



IMPACT OF UNION BUDGET 2018

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HIGHLIGHTS OF UNION BUDGET 2018

- Individual Income Tax slab rates remains unchanged;
- Education cess now to be called as Health and Education cess. Effective rate increased from 3% to 4%;
- Reduction in Corporate Tax Rate from 30% to 25% for Companies having a turnover of Rs. 250 crores and less in FY 2016-17;
- Scope of Accumulated profits for the purposes of Dividend has been widened so as to include accumulated profits of amalgamated companies in case of amalgamation with retrospective effect from AY 2018-19;
- Royalty and FTS payment by National Technical Research Organisation (NTRO) to any Non-Resident Entity to be tax-exempt. No TDS is required to be deducted on such payments;
- Any payment made by Fund / Institution / Trust / University / Hospital/ Medical Institution otherwise than by Account Payee cheque, Draft or in cash etc. in excess of Rs. 10,000/- to a person on a single day for charitable purpose will attract disallowance and in case of non-deduction of tax as required, 30% of the amount shall be disallowed and the same shall be taxed;
- The compensation in connection with termination or modification of contract related to business or employment shall be taxable;
- Transaction in respect of trading in Agricultural Commodity Derivatives is now treated as "non-speculative" transaction;
- Benefit of Tax Exemption in respect of income arising from sale out of the leftover stock of crude will be available even if the agreement or arrangement is terminated in accordance with the terms mentioned therein;
- Introduction of Standard deduction of Rs. 40,000 for the salaried class of Assesses (replacing the transport allowance and the miscellaneous Medical Reimbursement);



- Introduction of tax on Long Term Capital Gains exceeding Rs. 1,00,000 on sale of Equity Shares @ 10% without allowing indexation benefit will be charged on gains accruing after 31st January 2018;
- Short Term Capital Gains to continue to be taxed @ 15%;
- No TDS on interest from Bank Fixed Deposit & Post Office up to Rs.50,000 for Senior Citizens;
- Exemption under Section 80D increased from Rs.30,000 to Rs.50,000 annually for medical insurance for Senior Citizens;
- Deductions in respect of certain incomes not to be allowed unless Return of Income is filed by the due date;
- Extended tax incentive for employment generation, for manufacturers in footwear or leather products as by minimum period for any employee is reduced from 240 days to 150 days to qualify for deductions;
- The Government with a view to enhance growth of startups in India has extended the time limit of incorporation by 2 more years along with widening its scope of activities which startups can engage from AY 2018-19;
- A new Section 80PA is inserted from AY 2019-20 where Producer Companies will be eligible for deduction of an amount equal to 100% of profit and gains and having turnover less than Rs. 100 crores of eligible businesses during a previous year if the Income Tax Return is filed on or before the due date;
- Exemption limit for medical expenditure for certain critical illness in case of Senior Citizens raised from Rs.60,000/- to Rs.1,00,000/- & in case of very Senior Citizens raised from Rs.80,000/- to Rs.1,00,000/- under Section 80DDB;
- Provision of Section 43CA, 50C and 56(2)(x) amended to allow variation upto 5% of sale consideration in variation vis a vis stamp duty value on account of any reason such as locational disadvantage etc. on transfer of land and building;



- In case of trucks whose 'Gross Vehicle Weight' exceeds 12 tonnes, tax on presumptive income shall be of Rs. 1,000/- per ton of 'Gross Vehicle Weight' of each vehicle for every month or part of the month and in case of trucks whose 'Gross Vehicle Weight' is 12 tonnes or less tax on presumptive income shall be Rs. 7,500/- per month per vehicle or part of the month;
- Introduction of Tax on distributed income by Equity Oriented Mutual Funds at the rate of 10%;
- Conversion of stock-in-trade to Capital Asset to be charged as business income in the year of conversion on Fair Market value on the date of conversion;
- 54EC benefit of investment in Bonds to be restricted to Capital Gain on land and building only. Also, period of holding being increased from 3 to 5 years;
- 8% GOI Savings (Taxable) Bonds, 2003 has now been replaced with 7.75% GOI Savings (Taxable) Bonds, 2018;
- Income Computation & Disclosure Standards (ICDS) being given statutory backing in view of judgment of High Court of Delhi;
- Gain or Loss in Foreign Exchange as per ICDS to be allowed under new Section 43AA;
- Construction Contract Income to be computed on percentage completion method as per ICDS;
- Valuation of Inventory to be made based on cost or market wise whichever is lower for each category of asset separately including Securities as per ICDS;
- Interest on compensation, enhanced compensation or enhancement claim and subsidy, incentives to be taxed in the year of receipt only as per new Section 145B;
- Registration of Companies can be done in one day;



