# union budget 2017

## ANALYSIS BY:

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## HIGHLIGHTS OF UNION BUDGET 2017

## DIRECT TAX:

- Individual tax rate for the first slab between ₹ 2,50,000 and ₹ 5,00,000 reduced from 10% to 5%;

- Tax Rebate available for individual tax filers will now be reduced to ₹ 2,500 for individuals having taxable income up to ₹ 3,50,000;

- Surcharge at the rate of 10% of tax payable will be levied for individuals having taxable income between ₹ 50,00,000 and ₹ 1,00,00,000;

- For immovable assets (land or building only), the period of holding to qualify as long term capital asset will now be reduced from 36 months to 24 months;

- The conversion of preference stock to equity stock will not be considered as a taxable event;

- Any transfer of a capital asset being rupee denominated bond of Indian Company issued outside India, by a non-resident to another non-resident will not be considered as a taxable event;

- The partial withdrawal (as per the rules governing National Pension System) not exceeding 25 % of the contributions made by an employee from the National Pension System is exempt;

- In case of transfer of a capital asset, cost of acquisition shall be the cost of acquisition of demerged foreign Company for resulting foreign Company;

- In case of transfer of a capital asset, cost of acquisition shall be the fair market value of capital asset of charitable trust for non- charitable trust;

- Amount credited or paid by one trust to another trust will not be treated as application of funds if it is paid with a direction to apply donation towards corpus of the fund

- Capital Gains arising on pooling of land/building in State of Andhra Pradesh is exempt;

- Long Term Capital Gains on sale of equity shares acquired on or after 1 October 2004 exempt only if acquisition was done on payment of securities transaction tax;

- Maximum cash donations to Political Parties from 1 person is restricted to ₹ 2000/-;

- A new instrument namely **'Electoral Bond'** has been introduced for donation to political party;

- Annual let out value of property held by builders in the form of stock in trade is taken as nil for one year from the end of the financial year in which the certificate of completion of construction of property is obtained;

- For computation of capital gains on transfer of asset acquired before 1st April 1981, base year for considering cost of acquisition shifted from 1st April 1981 to 1st April 2001;

- The maximum amount of loss from house property that could be set-off against income from any other source will be restricted to ₹ 2, 00,000. Loss in excess of ₹ 2,00,000 will now be carried forward for 8 years and set off from income from house property only;

- In case of Contribution of National Pension Scheme System by individual taxpayers (non-salaried), the maximum cap that is eligible for deduction will now be increased from 10% to 20% of the gross total income;

- The maximum amount of cash donations that will be allowed as deduction from taxable income is reduced from ₹ 10,000 to ₹ 2,000;

- Individual taxpayers not covered under tax audit will now be required to deduct taxes at a rate of 5 % on housing rent paid to a resident landlord, if the monthly rent exceeds ₹ 50,000;

- Reduction in corporate tax rate from 30% to 25% for companies having a turnover up to ₹ 50 crores;

- Scope of gift taxation u/s 56(2) widened to include all persons receiving money or specified property without consideration or for inadequate consideration;

- Failure to Deduct TDS on payments to residents will lead to disallowance of expenditure even under the head 'income from other sources' ;

- Current limit on payments by cash (as per Rule 6DD) of ₹ 20,000 per day shall be reduced to ₹ 10,000 for allowance of such expenditure as business deduction;

- The new limit of INR 10,000 per day shall also apply to cash payments for Capital Expenditure for purpose of depreciation allowance or deduction under investment-linked incentive deduction for which currently no limit existed;

- Restriction imposed on any person receiving amount in excess ₹ 3 lakhs in cash and defaulter shall be liable to penalty equal to amount so received;

- The Budget has focused on usage of electronic clearing system along with other modes of payments;

- Assessee will have to independently prove reasonability of any expenditure incurred in relation to related party;

- Extension of period to claim MAT/AMT credit from 10 Years to 15 years;

- Concessional tax rate of 10% on Long Term Capital Gains arising from transfer of shares of private companies to apply retrospectively from Assessment year 2012-13;

- FMV deemed to be sale consideration received for computation of capital gains on transfer of shares of a Company (not quoted on a stock exchange);
- In absence of PAN, the rate of TCS will be twice of the applicable rate or 5%, whichever is higher Section 206CC;
- Introduction of fees for delayed filing of return section 139(1) in the range of ₹ 1,000 - ₹ 10,000 (instead of penalty of ₹ 5,000) and late fee to be paid before filing the Return;
- Presumptive tax for small traders with turnover up to 2 crore for full non-cash total sales /turnover/ gross receipts under 44AD now 6% instead of 8%;

- Professionals opting for Presumptive Taxation Scheme can pay one installment advance tax;
- No interest under section 234C if delay in payment of advance tax is attributable to inability of assessee to estimate amount of dividend income;
- Transfer of Carbon Credits Charged to be taxed at flat rate of 10 %;
- Tax returns can now be revised within 12 months of the end of the Assessment year instead of 24 months from the end of the Assessment year;
- Time limit for passing of scrutiny order is reduced to 18 months for Assessment year 2018-19 and 12 months for Assessment year 2019-20 onwards;
- Time limit for passing re-assessment order under section 147, is increased to 12 months from Assessment year 2020-21 onwards;
- Time limit for passing Fresh assessment order in pursuant to order is increased to 12 months from Assessment year 2020-21 onwards;
- Time limit for completion of assessment under section 153A and year of search is reduced to 18 months for Assessment year 2019-20 and 12 months for Assessment year 2020-21;
- Tax authorities can issue the refund pending completion of tax audit;
- Tax deductor eligible for interest @ 0.50% for excess TDS paid;
- The tax return form for individuals having income less than ₹ 500,000 and no income from business or profession would be simplified into a one page form;
- Individuals would be exempted from tax audits in first year of return filing unless the revenue receives any information that, in their view, necessitates an audit;
- Individuals and HUFs are not required to keep books of accounts if their Total Sales, turnover or Gross Receipts is up to ₹ 2, 50,000 in previous years and above ₹ 25, 00,000 in any 1 of the 3 years immediately preceding the previous year;

- The audit limit for business entities opting for presumptive scheme to be increased from ₹ 10,000,000 to ₹ 20,000,000;

- Professionals issuing wrong certificate would be penalized with ₹ 10,000;

- Condition of minimum fund size in year of winding up dispensed with under the fund manager regime prescribed under section 9A of the Act;

- Concessional rate of withholding tax of 5% in respect of funding via foreign ECBs and ₹ Bonds (including Masala Bonds) extended up to 30 June 2020;

- In order to claim exemptions under capital gain from "long Term Specified asset", investments in bond now includes "any Bond as notified by Central Govt.**"**;

- Widening scope of income from other sources by enhancing the applicability to any assessee for any assets;

## INDIRECT TAX

### SERVICE TAX

- Service Tax rate remains unchanged @ 15% (including cesses);
- Exemption with respect to services provided to Government by way of transport of passengers by air embarking from or terminating at a Regional Connectivity Scheme Airport;
- Scope of exemption to Two Year Full time Post Graduate Programmes in Management carried on by IIMs widened;
- Service by way of Process/Labour charges amounting to manufactures or production of goods excluding alcoholic liquor for human consumption proposed to be removed from Negative List;
- Amendment to definition of "authority" for advance ruling;
- Fee for making Application for Advance Ruling has been enhanced from ₹ 2,500 to ₹ 10,000;
- Time Limit of pronouncement of Advance Ruling by Authority from the date of the receipts of application has been enhanced from 90 days to 6 months;
- Retrospective exemption to one time upfront amount payable for grant of long-term lease provided by State Government Industrial Development Corporations or Undertakings;
- Retrospective amendment in Rule 2A of Service Tax (Determination of Value) Rules, 2006 with respect to composite contract involving contract of sale of Flat;
- Time Limit of 3 months is introduced to allow unutilized CENVAT credit in case of transfer of business by reason of sale, amalgamation, merger, joint venture;
- Inclusion of Interest/ Discount Income as exempt turnover by all banks/ NBFCs, while calculating proportionate reversal\reduction of CENVAT Credit as per Rule 6(3D) of the CCR, 2004;

## CENTRAL EXCISE

- There is no change in the peak rates of Central Excise duty;
- Upper Time limit prescribed to file the Bill of Entry;
- Excise duty on tobacco and tobacco products has been increased;
- Nil excise duty on waste and scrap of precious metals, strips, wires, sheets, plates and foils of silver, articles of silver jewellery, other than those studded with diamond, ruby, emerald or sapphire, silver coins of purity 99.9% above, bearing a brand name is being made subject to condition that no credit of input or input services or capital goods has been availed by the manufacturers of such goods;
- 1% concessional duty provided to animal and vegetable fertilizers (3101) is withdrawn as these goods attract NIL rate of duty as per tariff;
- Exemption provided to POS devices and their parts is extended till 30 June 2017;
- Breakup of duty payment for apportionment between various duties in relation to pan masala and chewing tobacco has been amended;
- Time limit for deciding on the remission of duty is being prescribed as 3 months which can further be extended upto 6 months;
- Application to Settlement commission can be filed by a person other than assessee in respect of show cause notice issued to him;
- Settlement Commission can amend its order to rectify any error apparent on record within 3 months from the date of order;

## CUSTOMS

- Beneficial owner is defined as any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;

- The definition of importer / exporter now includes beneficial owner;

- The definition of Customs Station is expanded to include international courier terminal and foreign post office;

- The provision for assessment of duty has rationalized the requirement of documents for verification of self-assessment;

- The principle for unjust enrichment will not apply in case of refund claims due to excess payment of customs duty;

- Obligatory provision is introduced in connection to person-in-charge of a conveyance entering India from any place outside India;

- Requirement of mandatory filing of bill of entry before the end of the next day following the day carrying goods arrives at customs station and are to be cleared for home consumption or warehousing in case of import of goods;

- The facility of storage is extended to imported goods entered for warehousing before their removal;

- Application to Settlement Commission can be filed by a person other than assessee in respect of SCN issued to him in a case relating to assessee;

- Settlement Commission can amend its order to rectify any error apparent on record within 3 months from the date of order;

- The amended provision for clearance of goods for home consumption provides the manner of payment of duty and interest thereon in the case of self-assessed, assessed, re-assessed or provisionally assessed bill of entry.

## ANALYSIS OF AMENDMENTS PROPOSED

## "DIRECT TAXES"

The amendments proposed in the Finance Bill, 2017 would be effective from Assessment Year 2018-19 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 2018-2019:-

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

| Income | Existing Slab of Income Tax Rate (AY 2017-18) | Proposed Slab of Income Tax Rate (AY 2018-19) |
|---|---|---|
| Upto ₹ 2,50,000 | NIL | NIL |
| ₹ 2,50,001 - ₹ 5,00,000 | 10% | 5% |
| ₹ 5,00,001 - ₹ 10,00,000 | 20% | 20% |
| Above ₹ 10,00,000 | 30% | 30% |

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

| Income | Existing Slab of Income Tax Rate (AY 2017-18) | Proposed Slab of Income Tax Rate (AY 2018-19) |
|---|---|---|
| Upto ₹ 3,00,000 | NIL | NIL |
| ₹ 3,00,001 - ₹ 5,00,000 | 10% | 5% |
| ₹ 5,00,001 - ₹ 10,00,000 | 20% | 20% |
| Above ₹ 10,00,000 | 30% | 30% |

**Very Senior Citizen (80 years or more):-**

| Income | Existing Slab of Income Tax Rate (AY 2017-18) | Proposed Slab of Income Tax Rate (AY 2018-19) |
|---|---|---|
| Upto ₹ 5,00,000 | NIL | NIL |
| ₹ 5,00,001 - ₹ 10,00,000 | 20% | 20% |
| Above ₹ 10,00,000 | 30% | 30% |

The table below showing the **surcharge rate** for Resident Individual/ Hindu Undivided Family applicable for Assessment Year 2018-2019:-

| Income Limit | Existing Slab of Income Tax Rate (AY 2017-18) | Proposed Slab of Income Tax Rate (AY 2018-19) |
|---|---|---|
| Upto ₹ 50,00,000 | NIL | NIL |
| ₹ 50,00,001 – ₹ 1,00,00,000 | NIL | 10% |
| Above ₹ 1,00,00,000 | 15% | 15% |

**For Domestic Company:-**

I. The table below shows the **Regular** Income Tax rates for Assessment Year 2018-2019:-

| Turnover Limit | Existing Slab of Income Tax Rate (%) (A.Y.2017-18) | | | | Proposed Slab of Income Tax Rate (%) (A.Y.2018-19) | | | |
|---|---|---|---|---|---|---|---|---|
| | Tax | Edu. Cess | Sur. | Eff. Rate | Tax | Edu. Cess | Sur. | Eff. Rate |
| **A** | **INCOME UP TO 1 CR.** | | | | | | | |
| Up to ₹ 5 cr.* | 29.00 | 3.00 | NIL | 29.87 | 25.00 | 3.00 | NIL | 25.75 |
| ₹ 5 cr. to ₹ 50 cr.* | 30.00 | 3.00 | NIL | 30.90 | 25.00 | 3.00 | NIL | 25.75 |
| Above ₹ 50 cr. | 30.00 | 3.00 | NIL | 30.90 | 30.00 | 3.00 | NIL | 30.90 |
| **B** | **INCOME ABOVE ₹ 1 CR. BUT LESS THAN ₹10 CR.** | | | | | | | |
| Up to ₹ 5 cr.* | 29.00 | 3.00 | 7.00 | 31.96 | 25.00 | 3.00 | 7.00 | 27.55 |
| ₹ 5 cr. to ₹ 50 *cr. | 30.00 | 3.00 | 7.00 | 33.06 | 25.00 | 3.00 | 7.00 | 27.55 |
| Above ₹ 50 cr. | 30.00 | 3.00 | 7.00 | 33.06 | 30.00 | 3.00 | 7.00 | 33.06 |
| **C** | **INCOME ABOVE ₹10 CR.** | | | | | | | |
| Up to ₹5 cr.* | 29.00 | 3.00 | 12.00 | 33.45 | 25.00 | 3.00 | 12.00 | 28.84 |
| ₹ 5 cr. to ₹ 50 *cr. | 30.00 | 3.00 | 12.00 | 34.61 | 25.00 | 3.00 | 12.00 | 28.84 |
| Above ₹ 50 cr. | 30.00 | 3.00 | 12.00 | 34.61 | 30.00 | 3.00 | 12.00 | 34.61 |

* Turnover to be checked that of Financial Year 2015-16

II. The table below shows the **Regular and MAT** Income Tax rates for Assessment Year 2018-2019 (Other than those covered in **option I**):-

| **Type of Assessee** | **Existing Slab of Income Tax Rate (%) (A.Y.2017-18)** | | | | **Proposed Slab of Income Tax Rate (%) (A.Y.2018-19)** | | | |
|---|---|---|---|---|---|---|---|---|
| | **Tax** | **Edu. Cess** | **Sur.** | **Eff. Rate** | **Tax** | **Edu. Cess** | **Sur.** | **Eff. Rate** |
| **A)** | **INCOME UP TO ₹ 1 CR.** | | | | | | | |
| **Regular** Tax for New Setup Company * | 25.00 | 3.00 | NIL | 25.75 | 25.00 | 3.00 | NIL | 25.75 |
| **MAT** for Company# | 18.5 | 3.00 | NIL | 19.06 | 18.5 | 3.00 | NIL | 19.06 |
| MAT for Company $ | 9.00 | 3.00 | NIL | 9.27 | 9.00 | 3.00 | NIL | 9.27 |
| **B)** | **INCOME ABOVE ₹ 1 CR BUT LESS THAN ₹ 10 CR.** | | | | | | | |
| **Regular** Tax for New Setup Company * | 25.00 | 3.00 | 7.00 | 27.55 | 25.00 | 3.00 | 7.00 | 27.55 |
| **MAT** for Company# | 18.5 | 3.00 | 7.00 | 20.39 | 18.5 | 3.00 | 7.00 | 20.39 |
| **MAT** for Company $ | 9.00 | 3.00 | 7.00 | 9.92 | 9.00 | 3.00 | 7.00 | 9.92 |
| **C)** | **INCOME ABOVE ₹ 10 CR.** | | | | | | | |
| **Regular** Tax for New Setup Company * | 25.00 | 3.00 | 12.00 | 28.84 | 25.00 | 3.00 | 12.00 | 28.84 |
| **MAT** for Company# | 18.5 | 3.00 | 12.00 | 21.34 | 18.5 | 3.00 | 12.00 | 21.34 |
| **MAT** for Company $ | 9.00 | 3.00 | 12.00 | 10.38 | 9.00 | 3.00 | 12.00 | 10.38 |

