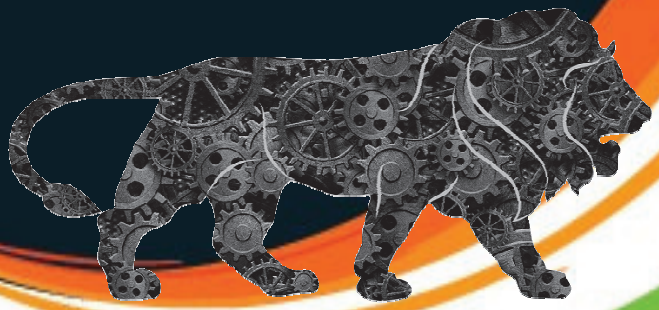
MAKE IN INDIA

STARTUP INDIA

UNION BUDGET 2016

ANALYSIS OF UNION BUDGET



SANJAY C. SHAH & ASSOCIATES
CHARTERED ACCOUNTANTS

Flat no 10, 2nd Floor, Madhav Nagar CHS,Above Merwans Cake Shop, S.V. Road, Andheri West, Mumbai 400058.
Phone: 022-26281101/1150 E-mail: sanjay.c.shah@vsnl.com sanjay.c.shah@mtnl.net.in

UNION BUDGET 2016

HIGHLIGHTS

DIRECT TAX:

- No change in the rate of personal Income Tax;
- Corporate tax reduced to 29% for small businesses having turnover less than Rs. 5 crore;
- Reduction in corporate tax - New manufacturing companies after 1st March, 2016 have to pay tax at 25% subject to fulfillment of certain conditions;
- Surcharge to be raised from 12% to 15% in case of an Individual/ HUF/ AOP/ BOI having income above Rs. 1 crore;
- Exemption of Interest income on Deposit Certificates issued under Gold Monetization Scheme 2015;
- Expansion in the scope of E-Assessments by communication of data or document through electronic mode during Assessment Proceedings;
- Withdrawal upto 40% of the corpus at the time of retirement to be tax exempt in the case of NPS/ Superannuation Fund;
- Additional tax @ 10% of amount of dividend received by individuals/HUF in excess of Rs. 10 lacs p.a;
- Exemption of Long Term Capital Gains arising from transactions undertaken in foreign currency on a recognized stock exchange located in International Financial Service Centre (IFSC);
- Enhance perquisite limit of contribution to Rs. 1.5 lacs to an approved Superannuation Fund by employer;
- Increase in time for acquisition or construction of property from 3 years to 5 years from end of financial year in which capital is borrowed;
- Benefit of section 10AA to new SEZ units will be available to those units which commence activity before 31st March 2020;
- Deduction of 30% of additional wages paid to new regular workmen in a factory for three years;
- Deduction of 100% of profits derived is provided for 3 consecutive years out of

first 5 years of incorporation for start-ups whose turnover below 25 Crores;

- Additional deduction of interest of Rs. 50,000 provided in case of First home buyers , if value of house does not exceed Rs 50 lacs;
- Increase in turnover limit for presumptive taxation u/s 44AD to Rs. 2 crore;
- Presumptive taxation scheme for all professionals with receipts upto Rs. 50 lacs and profit deemed to be 50%;
- Deduction u/s 80GG for individuals paying rent but not receiving HRA proposed to be increased from Rs. 24,000 p.a. to Rs. 60,000 p.a.;
- Relief u/s 87A to be increased from Rs. 2,000 to Rs. 5,000;
- Long term Capital Gain on sale of shares of a closely held Company held by NRI to be taxed @ 10% without indexation;
- Tax incentives provided to new units set up in IFSC;
- TDS provisions to be rationalized. Non-resident Indian providing alternate documents will not be subject to higher tax rate;
- Benefit of declaration under Form No. 15G/ 15H extended to Rental Income;
- Applicability of TCS @1% on purchase of luxury cars exceeding value of Rs. 10 lacs and purchase of goods and services in cash exceeding Rs. 2 lacs;
- Changes in Installments of Advance Tax in case of Non-corporate Assessees;
- Interest on refund granted by department increased from 6% p.a. to 9% p.a.;
- Total income of as Assessee to be computed without giving effect to exemption under long term Capital Gains;
- Belated return of income to be filed before one year from the end of the relevant Assessment Year;
- Assessee filing a belated return is now allowed to file revised return;
- Time limit for completion of regular assessment is reduced to 21 months;
- Time limit for completion of reassessment is reduced to 9 months;
- Aggregate limit for TDS on contract increased to Rs 1,00,000 p.a./-;
- Aggregate limit for TDS on commission/ brokerage increased to Rs 10,000 p.a./-;
- Rate of TDS u/s 194H has been reduced from 10% to 5%;
- Non-payment of self-assessment tax and interest on or before the date of filing

the return shall not be treated as defective return;

- One-time dispute resolution scheme for retro tax cases. Payment of arrears taxes lead to waiver of penalty and interest;
- Implementation of Anti Avoidance Rules (GAAR) from 1st April 2017;
- 4-month Compliance Window for domestic black money holders. Tax, interest on them @ 45%;
- Start-ups to get 100% tax exemption for 3 years except MAT which will apply from April 2016-2019;
- Equalization levy of 6%of gross amount for payment made to non- resident in excess of Rs.1 lacs p.a. in case of B2B transactions;
- 10% tax rate on income from worldwide exploitation of patents developed and registered in India by a resident;
- Rate of Securities Transaction tax (STT) in case of "Options" is increased from 0.017% to 0.05%
- Long Term Capital Gains period for unlisted companies to be reduced from 3 year to 2 years;
- Accelerated depreciation wherever provided in IT Act will be limited to maximum 40% from 01.04.2017;
- Disallowance up to 1% of the average monthly value of investments yielding exempt income, but not exceeding the actual expenditure claimed under rule 8D of Section 14A of Income Tax Act ;
- Time limit of 1 year for disposing petitions of the tax payers seeking waiver of interest and penalty;
- Grant stay of demand once Assessee pay15% of the disputed demand, while appeal is pending before CIT (Appeals);
- Enhanced monetary limit from Rs.15 lacs to Rs.50 lacs for deciding an appeal by a single member of Bench of ITAT;

INDIRECT TAX:

- Krishi Kalyan cess to be levied @ 0.5% on all taxable services;
- Sale of Spectrum (2G,3G,4G) by Government to be leviable to service tax;
- Service tax to be leviable on Legal Service provided by Senior Advocates under Forward Charge;
- Services provided by EPFO exempted from service tax;
- Service tax exempted for housing construction of houses less than 60 sq. meter;
- Service tax on transportation of passengers by Air-conditioned Stage carrier will be liable to tax from 1st June 2016.
- Service Tax to be levied on services provided by way of transportation of goods by a vessel from outside India up to the customs station in India;
- Retrospective exemption to certain Government contracts for constructions and refund of tax already paid;
- Payment of quarterly Service tax by "One Person Company" and HUF;
- Change in rate of interest rate on delay payment of service tax;
- The abatement rate in respect of services by way of construction of residential complex, building, civil structure, or a part thereof, is being rationalized at 70%;
- The abatement rate in respect of shifting of used household goods by a Goods Transport Agency (GTA) is reduced to 60%;
- Introduction of Indirect tax Dispute Resolution Scheme, 2016;
- Filing of annual return by Service Tax Assessee;
- Enhancement of time limit for issuance of notice from 18 months to 30 months;;
- Monetary limit for arrest and prosecution increased to Rs.2 crores;
- CENVAT Credit Rules rationalised in case of provider of taxable and exempted services;
- The abatement rate in respect of services by way of construction of residential complex, building, civil structure, or a part thereof, is being rationalized at 70%;
- The abatement rate in respect of shifting of used household goods by a Goods Transport Agency (GTA) is reduced to 60%;

ANALYSIS OF AMENDMENTS PROPOSED

"DIRECT TAXES"

The amendments proposed in the Finance Bill, 2016 would be effective from Assessment Year 2017-18 unless mentioned otherwise.

Rates of Income Tax:-

The table below shows the Income slabs and the corresponding Income Tax rates for Resident Individual / Hindu Undivided Family applicable for Assessment Year 2017-2018:-

Male / Female Assessee (Less than 60 years):-

Existing Slab of Income (AY 2016-17)	Proposed Slab of Income (AY 2017-18)	Rate of Tax
Upto Rs. 2,50,000	Upto Rs. 2,50,000	NIL
Rs. 2,50,001 - Rs. 5,00,000	Rs. 2,50,001 - Rs. 5,00,000	10%
Rs. 5,00,001 - Rs. 10,00,000	Rs. 5,00,001 - Rs. 10,00,000	20%
Above Rs. 10,00,000	Above Rs. 10,00,000	30%

Senior Citizen (60 years or more but less than 80 years):-

Existing Slab of Income (AY 2016-17)	Proposed Slab of Income (AY 2017-18)	Rate of Tax
Upto Rs. 3,00,000	Upto Rs. 3,00,000	NIL
Rs. 3,00,001 - Rs. 5,00,000	Rs. 3,00,001 - Rs. 5,00,000	10%
Rs. 5,00,001 - Rs. 10,00,000	Rs. 5,00,001 - Rs. 10,00,000	20%
Above Rs. 10,00,000	Above Rs. 10,00,000	30%

Very Senior Citizen (80 years or more):-

Existing Slab of Income (AY 2016-17)	Proposed Slab of Income (AY 2017-18)	Rate of Tax
Up to Rs. 5,00,000	Up to Rs. 5,00,000	NIL
Rs. 5,00,001 - Rs. 10,00,000	Rs. 5,00,001 - Rs. 10,00,000	20%
Above Rs. 10,00,000	Above Rs. 10,00,000	30%

Education Cess is payable @ 3% on Tax as per above slab rates. Surcharge @ 15% is applicable to above mentioned Assessees, if total income exceeding Rs. 1 crore from AY 2017-18 onwards as against Surcharge @ 12% up to AY 2016-17.

For Other Assessees:-

The table below shows the Income Tax rates for Assessment Year 2017-2018 for other Assessees:-

Description	Existing Slab of Income (AY 2016-17)		Proposed Slab of Income (AY 2017-18)	
	Total Turnover/ Gross Receipts in FY 14-15 does not exceed Rs. 5 Crore	Total Turnover/Gross Receipts in FY 14-15 exceed Rs.5 Crore	Total Turnover/Gross Receipts in FY 14-15 does not exceed Rs. 5 Crore	Total Turnover/ Gross Receipts in FY 14-15 exceed Rs. 5 Crore
A) Firm/LLP				
Regular Tax	30%	30%	30%	30%
AMT	18.5%	18.5%	18.5%	18.5%
B) Foreign Co.				
Regular Tax	40%	40%	40%	40%
C) Domestic Co.				
Regular Tax	30%	30%	29%	30%
Regular Tax for Newly Setup domestic Company engaged solely in the business of manufacture or production of any article or thing[$]	N.A.	N.A.	25%	25%
MAT for Company other than Company being a unit located in IFSC deriving its income wholly in convertible forex	18.5%	18.5%	18.5%	18.5%
MAT for Company being a unit located in IFSC deriving its income wholly in convertible forex	18.5%	18.5%	9%	9%

$ Subject to conditions

Surcharge:-

Surcharge on Income Tax shall be applicable to the various category of Assesses as follows:

Type of Assessee	Surcharge on Income Tax				
	Total Income upto Rs. 1 crore	Total Income above Rs. 1 crore to Rs. 10 crores		Total Income above Rs. 10 crores	
	Existing/ Proposed	Existing	Proposed	Existing	Proposed
Domestic Company	0%	7%	7%	12%	12%
Foreign Company	0%	2%	2%	5%	5%
Firms and LLP	0%	12%	12%	12%	12%
Any Other Assessee (Other than Individuals)	0%	12%	12%	12%	12%

Amendment to Section 2(14), 10(15) of the Act:-

At present, Gold Deposit Bonds issued under Gold Deposit Scheme, 1999 are exempt from Capital Gain tax, as these bonds are not considered as Capital Assets and hence, Interest on said Gold Deposit Bonds is exempt u/s 10 of Act.

Government has recently introduced scheme called as "Gold Monetization Scheme 2015". Under said Scheme, designated banks shall accept golds from Depositors as deposit and issue Deposit Certificate to depositors. On the said scheme, deposit will be eligible for interest income. This scheme functions in similar lines with Fixed Deposit.

The Objectives of Gold Monetization Scheme are:-

a) Mobilizing of large amount of Gold lying as an idle asset with households, trusts and various institutions in India ;

b) Providing a fillip to the gems and jewellery sector in the country by making gold available as raw materials on loan from the banks;

c) To reduce reliance on import of gold over time to meet the domestic demand.

In order to extend the same tax benefit to the scheme as are available to the Gold Deposit Scheme, 1999 it is now proposed that Deposit Certificates issued under Gold Monetization Scheme 2015, as notified by the Central Government shall be excluded from the definition of Capital Asset and accordingly are not liable to Capital Gain on redemption/transfer.

It is also proposed to exempt interest income on said Deposit Certificates issued under the Scheme.

Above amendment shall come into force retrospectively from AY 2016-17 onwards.

Insertion of Section 2(23C) and consequential Amendment to Section 143 (2) of the Act:-

At present, during the course of Scrutiny, Assessee needs to attend personally or though their authorized persons to comply the notice issued by Department, as there is no provision which define the meaning of "hearing".

It is now proposed to insert section 2(23C) of the Act to define the term "hearing" to include communication of data and documents through electronic mode. Accordingly, submission of data and documents through mail or any other electronic mode is considered as compliance to notice issued by department.

However, if the Assessing officer considers it necessary, he shall serve on the Assessee a notice requiring him to **attend** the office of the Assessing Officer or to produce any evidence;

Above amendment shall come into force from 1st June 2016 onwards.

Amendment to Section 2(24) (xviii) of the Act:-

As present, grant or cash assistance, subsidy or any reimbursement, etc. {other than receipts which are deducted from Cost of Fixed Asset as per explanation 10 to section 43(1) of the Act} provided by the Central Government to any entity are taxed in the hand of Recipient.

It is now proposed to amend section 2(24) to provide that subsidy or grant provided by the Central Government for the purpose of **corpus** of a trust or institution established by the Central Government or State government for operationalizing of certain government schemes shall not be considered as income.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 6 (3) of the Act:-

As present, in case of an Assessee being a Company, the test of Residency in India is dependent upon the location of its "control and management" wholly in India.

In Finance Act 2015, it was proposed to amend the provisions of Section 6 of the Act to provide that in the case of an Assessee being a Company, the test of Residency in India is dependent upon, "**its place of effective management, at any time in that year."**

Further it was also proposed to define the "Place of effective management" as a "**place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are in substance made."**

Above amendment **is proposed to be deferred**, as there is no clarity regarding guideline and applicability of the specific provisions of the Act relating to Advance tax payment, applicability of TDS provisions, computation of total income, set off of losses, manner of application of transfer pricing regime, etc.

Accordingly applicability of amendment in section 6(3) brought in by Finance Act 2015 is proposed to be deferred by one year. Accordingly it shall now be applicable from AY 2017-18 onwards.

Amendment to Section 9 of the Act:-

At present, Section 9 of the Act provides circumstances under which income is deemed to accrue or arise in India. One of the circumstances providing for income to be deemed to accrue or arise in India is, if any income is **directly or indirectly derived through or from a business connection in India**.

Government has set up a "Special Notified Zone" (SNZ) to facilitate import and trading of rough diamonds by Foreign Mining Companies (FMC), which will boost the gems and jewellery sector.

The activity of Foreign Mining Company (FMC) is merely to display rough diamond, even with no actual sale in India, which may lead to creation of business connection in India of the FMC. For e.g.:- Many Foreign Mining Companies are displaying their rough diamond at **Bharat Diamond Bourse (BDB)** in India. This activity may lead to litigation point with respect to accrual of income in India from display of diamond activity.

It is now proposed to amend section 9 of the Act to provide that, in the case of a Foreign Company engaged in the business of mining diamonds, income arising from display of uncut or unassorted (rough) diamond in a Special Zone, shall be exempt from tax as notified by the Central Government

Above amendment shall come into force retrospectively from AY 2016-17 onwards.

Amendment to Section 9A of the Act:-

At present in order to facilitate location of fund managers of off-shore funds in India, a specific tax regime is made in line with international best practices about Residential status of the Fund. It is provided that income of the fund from the investments outside India would not be taxable in India solely on the basis that fund management activity in respect to such investments has been undertaken through a fund manager located in India, if certain conditions are satisfied.

One of the conditions is that the Fund should be a Resident of a Country or Specified Territory with which Agreement u/s 90(1) or 90A(1) has been entered into.

It is now proposed to relax the above condition so as to stipulate that Fund can also be a Resident in any other Country or Specified territory as notified by Central Government **with which India may or may not have Agreement** as referred above.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment of Section 10(12), 10(12A), 10(13) and rule 8 of schedule IV of the Act:-

Particulars	Existing provision in the Act	Proposed Amendment to the Act
Sec.10(12) :- **Withdrawal** of accumulated balance, of Recognized PF by Specified Employee	Fully Exempt.	Contribution exceeding 40% of accumulated balance due would be taxable.
Sec 10(12A):- **Withdrawa**l of accumulated balance from National Pension System (NPS) Trust by Employee.	N.A.	The payment from the NPS to an employee on closure of his account or on opting out of NPS would be taxable in excess of 40% of total amount payable. However, any payment from NPS Trust received by nominee, on the death of the employee shall be Fully Exempt.
Sec.10(13):- **Withdrawal** of accumulated balance, of Superannuation Fund, which was contributed to an Annuity Plan	Fully Exempt	Contribution exceeding 40% of annuity would be taxable.
Sec.10(13):- The accumulated balance, of Superannuation Fund, which is **transferred** to pension scheme referred to in section 80CCD and notified by Central Government	N.A.	Fully Exempt
Rule 8 of Schedule IV:- The accumulated balance, of Recognised Provident Fund, which is **transferred** to pension scheme referred to in section 80CCD notified by Central Government	N.A.	Fully Exempt

Above amendment shall come into force from AY 2017-18 onwards.