- Government makes PAN mandatory for any entity entering into financial transactions of Rs. 2,50,000/- or more;
- Rs. 7,50,000/- per Senior Citizen limit for investment in Interest bearing LIC Schemes doubled to Rs. 15,00,000/-;
- Tax on STT paid Long Term Capital Gain will be 10% under Section 112A;
- Verification of Return of Income by an Insolvency Professional under the Insolvency and Bankruptcy Code (IBC), 2016 in case of Companies who has made an application for Corporate Insolvency Resolution Process under IBC, 2016;
- No adjustment under Section 143(1) on account of mismatch with 26AS and 16A while processing Return of Income;
- Assessments to be E-assessment under new Section 143(3A);
- All Companies will be liable for prosecution if they don't file Income Tax Return irrespective of the fact whether it has tax liability of Rs. 3,000 or not;
- Deemed Dividend to be taxed in the hands of the Company itself as Dividend Distribution of Tax @ 30%;
- Appointment of a separate Authority for Advance Ruling under Customs Act, 1962 dealing with matters connected to Customs Duty;
- Penalty for non-filing Financial Return as required under Section 285BA being increased to Rs. 500/- per day as against existing Rs. 100 per day;
- Penalty for not filing the said Statement in response to notice by Income Tax Authority is enhanced to Rs. 1000/- per day from existing penalty of Rs.500/- per day;
- Rationalization of provisions relating to Country-by-Country Report;
- Central Board of Excise & Customs to be renamed as Central Board of Indirect Tax & Customs;



- Customs duty on crude edible vegetable oils like groundnut oil, safflower seed oil hiked from 12.5% to 30%; on refined edible vegetable oil from 20% to 35%;
- Customs duty on sunglasses, cigarette lighter, toys, bus and truck Tyres, select furniture hiked;
- Customs duty on imitation jewellery hiked from 15% to 20%; doubled on all watches to 20%;
- Customs duty on Mobile phones increased from 15% to 20%, also on certain parts of TVs to 15%;
- Agriculture Commodity Derivates income /loss also not to be considered as speculative under Section 43(5).



ANALYSIS OF AMENDMENTS PROPOSED

DIRECT TAXES

The amendments proposed in the Finance Bill, 2018 would be effective from Assessment Year 2019-20 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 2019-20:-

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

Income	Existing Slab of Income Tax Rate (AY 2018-19)	Proposed Slab of Income Tax Rate (AY 2019-20)
Upto ₹ 2,50,000	NIL	NIL
₹ 2,50,001 - ₹ 5,00,000	5%	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 2018-19)	Proposed Slab of Income Tax Rate (AY 2019-20)
Upto ₹ 3,00,000	NIL	NIL
₹ 3,00,001 - ₹ 5,00,000	5%	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 2018-19)	Proposed Slab of Income Tax Rate (AY 2019-20)
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 2019-20: -

Income Limit	Existing Slab of Income Tax Rate (AY 2018-19)	Proposed Slab of Income Tax Rate (AY 2019-20)
Upto ₹ 50,00,000	NIL	NIL
₹ 50,00,001 – ₹ 1,00,00,000	10%	10%
Above ₹ 1,00,00,000	15%	15%

Introduction of Health & Education Cess in place of Existing Cess for all type of assessee: -

Types of Cess	Upto AY 2018-19	w.e.f. AY 2019-20
Education Cess	2%	-
Secondary & Higher Education Cess	1%	-
Health & Education Cess	-	4%
TOTAL	3%	4%

Above amendment shall come into force from AY 2019-20 onwards.



For Domestic Company: -

- I. The table below shows the Income Tax rates for Assessment Year 2019-20 for Domestic Company: -

Turnover Limit	Existing Slab of Income Tax Rate (%) (AY 2018-19)				Proposed Slab of Income Tax Rate (%) (AY 2019-20)			
	Tax	Sur.	E. Cess	Eff. Rate	Tax	Sur.	H & E Cess	Eff. Rate
A.	INCOME UP TO 1 CR.							
Up to Rs.50 cr.	25.00	NIL	3.00	25.75	25.00	NIL	4.00	26.00
Rs. 50 cr. to Rs. 250 crores	30.00	NIL	3.00	30.90	25.00	NIL	4.00	26.00
Above Rs. 250 crores	30.00	NIL	3.00	30.90	30.00*	NIL	4.00	31.20
B.	INCOME ABOVE RS. 1 CR. BUT LESS THAN RS. 10 CR.							
Up to Rs.50 cr.	25.00	7.00	3.00	27.55	25.00	7.00	4.00	27.82
Rs. 50 cr. to Rs. 250 crores	30.00	7.00	3.00	33.06	25.00	7.00	4.00	27.82
Above Rs. 250 crores	30.00	7.00	3.00	33.06	30.00*	7.00	4.00	33.38
C.	INCOME ABOVE RS. 10 CR.							
Up to Rs.50 cr.	25.00	12.00	3.00	28.84	25.00	12.00	4.00	29.12
Rs. 50 cr. to 250 crores	30.00	12.00	3.00	34.61	25.00	12.00	4.00	29.12
Above Rs. 250 crores	30.00	12.00	3.00	34.61	30.00*	12.00	4.00	34.94

*Turnover to be checked that of Financial Year 2016-17.