***** Newly setup domestic Company engaged solely in the business of manufacture or production of any article or thing (subject to conditions);

**#** Domestic Company other than Company being a unit located in IFSC deriving its income wholly in convertible forex;

**$** Domestic Company being a unit located in IFSC deriving its income wholly in convertible forex.

**For Other Assessee (other than domestic Company):-**

The table below shows the Income Tax rates for Assessment Year 2018-2019 for Other Assessee (other than domestic Company):-

| Type of Assessee | Existing Slab of Income Tax Rate (%) (A.Y.2017-18) | | | | Proposed Slab of Income Tax Rate (%) (A.Y.2018-19) | | | |
|---|---|---|---|---|---|---|---|---|
| | Tax | Edu. Cess | Sur. | Eff. Rate | Tax | Edu. Cess | Sur. | Eff. Rate |
| **A** | **INCOME UP TO 1 CR.** | | | | | | | |
| **a) Firm/ LLP** | | | | | | | | |
| -Regular Tax | 30.00 | 3.00 | NIL | 30.90 | 30.00 | 3.00 | NIL | 30.90 |
| -AMT | 18.5 | 3.00 | NIL | 19.06 | 18.5 | 3.00 | NIL | 19.06 |
| **b) Foreign Co.** | | | | | | | | |
| -Regular Tax | 40.00 | 3.00 | NIL | 41.20 | 40.00 | 3.00 | NIL | 41.20 |
| **B** | **INCOME ABOVE ₹ 1 CR. BUT LESS THAN ₹10 CR.** | | | | | | | |
| **a) Firm/ LLP** | | | | | | | | |
| -Regular Tax | 30.00 | 3.00 | 12.00 | 34.61 | 30.00 | 3.00 | 12.00 | 34.61 |
| -AMT | 18.5 | 3.00 | 12.00 | 21.34 | 18.5 | 3.00 | 12.00 | 21.34 |
| **b) Foreign Co.** | | | | | | | | |
| Regular Tax | 40.00 | 3.00 | 2.00 | 42.03 | 40.00 | 3.00 | 2.00 | 42.03 |
| **C** | **INCOME ABOVE ₹ 10 CR.** | | | | | | | |
| **a) Firm/ LLP** | | | | | | | | |
| -Regular Tax | 30.00 | 3.00 | 12.00 | 34.61 | 30.00 | 3.00 | 12.00 | 34.61 |
| -AMT | 18.5 | 3.00 | 12.00 | 21.34 | 18.5 | 3.00 | 12.00 | 21.34 |
| **b) Foreign Co.** | | | | | | | | |
| Regular Tax | 40.00 | 3.00 | 5.00 | 43.26 | 40.00 | 3.00 | 5.00 | 43.26 |

**Note:** - Reduction in rate of tax is applicable only to Domestic Companies. It does not apply to Foreign Company, Firm or LLP.

**Holding period in case of immovable property [Section 2(42A)] Amendment to section 2(42A) of the Act:-**

The definition of Short term Capital Assets [Section 2 (42A)] with respect to Immovable properties:

| **Category of Assets (Immovable property being Land or Building or both)** | **Existing Period** | **Proposed Period** (w.e.f. AY 2018-19 ) |
|---|---|---|
| Short Term Capital Asset if held for: | 36 months or less | 24 months or less |

**Clarification on applicability of indirect transfer provisions [Insertion of explanation 5A in section (9)(1)(i) to the Act]:-**

At present section 9 of the Act deals with cases of income which are deemed to accrue or arise in India.

The said clause provides that:

All income accruing or arising, whether directly or indirectly, through or from

- Any business connection in India,
- Any asset or source of income in India,
- Any transfer of a capital asset situated in India

shall be deemed to accrue or arise in India & hence taxable.

Also present Explanation 5 to Section 9(1)(i) specifies following situation **:-**

- There is one Foreign Company, say X.
- It holds say 75% stake in Indian Company, say Y.
- The share of X derives **its substantial value** from its holding in Y.

In the above situation, entire Shareholding of X is deemed to have been situated in India.

The term "substantial value" used in Explanation 5 is explained below as per Explanation 6 of Section 9(1).

a) the share or interest of a foreign Company or entity shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if on the specified date**, the value of Indian assets**:-

   - Exceeds the amount of ₹ 10 crores and;
   - Represents at least 50% of the value of all the assets owned by the Foreign Company or entity.

b) Value of an asset shall mean the fair market value of such asset without reduction of liabilities, if any, in respect of such asset.

Due to above provision, any transfer of assets being investments held by non-resident in a FII may also be liable to tax in India in case the concerned FII derives its value substantially from the share of Indian Companies.

In order to keep Investors in FII out of the rigor of Explanation 5, a new Explanation 5A is proposed to be inserted. As per proposed Explanation 5A of Section 9, existing Explanation 5 shall not apply to any assets being investment held by non-resident, directly or indirectly, in a Foreign Institutional Investor [section 115AD(a)], and registered as Category-I or Category II Foreign Portfolio Investor under the SEBI (Foreign Portfolio Investors) Regulations, 2014 made under the SEBI Act, 1992.

The effect of above amendment is, any non-resident holding any asset of any FII (which derives its substantial value from Asset located in India) is free to transfer said assets to any other entity without attracting any tax in India.

This amendment will take effect retrospectively from 1st April, 2012 and will, accordingly, apply in relation to assessment year 2012-13 and subsequent years.

**Relaxation to eligible investment fund [Amendment to proviso under section 9A(3)(j) of the Act]:-**

At present, sub-section (3) of the said section 9A provides for the conditions to be fulfilled for being an eligible investment fund.

Clause (j) of the said sub-section and the proviso provides that the monthly average of the corpus of the fund shall not be less than one hundred crore rupees except where the fund has been established or incorporated in the previous year, in which case, the corpus of fund shall not be less than one hundred crore rupees at the end of such previous year.

It is proposed to insert another proviso to clause (j) of the said sub-section so as to provide that the provisions of the said clause shall not be applicable to a fund which has been wound up in the previous year.

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

**Rectification of error under section 10(4)(ii):-**

In the said proviso the words "Clause (q)" has been replaced with "clause (w)", with a view to reflect the correct definition of the expression "person resident outside India". The definition of person outside India is occurring in clause (w) of FEMA Act, 1999 and not Clause (q).

Above clarificatory amendment shall come into force retrospectively from 1st April 2013 onwards.

**Tax exemption to partial withdrawal from NPS [Insertion of section 10(12B) to the Act]:-**

Exemption on payment from National Pension System (NPS) Trust to an employee (under the pension scheme referred to in section 80CCD).

| Particulars | As per existing clause 12A | As per Proposed new clause 12B (w.e.f. A.Y. 2018-19) |
|---|---|---|
| Partial Withdrawal or Full Closure/Opting out of Scheme to claim exemption. | Fully Closure of account / Opting out of Scheme | Partial withdrawal is allowed |
| Maximum % of withdrawal eligible for exemption | 40% of the total amount payable to employee | 25% of the employee's contribution |
| If the amount withdrawn exceeds the exemption limit | Amount withdrawn in excess of the limit is taxable | Amount withdrawn in excess of the limit is taxable |
| If the amount withdrawn does not exceeds the exemption limit | Fully Exempt | Fully Exempt |

**Exemption on income from specified funds [Insertion of sub-clause (iiiaaaa) to section 10(23) of the Act]:-**

As per proposed insertion via sub clause (iiiaaaa) under section 10(23C) , any income received by any person on behalf of the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union territory [as referred under section 80G(2)(a)(iiihf)].

Above amendment shall come into force retrospectively from 1st April 1998 onwards.

**Restriction on exemption in case of corpus donation by exempt Entities [Insertion of proviso in section 10(23C) and explanation under section 11(1)(d) of the Act]:-**

As per the existing provisions of the Act, Corpus Donations made by

- any trust/ institution registered under 12AA of the Act

**to**

- any fund / institution / trust / university / hospital/ medical institution under sub-clause (iv), (v), (vi) or (via) under section 10 (23C) of the Act out of income of the previous year, **is considered as application of Income**, even if it is given with a specific direction that it should form part of Corpus fund of recipient Trust.

However, donation given by these exempt entities to another exempt entity, with specific direction that it shall form part of Corpus, is though considered application of income in the hands of donor trust but is not considered as income of the recipient trust. Trusts, thus, engage in giving corpus donations without actual applications so as to comply with legal requirements to continue Tax exemption.

Therefore, it is proposed to insert a new Explanation to section 11 of the Act to provide that any amount credited or paid, out of income referred to in clause (a) or clause (b) of sub-section (1) of section 11, being contributions with specific direction that they shall form part of the corpus of the recipient trust or institution, shall not be treated as application of income in the hands of Donor Trust.

Above amendment shall come into force from AY 2018-19 onwards.

**Tax incentive for the development of Amaravati, Andhra Pradesh [Insertion of clause (37A) in section 10 of the Act]:-**

It is also proposed to insert a new clause (37A) in the said section so as to provide that any income chargeable under the head "Capital gains" in respect of transfer of a specified capital asset arising to an assessee, being an individual or

a Hindu undivided family, was the owner of such specified capital asset as on the 2nd June, 2014 and transfers such and under the Land Pooling Scheme covered under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015 made under the provisions of the Andhra Pradesh Capital Region Development Authority Act, 2014 and the rules, regulations and schemes made under the said Act, shall not be included in the total income of the assessee. It is also proposed to clarify the term "specified capital asset" in this regard.

Above amendment shall come into force retrospectively from 1st April 2015 onwards.

**Consequential Insertion of Section 49(6) of the Act:-**

Where the capital gain arises from the transfer of specified capital asset referred to in Section 10(37A)(c), received under the Land Pooling Scheme covered under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015, which has been transferred after 2 years from the end of the financial year in which the possession of such specified capital asset was handed over to the assessee, the cost of acquisition of that specified capital asset shall be deemed to be the stamp duty value of the said asset as on the last day of the second financial year after the end of the financial year in which the possession of the said specified capital asset was handed over to the assessee.

"Stamp duty value" here means the value adopted or assessed or assessable by any authority of the State Government for the purpose of payment of stamp duty in respect of an immovable property.

Above amendment shall come into force from AY 2018-19 onwards.

**No exemption for Long term capital gain of listed equity shares [Insertion of new proviso in section 10(38) of the Act]:-**

Under the existing provisions of the Section 10(38) of the Act, the income arising from a transfer of long term capital asset, being equity share of a Company or a unit of an equity oriented fund (EOF), is exempt from tax if the **transaction of sale** is undertaken on or after 1st October, 2004 and Securities Transaction Tax (STT) is paid on such sale of shares / units. There was no requirement as to acquisition of said Asset being subject to STT.

It has been noticed that exemption provided under section 10(38) is being misused by certain persons for declaring their unaccounted income as exempt long-term capital gains by entering into sham transactions.

Hence, with a view to prevent this abuse, it is proposed that in case equity shares or units of EOF are acquired on or after 1st October 2004 the said exemption will be available **only if** the Acquisition of such equity shares or units of EOF is chargeable to STT. However said restriction will not apply to said equity shares or units of EOF acquired prior to 1st October 2004 as the provision of STT became applicable from said date.

However to protect the exemption for genuine cases where the STT could not have been paid like acquisition of share in IPO, FPO, bonus or right issue by a listed Company acquisition by non-resident in accordance with FDI policy of the Government etc., it is also proposed to notify transfers for which the condition of chargeability to STT on acquisition shall not be applicable.

Above amendment shall come into force from AY 2018-19 onwards.

**Exemption on sale of stock leftover of crude oil by Foreign Company [Section 10 (48B) Insertion of clause 48B in section 10 of the Act]:-**

The existing provisions of section 10(48A) of the Act, provides that any income accruing or arising to a foreign Company on account of storage of crude oil in a facility in India and sale of crude oil from there to any person resident in India shall be exempt. Provided that if the said storage and sale is pursuant to an agreement entered into by the Central Government and having regard to the national interest.

The benefit of exemption presently is not available to sale out of the leftover stock of crude after the expiry of said agreement. It is proposed to insert a new clause (48B) in section 10 so as to provide that any income accruing or arising to a foreign Company on account of sale of leftover stock of crude oil, if any, from a facility in India after the expiry of an agreement or an arrangement referred to in section 10 (48A) of the Act shall also be exempt subject to such conditions as may be notified by the Central Government in this behalf.

Above amendment shall come into force from AY 2018-19 onwards.

**Computation of tax deduction for SEZ units [Insertion of explanation to sub-section (1) of section 10AA of the Act]:-**

As per the existing provision, Section 10AA allows Deduction (certain percentage for certain number of years) from the total income of an assessee in respect of Profits and Gains from his Unit located in SEZ subject to fulfillment of certain conditions.

While deciding the matter pertaining to section 10A which also contains similar provisions the courts have taken a view that the deduction is to be allowed from the total income of the Undertaking and not from the total income of the assessee.

Hence the proposed explanation to Sub-section (1) of Section 10AA intends to clarify that **the amount of deduction shall be allowed from the total income** of the assessee computed in accordance with the provisions of the Act before giving effect to the provisions of the section 10AA and **shall in no case exceed the said total income.**

Above amendment shall come into force from AY 2018-19 onwards.

**Modifications of object clause of entities registered under section 12AA [Insertion of clause (ab) & (ba) in sub-section (1) of Section 12A of the Act]:-**

As per the existing provisions of the section 12A(1), there is no time limit for intimation or fresh registration to the Principal Commissioner or Commissioner by Trusts registered under section 12AA about the adoption or undertaking of modification in the objects of the Trusts specified in the registration.

However it is now proposed to impose a time limit to give intimation to the Principal Commissioner or Commissioner and file fresh registration about the change in the objects originally filed in the registration within 30 days from the adoption or undertaking of such modification.

As per the existing provision of section 12A, entities registered under section 12AA (Trusts and Institutions) are entitled for exemptions under section 11 and 12 even if return of income is not filed within the prescribed time.

It is now proposed that in order to avail exemption under section 11 and 12 by the Trusts and Institutions it is necessary to file the return of income within the prescribed time limit as per section 139 of the Act.

Above amendment shall come into force from AY 2018-19 onwards.

**Transparency in electoral funding [Amendment to clause (b) of first proviso of section 13A of the Act and Insertion of clause (d) to first proviso of section 13A of the Act]:-**

At present contributions received by Political parties are only in the form of cash or through cheque, draft or through electronic clearing system. Also details as to name and address of the Donor of donations exceeding ₹ 20,000/- are to be reported to the Election Commission of India.

It is practically difficult to maintain above records of Donors by all political parties.

The Finance Bill 2017 has therefore introduced a new instrument namely **'Electoral Bond'** by way of which if an assessee who wants to donate to a Political Party a certain amount, he can purchase bonds from specified authority and donate it to the Political Party who can later redeem with issuing authority to generate funds.

It is proposed that no details of donation received by way of Electoral Bonds shall be required to be maintained by Political Parties. This will serve the concern of anonymity of the donors.

However in case of future enquiry such details will be available with specified authority as they would have taken the same at the time of issue of Electoral Bonds to specific entity.

Under the existing provision of the Act there is **no restriction** of receipt of any amount of donation in cash by a political party.

In order to discourage the cash transactions and to bring transparency in the source of funding to political parties it is proposed to amend the provisions of section 13A whereby **cash donations to a political party shall not be made of more than ₹ 2,000.**

Also the political party has to furnish a return of income for the previous year in accordance with the provision of sub-section (4B) of section 139 on or before the due date under section 139.

