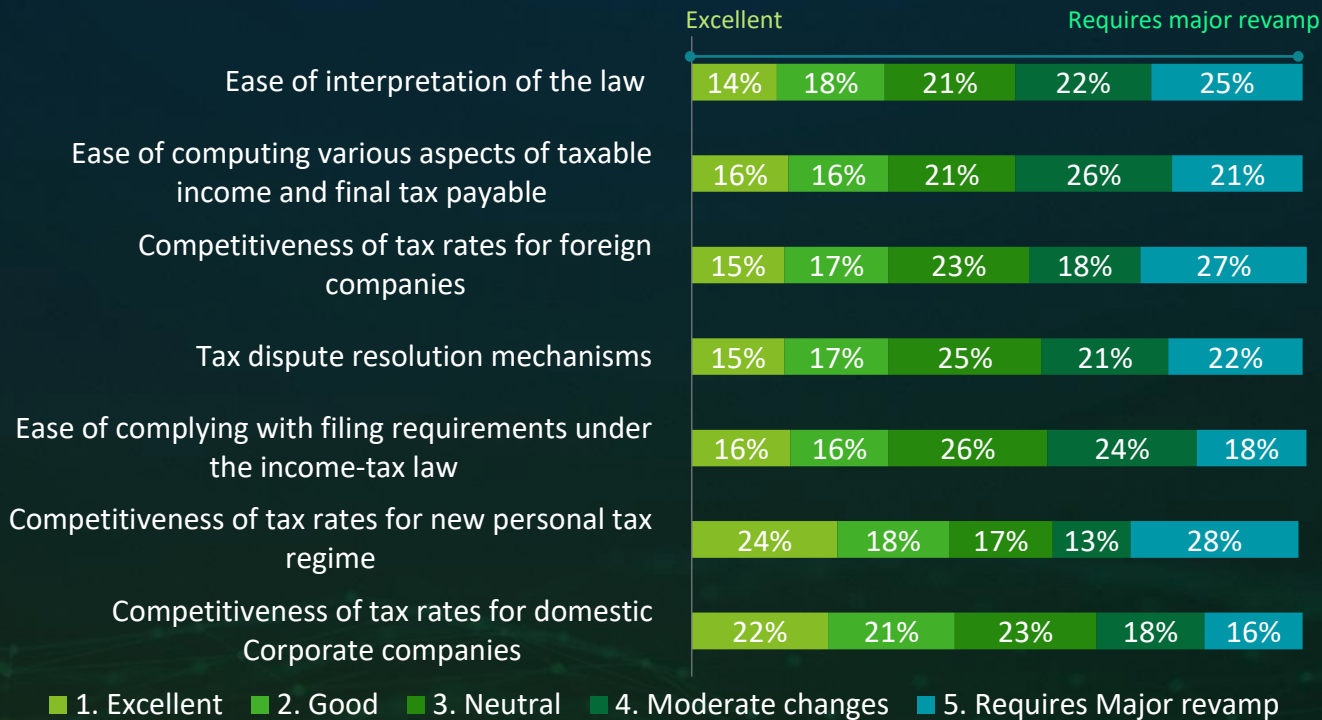
This is a single select question.

Key areas of law requiring simplification

India Inc. calls for ease of interpretation of law, improving competitiveness of tax rates for individuals and foreign companies, and ease of computing taxable income and tax payable.

Overall, the competitiveness of tax rates for domestic firms is perceived to be effective by majority of respondents.

Evaluation of key aspects of the income-tax law



Please note that we have considered the sum of the percentages of rank 1 and 2 (Excellent and Good)/rank 3 and 4 (Moderate changes and requires major revamp) respectively for drawing the insights

QB.1. What is your assessment on the following aspects of income tax law as it exists as of today?

Rate each option on a scale of 1 to 5, 1 being excellent, 2 means good, 3 being neutral, 4 means moderate changes are required and 5 requires major revamp.

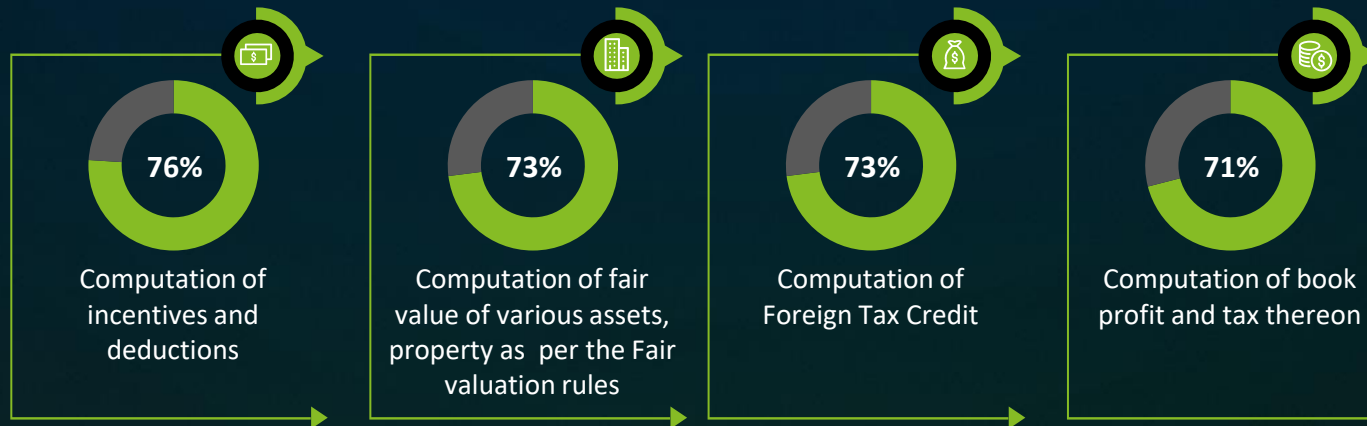
- A majority of respondents (47 percent) highlighted challenges in interpreting existing tax law and calculating taxable income and tax payable.
- About 45 percent of respondents expressed a need for further reforms to improve the competitiveness of tax rates for foreign companies.
- Tax dispute resolution mechanisms are also a focal area for improvement, a view supported by 43 percent of respondents.
- About 43 percent of respondents expressed overall satisfaction with the competitiveness of tax rates for domestic firms (only 34 percent seek further rationalization) reflecting their perceived effectiveness.
- Respondents also pointed out the need for revamp in areas such as ease of complying with filing requirements (42 percent) and improving the competitiveness of tax rates under the new personal tax regime (41 percent).

Broad call for simplification of key computational aspects and filing requirements in income-tax law

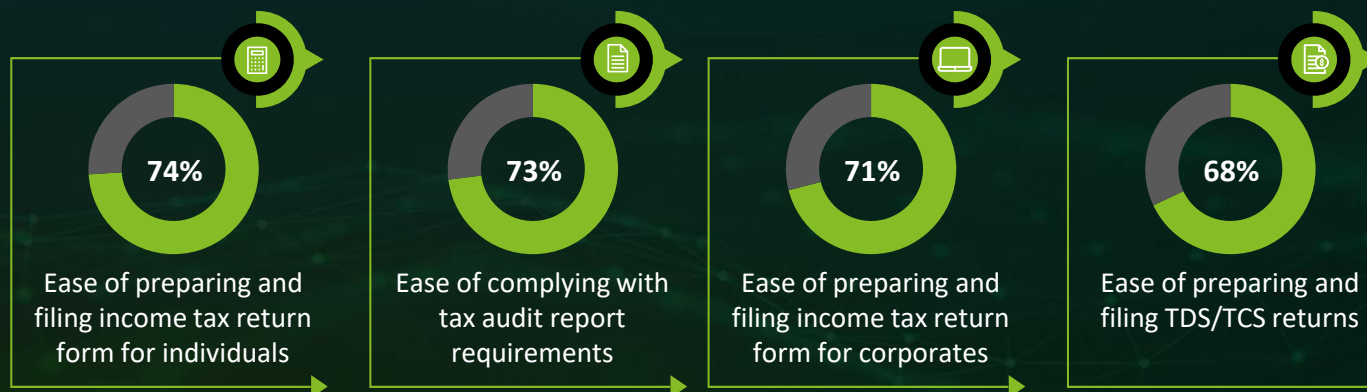
Computation of incentives/deductions and ITR filings emerge as the top choices for further simplification

Highlighting key computational aspects and tax filings necessitating simplification

Need for ease in computing various aspects of taxable income and final tax payable



Need for ease in complying with filing requirements under the income-tax law



QB.2. Do you think the law is required to be simplified as regards to the following specific aspects?
Single select for each option, 1 being easy to understand and 2 requires simplification

Computational simplification areas:

- A vast majority of respondents (76 percent) rooted for simplification in computing incentives and deductions, reflecting taxpayers' concern in understanding and computing eligible incentives/ deductions.
- Nearly three-fourths (73 percent) of respondents advocated for simplifying the computation methodology of the fair value of assets and other property as well as the computation of foreign tax credit.
- Simplification in computing "book profit" and tax thereon was supported by 71 percent of respondents.

Need for simplified tax compliances/filing requirements:

- Ease of preparing and filing individual ITR forms is a major ask, supported by nearly 74 percent of respondents, while 71 percent sought to simplify ITR forms for corporates.
- For 73 percent of respondents, simplification of the tax audit report is a major ask, indicating a high level of complexity and compliance burden.
- About 68 percent of respondents laid emphasis on the requirement to ease preparing and filing of tax deduction/ collection at source [TDS/TCS] returns.

The Deloitte perspective (1/2)



Need for simplification

The income-tax law in India is more than six decades old and has been drafted using archaic practices, such as long and complex sentences, numerous sub-sections, provisos and explanations complicating the language and understanding of the law. With amendments over time, the law has become extremely complex leading to diverse interpretations, and instances rampant of drafting not being in consonance with the stated intent [e.g., The concept of Significant Economic Presence (SEP) which intended to cover new business models operating remotely through a digital medium may apply to non digital medium businesses also]. Stakeholder participation in the drafting stage is close to non-existent. The legislation, while complex, is also compounded with an unorganized framework such that tax rates, computational provisions, compliances, penalties and prosecution provisions are scattered across the Act. Tax laws and rates are frequently amended, making it challenging for both tax authorities and taxpayers to keep abreast. Tax complexity is a source of inefficiency, diverting excessive time and resources to compliance, disputes and litigation, away from value creation and growth.

