

A Deep Dive into Section 9 of Income Tax Bill 2025

Jun 04, 2025



H Padamchand Khincha

Chartered Accountant



K.K. Chythanya

Senior Advocate



Ajit V. Ghatikar

Advocate

1. Introduction:

1.1 On February 13, 2025, the Income-Tax Bill, 2025 (**the Bill**), was introduced in the Lok Sabha. It aims to replace the Income Tax Act, 1961 (**ITA**). The Bill retains most of the provisions of the ITA. The statement of objects and reasons states that

“The Income-tax Act passed in 1961 has been subjected to numerous amendments since its passage sixty years ago. As a result of these amendments the basic structure of the Income-tax Act has been overburdened and language has become complex, increasing cost of compliance for taxpayers and hampering efficiency of direct-tax administration. Tax administrators, practitioners and taxpayers have also raised concerns about the complicated provisions and structure of the Income-tax Act. Therefore, the Government in the budget in July 2024 announced that a time bound comprehensive review of the Income-tax Act, 1961 would be undertaken to make the Act concise, lucid, easy to read and understand.”

[1.2 The Bill in the attempt to achieve the above ends, seeks to eliminate superfluous](#)

[clauses and simplify the 1961 Act. Section 9 of the Bill that deals with “Income deemed to accrue or arise in India” is a doppelganger of Section 9 of the ITA.](#)

1.3 This article compares and contrasts the current provisions of Section 9 of the ITA with the newly proposed Section 9 of the Bill in order to understand the changes that have been proposed in the Bill.

2. Subsection (1):

2.1 The proposed Section 9(1) of the Bill stipulates that “Income deemed to accrue or arise in India shall comprise the incomes specified in sub-sections (2) to (10).” The legislature intends to substitute the preamble phrase “*The following incomes shall be deemed to accrue or arise in India*” in Section 9(1) of the ITA with the proposed Section 9(1) of the Bill. [Pursuant to the proposed Section 9\(1\), any income encompassed by subsections \(2\) to \(10\) of Section 9 shall be deemed to accrue or arise in India.](#) Upon examination of the proposed Section 9(1), several deficiencies/flaws in the language can be identified:

- The language of the proposed Section 9(1) is inelegant;
- Section 9(1) of the Bill uses the phrase “**Income** deemed to accrue or arise in India shall be the **incomes...**”. The proposed provision deems “income” as “incomes”. It is inconceivable to deem “income” which is singular, as “incomes” which is plural.
- The legislature ought to have used the phrase “incomes referred to in sub-sections (2) to (10)” instead of the phrase “incomes mentioned in sub-sections (2) to (10)”.

2.2 Given the inelegant phrasing of the proposed Section 9(1) of the Bill, the Legislature should have retained the existing preamble words “*The following incomes shall be deemed to accrue or arise in India*” instead of inserting a new subsection (1). Otherwise, the legislature has to amend Section 9(1) every time it inserts new subsections after Subsection (10) or has to keep on inserting subsections between subsections (2) and (10) to keep the language of Section 9(1) intact.

2.3 It may be noted that each of subsections (2) to (10) also uses the phrase “deemed to accrue or arise in India”. Hence, Section 9(1) has no function to perform and is therefore, required to be omitted as otiose.

3. Subsection (2):

3.1 The proposed Section 9(2) of the Bill is a new avatar of the clause (i) of Section 9(1) of ITA. Looking at the language in both the current and proposed provisions, apart from rearranging items, there is no material change. Nonetheless, one may observe the following changes made in the proposed provision:

- The words ‘**through and from**’ will now qualify even the “*the transfer of a capital asset situated in India*” under proposed Section 9(2)(d) unlike Section 9(1)(i) of the ITA which uses the phrase “**through** the transfer of a capital asset situate in India”.
- Section 9(2)(d) of the Bill uses the phrase “transfer of a capital asset **situated in**

India” unlike the phrase “the transfer of a capital asset **situate in India**” in Section 9(1)(i) of the ITA. The said change brings harmony with section 9(9) of the Bill dealing with indirect transfer where the word ‘situated’ is used.