Above amendment shall come into force from AY 2018-19 onwards.

**No notional income for house property held as stock-in-trade [Insertion of sub-section (5) to section 23 of the Act]:-**

At present, assessee is liable to pay tax on annual letting value on property consisting of any building or land appurtenant thereto held as stock-in-trade and not let out during any part of the year.

In the case of **Ansal Housing & Construction Ltd. v/s Commissioner of Income Tax,** Delhi High Court has held that the annual letting value is taxable as Income from House Property in respect of property is held as stock-in-trade.

Supreme Court has admitted **Special Leave Petition** filed against the said Judgment of Delhi High Court.

It is now proposed to amend section 23 of the Act so as to provide that the annual value of property or part of the property being any building and land appurtenant thereto held as stock-in-trade shall be taken as **NIL** for the period **up to one year** from the end of the financial year in which the certificate of completion of construction of property is obtained from the competent authority.

Above amendment shall come into force from AY 2018-19 onwards.

**Disallowance in relation to capital expenditure incurred in cash [Amendment to section 35AD(8)(f) of the Act and consequential amendment in section 43(1)]:-**

Section 35AD deals with investment linked deductions in respect of Expenditure on Specified Businesses, which is tabulated as under:-

| Existing Provision | Proposed Amendment |
|---|---|
| **No Monetary limit** for Capital/Revenue Expenditure in Cash for claiming deduction under section 35AD | It is now proposed that **any expenditure** by way of Cash in excess of **₹ 10,000/- per person per day** shall not be eligible for investment link deduction under section 35AD |
| Capital expenditure on **acquisition of land or goodwill or financial instrument** not allowed as Deduction under section 35AD | It is now proposed that Capital expenditure on acquisition of land or goodwill or financial instrument to be **allowed as deduction under section 35AD** |
| Section 43(1) of the Act deals with "actual cost" of an asset for the purpose of depreciation. As per the existing provisions, there is **no monetary limit on acquisition of any asset by way of cash for calculation of "cost of asset"** | It is now proposed that payment for expenditure **to a person in a day in excess of ₹ 10,000/-** in cash towards purchase of any assets **shall not be considered for determination of Actual cost of asset.** Accordingly no depreciation will be allowed on such cash payment. |

Above amendment shall come into force from AY 2018-19 onwards.

**Disallowance in relation to revenue expenditure [Amendment to sub-section (3), (3A) and (4) of section 40A of the Act]:-**

| Existing Provision | Proposed Amendment |
|---|---|
| Limit of cash payment to **a person on a single day** for any expenditure is ₹ 20,000/- | It is now proposed to **reduce** the limit of cash payment **from ₹ 20,000/- to ₹ 10,000/-**to **a person on a single day** for any expenditure. |
| At present, mode of payment other than cash does not include **electronic clearing system** | It is now proposed to expand the mode of payment other than cash to even include **electronic clearing system.** |

**However, limit of ₹ 35,000/- for payment made for plying, hiring or leasing of Goods Carriage is not amended and shall continue to operate.**

Above amendment shall come into force from AY 2018-19 onwards.

**Increase in deduction limit in respect of provision for bad and doubtful debts [Amendment to section 36(1)(viia)(a) of the Act]:-**

This section deals with the allow ability of provision in respect of bad and doubtful debts made by different classes of banking institutions.

| Amount of Deduction | Existing Provision | Proposed Amendment to the Act |
|---|---|---|
| As a % of Total Income | 7.5% | 8.5% |

Above amendment shall come into force from AY 2018-19 onwards.

**Actual cost of asset in case of withdrawal of investment linked deduction [Insertion of proviso to explanation 13 of Section 43(1) of the Act]:-**

As per the existing provisions, there is no clarity on determination of actual cost for the purpose of allowance of depreciation of such assets in respect of which

the deduction which is already allowed in a previous year under section 35AD(Specified Business) of the Act, is withdrawn in terms of sub section (7B) of the said section.

In order to give clarity it is proposed to amend the provisions of the section 43 of the Act, to provide that where any capital asset in respect of which deduction allowed under section 35AD, the actual cost to the assessee shall be the actual cost to the assessee **as reduced** by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purpose of business **since the date of its acquisition**.

Above amendment shall come into force from AY 2018-19 onwards.

**Extension of scope of sections 43B and 43D to co-operative banks [Amendment to clause(e) of section 43B and clause(a) of section 43D and Insertion of clause(d) to explanation 4 of section 43B and clause(g) to explanation of section 43D of the Act]:-**

| Particulars | Existing Provision | Proposed Amendment |
|---|---|---|
| Clause(e) of Section 43B | This Section relates to disallowance interest on Loans and advances from a Scheduled Bank in case said interest is not paid before due date of filing IT Return. | Scope of these sections is proposed to be extended to "co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank". |
| Clause(a) of Section 43D | This Section relates to Interest income of Scheduled banks or public financial institution or a State financial corporation or a State industrial investment corporation on certain categories of bad and doubtful debts. | |

Due to the proposed Amendment co-operative banks shall also have the same benefit as other financial institutions in the respective categories. Also matching principle of taxation will be achieved as both the interest income on the bad and doubtful debts in the hands of the financial institutions and the same income as expense for the assessee will be chargeable to tax in the year of actual payment.

In view of amendments to clause (e) of section 43B and clause (a) of section 43D the meaning of "Co-operative bank" and "primary agricultural credit society shall have the meanings assigned to them in Part V of the Banking Regulation Act, 1949 and "primary co-operative agricultural and rural development bank" means a society having its area of operation confined to a taluk and the primary objective of which is to provide for long term credit for agriculture and rural development activities.

Above amendment shall come into force from AY 2018-19 onwards.

**Rationalization of transfer pricing regulations for domestic transaction [Amendment to section 92BA(i) and consequential amendment to section 40A(2)(b) and insertion in proviso to section 40A(2)(a) of the Act]:-**

The existing provisions of section 92BA of the Act, inter-alia provide that any expenditure in respect of which payment has been made by the assessee to certain "specified persons" under section 40A(2)(b) are covered within the ambit of specified domestic transactions and accordingly various compliances related to Transfer Pricing Provision were applicable to transaction with such "specified persons".

As a matter of compliance and reporting, taxpayers need to obtain the chartered accountant's certificate in Form 3CEB providing the details such as list of related parties, nature and value of specified domestic transactions (SDTs), method used to determine the arm's length price for SDTs, positions taken with regard to certain transactions not considered as SDTs, etc. This has considerably increased the compliance burden of the taxpayers.

In order to reduce the compliance burden of taxpayers, it is proposed to provide that expenditure in respect of which payment has been made by the assessee to a person referred to in under section 40A(2)(b) are to be excluded from the scope of section 92BA of the Act.

Accordingly, it is also proposed to make a consequential amendment in section 40(A)(2)(b) of the Act.

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

**Consequential Amendment in section 40A(2)(a)**

Existing Proviso to section 40A(2)(a) provides that no disallowance of any expenditure shall be made under main 40(2)(a) in respect of Specified Domestic transaction referred in section 92BA if such transaction is at arm's length price.

Now it is proposed to restrict the applicability of above proviso only up to AY 2016-17.

As transactions of the nature specified in section 40A(2) are specifically excluded from the applicability of section 92BA w.e.f. AY 2017-18 onwards, assessee will have to independently prove reasonability of any expenditure incurred in relation to Related Parties under section 40A(2)(b) and not under section 92BA.

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

**Maintenance of accounts by certain persons carrying on profession or business (Amendment to Section 44AA of the Act):-**

It is proposed to amend the existing monetary limit for Maintenance of accounts by certain persons carrying on profession or business as follows:

| Class of the Assessee | Monetary Limit up to AY 2017-18 | Monetary Limit from AY 2018-19 onwards |
|---|---|---|
| Every assessee carrying on Legal, Medical, Engineering or Architectural Profession, Accounting Profession, Technical Consultancy Profession or Interior Decoration or any other Profession as notified by the Board in the Official Gazette. | Shall always maintain of Books of Accounts | Shall always maintain of Books of Accounts |
| Assessee, being an Individual or HUF having Total Sales, Turnover or Gross Receipts **in a Previous Year**. | Above ₹ 1,20,000/- | Above ₹ 2,50,000/- |
| Assessee, being an Individual or HUF having Total Sales, Turnover or Gross Receipts **in any one of the 3 years immediately proceeding the previous year**. | Above ₹ 10,00,000/- | Above ₹ 25,00,000/- |

**Audit of accounts of certain persons carrying on business or profession and special provisions for computing profits and gains of business on presumptive basis (Amendment to Section 44AB and 44AD of the Act):-**

Section 44AB deals with compulsory Audit of Accounts for assessees whose Sales, Turnover or Gross receipts in any year is in excess of specified limit.

Section 44AD deals with the Presumptive Taxation Scheme applicable to certain classes 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.
- An assessee having total turnover or gross receipts in the previous year less than ₹ 2 crores.

In Budget 2016, limit of Turnover for Assessee opting for Presumptive Tax was enhanced from ₹ 1 crore to ₹ 2 crores. However, consequential amendment in Section 44AB was not made for assessees opting for Presumptive Tax scheme of taxation having turnover up to ₹ 2 crores.

It is now proposed to amend Section 44AB so as to provide that for the Assessee opting for Section 44AD, the turnover limit is revised to ₹ 2 crores for mandatory requirement of carrying out Tax Audit u/s 44AB of the Act. Limit of Turnover for other class of Assessee shall continue to be ₹ 1 Crore.

It is also proposed to reduce the existing rate of presumptive income under the head of business income so as to encourage small assessees to carry on business through official channels.

Revised rates of presumptive income are explained below:-

| **Mode of Sales, Turnover or Gross Receipts of the Business** | **Existing Presumptive rate of Business Income up to A.Y. 2016-17** | **Proposed Presumptive Rate of Business Income from A.Y. 2017-18 onwards** |
|---|---|---|
| By Account payee Cheque or Bank Draft or through Online transfers through a bank account | 8% | 6% |
| Mode other than above | 8% | 8% |

It appears that if an assessee has combined business of turnover through Cheque, Draft or Online transfers together with turnover by receipt in the form of Cash, he will have to maintain two separate set of books for both the types of turnover.

- In the business comprising of first mentioned Turnover, 6% of the Sales, Turnover or Gross Receipts shall be deemed to be business income chargeable to Tax and;

- In the business comprising of other modes, 8% of the Turnover or Gross Receipt shall be deemed to be business income chargeable to Tax.

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

**Capital gains in case of joint development agreement [Insertion of sub-section (5A) in section 45 and Consequential amendment in section 49 of the Act]: -**

Nowadays, Joint Development Agreements (JDA) between owner of a land or building or both with a developer enter into a JDA wherein owner allows developer to demolish existing structure and redevelop the new buildings meant for sale. In consideration, owner gets a share in the area of newly developed buildings and/ or monetary consideration.

There were certain juridical pronouncements wherein it is held that the owner is liable to capital gain tax in the year in which he enters in to JDA. This resulted in undue hardship to the owner as he may not have received the entire consideration and still he is liable to tax.

In order to address this genuine hardship, a new section 45(5A) is proposed to be introduced together with consequential amendment in section 49(7). The salient features of taxation contained in both the above provisions in case of JDA are explained below:-

- The new provisions will apply only in case owner is an Individual or HUF.

- In case of JDA, owner of the land & building shall be liable to tax only in the year in which Occupancy Certificate is received for the whole or part of the project.

- The sales consideration in the hands of owner shall be the aggregate of the actual amount received through banking channel and stamp duty value as on the date of Occupancy Certificate of share in land and building received, if any.

Provisions of this sub-section shall not apply where the owner transfers his share to any other person on or before the issue of said Occupancy certificate and in that case, the capital gains shall be deemed to be the income of the owner in the year in which such transfer took place as per the existing provisions of the act.

Above amendment shall come into force from AY 2018-19 onwards.

**Cost of a Capital Asset with reference to certain modes of acquisition (Consequential amendment is made in Section 49 of the Act):-**

As per the proposed section 49(7), when the owner re-sales said land or building or both which he will get in pursuant to JDA from developer, then his cost of acquisition of the said land or building shall be the amount which was deemed as full value of consideration at the time of computing capital gains under newly inserted section 45(5A).

The same is illustrated as under:-

| Sr. no | Particulars | Amount | Date |
|---|---|---|---|
| 1 | Cheque received by the owner from developer against transfer of developing rights | ₹ 10 crores | 15-03-2017 |
| 2 | Occupancy Certificate received on | - | 15-01-2018 |
| 3 | Stamp duty value of share in land or building received by owner to developer | ₹ 15 crores | 15-01-2018 |
| 4 | Total sales consideration in the hands of owner | ₹ 25 crores | 15-01-2018 |
| 5 | Selling price of land & building | ₹ 20 crores | 28-02-2018 |
| 6 | Capital gain on sale of land or building received as per Sr. No. 3 above | ₹ 5 crores | 28-02-2018 |

Above amendment shall come into force from AY 2018-19 onwards.

**Transactions not regarded as transfer of capital asset [Insertion of Clause (viiiaa) & Clause (xb) in Section 47 of the Act]:-**

This section provides that certain transactions of capital assets are not chargeable to tax under section 45 of the Act.

- Section 47(viiaa) :- Any transfer of a capital asset being rupee denominated bond of Indian Company issued outside India, by a non-resident to another non-resident;

- Section 47(xb):- The conversion of preference share of a Company into its equity share.

Above amendments shall come into force from AY 2018-19 onwards.

**Capital Gain on Redemption of Rupee Denominated Bonds (Amendment in section 48 of the Act):-**

The above Amendment recognizes transfer of Rupee Denominated Bonds accordingly Section PROVISO to Section 48 had to be revised to cover the above type of situation of transfer from one NR to the other.

Accordingly it is proposed that any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian Company shall be ignored for the purpose of computing full value of consideration not only in the hands of original subscriber (NR) but also in the hands of subsequent transferee (NR). This intent is achieved by substituting word "HELD" in place of "SUBSCRIBED" in 5$^{th}$ PROVISO to Section 48 of the Act.

Above amendment shall come into force from AY 2018-19 onwards.

**Rationalization on computation of holding period of certain capital asset made in Section 2(42A)**

At present there is no provision as to treatment of conversion for following securities for the purpose of computing capital gains:-

- The conversion of preference share of a Company into its equity share. [Proposed to be inserted in Section 47(xb)]

- Conversion of units of Consolidating of plan of mutual fund scheme into units of consolidated plan of that scheme of the mutual fund.

It is accordingly proposed to provide that for the purpose of computing holding period of securities, the period for which the preference shares/units were held by the assessee shall also be included for the purpose of computing period of holding of Equity shares/Units of Consolidated plan of mutual fund scheme.

Above amendment shall come into force from AY 2018-19 onwards.

**Cost of a Capital Asset with reference to certain modes of acquisition (Consequential amendments in Section 49 of the Act).**

- Section 49(2AE): It is provided that Cost of Acquisition of preference shares shall be deemed to be cost of acquisition of Equity Shares.

  Above amendment shall come into force from AY 2018-19 onwards.

- Section 49(2AF) : It is provided that Cost of Acquisition of units of Mutual Fund shall be deemed to be cost of acquisition of Consolidated plan of Mutual Fund.

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

**Shift in Base year for cost of acquisition for long term capital gain (Amendment in Section 48 of the Act and consequential Amendment in Section 55 of the Act).**

The base year of cost inflation index for computing the cost of acquisition of long term capital assets has been shifted from 01-04-1981 to 01-04-2001.

Fair Market value of the capital asset as on 01-04-2001 shall be considered as cost of acquisition of asset acquired before 01-04-2001 and, cost of improvement shall include only those capital expenses which are incurred after 01-04-2001.

Above amendment will enhance Indexed cost of acquisition of those capital assets whose proportion of Increase of Fair Market Value during the period 01-04-1981 to 01-04-2001 is more than the proportion in which cost inflation index has gone up in the said period.