We hope, the Government's continuing efforts to simplify laws and provide tax certainty, along with the use of digitalisation, will ease the complexity of the current tax regime, freeing businesses from the associated inefficiency.



Computational aspects

Complexity in tax computation makes it difficult for taxpayers to make accurate claims and discharge their tax liability correctly. These include challenges in computation of incentives and deductions, fair value of various assets as per the fair valuation rules, computation of foreign tax credit and computation of book profit.

The Deloitte perspective (2/2)



Filing requirements

There is a clear ask from respondents for rationalising compliances under the income-tax law. Onerous reporting requirements result in significant time being spent on the collation, verification and reconciliation of data. There is a constant broadening of tax disclosures in terms of the covered audience and scope which calls for rapid changes in tax functions and systems adopted by businesses.



Competitiveness of tax rates

India Inc. has recently seen a well-balanced corporate income-tax rate, reduced from 30 percent (plus surcharge and cess) to 25/22 percent (plus surcharge and cess) for select domestic corporates. The recent reduction of the headline tax rate to 35 percent (plus surcharge and cess) for foreign corporates is a welcome initiative towards increasing global competitiveness. On the personal tax front, the new regime offers wider slabs but permits limited deductions and exemptions. There is a balanced opinion on the competitiveness of tax rates under the new personal tax regime.



Tax dispute resolution

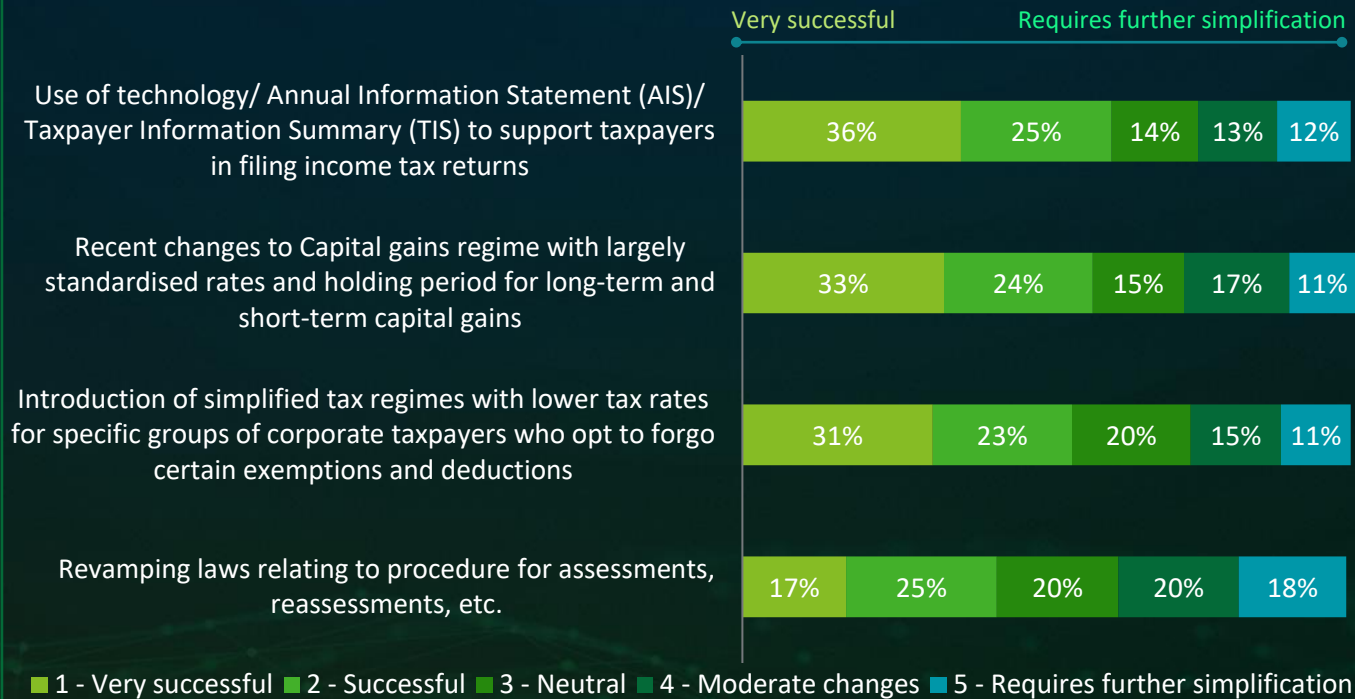
A prolonged litigation timeframe results in a lack of tax certainty and time and cost inefficiencies. India is experiencing an unprecedented increase in tax litigation, compounded by a massive backlog of appeals pending resolution at the first appellate level, thereby stressing the need for significant reform to ensure timely adjudication under the existing dispute resolution mechanisms and alternative dispute resolution options.

Recent simplification initiatives

Overall consensus among respondents on the effectiveness of recent simplification initiatives

A majority of the recent simplification initiatives are acknowledged as successful, indicating the effectiveness of tax policy reforms.

Assessment of recent simplification efforts



Please note that we have considered the sum of the percentages of rank 1 and 2 (Very Successful and Successful)/ rank 3 and 4 (Moderate changes and requires further simplification) respectively for drawing the insights

QB.3. How would you rate the following income tax law simplification initiatives undertaken in the last few years?

Rate each option on a scale of 1 to 5, 1 being very successful in achieving simplification and 5 requires further simplification

Evaluating recent simplification initiatives

- The use of technology, along with AIS and TIS, to aid taxpayers in the ITR filing process received the highest appreciation with 61 percent of respondents rating them as successful or very successful.
- About 57 percent of respondents lauded the recent changes to the capital gains tax regime as successful/ very successful in simplifying the former regime, compared with 28 percent who believe there is room for further simplification.
- The introduction of simplified tax regimes with lower tax rates for specific corporate taxpayers, is also perceived as fairly successful simplification initiative receiving the support of 54 percent of respondents.
- Only 42 percent of respondents acknowledged the initiative of revamping erstwhile assessment and reassessment procedures as achieving simplification, indicating room for additional reform in this area.

The Deloitte perspective (1/2)



Easing compliances through automation

Taxpayers are largely appreciative of the department's digitalisation initiatives, particularly the revamping of the income-tax portal for e-filing of ITRs and the introduction of Annual Information Statement (AIS) and Taxpayer Information Summary (TIS) initiative to assist taxpayers in meeting their return filing obligations. E-filing 2.0 and pre-filled tax returns using AIS/TIS information, has eased the compliance burden by reducing the time spent by taxpayers on data collation for filing ITR and promoting higher voluntary compliance. This is evident from the increase in the number of returns filed for the past two years.



Capital gains tax rejig

Reforms in the scheme of capital gains tax computation were much awaited, considering growing complexities due to variations in the treatment and computation based on the holding period (12, 24, and 36 months), asset classification (listed, unlisted, equity, debt, land, etc.), differential tax rates (e.g., 10 percent without indexation, 20 percent with indexation, 15 percent), and differences in taxpayer type (resident, non-resident, domestic company, foreign company, etc.). Finally, a beginning has been made with Budget 2024 by rationalising the rates and streamlining the holding period into two broad categories – one year for listed securities and two years for other assets (except in case of slump sale). The new capital gains regime brings in parity in taxes for differential asset classes and taxpayers by simplifying the tax rate into two main categories: long-term capital gains uniformly taxable at 12.5 percent and short-term capital gains, typically taxed at the applicable slab rates. Indexation has been discontinued to ensure ease of computation. The survey results indicate that taxpayers appreciate the uniformity and computational ease provided by the new regime.

The Deloitte perspective (2/2)



Simplified tax regimes

Taxation Laws (Amendment) Act, 2019 ushered a paradigm shift in the taxation of corporate entities in India, providing for a reduced tax rate of 22 percent and 15 percent (plus applicable surcharge and cess) for certain domestic companies and manufacturing companies, respectively, subject to certain conditions. These reduced tax rates came with a consequential surrender of specified deductions/exemptions. Also, the non-applicability of Minimum Alternate Tax (MAT) provisions for those who opt for these regimes does away with the additional complication of comparing tax on book profits with tax computed under the normal provisions, therefore improving the ease of computation. A simplified corporate tax regime ought to be the way forward.



