



GSC Intime

Services Private Limited

Right advice at right time...

Detailed analysis of **Income Tax** Proposals

**UNION
BUDGET
2022-23**



Date : 03.02.2022

KEY HIGHLIGHTS- INCOME TAX PROPOSALS

Key highlights – Income Tax...

- ⌚ No change in the Income Tax rates
- ⌚ In order to reduce litigation, a new provision is proposed to be inserted to provide Assesseees to furnish an updated return disclosing income with additional tax of 25% to 50% along with surcharge within 2 years from the end of relevant AY. No additional refund or loss can be claimed
- ⌚ Taxation in case of transfer of VDA (cryptocurrency and NFT) is proposed to be introduced @ 30% after allowing the only deduction of cost of acquisition. Set-off and carry forward of such losses is not allowed. In addition, tax on digital gifts shall be paid by the recipient. Further, 1% TDS to be deducted on payment made beyond a specified limit
- ⌚ Rationalisation of Surcharge for LTCG on all assets by capping the same to a maximum of 15%

...Key highlights – Income Tax...

- ⊙ Government clarifies that Cess as well as Surcharge is not allowed as a business expenditure as the same has to be considered as part of Tax
- ⊙ In order to reduce repetitive litigation, where the cases are pending before High Court or Supreme Court involving question of law, the Department shall refrain from filing an Appeal for the identical matter
- ⊙ AMT on Co-operative Societies has been brought down from 18.5% to 15%. Further, Surcharge on Cooperative Societies has been reduced from 12% to 7% for income ranging from Rs. 1 Crore to Rs. 10 Crores
- ⊙ The benefit for eligible start-ups has been extended for 1 more year i.e. from 31st March 2022 to 31st March 2023

...Key highlights – Income Tax...

- ⌚ The benefit with respect to new domestic manufacturing companies has been extended for 1 more year from 31st March 2023 to 31st March 2024
- ⌚ Surcharge on AOP, consisting of only companies as its members, has been reduced from 37% to a maximum of 15%
- ⌚ No set-off of losses against any undisclosed income identified during the course of search or survey
- ⌚ TDS to be applicable on benefits/perquisites if the aggregate value of such benefit /perquisite exceeds Rs. 20,000 during the FY
- ⌚ Tax deduction limit of SG employers contribution to NPS has been increased from 10% to 14% to bring it at parity with CG employees

...Key highlights – Income Tax

- ⊗ Credit/Loans and Advances found in the books of account of the Assessee, now, requires explanation about the nature and source of such sum credited from person who has provided such credit
- ⊗ Income of non-resident from offshore derivative instruments or over the counter derivatives issued by an offshore banking unit, royalty and interest on account of lease of ship and portfolio management services in IFSC is exempt from tax subject to certain conditions
- ⊗ The current SEZ Act is going to be replaced with a new piece of legislation which will enable the States to become partners in 'Development of Enterprise and Service Hubs'. This will cover all large existing and new industrial enclaves to optimally utilise available infrastructure and enhance competitiveness of export

DETAILED ANALYSIS OF INCOME TAX BUDGET PROPOSALS

Covid-19 Relief...

Background

- ⌚ Receipt of money or property upon Covid-19 Relief

Current Scenario

- ⌚ Any sum received as relief was taxable in the hands of recipient

Change in Law

- ⌚ Any sum paid by employer to the employee in respect of expenditure on medical treatment due to Covid-19 for himself or his family members will not be considered as a perquisite U/s 17(2)
- ⌚ Any sum received by individual from any person for medical treatment of himself or family members for Covid-19 shall not be taxable U/s 56(2)(x)
- ⌚ Moreover, any sum received by family member upto Rs. 10 lakhs upon death of any other family member on account of Covid-19 shall not be taxable U/s 56(2)(x)

...Covid Relief

WEF

☑ AY 2021-2022

Impact

☑ Sum received for Covid-19 now not taxable subject to conditions

VDA...