4. Subsection (3):

4.1 The proposed Section 9(3) of the Bill is a combination of Clause (ii), the Explanation to Clause (ii), and (iii) of Section 9(1) of ITA. There is no change in Section 9(3) of the Bill except achieving the combination as aforesaid.

5. Subsection (4):

5.1 The proposed Section 9(4) of the Bill corresponds to clause (iv) of Section 9(1) of the ITA. There is no notable change carried in Section 9(4) of the Bill.

6. Subsection (5):

6.1 The proposed Section 9(5) of the Bill corresponds to Clause (v) of Section 9(1) of ITA.

6.2 In Section 9(5)(a)(ii) of the Bill dealing with payment of interest by a resident to a non resident, the phrase ‘for a business’ is used in place of ‘for the purposes of a business” in ITA so as to create an exception for a recipient non-resident from being taxed in India. However, Section 9(5)(a)(iii) of the Bill dealing with payment of interest by a non resident to a non resident, retains the phrase “for the purposes of a business or profession” for triggering taxation in the hands of the recipient non resident. The phrase ‘for a business’ appears broader than the phrase ‘for the purposes of a business”. However, use of words ‘ any debt incurred, or moneys borrowed and used’ in both the clauses renders the above difference negligible.

6.3 Section 9(5)(a)(iii) of the Bill is similar to present section 9(1)(v)(c) of ITA and does not refer to making/earning any income from any source of income in India. This would mean that even if the payer non-resident incurs debt or uses the moneys borrowed for the purpose of earning or making any income from a source in India, such interest is not taxable in the hands of the recipient non-resident.

7. Subsection (6):

7.1 The proposed Section 9(6) of the Bill corresponds to Clause (vi) of Section 9(1) of ITA that deals with Royalties. Here is how the proposed clauses of Section 9(6) of the bill are mapped and compared to the existing ones:

| Proposed Provision | Existing Provision |
|---------------------|--|
| Section 9(6)(a). | Clause (vi) of Section 9(1) |
| Section 9(6)(b) | Explanation 2 to Clause (vi) of Section 9(1) |
| Section 9(6)(c)(i) | Explanation 4 to Clause (vi) of Section 9(1) |
| Section 9(6)(c)(ii) | Explanation 5 to Clause (vi) of Section 9(1) |

| | |
|----------------------|--|
| Section 9(6)(c)(iii) | Explanation 6 to Clause (vi) of Section 9(1) |
| Section 9(6)(c)(iv) | Explanation 3 to Clause (vi) of Section 9(1) |