The same is illustrated as under:-

| **Particulars** | **Indexed cost of Acquisition as per Existing Provision** | **Indexed cost of Acquisition as per Proposed Amendment** |
|---|---|---|
| Base year | 01-04-1981 | 01-04-2001 |
| Type of capital asset | Land | Land |
| Date of purchase | 31-03-1980 | 31-03-1980 |
| Cost of acquisition | ₹ 2,00,000/- | ₹ 2,00,000/- |
| Date of sale | 30-04-2017 | 30-04-2017 |
| FMV as on 01-04-1981 | ₹ 2,50,000/- | NA |
| FMV as on 01-04-2001 | NA | ₹ 11,00,000/- |
| Cost inflation Index as on 01-04-1981 | 100 | - |
| Cost inflation Index as on 01-04-2001 | - | 426 |
| Cost inflation Index in year of sale FY 2017-18 | 1180 | 1180 |
| **Indexed cost of acquisition** | **₹ 29,50,000/-** | **₹ 30,47,000/-** |

If an Asset was acquired before 1st April 1981, and Market Value of Asset has gone up by more than 4.26 times between 1st April 1981 to 1st April 2001 then, Indexed Cost of Acquisition will be higher as per proposed amended provision as compared to existing provision.

Above amendments shall come into force from AY 2018-19 onwards.

**Cost of a Capital Asset with reference to certain modes of acquisition. (Amendment to Section 49 of the Act):-**

- **Insertion of sub- clause (e) in Section 49(1)(iii)**

  In case of a demerger, any transfer of a capital asset being a share/ shares held in an Indian Company, by the demerged foreign Company to the resulting foreign Company, if both the following conditions are satisfied.

  - Shareholders holding not less than 75% in value of the shares of the demerged foreign Company continue to remain shareholders of the resulting foreign Company; **and**

  - Such transfer is not table in the county in which demerged foreign Company is incorporated (provided, the provisions of sections 391 to 394 of the Companies Act, 1956 shall not apply in case of demergers referred to in this clause).

  In the above case, the cost of acquisition of the asset for resulting Company shall be deemed to be the cost of demerged Company, as increased by its cost of any improvement of the assets, as the case may be.

  Above amendment shall come into force from AY 2018-19 onwards.

- **Insertion of sub- section 7(i) in Section 49 of the Act.**

  In the last year's Budget 2016, Tax liability on conversion of charitable organization in to Non-charitable organization was brought for the first time in Section 115TD of the Act.

The following are the existing provisions of section 115TD of the Act:-

The accretion in income of the trust or institution shall be taxable at maximum marginal rate 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 taxable shall be equivalent to aggregate of total assets less the liabilities as on the specified date.

However, there is no clarity in the above provision as to how the cost of acquisition of asset will be computed in such cases where the market value of the asset is already taxed under section 115TD of the Act as explained above.

It is accordingly proposed to provide that where the capital gain arising from the transfer of above asset which is already taxed under Section 115TD, the cost of acquisition of such asset shall be deemed to be the fair market value of the asset which has been taken into account for computation of accreted income as on the specified date referred to in Section 115TD(2).

This amendment will take effect retrospectively from 1st June, 2016 onwards.

**Special provision for full value of consideration for transfer of share other than quoted share (Insertion of Section 50CA to the Act): -**

As per the existing provisions contained in Section 56(2)(vii)(c), any individual or HUF receiving any property (other than immovable property) without consideration or for consideration lower than Fair Market Value, is charged to income tax on the differential amount (FMV - Actual Consideration) under the head Income from Other Sources.

The law was silent on treatment of such differential amount in the hands of seller of said property.

It is accordingly proposed in newly inserted section 50CA, that sales consideration in the hands of seller of Unquoted Shares shall be enhanced by such differential amount for the purpose of computing capital gain in his hands.

However, law is still silent on treatment in the hands of seller of movable assets other than unquoted shares for such differential amount.

The above amendment is explained by way of following illustration:-

| Particulars | Upto AY 2017-18 | AY 2018-19 onwards |
|---|---|---|
| Selling price of Unquoted shares | ₹ 150/- | ₹ 150/- |
| FMV on the date of sale | ₹ 200/- | ₹ 200/- |
| Income in the hands of Buyer under section 56(2)(vii) | ₹ 50 /- | ₹ 50 /- |
| Sales Consideration in the hands of seller for the purpose of computing capital gain. | ₹ 150/- | ₹ 200/- |

**Addition to the list of Bonds, investment made in which is eligible for Capital Gain exemption (Amendment to Section 54EC of the Act):-**

As per the existing provisions, only following Bonds are notified as eligible investment for the purpose of claiming above exemption. :-

- Rural Electrification Bond
- Bonds issued by National Highways Authority of India

It is proposed to amend the said section by allowing investment made in "Any other bond as notified by the Central Government" together with the existing aforesaid bonds.

Above amendment shall come into force from AY 2018-19 onwards.

**Widening the scope of Income from other sources [Insertion of Clause (x) in Section 56(2) of the Act]**

At present Section 56(2)(vii) and Section 56(2)(viia) deals with deemed income on receipt / purchase of immovable properties and movable properties without consideration or for a consideration less than fair market value on the differential amount.

Section 56(2)(x) is proposed to be inserted in place of existing Section 56(2)(vii) and section 56(2)(viia) of the Act. Comparison of existing scheme of taxation with proposed scheme is summarized below:

| **Particulars** | **Existing Section 56(2)(vii) & 56(2)(viia)** | **Proposed Section 56(2)(x)** |
|---|---|---|
| Applicable Assessee | **For section 56(2)(vii)**<br>An Individual or a HUF<br>**For section 56(2)(viia)**<br>A Firm or a Company | Any person. |
| Type of Assets Purchased / Received without consideration or for a consideration less than FMV | **For section 56(2)(vii)**<br>Any property<br>**For section 56(2)(viia)**<br>Unquoted Shares | Any Property |
| Applicable from / to | **For section 56(2)(vii)**<br>On or after 01-10-09 to 31-03-2017<br>**For section 56(2)(viia)**<br>On or after 01-06-10 to 31-03-2017 | From 01-04-2017 onwards |

| Particulars | Existing Section 56(2)(vii) & 56(2)(viia) | Proposed Section 56(2)(x) |
|---|---|---|
| Exceptions to this clause | From Relative, on marriage, under a will, on death etc.. together with certain transaction s not regarded as transfers under section 47 | All the existing exceptions contained in Section 56(2)(viia) will continue **together with additional exceptions contained in section 47 in the form of transactions of Partial partition of HUF, Different types of Amalgamations, Demerger are included**. |
| Taxable amount | Difference between FMV and consideration | Difference between FMV and consideration |

From the above comparison it can be seen that scope of applicability is proposed to be widened as the amended provision proposes to cover all types of purchase /receipt of any type of asset by any types of assessee as against limited applicability in the existing provisions.

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

**Disallowance for non-deduction of tax from payments to resident. (Amendment to Section 58 of the Act)**

Section 58 of the Act deals with Amount not Deductible in computing the "Income from other sources"

At present, Section 40(a)(ia) stats that where on any payments to residents, TDS is not deducted or if deducted but not paid then 30% of such expenses are not allowable for deduction against business income. However if certificate is received from CA of recipient of income stating that tax has been paid by the recipient and income tax return is also furnished then such disallowances will not apply in the hands of person claiming expense.

It is proposed to include sub-clause (ia) of section 40(a) (as mentioned above.) to the Section 58.

At present provisions of section 40 are only apply while computing Income under the head "Profits and gains of business of profession and not to "income from other sources". However, by inserting section 40(a)(ia) to section 58 the same provisions with regard to disallowance of expense will also apply while computing the income under the head "Income from other sources" in case of default in payment of TDS.

Above amendment shall come into force from AY 2018-19 onwards.

**Restrictions on set-off from House property [Insertion of sub-section (3A) in Section 71 of the Act]**

Section 71 of the Act deals with set-off of loss from one head against income from another.

Presently under section 71, Loss from House Property can be set-off against any head of Income without any Limit.

Lot of assesses are taking undue advantage of this provision by showing any investment property as let out and claimed full interest on borrowing against rental income against the same property. Rental income shown very low compared to interest on borrowings thereby resulting in loss under the head Income from House property which was set of against any other head of income. There by taking undue benefit of existing provision. This is so as there is no ceiling of interest allowable against rental income in case of let out property.

It is accordingly proposed to insert sub-section 3A stating that the maximum amount of Loss up to ₹ 2 lakh under the Head "Income from House Property" shall be entitled to set off against Income under the other head. The balance loss will be allowed to be carried forward for set off as per existing provisions i.e. can be set off only against "Income from House Property" u/s 71B for 8 assessment years.

Above amendment shall come into force from AY 2018-19 onwards.

**Carry forward and set off of loss in case of certain companies. [Insertion of sub-section (b) in Section 79 of the Act]**

Section 79 of the Act deals with Carry forward and set off losses in case of certain companies.

| Particulars | Existing Provisions | Proposed Amendment |
|---|---|---|
| Applicable Company Assessee | All Companies other than listed companies | All Companies other than listed companies |
| Minimum beneficial share holding required on the last day of the previous year in which b/f losses are proposed to be setoff as a % of beneficial share holding on the last day of previous year in which the losses were incurred, in order to claim such setoff of losses | 51% | **For eligible start-up companies**<br>100%<br><br>**For other companies**<br>51% |
| Eligible years of past business losses for setoff | 8 AY prior to AY in which losses are proposed to be setoff | **For eligible start-up companies**<br>The losses should be incurred during the period of 7 years from the year of incorporation.<br><br>**For other companies**<br>8 AY prior to AY in which losses are proposed to be setoff |

Above amendment shall come into force from AY 2018-19 onwards.

**Rationalization of deduction for self-employed individual [Amendment to Section 80CCD of the Act]**

Section 80CCD of the Act deals with Deduction in respect of contribution to Pension scheme of Central Government.

An Individual employed by Central Government or by any other employer, has in previous year paid or deposited any amount under a pension scheme notified by the Central Government, then deduction shall be allowed follows –

| Class of Assessee | Existing Limit | Proposed Limit |
|---|---|---|
| In case of an employee | **Lower of**<br>• 10% of Salary in the Previous Year<br>**OR**<br>• Amount paid or Deposited | No change |
| In any other case | **Lower of**<br>• 10% of Gross Total Income in the previous year<br>**OR**<br>• Amount paid or Deposited | **Lower of**<br>• 20% of Gross Total Income in the previous year<br>**OR**<br>• Amount paid or Deposited |

Above amendment shall come into force from AY 2018-19 onwards.

**Rationalization of deduction Section 80CCG [Insertion of sub-section (5) in Section 80CCG of the Act]**

Section 80CCG of the Act deals with deduction in respect of Investment made under an Equity Savings Scheme.

The existing provisions of the said section provides that where a resident individual assessee, has acquired listed equity shares/units of an equity oriented fund in accordance with a scheme, as may be notified by the Central Government, he shall, be allowed a deduction (subject to conditions) of 50% of the amount invested subject to maximum allowable deduction of ₹ 25,000.

As limited number of people are availing this deduction and also to rationalize the multiplicity of deductions, it has been decided to do away with the deduction w.e.f A Y 2018-2019. However assessees who have claimed deduction for A Y 2017-18 and earlier years will be allowed deduction till A Y 2019-20 if he is otherwise eligible to claim.

Above amendment shall come into force from AY 2018-19 onwards.

**Restricting Cash Donations (Amendment to Section 80G of the Act)**

Section 80G of the Act deals with Deduction in respect of donations made to certain funds, charitable institutions, etc.

| Existing Provision | Proposed Provision |
|---|---|
| Donation paid in cash up to ₹ 10,000/- is allowed as deduction | Donation paid in cash up to ₹ 2,000/- shall be allowed as deduction |

Above amendment shall come into force from AY 2018-19 onwards.

**Extending the period for claiming deduction by start-ups (Insertion of Section 80IAC to the Act)**

Section 80IAC of the Act deals with Special Provision in respect of specified business.

Salient features of the said scheme are explained below:-

| **Particulars** | **Eligibility and details of deductions- Existing** | **Eligibility and details of deductions - Proposed** |
|---|---|---|
| Year of incorporation of Start-up | After 1st April, 2016 to 31st March, 2019 | No change |
| Eligible Business | A business involving innovation development, deployment or commercialization of new products, processes or services driven by technology or intellectual property. | No change |
| Turnover | Should not exceed 25 Crores in any financial year till FY 2020-21 | No change |
| Quantum of deduction | 100% of profits derived | No change |
| Number of years in which deduction is allowed | 3 consecutive years out of first 5 years of incorporation | 3 consecutive years out of first 7 years of incorporation |

There is no other change except mentioned above.

Above amendment shall come into force from AY 2018-19 onwards.

**Rationalization of Provisions to promote Affordable Housing (Amendment to Section 80IBA of the Act)**

Section 80IBA of the Act deals with the deductions in respect of profits and gains from housing projects.

As per this section, where the Gross Total Income of an assessee includes any profits and gains derived from the Business of Developing and Building housing projects, a deduction of an amount equal to 100% of the profits and gains derived from such business shall be allowed.

Some of such conditions are specified herein below:-

| Particulars | Existing Provision | Proposed |
|---|---|---|
| Project Completion Period | Within **3** years from the date of approval by the competent authority | Within **5** years from the date of approval by the competent authority |
| Area specified for Shops and other Commercial establishments | The **built-up** area included in the said project shall not exceed 3% of the aggregate of built-up area. | The **carpet area** included in the said project shall not exceed 3% of the aggregate of carpet area |
| **Area for the Residential Units :** In case a project is located within the cities of Mumbai/ Kolkata/ Delhi/ Chennai | The **built up** area shall not exceed 30 Sq.Mtr **And** within 25Kms from municipal limits of these cities | The **carpet area** shall not exceed 30 square meters. Other condition is dispensed with. |
| **Area for the Residential Units :** In case a project is located at any other place | 60 Sq.Mtr, where the projects is located in any other places | No change |

For the purposes of this section, the expression **"Carpet Area"** means - the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment.

Above amendment shall come into force from AY 2018-19 onwards.

**Rationalization of rebate allowable (Amendment to Section 87A of the Act)**

Section 87A of the Act deals with rebate of Income tax in case of certain individuals

| Particulars | Existing Provision | Proposed Amendment |
|---|---|---|
| Applicable assessee | Whose total income does not exceed ₹ 5,00,000/- | Whose total income does not exceed ₹ 3,50,000/- |
| Amount of Rebate | **Lower of**<br>• 100% of Tax Liability<br>**OR**<br>• ₹ 5,000/- | **Lower of**<br>• 100% of Tax Liability<br>**OR**<br>• ₹ 2,500/- |

Above amendment shall come into force from AY 2018-19 onwards.

**Interpretation of Terms used in the Tax Treaty/ DTAA (Amendment to Section 90 and 90A of the Act):-**

Existing Section 90 & 90A empowers Central Government or Specified Association to enter into agreement with the Government or Specified Association of Country outside India with Specified Association in Specified Territory outside India.

- To avoid Double taxation of Income.
- Exchange of Information for the presentation of evasion or avoidance of Income –tax or recovery of Income Tax.

At present Explanation 3 to both the above sections provides for mechanism of interpretation of Terms used in the said Agreements.

There were certain situations left out to be clarified in existing Explanation 3 in relation to Interpretation of terms used in the agreement.

It is therefore proposed to introduce Explanation 4 in both the above stated sections so as to clarify all the situations. Combined reading of existing Explanation 3 with proposed Explanation 4 is explained as under.

For Interpretation of any term used in the above Agreement following Rules are to be followed:-

- If any term is defined in the Agreement, then the said term shall be assigned the meaning as provided in the Agreement.

- If the term is defined in the Act, and not in Agreement then the said term shall be assigned the meaning as defined in the Act.

- If the term is neither defined in the Agreement nor in the Act, then the said term shall have the meaning assigned to it in the notification issued by the Central Government in the Official Gazette.

Above amendments shall come into force from AY 2018-19 onwards.