Background

- 🕒 Virtual asset has gained tremendous popularity and the volume in which it is being traded has been increased substantially. Accordingly, new tax scheme has been proposed for the same

Current Scenario

- 🕒 Until 1st February 2022, there had been no specific provisions to tax such income from such transactions

Change in Law

- 🕒 VDA has been defined to mean any information or code or number or token (not being Indian or Foreign currency) generated through cryptographic means or otherwise which also includes NFT or any other digital asset as may be notified
- 🕒 The new Sec. 115BBH provides Income from transfer of VDA to be taxable @ 30% irrespective of period of holding. No deduction or set-off is allowed in respect of any expenditure (other than cost of acquisition) or allowance or any loss other than on account of VDA

Change in Law

- ☑ Loss from transfer of VDA shall not be set-off against any other income and the same shall not be carried forward
- ☑ WEF 1st July 2022, TDS @ 1% U/s 194S is introduced on payment made (cash or kind or both) to a resident with a threshold limit of Rs. 50,000 for specified person (for others Rs. 10,000) during the FY
- ☑ Specified person means any person having any income under any head other than business or profession. Further, any person having business income upto Rs. 1 Crore or professional income upto Rs. 50 lakhs are also classified as specified person
- ☑ Gift of VDA is taxable in the hands of recipient U/s 56(2)(x)

WEF

- ☑ AY 2023-2024

Impact

- ☑ New scheme introduced for taxation of VDA (Cryptocurrency and non-fungible token)

Voluntary Compliance through Updated Return...

Background

- ⌚ After filing return of income, no facility is provided to the Assessee to report income ascertained later on

Current Scenario

- ⌚ Assessee can revise the return till the end of the relevant AY or before completion of assessment by the department, whichever is earlier

Change in Law

- ⌚ Additional income which was not reported in original return of income can now be reported by filing an updated return under the newly introduced Sec. 139(8A), within 2 years from the end of relevant AY
- ⌚ However, additional income will attract 25% of aggregate tax and interest payable if the updated return is filed before completion of 12 months from the end of the relevant AY
- ⌚ Further, if the updated return is filed after completion of 12 months but within 24 months from the end of relevant AY, it will attract 50% of the aggregate tax and interest payable

...Voluntary Compliance through Updated Return

- Change in Law**
- ☑ Interest U/s 234A and 234B is not payable on additional tax
 - ☑ Additional tax to be paid along with surcharge and cess after deduction of TDS, TCS, foreign tax credit
 - ☑ It is pertinent to note that loss or refund cannot be claimed through furnishing an updated return
- WEF**
- ☑ AY 2023-2024
- Impact**
- ☑ Assessee has an option to report any additional income which has not been reported by the Assessee while filing original return

Tax Incentives-IFSC

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Background

- ☞ Tax incentives for units located in IFSC- Sec. 10(4E), 10(4F), 10(4G) and 80LA

Current Scenario

- ☞ Transactions carried out in IFSC have been provided with various tax exemptions subject to fulfilment of specified conditions

Change in Law

- ☞ The following additional exemptions have been provided to non residents
 - Income from offshore derivative instruments or income from over the counter derivatives issued an offshore banking unit
 - Income from royalty and interest on account of lease of ship
 - Income received from portfolio management services

WEF

- ☞ AY 2023-2024

Impact

- ☞ Tax concessions provided to make IFSC a global hub of financial service sector

Tax Incentives-Startups and manufacturing by Domestic Company...

Background

- ⌚ Extension of date of incorporation for eligible start-up for exemption and for investment in eligible start-up and commencement of manufacturing or production by new domestic companies- Sec. 80IAC, 115BAB respectively

Current Scenario

- ⌚ Deduction of 100% profits from an eligible business by an eligible start up for 3 consecutive AY out of 10 years at the option of the Assessee and same to be incorporated between 1st April 2016 to 21st March 2021
- ⌚ Sec. 115BAB provides an option for concessional rate of tax @ 15% for new domestic companies which have commenced manufacturing till 31st March 2024 subject to certain conditions

Change in Law

- ⌚ Extension of date of incorporation for eligible startups and commencement of manufacturing by new domestic company extended from 31st March 2022 to 31st March 2023

...Tax Incentives-Startups and manufacturing by Domestic Company

WEF

🕒 AY 2023-2024

Impact

🕒 Benefit of incorporation of startups and commencement of manufacturing by new domestic companies extended for 1 more year

Surcharge...