7.2 After examining the language of Section 9(6) of the Bill, the following may be observed:

- Section 9(6)(a)(ii) of the Bill dealing with Resident payer does not use the words “in respect of any **right, property or information** used or services utilised for the purposes of” whereas Section 9(6)(a)(iii) of the Bill dealing with non-resident payer uses these words. Section 9(1)(vi)(b) and (c) of the ITA use these words.
- As Section 9(6)(a)(ii) of the Bill does not use the phrase “**right, property or information**”, one may argue that section 9(6)(c)(i) and (ii) which expands the meaning of royalty [similar to Explanations 4 and 5 to 9(1)(vi) of ITA] would not apply to section 9(6)(a)(ii). This would be so if the words ‘**right, property or information**’ are understood as a phrase. However, if these words are not used as a phrase but gathered from various components of section 9(6)(b), such argument may not hold good.
- In Section 9(6)(a)(ii) of the Bill dealing with payment of royalty by a resident to a non resident, the words ‘payable for a business or profession carried on by the resident outside India’ are used in place of ‘payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person outside India’ in ITA. This has the effect of expanding the scope of the exception, which in turn restricts the scope of taxation. To illustrate, a resident may have a business in Singapore. He takes a license to make cars of a new model in Singapore. He cannot make those cars in Singapore due to some business reasons and ends up not utilizing the license for his business in Singapore. However, he can argue that he has paid it for his business in Singapore. Under the ITA, the exception would not have applied due to non-utilization. However, under proposed 9(6)(a)(ii), the exception applies, thereby negating tax in the hands of the recipient non-resident.
- Section 9(6)(a)(iii)(B) of the Bill has a typo error. The phrase “making or earning any income from any **source outside India**” should be changed to “making or earning any income from any **source in India**”.
- In Section 9(6)(b), in the long sentence i.e. “in this sub-section, “royalty” means consideration (including any lump-sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head “Capital gains”) for **the following**”, the words ‘the following’ appearing at the end should be removed so as to make the long sentence compatible with the sub clauses that follow.
- Subclauses (i) and (vi) of Section 9(6)(b) of the Bill use the additional words “grant of” before the words “all or any rights”. The same was missing in clauses (i) and (v) of Explanation 2 to 9(1)(vi) of ITA. The reason for use of these words is not known nor is it possible to discern whether these words expand the scope of royalty.
- As stated above, Clauses (i) to (iv) of Section 9(6)(c) of the Bill represent Explanations 4, 5, 6, and 3 to 9(1)(vi) of the ITA. Section 9(6)(c) of the Bill begins

with the words “*for the purposes of clause (b),--*”. This makes Section 9(6)(c) a part of Section 9(6)(b). Thus Section 9(6)(c) has no independent existence, and it supplements Section 9(6)(b). Therefore, Section 9(6)(c) only expands the meaning of royalty in 9(6)(b). It does not give any independent definition.

- In terms of article 3(2) of a DTAA, when royalty is separately defined in the DTAA, clause (b) read with clause (c) is not applicable. This position has become clearer than the present ITA where the term “royalty” was defined in Explanation 2, and Explanations 3 to 6 did not refer to Explanation 2, thus raising a doubt as to whether these Explanations acted as separate definitions. However, there is no room for such doubts in the proposed Bill as Section 9(6)(c) expands the meaning of “royalty” defined in 9(6)(b) and does not give any independent definition to the same.

8. Subsection (7):

8.1 The proposed Section 9(7) of the Bill corresponds to Clause (vii) of Section 9(1) of ITA that deals with fees for technical services (FTS). Here is how the proposed clauses of Section 9(7) of the bill are mapped and compared to the existing ones:

| Proposed Provision | Existing Provision |
|--------------------|---|
| Section 9(7)(a) | Clause (vii) of Section 9(1) |
| Section 9(7)(b) | Explanation 2 to Clause (vii) of Section 9(1) |

8.2 After examining the language of Section 9(7) of the Bill, the following may be observed:

- Section 9(1)(vii)(b) of ITA dealing with a resident paying fees to non resident uses the phrase “payable *in respect of services utilised in a business or profession*”. However, Section 9(7)(a)(ii)(A) of the Bill uses the phrase “payable for a business or profession”. This has the effect of expanding the scope of the exception, which in turn restricts the scope of taxation. To illustrate, a resident may have a business in Singapore. He seeks an opinion from an expert in relation to the expansion of his business in Singapore. Upon receipt of the report of the expert, he may not expand his Singapore business due to a change in the law in Singapore. He ends up not utilizing the services for his business in Singapore, but can argue that he has paid it for his business in Singapore. Under the present ITA, the exception would not have applied due to non-utilization. However, under 9(7)(ii) of the Bill, exception applies, thereby negating tax in the hands of recipient non-resident.
- In Section 9(7)(iii) of the Bill, the earlier words ‘utilised *in a business*’ found in section 9(1)(vii)(c) of the ITA, are now replaced by the words ‘utilised *for a business*’. It is difficult to fathom the reason for and ascertain the effect of, this change.
- The phrase “*for the purposes of*” as a prefix to “*making or earning any income from any source outside India*” existing in ITA is now removed. In the proposed 9(7)(a)(ii)(B) and 9(7)(a)(iii)(B) of the Bill, it is only “making or earning any income from any source in India”.
- Section 9(7)(b)(i) of the Bill uses the phrase ““fees for technical services means any