Insertion of a new Section 10(48A) of the Act:-

At present u/s 10(48) of the Act, exemption in respect of any income of a Foreign Company received in India **on account of sale of crude oil** to any person in India is subject to the following conditions:-

- The receipt of money is under an agreement or an arrangement which is either entered into by the Central Government or approved by Central Government and is also notified;

- Foreign Company is not engaged in activity other than sale of crude oil, in India.

It is now proposed to insert new section 10(48A) to provide exemption in respect of any income of a Foreign Company received **on account of storage of crude oil in India and sale of crude oil** to any person in India subject to the following condition:

- Storage and Sale of crude oil is under an agreement or an arrangement which is either entered into by the Central Government Or approved by Central Government and is also notified;

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 17 of the Act:-

As present, amount of any contribution in excess of Rs.1 lac to an approved superannuation fund by Employer is considered as a perquisite in the hand of Employees.

It is now proposed that the said maximum limit be raised from Rs.1 lac to Rs.1.5 lacs

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 24 of the Act:-

As per existing provisions, where self-occupied house property (SOP) is acquired or constructed within 3 years from end of financial year in which capital is borrowed, interest on capital borrowed shall be allowed a maximum deduction of Rs. 2 lacs.

In the current market scenario, most of housing project often take longer time for completion of construction and are not completing construction within 3 years, so due to which deduction of interest on capital borrowed is restricted to Rs.30,000/- only.

It is now proposed to increase time of acquisition or construction of property from 3 years to 5 years from end of financial year in which capital is borrowed.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 25A, 25AA and 25B of the Act:-

At present, sections 25A, 25AA and 25B deals with special provisions in taxation of unrealised rent allowed as deduction when realised subsequently, unrealised rent received subsequently and arrears of rent received respectively. Certain deductions are available thereon.

It is proposed that the amount of rent received in arrears or the amount of unrealized rent realised subsequently by an Assessee shall be charged to income tax in the financial year in which such rent is received or realized, whether the Assessee is the owner of the property or not in the financial year.

It is also proposed that 30% of the arrears of the rent or the unrealized rent realised subsequently by the Assessee shall be allowed as deduction

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 28 and 55 of the Act:-

As per the existing provision of section 28 of the Act, any sum received for not carrying out **any business activity is** taxable under the head "profits and gains of business or profession", provided that same activity is not chargeable to tax under the head "Capital Gains"

At present, activity of **Profession** is not covered under above provision and accordingly sum received or receivable by professional on account of said activity is not liable to tax under the head "Profits and gains of business or profession".

It is now proposed to include any sum received for not carrying out **Profession** shall also be taxable in the same manner as of business income u/s 28 of the Act.

Further, it is also proposed that receipts for transfer of rights to carry on any **Profession,** which are chargeable to tax under the head "Capital Gains", would not be taxable as profits and gains of business or profession.

It is also proposed to amend section 55, so as to provide that the 'cost of acquisition' and 'cost of improvement' for working out "Capital Gains" on capital receipts arising out of transfer of right to carry on **any profession** shall also be taken as 'NIL'.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 32 (1)(iia) of the Act:-

As per existing provision for section 32(1)(iia) of the Act, an additional depreciation @ 20% allowed on new plant or machinery to Assessee, engaged in the business of generation or generation and distribution of power. The benefit of additional depreciation is not available to an Assessee engaged in the business of transmission of power.

It is now proposed to widen the scope to allow additional depreciation to the Assessee engaged in the business of generation, **transmission** or distribution of power.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 32AC of the Act:-

Particulars	Deduction on NEW Plant & Machinery	
	Existing Section 32AC(1A)	**Proposed Section 32AC(1A)**
Eligible Assessee	Company	Company
Percentage of Deduction of Investment Allowance	15% of the Cost	15% of the Cost
Year of installation of Plant & Machinery for eligibility	Between 1st April, 2014 to 31st March 2017	Between 1st April, 2014 to 31st March 2017
Business of Undertaking	Manufacture or production	
Minimum Investment required in new P & M	In Excess of Rs.25 Crore	In Excess of Rs.25 Crore
Conditions of Acquisition and Installation	Acquisition and installation has to be done in the **same** previous year.	Acquisition of Assets in previous year and Installation of same in **any previous year** but on or before 31st March 2017
Year of Deduction Allowable	Deduction under this sub section shall be allowed in the year in which new asset is **acquired and installed**.	Deduction under this sub section shall be allowed in the year in which new asset is **installed**.

Above amendment shall come into force from AY 2017-18 onwards.

Insertion to Section 35ABA of the Act:-

It is proposed to insert a new section 35ABA in the Act to provide for tax treatment of spectrum fees. The Section seeks to provide the following:-

Provision	Tax Treatment
Any **capital expenditure incurred and actually** paid by an Assessee on the acquisition of any right to use spectrum (rent) for telecommunication services by paying spectrum fee	Deduction (i.e. amortization) in **equal instalments** over the period of the right to use spectrum.
Where the spectrum is transferred and proceeds of the transfer are **less** than the expenditure remaining unallowed (i.e. expenditure is not fully amortized)	Unamortized expenditure shall be allowed as a deduction from Proceeds of transfer in the year of transfer.
Where the spectrum is transferred and proceeds of the transfer **exceed** the amount of expenditure remaining unallowed.	The **excess amount** shall be chargeable to tax as **profits and gains of business** in the year of such transfer.
Unallowed (i.e. Unamortized) expenses, where a part of the spectrum is transferred.	Unallowed portion will be amortized in remaining period.
Under the scheme of amalgamation, the amalgamating Company sells or transfers the spectrum to an amalgamated Company, being an Indian Company.	Provisions of this section will apply to amalgamated Company as they would have applied to amalgamating Company if later has not transferred the spectrum.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 32 35AC, 35AD, 35CCC, 35CCD, 35(1), 35(2AA), 35(2AB) of the Act:-

Section	Nature of Business/Transactions	Existing Deduction of Capital Expenditure	Proposed Deduction of Capital Expenditure	
			%	Applicability Year
Sec. 32 r.w.r 5	Accelerated Depreciation to certain Industrial sectors	100%	40%	AY 18-19 onwards (Applicable for both old and new assets)
35AC	Expenditure on eligible projects or schemes	100%	0%	AY 18-19 onwards
35AD	Expenditure on specified services i.e. cold chain facility, warehousing facility for storage of agricultural produce, etc.	150%	150%	Up to AY 18-09
			100%	w.e.f. AY 2018-2019 onwards
35CCC	Expenditure on agricultural extension project	150%	150%	Up to AY 18-09
			100%	w.e.f. AY 2018-2019 onwards
35CCD	Expenditure on Skill development project	150%	150%	Up to AY 21-22
			100%	AY 21-22 onwards
35(1)(ii)	Expenditure on scientific research, which has the object of undertaking scientific research or to university, college or other institution.	175%	150%	AY 18-19 to AY 21-22
			100%	w.e.f. AY 21-22 onwards
35(1)(iia)	Expenditure on scientific research Company	125%	100%	w.e.f. AY 18-19 onwards

Section	Nature of Business/Transactions	Existing Deduction of Capital Expenditure	Proposed Deduction of Capital Expenditure	
			%	Applicability Year
35(1)(iii)	Expenditure on scientific research paid to research association or university or college or other institution to be used for research in social science or statistical research	125%	100%	w.e.f. AY 18-19 onwards
35(2AA)	Expenditure on scientific research paid to a National Laboratory or a university or an Indian Institute of Technology or a specified person for the purpose of approved scientific research programme	200%	150%	AY 18-19 to AY 20-21
			100%	w.e.f. AY 21-22 onwards
35(2BA)	Expenditure on scientific research incurred by a Company, engaged in the business of bio-technology	200%	150%	AY 18-19 to AY 20-21
			100%	w.e.f. AY 21-22 onwards

Insertion of clause (iv) to Section 35AD(8)(c) of the Act and Consequential Insertion in Section 35AD(2): -

As per existing provisions, Section 35AD provides for deduction of capital expenditure used exclusively for the specified business.

It is now proposed to include a new business as "specified business" for the purpose of the investment-linked deduction u/s 35AD so as to promote investment in this sector.

The said business included is developing, maintaining and operating a new infrastructure facility.

It is further proposed that the said deduction is subject to fulfilment of the following conditions:-

- It should be registered in India or any other body incorporated under any Central or State Act and
- It should enter into an agreement with Central Government, State Government or a local Authority for carrying out such business.

The word Infrastructure facility has been defined to mean the following:-

- Any road, toll road, bridge, rail system
- Any highway project
- Any water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system
- Any port, airport, inland waterway, inland port or navigational channel in the sea

Above amendment shall come into force from AY 2017-18.

Amendment to Section 36(1) of the Act:-

As per the existing provision of sub-clause (viia) of Section 36(1), deduction from total income (computed before making any deduction under this clause and chapter-VIA) on account of provision for bad and doubtful debts to the extent of 5% of the total income is allowed to Scheduled Banks, Foreign Banks, Public Financial Institutions, State Financial Corporations and State Industrial Investment Corporations.

It is proposed to extend the deduction from total income (computed before making any deduction under this clause and chapter-VIA) on account of provision for bad and doubtful debts to the extent of 5% of the total income, u/s 36(1)(viia) of the Act to Non-Banking Financial Companies (NBFC's) also.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 43B of the Act:-

As per the existing provisions, some of the expenses are allowed under Income Tax Act 1961 and can be claimed by the Assessee only in the year in which the payment is actually made or if it is paid on or before the due date of filing the Income Tax Return for that year.

In order to encourage quick payments for the outstanding dues to Indian Railways for use of Railway assets in the form of Freight or Rent for using the Premises/Godown of the Railways, the same is being included within the scope of the aforesaid Section. Accordingly any liability towards expenses payable to Railways is allowable only if it is paid before the end of previous year or before the due date of filing the Income Tax Return.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 44AA, 44AB & 44AD and Insertion of Section 44ADA of the Act:-

At Present:-

- Section 44AA deals with mandatory maintenance of Books of Accounts for certain class of Assessees.

- Section 44AB deals with compulsory Audit of Accounts for Assessee's whose Turnover or Gross receipts in any year is in excess of specified limit.

- Section 44AD deals with Presumptive Tax applicable to certain class of Assessee satisfying certain conditions. Some of the conditions are specified herein below:-

    - Assessee is an Individual, HUF or a Partnership Firm.
    - Assessee has earned Business Income during any year.
    - His Turnover from Business does not exceed 1 Crore.

If above conditions are satisfied, then Assessee has an option to declare 8% of its Turnover as Net Profit earned out of Business carried on in his Return of Income. It is further provided that in case of Partnership Firm, Remuneration and interest shall be allowed separately from the profit so computed @ 8% of Turnover.

In case Assessee opts for presumptive tax system u/s 44AD and declares income @ 8% of Turnover as aforesaid, he will not be required to maintain Books of Accounts u/s 44AA and will not be required to get the accounts audited u/s 44AB of the Act. As per present provisions, Assessee is entitled to exercise option in one year and not exercise option in subsequent year without any compulsion.

It is now proposed as under:-

- Once Assessee exercises option of presumptive tax he will have to follow presumptive tax regime in 5 subsequent years from the first year in which such option is exercised.

- In case he opts not to exercise the option in any of the 5 subsequent years, then he will be liable to maintain books of accounts and get the accounts audited for year in which he does not exercise the option and 5 subsequent years from the year in which he does not exercise option.

The same is illustrated herein below:-

Assessee not complying with 44AD(4)			**Assessee complying with 44AD(4)**		
Assessment Year	**Whether Income declared as per 44AD(4)**	**Whether 44AA & 44AB applicable**	**Assessment Year**	**Whether Income declared as per 44AD(4)**	**Whether 44AA & 44AB applicable**
2017-18	Yes	No	2017-18	Yes	No
2018-19	Yes	No	2018-19	Yes	No
2019-20	Yes	No	2019-20	Yes	No
2020-21	Yes	No	2020-21	Yes	No
2021-22	Yes	No	2021-22	Yes	No
2022-23	No*	Yes	2022-23	Yes	No
2023-24	Yes	Yes	2023-24	No[#]	Yes
2024-25	Yes	Yes	2024-25	Yes	No
2025-26	Yes	Yes	2025-26	Yes	No
2026-27	Yes	Yes	2026-27	Yes	No
2027-28	Yes	Yes	2027-28	Yes	No

*non-compliance within a period of 5 years, therefore Section 44AA & 44AB are applicable for the next consecutive 5 years.
Section 44AA & 44AB are applicable only for the year where Income is not declared u/s 44AD(4).

- It is also proposed, for Applicability of Section 44AB for Professional Assessees, the Limit for Total Gross Receipts has been increased to 50 Lacs during the year as against 25 Lacs during the Year.

- It is also proposed, while computing Income u/s 44AD in case of Firm, no separate deduction will be allowed for partner's salary, remuneration, interest etc unlike existing provisions. In other words, all the expenses and allowances including partners' salary, interest shall be deemed to have been already given full effect to and no further deduction of any nature would be allowed.

Above amendment shall come into force from AY 2017-18 onwards.

Insertion of Section 44ADA of the Act: -

As per the existing scheme of Presumptive Taxation, the Section 44AD was applicable only to all businesses except the business of plying, hiring or leasing goods. The aforesaid Section did not apply to person carrying on profession.

It is now proposed to extend the provisions of presumptive tax to person carrying on Profession by inserting a new Section 44ADA. In said section it is proposed that any Assessee carrying on Profession, whose Gross Total Receipts during the year are less than 50 Lacs can opt for presumptive tax scheme and declare income equivalent to 50% of the Gross Total Receipts.

No Separate deduction for any expenses u/s 30 to 38 of the Act shall be allowed.

In case he opts for presumptive tax scheme he will neither be required to maintain books of accounts nor will be required to carry out Tax Audit.

In case an Assessee carrying on profession having Gross Receipts less than Rs.50 Lacs, declares income which is less than 50% of the Gross Receipts he is liable to maintain Books of Accounts u/s 44AA of the Act and also required to carry out tax audit u/s 44AB of the Act.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 47 of the Act:-

At Present, Section 47 of the Act list down various transactions which are not regarded as transfers and no Capital Gain tax will arise on such transactions.

It is proposed to include following transactions in the said list of transactions not regarded as transfer:-

- Redemption of Sovereign Gold Bonds issued by the RBI;

- Transfer of Units of any Mutual fund made in consideration of the allotment to him of Units of any other Mutual Fund in consolidating plan of Mutual Fund Scheme.

Presently it is further provided that Succession of Private Ltd Company into LLP shall not be regarded as transfer if certain conditions mentioned in Section 47(xiiib) are fulfilled.

It is proposed to include one more condition in the said list mentioned in Section 47(xiiib) so as to qualify for succession of Private Ltd Company into LLP to be not regarded as transfer which is as under :-

- the total value of assets appearing in the books of accounts should not exceed Rs 5 Crores in any of the 3 preceding years before the year in which conversion takes place.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 48 of the Act:-

As per the existing provision of Section 48, no indexation benefit is available to any Assessee while computing Long Term Capital Gain on any Long Term Capital Asset being a Bond or Debenture issued by Government except for Capital Indexed bonds issued by Government.

The amendment to this section has now proposed to also extend the benefit of indexation to Sovereign Gold Bond Issued by Reserve Bank of India under Sovereign Gold Bond Scheme, 2015.

Also another notable amendment in this section is for the Assessee being Non-resident who has purchased Rupee Denominated Bonds against foreign currency then the calculation of Capital Gain on such transaction is explained using the following illustration:-

Type of Security	**7 % Government Bonds**
Date of Purchase	01st April, 2017
Cost Price	Rs 10,00,000 (14,706.88 $ @ Rs. 68 per dollar)
Date of Sale	20th April 2020
Sale Price	Rs 12,00,000 (18,462.54 $ @ Rs.65 per dollar)

Calculation of Capital Gain:-

Particulars	**Capital Gain in Rs.**	**Capital Gain in $.**
Sales Consideration	12,00,000	18,462.54
Less: Cost of Purchase	(10,00,000)	(14,706.88)
Long Term Capital Gain	2,00,000	3,755.66

Thus from the above illustration ,Long term Capital Gains on 7% Government Bonds are worked out in Dollars and Rupees as under:-

- In Rupee denomination is Rs 2,00,000/-

- In Dollars is $ 3,755.66 which when converted into Rupee denomination using exchange rate prevailing on date of sale will be $ 3,755.66 X Rs. 65 per dollar = Rs. 2,44,117/-

Thus, the provision explains that for the purpose of calculating Taxable Long Term Capital Gain the amount to be taken is Rs. 2,00,000/- and not Rs. 2,44,117 and tax shall be paid on the Rs.2,00,000/-. In other words, any appreciation in the value of Rupee has to be ignored.

The rationale behind this amendment is to encourage International Investors to invest in Rupee Denominated Bonds.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 50C of the Act:-

At Present the provisions of Section 50C of the Act, stipulates that in case full value of consideration stated in the Agreement for Sale of any Land or Building is less than Stamp Duty Valuation adopted by Registration Authorities, then Stamp Duty Valuation shall be deemed to be full value of consideration received by transferor for the purpose of computing Capital Gain in his hands.

There are practical situations where there may be a time gap between the Date of Agreement and Date of Registration, where the Stamp Duty Valuation has undergone a change at both the above stages. The question therefore arises as to which Stamp Duty Valuation is relevant to decide the taxation u/s 50(c)?

It is therefore proposed that if Date of Agreement and Date of Registration of agreement are not same, then Stamp Duty Value may be taken as on the Date of Agreement, instead of Date of Registration. The logic behind this amendment is that price of properties are always decided on the Date of Agreement and not on the Date of Registration and thus, difference in price when compared with Stamp Duty Valuation, one must take Stamp Duty Valuation prevailing on the Date of Agreement.