Background

- ☑ Rationalisation of Surcharge

Current Scenario

- ☑ Surcharge applicable varies from 15% to 37% depending on the total income

Change in Law

- ☑ Surcharge of all kinds of LTCG (Unlisted shares, Property, Artifacts) is restricted to 15% irrespective of income
- ☑ Surcharge on AOP consisting of only companies as its members has been reduced from 37% to a maximum of 15%
- ☑ Surcharge on Co-operative Societies has been reduced from 12% to 7% for Income ranging from Rs. 1 Crore to Rs. 10 Crores

...Surcharge

WEF

🕒 AY 2023-2024

Impact

🕒 Major relief provided to Assesseees having LTCG income above Rs. 2 Crores, AOP consisting of companies as its members as well as Co-operative societies having income in the range of Rs. 1 Crore to Rs. 10 Crores

TDS-Rationalisation...

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Background

- ☹ Benefit or perquisite received during the course of business was not subject to TDS

Current Scenario

- ☹ Any benefit or perquisite arising from business or profession is taxable in the hands of recipient U/s 28(iv) as business income. However, there are no TDS provision for the same

Change in Law

- ☹ A new Sec. 194R has been introduced to provide that the person responsible for providing such benefit or perquisite shall deduct TDS at the rate of 10% before providing such benefit or perquisite to the resident
- ☹ If the benefit or perquisite paid is wholly or partly in kind, then it is the responsibility of person providing such benefit or perquisite to ensure TDS is paid before releasing such benefit or perquisite
- ☹ However, TDS shall not be deducted if the aggregate value of benefit or perquisite is less than Rs. 20,000 during the FY
- ☹ Further, the above Sec. shall not apply to a deductor who is an individual or HUF whose gross receipts/turnover/sales does not exceed Rs.1 Crore in case of business or Rs. 50 lakhs in case of profession

...TDS-Rationalisation

WEF

🕒 1st July 2022

Impact

🕒 New TDS provision has been inserted relating to benefit or perquisite given during the course business or profession

Background

- 🕒 TDS on immovable property was applicable on agreement value

Current Scenario

- 🕒 Sec. 194-IA provides for deduction of TDS by the purchaser at the rate of 1% in case consideration on transfer of immovable property exceeds Rs.50 lakhs

Change in Law

- 🕒 It is proposed to amend Sec. 194-IA to provide for deduction of TDS @ 1% on consideration paid to the resident or SDV of the property, whichever is higher
- 🕒 However, if the consideration paid and SDV is less than Rs.50 lakhs, there is no TDS liability

WEF

🕒 1st April 2022

Impact

🕒 Now, TDS on immovable property will be attracted if the SDV exceeds Rs. 50 lakhs even if the agreement value is less than Rs. 50 lakhs. Moreover, TDS would be applicable on the higher of Agreement value or SDV

TDS/TCS Rationalisation

Background

- 🕒 TDS/TCS to be deducted/collected at higher rate for non-filers of Income Tax returns

Current Scenario

- 🕒 TDS/TCS U/s 206AB/ 206CCA, shall be deducted/collected at twice the rate specified under relevant provisions or 5% whichever is higher. For non-filers of Income Tax returns for 2 years preceding the year TDS/TCS deducted/collected

Change in Law

- 🕒 The above limit of 2 years has been reduced to 1 year

WEF

- 🕒 1st April 2022

Impact

- 🕒 A higher rate of TDS/TCS U/s 206AB/ 206CCA will be applicable where return is not filed for the previous year

Other Amendments – Income Tax...

- ⌚ Expenditure in respect of Exempt Income shall not be allowed even if there is no exempt income during the financial year
- ⌚ Interest payable on loan converted into debenture will not allowed as business expenditure until the same is actually paid
- ⌚ Any expenditure incurred for a purpose that is an offence under any Law (For eg. pharmaceutical companies providing freebies to the medical practitioners which violates the provision of Indian Medical Regulations) are not allowable as business expenditure
- ⌚ Government clarifies that Cess as well as Surcharge is not allowed as Business Expenditure as the same is considered as part of Tax with retrospective effect from FY 2004-05

...Other Amendments – Income Tax...