Revamped assessments and reassessments

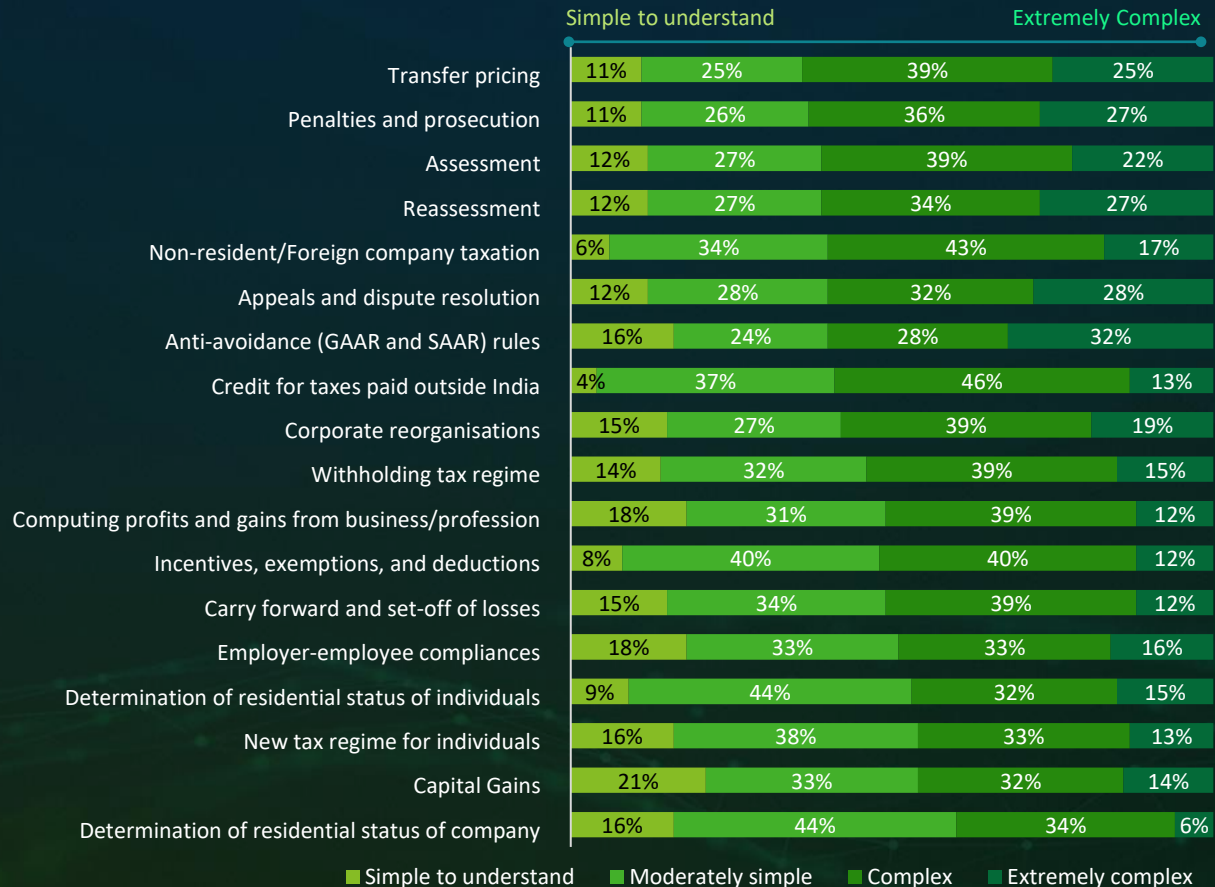
The introduction of the new scheme for assessment and reassessments w.e.f 1 April 2021 was a step towards simplification of tax laws. However, these schemes faced challenges because of procedural lapses and lack of clarity at the ground level, for both taxpayers and the tax department. Subsequently, there have been amendments to address various challenges and as recent as Budget 2024 overhauled the entire reassessment regime. Frequent changes in tax laws, procedural uncertainties, and consequent increase in disputes and litigation have likely contributed to the lack of overwhelming support for these initiatives. Addressing key aspects, such as the authority that can issue notices, ensuring adherence to established procedures, approvals required for proceedings, requests for personal hearings via video conference, removal of technical snags hindering real-time data exchange will improve the taxpayer and tax administration experience, unlocking the full potential of these reforms. Additionally, a more consultative approach with industry stakeholders before implementing major amendments could help to identify potential impacts, avoid inconsistencies in law and provide greater tax certainty.

Tax complexity in existing law

C-suite executives perceive several areas of the tax law as complex, warranting need for simplification

Transfer pricing emerges as the most complex aspect drawing attention for urgent reforms in this area

Assessing complexity in key areas of the tax law



Perceived complexity of tax law aspects:

- A majority (64 percent) of respondents rated transfer pricing laws as complex/extremely complex with penalties and prosecution (63 percent) and assessment/reassessments (61 percent) a close second and third, respectively.
- Non-resident and foreign company taxation, along with appeals and dispute resolution, are also perceived as complex by 60 percent of respondents.
- Anti-avoidance (GAAR and SAAR) rules received the highest votes in the category of being extremely complex, by 32 percent of respondents and as complex by further 28 percent, underlining the need for simpler rules.
- Aspects such as the determination of a company's residential status (60 percent), a new tax regime for individuals (54 percent), capital gains (54 percent) and determination of individuals' residential status (53 percent) were rated as simple or moderately simple, indicating respondents' relative satisfaction in understanding them.
- Respondents' opinions were divided on certain aspects, such as:
 - Employer-employee compliances (49 percent complex, 51 percent simple)
 - Computing business profits/gains (51 percent complex, 49 percent simple)
 - Carry-forward and set-off losses (51 percent complex, 49 percent simple)

QB.4. How would you rate complexity of the Indian income-tax law for the identified areas?

Please note that we have considered the sum of the percentages of rank 1 and 2 (Excellent and Good)/ Rank 3 and 4 (Moderate changes and requires major revamp) respectively for drawing the insights

The Deloitte perspective (1/4)

Taxes and their effects are complex. Tax complexity could be due to various factors. In this section of the survey, we reflect on the responses on the complexity perceived by respondents for key areas of the existing income-tax law.



Transfer pricing (TP) law ranks highest in terms of complexity

While Indian TP regulations are largely in line with OECD TP regulations that are followed globally, certain peculiar provisions in the existing law make Indian TP regulations more complex, compliance-driven and prone to litigation. There are notable deviations from OECD regulations, especially in the definition of AE relationship that covers almost all dealings with group entities and even certain third-party transactions. The TP documentation rules also deviate from the BEPS Action 13 recommendations (such as consolidated group revenue threshold, prescribed in INR and the Master File format requiring more information than prescribed). The benchmarking rules deviate from global standards of interquartile range followed in most countries and prescribe a percentile range of 35–65%. These deviations pose challenges for MNEs operating in India, in aligning their global TP policies with the Indian regulations. Further, certain practical challenges faced in TP audit, such as comparability analysis, rejection of intra-group transactions without considering commercial expediency and non-use of foreign benchmarks where foreign AE is the tested party result in protracted litigation.



Penalty and prosecution provisions rank second in terms of complexity

In India, the complexity in penalty and prosecution provisions is largely due to their multifarious nature, lack of distinguishment between an offence and an error, diversity in computation of penal levies for various offences and the criminalisation of trivial errors. Further, some penalties apply automatically irrespective of the quantum of default and the seriousness of the offence (e.g., section 270A). Taxpayers have no choice but to litigate to safeguard harsh penal levies and protect business reputation. There is a need to decriminalise non-serious offences, especially for low-risk taxpayers. Recent rationalisation of compounding charges is a positive move towards decriminalising tax offences and fostering trust in taxpayers.

The Deloitte perspective (2/4)



Complexities arising from non-resident/foreign company taxation

Non-resident taxation has been a vexing issue in India, mainly due to difference in definitions and interpretation of terms, per international law and Indian tax authorities. Most of the litigation is around eligibility to claim tax treaty relief, classification and taxation as royalty, fees for technical services, dividend, permanent establishments and interest income. Moreover, there are varying tax rates applicable to NRs for various sources of income that are scattered across the Act, making the provisions difficult to decipher (For example, section 112, section 115A and section 115BBA) along with differing foreign exchange conversion rules. Simplification of tax laws and providing tax certainty would make it easier for non-residents and foreign entities to understand their tax obligations and plan their investments in India.



Tax appeals and dispute resolution

Tax appeals and dispute resolution is another area that respondents consider as complex. The key aspect to be addressed is the lack of timebound mechanisms to resolve disputes, resulting in prolonged delays and huge litigation costs. Significant funds of taxpayers remain blocked due to the need for a discharge of a minimum 20 percent of the demand to obtain a stay during the pendency of the matter. Currently, approximately 600,000 appeals are pending resolution at various levels with major pendency at the level of first appellate authority.

The Deloitte perspective (3/4)



Anti-avoidance rules

Anti-avoidance rules also ranked as highly complex possibly due to the untried and untested nature of these provisions. Further, the interplay of legislative general anti avoidance rules ('GAAR'), judicial GAAR, treaty rules, such as Principal Purpose Test (PPT) and Limitation of Benefits (LoB), along with other Specific Anti Avoidance Rules, increase the complexity of these provisions. The lack of adequate administrative guidance for tax authorities adds to the subjectivity. Further, the present monetary threshold of INR 30 million of tax benefit computed on an aggregate basis for all parties to the transaction, also seems to be trivial.



Foreign Tax Credit (FTC)

The lack of clarity with respect to the computation of eligible FTC (for taxes paid outside India) in peculiar circumstances such as a claim in respect of taxes on income that does not form part of the total income in the country of residence, or the full or proportionate claim for FTC (as income may be taxed on a gross basis in source state and a net basis in residence state), or underlying tax credit, etc. affect the amount of FTC that can be claimed and lead to denial of tax credits and increase in litigation.



Corporate reorganisations

Taxation relating to corporate reorganisations continues to be complex, due to intricacies and differences in tax treatment for different transfers (such as a merger, slump sale, itemised sale, conversion and other forms of structuring); interpretational challenges such as what constitutes a transfer, satisfaction of conditions to achieve tax neutrality, scattering of provisions in various chapters (e.g. sections 9B, 112, 112A, 111A, 94(7), etc.), computational challenges (determination of cost of acquisition and sale consideration) and lack of certainty for eligibility to claim losses, deductions and credits between the transferor and transferee entities.

The Deloitte perspective (4/4)



Withholding tax regime

At present, there are approximately 40 sections of the Act addressing TDS, supported by an extensive list of Rules and Forms. TDS rates vary from 0.1 percent to 35 percent, with different thresholds for different types of payments, covering both resident and non-resident transactions. The system for TDS is quite complex and tedious. Defaults also entail penalties and even prosecution. The Government has taken initial steps by rationalising TDS rates for certain payments in the Budget 2024. However, significant improvements are needed to improve the ease of doing business and promote better TDS compliance.

Primary concerns due to tax complexity

Respondents are most concerned about lengthy and expensive tax litigation processes followed by a high cost of compliance and record maintenance

Tax uncertainty for adopted positions, group tax costs and difficulties in obtaining refunds are other major concerns.

Top five primary income-tax concerns for businesses



- Time and cost commitments for pursuing tax litigation emerged as the top concern of businesses, indicating need for streamlined and timebound resolution.
- Respondents acknowledged compliance and record maintenance costs as their second major concern from a tax law perspective, reflecting that reporting requirements remains an expensive affair for businesses.
- Respondents identified the lack of tax certainty for positions adopted as the third critical concern, suggesting businesses struggle to cope with uncertainties around embraced positions.
- Volume of compliances is rated as the fourth-biggest concern showing respondents' dissatisfaction with the growing reporting obligations.
- Ranked fifth, restructuring is another major issue for respondents, pointing to a need for clarity and certainty in applicable provisions.
- Respondents cited group tax costs as their sixth major concern, calling out the need to rationalise taxation at the group level.
- Respondents also expressed other concerns stemming from complexities in the areas of outbound investments (seventh rank), obtaining tax refunds (eighth rank) and inbound investments (ninth rank).