This exception shall apply only in case where the amount of consideration or part thereof, has been paid by any mode **other than cash on or before date of agreement.**

The logic behind such provision is that no Assessee should be allowed to back date an agreement by showing some cash payment which cannot be verified. In other words, it is only payment through banking channel which have taken place at the time of agreement which would be accepted for substituting Stamp Duty Valuation on the Date of Agreement instead Date of Registration**.**

The said provision is explained by way of example as under:-

Sr. No.	Particulars	
1	Date of entering into Agreement for sale	1st April 2015
2	Amount of Consideration fixed on 1st April, 2015	Rs. 50 Lacs
3	Stamp Duty Valuation on the date of Agreement	Rs. 60 Lacs
4	Date on which Agreement is registered	1st March 2017
5	Stamp Duty Valuation on the date of Registration	Rs. 70 Lacs
6	Sales Consideration to be adopted for the purpose of Capital Gain shall be	Rs. 60 Lacs

If the above example was for AY 2016-17 or prior years then Sales Consideration would have to be adopted at Rs. 70 Lacs and not Rs. 60 Lacs.

Above amendment is made in line with similar provisions existing in Section 43CA and Section 56(2)(vii) of the Act.

Above amendment shall come into force from AY 2017-18 onwards.

Insertion of Section 54EE to the Act:-

At present exemption is provided u/s 54EC of the Act to Assessee on Income arising from Long Term Capital Gains, if Capital Gain is invested into REC Bonds or NHAI Bonds subject to fulfillment of conditions mentioned in the said Section.

It is now proposed to insert a new section 54EE of the Act on the same line as that of Section 54EC to grant exemption from Taxable Long Term Capital Gains to an Assessee arising on transfer of any Long Term Capital Asset.

Salient features of the said scheme of exemption proposed are as under:-

- Amount of net Consideration should be invested by the Assessee in the units of a "Specified Fund" as notified by Central Government before 1st April 2019.

- Amount should be invested within 6 months from the date of transfer.

- Investment should be made on or after 1st April 2016.

- Maximum amount of Investment allowed for claiming exemption is Rs 50 Lacs.

- Amount of exemption shall be restricted to the amount of Investment or amount of Capital Gain whichever is lower.

- There is a Lock-in Period of 3 years. If the units are sold within the lock-in period then the entire exemption claimed earlier will lapse and the entire amount claimed as exemption earlier will be taxable under the head Capital Gain in the year in which the units are transferred.

- During the Lock-in Period of 3 years the units of "Specified Fund" cannot be used as a collateral security for taking any Loan or Advance from any one. If the units are used as a collateral security for taking any Loan or Advance then such transaction will be deemed to be considered as transfer and the treatment will be same as explained in Point No: 6.

Thus, Assessee will now have 2 options for investment i.e. in Government Bonds or Units of "Specified fund" for saving Tax on Long Term Capital Gain.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment of Section 54GB of the Act:-

Section 54GB of the Act grants tax exemption from long-term Capital Gains to an Assessee, being individual or a HUF, arising on transfer of residential property (a House or a plot of land) if net Consideration is invested by the Individual or HUF on or before the due date of furnishing Return of Income u/s 139(1) of the Act for subscription in Equity Shares of eligible Company.

If the amount of investment is greater than or equal to the Net Consideration on transfer of property then entire Capital Gain shall be exempt. However, if the amount of Investment is less than Net Consideration then Exemption will be allowed proportionately.

Proposed Amendments to the said section are tabulated as follows:-

Particulars	Upto AY 2016-17	AY 2017-18 Onwards
Transfer of Residential asset should be on or before	31st March, 2017	31st March, 2019
Investment of Net Consideration to be made in	Subscription of Equity Shares of a Company which qualifies to be Micro, Small and Medium Enterprise and Assessee holds more than 50% of shares of the said Company.	A new class of Company is added to the eligibility criteria, namely Eligible Startup Companies* who carry on Eligible Business, duly certified by Government.

Particulars	Upto AY 2016-17	AY 2017-18 Onwards
Money received on Subscription of Shares in the Company to be utilized by the Company for	Purchase of New Plant and Machinery to be used in manufacture of any article or thing.	Purchase of New Plant and Machinery, and for Start Companies purchase of Computers and Computer Software shall also be eligible.

* Start-up Companies are defined as under:-

- They carry on Business which involves innovation, Development, Deployment or Commercialization of new Products, processes or services driven by technology or Intellectual Property. Said Business must be duly certified by Inter Ministerial Board of Certification.

- It is incorporated on or after 1st April, 2016 but before 31st March, 2019.

- Total Turnover of its Business does not exceed 25 Crores in any of the previous year relevant to AY 2017-18 to AY 2021-22.

The objective of this amendment is to provide impetus to start-ups and facilitate their growth in the initial phase of their business and provide relief to an individual or HUF willing to setup a start-up Company by selling a residential property under "Startup India" campaign initiated by the Finance Ministry.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 56 of the Act:-

Section 56 deals with Income chargeable to tax on any Property received by an Individual or HUF without any Consideration or with inadequate Consideration.

There are exceptions provided in the said section to receipt of any property on certain occasions such as:

- Property received from relatives, trust registered u/s 12AA etc
- On the occasion of marriage, will, etc.

It is now proposed to include following categories of receipt of Property by an Individual or HUF to be out of the rigor of the provisions of Section 56(2)(vii):-

- In case of business reorganization, acquisition of shares of a Successor Co-operative Bank from Predecessor Co-operative Bank.
- By Receipt of shares at the time of demerger in lieu of Existing shares.
- By Receipt of shares at the time of Amalgamation in lieu of Existing Shares.

Above amendment means no income shall be taxable for receiving property in circumstances mentioned above.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 80 of the Act:

As per the existing provisions of Section 80 of the Act, an Assessee is allowed to carry forward losses to the next year if they are not successfully set off in the first year only, if the Income Tax Return is filed on or before due date as per Section 139(3) of the Act. This section is applicable to the following losses:-

- Losses from Business or Profession.
- Losses from Speculation Business
- Losses from Capital Gains.
- Losses from certain specified sources falling under the head "Income from other Sources".

It is now proposed to extend the provision of this section to Losses Incurred from Specified Business u/s 35AD of the Act.

Above amendment shall come into force retrospectively from AY 2016-17 onwards.

Insertion of a new Section 80EE(1) in substitution of Section 80EE of the Act:-

Presently provisions of Section 80EE of the Act, provides for deduction on interest on housing loan. Deduction u/s 80EE is allowed upto AY 2015-16.

A new Section 80EE(1) is proposed to be introduced in place of existing Section 80EE of the Act.

Salient Features of proposed Section 80EE(1) together with its comparison with Deduction u/s 24 is tabulated herein below :-

Particulars	Section 24	Section 80EE(1)
Qualifying Assessee	Any Assessee	1st House Buyer
Qualifying House	Residential or Commercial HP	Any Residential House
Assessment Year	Any AY starting from 1st April, 1999	Any AY starting from 1st April, 2017
Property under Construction	Deduction of interest allowed in 5 equal installment from the year in which possession is received	Deduction allowed even if property is under construction
Amount of Deduction	Interest paid subject to max. of Rs. 1,50,000/-	Interest paid subject to max. Rs.50,000/- for the relevant AY
Construction should be completed	within 5 years	No such condition
Restriction of purchase price of property to qualify for deduction	No Restriction	Not Exceeding Rs. 50 lacs
Restriction on Amount of Loan	No Restriction	Not Exceeding Rs. 35 Lacs
Restriction of year of Sanction of Loan	No Restriction	1st April 2016 to 31st March 2017
For same property, whether deduction can be claimed u/s 24 and 80EE	No	No

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 80GG of the Act: -

As per the existing provision of Section 80GG, an individual Assessee who does not receive any House Rent Allowance from his employer and pays rent towards house occupied by him is eligible to claim deduction to the extent of the following amount:

Upto AY 2016-17	AY 2017-18 Onwards
Rs. 2,000/- per month **OR** 25 % of Total Income for the year whichever is lower.	Rs. 5,000/- per month **OR** 25 % of Total Income for the year whichever is lower.

Above amendment shall come into force from AY 2017-18 onwards.

Insertion of Section 80IAC of the Act:-

Till date, no benefits were extended to start-ups in India.

However, with a view to provide an impetus to them and facilitate their growth in the initial phase of their business, it is now proposed to provide a deduction in Section 80IAC of one hundred percent of the profits and gains derived by an eligible business.

Salient features of the said scheme are explained below:-

Particulars	Eligibility and details of deductions
Year of incorporation of Start-up	After 1st April, 2016 to 31st March, 2019
Eligible Business	A business involving innovation development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.
Turnover	Should not exceed 25 Crores in any financial year till FY 2020-21
Quantum of deduction	100% of profits derived
Number of years in which deduction is allowed	3 consecutive years out of first 5 years of incorporation

Other requirements	
Certification	Certificate about eligible business to be obtained from the Inter-ministerial Board of Certification
Whether Splitting of or reconstruction of existing business allowed	No
Transfer of second hand machinery to startup business	Allowed if it does not exceed 20% of total value of machinery used in business

Above amendments shall come into force from AY 2017-18 onwards.

Proposed Phase out plan of incentives (Profit linked Deductions/weighted deduction) available under the Act:-

Sl. No	**Section**	**Incentive currently available in the Act**	**Proposed phase out measures/ Amendment**
1	10AA- Special provision in respect of newly established units in Special economic zones (SEZ).	Profit linked deductions for units in SEZ for profit derived from export of articles or things or services	No deduction shall be available to units commencing manufacture or production of article or thing or start providing services on or after 1st April, 2020. (From previous year 2020-21 onwards).
2	35AC-Expenditure on eligible projects or schemes.	Deduction for expenditure incurred by way of payment of any sum to a public sector Company or a local authority or to an approved association or institution, etc. on certain eligible social development project or a scheme.	No deduction shall be available with effect from 1st April, 2017 (i.e. from previous year 2017-18 and subsequent years).

Sl. No	Section	Incentive currently available in the Act	Proposed phase out measures/ Amendment
3	35CCD-Expenditure on skill development project.	Weighted deduction of 150 per cent on any expenditure incurred (not being expenditure in the nature of cost of any land or building) on any notified skill development project by a Company.	Deduction shall be restricted to 100 per cent from 1st April, 2020 (i.e. from previous year 2020-21 onwards).
4	Section 80IA; 80IAB, and 80IB - Deduction in respect of profits derive from a. development, operation and maintenance of an infrastructure facility (80-IA); b. development of special economic zone (80-IAB); c. production of mineral oil and natural gas [80-IB(9)]	100 per cent profit linked deductions for specified period on eligible business carried on by industrial undertakings or enterprises referred in section 80IA; 80IAB, and 80IB.	No deduction shall be available if the specified activity commences on or after 1st April, 2017 (i.e. from previous year 2017-18 and subsequent years).

Above amendments shall come into force from AY 2017-18 onwards.

Insertion of Section 80IBA of the Act:-

A deduction equal to 100% of profits derived from the business of developing and building housing projects is allowed by insertion of this section subject to following conditions:-

Particulars	If project located in M/ K/ D/ C*	If Project located other than at M/ K/ D/ C*
Plot of land should not be less than	1,000 Sq. mtrs i.e. 10,763.9 Sq. ft.	2,000 Sq. mtrs i.e. 21,527.82 Sq. ft.
Residential units should not exceed	30 Sq. mtrs i.e. 322.92 Sq. ft.	60 Sq. mtrs i.e. 645.84 Sq. ft.
The project to utilize not less than	90% of Floor Area Ratio[$]	80% of Floor Area Ratio[$]

* M/ K/ D/ C – Mumbai/ Kolkata/ Delhi/ Chennai and within 25kms from municipal limits of those cities.

$ Floor Area Ratio = Total covered area of plinth area on all the floors / Area of Plot of Land

- No deduction under this section will be available to an undertaking which is executing works contract of Housing Project awarded by any person.

- Project should be approved by competent authority between 01st June, 2016 and 31st March, 2019.

- Project should be completed (obtain completion certificate) within 3 years from the date of first approval received from competent Authority. If not completed within 3 years, all benefits taken previously under this section shall be deemed to be income in the year in which period of completion expires.

- Built-up area of commercial establishments in the project should not exceed 3% of total built-up area.

- Where a residential unit in the housing project is allotted to an individual, no other residential unit in the housing project shall be allotted to that individual or the spouse or the minor children of such individual.

- Separate books of accounts will have to be maintained in respect of said housing project.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 80JJAA of the Act:-

The existing provisions of Section 80JJAA provide for a deduction of 30% of additional wages paid to new regular workmen in a factory for three years.

Following amendments are proposed in Section 80JJAA of the Act:-

Particulars	Existing	Proposed
Eligible Business	Manufacturer of Goods in a Factory	All Businesses
Eligible Assessees	Indian Company	Any Assessee to whom Tax Audit is applicable
Minimum employment days to qualify as Eligible Employee (EE)	300 days	240 days
Participation in Recognized Provident Fund by employee	No such condition	Compulsory for an employee to be considered as an eligible employee
Deduction available in respect of employees whose emoluments does not exceed	No such condition	25,000 p.m.
Minimum % increase in workmen strength every year to qualify for deduction	10%	No such limit

- In the first year of a new business, 30% of all emoluments payable to the eligible employees shall be allowed as deduction.

- No deduction under this section:
  - If there is no increase in number of employees from total number of employees as on last day of previous year.
  - For payments made to employees by any mode other than Account Payee cheques or Bank draft of ECS through Bank Account.

- Emoluments include any payment made to employees in lieu of his employment other than:-
  - Payments made to him at the time of his retirement by whatever name called (Gratuity, VRS, Superannuation, Leave Encashment etc.)
  - Contribution made by employer to any pension fund or provident fund.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 87A of the Act:-

The existing provisions of Section 87A provide for a rebate of maximum of Rs. 2,000/- from the amount of Income tax payable by an individual resident whose total income does not exceed Rs. 5,00,000/-

With a view to provide relief to resident individuals in the lower income slab, it is proposed to amend section 87A so as to increase the maximum amount of rebate available from existing Rs. 2,000/- to Rs. 5,000/-

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 92D of the Act and Consequential Insertion of Section 271AA(2):-

With effect from FY 2016-17, additional Transfer Pricing documentations and reporting requirements have been introduced for implementing Base Erosion & Profit Shifting (BEPS) in India. In case parent entity of an international group, is resident in India, it shall be required to maintain and furnish prescribed information and documents, i.e. Master File and Local File and Country-by-Country (CbC) Report.

Master File contains standardized information relevant for all multinational enterprises (MNE) group members;

Local File refers specifically to material transactions of the local taxpayer; and

Country-by-country (CbC) report contains certain information relating to the global allocation of the MNE's income and taxes paid together with certain indicators of the location of economic activity within the MNE group. The CbC report has to be submitted by parent entity of an international group to the prescribed authority in its country of residence based on consolidated financial statement of the group.

Threshold limit: The reporting provision shall apply in respect of an international group having consolidated revenue above € 750 million (approx. Rs 5400 crores) in the preceding financial year.

Due date for furnishing report: - on or before the due date of furnishing of return of income i.e. 30th November of succeeding financial year.

Accordingly there is an Insertion of Sub-section 2 to Section 271AA which states that there would be a penalty of Rupees Five Lacs for violation of the above provisions.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 112(1)(c) of the Act:-

As per existing provisions of Section 112 of the Act, tax on Long Term Capital Gain on sale of 'Unlisted Securities' in the hands of non-Resident (not being a Company) or a Foreign Company is at the rate of 10% without indexation and tax on Long Term Capital Gain on all other capital assets is at the rate of 20% with indexation.

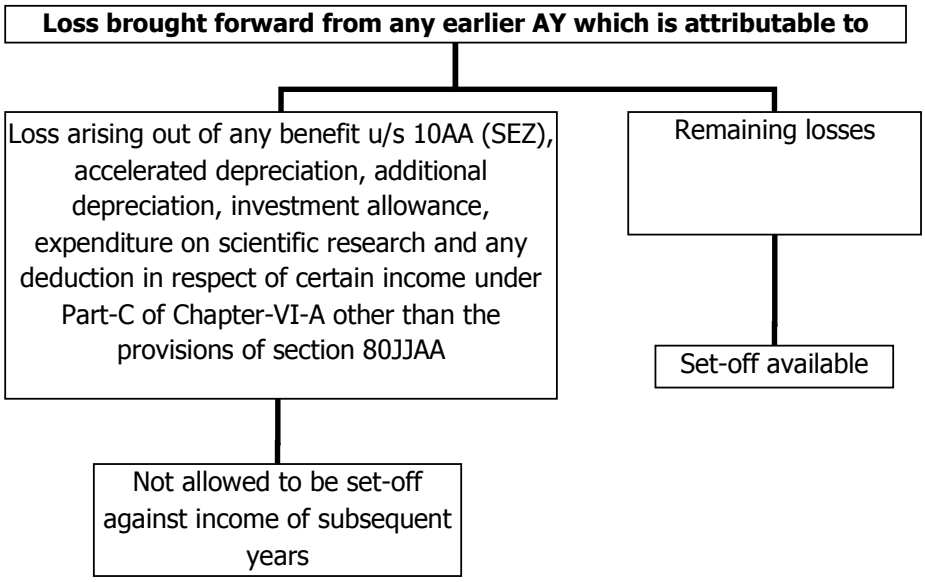
A view was been taken by the court that shares of a private Company are not "securities". With a view to clarify the said issue, it is now proposed to amend Section 112(1) and tax on long term Capital Gain on sale of 'Unlisted Securities **and Shares of a closely held Company**' will be 10% without indexation and tax on all other capital assets will continue to be at the rate of 20% with Indexation for non-residents.

Above amendment shall come into force from AY 2017-18 onwards.

Insertion of Section 115BA of the Act:-

In order to provide relief to newly setup domestic companies engaged in the business of manufacture or production of article or thing, it is proposed to insert new section 115BA in the Act, which states that Income tax payable by a domestic Company shall be computed at the rate 25% at the option of the Company, subject to following conditions:

- The Company has been setup and registered on or after 1st March, 2016;
- Depreciation u/s 32 of the Act shall be determined in the manner as prescribed.
- Treatment of set-off of brought forward losses for Set-up Companies opting for this scheme is as under:



- The option for availing benefit under this section shall be furnished in the prescribed manner before the due date of furnishing of income.

Above amendment shall come into force from AY 2017-18 onwards.

Insertion of Section 115BBDA of the Act and Consequential Amendment in Section 10(34): -

As per the existing provisions of Income Tax Act, Dividend suffers Dividend Distribution Tax u/s 115-O at the rate 15% and is exempt in the hands of recipient irrespective of level of income of recipient.