- ⊗ Rationalisation of Surcharge for LTCG on all assets by capping the same to a maximum of 15%
- ⊗ Concessional Tax rate of 15% of Dividend received by Indian companies from specified foreign companies has been withdrawn WEF FY 2022-23-Sec. 115BBD
- ⊗ Credit/Loans and Advances found in the books of account of the Assessee, now requires explanation about the nature and source of such sum credited from creditor who has provided such credit. This amendment will not be applicable to creditor who is Venture Capital Fund, Venture Capital Company registered with SEBI – Sec. 68
- ⊗ Penalty for failure to answer questions, sign statements, furnish information, return or statements, allow inspections etc. has been enhanced from Rs. 100 to Rs. 500 per day WEF 1st April 2022- Sec. 272A
- ⊗ Prosecution provisions for second and subsequent offences for failure to pay TDS has been proposed to be extended for TCS provisions

...Other Amendments – Income Tax...

- Ⓜ Certain charitable trusts and approved education institutions/hospitals, etc. to maintain books of account in prescribed manner
- Ⓜ In case of specified violation by approved charitable trusts and approved education institutions/hospitals, procedure for cancellation of registration has now been provided
- Ⓜ Various procedural and administrative aspects around taxation of charitable trusts have been streamlined
- Ⓜ Now, penalty has been provided for charitable trusts who have applied income for the benefit of trustee or other specified person
- Ⓜ Bonus and Dividend stripping provisions are now applicable to units of REIT, InVIT and AIF WEF FY 2022-23
- Ⓜ New Sec. 239 inserted for filing of application for refund of wrongly deducted TDS on payment made to NRI

...Other Amendments – Income Tax

- ⌚ In case of business reorganisation carried out by court, tribunal or adjudicating authority (Competent authority) under Insolvency & Bankruptcy Code, 2016 where such competent authority has reduced the tax liability, a new Sec. 156A is proposed to be inserted to give effect to the orders of such competent authority reducing the tax liability
- ⌚ Notice for reopening U/s 148 can be issued under the following conditions:
 - After 3 years but before 10 years
 - The AO is in possession of books of accounts/ documents/ evidences
 - The amount escaping the assessment is Rs. 50 lakhs or more

Abbreviations...

WEF	With Effect From
FY	Financial Year
CG	Central Government
Sec.	Section
U/s	Under Section
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
Not.	Notification
Rs.	Rupees
VDA	Virtual Digital Assets
Cess	Health and Education Cess
AOP	Association Of Persons