consideration (including any lump sum consideration) **payable**". The word payable used in the above phrase was not found in Explanation 2 to section 9(1)(vii) of the ITA. Use of this word is a surplusage as Section 9(7)(a) of the Bill has already used this word.

9. Subsection (8):

9.1 The proposed Section 9(8) of the Bill corresponds to Explanation 1, 2, 3, 3A of Section 9(1)(i) of ITA. Here is how the proposed clauses of Section 9(8) of the bill are mapped and compared to the existing ones:

| Proposed Provision | Existing Provision |
|--------------------------------|--|
| Section 9(8)(a) | Admixture of generic meaning of business connection and Explanation 2A to Section 9(1)(i) |
| Section 9(8)(b) and 9(8)(c)(i) | Explanation 2 to Section 9(1)(i) read with two provisos |
| Section 9(8)(c)(ii) | Explanation 1(b) to (e) to Section 9(1)(i) |
| Section 9(8)(d) | Explanation 2A to Section 9(1)(i) |
| Section 9(8)(e) | 2 nd Proviso to Explanation 2A to Section 9(1)(i) |
| Section 9(8)(f) | Explanation 1(a), 3 rd Proviso to Explanation 2A and Explanation 3 to Section 9(1)(i) |
| Section 9(8)(g) | Explanation 3A to Section 9(1)(i) |

9.2 After examining the language of Section 9(8) of the Bill, the following may be observed:

- Section 9(8)(a) of the Bill begins as 'In **of** this section'. The same should be rectified as 'In this section'.
- Section 9(8)(a) of the Bill uses 'shall include' and hence is exhaustive. Reliance is placed on the decision of Oswal Fats & Oils Ltd. v. Commr. (Admn.), (2010) 4 SCC 728 : (2010) 2 SCC (Civ) 237 : 2010 SCC OnLine SC 430.
- The use of 'or' in Section 9(8)(a) between clauses (i) and (ii) makes them not cumulative but alternative. Use of 'or' is carried through even in Section 9(8)(g), lending support to use of 'or' in Section 9(8)(a). This is in sharp contrast to many places in ITA where "shall include" is used, viz., Explanation to 2(19AA), Explanations to 92B etc. A reference may also be made to Section 9(8)(b)(i) and (ii) of the Bill. Use of 'or' could mean if business connection is established by either of the two, enquiry on the other may not be necessary. This would tempt one to argue that a person cannot have business connection having both business activity carried out in India and significant economic presence thus giving scope for tax avoidance.
- In ITA, there is no definition of business connection. It was explained in CIT vs. R.D. Aggarwal and Co. [ITS-2-SC-1954-O](#) and Circular No. 23 dated 23.07.1969. Section 9(8)(a) of the Bill seeks to define the phrase 'business connection'. Explanation 2A to

section 9(1)(i) of the ITA states that Significant Economic Presence (SEP) shall constitute a business connection. It is now proposed to state that business connection shall include (i) a business carried out in India, or (ii) SEP.