This creates vertical inequity amongst the tax payers as those who have high dividend income are subjected to tax at the rate of 15% whereas such income in their hands would have been chargeable to tax at the rate of 30%.

With a view to rationalise the same, it is proposed to amend the Income-tax Act so as to provide that any income by way of dividend in excess of Rs. 10 lakh shall be chargeable to tax in the case of an individual, Hindu Undivided Family (HUF) or a firm who is resident in India, at the rate of ten percent.

Dividend for the purpose of this section shall **NOT** include 'Deemed Dividend'

For e.g.:- If Shareholder "A", being resident, receives dividend Income of Rs.15 lacs during the year from domestic Company "B", then "A" shall pay tax @10% on Rs. 5 lacs (i.e. Rs.15 lacs -10 lacs);

There is a consequential amendment in Section 10(34) which provides that such income received above Rs. 10 lacs shall not be exempt from tax.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 115BBE of the Act: -

As per the existing provisions of the Section 115BBE of the Act, those incomes relating to section 68 or section 69 or section 69A or section 69B or section 69C or section 69D, were taxed at a flat rate of thirty percent. These included incomes in the form of Cash Credits, Unexplained investments, unexplained money, Amount of Investments not fully disclosed in books of account, unexplained expenditures, and amount borrowed or repaid on hundi.

No deduction in respect of any expenditure or allowances in relation to such income is allowable.

There was ambiguity about allowability of brought forward losses to be set-off. In order to provide clarity, it is proposed to amend the provisions of the section 115BBE(2) to expressly provide that no set off of any loss shall be allowable in respect of such incomes taxed under the sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D of the Act.

Above amendment shall come into force from AY 2017-18 onwards.

Insertion of Section 115BBF of the Act and Consequential Amendment to Section 115JB and Consequential Insertion of Sub-Section (8) to Section 115-O and 10(38) of the Act: -

In order to promote indigenous research & development activities and to make India a global R & D hub, the Government has decided to put in place a concessional taxation regime for income from patents by Insertion of a new Section 115BBF to the Act. It provides additional incentive for companies to retain and commercialize existing patents and to develop new innovative patented products.

This new Section would provide that where the total income of the eligible Assessee includes any income by way of royalty in respect of a patent developed and registered in India, then such royalty shall be taxable at the rate of ten percent (plus applicable surcharge and cess) on the gross amount of royalty.

No expenditure or allowance in respect of such royalty income shall be allowed under the Act.

An eligible Assessee means a person (and every such person where more than one person is registered as patentee) resident in India, who is the true and first inventor of the invention and whose name is entered on the patent register as the patentee in accordance with Patents Act, 1970.

Amendment to Section 115JB of the Act:-

It is proposed to insert a new clause (fd) in explanation 1 to section 115JB(2) where any sum debited to Profit and Loss account as expenditure in relation to income by way of royalty covered under section 115BBF would be added back for the purpose of calculation of Book profits.

It is further proposed to insert a new clause (iig) to section 115JB(2) where any income credited to Profit and Loss account by way of royalty covered under section 115BBF would be reduced for the purpose of calculation of Book profits.

Further it is proposed to insert explanation 4 which seeks to clarify the applicability of Minimum Alternate Tax (MAT) provisions to Foreign Institutional Investors/ Foreign Portfolio Investors.

The explanation states that Section 115JB will not be applicable to the following assessee being Foreign Company:-

- which is a resident of a country with which India has an agreement referred to in section 90(1) or section 90A(1) and also the assessee does not have a permanent establishment in India.

- which is a resident of a country with which India does not have any agreement of the nature referred above and the assessee is not required to seek registration under any law for the time being in force relating to companies.

Further it is proposed to insert sub-section 7 to Section 115JB and sub-section 8 to Section 115-O of the Act with a view to provide a competitive tax regime to International Financial Services Centre (IFSC) as approved and located in SEZ and deriving its income solely in convertible foreign exchange.

Tax incentives to new units set up in International Financial Services Centre are:-

- The Minimum Alternate Tax shall be chargeable at the rate of 9% as against 18.5%.
- No DDT shall be chargeable on dividends declared out of its current income, either in the hands of the Company or the person receiving such dividend.
- No Long Term Capital Gain (LTCG) will be chargeable,
- Security Transaction Tax and Commodity Transaction Tax (STT) is waived off

Above amendment shall come into force from AY 2017-18 onwards.

Insertion of Section 115JH of the Act and Consequential Amendment in Section 6(3): -

The Finance Act, 2015 amended the above provision so as to provide that any Company would be a resident in India in any previous year if it is an Indian Company or its Place of Effective Management (POEM) in that previous year is in India. In order to provide clarity in respect of implementation of POEM based rule of residence it is proposed to:-

- The determination of residency of foreign Company on the basis of POEM rules is proposed to be deferred by one year. It will now apply with effect from FY 2016-17 instead of FY 2015-16.

- It is also proposed to make necessary changes in the Act for determination of income and applicability of other provisions of the Income Tax Act, including transition rules, in case a foreign Company becomes resident in India for the first time. The rules to be introduced by way of notification and is to be laid before each House of Parliament.

- In case where the AO determines the residential status of the foreign Company as per provisions of POEM in pending Assessment Proceedings, then the provisions of POEM shall be made applicable also to all previous years ending before the date of completion of Assessment Proceedings.

- If the Company fails to comply with the conditions mentioned in the notification subject to which these benefits were claimed and granted, then the Assessing Officer will have 4 years from the end of previous year in which conditions were violated to re-compute total income of the foreign Company u/s 154 of the Act.

As present, in case of an Assessee, being a Company, the test of Residency in India is dependent upon the location of its "control and management" wholly in India.

In Finance Act 2015, it was proposed to amend the provisions of Section 6 of the Act to provide that in the case of an Assessee being a Company, the test of Residency in India is dependent upon, "**its place of effective management, at any time in that year** "

Further it was also proposed to define the "Place of effective management" as a "**place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are in substance made."**

Above amendment **is proposed to be deferred**, as there is no clarity regarding guideline and applicability of the specific provisions of the Act relating to Advance tax payment, applicability of TDS provisions, computation of total income, set off of losses, manner of application of transfer pricing regime, etc.

Accordingly applicability of amendment in section 6(3) brought in by Finance Act 2015 is proposed to be deferred by one year.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 10(23FC), 115UA, Insertion of Sub-section 7 to 115-O of the Act and Consequential Amendment to Section 10(23FD) of the Act:-

The scheme of Taxation of Business Trust and its Unit Holders has completely changed. Salient features of the proposed scheme are tabulated hereunder:

Nature of Income	Taxability in the hands of Business Trust	Taxability in the hands of Unit Holder	Liability of DDT in the hands of SPV
Dividend declared out of profits of SPV prior to the date of acquisition of shares by Business Trust (InVIT and REIT)	Taxable	Not Taxable	Liable
Dividend declared out of profits of SPV after the date of Acquisition of shares by Business Trust	Not Taxable	Not Taxable	Not Liable
Interest Income received from SPV	Not Taxable	Taxable	N.A.

Business Trust is liable to deduct TDS u/s 194LBA on Interest income paid to Unit Holders as per the existing provisions.

There is Consequential Amendment in Section 10(23FD) where reference to Section 10(23FC) is substituted by Section 10(23FC)(a).

As per existing provision of Section 2(13A), Business Trust means a trust registered as Infrastructure Investment Trust (InVIT) or a Real Estate Investment Trust (REIT) and the Trust shall be formed in accordance with SEBI Regulations. The Units of the Trust are required to be listed on Recognized Stock Exchange and shall raise funds by issuing units to various Investors or by issuing units in exchange of shares of SPV being Indian Company.

Above amendment shall come into force from 1st June 2016 onwards.

Amendment to Section 115QA of the Act: -

This section provides for Tax on Distributed Income of Domestic Companies for Buy-back of shares. There were doubts raised regarding the effect of buybacks undertaken by the Company under different provisions of the Companies Act, 1956 or the Companies Act, 2013 and thereby the applicability of provisions of section 115QA to such transactions. Such lack of clarity in the manner of determination of Consideration received by the Company lead to avoidable disputes and also presented a tax arbitrage opportunity.

In order to provide clarity and remove any ambiguity on the above issues, it is proposed to amend section 115QA to provide that the provisions of this section shall apply to any buy back of unlisted share undertaken by the Company in accordance with the provisions of the law relating to the Companies and not necessarily restricted to section 77A of the Companies Act, 1956.

It is further proposed to provide that for the purpose of computing distributed income, the amount received by the Company in respect of the shares being bought back shall be determined in the manner to be prescribed.

Above amendments shall come into force from 1st June, 2016 onwards.

Insertion of Section 115TD, 115TE and 115TF of the Act: -

A society or a Company or a trust or an institution carrying on charitable activity may voluntarily wind up its activities and dissolve or may also merge with any other charitable or non-charitable institution, or it may convert into a non-charitable organization. In such a situation, the existing law does not provide any clarity as to how the assets of such a charitable institution shall be dealt with.

Also there is no provision in the Act to ensure that the corpus and asset base of the trust accreted over period of time will be used for charitable purpose only and not for any other purpose. In the absence of a clear provision, it is always possible for charitable institutions to transfer assets to a non-charitable institution without any income tax liability.

To plug this gap in law and to ensure that the intended purpose of exemption availed by trust or institution is achieved, Section 115TD is proposed to be inserted in the Act for imposing a levy in the nature of an exit tax.

The following are the provisions of section 115TD, 115TE and 115TF:-

- The accretion in income of the trust or institution shall be taxable if there is
  - conversion of trust or institution into a form not eligible for registration u/s 12AA or
  - on merger into an entity not having similar objects and registered under section 12AA or
  - On non-distribution of assets on dissolution to any charitable institution registered u/s 12AA or approved under section 10(23C) within a period twelve months from dissolution.

- Accreted income shall be aggregate of total assets less the liabilities as on the specified date. The method of valuation is proposed to be prescribed in rules. If the asset and the liability have been transferred to another charitable organization within specified time limit, then these assets and liabilities will be excluded while calculating accreted income.

- The taxation of accreted income shall be at the maximum marginal rate.

- This levy shall be in addition to any income chargeable to tax in the hands of the entity.

- This tax shall be final tax for which no credit can be taken by the trust or institution or any other person. And like any other additional tax, it shall be leviable even if the trust or institution does not have any other income chargeable to tax in the relevant previous year.

- Section 115TE proposes that in case of failure of payment of tax within the prescribed time a simple interest @ 1% per month or part of it shall be applicable for the period of non-payment.

- Section 115TF proposes that for the purpose of recovery of tax and interest, the principal officer or the trustee and the trust or the institution shall be deemed to be Assessee in default and all provisions related to the recovery of taxes shall apply accordingly. Further, the recipient of assets which is not a charitable organization, shall also be held as Assessee in default in case of non-payment of tax and interest to the extent of the assets received.

Above amendments shall come into force from 1st June, 2016 onwards.

Insertion of Clause (c) of Section 124(3) of the Act:-

The Existing section 124(3) provides that no person can question the jurisdiction of an Assessing officer:-

- After expiry of 1 month from date of service of notice under section 142(1)
- or 143(2)
- or after the completion of the assessment, whichever is earlier.

Instances have come to notice wherein the jurisdiction of an Assessing Officer in such cases have been called into question at the appellate stages, despite the fact that order passed are under section 153A or 153C read with section 143(3) of the Act.

It is proposed that, no person shall be entitled to call into question the jurisdiction of an Assessing Officer after the expiry of the abovementioned period from the date of service of notice even under section 153A(1), 153C(2) or completion of assessment under these sections, whichever is earlier

Reasons of challenging the Jurisdiction of the assessing officer resorted by assessee:-

Examples:-

- Jurisdiction is with X officer and not with Y officer according to address of the assessee.
- Income is in excess/short than a particular amount and accordingly jurisdiction lies with a different officer.

Above amendment shall come into force from 1st June, 2016 onwards.

Insertion of Section 133C (2), and clause (ca) in explanation 2 to section 147 of the Act:-

As per existing provision of section 133C empowers the prescribed Income Tax Authority to call for information from any assessee for the purpose of verification of information in its possession and process the same.

It is now proposed to insert subsection (2) so as to provide that the said prescribed Income Tax Authority shall make available outcome of such processing to the AO of concerned assessee.

It is also proposed to amend Explanation 2 to section 147 to provide for reopening of cases by the AO on the basis of information so received from prescribed Income Tax Authority where income charged to tax has escaped assessment in case of any assessee.

Above amendment shall come into force from 1st June, 2016 onwards.

Amendment in section 143(1)(a) of the Act:-

As per the existing provisions of section 143(1)(a), the assessee is not provided with an opportunity for adjustment/rectify the Return resulting in huge artificial demands raised by the Income Tax Department. It becomes difficult for the assessee to get the orders rectified and reduce/nullify the said demand raised.

Also the refunds of subsequent years are not issued to the assessee on the ground that such artificial demands are standing against the name of the assessee of past years.

To overcome the above difficulty, it is proposed to amend the said section 143(1)(a). Proposed amendment is explained as under:-

- Following types of adjustments shall be permissible in addition to existing list of adjustments:-
  - Disallowance of loss of earlier years when the Return of Income is not filed in time.
  - Disallowance of expenses indicated in audit report but not taken into account in the Return of Income.
  - Disallowances of deductions claimed under sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or section 80-IE if the Return of Income is furnished beyond the due date.
  - Additions of Income appearing in Form 26AS or Form 16A or Form 16 which is not included in the Return of Income.

- It is further proposed that no adjustments will be made unless intimation is given for proposed adjustment giving 30 days time to assessee to rectify the adjustment/mistake. Assessee can file a reply or a Revised Return in response to the said intimation. The Income Tax Department shall consider the said reply or the Revise Return filed by the assessee before making any adjustment.

In case no reply is received by the Department, within 30 days of issue of such intimation, from the assessee, then the department can make the necessary adjustments.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment in section 143(1D) of the Act:-

As per the existing provision of 143(1D), processing of a Return of Income under section 143(1) is not necessary where a notice is issued to the assessee under section 143(2) of the Act.

It is now proposed to amend sub-section (1D) of the aforesaid section to provide that before making an assessment under section 143(3), a Return shall be processed under section 143(1) of the Act.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment in section 139(1) of the Act:-

As per the existing provisions of section 139(1), if total income of an assessee during the previous year, without giving effect of the following:

- Provisions of section 10A
- Provisions of section 10B
- Provisions of section 10BA
- Deduction under chapter VI-A

exceeds taxable income, then said Assessee is liable to furnish Return of Income on or before the due date.

It is now proposed that, if the total income of an assessee during the previous year, without giving effect to exemption of long term Capital Gains u/s 10(38) and the points stated above exceeds the taxable income, then the assessee shall be liable to furnish Return of Income on or before the due date.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment in section 139(4) of the Act:-

As per the existing provisions of section 139(4), a person who has failed to file regular Return of Income within the time allotted under section 139(1), he may file belated Return of Income of any previous year within 1 year from end of AY or before completion of assessment, whichever is earlier.

For example, a belated Return of Income for AY 2016-17 can be filed by 31st March 2018, or before completion of assessment whichever is earlier.

It is now proposed that, a person who has failed to file the regular return of income under section 139(1) he/she may file belated return of income for any previous year at any time before the end of the relevant AY or before the completion of the assessment, whichever is earlier.

For example, Return of Income for AY 2017-18 can be filed before 31st March 2018, or before completion of assessment whichever is earlier. In other words, time limit for filing belated Return of Income is reduced by 1 year.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment in section 139(5) of the Act:-

As per the existing provisions of section 139(5), if a person has filed Return of Income under section 139(1) and he/she discovers any omission or any wrong statement therein, he may file a revised Return at any time before 1 year from the end of the relevant AY or completion of assessment, whichever is earlier. Existing provisions does not permit filing of Revised Return in case original Return is filed belatedly.

It is now proposed that, a Revised Return of Income can be filed within a period of 1 year from the end of relevant Assessment year, whether or not original Return of Income was filed in time or belatedly.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment in section 139(9) of the Act:-

As per the existing provisions of section 139(9), the Return of Income shall be regarded as defective if self-assessment tax together with interest is not paid on or before the date of furnishing of return.

It is now proposed that, the Return of Income which is otherwise valid shall not be regarded as a defective Return merely because self-assessment tax and interest payable has not been paid on or before the date of furnishing of the Return.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment in section 153 of the Act and consequential amendment to section 153(9) of the Act:-

The existing statutory time limit for completion of assessment proceedings is two years from the end of the assessment year in which the income was first assessable.

The entire section is proposed to be substituted in place of current provisions of the Act.

The proposed amendments are summarized below:-

Sub -Sec	Section	Time Limit for completion of Assessment	
		Existing	**Proposed**
1	u/s 143 or 144 Regular assessment	24 months from end of relevant AY e.g. AY 2013-14 will get time barred on 31st March, 2016	21 months from end of relevant AY e.g. AY 2014-15 will get time barred on 31st December, 2016
2	u/s 147 Reassessment	12 Months from end of FY in which notice u/s 148 was served	9 months from end of FY in which notice u/s 148 was served

Sub -Sec	Section	Time Limit for completion of Assessment	
		Existing	Proposed
3	Fresh assessment pursuant to setting aside or cancellation of Order u/s 254 or 263, 264	12 Months from end of FY in which Order u/s 254, 263 and 264 was served	9 Months from end of FY in which Order u/s 254, 263 and 264 was served
4	u/s 92CA(1) Assessment in case reference is made to the Transfer Pricing Officer (TPO).	If Reference u/s 92CA (1) to TPO is made during course of proceeding for the assessment or Re-assessment, the period available for extension of assessment may be extended by period of 12 months than what is stated in sub section (1), (2) & (3) above.	If Reference u/s 92CA (1) to TPO is made during course of proceeding for the assessment or Re-assessment, the period available for extension of assessment may be extended by period of 12 months than what is stated in Sub section (1), (2) & (3) above.
5	Order giving effect to Appellate or Revisional order u/s 250, 254, 260, 262, 263, 264 (in case no fresh assessment or reassessment is directed)	No time Limit	3 months from end of month in which order is received. If it is not possible for the AO to give effect to the order within the aforesaid period he may after approval from Principal Commissioner or Commissioner in writing, may get extension of additional 6 months to effect to said order.