QB.5. Please specify what are the primary concerns from an income-tax law perspective for conduct of your business?

This is a ranking-based question, showing the top 5 concerns per their weighted score (A weighted score is calculated by assigning weights to each rank based on importance, multiplying each ranking count by its weight, summing these values, and dividing by the total number of respondents to determine the top preferences).

The Deloitte perspective (1/2)



Prolonged litigation, a serious concern:

The time and cost involved in pursuing extensive and prolonged litigation inflates legal costs and reduces investments, which could ultimately affect India's growth trajectory. While recent schemes, such as the Vivad Se Vishwas schemes ('VSV') and an increase in monetary thresholds for filing appeals (by the department) may reduce pending appeals to some extent, there is still a greater need for a robust and timebound dispute resolution mechanism to bring down costs, offer speedy outcomes and provide an attractive investment climate.



Volume/cost of compliances and record maintenance:

At present, there are a host of compliances (which are lengthy, extensive and complex) required under the income-tax law (viz. monthly and quarterly withholding tax compliances, ITRs, TP documentation, various ancillary forms to be filled such as form 15CA). Owing to prolonged litigation, taxpayers are obligated to maintain records for a number of years. Taxpayers end up incurring substantial costs and efforts on compliance and record maintenance requirements. A survey conducted by Deloitte in 2023 indicated that tax teams spend roughly 50 percent or more of their time on tax compliance. Recent initiatives of digitalisation and prefilled functionalities are being channelled to help taxpayers in easing the compliance burden to some extent. However, more needs to be done, including leveraging on reporting under other laws.

The Deloitte perspective (2/2)



Tax certainty, an elusive dream:

A critical factor adding to the increase in litigation in India is the lack of tax certainty. The contributing factors are often complicated drafting of laws, lack of timely clarifications/guidance on various interpretational issues, an ineffective advance ruling mechanism, frequent amendments, etc. It is imperative that the tax laws should be drafted to best fulfil their role, which is to specify clearly how much each taxpayer is liable to pay and what the taxpayer's rights and obligations are.



Other concerns

Other concerns relate to substantial delays in the processing of rectifications, appeal effects and refunds which often lead to either huge fund blockage or unnecessary high demands against taxpayers, which are adjusted against future refunds. At times, different data in different internal portals of the tax department (viz ITBA vs TIS/AIS, 26AS) etc., also create hurdles in timely resolutions of rectifications and refunds. The recent announcement by the Finance Minister in her Budget speech of digitalising all remaining income-tax services (including rectification and order giving effect to appellate orders) and making them paperless over the next two years will help to enhance taxpayer service and increase accountability.

Survey findings and Deloitte's perspective

- Future trends and expectations
- How the law should be drafted

Expectations from the new revamped law

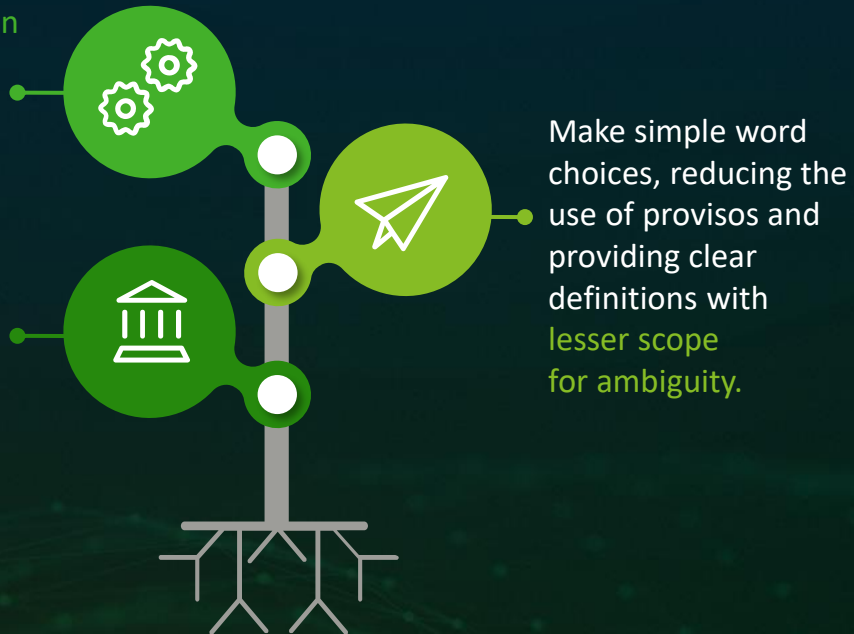
Reducing interpretation issues, language simplification, and incorporating ratios laid down by the Apex Court in the law, are the top recommendations for future tax reforms

The Ministry of Finance is reviewing the Act to make it more comprehensible, to reduce disputes and litigation and to provide certainty to taxpayers

Top three suggested priorities for future tax reforms

Reduce interpretation issues by providing technical guidance, incorporation of examples, etc.

Incorporate the principles laid down by the Supreme Court into the law.



- Respondents advocated for reducing interpretation issues by offering guidance and examples as a critical priority for future tax reforms.
- Streamlining the semantics of tax laws by simplifying the language and reducing the use of provisos is the second preference to make the Act easy to read and understand and reduce disputes and litigation.
- The third priority is incorporating principles laid down by the Supreme Court into the law. This would help achieve stability, certainty and consistency in the application of the law, boosting investment and trade in India.
- Other suggested priorities encompass a clear statement of effective enforcement date of provisions (fourth priority), clear and stable tax assessment procedures with enhanced and effective dispute resolution mechanisms (fifth priority), simpler compliances/reporting (sixth priority), and codes with comprehensive tax provisions for specific taxpayers/categories (seventh priority).

QB.7) In the upcoming new income-tax law, what should be the Government's top priorities as part of the simplification exercise?

This is a ranking-based question, showing the top three priorities per their weighted score (A weighted score is calculated by assigning weights to each rank based on importance, multiplying each ranking count by its weight, summing these values and dividing by the total number of respondents to determine the top preferences).

The Deloitte perspective



Interpretational aspects

The tax law should be redrafted using simple language. Examples of recent simplification initiatives include changes to the tax regime for charities and the rationalisation of capital gains. Any major amendments should be preceded by a public consultation process, as has been followed earlier (e.g., for the Direct Taxes Code). Taxpayers also seek guidance from the tax administration to interpret the provisions of the law. Issuance of timely guidance with illustrative examples such as the circulars for section 194-O and 194R, would go a long way in providing tax certainty to taxpayers. It is also necessary that the effective commencement date of each provision should be clearly stated in the finance bill.



Making language simpler

The complexity in the existing tax law is largely due to reliance on redundant tools, such as provisos, notwithstanding clauses, and use of vague, complex words. To simplify legislative drafting the use of provisos could be avoided and instead, the text could be integrated into simple sentences so that the reader can understand its logical function better. The effectiveness of the tax law can be significantly enhanced if the words used are meaningful, well thought out, and the framework is well organised. For example, several related sections, perhaps located in different parts of the statute, could be combined into one chapter. If the statute is well organized and referenced, it will be easier to locate relevant sections.



Incorporate Apex Court decision into law

Principles which have attained finality and the interpretation of law adopted by the Supreme Court of India could be incorporated into the law on an ongoing basis. This approach could help to provide certainty and eliminate the need for referring multiple cases for interpretation of law. A good example is the key principles enunciated by the Supreme Court of India in *GKN Driveshafts (India) Ltd. v. Union of India* (2003) [259 ITR 19] in the case of reassessments now codified in section 148A of the revamped reassessment law.

Survey findings and Deloitte's perspective

Future trends and expectations

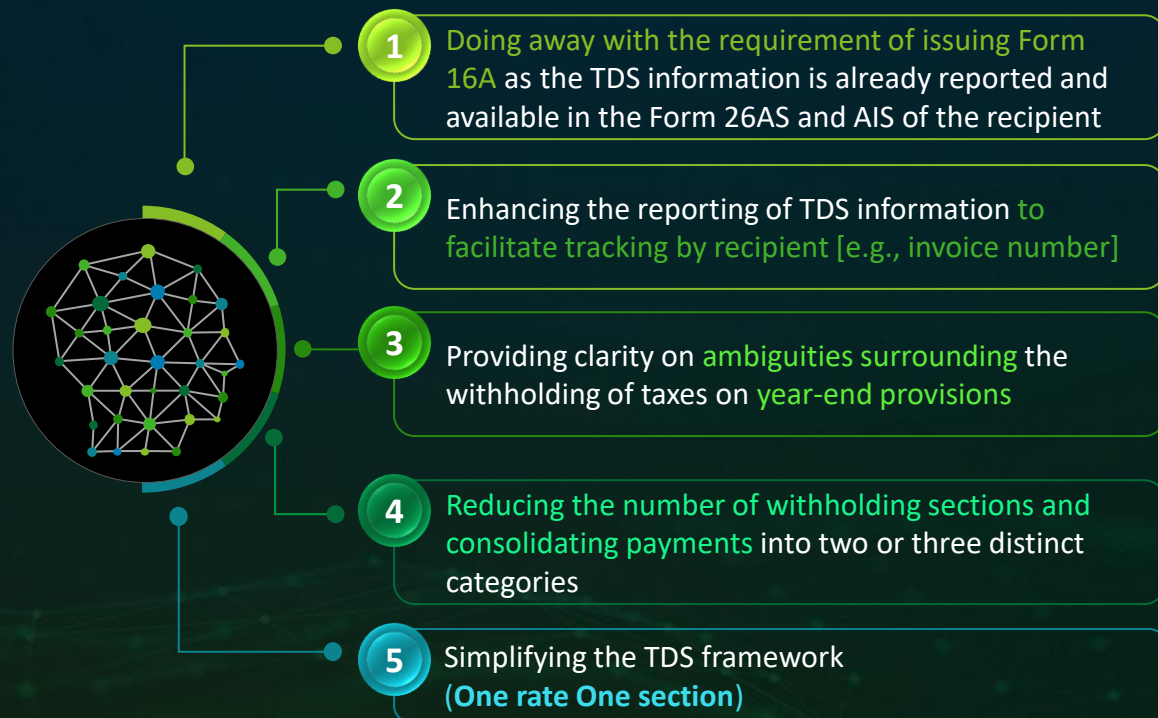
- Process improvements:
 - Withholding tax regime
 - Income tax return filing
 - Faceless Assessment Scheme
 - Dispute/Litigation resolution