- Defining business connection as 'business carried out in India' may upset the existing understanding that a continuity is necessary to constitute a business connection and sporadic activities would not constitute business connection. Business is defined in 2(20) of the Bill as including adventure or concern in the nature of trade, etc. Accordingly, even sporadic activities may fall within the meaning of business connection as per section 9(8)(a)(i), thus exposing a non-resident to new liability under the Bill.
- Section 9(8)(a) of the Bill uses 'shall include' for the phrase 'business connection'. Section 9(8)(b) of the Bill also uses 'shall include' for a business activity' referred to in 9(8)(a). The words 'shall include' carry different meanings between (a) and (b) as the context demands. In Section 9(8)(a) these words are to be read as 'means' while in Section 9(8)(b), they have to be read as 'includes'.
- There is a serious drafting error in Section 9(8)(b) of the Bill insofar as Agency business connection is concerned. It is proposed to include two clauses, i.e., (i) and (ii). Clause (i) is similar to Explanation 2 of section 9(1)(i) of the ITA which will bring agency business connection when an agent is carrying out one or more of three prohibited activities. Clause (ii) is to deal with dependent agent [person not of independent status]. This was defined in the 2nd proviso to Explanation 2 of ITA. However, while realigning existing provisions of ITA, above clause (ii) has become an independent line item so as to bring agency business connection to all cases of dependent agents, having no regard to prohibited activities. This will make the clause (i) redundant.
- Explanation 2 to Section 9(1)(i) of the ITA read with two provisos produces following results:
 - All independent agents are out of agency business connection irrespective of whether they carry out prohibited activities or not
 - All dependent agents are out of agency business connection if they do not carry out prohibited activities
 - Only those dependent agents who carry out prohibited activities would trigger agency business connection.
- Sub clauses (i) and (ii) to clause (b) to section 9(8) of the Bill produce following results:
 - All independent agents are out of agency business connection irrespective of whether they carry out prohibited activities or not;
 - All dependent agents would trigger agency business connection irrespective of whether they carry out prohibited activities or not.
 - Examples of dependent agents not carrying out prohibited activities could be those employed as marketing agents, delivery agents, logistics agents, and those agents carrying out prohibited activities but not habitually.
- Section 9(8)(c)(ii)(A) of the Bill is same as earlier Explanation 1(a) to section 9(1)(i) of the ITA except that it uses 'export out of India' in place of 'export.'

- Sub-Clauses (A), (B), (C), and (D) of Section 9(8)(c)(ii) of the Bill negate business connection unlike Explanation 1(b) to (e) to Section 9(1) of the ITA, which did not negate business connection but only restricted or negated the income attribution.
- Sub-Clauses (A), (B), and (D) of Section 9(8)(c)(ii) of the Bill correspond to Explanation 1(b), (c), and (d) to section 9(1)(i) of ITA. However, these clauses in the ITA apply only to non-residents. On the other hand, sub-clauses (A), (B), and (D) of Section 9(8)(c)(ii) would apply to all. This will have the following implications:
 - Sub-clauses (A), (B), and (D) of Section 9(8)(c)(ii) would apply to all persons. Even residents and not-ordinarily residents are covered.
 - Therefore, in the case of residents as well as not ordinarily residents, these incomes are not deemed to accrue or arise in India. Accordingly, these incomes remain as accruing or arising outside India.
 - For ordinary residents, it does not make a difference as section 5(1)(c) gets attracted even in respect of income accruing or arising outside India.
 - However, for not ordinarily residents, section 5(1)(c) does not apply except in respect of business controlled from or profession set up in India. Thus, not ordinarily residents get benefit of no taxation in respect of incomes covered by Sub-clauses (A), (B), and (D) of Section 9(8)(c)(ii) of the Bill
- Section 9(8)(d) of the Bill which defines Significant Economic Presence starts with the words, “a non-resident shall have a significant economic presence in India, where there is”. Use of words ‘*where there is*’ is not elegant and does not gel with sub clauses (i) and (ii) that follow. Section 9(8)(d) ought to have started with the phrase “*For the purposes of clause (a)(ii), a significant economic presence in India of a non resident shall mean;*”
- Section 9(8)(e) of the Bill corresponds to the 2nd proviso to Explanation 2A of the ITA. Clause (e) starts with the phrase ‘*the provisions of clause (d) shall not apply...*’. It should have referred to clause (a)(ii) to be more effective.
- Section 9(8)(e) uses the phrase ‘for the purpose of export’ in contrast to the language used in Section 9(8)(c)(ii)(A), i.e., ‘*for the purposes of export out of India*’.
- Section 9(8)(f) is an admixture of Explanation 1(a) for generic business connection, the third proviso to Explanation 2A for Significant Economic Presence of ITA, and Explanation 3 to dependent agency business connection of section 9(1)(i) of ITA. Section 9(8)(f) of the Bill uses the words “is attributable to” whereas in the ITA, the words used are “reasonably attributable to” in Explanation 1(a) and “attributable to” in the 3rd Proviso. There is no justification for omitting the word ‘reasonably’.
- Section 9(8)(f)(i) of the Bill is applicable to all assesseees irrespective of residential status. This is similar to Explanation 1(a) of ITA. Therefore, not ordinarily residents can take the benefit of no taxation if their case is covered under this clause.
- Section 9(8)(g) of the Bill corresponds to Explanation 3A read with the proviso thereunder in ITA. Section 9(8)(g) starts with the phrase “the income attributable to operations of any business or significant economic presence in this Sub-section shall also include income from” which is not elegant. It should have been worded on the same lines as present Explanation 3A i.e. “*the income referred to in clause (f) shall also include income from*”