Sub -Sec	Section	Time Limit for completion of Assessment	
		Existing	**Proposed**
6	Order giving effect to Appellate or Revisional order u/s 250, 254, 260, 262, 263, 264 (in case fresh assessment or reassessment is directed)		12 months from the end of the month in which the order is received. *In case of any other person opportunity of being heard should be given, before the order is passed against him. (ii) It is also proposed that where an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147, such assessment be made on or before the expiry of twelve months from the end of the month in which the assessment order in the case of the firm is passed.
7	Order giving effect of old cases pending on 01st June, 2016 of the nature specified in subsection (5) & (6) above.	No time Limit	By 31st March, 2017
8	Revival of normal assessment on annulment of search assessment proceedings or order	1 year from the end of the month of such revival **or** within the period specified under subsection (1) of this section i.e. 24 months, whichever is later.	1 year from the end of the month of such revival **or** within the period specified under subsection (1) of this section i.e. 21 months, whichever is later.

Sub -Sec	Section	Time Limit for completion of Assessment	
		Existing	**Proposed**
9	Existing orders already passed or will be passed on or before 1st June, 2016.	Not Applicable	Existing provisions of section 153 will apply.

Consequential amendment to section 153(9) of the Act read with 92CA of the Act:-

As per existing provisions, the Transfer Pricing Officer (TPO) has to pass his order sixty days prior to the date on which the limitation for making assessment expires.

It is now proposed to amend this section to provide that where the time available to the TPO for making an order after excluding the time for which assessment proceedings were stayed or the time taken for receipt of information from foreign jurisdictions is less than sixty days, then such remaining period shall be extended to sixty days.

Similarly, if the remaining period left with the AO is less than sixty days from the date of receipt of the order from the TPO then such remaining period shall be extended to sixty days.

For example:-

Sr. No	Particular	Date
1	Due date for completion of Assessment by the AO for AY 2013-14 in case reference is made to the TPO.	31st March, 2017
2	Date on which the TPO receives information called from the Foreign Jurisdiction, or time of TPO is wasted due to stay granted by courts.	28th February, 2017
3	Extended time limit for TPO to pass order, (Additional 60 days from the date he receives information).	30th April, 2017
4	Time limit for AO to pass assessment order, (Additional 60 days from the date of receiving order of TPO).	30th June, 2017

While computing the above mentioned time limits, the time lost in followings, shall be excluded:-

- Time Lost in giving an opportunity of being reheard to the assessee u/s 129, or
- Time lost due to Stay Order (Injunction Order) of any court, or
- Time lost in intimating central government about the contravention by the institute or association referred to in Section 10(21)/ 10(22B)/ 10(23A)/ 10(23B)/ 10(23C), i.e. those institution covered u/s 139(4C), or
- Time Lost in requiring the assessee to get his Books of Accounts audited u/s 142(2A)
- Time lost from the date on which reference is made to the Valuation officer (VO) u/s 142A(1) and ending on the date on which the report of VO is received by AO
- Time Lost (not exceeding 60 days) in the following the procedure for avoiding repetitive Appeals u/s 158A
- Time lost in making application to the Income Tax Settlement Commission (ITSC) and the ITSC rejecting such application.
- Time lost in making successful application to the authority of Advance Ruling
- Time lost in making unsuccessful application to the authority of Advance Ruling
- The period commencing from the date on which a reference for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending on the date on which the information is received by commissioner or a period of 1 year, whichever is less.

Above amendment shall come into force from 1st June, 2016 onwards.

Amendment in section 153B of the Act:-

The following changes in the time limit are proposed:-

Existing	Proposed
Limitation of completion of assessment u/s 153A:- ➢ 24 months from the end of FY in which search u/s 132 or 132A was executed.	Limitation of completion of assessment u/s 153A:- ➢ 21months from the end of FY in which search u/s 132 or 132A was executed.
Limitation of completion of assessment u/s 153C :- ➢ 24 months from the end of FY in which search u/s 132 or 132A was executed or; ➢ 9 months from the FY in which the books of accounts or documents or seized and handed over to the AO, whichever is later.	Limitation of completion of assessment u/s 153C:- ➢ 21 months from the end of FY in which search u/s 132 or 132A was executed or; ➢ 9 months from the FY in which the books of accounts or documents or seized and handed over to the AO, whichever is later.

The provisions of section 153B as they stood immediately before their amendment by the Finance Act, 2016, shall apply to and in relation to any order of assessment, reassessment or re-computation made before the 1st June, 2016.

While computing the above mentioned time limits, the time of AO lost in proceedings stated in section 153 above, shall be excluded.

Above amendment shall come into force from 1st June, 2016 onwards.

Amendments to section 192A, 194BB, 194C, 194LA, 194D, 194G, 194H, 194DA, 194EE of the Act:-

Increase in threshold limit and revision in rates of deduction of tax at source on various payments mentioned in the relevant sections of the Act:-

Sec	Heads	Existing		Proposed	
		Exemption Amount	**TDS Rate**	**Exemption Amount**	**TDS Rate**
192A	Payment of accumulated balance by trustees Provident Fund Scheme, due to an employee.	30,000	10%	50,000	10%
194BB	Winnings from Horse Race	5,000	30%	10,000	30%
194C	Payments to Contractors	Aggregate annual limit of 75,000	1% * or 2%	Aggregate annual limit of 1,00,000	1% or 2%
194LA	Payment of Compensation on acquisition of certain Immovable Property**	2,00,000	10%	2,50,000	10%
194D	Insurance commission	20,000	10%	15,000	5%
194G	Commission on sale of lottery tickets	1,000	10%	15,000	5%
194H	Commission or brokerage	5,000	10%	15,000	5%
194DA	Maturity proceeds in respect of Life Insurance Policy which are taxable.	1,00,000	2%	1,00,000	1%
194EE	Payments in respect of NSS Deposits	2,500	20%	2,500	10%
194K	Income in respect of units	2,500	10%	Section Omitted	
194L	Payment of Compensation on acquisition of Capital Assets	1,00,000	10% upto 01.6.2000	Section Omitted	

* 1% TDS is applicable for payment to Individual & HUF.
  2% TDS is applicable for payment to others.

** Immovable Property for section 194LA means any land or any building or part of the building which is compulsorily acquired by the Government.

Above amendment shall come into force from 1st June, 2016 onwards.

Amendment to Section 194LBB of the Act and consequential amendment in Section 197 of the Act:-

Existing provisions of Section 194LBB of the Act, deals with TDS provisions applicable to Income distributed by Alternative Investment Funds (AIF) to its Unit Holders.

AIF has to deduct TDS @ 10% on distribution of income to its Unit Holders, earned by it from any source other than Business Income.

However, Non-resident Investors (Unit holders) are not able to claim the benefit of lower or NIL rate as available under DTAA and are mandatorily subject to TDS Rate @ 10% on the income earned, though this Income may not be taxable in India as per DTAA.

Accordingly, it is now proposed to amend Sec 194LBB as under:-

TDS shall be deducted by the AIF on Income distributed to its Unit Holders as follows:-

- In case Unit Holder is Resident of India @10%;
- In case Unit Holder is Non- Resident investors (not being a Company) or a Foreign Company as per **Rates in force.**

Further it is now proposed to include Sec 194LBB in the list of sections u/s 197 of the Act, wherein the certificate for deduction of Tax @ lower rate or NIL rate can be obtained by the Unit Holders from TDS Department if they want a lower Rate to be applied in deducting TDS.

Above amendment shall come into force from 1st June, 2016 onwards.

Consequential amendment to definition of Rates in Force:-

The existing provisions of Section 2(37A) provides for definition for "rate" or "rates in force", in relation to an assessment year or financial year.

It is proposed to make consequential amendment to the said definition so as to include Section 194LBB in the said definition with effect from 1st June, 2016.

Amendment to Sections 10(23DA), 10(35A), 115TA, 115TB & 115TC and insertion of Section 115TCA and Section 194LBC of the Act:-

There are transactions of acquisition of Debt or Receivables by any Special purpose Distinct Entity from any Lender, which are usually banks, who has lent money to any Borrower at a price which may be lower than the amount outstanding. Said Entity is now defined as Securitization Trust.

One of the investor may be interested in buying Debt of a Particular Borrower. The said Investor will have to park the amount agreed for acquisition of Debt with Special Purpose Distinct Entity to enable the said Entity to acquire Debt from the Lender.

After the acquisition of the Debt the said Borrower will have to pay Debt directly to Securitization Trust. The amount paid by Borrower to Securitization Trust may be more or less than the amount of consideration Securitization Trust has paid to acquire Debt. Any profit or Loss on recovery of debt has to be borne by the Investor. Investor is issued a "Securitized Debt Instrument" which acknowledges the interest of such Investor in the debt or receivable assigned to the trust in which the investor has invested.

The Salient features of the scheme and proposed amendment are tabulated as under:-

Particulars	Existing Provisions	Proposed Provisions
Eligible Securitization Trust	➢ Special purpose Distinct Entity as defined under SEBI (Public Offer and Listing of Securitized Debt Instrument) Regulation, 2008; ➢ Special purpose Distinct Entity as defined in the guidelines on securitization of Standard assets issued by RBI	➢ Special purpose Distinct Entity as defined under SEBI (Public Offer and Listing of Securitized Debt Instrument) Regulation, 2008; ➢ Special purpose Distinct Entity as defined in the guidelines on securitization of Standard assets issued by RBI; or ➢ Trust set up by securitization Company or a reconstruction Company in accordance with the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act,2002 (SARFAESI Act).
A Statement of income distributed to its Investors	A Statement of income distributed to its Investors in any previous year and tax so paid shall be filed by Securitization Trust.	A Statement of income distributed to its Investors in any previous year and tax so paid shall be filed by Securitization Trust.

The scheme of taxation of income in the hands of Trust and in the hands of Investor is proposed to be amended.

The comparison between existing provision and proposed amendment are tabulated as under:-

Nature of Income	In the hands of Securitization Trust		In the hands of Investor of Securitization Trust	
	Existing Provisions	**Proposed Amendment**	**Existing Provisions**	**Proposed Amendment**
Income out of Securitization Activity	Exempt u/s 10(23DA)	Exempt u/s 10(23DA)	Exempt u/s 10(35A)	Taxable
Provision of TDS on Distribution of Income to Investor	N.A	Applicable*	N.A	N.A
Provisions of Distribution Tax on Distributed Income	Applicable	N.A	N.A	N.A

* TDS shall be deducted in case of:-

- Investor being Individual or HUF @ 25%;
- Investor being any other person (other than Individual or HUF) @ 30%;
- Investor being a Non- Resident (not being a Company) or a foreign Company as per rates in Force.

Reason for making amendment is that the existing regime providing for final levy in the form of Distribution Tax is Tax inefficient for the investors specially the banks & financial Institutions. Also disallowance of expenditure in respect of Income received from securitization increases the effective rate of taxation. Further both Resident & Non- resident investors are unable to take benefits of their specific tax status.

Further it is now proposed to include Sec 194LBC in the list of sections under Sec 197 of the Act, wherein both Resident and Non- Resident Investors can opt for obtaining certificate for deduction of Tax @ lower rate or NIL rates.

Above amendment shall come into force from 1st June, 2016 onwards.

Amendment to Section 197A of the Act:-

The existing provisions of Section 197A provide for non-deduction of TDS on certain Types Incomes, on both senior citizen & other than senior citizen assessee, on filing of a Self Declaration in Form No. 15G (Form No. 15H for Senior citizens) to the effect his income is not taxable. On receipt of said declaration no tax is required to be deducted at source by the deductor. There is no provision to provide such declaration for Rental Income earned by assessee.

It is now proposed to extend the above benefit of Filing of a Declaration by the Assessee to the deductor, in respect of Rental Income as well.

Above amendment shall come into force from 1st June, 2016 onwards.

Amendment to Section 206AA of the Act:-

As per existing provisions, any person who is required to furnish PAN NO to person responsible to deduct tax, who is entitled to receive any sum or income or amount on which Tax under chapter XVIIB is deducted, fails to do so tax shall be deducted at the rate mentioned in the relevant provisions or rates in force or 20% whichever is higher.

The above provisions are also applicable to Non-resident (not being a Company) or a foreign Company who is entitled to receive any other income subject to such prescribed conditions, other than interest on Long term bonds u/s 194LC issued by Indian Company as approved which means that if the Non- resident does not have PAN then he will be subjected to TDS @ 20%.

It is proposed to dispense with the requirement for PAN in case of Non- residents (not being a Company) or a foreign Company, who is entitled to receive interest on Long term bonds u/s 194LC issued by Indian Company as approved and any other income as may be prescribed.

Above amendment shall come into force from 1st June, 2016 onwards.

Amendment to Section 206C of the Act:-

Existing provision of section 206C of the Act specifies certain businesses such as trading in alcoholic liquor, forest produce, scrap etc, wherein the seller is liable to collect income tax from the buyer of goods at a percentage specified in the Act and pay to the Government within the prescribed time.

The following new categories of business are proposed to be added in the existing specified certain business wherein the seller is liable to collect income tax from the buyer @ specified rate & pay the same to government within the prescribed limit:-

Sr. No.	Nature of goods	Rate of TCS	
		Existing Provisions	Proposed Amendment
1	Motor vehicle, value exceeding 10 lacs rupees per transaction	N.A	1%
2	Sale of any other goods (other than bullion & jewellery) in cash exceeding Rs. 2 lacs per transaction	N.A	1%
3	Providing any services (other than services on which TDS is applicable) in cash exceeding Rs. 2 lacs per transaction	N.A	1%

Notes:-

- The above provisions are proposed to be introduced in order to reduce the quantum of cash transactions in sale of any goods and services and for curbing the flow of unaccounted money in the trading system and to bring high value of transactions within the tax net.

- The above proposed provision of TCS on sales of Goods or Sale of services shall not be applicable to such class of buyers who fulfils the prescribed conditions to be notified.

Above amendment shall come into force from 1st June, 2016 onwards.

Amendment to section 211 of the Act and consequential amendment u/s 234C of the Act:-

Advance Tax to be paid on or before	Advance Tax liability			
	Company		Other Than Company	
	Existing provision (Cumulative % of estimated tax liability)	Proposed Amendment (Cumulative % of estimated tax liability)	Existing provision (Cumulative % of estimated tax liability)	Proposed Amendment (Cumulative % of estimated tax liability)
15th June	15	15	NIL	15
15th September	45	45	30	45
15th December	75	75	60	75
15th March	100	100	100	100

Note:-

Eligible assessee (Individual, HUF & Partnership firm) carrying on eligible business, opting for Computation Of Profits & Gains of business on Presumptive basis as referred to u/s 44AD, shall be required to pay Advance tax of the Whole amount in one Installment on OR before 15th March of the Financial Year.

Above amendment shall come into force from 1st June, 2016 onwards.

Consequential amendment to u/s 234C of the Act:-

It is now proposed to modify the provisions of Section 234C consequent to the amendments made u/s 211 w.r.t. to due date for payment of Advance tax.

Further at present no Interest u/s 234C is payable by assessee if shortfall in payment of Advance tax is on account of underestimate or failure to estimate following income:-

- Capital Gain
- Casual Income

In the above there are difficulties faced by Assessee commencing business for the first time say on 1st January of the relevant Previous Year. It is practically not possible for him to estimate income from the said business on 15th September or 15th December being due dates for payment of Advance tax. However current provisions does not envisage such situation for the purpose of granting relief from the liability of interest u/s 234C of the Act for defaults on 15th September and on 15th December.

It is therefore proposed to include such situation wherein no interest u/s 234C shall be payable for under estimate or failure to estimate income of the newly commencement business, If the assessee has already paid Advance tax on the said business Income on the installment due after commencement of the business as per law or before 31st March of the FY, provided no installment was due.

Above amendment shall come into force from 1st June, 2016 onwards.

Amendment to section244A of the Act:-

Nature of Refund	Interest receivable u/s 244A as per		Interest rate as per	
	Existing provisions	Proposed provisions	Existing provisions	Proposed provisions
Refund out of Advance tax & TDS, where Return filed On or Before due date.	From 1st April of AY to date on which refund is granted.	From 1st April of AY to date on which refund is granted.	½% p.m.	½% p.m.
Refund out of Advance tax & TDS, where Return filed after due date.	From 1st April of AY to date on which refund is granted.	From Date of filling of return to date on which refund is granted.	½% p.m.	½% p.m.
Refund out of Self assessment tax.	From the date of payment of taxes to the date on which refund is granted.	From the Date of filing of return or payment of taxes, whichever is later to the date on which refund is granted.	½% p.m.	½% p.m.
Refund arising on account of order giving effect to Appellate order or Re-visional order.	From the expiry of 3 months to the end of the appellate order.	From the expiry of 3 months to the end of the appellate order.	½% p.m.	¾% p.m.

Above amendment shall come into force from 1st June, 2016 onwards.

Amendment to Section 249 is consequential to the insertion of section 270AA:-

With a view to provide for due date for filing an appeal against the order of Assessment or Reassessment in which Assessee had made an application u/s 270AA(1) to grant immunity from imposition of penalty and initiation of proceeding but was rejected by the AO, a proviso is added under section 249(2)(b) stating that appeal can be filed within 30 days of Assessment Order being served to the Assessee and time taken from making application u/s 270AA(1) till the date of receiving order of rejection shall be excluded.

Above amendments shall come into force from AY 2017-18 onwards.

Amendment to Section 252 of the Act:-

Existing section 252 provides for the appointment and powers of Senior Vice-President (SVP) AND Vice President (VP) of the Appellate Tribunal.

In view of the fact that there are no extra-judicial or administrative duties or difference in the pay scale attached with the post of SVP in the Tribunal, it is proposed to omit the reference of "Senior Vice-President".

Section	Existing Provisions	Amendment with effect from the 1st day of June, 2016
252(3)(b)	The CG shall appoint the SVP or one of the VP of the Appellate Tribunal	The CG shall appoint one of the VP of the Appellate Tribunal
252(4A)	The CG may appoint one of the VP of the Appellate Tribunal to be SVP thereof	This clause is stands omitted
252(5)	The SVP or a VP shall exercise such of the power and perform such of the functions of the President as may be delegated to him by the President	A VP shall exercise such of the power and perform such of the functions of the President as may be delegated to him by the President.