Simplifying the withholding tax (TDS) regime

Key recommendations emphasize eliminating redundant documentation, improving tracking mechanisms through enhanced reporting, and seeking clarity on key controversies

Respondents prioritised the removal of Form 16A to streamline tax withholding processes by erasing information redundancy

Refining the current tax withholding regime for business ease



- Enhanced TDS information reporting is the second preference for providing a better tracking mechanism to recipients, achieving greater transparency and reducing the need for reconciliations.
- Clarifications on ambiguities around tax withholding on year-end provisions hold the third rank due to diverse interpretations and practices by taxpayers and tax authorities.
- Respondents preferred reducing the number of withholding sections and consolidating payments into a few distinct categories as their fourth priority, underlining the need to rationalise multiple rates and classification issues.
- In fifth place is the suggestion to adopt a uniform withholding rate and a section for all (non salary) payments to ease the compliance burden.
- Respondents also suggested centralisation of TAN (sixth priority), TDS carry-back mechanism (seventh priority); provision for quarterly TDS payment for small taxpayers instead of monthly (also seventh priority) and delinking TDS from income reporting and crediting into cash ledger (eighth priority) as effective improvements in the tax withholding processes

QB.8. What improvements in the tax withholding processes would you recommend to facilitate ease of doing business?

This is a ranking-based question, showing the top five recommendations per their weighted score (A weighted score is calculated by assigning weights to each rank based on importance, multiplying each ranking count by its weight, summing these values and dividing by the total number of respondents to determine the top preferences).

The Deloitte perspective (1/2)



Easing compliance

- The requirement of issuing a certificate to the recipient of income may have been appropriate in the non-digital era. With the enhancement in the functionality of Form 26AS and AIS, TDS certificates (Form 16A) are rendered redundant and can be phased out, provided, adequate safeguards are built in to track revisions by deductors.
- Further, there could be an enhancement in the information provided in the TDS return by harnessing technology to capture the invoice number for which the withholding is done. The standard GST invoice information (available to the taxpayer) can be used to populate and generate TDS returns. This will help to ease TDS reconciliations with turnover reported in ITR, which is often sought in tax scrutiny proceedings.
- Also now that there is a pan-India GST, the withholding process can be reoriented and concentrated only on non-GST transactions. Moreover, amounts reflected in GST invoice/ returns can be used to generate information returns.



Tax certainty

- Withholding tax provisions are ultimately machinery provisions used to aid the collection of taxes effectively. Given their nature, simplifying such provisions is a key request from businesses. Withholding tax on year-end provisions has been a long-litigated matter and there are numerous precedents with varying guidance. This can be put to rest through legislative clarity after considering practical challenges faced by the industry.

The Deloitte perspective (2/2)



Rationalisation of the TDS regime

- The recent amendments through the Budget 2024 have rationalised the difference in rates across certain withholding sections. This can be further enhanced by limiting the number of sections, classifying payments (excluding salary) into two-to-three distinct and non-overlapping categories, and ensuring that each section has only one rate, which will significantly reduce the burden of WHT compliance without any major loss in tax collections from a tax administrative perspective. For e.g. 1 percent TDS on tangible goods, 2 percent on services, 0.1 percent on e-commerce transactions and 10 percent on other transactions such as dividend and interest.



Other examples to provide business ease

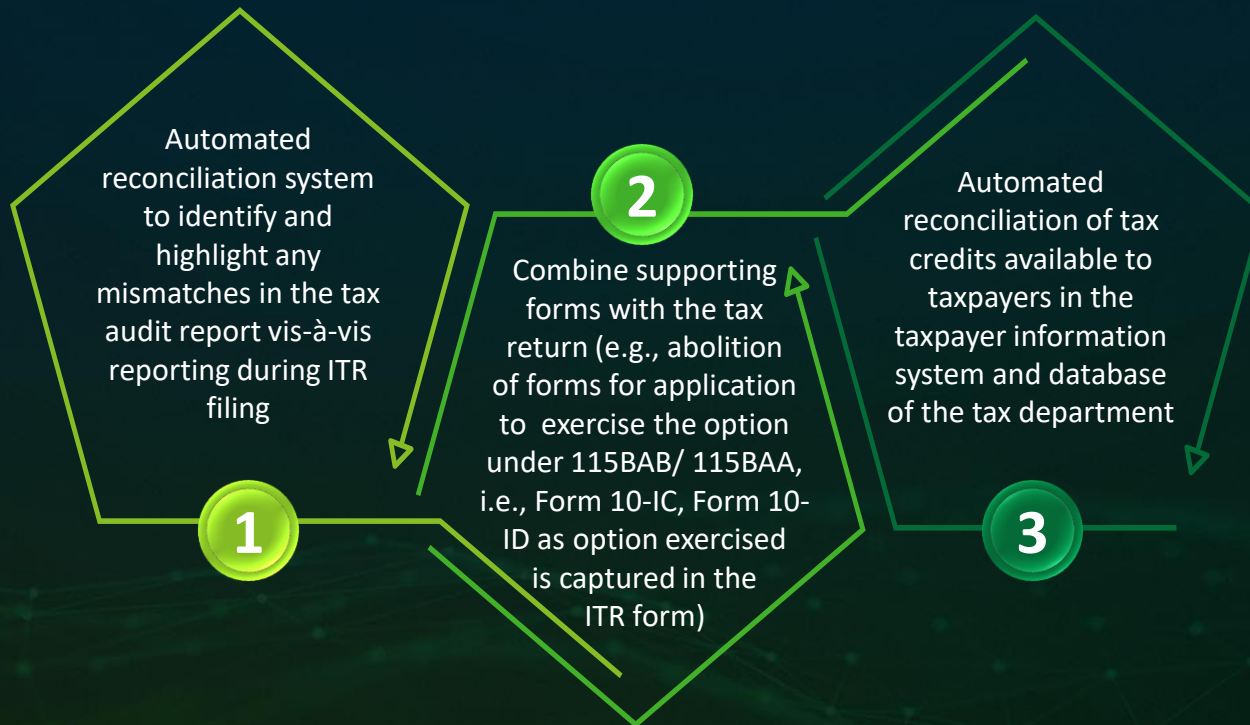
- Other suggestions for improving ease of doing business:
 - Introduction of a TDS credit ledger mechanism (at a PAN level) under which, TDS/TCS can be deposited voluntarily in advance and used by the deductor against its liability in any of its TANs.
 - For the recipients of income, a facility of tax e-passbook can be introduced, which will disclose real-time information of TDS credit and its use. Such credits can be made freely usable without restricting them to the nature of income.

Simplifying income tax returns (ITR)

Automated reconciliations and simplification through Forms consolidation are the top preferences for revamping the ITR filing process

Respondents also push for the integration of systems and automated return generation to reduce the compliance burden

Refining ITR filing and information sharing processes



- For a majority of respondents, an **automated reconciliation system to detect discrepancies between the tax audit report and income tax reporting** is the top preference for improving the ITR filing process, highlighting a universal industry propensity towards minimising unwarranted post-filing disputes.
- Respondents favour **combining other supporting income-tax forms with the ITR** as the **second choice** that aligns with the persistent demand for simplification and reduction of compliances.
- **Automated reconciliation of tax credit in TIS (Taxpayer Information Summary) and the database of the tax department have emerged as the third priority**, indicating the critical need to ensure data accuracy, data mapping and consistency in information exchange processes.
- Respondents also supported **the integration of organisational ERP or accounting system with the systems of tax administration (fourth priority)** and emphasized **auto-generation of returns using multiple data points (fifth priority)** to ease the ITR filing processes for taxpayers.

QB.11. What improvements would you recommend in the processes for income tax return filing and information exchange with Government departments?

This is a ranking-based question, showing the top three recommendations per their weighted score (A weighted score is calculated by assigning weights to each rank based on importance, multiplying each ranking count by its weight, summing these values and dividing by the total number of respondents to determine the top preferences).

The Deloitte perspective (1/2)



Automated reconciliations

With the increasing number of disputes every year on data mismatches, a simpler remedy could be an automated reconciliation of various data points [vis-à-vis TAR, other filings (e.g. GST returns), tax deductions, etc., which are routinely required during assessments] at the ITR filing stage. This will ensure that discrepancies/ mismatches due to differences in reportings made under other legislations are highlighted/ revealed upfront and can be suitably addressed on a timely basis. This will help to avoid unnecessary litigation/disputes.



ITR Form to combine all supporting Forms

In addition to the annual ITR Form, various supplementary Forms are required to be filed that are essentially linked to ITR claims and deductions – (E.g. Form 10-IC, Form 10-ID, Form 67). This leads to multiple filing requirements for a taxpayer, non-compliance of which may result in a loss of eligible tax benefits, credits or deductions and an increase in litigation costs. Such reporting requirements can be combined in the ITR Form to avoid multiple filings and related complexities.

The Deloitte perspective (2/2)



Integration of the business' ERP and accounting software with the tax portal

Contemporary business ERPs and accounting software provide various functionalities for generating tax return-related data and reports, at the click of a button. However, they currently lack data integration with the tax department's database, which leads to manual efforts and, thus, chances of errors. Integration of such applications with the department's portals to capture real-time data necessary for tax reporting in an automated manner, would resolve many challenges.