10. Subsection (9):

10.1 The proposed Section 9(9) of the Bill corresponds to Explanations 5, 6, and 7 of Section 9(1) of ITA. The proposed clauses of Section 9(9) of the Bill are mapped and compared to the existing ones, as under:

| Proposed Provision | Existing Provision |
|--------------------|---|
| Section 9(9)(a) | Explanation 5 to Section 9(1)(i) |
| Section 9(9)(b) | Clause (a) to Explanation 6 to Section 9(1)(i). |
| Section 9(9)(c) | Clause (b) to Explanation 6 to Section 9(1)(i). |
| Section 9(9)(d) | Clause (d) to Explanation 6 to Section 9(1)(i). |
| Section 9(9)(e) | Clause (c) to Explanation 6 to Section 9(1)(i). |
| Section 9(9)(f) | Clause (b) to Explanation 7 to Section 9(1)(i). |
| Section 9(9)(g) | It is an admixture of 2 nd and 3 rd Provisos to Explanation 5, and Clauses (a) and (c) to Explanation 7 to Section 9(1)(i). |

11. Subsection (10):

11.1 The proposed Section 9(10) of the Bill corresponds to Clause (viii) of Section 9(1) of ITA. After examining the language of Section 9(10) of the Bill, the following can be observed;:

- The proposed Section 9(10) of the Bill uses the phrase '*in the nature of*' in place of 'being' in section 9(1)(viii) of the ITA. It may be noted that the word 'being' is more appropriate as it is specific to the item referred to in section 2(49)(u).
- Section 9(1)(viii) of the ITA uses 'any sum of money'; on the other hand Section 9(10) of the Bill uses 'any sum'. This has the potential of expanding the scope to include even the value of property referred to in section 2(49)(u) which may be unintended. However, the intention not to cover 'value of property' is clear from the use of the word 'paid' that follows the words "nature of a sum referred to in section 2(49)(u)". Therefore, it is appropriate to use the phrase 'any sum of money' in section 9(10).

12. Subsection (11):

12.1 The proposed Section 9(11) of the Bill corresponds to the Explanation to Section 9 of the ITA. Looking at the language in both the current and proposed provisions, it may be noted that the language of the proposed Section 9(11) is not elegant. In our view, the present language of Explanation to Section 9 of ITA should be retained, and it should be reworded as "*Income of a non-resident shall be deemed to accrue or arise in India under sub-sections (5), (6) and (7), and shall be included in his total income, whether or not,....*".

13. Subsection (12) and Schedule I:

13.1 The proposed Section 9(12) and Schedule I of the Bill correspond to Section 9A of ITA i.e. *“Certain activities not to constitute business connection in India”*.