Above amendments shall come into force from 1st June, 2016 onwards.

Amendment to Section 253 of the Act:-

Subsequent to insertion of Section 270A in the Act, relevant amendments have been proposed to be made in Section 253 of the Act for filing an Appeal with CIT (Appeals) by Assessees aggrieved by the Order u/s 270A.

The provision in section 253 regarding Appeal by AO upon directions of Principal Commissioner or Commissioner of Income Tax against directions issued by Dispute Resolution Panel (DRP) and Order passed by AO on the basis of said directions stands omitted.

Above amendments shall come into force from 1st June, 2016 onwards.

Amendment to Section 254 of the Act:-

Provisions of section 254 are amended to the following extent regarding time limits available with ITAT to rectify mistake apparent on record:

Particulars	Existing time limit	Proposed time limit
Time limit for ITAT to rectify its Order pertaining to mistake apparent on record	4 years from the date of the order	6 months from the end of the month in which order was passed

Above amendments shall come into force from 1st June, 2016 onwards.

Amendment to Section 255 of the Act:-

The existing provision of section 255 provides that a single member bench may dispose of any case which pertains to an assessee whose total income as computed by the AO does not exceed 15 lakh rupees.

Following amendment regarding Monetary limit below which said power is available with single member bench is introduced to expedite the process of dispute resolution at the level of ITAT:

Bench Type	Total Income computed by AO which does not exceed	
	Existing	**Proposed**
Single Member Bench at ITAT Level	15 Lakh	50 Lakh

Above amendments shall come into force from 1st June, 2016 onwards.

Insertion of Section 270A of the Act and consequential amendment in section 119(2)(a), 271A, 271AA, 271AAB, 272A(1) and 272A(2):-

The new section 270A provides for imposition of penalty in cases of under reporting and misreporting of income.

The amount of under-reported income to be calculated in different scenarios is as under:-

Sr. No.	Different types of scenarios	Types of person	Computation of under-reported income
1	Where return is furnished and assessment is made for the first time	Any Persons	Assessed Income (less) Income determined u/s 143(1)
2	Where no return has been furnished and the return is furnished for the first time	Company, Firm or Local Authority	Assessed Income
		Other than Company, Firm or Local Authority	Assessed Income (Less) Basic Exemption Limit

Sr. No.	Different types of scenarios	Types of person	Computation of under-reported income
3	Where income is not Assessed for the First time	Any Persons	Income Assessed or determined in such order (less) Income Assessed or determined in the order Immediately Preceding such order
4	Where income arises out of determination of deemed total income in accordance with the provisions of section 115JB or section 115JC	Any Persons	(A - B) + (C - D)*
5	Where an Assessment or Reassessment has the effect of reducing the Loss declared in the return or Converting that Loss into Income	Any Persons	Loss claimed (less) Assessed Income/ Assessed Loss

*****A= the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (herein called general provisions);
B = the total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of under reported income;
C = the total income assessed as per the provisions contained in section 115JB or section 115JC;
D** = the total income that would have been chargeable had the total income assessed as per the provisions contained in section115JB or section 115JC been reduced by the amount of under reported income

NOTE to D: **-However, where the amount of under reported income on any issue is considered both under the provisions contained in section 115JB or section 115JC and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under item D.

Computation of penalty is as under:-

Particulars	With Misreporting	Without Misreporting
Rate of Penalty	50% of tax payable on under-reported income*	200% of tax payable on misreported income**

*****Under-reported income under this section shall not include the following cases:

- where Income Tax Authority is satisfied with the explanation of the Assessee and all the material facts have been disclosed;

- where such under-reported income is determined on the basis of an estimate, if the accounts are correct and complete but the method employed is such that the income cannot properly be deducted therefrom;

- where the assessee has, estimated a lower amount of addition or disallowance on the issue and has included such amount in the computation of his income and disclosed all the facts material to the addition or disallowance;

- where the assessee had maintained information and documents as prescribed under section 92D, declared the International transaction and disclosed all the material facts;

- where the undisclosed income is on account of a search operation and penalty is imposable u/s 271AAB

**Misreporting of Income has been specified in below mentioned cases:

- Misrepresentation or suppression of facts;
- Non-recording of investments in books of account;
- Claiming of expenditure not substantiated by evidence;
- Recording of false entry in books of account;
- Failure to record any receipt in books of account having a bearing on total income;
- Failure to report any international transaction or deemed international transaction under Chapter X.

Example 1: Case is of a Firm liable to tax at the rate of 30 percent.

Particulars	Rs. in Lacs
Returned Total Income	100
Total Income determined u/s 143(1)	110
Total Income assessed u/s 143(3)	150
Total Income reassessed u/s 147	180

Considering that none of the additions or disallowances made in assessment or reassessment as above qualifies under section 270A(6), the penalty would be calculated as under:-

Particulars	Assessment u/s 143(3)	Reassessment u/s 147
Under-reported Income	150-110=40	180-150=30
Tax payable on Under-reported Income	30% of 40=12	30% of 30=9
Penalty Leviable*	50% of 12=6	50% of 9=4.5

*Considering under-reported income is not on account of misreporting

Example 2: Case is of an Individual below 60 years of age and no return of income has been furnished:-

Particulars	Rs. in Lacs
Total Income assessed under section 143(3)	10
Under-reported Income	10-2.5*=7.5
Tax Payable on Under-reported Income	30% of 7.5=2.25
Penalty Leviable$	50% of 2.25=1.125

* Being maximum amount not chargeable to tax

$ Considering under-reported income is not on account of misreporting

Example 3: Case is of a Company liable to tax at the rate of 30 percent

Particulars	Rs. in Lacs
Returned Total Income (Loss)	(100)
Total Income (Loss) determined u/s 143(1)	(90)
Total Income (Loss) assessed u/s 143(3)	(40)
Total Income reassessed u/s 147	20

Considering that none of the additions or disallowances made in assessment or

reassessment as above qualifies under section 270A(6), the penalty would be calculated as under:

Particulars	Assessment u/s 143(3)	Reassessment u/s 147
Under-reported Income	(40) – (90) = 50	20 – (40)= 60
Tax payable on Under-reported Income	30% of 50 = 15	30% of 60 = 18
Penalty Leviable*	50% of 15 = 7.5	50% of 18 = 9

* Considering under-reported income is not on account of misreporting

There are Consequential Amendments in Section 119(2)(a), 271A, 271AA, 271AAB, 272A(1), 272A(2), 279 where reference to Section 270A is given.

Above amendments shall come into force from AY 2017-18 onwards.

Insertion of Section 270AA of the Act:-

Sr. No.	Particulars	Reasoning
1	Insertion of Section 270AA	Assessee may make an application to the AO for grant of immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C.
2	Condition be fulfilled before making such application	➢ Payment of tax and interest payable as per the Assessment Order within the period specified in notice of demand ➢ Assessee does not prefer an appeal against such assessment order
3	Time limit for making such application	One month from the end of the month in which the order of assessment or reassessment is received
4	Time limit of AO for accepting or rejecting the application	➢ One month from the end of the month in which such application is received from Assessee. ➢ However, no rejection can be made without giving opportunity of being heard to the Assessee.

Sr. No.	Particulars	Reasoning
5	Status of Order of AO	Order of AO of accepting or rejecting the application for grant of immunity shall be final
6	Whether Appeal or application for revision be filed	No, Assessee cannot file any appeal u/s 264A or apply for revision u/s 264 once application u/s 270AA is accepted by officer.

Amendment to Section 119(2)(a) of the Act:-

As per existing provisions, the Board may from time to time issue such orders, instructions and directions to Income Tax Authorities as it may deem fit and has powers to relax various provisions for penalties and interest.

It is now proposed to include section 270A u/s 119(2)

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 271 of the Act:-

Section 271 of the Act imposes for penalty for failure to furnish returns, comply with notices, concealment of income etc.

A new sub-section 7 is inserted in section 271 to provide for sunset date on applicability of this section.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 271A of the Act:-

The existing provisions of Section 271A provides for penalty for failure to keep, maintain and retain books of accounts.

It is proposed to amend this section without prejudice to provisions of Section 270A.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 271AA of the Act:-

The existing provisions of Section 271AA provides for penalty for failure to keep, maintain and retain books of accounts in respect of International or specified domestic transactions.

It is proposed to amend this section without prejudice to provisions of Section 270A.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 271AAB of the Act:-

- The existing provisions of Section 271AAB provides for penalty where search has been initiated.
- It is proposed to amend this section so that no penalty as per Section 270A shall be imposed on the Assessee in respect of undisclosed Income.
- Also the rate at which penalty will be imposed u/s 271AAB is amended from range of '30% to 90%' to flat rate of 60% of undisclosed income.
- Above amendment shall come into force from AY 2017-18 onwards.

Insertion of Section 271GB of the Act and Consequential amendment in section 273B of the Act:-

Section 271GB imposes Penalty on failure to furnish report or for furnishing inaccurate report u/s 286 (Furnishing report in respect of International Group).

Detail of penalty imposable u/s 271GB is as under:

Particulars	Penalty
Fails to furnish report u/s 286(2) where the Default period is less than 30 days	Rs. 5,000 per day
Fails to furnish report u/s 286(2) where the Default period exceeds 30 days	Rs. 15,000 per day
Fails to furnish report u/s 286(6)	Rs. 5,000 per day from the date of expiry to furnish report.
Fails to furnish report u/s 286(1) and 286(2)	Rs. 50,000 per day from the date of service of such order
Furnishes inaccurate information in report u/s 286(2)*	Rs. 5,00,000

*Furnishes inaccurate information in report u/s 286(2) shall also include:-

- Fails to inform the prescribed authority or
- Discovery of inaccuracy and then furnish correct report within 15 Days or
- Response to the notice issued u/s 286(6)

There is Consequential Amendment in Section 273B where reference to Section 271GB is given.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 272A of the Act and Consequential amendment in section 288 of the Act:-

Section 272A (1) covers the following area and levy penalty of Rs.10,000/- for

- Failure or default to answer the questions raised by Income Tax Authority
- Refusal to sign any statement legally required during the proceedings
- Failure to attend, to give evidence or to produce books as per section 131(1) of the Act.

It is proposed to amend section 272A (1) for inclusion of 'failure to comply with notice issued u/s 142(1), 143(2) or directions u/s 142(2A) of the Act' in the list above.

There is Consequential Amendment in Section 288 where reference to Section 272A is given.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 273A and 273AA of the Act and Consequential Amendment in Section 220 of the Act: -

As per the existing provisions of Section 220, the Principal Chief Commissioner, Chief Commissioner, Principal Commissioner or Commissioner is empowered to reduce or waive interest at the rate of 1 percent for every month or part of month is charged for the period during which the default continues.

Further, as per the existing provisions of Section 273A(4) the Principal Commissioner or the Commissioner may reduce or waive the amount of any penalty payable by the Assessee or stay or compound any proceeding for recovery of the penalty amount in certain circumstances on an application made by an Assessee.

Also as per the existing provisions of Section 273AA, the Principal Commissioner or the Commissioner may grant immunity from penalty, if penalty proceedings have been initiated on the basis of an application made for settlement before the settlement commission and the proceedings for settlement has been abated under the circumstances contained in section 245HA of the Act.

However, in the existing provisions of section 220, Sections 273A and 273AA neither the time limit has been provided regarding the passing of orders nor any specific mandate is provided that Assessee should be given an opportunity of being heard in case such application is rejected by an authority.

Therefore, in order to rationalize the provisions and provide for specific time-line, amendments to the existing provisions have been proposed.

It is proposed to amend section 220 to provide that an order accepting or rejecting application of an Assessee shall be passed by the concerned Principal Chief Commissioner, Chief Commissioner, Principal Commissioner or Commissioner within a period of twelve months from the end of the month in which such application is received.

It is further proposed to amend section 273A and section 273AA to provide that an order accepting or rejecting the application of an Assessee shall be passed by the Principal Commissioner or Commissioner within a period of twelve months from the end of the month in which such application is received.

It is also proposed to provide that no order rejecting the application of the Assessee under section 220 or 273A, 273AA shall be passed without giving the Assessee an opportunity of being heard. However, in respect of applications pending as on 1st June, 2016, the order under said sections shall be passed on or before 31st May, 2017.

Above amendments shall come into force from 1st June 2016 onwards.

Amendment to Section 273B of the Act: -

The existing provisions of Section 273B provides for cases where no penalty is to be imposed.

It is proposed to amend this section so as to include Section 271GB in the provisions mentioned therein.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 279 of the Act: -

The existing provisions of Section 273B provides for cases where no penalty is to be imposed.

It is proposed to amend this section so as to include Section 270A in the provisions mentioned therein.

Above amendment shall come into force from AY 2017-18 onwards.

Amendment to Section 281B of the Act: -

Section 281B provides for powers to Assessing Officer for attaching provisionally any property belonging to the Assessee during the pendency of and proceedings.

Following additions are proposed to be made in section 281B:

- AO may revoke attachment made provided Assessee provides a Bank Guarantee from a Scheduled Bank for an amount not less than FMV of property attached provisionally.

- AO may, for the purpose of valuation of Property provisionally attached, refer the case to Valuation officer referred to u/s 142A and Valuation Officer shall

give his report to AO within 30 days of receiving such reference.

- Order for revoking provisional attachment shall be passed within 45 days in case reference is made to valuation officer and within 15 days from the date of receiving Bank guarantee.

- AO may invoke bank guarantee in case where notice of demand is served upon the assessee and he fails to pay the demand within specified time.

- AO shall invoke bank guarantee in case where Assessee fails to renew bank guarantee or furnish new bank guarantee of equal amount within 15 days from the date of expiry of bank guarantee.

- In case where AO realizes bank guarantee, after adjusting demand, transfer balance amount to Personal Deposit Account of Principal Commissioner or Commissioner of Income Tax.

Above amendment shall come into force from 1st June, 2016 onwards.

Amendment to Section 282A of the Act: -

Existing provisions of section 282A provides that where a notice or other document is required to be issued by any income-tax authority under the Act, such notice or document should be signed by that authority in manuscript.

It is proposed to amend section 282A(1) so as to provide that notices and documents required to be issued by income-tax authority under the Act shall be issued by such authority either in paper form or in electronic form in accordance with such procedure as may be prescribed.

Above amendment shall come into force from 1st June, 2016 onwards.

Amendment to Section 288 of the Act: -

The existing provisions of Section 288(4) provides for disqualification of persons to represent an assessee before Income Tax Authority of Income Tax Tribunal.

It is proposed to amend this section so as to include disqualification to a person who is levied penalty under newly inserted section 272A(1)(d).

Above amendment shall come into force from AY 2017-18 onwards.

Amendment in Rule 6 in the fourth schedule of the Act:-

- At present under rule 6 contributions made by employer to the credit of an employee participating in a Recognised Provident Fund (RPF), which are in excess of 12% of the salary of the employee, are liable to tax in the hands of the employee in the previous year liable to income tax.

- However, there is no monetary limit for the contribution made by the employer, though there is a monetary ceiling for employee's contribution under section 80C of Rs. 1,50,000/-.

- It is now proposed to bring parity in the monetary limit for contribution by the employer and the employee, it is proposed to amend the said section and said schedule so as to provide the limit of employer's contribution to one lakh and fifty thousand rupees, without attracting tax.

Insertion of New Chapter VIII on 'Equalisation Levy' and consequential insertion of Section 10(50) to the Act and consequential amendment to Section 40 of the Act: -

Equalisation Levy:

- As the technology is growing at a lightning speed there are no national boundaries left for digital activities.

- Thus nowadays a Non-resident can carry out digital activities in India without having any Permanent Establishment (PE) in India. Very famous examples for this are Facebook, Google etc.

- The concept of Equalization levy comes into picture when an Indian Resident who carries on business or profession in India may receive online Advertisement service or digital advertising Space from the Non-resident.

- For rendering such specified services, the Non-resident will charge certain fees to the Indian businessmen or professional.

- The Indian businessmen or professional has to deduct 6% of the amount consideration paid to Non Resident for availing said Services in the form of Equalisation levy and pay to the Government within the stipulated time.

- However there is an exemption on Equalisation Levy to be deducted, if the payment to be made by a Resident to a Non-resident is not more than Rs 1,00,000/-per year.

Insertion of Section 10(50) of the Act:-

In order to avoid double taxation, it is proposed to provide exemption under this section of the Act for any income arising to a Non Resident from providing specified services on which Equalisation levy is chargeable.

Consequential Amendment to Section 40 of the Act:-

As regards to a Resident Assessee, if Equalisation Levy is not deducted and paid to the Government for the payments made to a Non-Resident for the specified services availed then the such expenditure would be disallowed and deduction for the same cannot be claimed by Resident.

The Entire concept is explained using the following example:

- Reliance Industries Ltd approaches Facebook to broadcast their Advertisement on their Social Networking Portal.

- Facebook will charge Rs 10,00,000 to Reliance Industries Ltd for the same service.

- While making payment Reliance Industries Ltd will need to deduct an Equalisation Levy @ 6% i.e. Rs 60,000.

- This Equalisation Levy of Rs. 60,000 will be paid to the Government by Reliance Industries Ltd.

- Then Reliance Industries Ltd will make payment of Rs 9,40,000 to Facebook.

- If Reliance Industries Ltd does not deduct and pay Rs 60,000 Equalisation Levy, the entire Expense of Rs 10,00,000 will be disallowed.

The above Chapter will come into force from the date as notified by Central Government.

"INDIRECT TAXES"

"SERVICE TAX"

SERVICE TAX RATE:-

ST rate remains unchanged @ 14% (excluding Cess) on the taxable services.

CHANGE IN SERVICE TAX RATE IN SPECIAL CASES:-

Nature of Service	Existing Rate	Proposed Rate	w.e.f
Single Premium Annuity Insurance Policies, where amount allocated for investment / savings is not intimated to the policy holder at the time of providing service.	3.5%	1.4%	1st April 2016

- It is now clarified that services provided by Air travel agent (ATA) to companies providing Computer Reservation System (CCRS) i.e. incentive received by ATA from CCRS is taxable in the hands of ATA.