**Introduction of Secondary Adjustment in certain cases (Insertion of New Section 92CE of the Act):-**

Where Primary adjustments are made under section 92 of the Act with respect to Transfer Pricing under any of the situation below:-

- has been made suo moto by the assessee in his return of income;

- made by the Assessing Officer has been accepted by the assessee;

- is determined by an advance pricing agreement entered into by the assessee under section 92CC;

- made as per the safe harbour rules framed under section 92CB

- Is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into under section 90 or 90A.

  It is proposed to provide that where as a result of primary adjustment to the transfer price, there is an increase in the total income of the assessee, the excess income determined by making Primary Adjustment, shall be deemed to be an advance made by the assessee to such associated enterprise.

  In such case Assessee will have to follow the undermentioned procedure:-

  - To pass entry in the books of accounts by debiting Associated Enterprises towards income by way of Primary Adjustment as advance to Associated Enterprises and crediting Income.

  - Interest will have to be charged & taxed on the above advance at the rate of interest and for the period as shall be prescribed.

The above adjustments are called Secondary adjustment.

The above secondary adjustment is illustrated below:-

| **Particular** | **Amount** |
|---|---|
| Sales of by Enterprise A | ₹ 100 |
| Purchase by Enterprises B (non –resident) Associated Enterprises | ₹ 100 |
| Transfer Price Assessment is made and primary adjustment determines Arm's Length price of sales of Enterprises A to B at | ₹ 120 |
| Primary Adjustment made to the total income of Enterprises A under section 92 of the Act | ₹ 20 |
| **Secondary adjustment to be made in books Enterprises A as per new section 92CE** | **₹ 20 receivable from B as advance** |
| **Interest applicable on above advance (Secondary Adjustment)** | Not prescribed |

It is also proposed to provide that such secondary adjustment shall not be carried out if,

a) The amount of primary adjustment made in the case of an Assessee in any previous year does not exceed one crore rupees

and

b) The primary adjustment is made upto AY 2016-17

**(Both the condition are required to be fulfilled for not carrying out secondary Adjustment)**

Which means the limit of 1 crore will not applicable from AY 2017-18 onwards

The below points are yet to be prescribed by the CBDT:-

- The Time Limit of repatriation of Advance to assessee by Associated Enterprises.

- Interest Rate to be charged on such advances

Above amendments shall come into force from AY 2018-19 onwards.

**Limitation of Interest deduction in certain cases (Insertion of new Section 94B):-**

Till date there was no Limitation on Interest deduction from Business Income.

In general practice, a Resident Indian Company takes Loan from non–resident Associated Enterprises to Fund its requirement for the purpose of Business. However this leads to repatriation of huge profit in form of interest expenditure to associated enterprises. Hence in case of such highly leveraged Company, taxable income is much lower due to heavy expenditure of interest to non-resident Associated Enterprises.

In order to curb this practice, it is proposed to insert a new section 94B to introduce restrictions on allowability of said interest expenditure payable to non-resident Associated Enterprises.

Salient features of the said provision are explained below:-

| Particulars | Eligibility and details of deductions |
|---|---|
| Type of Borrower to whom the provision applies | Indian Company, or a PE* of a Foreign Company |
| Type of Lender to whom the provision applies | Non – Resident or a PE* of a Non-resident |
| Relation between Lender and borrower | Associated Enterprises |
| Threshold Limit of Interest Expenditure above which the New Provision applicable | Interest to Associated Enterprises in excess of ₹ 1 Crore |
| Allowability of Interest payable to Associated Enterprises | Minimum of :<br>30% of its EBITDA<br>OR<br>Interest paid or payable, |
| Nature of Debts | a) By direct borrowing from non-resident associated enterprises.<br>b) By borrowing from non associated enterprises lender on the guarantee/Pledge given by non-resident associated enterprises or of security deposit placed by non-resident associated enterprises |
| Whether Interest Disallowed to be carried forward | Yes |
| Number of Years to carry forward | 8 Assessment years immediately succeeding the Assessment year for which disallowance was first made |
| Assessee's to whom provision not applicable | Banks and Insurance Companies |
| Under Which Head is the Interest expenditure deductible disallowed and subsequently deductible | Only under the Head "Profit and Gain from Business or Profession" |

**Note: * PE means Permanent Establishment**

Above amendments shall come into force from AY 2018-19 onwards.

**Tax on Dividends received from Domestic Companies (Amendment to Section 115BBDA of the Act):-**

Rationalization of taxation of income by way of dividend:-

| Section | Existing | Proposed |
|---|---|---|
| As per Section **115BBDA** income by way of dividend in **excess of ₹ 10 lakh** is chargeable to tax at the rate of 10% on gross basis. | Applies to Resident Individual, HUF & Firm | Applies **to all resident assessee except :**<br>(a) Domestic Company<br>(b) Certain funds, trusts, institutions, etc. |

Above amendments shall come into force from AY 2018-19.

**Tax on Income by way of Transfer of Carbon Credit (Insertion of new Section 115BBG of the Act):-**

Carbon credits are an incentive given to an industrial undertaking for reduction of the GHGs (Green House gases) including carbon dioxide.

The Kyoto Protocol commits certain developed countries to reduce their GHG emissions and for this, they will be given carbon credits. A reduction in emissions entitles the entity to a credit in the form of a Certified Emission Reduction (CER) certificate.

**Salient features of Income transfer of Carbon credits:-**

| Particular | Features |
|---|---|
| In which form Incentive is received. | Certified Emission Reduction (CER) certificate. |
| Whether certificate is transferable | Yes |
| Whether Income is treated as Revenue receipt / capital receipt | Debatable in Court, as on today |
| Existing tax treatment by Income tax department. | Treated as Business Income and charged to tax @ 30%. |

In order to bring clarity on the issue of taxation of income from transfer of carbon credits and to encourage measures to protect the environment, it is proposed to insert a new section 115BBG to provide that where the total income of the assessee includes:-

| Section 115BBG | Existing | Proposed |
|---|---|---|
| On **transfer or sale** of Certified Emission Reduction (CER) certificate. | Income Tax Department Treated as a Business Income and charged **Tax @ 30%** | (a) If the total income includes any income from transfer of carbon credit**, income shall be taxable @ 10% (plus applicable surcharge and cess) on the gross amount of such income.**<br><br>(b) No expenditure or allowance shall be allowed against the said income.<br><br>(c) Balance income after deducting income from transfer of Certified Emission Reduction (CER) certificate shall be taxed as per normal provision of the Act. |

Above amendments shall come into force from AY 2018-19 onwards.

**MAT/AMT Credit life extended (Amendment to Section 115JAA and Section 115JD of the Act):-**

Section 115JAA contains provisions regarding carrying forward and set off of tax credit in respect of Minimum Alternate Tax (MAT) paid by companies under section 115JB.

Section 115JD contains provisions regarding carrying forward and set off of tax credit in respect of Alternate Minimum Tax (AMT) paid by non-corporate assessee under section 115JC.

| Existing Section 115JAA(MAT) /115JD (AMT) | Proposed Section 115JAA(MAT) /115JD (AMT) |
|---|---|
| Currently, the tax credit can be carried forward up to **tenth assessment years** immediately succeeding the assessment years in which such tax credit becomes allowable | Tax credit determined under this section can be carried forward up to **fifteenth assessment years** immediately succeeding the assessment years in which such tax credit becomes allowable |

It is also proposed to amend section 115JAA and 115JD so as to provide that the amount of tax credit in respect of MAT/ AMT shall not be allowed to be carried forward to subsequent year to the extent such credit relates to the difference between the amount of foreign tax credit (FTC) allowed against MAT/ AMT and FTC allowable against the tax computed under regular provisions of Act.

The proposed amendment is illustrated below:-

| **Normal provision of the Act** | | | |
|---|---|---|---|
| **Particular** | **Local (in ₹ )** | **Foreign source on which FTC is applicable (in ₹ )** | **Total (in ₹ )** |
| Income (assumed) | 150 | 50 | 200 |
| Tax Payable @ 35% (Approx. rate) | 53 | 17 | **70** |
| Foreign Tax Credit (FTC) available (assumed) | - | - | 22 |

| **FTC allowed against Normal Provision of the Act** | |
|---|---|
| **Particulars** | **Amount** |
| Tax Payable on Foreign Income on which FTC available as per Normal provision of Act | 17 |
| **Less : Foreign Tax Credit available ₹ 22 restricted to Tax payable above** | **(17)** |
| Net Tax payable on Foreign Income | 0 |
| Net Tax Payable on Indian Income | 53 |
| **Total Tax Payable** | **53** |

| Minimum Alternate Tax (MAT) | |
|---|---|
| **Particular** | **Amount** |
| Book Profit | 300 |
| Tax Payable on MAT | 80 |
| **Less : Foreign Tax Credit in respect of MAT (assumed)** | **(20)** |
| Tax Payable under MAT | 60 |

| FTC allowed against Normal Provision of the Act | |
|---|---|
| **Particulars** | **Amount** |
| FTC allowed against MAT | 20 |
| **Less : FTC allowed against Normal Provision of the Act** | **(17)** |
| Excess of Tax Credit on allowed to be carried forward | 3 |

**Hence Tax Credit to be carried forward as per illustration above:**

| Particular | Amount |
|---|---|
| Difference of TAX PAYABLE under MAT and Normal provisions of Act (80-70) | 10 |
| Less : Excess of Tax credit not to carried forward | (3) |
| **Balance amount allowed to be carried forward** | **7** |

Above amendments shall come into force from AY 2018-19 onwards.

**Updation of words with reference to the Companies Act 2013 (Amendment to Section 115JB of the Act):-**

Section 115JB contains provisions relating to calculation of Book Profit for Companies only which is required to compute Minimum Alternate Tax (MAT) on the same.

| Sr. No | Existing terminology | Amended terminology |
|---|---|---|
| 1 | Profit and Loss Account | Statement of Profit and Loss |
| 2 | The Companies Act 1956 | The Companies Act 2013 |
| 3 | Part II of Schedule VI | Schedule III |
| 4 | Proviso to sub – section (2) of Section 211 | Second proviso to sub – section (1) of section 129 |
| 5 | Section 210 | Section 129 |

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

**Incorporation of Ind AS Compliant Financial Statements (Insertion of sub–section 2A, 2B and 2C in Section 115JB of the Act):-**

This sub – section was introduced to incorporate companies who are now preparing their financial statements complying with Ind AS. The book profit of Ind AS compliant companies will be computed by taking into consideration the following additional items included in other comprehensive income :-

| Sr. No | Items | When to be considered |
|---|---|---|
| 1 | Changes in revaluation surplus of Property, Plant or Equipment in compliance with Ind AS 16 and Ind AS 38 | At the time of Disposal/ Retirement / Transfer of the same |
| 2 | Gains and losses arising due to valuation of investments at fair value in compliance with Ind AS 109 | At the time of Disposal / Retirement / Transfer of the same |
| 3 | Re-measurements of defined benefit plans in compliance with Ind AS 19 | Every year as the re-measurement gains and losses arise |
| 4 | Difference between the carrying value and fair value of assets in case of distribution of non – cash assets to shareholders | Every year as the gains and losses arise |
| 5 | Any other Item | Every year as the gains and losses arise |

As per this sub – section, in case of a resulting Company where the assets and liabilities are recorded in the books at a value different from the values at which they appeared in books of the demerged Company before the demerger then any such change in the value shall be ignored for the purpose of computing book profit of the resulting Company.

As per this sub – section, in case where a Company is complying with Ind AS **for the first time**, the book profit of Ind AS compliant companies will be computed by taking into consideration the following additional items :-

| Sr. No. | Items | When to be considered |
|---|---|---|
| 1 | Changes in revaluation surplus of Property, Plant or Equipment in compliance with Ind AS 16 and Ind AS 38 | At the time of Disposal / Retirement / Transfer of the same |
| 2 | Gains and losses arising due to valuation of investments at fair value in compliance with Ind AS 109 | At the time of Disposal / Retirement / Transfer of the same |
| 3 | Re-measurements of defined benefit plans in compliance with Ind AS 19 | Equally over a period of 5 years starting from the first year of adoption of Ind AS |
| 4 | Adjustments relating to investments in subsidiaries, joint ventures and associates in compliance with Ind AS 101 | At the time of Disposal / Retirement / Transfer of the same |
| 5 | Adjustments relating to Plant, Property and Equipment in compliance with Ind AS 101 | At the time of Disposal / Retirement / Transfer of the same |
| 6 | Amounts adjusted in other comprehensive income at the time of adoption of Ind AS and which will never be reclassified to Profit and Loss | Equally over a period of 5 years starting from the first year of adoption of Ind AS |
| 7 | Foreign Currency Translation Differences arising in the future in case of foreign operations when such differences are considered as zero at the time of adoption of Ind AS | At the time of Disposal / Retirement / Transfer of the same |
| 8 | Any other Item | Equally over a period of 5 years starting from the first year of adoption of Ind AS |

As applicability of Ind AS is mandatory for certain companies from previous year 2016–17 and onwards

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

**Extension of scope (Section 119 of the Act):-**

Existing provision of clause (a) of section 119(2) empowers the Board to issue orders setting forth directions or instructions (not being prejudicial to assessee) to be followed by subordinate authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties.

In order to reduce the genuine hardship which may be faced by a person responsible for deduction and collection of tax at source due to levy of penalty under section 271C or 271CA, it is proposed to insert sections 271C and 271CA to the said clause, so as to empower the Board to issue directions or instructions in respect of the said sections also.

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

**Reason to believe to conduct search, etc. not to be disclosed (Amendment to Section 132 and 132A of the Act): -**

| **Existing Section 132 (1) and 132(1A)** | **Existing Section 132A(1)** |
|---|---|
| An Income Tax Authority mentioned therein, based on Information in his Possession , has 'reason to believe' or 'Reason to Suspect' of circumstances referred to in the said sections, he may authorize an authority specified therein to carry out search & Seizure | The specified Income Tax authority based on 'reasons to believe' can authorize other income –tax authority mentioned therein to requisition from some other **officer or authority** to deliver books of accounts, documents or assets of the assessee to the income tax authority so authorized. |

Certain judicial pronouncements have created ambiguity in respect of the disclosure of 'reason to believe' or 'reason to suspect' recorded by the income-tax authority to conduct a search under section 132 or to make requisition under section 132A.

It is therefore proposed to insert an Explanation to Section 132(1) and Section 132(1A) and section 132A(1) to declare that the 'reason to believe' or 'reason to suspect', as the case may be, shall not be disclosed to any person or any authority or the Appellate Tribunal.

These amendments will take effect retrospectively from the date of enactment of the said provisions viz. to section 132(1) from 1st day of April, 1962 and to section 132(1A) and section 132A(1) from 1st day of October, 1975.

**Powers of provisional attachment and to make reference to valuation officer in case of search and seizure [Insertion of Sub Sections (9B), (9C) and (9D) to section 132 of the Act]:-**

Section 132 of the Act provides the power of search and seizure subject to fulfilment of conditions specified therein.

| Section | Explanation of Section |
|---|---|
| **132(9B)** | To provide that during the course of a search or seizure or within **a period of sixty days from the date on which the last of the authorizations for search was executed,** the authorized officer on being satisfied that for protecting the interest of revenue it is necessary so to do, may attach provisionally any property belonging to the assessee with the prior approval of Principal Director General or Director General or Principal Director or Director. |
| **132(9C)** | It has been proposed that such provisional attachment shall cease to have effect after the expiry **of six months from the date of order** of such attachment. |
| **132(9D)** | To provide that in a case of search, the authorized officer may, for the purpose of estimation of fair market value of a property, make a reference to a Valuation Officer referred to in section 142A, for valuation in the manner provided under that sub-section. It also provides that the Valuation Officer shall furnish the valuation report **within sixty days of receipt of such reference.** |

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

**Rationalization of the provisions in respect of power to call for information (Amendment to Section 133 of the Act):-**

The existing provisions of section 133 empower certain income-tax authorities to call for information for the purpose of any inquiry or proceeding under the Act.

| Proviso to Section 133 | Existing | Proposed |
|---|---|---|
| First Proviso | Empowers certain Income tax Authorities ("Principal Director general or Director general, Principal Chief Commissioner or Chief Commissioner, Principal director or Director and principal Commissioner or Commissioner") to call for Information for the purpose of Inquiry or proceeding under the Act | Empowers certain Income tax Authorities ("Principal Director general or Director general, Principal Chief Commissioner or Chief Commissioner, Principal director or Director or principal Commissioner or Commissioner **or Joint Director or Deputy Director or Assistant Director"**) to call for Information for the purpose of Inquiry or proceeding under the Act. |
| Second Proviso | Empowers certain Income Tax Authorities not below the rank of the Principal Director or Director or the Principal Commissioner or Commissioner without prior Approval of the such authorities, respect of an inquiry, in case where no proceeding is pending | Apart from the authorities already authorized to provide that the **Joint Director, the deputy Director or the Assistant Director** may also exercise the powers in respect of such inquiry, without seeking prior approval of higher authorities. |

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

**Extension of Power to Survey (Amendment to Section 133A of the Act):-**

The existing provisions of section 133A empower an income-tax authority to enter any place, at which a business or profession is carried on, or at which any books of account or other documents or any part of cash or stock or other valuable article or thing relating to the business or profession are kept, for the purposes of conducting a survey.