Auto-populate returns with available data

The current ITR Form requires a host of information; most of which are available in various filings already made by the taxpayers with various Government departments. For example, financial statement data is available with Ministry of Corporate Affairs (MCA) and sales data is available with GST authorities. Such data and filings can be effectively integrated to enhance the tax department's initiative of the pre-filled ITR Form for taxpayers, reduce redundant efforts and make ITR filings simpler and more accurate.

Improvising the Faceless Assessment Scheme

Improvements are centered on enhancing communication, providing an independent review option to taxpayers and access to expert support for assessment units

Respondents also seek features, such as need-based multiple video conferencing opportunities to make faceless assessments more effective

Measures to enhance the effectiveness of faceless assessments

Top three measures



1

Real-time transmission of data on the portal, email and text messages to avoid any gaps in communication between the department and taxpayers



2

Option for the taxpayer to seek review by an independent wing of the tax administration before the final decision



3

Domain-based experts to provide technical help as part of the technical unit

- Respondents assigned top preference to real-time transmission of data via portal, email and text messages, to improve communication between the tax department and taxpayers.
- The option for taxpayers to seek review by an independent wing before the final decision ranks second, indicating challenges in achieving accurate and fair assessments. It receives major support from the ERI and TMT sectors, possibly due to the complexity in business requiring high technical expertise and lack of evolved jurisprudence.
- Technical assistance from domain experts is the third priority, largely stemming from the experience of arbitrary adjustments, lack of appreciation of technical merits and lack of personal hearings that affect the assessment process. This has found significant preference from companies with a high turnover.
- Other suggested improvements covered more opportunities for videoconferencing (fourth priority), detailed reasons for rejecting taxpayers' contentions (fifth priority), clarity on authority for issuing notices (sixth priority), and allocations based on assessing officers' competency mapping (seventh priority).

QB.10. Do you think the following suggestions could improve the Faceless Assessment Scheme?

This is a ranking-based question, showing the top three suggestions per their weighted score (A weighted score is calculated by assigning weights to each rank based on importance, multiplying each ranking count by its weight, summing these values and dividing by the total number of respondents to determine the top preferences).

The Deloitte perspective (1/2)

The introduction of faceless assessments is a major reform aimed at enhancing efficiency, fairness, transparency and adoption of digitalisation in the tax administration. While the concept and objectives are noteworthy, the scheme can be further enhanced to improve taxpayers' on-ground experience.



Removal of technical snags

Currently, there are several instances of delays in the receipt of real-time updates of notices/orders issued by tax authorities via text/email notifications. In certain instances, no notifications were received by taxpayers. Due to technical snags and a lack of a foolproof system to ensure real-time transmission, taxpayers are left unaware and unable to respond appropriately. Similarly, there are system lags that prevent the taxpayer from viewing the notice/order uploaded by tax authorities on the portal or hinder tax authorities from viewing submissions uploaded by taxpayers. As a result, taxpayers face unjust additions as orders are passed without considering submissions made and risk being considered non-compliant by tax authorities.



Independent review option for taxpayers

Currently, the option to seek technical assistance/review is only with the assessment unit/National Faceless Assessment Centre (NFAC). An option should be provided to taxpayers to seek review by an independent wing of the tax administration before the passing of the final decision by NFAC to ensure that submissions by the taxpayers are dealt with on merits. This, in turn, could reduce disputes and litigation.

The Deloitte perspective (2/2)



Domain-based experts to strengthen the technical units

Taxpayers often face difficulties in explaining the workings of a business or complex facts/arguments to the assessment unit that may not have the relevant expertise, leading to disputes and increase in litigation. For instance, the business of start-ups or fund-houses can be complex. The assessment process can be further strengthened by having domain-based or industry-based experts as part of the technical unit that will provide technical assistance to the concerned assessment unit. These recommendations may be a good start to enhance the efficiency of the Faceless Assessment Scheme.

Designing effective mechanisms for dispute/litigation resolution

Respondents suggest a multi-dimensional approach to facilitate quick resolution of dispute/litigation

Timely disposal of pending appeals, avoiding litigation efforts on repetitive issues and a taxpayer-only right to appeal against the First Appellate Authority order are among the most preferred suggestions to improve dispute resolution mechanism in India

Enabling swift resolution of disputes/litigation

1

Statutory outer time limit for disposing appeals pending with the first level of Appellate Authority [CIT(A)]

2

Avoid repetition of assessment on similar issues where relief has been granted by a higher forum in earlier years

3

Only taxpayers should be allowed to file an appeal against the order passed by the first level of Appellate Authority [CIT(A)]

4

Abolition of review proceedings by the Principal Commissioner (section 263)

5

- Uniform positions to be adopted by tax authorities
- Issue-based scrutiny/audit covering multiple tax years to reduce repetitive efforts

- Respondents placed the highest trust in setting a statutory outer time limit for disposing appeals with the first level of Appellate Authority for timely resolution.
- Avoiding repetitive assessment efforts for issues already settled by a higher forum is the second choice to reduce litigation burden.
- Respondents ranked reserving the right to file an appeal against the first level of Appellate Authority order for only taxpayers at the third place.
- Abolition of review proceedings by the Principal Commissioner (Sec 263) is the fourth choice of respondents.
- For the fifth choice, respondents equally prioritised the adoption of uniform positions by tax authorities and issue-based scrutiny/audit covering multiple tax years.
- Respondents also suggested measures such as skip the first level of Appellate Authority for larger cases (sixth priority), timebound completion of Advance Rulings (seventh priority), and the need for mediation/arbitration mechanism (eighth priority).

QB.9. Do you think the following suggestions can help to enable quicker resolution of tax disputes/litigation?

This is a ranking-based question, showing the top five suggestions per their weighted score (A weighted score is calculated by assigning weights to each rank based on importance, multiplying each ranking count by its weight, summing these values and dividing by the total number of respondents to determine the top preferences).

The Deloitte perspective (1/3)



Effective and timebound disposal of appeals

Major pendency of tax cases is highest at the level of the First Appellate Authority [the CIT(A)]. Timely resolution of appeals is clearly a top priority for respondents. Instead of an indicative voluntary timeline of one year, a strict statutory timeline should be prescribed with necessary action in case of delays. Recently, the Bombay High Court, in the case of City Centre Mall Nashik Pvt. Ltd. v. NAFAC (WPL 26851 of 2024), observed that there is a loss of objectivity and purpose when there are substantially long delays in the disposal of appeals.

The current huge volume of appeals pending with CIT(A) also needs to be holistically addressed. A more scientific process could be adopted for identifying cases to be picked up for scrutiny alongwith strengthening of internal review processes to prevent frivolous additions from being made in assessments so that the number of consequent new appeals does not add to the current overload on the appellate mechanism.



Avoid repetitive assessments on similar issues in specified cases

Taxpayers spend a lot of time and money in litigating adjustments of repetitive or similar nature on a yearly basis, even though relief has been granted on a similar issue by higher judiciary forums for earlier years. To curb the inefficiencies in litigating matters on a yearly basis, a possible approach could be to make protective assessment for subsequent years where tax authorities are contemplating similar additions and to keep the demand in abeyance, pending the disposal of any appeal filed by tax authorities against the decision of a higher forum.

The Deloitte perspective (2/3)



Restrict option to appeal against CIT(A) order to taxpayers

Currently, the tax administration is empowered to appeal against a decision of the CIT(A) [also an officer of the tax administration] in favour of the taxpayer (on a taxpayer appeal). In other tax administrations such as the Australia and the US, the order issued by the tax administration on a taxpayer appeal is taken as final and only the taxpayer can file an appeal to the Tax Tribunal if he/she is not satisfied with the order. Since CIT(A) is a part of the Revenue body, to reduce tax disputes in future, only the taxpayer (instead of both the taxpayer and the tax administration) may be given the statutory right to file an appeal, at a tax tribunal. Parallel institutional measures, to further strengthen the appellate procedures through an independent technical unit, should accompany such a change.



Abolition of review proceedings

With the introduction of faceless assessments, assessments today are team based made with the help of verification, technical and review units. Considering the strengthening of the internal procedures to conduct an assessment, the Government could think of abolishing section 263 which enables revision of orders that are erroneous and prejudicial to the revenue by the designated authority. This will help to better use resources in resolving important tax administration matters.



Uniformity in positions adopted by tax authorities

Other measures, such as uniformity in positions adopted by tax authorities could resolve conflicts for taxpayers grappling with diverse/contradictory interpretations by tax authorities. A central technical unit could take up important controversial issues and establish a binding technical position for the Tax Department. These positions should be made available publicly so that taxpayers can decide on the position to be adopted, depending on the merits of the matter and the resources available to pursue litigation.

The Deloitte perspective (3/3)



Issue-based scrutiny

Another response that found favour was conducting issue-based scrutiny covering multiple tax years to reduce repetitive litigation efforts where identical issues are involved. Accordingly, the tax department could be empowered to conduct issue-based block assessments, allowing taxpayers quicker access to appellate authorities for achieving tax certainty on an issue for multiple years (similar to an APA) with a significant reduction in overall litigation cost.



Mediation as an alternative to traditional approach

Given the increasing pendency of appeals, especially at the CIT(A) level, an alternate mediation route can be made accessible to taxpayers. This will not only provide a mechanism to resolve disputes early but also reduce the burden on judicial forums. Mediation, especially for low-risk taxpayers, has found favour in various global jurisdictions such as the UK and Australia. It is a key reason why fewer appeals are preferred/pending in such countries. The recent enactment of the Dispute Resolution Committee (section 245MA) may be a step in this direction, though limited to small taxpayers. A successful mediation route could be designed to provide flexibility while ensuring that it does not incentivise non-compliance.