INSERTION OF LEVY OF "KRISHI KALYAN CESS" {w.e.f. 1st June 2016}:-

At present, Swachh Bharat Cess is levied @ 0.5% on the value of taxable service.

It is now proposed to levy another Cess namely "Krishi Kalyan Cess" (KKC), which is proposed to be levied @ 0.5% on all taxable services for the purpose of financing and promoting initiatives to improve Agriculture.

Thus effective rate of Service Tax including Cesses are summarized below:-

Period	Service Tax rate including cess
Till 31st May 2016	14.5%
From 1st June 2016 onwards	15%

It is now proposed that credit of KKC paid on input services shall be allowed to be utilised for payment of the proposed KKC on output service provided by service provider. However no notification has been issued to this effect.

AMENDMENT IN THE SCOPE OF NEGATIVE LIST OF SERVICES - SECTION 66D OF THE FINANCE ACT, 1994:-

1. **Educational Service {clause (l) of Section 66D} {w.e.f date on which Finance Bill, 2016 receives assent of the President} :-**

Existing	Services provided by way of pre-school education, education upto HSC, approved vocational education course, education for obtaining qualification, is covered under Negative List.
Proposed	It is now proposed to remove said educational services from the scope of Negative List. However said educational services shall continue to remain exempted by incorporating said service in mega exemption notification {Notification no. 25/2012-ST as amended by Notification no. 09/2016-ST dated 1st March 2016}.

2. **Transport of Passengers by Stage Carriage {clause (o)(i) of Section 66D} {w.e.f 1st June 2016} :-**

Existing	Services provided for transport of passengers by stage carriage is covered under Negative List.
Proposed	It is now proposed to withdraw the exemption and levy service tax on services provided in relation to transport of passengers by an **air conditioned** stage carriage. It is now proposed to continue exemption on transportation service of passengers by non-AC stage carriage. {Notification no. 25/2012-ST as amended by Notification no. 09/2016-ST dt. 1st March 2016}.

3. **Transport of goods by Aircraft / Vessel {clause (p)(ii) of Section 66D} {w.e.f 1st June 2016}:-**

Existing	Services provided by way of transportation of goods by an aircraft or vessel from a place outside India to customs clearance station in India is covered under Negative list.
Proposed	It is now proposed to remove said transport services by an aircraft / vessel from the scope of Negative List. However, said transportation of goods services by an aircraft only, shall continue to remain exempted by incorporating said service in mega exemption notification {Notification no. 25/2012-ST as amended by Notification no. 09/2016-ST dated 1st March 2016}.
Proposed	It is further proposed that said transportation services by **a vessel** from a place outside India upto the customs station of clearance shall be taxable. It is to be noted that where said transportation service by vessel is provided by Indian Shipping Company then service tax is payable by said Company. Whereas when such service are provided by Foreign Shipping Company then service tax under reverse charge is payable by business entity located in India.

4. Services covered under Negative list are not required to be reported in the Service Tax Return. However services covered under Mega Exemption Notification are required to be reported in the Service Tax Return.

5. It is now proposed to insert following definition in Notification no. 09/2016 dated 1st March 2016 **{w.e.f date on which Finance Bill, 2016 receives assent of the President}**

   "**Approved vocational education course"** means:-

   1. Courses run by Industrial Training Institute or Centre affiliated to the National Council for Vocational Training or State Council.
   2. Modular Employable Skill course approved by National Council of Vocational Training, run by a person registered with Directorate General of Training, Ministry of Skill development & Entrepreneurship.

RATIONALIZATION IN MEGA EXEMPTION {Notification no. 25/2012-ST as amended by Notification no. 09/2016-ST dt. 1st March 2016}:-

Existing Notification	Existing	Proposed
a) **w.e.f 1st March 2016 :-**		
S. No.14 of 25/2012 Services provided of construction, Erection, Commissioning or installation of **Original Work**	Services provided by way of construction, erecting, commissioning or installation of original work pertaining to **railways** is exempt from service tax.	Now exemption is withdrawn to monorail or metro, in respect of contracts entered on or after 1st March 2016. Railways shall continue to remain exempted. However said services provided pertaining to monorail or metro, where contract is entered before 1st March 2016 and on which appropriate stamp duty was paid shall continue to remain exempted.
b) **w.e.f 1st April 2016 :-**		
S. No.23(c) of 25/2012 Services provided for **transport of passengers by ropeway etc.**	Service tax is not leviable on the services provided for transport of passengers by ropeway, cable car or aerial tramway.	It is now proposed to withdraw the exemption and levy service tax on said services.
S. No. 6 of 25/2012 dt.20.06.12 **Legal services provided by Advocate.**	Legal services provided by **Senior Advocate** to individual advocate or partnership firm of advocates are exempt from service tax. Services provided by person represented on an Arbitral Tribunal to an Arbitral Tribunal are also exempt.	It is now proposed to withdraw exemption and levy service tax on said services.

Existing Notification	Existing	Proposed
S. No. 16 of 25/2012 **services provided by performing Artist**	Services provided by Artist for performance in folk or classical art forms are exempt from service tax, if the consideration charged for such performance is not more than Rs. 1 lac.	It is now proposed to enhance limit of exemption from Rs. 1 lac to Rs 1.50 lacs per event.

"Senior Advocate" as defined in Advocates Act, 1961 means an advocate who may, with his consent, be designated as senior advocate if the Supreme Court or a High Court is of opinion that by virtue of his ability, standing at the Bar or special knowledge or experience in law, he is deserving of such distinction. Said definition is applied for interpretation purpose in the Service Tax law.

NEW EXEMPTION/CONCESSSION {Notification no. 09/2016-ST dated 1st March 2016}:-

S.N.	Description of Services
	a) Following services are exempted w.e.f 1st April 2016
1	Service of Life insurance business provided by way of annuity under NPS.
2	Services provided by EPFO to employees.
3	Services provided by IRDA of India.
4	Regulatory services provided by SEBI.
5	General insurance service provided under Niramaya Health Insurance Scheme launched by National Trust for welfare of persons with Autism, Cerebral Palsy, Mental retardation and Multiply disability.
6	Services provided by National Centre for Cold Chain Development under Department of Agriculture, Cooperation and Farmer's Welfare, Government of India.
7	Services provided by Biotechnology Industry Research Assistance Council (BIRAC) approved biotechnology incubators to incubates
8	Services provided by way of skill/vocational training by training partners under "**Deen Dayal Upadhyay Grameen Kaushalya Yojana**."
9	Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship.

S.N.	Description of Services
10	Legal services provided by senior advocate to a person other than a person doing activity w.r.t industry, commerce or any other business or profession.
	b) Following services are exempted w.e.f 1st March 2016
11	Service by way of construction of housing projects under Pradhan Mantri Awas Yojana (PMAY) / Housing for All (HFA); low cost houses upto carpet area of 60 sq. mtr. under PMAY or under any housing scheme of State Govt.
12	Services provided by the IIM by way of 2 year full time residential PG programme in Management (other than Executive Development programme), 5 years Integrated programme in Management and Fellowship programme in Management.
13	Civil structure or any other original works pertaining to rehabilitation of exiting slum dwellers under PMAY / HFA
14	Civil structure or any other original works pertaining to Beneficiary-led individual house construction / enhancement under PMAY / HFA
15	Service tax on the services of Information Technology Software on media bearing RSP is being exempted from Service Tax provided Central Excise duty is paid on RSP in accordance with Section 4A of the Central Excise Act.

	c) Following services are exempted w.e.f 1st March 2016 till 31st March 2020 {i.e. no exemption from 1st April 2020.}
16	Services provided to the Government, local authority (LA) or government authority (GA), by way of construction, erection, commissioning, installation, repair, maintenance, renovation, fitting out or alteration of - a) civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; b) structure meant predominantly for use as an educational, a clinical, or an art or cultural establishment; c) residential complex pre-dominantly meant for self-use or for the use of their employees or other persons. under a contract which has been entered prior to 1st March 2015 and stamp duty, where applicable, has been paid prior to such date. Said exemption was earlier withdrawn vide Notification no. 06/2015. The services provided during the period from 1st April 2015 to 29th February 2016 under such contracts are also proposed to be exempted from service tax. The clause 156 of Finance Bill, 2016 waives the recovery of Service Tax paid for said period. Where such tax has already been paid, refund of such tax will be available provided refund application is made within 6 months from the date on enactment of Finance Bill, 2016.

17	Services provided by way of construction, erection, commissioning or installation of original works pertaining to airport or port, under a contract which has been entered prior to 1st March 2015 and stamp duty, where applicable, has been paid prior to such date. Said exemption was earlier withdrawn vide Notification no. 06/2015. The services provided during the period from 1st April 2015 to 29th February 2016 under such contracts are also proposed to be exempted from service tax. The clause 156 of Finance Bill, 2016 waives the recovery of Service Tax paid for said period. Where such tax has already been paid, refund of such tax will be available provided refund application is made within 6 months from the date on enactment of Finance Bill, 2016.
	d) Following services are exempted w.e.f 1st June 2016
18	Services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India.
	e) Following services are exempted retrospectively from 1st July 2012
19	Services provided by way of construction, maintenance etc. of canal, dam or other irrigation works provided to bodies set up by Government during the period from 1st July 2012 to 29th January 2014. Where such tax has already been paid, refund of such tax will be available provided refund application is made within 6 months from the date on enactment of Finance Bill, 2016.

CHANGE IN ABATEMENT RATES {Notification no. 08/2016-ST dated 1st March 2016}:-

Services	% of Taxable Service		Existing and Proposed Conditions for CENVAT
	Existing	Proposed	
a) w.e.f 1st June 2016			
Transport of Passengers by Air conditioned Stage Carriage	N.A. as covered in Negative List	40%	CENVAT credit on Inputs, Capital Goods & Input services has NOT been taken under the provisions of the CENVAT Credit Rules, 2004 (CCR)
b) w.e.f 1st April 2016			
Transport of Passengers by Rail	30%	30%	As per existing provisions, CENVAT credit on Inputs, Capital Goods and Input services is not allowed. It is now proposed to continue same level of abatement with CENVAT credit allowed on **Input services only** i.e. CENVAT credit on Inputs and Capital goods would not be allowed.
Transport of Goods by Vessel	30%	30%	Same as above
Transport of goods, other than in containers by Rail	30%	30%	Same as above
Transport of goods in Containers by Rail by any person other than Indian Railways	30%	40%	Same as above

Services	% of Taxable Service		Existing and Proposed Conditions for CENVAT
	Existing	Proposed	
Construction of complex, building, civil structure or part thereof. (**Low end flats**) *	25%	30%	As per existing provisions, CENVAT credit on Inputs, Capital Goods and Input services is not allowed. There is no amendment proposed for CENVAT credit.
Services by a Tour Operator in relation to **Packaged** tour (inclusive of transportation, accommodation, food etc.)	25%	30%	As per existing provisions, CENVAT credit on Inputs, Capital Goods and Input services is not allowed. It is now proposed that CENVAT credit on Input services only, used for providing taxable service, would be allowed. CENVAT Credit on Inputs and Capital Goods would not be allowed.
Services by Tour Operator in relation to tour, only for purpose of accommodation for any person	10%	10%	Same as above.
Services by a Tour Operator other than above 2 points	40%	30%	Same as above.
Service of Goods Transport Agency (GTA) w.r.t transport of **Used Household Goods**	30%	40%	As per existing provisions, CENVAT credit on Inputs, Capital Goods and Input services is not allowed. There is no amendment proposed for CENVAT credit.

Services	% of Taxable Service		Existing and Proposed Conditions for CENVAT
	Existing	Proposed	
Services by Foreman to a Chit Fund	100%	70%	Same as above

***** Low end flats means residential unit where carpet area is upto 2000 sq. feet or amount charged is less than Rs. 1 Cr.

INSERTION OF EXPLANATION FOR RENTING OF MOTOR CAR SERVICE {Notification no. 26/2012 as amended by Notification no. 08/2016-ST dated 1st March 2016} {w.e.f 1st April 2016}:-

The explanation has been inserted for the purpose of availing abatement under abatement notification no. 26/2012 which covers service of renting of motor cab. The explanation provides that the gross amount charged shall include the fair market value of all goods and services supplied by the recipient in or in relation to the service of renting of motor cab.

E.g.:- Service provider, Mr. A is rendering renting of motor cab service to Service receiver Mr. B. As per the contract between A & B, B shall bear the cost of fuel and A shall only charge for the motor cab being rented without fuel costs. As per the amended provisions in order to avail the benefit of abatement, gross amount charged shall also include the cost of fuel. FMV of goods and services supplied by the recipient of service may be determined in accordance with GAAP.

DECLARED SERVICES - SECTION 66E OF FINANCE ACT, 1994 {w.e.f date on which Finance Bill, 2016 receives assent of the President}

It is now proposed that the assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof be considered as declared service so as to make it clear that assignment by Government of the right to use the spectrum as well as subsequent transfers is a service leviable to service tax and not sale of intangible goods. In other words, VAT is not chargeable on right to use the radio-frequency spectrum.

AMENDMENT IN SERVICE TAX PAYABLE UNDER REVERSE CHARGE MECHANISM: - {Notification no. 18/2016} {w.e.f. 1st April 2016}:-

Description of Service	Existing		Proposed	
	Value on which tax payable by SP	**Value on which tax payable by SR**	**Value on which tax payable by SP**	**Value on which tax payable by SR**
Legal services **provided by senior advocate** to firm of advocates or individual advocates	NIL	100%	100%	NIL
Legal services provided by firm of advocates or individual advocates **other than senior advocate**	NIL	100%	NIL	100%
In respect of service provided by Mutual Fund Agent or Distributors to Mutual Fund or Asset Management Co.	NIL	100%	100%	NIL
Services provided by selling or marketing agent of lottery tickets to lottery distributor or selling agent **of the STATE GOVT**.	100%	NIL	NIL	100%
Services provided by selling or marketing agent of lottery tickets to lottery distributor or selling agent **OTHER THAN STATE GOVT**.	NIL	100%	100%	NIL
Services provided by Government or LA to business entities **by way of support service**	NIL	100%	100%	NIL
Services provided by Government or LA to business entities **OF ALL SERVICES ***	100%	NIL	NIL	100%

*** e.g.** – RCM is applicable on grant of right to use the radio frequency spectrum

AMENDMENT IN SERVICE TAX REFUND SCHEME

A) Notification no. 41/2012-ST as amended by Notification no. 01/2016-ST {retrospectively w.e.f 1st July 2012}

The issue of determination of place of removal for export of goods was subject to different interpretations and therefore the department was disputing the credit / rebate of service tax paid on services like port charges, transportation from factory to port, etc. which were used for export of excisable goods.

Existing provisions of Notification no. 41/2012-ST dated 29th June 2012 grants refund of service tax to exporters on the specified services used beyond the place of removal. For exporters, place of port is the place where transfer of property take place. However port is not covered in the definition of place of removal. Major specified services are used by exporter's upto the place of port. Hence exporters will not get refund of service tax as there will not be any major expenditure beyond the place of port.

Subsequent to the amendment made vide Notification no. 01/2016-ST dated 3rd February 2016, exporters are eligible for rebate of service tax paid on services that have been used beyond factory or any other place or premises of production or manufacture of the said goods, for their export.

However in the said Notification no. 01/2016, there is no clarification whether amendment is retrospective or prospective. It is now proposed that said amendment is retrospective w.e.f 1st July 2012. Time period of 1 month is proposed to be allowed to the exporters, whose claims of refund were earlier rejected for the period from 1st July 2012 to 2nd February 2016, in absence of amendment carried out vide Notification No. 01/2016-ST.

B) Notification no. 27/2012-C.E. (N.T.) as amended by Notification no. 14/2016-CE(NT) {w.e.f 1st March 2016}

Existing provisions of Rule 5 of CCR 2004 provides time limit of 1 year from relevant date for filing refund application of CENVAT credit.

Section 11B of the Central Excise Act 1944 has defined relevant date in case of goods exported by manufacturer. However neither Rule 5 nor section 11B has defined relevant date in case of export of services.

Currently, different practice is followed by the Service Tax Authority for interpretation of relevant date in case of export of services, being date of receipt of export remittance or date of invoice of export service as relevant date. Thus there is no consistency followed in Department. There are contradictory judgments passed for determining relevant date.

In order to end ambiguity and litigations and give clarification, it is now proposed that time limit for refund application, in case of export of service, is one year from the date of :-

a) receipt of payment in convertible foreign exchange, where provision of service has been completed prior to receipt of such payment; or
b) issue of invoice, where payment, for the service has been received in advance prior to the date of issue of the invoice.

PAYMENT OF SERVICE TAX – RULE 6 OF SERVICE TAX RULES, 1994 {Notification no. 19/2016 dated 1st March 2016} {w.e.f 1st April 2016}

Particulars	Existing Provisions	Proposed Provisions
Monthly / Quarterly Payment of Service Tax for OPC **& HUF**	Individuals, proprietary concern, and Partnership firms are allowed for payment of Service tax on quarterly basis. Due date for payment of Service Tax for OPC & HUF is 6th of the following month.	It is now proposed to extend benefit of quarterly payment of Service tax to **OPC & HUF**.
Payment of Service tax on **receipt basis**	Individuals, proprietary concern and Partnership firms are allowed to pay Service tax on receipt basis whose aggregate value of services provided is upto Rs 50 lacs in previous FY.	It is now proposed to extend benefit of payment of Service tax on receipt basis to **OPC**, whose aggregate value of taxable services provided from one or more premises is **upto Rs 50 lacs in the previous FY**.

EXEMPTION TO SERVICES IN RELATION TO IT SOFTWARE {Notification no. 11/2016-ST dated 1st March 2016}:-

Currently, there are certain media with recorded IT software (i.e. packaged software on which MRP is printed and sold in retail market) which does not require bearing Retail sale price (RSP) when supplied domestically or imported. In such situation, there is levy of central excise duty as well as service tax.

It is now proposed that manufacturer is exempted from so much of the Central Excise duty/CVD as is equivalent to the duty payable on the portion of the value on which service tax is leviable. Thus, the levy of Central Excise duty/CVD and service tax will be mutually exclusive.