It is proposed to widen the scope of the said section by amending sub-section (1) to include any place, at which an activity for charitable purpose is carried on.

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

**Centralized issuance of Notice (Amendment to Section 133C of the Act):-**

Section 133C of the Act empowers the prescribed income-tax authority to issue notice calling for information and documents for the purpose of verification of information in its possession.

In order to expedite verification and analysis of the information and documents so received

It is proposed to amend section 133C to empower CBDT to make a **scheme for centralized issuance of notice** calling for information and documents for the purpose of verification of information in its possession, processing of such documents and making the outcome thereof available to the Assessing Officer for necessary action, if any.

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

**Change in time line under various sections (Amendment to Section 139(5), and Section 153 of the Act):-**

Section 139(5) specify time limit to furnish a revised return.

| Existing Time Limit | Proposed Time Limit |
|---|---|
| **Within 1 Year** from the end of the Relevant AY<br>**OR**<br>Before completion of Assessment<br>**Whichever is earlier** | **Upto** the end of the Relevant AY<br>**OR**<br>Before completion of Assessment<br>**Whichever is earlier** |

Above amendments shall come into force from AY 2018-19 onwards.

The existing provisions of section 153 specify time limit for completion of assessment, reassessment and re-computation of cases mentioned therein.

| Section | Particulars | Existing Time Limit | Proposed Time Limit |
|---|---|---|---|
| 153(1) | To pass Assessment Order under section 143(3) or under section 144 | **Within 21 months** from the end of the relevant assessment year | **For AY. 2018-19, within 18 months** from the end of the relevant assessment year.<br><br>And **for AY 2019-20 onwards, within 12 months** from the end of the relevant assessment year. |
| 153(2) | To pass an Assessment Order or an Re-Assessment order under section 147 | **Within 9 months** from the end of F.Y. in which the notice under section 148 was served. | **For AY 2019-20 and onwards, within 12 months** from the end of F.Y. in which the notice under section 148 was served. |

| Section | Particulars | Existing Time Limit | Proposed Time Limit |
|---|---|---|---|
| 153(3) | To pass an Order of Fresh Assessment in pursuance of an Order under Section 254, 263 or 264 | **Within 9 months** from the end of the F.Y. in which order under section 254 is received or order under section 263 or 264 is passed. | **AY 2020-21 and onwards, within 12 months** from the end of the F.Y. in which order under section 254 is received or order under section 263 or 264 is passed. |
| 153(5) | Where effect to an order under section 250, 254, 260, 262, 263, 264 is to be given by the Assessing Officer, wholly or partly, otherwise than by making a fresh assessment or reassessment. | Such effect shall be given **within a period of 3 months** from the end of the month in which order under section 250, 254, 260, 262 is received or order under section 263 or 264 is passed. | Such effect shall be given **within a period of 12 months** from the end of the month in which order under section 250, 254, 260, 262 is received or order under section 263 or 264 is passed. |

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

**Change in time line (Amendment to Section 153B of the Act):-**

The existing provision of section 153B provide for the time limit for completion of assessment under section 153A.

Section 153A empowers the Assessing officer to issue notice to such person under search to furnish Return of Income of the last 6 previous years, immediately proceeding the year of search.

| Existing | Proposed FY 2018-19 | Proposed FY 2019-20 |
|---|---|---|
| The time limit for completion of assessment u/s 153A and time limit to complete assessment for the year of search shall be **21 months from the end of financial year,** in which the search was concluded under section 132 or requisition was made under section 132A. | The time limit for completion of assessment under section 153A conducted in FY 2018-19 the said time **limit shall be reduced from 21 months to 18 months from the end of financial year,** in which the search was concluded under section 132 or requisition was made under section 132A. | It is further proposed that search & seizure cases conducted in FY 2019-20 & onwards the said time **limit shall be reduced from 18 months to 12 months from the end of financial year,** in which the search was concluded under section 132 or requisition was made under section 132A. |

It is further proposed that the limitation for making assessment or reassessment in case of another person under section 153C:

The period available to make assessment or reassessment in case of person on whom search is conducted

**OR**

12 months from the end of financial year in which books of accounts seized or requisitioned and handed over to assessing officer having jurisdiction over such another person under section 153.

**whichever is later.**

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

**Increasing the number of Assessment Years for Assessment or Re – Assessment in case of Search & Seizure (Amendment to Section 153A of the Act and insertion of fourth proviso to Section 153A of the Act):-**

The existing provision of Section 153A deals with the assessment of cases of Search and Seizure under section 132 and 132A of the Act.

| Sr. No | Existing | Proposed |
|---|---|---|
| 1 | Officer shall issue notice to the person requiring him to furnish the return of income of **6 Assessment Years** immediately preceding the Assessment Year relevant to the Previous Year in which Search and/ or Seizure is conducted | Officer shall issue notice to the person requiring him to furnish the return of income of **relevant Assessment Years not beyond 10 Assessment Years** immediately preceding the Assessment Year relevant to the Previous Year in which Search and/ or Seizure is conducted |
| 2 | Officer shall compute or re – compute the income of the **6 Assessment Years** immediately preceding the Assessment Year relevant to the Previous Year in which Search and / or Seizure is conducted | Officer shall compute or re – compute the income of the **relevant Assessment Years not beyond 10 Assessment Years** immediately preceding the Assessment Year relevant to the Previous Year in which Search and / or Seizure is conducted |

It is now proposed to insert a new proviso in section 153A of the Act which provides that notice for assessment or re – assessment of income of the years beyond the six but upto ten assessment years immediately preceding the assessment year relevant to the previous year in which search and / or seizure is conducted shall be issued only if the Assessing Officer has in his possession books of accounts or any other documents which evidence that such income represented in the form of immovable property, shares and securities, loans and advances and deposits in bank accounts or amounting to ₹ 50,00,000/- or more in a specific assessment year or in aggregate has escaped assessment.

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

**Increasing the number of Assessment Years for Assessment or Re – Assessment in case of Search & Seizure (Amendment to Section 153C of the Act):-**

The existing provision of section 153C deals with the assessment of another person when books of accounts or other documents relating to such person are found while conducting the Search and Seizure of a particular person under section 132 and 132A of the Act.

| Sr. No | Existing | Proposed |
|---|---|---|
| 1 | Assessing Officer conducting the Search and / or Seizure shall inform the Assessing officer of the another person who shall issue a notice to the another person requiring him to furnish the return of income **of the relevant year or years**. | Assessing Officer conducting the Search and / or Seizure shall inform the Assessing officer of the another person who shall issue a notice to the another person requiring him to furnish the return of income for **6 Assessment Years immediately preceding the Assessment Year relevant to the Previous Year in which Search and / or Seizure is conducted and the relevant year or years.** |
| 2 | Central Government shall specify certain classes of persons by Notification in the Official Gazette who will not be required to furnish the return of income of **6 Assessment Years** immediately preceding the Assessment Year relevant to the Previous Year in which Search and / or Seizure is conducted. | Central Government shall specify certain classes of persons by Notification in the Official Gazette who will not be required to furnish the return of income of **relevant Assessment Years not beyond 10 Assessment Years** immediately preceding the Assessment Year relevant to the Previous Year in which Search and / or Seizure is conducted. |

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

**Availment of foreign tax credit in India after settlement of dispute (Insertion of sub-section 14A to section 155 to the Act):-**

As per existing sub section 14 of Section 155 provides that if in any assessment proceedings or in intimation where credit of tax collected or deducted **in India** was not given on account of non-furnishing of certificate of deduction then it shall be subsequently allowed if assessee provides the certificate. This provision does not apply to credit in respect of tax deducted abroad.

In case of tax payment in foreign Company, it is possible that tax is paid under protest though disputed in appeal before appropriate authority. In that case, credit of such tax paid is not allowed until the said dispute is settled.

In view of Rule 128 of the Income Tax Rules, 1962 as amended by Income-tax (Eighteenth Amendment) Rules, 2016, w.e.f. AY 2017-18, provided that if the tax paid in foreign country is in dispute, credit of the same shall not be made available in India.

However, at present, there is no mechanism provided as to how such credit will be allowed once dispute is settled in Foreign Country.

It is accordingly proposed to provide that credit of tax paid **in any country other than India** shall also be given which was disallowed earlier when the dispute is settled.

Comparison of both the above provisions is given below:

| Section | 155(14) | 155(14A) |
|---|---|---|
| Applicability | Applicable to tax deduction in India | Applicable to tax deduction/ payments in Foreign country |
| Nature of evidence to be submitted | Certificate of tax deduction or Form 26AS | 1. Evidence supporting settlement of dispute<br>2. Evidence of payment of taxes in foreign country<br>3. An undertaking that no credit will be claimed in subsequent assessment years or is claimed in prior assessment years |
| Time limit to furnish above evidences | 2 years from the end of assessment year in which income is assessable | 6 months from the end of month in which dispute is settled |
| Pre-conditions | Corresponding income shall be disclosed in ROI of relevant AY | Credit shall be allowed for the year in which income is offered to tax in India |
| Procedure for applying these provisions | Assessing Officer to rectify Assessment Order/ intimation under section 154 of the Act | |

Above amendment shall come into force from AY 2018-19 onwards.

**Tax Deduction at Source for payment of rent in excess of ₹ 50,000/- per month or part of a month (Insertion of Section 194IB to the Act):-**

As per existing provisions of section 194I, only certain categories of persons making payment of rent beyond threshold limit were liable to deduct tax at source. Individuals and HUFs, being a payer (other than those liable for tax audit) are out of the scope of this section.

In order to expand the coverage of persons liable to deduct tax, section 194IB is proposed to be inserted.

| Section | 194I | 194IB |
|---|---|---|
| Applicability | Continues to apply | Proposed to be applied |
| Payment of rent by | Any person and in case of individuals and HUFs, only those liable for Tax Audit) | Individuals and HUFs not liable for tax audits in preceding financial year |
| Payee | Resident Indian | Resident Indian |
| Threshold limit | ₹ 1.80 lakhs per annum | ₹ 50,000 per month or a part thereof |
| Rate of TDS | 10% of rent paid for land/ building<br>2% of rent paid for machinery/ plant/ equipment | 5% on rent paid for land/ building |
| When TDS is to be deducted | 1. When crediting rent to the account of payee<br>2. Actual payment<br><br>Whichever is earlier | 1. When crediting rent to the account of payee without paying in entire year:<br>a. for the last month of FY<br>b. last month of tenancy (in case premises vacated before year end)<br>2. Actual payment<br><br>whichever is earlier |
| TAN | Required | Not required. PAN of deductor is sufficient. |
| Can deductee give declaration for no deduction of tax under section 197A or certificate of deduction at a lower rate under section 197 | Yes | No |

It is also proposed that amount of TDS shall be restricted in following situations:

**A. Where tenancy is continued till the end of the previous year;**

TDS shall not exceed the amount of rent payable for the last month of the previous year.

Above situation will arise suppose in case rent is paid in advance upto 31st March 2018 for entire year on or before 1st June 2017 and no TDS is applicable as no rent is payable for the month of March 2018 as entire rent is paid in advance.

**B. Where tenancy is discontinued before the end of financial year**;

TDS shall not exceed the rent payable for the last month of tenancy.

This provision is likely to create controversy as following points are ambiguous:

1. Whether last month means number of days of last calendar month or part thereof in which tenancy is discontinued or the last 30 days prior to the date of termination of tenancy.

2. If rent is outstanding for part of tenancy period, whether TDS is to be restricted only for the last month in which tenancy is terminated even though rent is outstanding for a longer period.

Above amendment shall come into force from 1st day of June 2017 onwards.

**TDS on payments for technical and professional services (Amendment to Section 194J of the Act):-**

The existing provisions of Section 194J provides for TDS on all payments of Fees for professional services, fees for technical services, royalty @ 10%.

It is widely known that profit margins in business of call centres are not sufficient to absorb the burden of huge TDS @ 10% and accordingly it is now proposed to amend this section by reducing the rate of TDS deduction to 2% for payee who is engaged **ONLY** in business of call centre to overcome the genuine hardship.

Tabular representation of existing and proposed provisions is as under:

| Sec | Particulars | Existing | | Proposed | |
|---|---|---|---|---|---|
| | | Threshold | Rate | Threshold | Rate |
| 194J | Fees for professional services, technical services and royalty to payee **other than** those engaged only in business of operation of call centre | 30,000 | 10% | 30,000 | 10% |
| 194J | Fees for professional services, technical services and royalty to payee engaged **only** in business of operation of call centre | 30,000 | 10% | 30,000 | 2% |

Above amendment shall come into force from 1st day of June 2017.

**No tax deduction at source on compensation paid on compulsory acquisition in certain cases (Amendment to Section 194LA of the Act):-**

The existing provisions of Section 194LA provides for deduction of tax on compensation of compulsory acquisition of immovable property other than agricultural land @ 10% if the compensation exceeds ₹ 2,50,000/-.

Income tax department in its Circular no. 36/2016 clarified that compensation received which has been exempted from income-tax vide section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 Act (RFCTLARR Act) shall not be taxable under the provisions of the Act

With a view to incorporate this circular in the Act, it is now proposed to amend section 194LA to exclude tax deduction on compensations which are not chargeable to income tax as per RFCTLARR Act.

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

**TDS on payment of interest on foreign currency loan and Rupee denominated bonds (Amendment to Section 194LC of the Act):-**

The existing provisions of Section 194LC provides for tax deduction @ 5% when an Indian Company pays interest to non-resident (other than Company) or to a foreign Company provided that the borrowed amount should be from a source outside India and in foreign currency and that the borrowings are made on or after 1st July 2012 but before 1st July 2017.

Income tax department vide a press release dated 29th October 2015, clarified that the lower rate of TDS on interest was also extended to rupee denominated bonds issued outside India.

It is now proposed to extend this benefit of lower rate of tax deduction on borrowings made as well as on rupee denominated bonds issued up to 1st July 2020 instead of existing time frame of 1st July 2017.

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

**TDS on payment of interest to FIIs and QFIs (Section 194LD of the Act):-**

The existing provisions of Section 194LD provides for lower rate of tax deduction @ 5% on interest payable to Foreign Institutional Investors and Qualified Foreign Investors on government securities and rupee denominated corporate bonds on or after 1st June 2013 but before 1st July 2017.

It is now proposed to extend the benefit of lower rate of tax deduction on interest payable before 1st July 2020.

Above amendment shall come into force from AY 2018-19 onwards.

**Allowability of submission of declaration for non-deduction of TDS on insurance commission [197A(1A) and 197A(1C) of the Act]:-**

The existing provision of sub-section 194D of the Act provides for tax deduction at source @ 5% for payments in the nature of insurance commission beyond a threshold limit of ₹ 15,000 per financial year.

In order to reduce compliance burden in the case of Individuals and HUFs, it is proposed to amend section 197A so as to make them eligible for filing self-declaration in Form 15G/ 15H for non-deduction of tax at source in respect insurance commission referred in section 194D.