Optimising transfer pricing under APAs, corresponding taxable income adjustments, and term reviews under APA for cyclical businesses are top priorities to reduce transfer pricing litigation and boost APA processes

Respondents also favoured a swift APA conclusion and zero-interest on TP adjustments according to APA/MAP

Mitigating TP litigation and strengthening APA processes

1

TP assessment to be kept in abeyance for the covered years in case of pending Advance Pricing Agreements (APAs)

2

Corresponding adjustment in taxable income be allowed to AEs based on the arm's length price agreed in bilateral APA

3

Term review to be allowed under APA instead of standalone adjustment for every year considering the cyclical nature of business or long-term contracts

- The highest preference was given to keeping transfer pricing assessments locked in case of pending APAs to reduce litigation and strengthen APA processes.
- Respondents ranked corresponding adjustments in taxable income of AEs vis-a-vis the arm's length price agreed in bilateral APA as their second preference.
- Allowing a term review under APA depending upon the cyclical nature of business/long-term contracts ranks third in the recommendation list for mitigating TP litigation and boosting APA processes.
- Other proposed recommendations included the following:
 - Speedy conclusion of APAs (fourth priority)
 - No interest/penalty on TP adjustments according to APA/MAP (fifth priority)
 - Limiting scrutiny cases using robust risk parameters (sixth priority)
 - Framing rationalised safe harbour rules for routine intra-group transactions (seventh priority)

N - 278

QB.16. Do you think the following suggestions could help to reduce transfer pricing litigation and strengthen the APA process?

This is a ranking-based question, showing the top three suggestions per their weighted score (A weighted score is calculated by assigning weights to each rank based on importance, multiplying each ranking count by its weight, summing these values and dividing by the total number of respondents to determine the top preferences).

The Deloitte perspective (1/2)

For the past 12 years, APA, the flagship programme of the Indian Government, has been running successfully. An increasing number of taxpayers are opting for the APA programme to attain tax certainty and avoid any protracted litigation. However, some aspects of the APA scheme warrant a re-look to increase its effectiveness, to reduce TP litigation and enhance tax certainty.



Reduce duplicative efforts

In India, tax assessment and/or litigation run parallel to the APA process for the years covered under APA. Upon completion of the APA, open litigations are terminated. This creates a duplicative work process for the tax department, and often, without any revenue gain.

To simplify the process and make it more meaningful, the assessment can be suspended until the APA is concluded. Some advanced TP jurisdictions, such as Japan, the US and the UK, keep the assessment proceedings on hold until the conclusion or withdrawal of the APA.



Safe harbour rules

Very few taxpayers have opted for the present Safe Harbour regime, highlighting the regime's ineffectiveness of the present rules, perhaps due to high TP margins, especially when the targeted taxpayers are small and mid-size companies. Taxpayers either continue with the regular audit and litigation or apply for APA to attain certainty. However, this increases the burden of TP audit/ litigation and scales up the inventory of APA applications (which is typically suited for complex transactions and business models requiring in-depth business and economic analysis to determine the arm's length price). A rationalised Safe Harbour regime accommodating a wider taxpayer base would reduce unnecessary litigation and ensure tax certainty to both taxpayers and the tax administration.

The Deloitte perspective (2/2)



Corresponding adjustment in taxable income of AEs

Under the current APA scheme, the arm's length price agreed for an international transaction in an APA is binding only on the taxpayer who applied for and signed the APA. It does not provide corresponding adjustment in taxable income of the relevant AEs. Thus, withholding tax on such transactions remains unadjusted for AEs. If the APA subsequently reduces the agreed arm's length price, there is no mechanism for non-resident AEs to claim a refund of the excess withholding. In a bilateral APA, AEs may file a separate application to claim this refund, which is inefficient and imposes unnecessary costs and compliance burden on taxpayers.

Amending the APA scheme to provide a mechanism for AEs to claim a refund of excess withholding upon conclusion of an APA with their Indian counterpart would offer substantial relief, particularly to industries such as consumer, energy resources and industrials (ER&I), and life sciences and healthcare, which rely heavily on group IP and make significant payments for royalties and technical services.



Term review under APA

The ER&I sector and large-revenue firms (above INR 3,000 crore) prioritised permit for term reviews instead of standalone assessments under APA. The Indian APA scheme allows taxpayers to apply for an APA covering five consecutive future years, with a roll-back option for four preceding years. However, each APA-covered year is treated separately, with the agreed terms applied to each year individually. This results in taxpayers paying taxes in the year of losses/low profits with no option to offset such losses or lower profits with more than normal profit earned in any APA year. As such, this approach does not consider business realities, especially in industries exposed to the cyclical nature of the market. Large/ project-based contracts running for more than a year, the majority being in the ER&I sector, earn revenue and profit based on project completion method and can have fluctuating profits in different years while the overall project may result in comparable profits. The Government needs to recognise such business models for a favourable APA regime.

Survey findings and Deloitte's perspective

Future trends and expectations

- Streamlining income tax policy framework
 - Transfer pricing
 - Business restructuring
 - Incentives and reforms
 - Personal tax regime

Simplification of transfer pricing regulations

Respondents emphasize clarity of rules and procedures to streamline transfer pricing regulations

Adoption of global best practices, such as interquartile range and simple profit attribution rules are also considered instrumental in enhancing transfer pricing regulations

Recommended measures to streamline transfer pricing regulations

1

Clarity on application of fair market valuation according to Income-tax Rules versus arm's length price in case of international transactions

2

Rules on coverage of the associated enterprise relationship for structures such as Limited Liability Partnerships (LLPs), trusts and REITs.

3

Clarification on the filing of part A of the Master File by constituent entities individually

N - 275

- Respondents chose **clarification on applying fair market valuation rules vs arm's length price in global transactions** as their top priority to streamline TP regulations.
- The second preference was accorded to **rules covering associated enterprise relationships for newer structures such as LLPs and REITs**.
- **Clarification on the individual filing of Part A of Master File by constituent entities** ranked as the **third most suggested measure**, reflecting potential ambiguities in this aspect affecting TP compliance.
- Respondents assigned the **fourth priority to simplified rules for attributing profits to the permanent establishment**, reflecting need for clarity and certainty.
- Respondents also proposed the **application of interquartile range per international standards** as their **fifth choice**, indicating the industry demand to adopt global best practices to enhance TP regulations.

QB.17. In your opinion would the following suggestions help simplify the existing transfer pricing regulations?

This is a ranking-based question, showing the top three suggestions per their weighted score (A weighted score is calculated by assigning weights to each rank based on importance, multiplying each ranking count by its weight, summing these values and dividing by the total number of respondents to determine the top preferences).

The Deloitte perspective (1/2)

TP regulations are now more than two decades old. Major amendments were last made in 2012 and 2017, when the specified domestic transaction and transfer pricing documentation Rules per BEPS Action 13, were introduced, along with the secondary adjustment regime. There is a need to align the existing regulations for new-age business models and other legislative provisions that will enhance clarity and tax certainty.



Clarification on valuation mechanism

The Income Tax Act provides specific valuation rules to determine the fair market value for some specific transactions (such as transfer of shares) for the purpose of determining taxable income for the seller and the buyer. However, in transfer of assets between AEs, TP rules require the transfer of assets to be at the arm's length price. Specific guidance is needed so that the fair market value determined as per specific valuation rules can be considered to be the arm's length price for TP purposes as well, which can clear the ambiguity and prevent litigation.



Coverage of new entity structures in the definition of AEs

New entity structures, such as LLPs and business trusts (such as REIT and InVIT) have become more prevalent off late. However, TP regulations have not been updated to cover such entities in terms of their AE relationship under section 92A, which defines the conditions for establishing AE relationship among enterprises. The regulations may be updated to define the connections among partners in case of LLPs and sponsors, managers, trustees, and others (in case of trusts) to establish the AE status.

The Deloitte perspective (2/2)



Filing of part A of the Master File by constituent entities individually

Designation of the Master File to one-group entity was included in the regulations to ease the compliance burden of MNEs where multiple group entities need to undertake the same compliance. However, an additional regulation for filing Part A of the Master File even when other conditions of the Master File are not met, has not been covered through designation rules. This defeats the basic purpose of the intended regulation. Necessary amendment may be made to ease the compliance burden for MNEs in India.



Enhanced clarity for profit attributions to PEs

The Indian tax law only provides Rule 10 for attribution of profits to Permanent Establishments (PEs). Rule 10 requires profit attribution to PE as a reasonable share of global turnover or profits or any other basis as may be reasonable. This mechanism could be aligned to adopt a more scientific basis for attribution. The Government issued a consultation paper in 2019 to provide guidance on profit attribution. However, owing to multiple representations by taxpayers against the approach provided therein, they were not finalised. India also does not adopt a separate entity approach for profit attribution as formulated by the OECD. The separate entity approach is more akin to the TP approach of determining profit allocation to PE based on function asset and risk (FAR) analysis of the PE. As of today, there is no substantive guidance on profit attribution in India. This ultimately results in adhoc global profit allocation to PEs in India and protracted litigation. The PE litigation is one of the major concerns for MNEs investing in India. Appropriate regulations are required to address this issue and provide tax certainty.

Reducing tax complexities in business restructuring

Robust and streamlined SOPs are the most desired measure to support business reorganisations

Executives proactively supported clarity and alignment of rules to facilitate smooth restructuring processes

Measures to support business restructuring

1

SOPs for transfer of losses, incentives, tax credits, allowances/deductions, etc. between two entities involved in business restructuring

2

Clarity on continuity of losses for intra-group restructuring

3

Allowance for the carry-forward and set-off of losses in case of restructuring within the service industry

4

Alignment of valuation rules with transfer pricing

5

Further clarity on applicability of indirect transfer provisions

- Clear SOPs for transfer of losses, credits, incentives, etc., are the top priority of respondents to avoid uncertainty and legal disputes.
- Ranking second is the requirement for clear guidelines on the continuity of losses for restructuring within the group indicating focus on preserving financial stability.
- Respondents also suggested introducing provisions to allow carry-forward and set-off of losses in service industry restructuring.
- Aligning valuation rules for transfer pricing ranks fourth on the list of measures, while clarity on the applicability of indirect transfer provisions takes the fifth spot.
- The TMT sector, along with Government and public services, showed a strong preference for clear SOPs around the transfer of losses and tax benefits/allowances, indicating the need for clear guidelines to enable smoother transitions in these sectors.

QB.15) Do you think the below suggestions would help to better support business restructuring? Rank in order of priority.