AMENDMENT IN INTEREST ON SERVICE TAX - SECTIONS 75 & 73B OF THE FINANCE ACT, 1994 {Notification no. 13/2016-ST} {w.e.f date on which Finance Bill, 2016 receives assent of the President}

Situation	Existing ROI (p.a.)		Proposed ROI (p.a.)
A) SECTION 75			
Service tax collected but not paid within the due date of payment.	Delay upto 6 months	18%	24%
	Delay beyond 6 months to 1 year	18% - first 6 months & 24% - balance 6 months	24%
	Delay beyond 1 year	18% - first 6 months & 24% - next 6 months & 30% - delay beyond 1 year	24%
Cases other than covered above	Same as above		15%
Assessee whose value of taxable services in the preceding year/s covered by the notice is less than Rs. 60 lacs	Delay upto 6 months	15%	12%
	Delay beyond 6 months to 1 year	15% - first 6 months & 21% - balance 6 months	12%
	Delay beyond 1 year	15% - first 6 months & 21% - next 6 months & 27% - delay beyond 1 year	12%
B) SECTION 73B			
Interest on amount collected in excess	18%		15%

It is further proposed to rationalize interest rate for Customs and Excise by making it uniform @15% p.a. as against existing interest rate of 18% p.a.

AMENDMENT TO TIME LIMIT FOR ISSUE SCN - SECTION 73 {w.e.f date on which Finance Bill, 2016 receives assent of the President} :-

Section	Particulars	Existing Time Limit	Proposed Time Limit
73(1)	C.E Officer can serve show cause notice (SCN) to any person in case of short levy / non-levy / short payment / non-payment / erroneous refund of Service Tax	18 months	30 months

AMENDMENTS IN SECTIONS 78A, 89, 90 & 91 OF THE FINANCE ACT, 1994 {w.e.f date on which Finance Bill, 2016 receives assent of the President}

Sections	Existing	Proposed
Section 78A - Penalty for offences by director etc. of Company	Director or any officer, who was responsible to the Company and had knowledge of certain contravention committed by the Company referred in section 78A, then such director or office shall be liable to penalty of maximum Rs 1 lac. Section 76 & 78 covers Penalty proceedings on Company.	Penalty proceedings under section 78A shall be deemed to be closed in cases where penalty proceedings have been closed under section 76 or section 78 in hands of Company subject to condition given below *.
Section 89 – Offences and Penalties	Monetary limit for punishing Assessee with imprisonment for offences is Rs. 1 crore.	Said monetary limit is proposed to be enhanced to Rs. 2 crores.
Section 90 – Cognizance of offence	Monetary limit of offences committed is Rs 1 crore for cognizance of offence.	Same as above.
Section 91 – Power to arrest	Monetary limit of offences committed is Rs 1 crore to exercise power to arrest.	Same as above.

*** -**

a) Situation where penalty proceedings are concluded under section 76 if the Company pays the service tax, interest within 30 days of receipt of SCN.

b) Situation where penalty proceedings are concluded under section 78 if the Company pays the service tax, interest and penalty @ 15% within 30 days of receipt of SCN.

AMENDMENT IN SECTION 67A OF FINANCE ACT, 1994 AND POINT OF TAXATION RULES, 2011. {W.e.f date on which Finance Bill, 2016 receives assent of the President}

a) Amendment in Section 67A of the Finance Act, 1994:-

Presently Section 67A provides for the time when rate of service tax will apply. Further Rule 4 and 5 of the Point of Taxation Rules, 2011 also provides for the same.

It is now proposed to insert a sub-section 67A(2) of the Act to obtain specific rule making powers regarding point in time when rate of service tax will apply. Thus any doubt about the applicability of service tax rate or apparent contradiction between section 67A and Point of Taxation Rules would be taken care of.

b) Amendment in Point of Taxation Rules, 2011 {Notification no. 10/2016 - ST dated 1st March, 2016} {w.e.f 1st March 2016}:-

Rule 5 of POTR applies when a service is taxed for the first time. However, doubts have been raised regarding its applicability in case of new levy of tax such as Swachh Bharat Cess. Therefore, an Explanation is inserted in Rule 5 of POTR stating that the same will also be applicable in case where a new levy is introduced for first time.

Explanation is inserted therein stating that the new levy of tax or cess will be payable in all situations except the following situations mentioned in Rule 5:

(a) no tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable;
(b) when the payment has been received before the service becomes taxable and invoice has been issued within fourteen days of the date when the service is taxed for the first time.

A new cess "KKC" is proposed to be levied on the value of taxable services @ 0.5% w.e.f 1st June 2016. Therefore, as per the above explanation, the levy of KKC will be governed by the Rule 5 of POTR only.

VARIOUS AMENDMENTS TO CENVAT CREDIT RULES, 2004 {w.e.f. 1ST April 2016}:-

In order to simplify and rationalize CCR 2004, following important amendments are proposed:-

(a) Capital Wagons (sub heading 8606 92) and equipment and appliance used in an office located within a factory are being included in the definition of Capital Goods so as to allow CENVAT credit. {Amendment in **Rule 2(a)**}

(b) CENVAT credit on Inputs and Capital Goods used for pumping of water, for captive use in the factory, is being allowed even when such Capital Goods are installed outside the factory. {Amendment in **Rule 2(a) & 2(k)**}

(c) All Capital Goods having value upto Rs. 10,000/- per piece are being included in the definition of Inputs. This would allow an Assessee to take whole credit on such Capital Goods in the same year in which they are received. {Amendment in **Rule 2(k)**}

(d) Service by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India is being excluded from the definition of "exempted service". This would allow Shipping Companies to take CENVAT credit on Inputs and Input Services used in providing the said service. {Amendment in **Rule 2(e)**}

(e) Manufacturer of final products is being allowed to take CENVAT credit on tools (Chapter 82) in addition to credit on jigs, fixtures, moulds & dies, when intended to be used in the premises of job-worker or another manufacturer who manufactures the goods as per specification of manufacturer of final products. It is also being provided that a manufacturer can send these goods directly to such other manufacturer or job-worker without bringing the same to his premises. {Amendment in **Rule 4(5)(b)**}

(f) Presently, the permission given by AC or DC to a manufacturer of the final products for sending Inputs or partially processed Inputs outside his factory to a job-worker and clearance therefrom on payment of duty is valid for a financial year. It is being provided that the same would be valid for 3 financial years. {Amendment in **Rule 4(6)**}

(g) CENVAT credit of Service Tax paid on amount charged for assignment by Government or any other person of a natural resource such as Radio-frequency spectrum, mines etc. shall be spread over the period of time for which the rights have been assigned.

It is further proposed that where the manufacturer or service provider further assigns such right to use to another person for a consideration, subsequent of right to use assigned to him, in any financial year, balance CENVAT credit not exceeding the service tax payable on the consideration charged by him for such further assignment, shall be allowed in the same financial year.

It is also proposed that CENVAT credit of annual or monthly user charges payable in respect of such assignment shall be allowed in the same financial year. {Amendment in **Rule 4(7)**}

(h) **Rule 6** of CENVAT Credit Rules is proposed to be redrafted simplifying the same. Entire proposed Rule 6 of CCR is explained below :-

Sub-rule (1) - CENVAT credit shall not be allowed on input and input services which are used in relation to manufacture of exempted goods and exempted service.

Then sub-rule (2) & (3) directs the procedure for calculation of credit not to be allowed in two different situations.

sub-rule (2) provide that a manufacturer exclusively producing exempted goods for their clearance upto the place of removal or a service provider exclusively providing exempted services; shall pay (i.e. reverse) the entire credit thereby not eligible for credit of inputs and input services used.

sub-rule (3) is being amended to provide that when a manufacturer manufactures two classes of goods for clearance upto the place of removal, namely, exempted goods and final products excluding exempted goods or when a services provider provides two classes of services, namely exempted services and services excluding exempted services, then the manufacturer or the service provider **shall exercise one of the two options**, namely,

Options	Manufacturer	Service Provider
Option 1	pay 6% of value of the exempted goods *	7% of value of the exempted services *
Option 2	Pay amount determined in sub-rule (3A)	

* Subject to a maximum of the total credit taken. The purpose of maximum limit is to deny credit of such part of the total credit taken, as is attributable to the exempted goods or exempted services and under no circumstances this part can be greater than the total credit.

Sub-rule (3A) is being amended to provide the calculation of credit allowed and credit not allowed and directs that such credit not allowed shall be paid, provisionally for each month.

The four key steps for calculating the credit required to be paid are:-

(a) No credit of inputs or input services used exclusively in manufacture of exempted goods or for provision of exempted services shall be available;

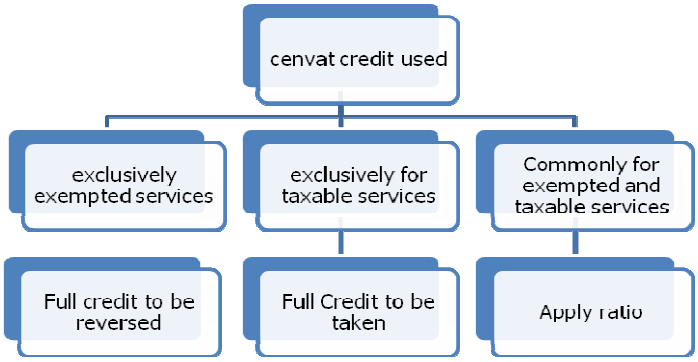
(b) Full credit of Input or Input services used exclusively in final products excluding exempted goods or output services excluding exempted services shall be available;

(c) Balance credit left i.e. common credit shall be attributed as under:-

$$\text{Balance Credit left} \times \frac{\text{Value of exempted goods / exempted services}}{\text{Total turnover of exempted and non-exempted goods and exempted and non-exempted services in the previous financial year;}}$$

(d) Final reconciliation & adjustments are provided after close of FY by 30th June of the succeeding financial year, as provided in the existing rule.

The above features of amended Rule 6(3A) are summarized in the flow chart given as under:-



Sub-rule (3AA) provide that a manufacturer or service provider who failed to follow the procedure of giving prior intimation, may be allowed by a competent Central Excise officer to adjudicate such case, to follow the procedure and pay the amount prescribed subject to interest payment @15%

Sub-rule (3AB) - Transitional provision inserted to provide that the existing Rule 6 of CCR would continue to be in operation upto 30th June 2016, for the units who are required to discharge the obligation for FY 2015-16.

Sub-rule (3B) is amended so as to allow banks and other financial institutions to reverse credit in respect of exempted services on actual basis in addition to the option of 50% reversal.

Explanations 3 is being inserted so as provide that for the purpose of Rule 6, exempted service shall not only mean exempted services as defined in CCR but also include any activity which is not a "service" as per section 65B of Finance Act 1994. This would seem to suggest that CENVAT credit on Inputs / Input Services used for sale of Immovable Property should be reversed.

Explanation 4 provides determination of the value of such activity which is not a "service". It states that the value of such activity shall be –

- Invoice / agreement / contract value
- Where such value is not available, then such value as determined with the principals of valuation and rules made thereunder.

Sub-rule (4) – Existing sub-rule provides that NO CENVAT credit on Capital Goods shall be allowed which are used exclusively in the manufacture of exempted goods or providing exempted services, other than final product which is granted exemption by any notification.

It is now proposed to amend sub-rule 4 which provides that where the Capital Goods are used for the manufacture of exempted goods or provision of exempted service, then for 2 years from the date of commencement of commercial production or provision of service, no CENVAT credit shall be allowed on such Capital Goods. It is further provided that if the Capital Goods are installed after the date of commencement of commercial production or provision of service then the period of 2 years shall be computed from the date of such installation of Capital Goods.

sub-rule (7) – It is now proposed to amend that credit on Inputs and Input services used in providing transport of goods service by a vessel from customs station of clearance in India to a place outside India" shall not be required to be reversed by the Shipping Company.

(i) Presently, an invoice issued by a manufacturer for clearance of inputs or capitals goods is a valid document for availing CENVAT credit.

It is now proposed that an invoice issued by a service provider for clearance of inputs or capitals goods shall also be a valid document for availing CENVAT credit. {Amendment in **Rule 9(a)(i)**}

(j) **Annual Return** by Manufacturer/service provider **{w.e.f 1st April 2016}**:-

Relevant Rule	Existing Provision	Proposed Provision
Information relating to Principal inputs - Amendment to Rule 9A of CCR	Manufacturer shall furnish annual return by 30th April of each FY. A declaration to be given in respect of each of the excisable goods manufactured or to be manufactured and quantity of principal units.	Manufacturer and **Service Provider** shall file Annual return for each FY, by 30th November of the succeeding year in the form as specified by a notification by the Board
Filing of Service Tax Returns - Insertion of Rule 7(3A) and 7(3B) of Service Tax Rules, 1994	Every Assessee is required to file 2 half yearly Service Tax Returns in Form ST-3. There is no requirement of filing Annual Service Tax Return post Audit of the books of accounts of Assessee.	It is now proposed that Annual Return would be filed by certain class of Assessee, as may be notified. Due date for filing Annual Return is 30th November of succeeding FY. In other words, there would be three Service Tax Returns for a FY for certain class of Assessees'.

Relevant Rule	Existing Provision	Proposed Provision
Revision of Service Tax Returns – Rule 7B of ST Rules, 1994	Half yearly Service tax return in form ST-3 can be revised within 90 days from the date of submission of return. Currently, there is no provision for revision of Annual return as Annual Return is introduced for the first time in this Finance Bill, 2016.	It is now proposed that Annual return can be revised **within 1 month** from the date of submission of Original Annual Return.
Late filing fees of Service tax Return – Rule 7C of ST Rules, 1994	Currently, there is no provision for levy of late filing fees of Annual return.	It is now proposed to levy late filing fees of Rs 100/- per day subject to maximum of Rs 20000/-, in case of Annual Return

(k) Recovery of CENVAT credit wrongly taken or erroneously refunded {**Rule 14(2) } {w.e.f 1st April 2016}**

Rule 14(2) provides as to when the credit taken during the month shall be deemed to have been taken and how the utilization shall have deemed to be occurred. Existing provisions is explained as under:-

For Credit taken-

- All credits taken during a month shall be deemed to have been taken on the last day of the month.

For the credit utilization –

- The Opening balance of the month has been utilised first.
- Credit admissible in terms of these rules taken during the month has been utilised next
- Credit inadmissible in terms of these rules taken during the month has been utilised thereafter

Thus, in nutshell the credit that has been taken wrongly and has been utilised then for the purpose of recovery and interest the utilization of such

wrongly taken credit shall be deemed to be considered as utilised last i.e. after utilization of opening balance and other admissible credit.

It is now proposed that the procedure based on FIFO method for determining as to which particular credit has been utilized **will be omitted.** Now whether a particular credit has been utilised or not shall be ascertained by examining whether during the period under consideration, the minimum balance of credit in the account of the Assessee was equal to or more than the inadmissible amount of credit.

INDIRECT TAX DISPUTE RESOLUTION SCHEME, 2016 (IDTDRS, 2016) {w.e.f 1st June 2016}

As an initiative to reduce the litigations, Government has announced IDTDRS, 2016. The said scheme has been introduced by Chapter XI of Finance Bill, 2016. The salient features of the scheme are:

1. The scheme will be applicable from 1st June, 2016 to 31st December, 2016.

2. **Acts covered:** Custom Act, 1962, Central Excise Act, 1944 & Chapter V of the Finance Act, 1994

3. **Disputes/ Cases which are covered by this scheme:** Dispute in respect of any of the provisions of the Act **pending before the Commissioner (Appeals)** as on 1st day of March, 2016.

4. **Disputes/ Cases which are not covered by this scheme:-**
   a. Appeal against order in respect of search and seizure proceeding.
   b. Appeal involving prosecution for any offence punishable under the Act which has been instituted before the 1st day of June, 2016.
   c. Appeal against the order in respect of narcotic drugs/ prohibited goods.
   d. Appeal against an order in respect of any offence punishable under the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985 or the Prevention of Corruption Act, 1988.
   e. Detention order has been passed under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974.

Procedure for making declaration:

a. The person shall make a declaration on or before 31st December, 2016;
b. The person/ declarant shall pay the following amount within 15 days of the receipt of the acknowledgement of declaration:

   i. Tax Amount due.
   ii. Interest thereon at the rate provided under Act.
   iii. Penalty @ 25% of the penalty imposed in the impugned order.

   After payment, person is required to intimate the authority within 7 days of payment giving the details of payment made along with proof.

c. With 15 days of receipt of proof of payment, the authority shall pass a Discharge of dues order.

5. Consequences of Discharge Order passed under the scheme:

- Appeal pending before the Commissioner (Appeals), shall stand disposed and the declarant shall get immunity from all the proceedings under the acts for which declaration has been made under the scheme.

- A declaration shall become conclusive upon the issuance of the order.

- No matter related to the impugned order shall be reopened thereafter before any authority or court.

- An Amount paid under this scheme shall not be refunded.

Order shall not be deemed to be an order on merits and has no binding effect.

DISCLAIMER:-

This compilation is being prepared solely for the personal use of the recipient. This compilation is for internal use only and should not be used for any other purpose or distributed to any other party, without our prior written consent.

The discussions and interpretation set forth in this compilation are based on the Finance Bill, 2016. If there is a change, including change having retrospective effect in the statutory law, the discussions and comments expressed in this compilation could necessarily have to be reevaluated in the light of changes.

This compilation and comments mentioned therein are based on our understanding and interpretation of the legislation, and are not binding on any regulators, courts and there can be no assurance that the regulators or courts will not take a position, contrary to our opinion and comments.

The views expressed in the compilation are general in nature. Any recourse on the basis of the contents of this compilation could be at the sole discretion of the said party, as the views expressed therein may change on the basis of the actual facts of the case.

This material is the property of Sanjay C. Shah & Associates.

Book Compiled by:

C.A. SANJAY C. SHAH

C.A. Dhiraj Mehta

C.A. Hanisha Dhoka

C.A. Seema Karki

C.A. Umang Shah

C.S. Nikita Somaiya

Hardik Shah

Nishita Doshi

Jaisika Jassal

Aaditi Swamy

Oves Ali Musa