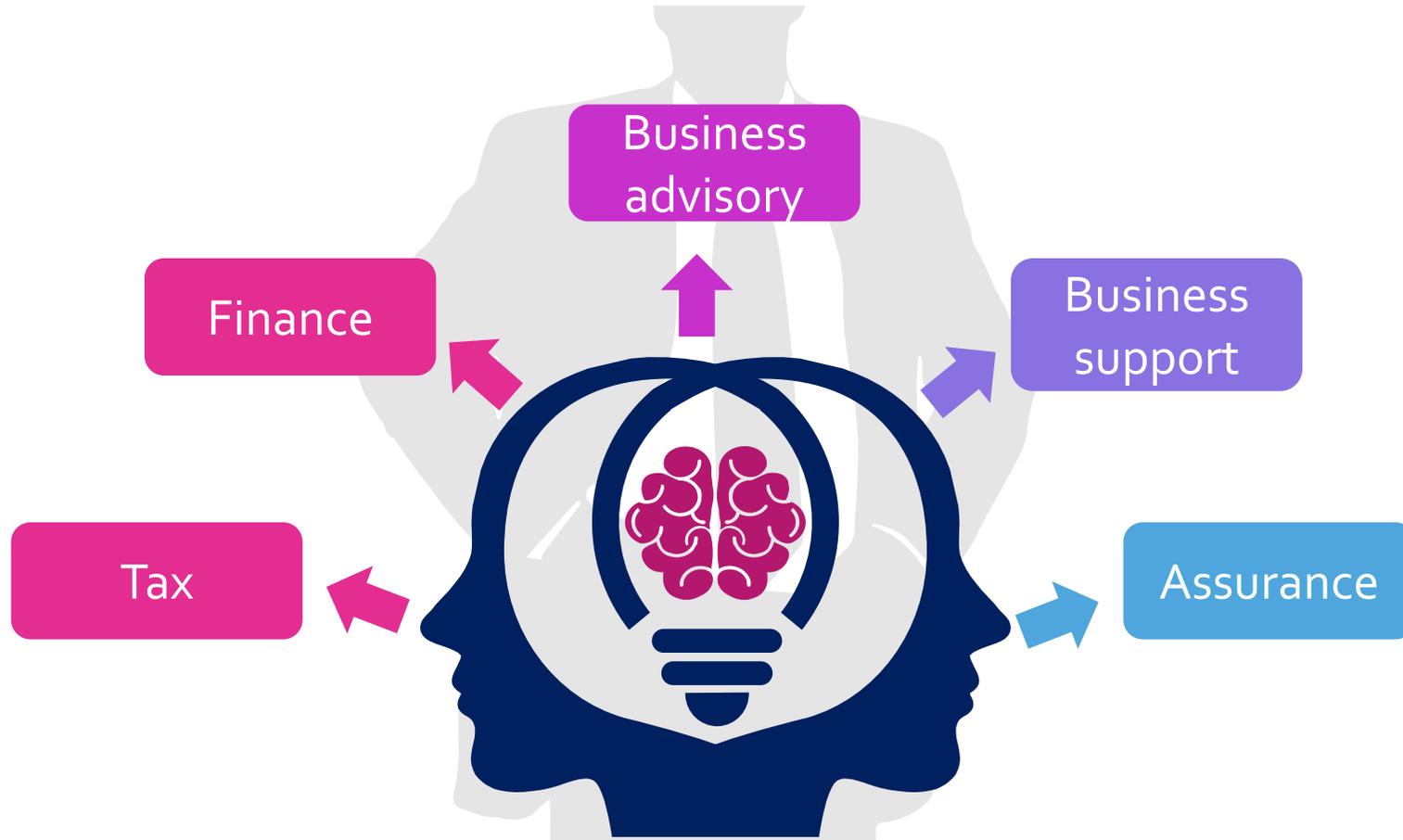
...Abbreviations...

NPS	National Pension Scheme
SG	State Government
LIC	Life Insurance Corporation
REIT	Real Estate Investment Trust
InVIT	Infrastructure Investment Trust
SPV	Special Purpose Vehicle
FIIs	Foreign Institutional Investors
TRC	Tax Residency Certificate
FTS	Fees for Technical Service
NFT	Non-Fungible Token
SDV	Stamp Duty Value