13.2 Subsections (1), (2), (6) and (7) of Section 9A of the ITA are transformed respectively into Clauses (a), (b), (c), and (d) of proposed Section 9(12) of the Bill.

13.3 Subparagraphs (1) to (5) of Paragraph 1 of Schedule I of the Bill now contain the requirements for being an eligible investment fund or eligible fund manager, as well as for providing the necessary statements. Clause (e) of the proposed Section 9(12) is added to make reference to the conditions listed in Schedule I. These requirements were previously found in Subsections (3), (4), (5), and (8) of Section 9A of the ITA.

13.4 The Central Government’s power to issue notification specifying conditions dealt with in Subsection (8A) of Section 9A of the ITA is now provided in Section 9(12)(f) and also in Subparagraph (6) of Paragraph 1 of Schedule I of the Bill.

13.5 The terms defined in Subsection (9) of Section 9A of the ITA are now included in Paragraph 2 of Schedule I of the Bill.

13.6 After examining Schedule I and Section 9(12) of the Bill, the following may be observed:

- Section 9(12)(b) of the Bill should use ‘irrespective of section 6’ like how section 9A(2) of ITA has a non obstante clause to section 6 of ITA.
- Section 9(12)(e) of the Bill is worded as *“the conditions for being an eligible investment fund or an eligible fund manager, or furnishing of requisite statements shall be subject to the provision of Schedule I”*. However, it should be worded as *“the conditions for being an eligible investment fund or an eligible fund manager, or furnishing of requisite statements shall be as listed in Sub paragraphs (1) to (5) of Paragraph 1 of Schedule I”*
- A comparison of the language of Section 9(12)(f) and Subparagraph (6) of Paragraph 1 of Schedule I of the Bill may be made as follows:

| Section 9(12)(f) | Subparagraph (6) of Paragraph 1 of Schedule I |
|--|--|
| <p><i>(f) the Central Government may, by notification, specify that any one or more of the conditions shall not apply, or shall apply, with such modifications, as specified, in case of an eligible investment fund and its eligible fund manager, if--</i></p> <p><i>(i) the eligible fund manager is located in an International Financial Services</i></p> | <p><i>The Central Government may, by notification, specify that any one or more of the conditions specified in subparagraph (1) (other than at paragraph (1)(c)) or (3) shall not apply or shall apply with such modifications, as specified in case of an eligible investment fund and its eligible fund manager, if--</i></p> |

| | |
|---|--|
| <i>Centre; and</i> | <i>(i) the eligible fund manager is located in an International Financial Services Centre; and</i> |
| <i>(ii) has commenced its operations on or before the 31st March, 2030.</i> | <i>(ii) has commenced its operations on or before the 31st March, 2030.</i> |

- From the perusal of the above, it is clear that the legislature could have avoided duplication of provisions. The legislature could have used the exact language used in Subparagraph (6) of Paragraph 1 of Schedule I in Section 9(12)(f) and could have omitted Subparagraph (6) of Paragraph 1 of Schedule I to avoid ambiguity and complications. It may be noted that Section 9(12)(f) does not state where the conditions are provided; however, Subparagraph (6) of Paragraph 1 of Schedule I is clear about the conditions.

14. Subsection (13):

14.1 The proposed Section 9(13) of the Bill corresponds to Explanation 4 to Section 9(1)(i) of ITA. Looking at the language in both the current and proposed provisions, there is no material change carried in Section 9(13) of the Bill.

15. Conclusion:

A perusal of the above would show that the changes proposed are significant. At the first blush, the Bill appears to be merely an old wine in a new bottle. However, a deep dive indicates otherwise. The deliberate choice or absence of words is conspicuous, going beyond the avowed objectives. [While the professed objective is to impart simplicity and ease of understanding and application, in reality, it is likely to add complexity to an already complex subject of 'Income deemed to accrue or arise in India'.](#)