Above amendment shall come into force from 1st June 2017 onwards.

**Form 15CA and Form 15CB compliance [Insertion of clause (iib) to section 204 to the Act]:-**

Section 195(6) casts responsibility on a person responsible for paying to a non-resident (other than Company), or to a foreign Company, any sum irrespective of whether the said sum it is chargeable to tax or not, to furnish information relating to the payment of such sum in Form 15CA, 15CB etc.

However, existing provisions of section 204 does not define 'person responsible to furnish information' as envisaged in section 195(6).

It is proposed to amend the said section so as to provide for the definition of person responsible for making payment which is as follows:

a. the payer himself, if payer is not a Company

b. the Company itself including the principal officer thereof, if the payer is a Company

Above amendment shall come into force from AY 2018-19 onwards.

**TCS on sale of motor vehicles – Exemption to Government customers extended to local authorities etc. [Amendment to Section 206C(1F) of the Act]:-**

The existing provision of sub-section (1F) of section 206C of the Act provides for tax collection @ 1% of sale consideration by the seller who receives consideration for sale of a motor vehicle exceeding ten lakhs rupees from buyer.

It is now proposed to amend section 206C(1F), to exempt the following class of buyers from provisions of this sub-section:

1. Central Government
2. State Governments
3. an embassy,
4. a High Commission, legation, commission, consulate and the trade representation of a foreign State;
5. local authority
6. A public sector Company which is engaged in the business of carrying passengers

Above amendment shall come into force from AY 2018-19 onwards.

**Strengthening of PAN quoting mechanism in the TCS regime (Insertion of section 206CC to the Act):-**

Existing provisions of Section 206AA provides for higher rate of tax deduction in case of non-furnishing of PAN. However, similar provisions are missing with regards to tax collectible at source (TCS).

It is now proposed to insert new section 206CC to strengthen the PAN mechanism. Salient features of this section are as under:

| Sr. No | Particulars | Provisions of section |
|---|---|---|
| 1 | Rate of Tax | Higher of:<br>a. Twice the rate applicable for TCS<br>b. 5% |
| 2 | Validity of declaration for non-collection of tax at source | Valid only if PAN is quoted in declaration |
| | Consequences in case of subsequent invalidity of declaration | Higher rate of tax to be collected as per Sr. No. 1 |
| 3 | Validity of application to AO for lower rate of TCS | Valid only if PAN is quoted in application |
| | Consequences in case of subsequent invalidity of application | Certificate will not be granted |
| 4 | Other requirements | Collector as well as collectee to quote PAN on bills, vouchers and all other relevant documents |
| 5 | What if PAN quoted is invalid | Higher rate of tax to be collected as per Sr. No. 1 |
| 6 | Exemption | To non-residents who do not have Permanent Establishment in India |

Above amendment shall come into force from AY 2018-19 onwards.

**Single instalment advance tax benefit extended to professionals (Amendment of Section 211 of the Act):-**

At present, all assessees other than those opting for presumptive taxation scheme under section 44AD are required to pay advance tax in various installments and assessees opting for presumptive taxation scheme under section 44AD are required to pay 100% of advance tax in single installment on or before 15th March of the financial year.

Hon'ble Finance Minister, in Finance Act 2016 extended the benefit of presumption taxation to professionals as well. However, this extended time limit for payment of advance tax did not apply to professionals availing presumptive taxation scheme.

It is now proposed to extend the benefit of single installment advance tax payment to professionals opting for presumption taxation scheme under section 44ADA.

Above amendment shall come into force from AY 2018-19 onwards.

**Relaxation of interest charged for deferment in payment of advance tax in certain cases (Amendment of Section 234C to the Act):-**

Finance Act 2016 had proposed to tax certain dividend income received by individuals, HUF or firm resident in India from domestic companies if such income exceeds ₹ 10 lakhs in a year.

Dividend income, by nature, is uncertain income which cannot be estimated correctly for the purpose of payment of advance tax.

At present, if there is any shortfall in estimating income (including dividend income) on the due date of advance tax; assessee is liable to pay interest under section 234C of the Act.

In order to remove genuine hardship caused to the assessee due to uncertain nature of dividend income, it is now proposed that no interest under section

234C shall be applicable if shortfall in payment of advance tax is on account of wrong estimation of dividend income.

However, the said dividend income will have to be taken into account for calculating amount of instalment of advance tax falling due on or after the receipt of dividend income.

Above amendment shall come into force from AY 2018-19 onwards.

**Fee for delay in filing Income Tax Return (Insertion of Section 234F and consequential amendment in section 271F of the Act):-**

As per existing provisions, penalty under section 271F can be imposed for late filing of income tax return which is discretionary in the hands of assessing officer. However, it is practically not possible to issue notices to late filers and give them opportunity of being heard and then pass an order either imposing penalty or dropping based on case to case basis.

It is now proposed to levy fee under section 234F for late filing of income tax returns in the same manner as that of fee applicable for delay in filing TDS Returns.

Comparison of above 2 sections is as under:

| Particulars | Section 271F | Section 234F |
|---|---|---|
| Applicability | This section shall cease to apply from AY 2018-19 onwards | Applicable w.e.f. AY 2018-19 |
| Whether genuine and bonafide reason acceptable | Yes | No |
| Nature of penalty/ fee | Discretionary | Automatic |
| Whether appealable | Yes | No |
| Whether it can be waived by Principal Commissioner | Yes | No |
| Whether assessee can apply for revision under section 264 | Yes | No |

| Particulars | Section 271F | Section 234F |
|---|---|---|
| Quantum of penalty under section 271F and fee under 234F | ₹5,000/- | ₹5,000/- if return is filed after due date but before 31st December and ₹ 10,000/- if return is filed after 31st December |
| Other provisions | - | Fee to restrict to ₹ 1,000-/ if Total Income does not exceed ₹ 5 lakhs. |

Above amendment shall come into force from AY 2018-19 onwards.

**Withholding of refund in certain cases (Insertion of Section 241A to the Act):-**

In order to protect the interest of Government in certain cases, CBDT has issued an instruction no. 01/2015 and directed the assessing officers that where refund becomes due to the assessee as per return of income filed by him and the assessing officer is of the opinion that grant of refund may adversely affect the recovery of revenue; he may withhold the refund till the assessment is complete.

Doubts were raised as to whether CBDT can issue such an instruction to deprive assessees of legitimate refund due to them.

It is accordingly proposed in the statute itself to give powers to assessing officers of withholding refund in case, case is selected for scrutiny.

Assessing officer will have to record reasons in writing and obtain previous approval of Principal Commissioner of Commissioner before withholding the refund of any assessee

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

**Interest to tax deductors in case of excess payment of TDS [Insertion of sub-section (1B) to section 244A of the Act]:-**

As per existing provisions of section 244A, only assessees claiming refund in their income tax returns are entitled simple interest on refund at the rate of 0.5% per month or part of the month.

It is now proposed to entitle tax deductors with simple interest at the rate of 0.50% per month or part of month from the date on which refund for excess TDS paid is claimed till the date on which refund is granted.

Above amendment shall come into force from AY 2018-19 onwards.

**Changes in constitution of Authority for Advance Ruling (Amendment to section 245N and consequential amendment to section 245O and 245Q of the Act):-**

With a view to promote ease of doing business, it is now proposed to merge the Authority for Advance Ruling (AAR) for income tax, central excise, customs duty and service tax.

Accordingly, amendment is made in definition of 'Applicant' who can apply for Advance Ruling to include the following:

- Applicant as defined under Customs Act, 1962
- Applicant as defined under Central Excise Act, 1944
- Applicant as defined under Finance Act, 1994

Also, qualification of a person to be appointed as Chairman of AAR is amended in Section 245O to include:

- Chief Justice of a High Court
- A person who has been a Judge of a High Court for at least 7 years

And, revenue Member of AAR shall now include the following:

- Indian Revenue Service qualified to be a member of the Board
- Any person from Indian Customs and Central Excise Service qualified to be a member of CBEC.

It is also proposed that where the office of Chairman remains vacant by reason of his death, resignation or otherwise, the senior-most Vice-chairman shall act as the Chairman until the date on which a new Chairman is appointed.

It is also proposed that where the Chairman is unable to discharge his functions owing to absence, illness or any other reason, or that his falls vacant, the Vice-chairman shall discharge his functions until the new Chairman is appointed or until the incumbent Chairman resumes his duties.

Above amendment shall come into force from AY 2018-19 onwards.

**Restriction on receiving of ₹ 3 lakhs or more (Insertion of Section 269ST to the Act and consequential amendment in section 206C of the Act):-**

In order to curb generation and circulation of domestic black money and to move towards a 'less cash economy' it has been proposed to insert section 269ST in the Act which will provide that no person shall receive an amount of 3 lakhs rupees or more,—

- in aggregate from a person in a day; or
- in respect of a single transaction; or
- in respect of transactions relating to one event or occasion from a person,

otherwise than through any banking channels.

It is also proposed that the said restriction shall not apply to the following:

- Government,
- any banking Company, post office savings bank or co-operative bank.

As regards the limit 3 lakhs, it is interpreted that two independent transactions cannot be aggregated so as to apply rigorous provisions of section 269ST and section 271DA of the Act.

Loan transactions of the nature referred to in section 269SS are proposed to be excluded from the scope of the said section as they are already covered by the said section.

It is surprising to know that there are no enabling provisions to prefer an appeal against the penalty order passed under this new proposed section. However, when the bill is enacted, it is likely to amend section 246A of the Act so that appeal can be filed with Commissioner (Appeals).

It is also proposed to consequentially amend the provisions of section 206C to omit the provision relating to tax collection at source at the rate of one per cent of sale consideration on cash sale of jewellery exceeding five lakhs rupees as such transactions are prohibited and hence question of TCS on the same does not arise.

Above amendment shall come into force from AY 2018-19 onwards.

**Penalty provisions for contravention of section 269ST (Insertion of Section 271DA to the Act):-**

The new section 271DA provides for imposition of penalty by Joint Commissioner in cases of contravention of the provisions of the proposed section 269ST explained above.

Quantum of penalty – Amount equal to the sum of such receipt in the hands of recipient of cash.

The said penalty shall however not be levied if the person proves that there were good and sufficient reasons for such contravention.

Above amendment shall come into force from AY 2018-19 onwards.

**Penalty provisions to be imposed on professionals in certain cases (Insertion of Section 271J to the Act and consequential amendment in section 273B of the Act):-**

Existing provisions provide to levy penalty on defaulting Assessees but there is no provision to levy penalty on professionals furnishing incorrect information. In order to ensure that a person furnishing report or certificate undertakes due diligence beforehand, this new section is proposed to be inserted.

| | |
|---|---|
| Purpose of this Section | To impose penalty on Chartered Accountants, Merchant Bankers and Registered Valuers |
| Penalty to be levied in what circumstances | For furnishing incorrect information in any report or certificate |
| Authority to levy penalty | Assessing Officer or Commissioner (Appeals) |
| Quantum of Penalty | ₹10,000/- for each such report or certificate |
| Whether appealable | No such amendment in section 246A of the Act hence not appealable as of now |

Consequently, section 273B of the Act is amended to provide that no penalty shall be imposable under section 271J if it is proved that there was a reasonable cause for such failure.

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

## "INDIRECT TAXES"

## "SERVICE TAX"

**Service Tax Rates:-**

Service tax rate remains unchanged @ 15% (Including Cesses) on the taxable services.

**Amendment in the scope of Negative List of services - Section 66D of the Finance Act, 1994:-**

- **Process amounting to manufactures or production of goods excluding alcoholic liquor for human consumption – [clause (f) of Section 66D]:-**

| | |
|---|---|
| **Existing** | Services by way of carrying out any process/labour charges amounting to manufacture or production of goods excluding alcoholic liquor for human consumption is covered under Negative List.<br><br>At present above income is not required to be reflected in the service tax return as said services is covered under Negative list. |
| **Proposed** | It is now proposed to remove said services from the scope of Negative List.<br><br>However said services shall continue to remain exempted by incorporating said service in mega exemption notification {Notification no. 25/2012-ST as amended by Notification no. 07/2017-ST dated 2nd February 2017}. Hence all aseessees rendering above services shall have to reflect the said income in the service tax return and claim exemption. |

Above amendment shall come into force from date in which the Finance Bill, 2017 receives assent of the President.

**Legislative changes regarding "Advance Ruling":-**

- **Definition of "Authority" for advance ruling (Section 96A of the Finance Act,1944):-**

| | |
|---|---|
| **Existing** | "Authority for Advance Rulings" mean authority constituted under Section 28F (1) and Section 28F (2A) of the Customs Act which is as under:-<br><br>A person shall be qualified for appointment as:-<br><br>a) Chairman, who has been a Judge of the Supreme Court;<br>b) Vice-Chairman, who has been Judge of a High Court;<br>c) a revenue Member from the Indian Revenue Service, who is a Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General; |
| **Proposed** | It is now proposed to amend the definition of Authority for Advance Rulings and include:-<br><br>a) Chief Justice of a High Court or for at least seven years a Judge of a High Court;<br><br>b) Member of the Indian Revenue Service (Customs and Central Excise), who is qualified to be a Member of the Board<br><br>As Person qualified for appointment as "Authority" for Advance Ruling. |

Above amendment shall come into force from date of enactment of Finance Bill, 2017.

- **Fee for Making Application for Advance Ruling and Time Limit of pronounce of Advance Ruling by Authority [Section 96C(3) and 96D(6) of the Finance Act,1994]:-**

| Particulars | Existing | Proposed | Section |
|---|---|---|---|
| Fee for making Application for Advance Ruling | ₹ 2,500 | ₹ 10,000 | 96C(3) |
| Time Limit of pronounce of Advance Ruling by Authority from the date of the receipts of application | 90 days | 6 months | 96D(6) |

Above amendment shall come into force from date of enactment of Finance Bill, 2017.

- **Transfer of pending Advance Ruling case to Authority of Advance Rulings under Income Tax (Insertion of section 96HA of the Finance Act,1994:-**

It is also proposed that application pending before authority for advance rulings (Central Excise, Customs and Service Tax) shall be transferred to authority established under Income Tax Act.

Above amendment shall come into force from date of enactment of Finance Bill, 2017.

**Retrospective exemption to one time upfront amount payable for grant of long-term lease provided by State Government Industrial Development Corporations or Undertakings (Insertion of section 104 of the Finance act, 1994):-**

At present, as per Notification No.41/2016-ST dated 22.09.16, w.e.f. 1st July 2012 taxable service provided by State Government Industrial Development Corporations/ Undertakings to industrial units by way of granting long term (30 years, or more) lease of industrial plots on the payment of one time upfront amount (called as premium, salami, cost, price, development charges, etc.) is exempt from service tax

It is now proposed to extend the said exemption **retrospectively** to period commencing from 1st June 2007 i.e. the date when the services of renting of immovable property become taxable.

It is also proposed to refund the service tax collected by State Government Industrial Development Corporations/Undertakings during 1st June 2007 onwards for above mentioned services. Application for claiming refund of service tax paid shall be made **within 6 months from the date on which Finance Bill, 2017 receive assent of the president.**

Above amendment shall come into force from date of enactment of Finance Bill, 2017.

**Retrospective exemption to services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds (Insertion of section 105 of the Finance Act, 1994):-**

As per existing provisions, w.e.f. 1st July 2012 taxable service provided by Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force under the Group Insurance Schemes of the Central Government is exempt from service tax.

It is now proposed to extend the said exemption **retrospectively** to period commencing from 10th September 2004, i.e. the date from when the services of life insurance become taxable.

It is also proposed to refund the service tax collected by Army, Naval and Air Force Group Insurance Funds by way of life insurance during 10th September 2004 onwards for above mentioned services. Application for claiming refund of service tax paid shall be made **within 6 months from the date on which Finance Bill, 2017 receive assent of the president**.

Above amendment shall come into force from date of enactment of Finance Bill, 2017.