This is a ranking-based question, showing the top five suggestions per their weighted score (A weighted score is calculated by assigning weights to each rank based on importance, multiplying each ranking count by its weight, summing these values and dividing by the total number of respondents to determine the top preferences).

The Deloitte perspective (1/2)

In 2024, India's M&A market demonstrated notable resilience, outperforming trends observed across other Asia-Pacific countries. Amidst global challenges posed by high interest rates, macroeconomic uncertainty, regulatory scrutiny and geopolitical risks, Indian companies may increasingly see M&A as a crucial strategy to help them manage business uncertainties, enhance operational efficiencies, reinforce market positions and improve financial performance. Therefore, the Government must take positive, if not bold, measures while simplifying tax policies to ease the reorganisation of businesses:



Seamless transfer of losses, credits and other attributes

Currently, there is a lack of clarity on the transfer of losses (including book loss for MAT), allowances, deductions, incentives, tax credits between the entities involved in business restructuring. Taxpayers are forced to litigate these claims incurring significant cost that reduces the efficiencies of restructuring. There are judicial precedents both supporting and opposing the claims of taxpayers. Due to the ambiguity, it is imperative for lawmakers to provide clarification regarding the eligibility for deductions, losses, incentives, etc., in the context of amalgamations, demergers, slump sale, etc. Safeguards may be built-in to ensure there are no double deductions/claims.



Roll over of losses in intra-group restructuring

In today's challenging business environment, multilayer corporate structures are created to comply with various regulatory and contractual requirements and to ring-fence risks. Clarity is needed to settle the ambiguity for the carry-forward and set-off of losses in case of intra-group reorganisations where the ultimate (beneficial owner) remains unchanged.

The Deloitte perspective (2/2)



Fostering the growth of Service Sector

Currently, the Act does not allow the carry-forward of accumulated loss and depreciation in case of restructuring within the service industry. The services sector, which has a dominant share in India's GDP, has attracted significant foreign investment, contributing significantly to exports and large-scale employment. Given these factors, extending the carry-forward of losses to restructuring in the service sector, especially in key areas, such as research and innovation, information technology and banking, would be welcome.

Effectiveness of incentives and need for reform

Respondents call for the simplification and clarification of eligibility conditions and better administration of tax incentives

Clarity on availing the patent regime, simplifying deductions for new hiring and lucid definitions are the top preferences to optimise tax incentives administration



1

Simplifying the eligibility criteria to avail the patent regime (section 115BBF) and providing clarity on the availability of concessional tax rate for royalty income earned from registration of a patent (originally developed and registered in India) outside India for the purpose of commercialisation per laws of other countries

2

Simplifying and rationalising the conditions for availing deduction in respect of employment of new employees under section 80JJAA

3

Clearly outline the eligibility criteria, appropriate definitions and clarity in the process to claim deductions/incentives

- Respondents accorded the highest priority to simplifying the eligibility to avail tax benefits under the patent regime (Sec. 115BBF), highlighting the need for impetus and support to accelerated focus on R&D and innovation among Indian businesses.
- The second preference for rationalising conditions for availing tax deductions for new recruits shows that tax exemptions act as a catalyst for workforce expansion.
- Respondents assign the third priority to clarity on eligibility, definitions and processes for claiming tax deductions, reflecting the presence of potential ambiguities.
- Certainty regarding incentives continuation in business restructuring is the fourth effective measure underlining tax-based complexities prevalent in restructuring efforts.

QB.13 Do you think the below suggestions would help improve the effectiveness/administration of existing tax incentives?

This is a ranking-based question, showing the top three suggestions per their weighted score (A weighted score is calculated by assigning weights to each rank based on importance, multiplying each ranking count by its weight, summing these values and dividing by the total number of respondents to determine the top preferences).

The Deloitte perspective



Realigning the Patent Box regime

The patent box regime is an important provision providing much-needed incentive to boost innovation and research efforts within the country. However, in a globalised economy, the utility of an innovative idea is rarely limited to a single country or economy. Uncertainty on the extension of this incentive to income from patents that are additionally registered outside India for legal reasons hinders the adoption of such a regime. Legislative clarification on this aspect will help enhance India's image as an innovation hub for the world.



Boosting employment growth

To increase employment opportunities, the Government extended the incentive for new employment to all sectors as against only manufacturing sector vide Finance Act 2016. However, ambiguities in interpreting terms such as "additional employee" and "additional employee cost", as well as difficulties in computing the eligible benefit, often result in disputes and litigation that outweigh the monetary savings provided by the incentive. Legislators can also consider rationalization of conditions, such as enhancing the wage limit of INR 25,000 per month in line with the industry average and provision for proportionate impact in case of inability to meet with certain conditions (such as provident fund contribution received from the Government for certain months). Clarity for eligibility of staffing companies to claim the incentive would help to reduce litigation.



Simplifying the law on tax incentives

Tax provisions related to incentives need to be simplified through usage of simple terminologies, clear definitions, clear outlining of eligibility conditions in a straightforward manner, clear specification of approvals and compliances required. These measures will help to significantly reduce potential litigation and the need for beneficial interpretation.

Economic growth through new-age value creators

Strong industry support for introducing tax laws on promoting manufacturing in India, advancing ESG aspects and fostering innovation and R&D culture

Group-level taxation and remote work policy also suggested to drive efficiencies

Priority areas to introduce income tax laws: Percentages indicating affirmative responses for each area

Yes

Incentives to promote manufacturing in India

71%

ESG aspects, such as incentives, green credits, government subsidies and tax disclosures

70%

Innovation and R&D

68%

Taxation at the group level in India

67%

Employee mobility/remote work policy

60%

- A large majority (71 percent) of respondents suggested prioritising tax incentives for promoting domestic manufacturing to boost the manufacturing sector's growth and job creation potential.
- For 70 percent of respondents, the coverage of tax laws for ESG aspects, such as green incentives and subsidies, must be a key priority of the Government in the upcoming tax reforms. This signifies the growing leadership impetus on sustainable practices and alignment with global best practices.
- About 68 percent of respondents support the introduction of tax laws focused on encouraging innovation and R&D.
- Two-thirds (67 percent) of respondents voted for introducing group-level taxation in India, reflecting the demand for flexibility and efficiency while aligning with global practices.
- Remote work policy must also be covered under income tax laws as stated by 60 percent of respondents to adapt the Indian tax framework to the evolving workplace practices.

QB.12) Do you think the Government should introduce tax laws for the following areas? (Yes/No for each)

Single-select for each option

The Deloitte perspective (1/2)



India – a rising manufacturing and innovation hub

The Government can position “income-tax” as a tool to promote India as an attractive destination for setting up manufacturing facilities and research and development centers of multinational corporations. The legislators should bring in appropriate incentives to promote research, innovation, and manufacturing in India which will also act as a catalyst to boost employment opportunities and economic growth.



Tax reform to incentivize sustainability

India’s ‘new age’ Free Trade Agreements are driven with a focus to enhance the Sustainable Development Goals (SDGs). The tax system can act as an effective means to incentivize organizational behavior towards adoption of Environmental, Social, and Governance (ESG) factors. Tax reforms such as the introduction of environmental taxes, targeted incentives and disclosure requirements are much needed to ensure that businesses commit towards India’s ESG goals.

The Deloitte perspective (2/2)



Tax Grouping

Unlike many developed nations, India does not follow a group taxation regime that allows for the filing of a single return by the parent company and/or for offsetting of losses incurred by one or more group companies against the profits of other companies in the group. A possible suggestion to achieve simplification and reduce compliance burden could be to introduce the concept of group taxation in India, especially for companies subject to the same rate of tax and which do not avail any tax holidays.



Tax rules for remote working

In the post-Covid era, remote working or work from home has become a common phenomenon owing to globalization. Such arrangements entail tax complexities for employees and organisations such as determination of tax residency, availability of tax credits, creation of permanent establishments and double taxation. Several countries (such as Sweden, Denmark and Spain) have rolled out policies and clarifications on such issues. However, India is yet to clarify its stance on this issue.

Rationalising the new personal tax regime

Increased deductions, rationalisation and simplification of laws will make the new regime more attractive

The Government should prioritise enhancing the appeal and accessibility of the new regime to phase out the old regime

Prioritising taxpayer needs for a greater appeal



- A majority of respondents (48 percent) highlighted the importance of maintaining or increasing deductions and exemptions, indicating a preference for a tax structure that encourages savings and investments.
- Many respondents (33 percent) called for the rationalisation and simplification of tax laws, suggesting that a streamlined approach could reduce complexity and improve compliance.
- Additionally, there were calls for increased taxpayer awareness and support (8 percent), phase-out transitions (4 percent), stability within the tax regime (2 percent) and improved refund processes (2 percent), underscoring a comprehensive need for a more attractive tax framework.
- About 6 percent of respondents also recommended other measures, such as quick resolution for disputes and the adoption of an authentic and transparent approach to reward honest taxpayers.

QB.2. What will make the new tax regime for individuals more attractive?

Open-ended

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The new personal tax regime was introduced in Budget 2020, as an alternative concessional tax regime for individuals. The new regime, offers lower tax rates for individuals who forego most of their exemptions and deductions. Respondents have asked for reforms to improve the overall effectiveness and appeal of the new tax regime.



Promote savings

Lower tax rates, wider slabs and a higher rebate are the new tax regime's biggest advantages. However, lack of adequate tax deductions, especially for important outlays, such as house rent allowance, Medclaim and medical treatment, critically impact taxpayers' savings. Taxpayers seek an increase in the exemptions and deductions (with respect to critical spendings and retirement savings) under the new regime.



Rationalize the tax slabs

A major challenge faced by taxpayers in the new regime is the presence of too many slabs [five tax slabs ranging from 0 percent to 30 percent], making the tax calculation complex for a layperson. Reduction in slabs would provide much needed ease in computing tax liability under the new regime. An approach could be to streamline the multiple slabs to three broad slabs which can be worked out with minimal loss to the exchequer.



Taxpayer awareness and support

Online training modules, especially videos, can be developed to create awareness about the new regime. Support can also be drawn from technological advances, such as artificial intelligence and bots to better guide taxpayers (at the return filing stage) towards the more suitable regime.



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