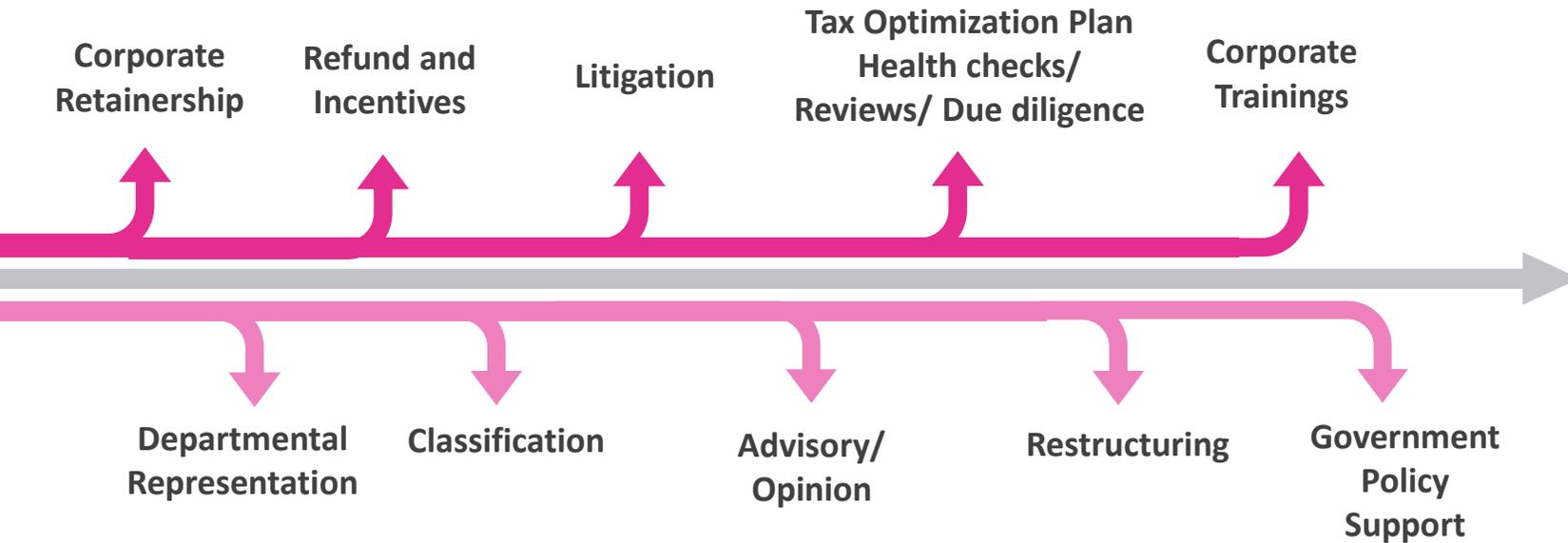
...Abbreviations

LTCG	Long Term Capital Gain
AMT	Alternate Minimum Tax
IFSC	International Financial Service Center
MAT	Minimum Alternate Tax
NRI	Non Resident Indian
AIF	Alternate Investment Fund

What do we do?....



....What do we do?



Disclaimer

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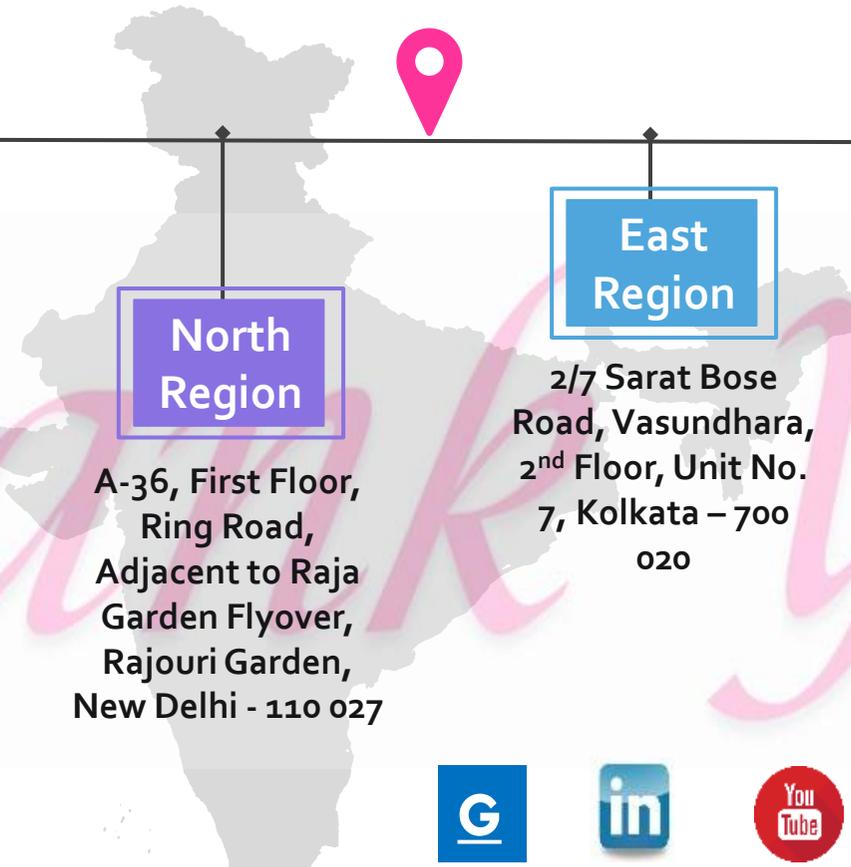
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