**Retrospective amendment in Rule 2A of Service Tax (Determination of Value) Rules, 2006 (As per N. no.07/2017-ST dated 2nd Feb 2017):-**

In case of sale of flat by Builder, there is also transfer of Land by Builder to Buyer. At present, there is no machinery provision in the Act or the Valuation Rules for ascertaining the service element specifically in such contracts of sale of flat. Accordingly, it is held in the case of **Suresh Kumar Bansal vs Union of India and Ors (Delhi High Court)** that no service tax can be charged on contracts involving sale of flat.

To overcome far reaching ramification of the above judgment it is now proposed to **retrospective amend** (**w.e.f. 01st July 2010)** the law so as to ensure that nobody can take advantage of above mentioned judgment. It is now proposed to exclude the value of property in case of above mentioned composite contract and value of goods and land will be deducted to arrive at the actual value of the service component.

It is also proposed that in case where assessee is not able to determine the actual value of service component then the value of the service component is determined as under:-

| **Applicable From** | | **Particulars** | | |
|---|---|---|---|---|
| | | **Taxable Amount as a % of Agreement Value for Sale of Flat** | **CENVAT Credit of Input to Builder** | **CENVAT Credit of Input Services or Capital Goods to Builder** |
| 1st July 2010 to 30th June 2012 | | 25%* | Not Available | Not Available |
| 1st July 2012 to 28th February 2013 | | 25% | Not Available | Available |
| 1st Mar 2013 to 7th May 2013 | Area up to 2000 sq. ft. **OR** Agreement Value is < ₹ 1 crore | 25% | Not Available | Available |
| | Others | 30% | Not Available | Available |
| 8th May 2013 to 31st Mar 2016 | Area up to 2000 sq.ft. **AND** Agreement Value is < ₹ 1 crore | 25% | Not Available | Available |
| | Others | 30% | Not Available | Available |
| w.e.f 1st April 2016 | | 30% | Not Available | Available |

* Provided no reduction is claimed in Assessable Value with respect to Goods Sold.

Above amendment shall come into force from date of enactment of the Finance Bill, 2017.

**New Proposed Exemption/ Concession:-**

| S.N. | Description of Services |
|---|---|
| 1 | **Services of life insurance provided by Group Insurance Funds of Armed Force:-** |
| | It is now proposed that Services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds **by way of life insurance** to members of the Army, Navy and Air Force under the Group Insurance Schemes of the Central Government shall be exempted from service tax. |
| 2 | **Scope of exemption to two year full time Post Graduate Programmes in Management carried on by IIMs widened:-** |
| | It is now proposed that services provided by Indian Institutes of Management (IIMs) by way of **any two year full time Post Graduate Programmes (PGP**) in Management for the Post Graduate Diploma in Management (PGDM), to which admissions are made on the basis of the Common Admission Test (CAT), conducted by IIM. |
| 3 | **Exemption with respect to services provided to Government by way of transport of passengers by air embarking from or terminating at a Regional Connectivity Scheme Airport:-** |
| | It is now proposed that amount of viability gap funding (VGF) payable to the selected airline operator **for the services of transport of passengers**, with or without accompanied belongings, by air, embarking from or terminating in a Regional Connectivity Scheme (RCS) airport, for a period of one year from the date of commencement of operations of the Regional Connectivity Scheme (RCS) airport as notified by Ministry of Civil Aviation. |

Above amendment shall come into force from date in which the Finance Bill, 2017 receives assent of the President.

**Various amendments to CENVAT Credit Rules, 2004 (As per Notification No. 04/2017-C.E.(NT) DATED 2nd FEB 2017):-**

- **Method of Calculation of reversal/ reduction of CENVAT Credit in case of Banks and Financial Institutions assessee [Rule 6 (3D) of CENVAT Credit Rules, 2004]:-**

  At present, under Rule 6 of the CENVAT Credit Rules, 2004, banks and financial institutions have two options to reverse CENVAT Credit i.e.

  a) Reverse 50% of the credit under Rule 6(3B)

  b) Reverse proportionate credit by computing the value of exempted services to the value of total services;

  Clause (e) of Explanation I to Rule 6(3D) provided that value of "exempted services" shall not include value by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

  The major income of the banks or financial institutions is by way of interest or discount and therefore owing to this clause, any bank opting to reverse the credit on proportionate basis was eligible for much higher credit as compared to 50% of the credit given under the first option.

  In order to remove this anomaly, it has now been provided that clause (e) will not apply to the banks or financial institutions engaged in providing services by way of extending deposits, loans or advances. Accordingly, while calculating reversal of credit under the second option, value of interest or discount, etc. must also be added to the value of "exempted services".

  Above amendment shall come into force w.e.f. 2nd February 2017.

- **Time limit of claiming unutilized CENVAT credit by successor in case of transfer of business [Insertion Of Rule 10(4) Of CENVAT Credit Rules (CCR), 2004]:-**

  At present, it is provided in above rule that in case of transfer if business by Manufacturer or Service Provider by reason of sale, merger, amalgamation, lease, joint venture, etc., the unutilized CENVAT credit of predecessor shall be allowed to transfer to successor.

  There is no time limit in the existing provision for claiming such transfer of CENVAT credit.

  It is now proposed to insert time of 3 months from the date of receipts of application by Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise.

  Above amendment shall come into force w.e.f. 2nd February 2017.

## "CENTRAL EXCISE"

- **There is no change in the peak rates of Central Excise duty;**
- **Changes in Central Excise Act, 1944. - Effective from the date of assent of the President:-**

### i. Change in Advance Rulings Provisions: -

This amendment is identical as explained in Service Tax portion of this Budget Book.

Above amendment shall come into force from date in which the Finance Bill, 2017 receives assent of the President.

### ii. Change in Settlement Commission Provisions:-

The Finance Bill has proposed amendment in the provisions relating to Settlement Commission (Chapter V) to provide the following:

a) Amendments have been proposed to allow any other person (other than assessee) to make an application to the settlement commission in a case related to the assessee, which is settled or pending before the settlement commission subject to the conditions that the show cause notice issued to such person is pending before an adjudicating authority.

b) Therefore, now co-notices such as director, employee etc. who have received the show cause notice in case relating to the Company can approach the settlement commission if the said case of the Company is either settled or pending before the Settlement Commission.

c) The Settlement Commission is given the power to amend their Order, within three months of the date of the Order, to rectify an error apparent on the face of record, either suo moto or when the error is brought to notice by the relevant authority. However, if such rectification increases the liability of the applicant, an opportunity has to be given to the applicant to present their case.

Above amendment shall come into force from date in which the Finance Bill, 2017 receives assent of the President.

- **Clarifications in respect of exemption on procurements by EOU:-**

The D.O.F.No.334/7/2017-TRU issued by the Government has clarified that exemption notifications issued under Sec 5A of the Central Excise Act, 1944 will not apply only to excisable goods manufactured by an EOU.

It has clarified that the notifications providing complete exemption from duty or concessional rate of duty will continue to apply for goods domestically procured/ imported by EOU and utilised for manufacture of goods which are subsequently cleared by them to DTA.

Above amendment shall come into force from date of enactment of Finance Bill, 2017.

- **No change in Peak Rate. It remains at rate of 10%.**
- **CHANGES IN CUSTOMS ACT, 1962:-**

**i. "Beneficial owner" for imports and exports to be covered under Customs provisions:-**

a) It is proposed to amend Customs Act to treat a 'beneficial owner' of the goods as an importer as well as the exporter under the Customs provisions.;
The beneficial owner of the goods will be the person on whose behalf the goods are being imported or exported or a person who exercises the effective control over the goods imported or exported.;

b) The proposed amendment will enable the beneficial owner to file the Bill of Entry and comply with the other customs provisions even though the goods may be imported by his agent on his behalf;

c) Further the Customs department will also be empowered to initiate the proceedings for recovery of duty, interest, penalty, fine, prosecution, etc. against such beneficial owner.

Above amendment shall come into force from date in which the Finance Bill, 2017 receives assent of the President.

**ii. Upper Time limit prescribed to file the Bill of Entry:-**

As present, there is no upper time limit to file the Bill of Entry.

It is now proposed to specify that the Bill of Entry has to be filed by the end of the next day (excluding holidays) following the day on which the aircraft or vessel or vehicle carrying the goods arrive at the customs station.

It is also proposed to provide for power to the customs officers to levy prescribed charges for late presentation of the Bill of Entry in cases where there is no sufficient cause for the delay in presentation of the Bill of Entry.

Above amendment shall come into force from date in which the Finance Bill, 2017 receives assent of the President.

**iii. Amendments in the procedure of import through foreign post-office and international courier terminal:-**

a) It is proposed to include foreign post-office and international courier terminal as a customs station and to provide for manner in which the entry would be made in respect of goods imported or exported by post. The Central Government will notify the place which will be treated as foreign post-office and international courier terminal.

b) At present, section 82 of the Customs Act provides that the label or declaration for goods arriving through the post have to be treated as an entry made for the purpose of Customs Act.

It is now proposed that such label / declaration will not be allowed to be treated as an entry made under customs.

c) It is also proposed that the procedure which will be followed for the purpose of imports and exports as well as the documentation by the foreign post-office and international courier terminal will be notified shortly.

Above amendment shall come into force from date in which the Finance Bill, 2017 receives assent of the President.

**iv. Obligation imposed for disclosure of "passenger name record information" on person In-charge of conveyance (Insertion of Section 30A and Section 41A of the Custom Act):-**

a) It is proposed to insert section 30A & Section 41A to cast an obligation on the person in-charge of conveyance or other specified person to submit the passenger and crew arrival manifest as well as the passenger name record information in respect of conveyance entering into India and departing from India.

b) It is also proposed that a penalty shall not exceed ₹ 50,000 in cases where there is no sufficient cause for such delay in submitting the said information.

Above amendment shall come into force from date in which the Finance Bill, 2017 receives assent of the President.

**v. Amendments with respect to Due date for payment of Import duty and computation of interest:-**

a) At per existing provision, for a self-assessed Bill of Entry, the import duty can be paid at any time before the order permitting clearance of goods;

It is now proposed that the due date for payment of import duty will be as follows:

i) the date of presentation of the Bill of Entry in case of self-assessment;

ii) within one day (excluding holidays) from the date on which the Bill of Entry is returned for payment of duty in case of assessment, re-assessment or provisional assessment;

iii) Prescribed due dates in case facility of deferred payment has been allowed for such goods.

b) It is also proposed to provide for imposition of interest on the duty not paid as per the above due dates.

Above amendment shall come into force from date in which the Finance Bill, 2017 receives assent of the President.

**vi. Amendment in refund provisions:-**

The bar of unjust enrichment will not be applicable in cases of refund of excess payment of duty subject to the following conditions:-

i) The excess payment is evident from self-assessed Bill of Entry or ;

ii) The actual duty payable is reflected in the re-assessed Bill of Entry.

Thus, after the amendments, such refunds will be sanctioned to the claimant and the claimant is not required to prove that the incidence of duty has not been passed to other person

Above amendment shall come into force from date in which the Finance Bill, 2017 receives assent of the President.

**vii. Documents to be provided for verification of self-assessed Bill of Entry (Section 17 of the Custom Act)**:-

It is proposed to empower the customs officer to seek for production of any document or information for the purpose of verification of the self-assessment.

Above amendment shall come into force from date in which the Finance Bill, 2017 receives assent of the President.

**viii. Facility of clearance to public warehouse for goods pending clearance (Section 49 of the Custom Act):-**

It is proposed to extend facility of clearance to public warehouse for goods which have also been entered for warehousing.

There is no change in the existing procedures or the time limit.

Above amendment shall come into force from date in which the Finance Bill, 2017 receives assent of the President.

**ix. Amendment to Settlement Commission provisions:-**

a) It is proposed to allow any other person (other than applicant) to make an application to the settlement commission in a case related to the applicant if the same is settled or pending before the settlement commission.

b) Settlement commission is being provided the power to amend its order to rectify any error apparent on the face of the records either suo motu or when such error is brought to its notice by the department or the applicant. The rectification which has effect of enhancing the liability of the applicant has to be made after serving of notice and after affording the reasonable opportunity of being heard.

Above amendment shall come into force from date in which the Finance Bill, 2017 receives assent of the President.

**x. Change in Advance Rulings Provisions: -**

This amendment is identical as explained in Service Tax portion in this Budget Book.

Above amendment shall come into force from date in which the Finance Bill, 2017 receives assent of the President.

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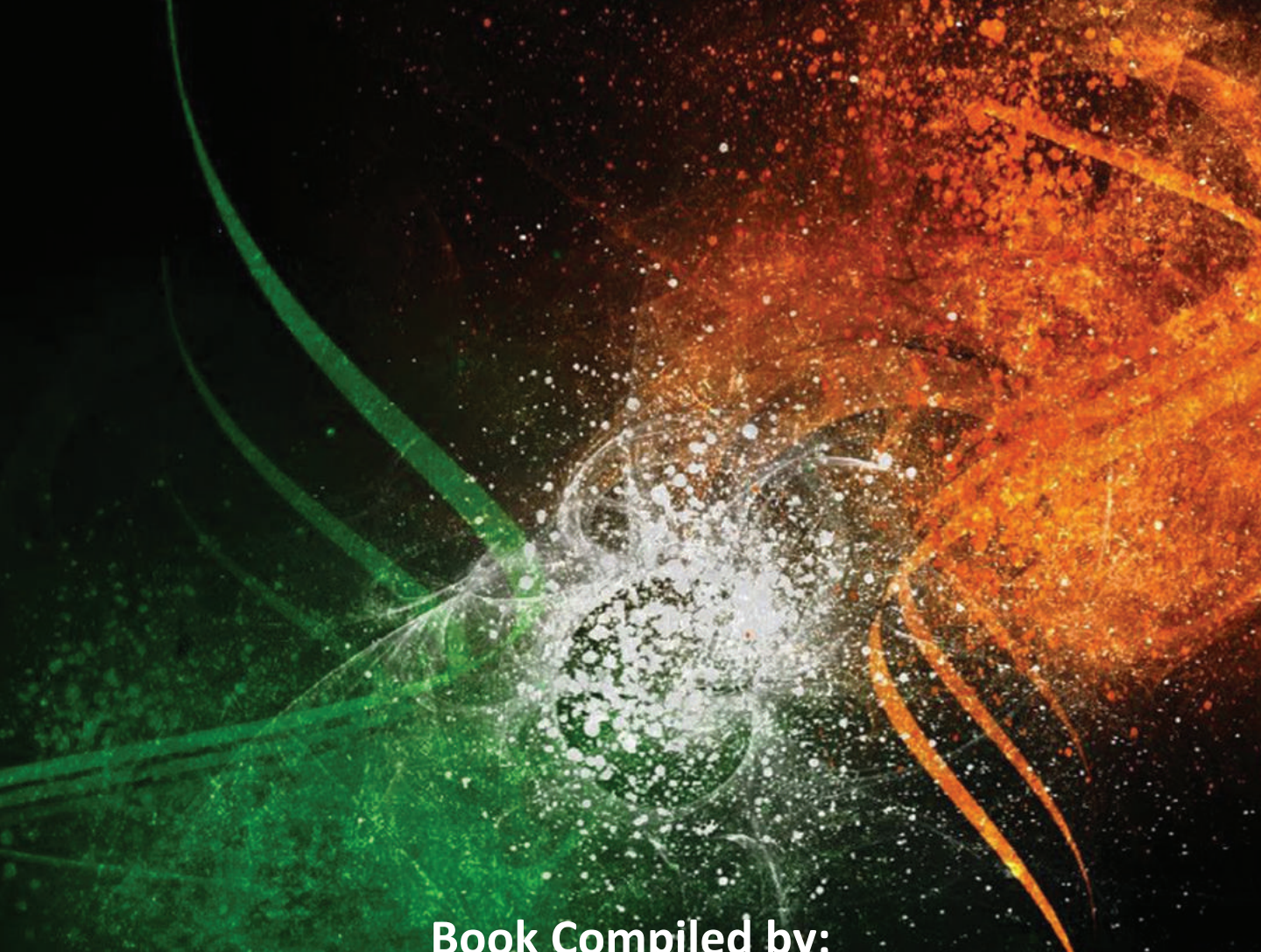


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