➤ **How to Calculate Turnover?**

Calculation of Turnover is not defined in the Statute and hence in my opinion, for the purpose of calculation of turnover of Rs.250 crores in Financial Year 2016-17, it will be calculated in the same manner as specified in Guidance note on Tax Audit under Section 44AB of the Income Tax Act, 1961.



- II. The table below shows the **Regular and MAT** Income Tax rates for Assessment Year 2019-20 (Other than those covered in **option I**): -

Type of Assessee	Existing Slab of Income Tax Rate (%) (AY 2018-19)				Proposed Slab of Income Tax Rate (%) (AY 2019-20)			
	Tax	Sur.	Edu. Cess	Eff. Rate	Tax	Sur.	H & E Cess	Eff. Rate
A)	INCOME UP TO ₹ 1 CR.							
MAT for Company [#]	18.5	NIL	3.00	19.06	18.50	NIL	4.00	19.24
MAT for Company ^{\$}	9.00	NIL	3.00	9.27	9.00	NIL	4.00	9.36
B)	INCOME ABOVE ₹ 1 CR BUT LESS THAN ₹ 10 CR.							
MAT for Company [#]	18.5	7.00	3.00	20.39	18.5	7.00	4.00	20.59
MAT for Company ^{\$}	9.00	7.00	3.00	9.92	9.00	7.00	4.00	10.02
C)	INCOME ABOVE ₹ 10 CR.							
MAT for Company [#]	18.5	12.00	3.00	21.34	18.5	12.00	4.00	21.55
MAT for Company ^{\$}	9.00	12.00	3.00	10.38	9.00	12.00	4.00	10.48

[#] 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.



III. For Other Assessee (other than Domestic Company)

The table below shows the Income Tax rates for Assessment Year 2019-20 for Other Assessee (other than Domestic Company): -

	Existing Slab of Income Tax Rate (%) (AY 2018-19)				Proposed Slab of Income Tax Rate (%) (AY 2019-20)			
Type of Assessee	Tax	Sur.	E. Cess	Eff. Rate	Tax	Sur.	H & E Cess	Eff. Rate
A)	INCOME UP TO RS 1 CR.							
a) Firm/LLP								
-Regular Tax	30.00	NIL	3.00	30.09	30.00	NIL	4.00	31.20
-AMT	18.5	NIL	3.00	19.06	18.5	NIL	4.00	19.24
b) Foreign Co.								
Regular Tax	40.00	NIL	3.00	41.20	40.00	NIL	4.00	41.60
B)	INCOME ABOVE RS.1 CR BUT LESS THAN RS. 10 CR.							
a) Firm/LLP								
-Regular Tax	30.00	12.00	3.00	34.16	30.00	12.00	4.00	34.94
-AMT	18.5	12.00	3.00	21.34	18.5	12.00	4.00	21.55
b) Foreign Co.								
-Regular Tax	40.00	2.00	3.00	42.02	40.00	2.00	4.00	42.43
C)	INCOME ABOVE TO 10 CR.							
a) Firm/LLP								
-Regular Tax	30.00	12.00	3.00	34.61	30.00	12.00	4.00	34.94
-AMT	18.5	12.00	3.00	21.34	18.5	12.00	4.00	21.55
b) Foreign Co.								
-Regular Tax	40.00	5.00	3.00	43.26	40.00	5.00	4.00	43.68



Widening of scope of Accumulated profits for the purposes of Dividend [Amendment to Section 2(22) of the Act]: -

Section 2(22) provides the definition of the “dividend” and dividend includes distribution of **accumulated profits** by Company to its shareholders.

At Present, Explanation 2 of the said Section defines the term “accumulated profits”, which include all profits of the Company up to the date of distribution or payment or liquidation.

At Present there is no clarity with respect to accumulated profits or losses in case of amalgamation arrangement. There were instances where a large Company having huge accumulated profits, amalgamated into a smaller Company that had little or no profits. This is done to avoid payment of tax on distribution of profits by large Company.

With a view to curb such abusive arrangement, **it is now Proposed** to insert a new Explanation 2A to said Section to widen the scope of the term “accumulated profits, so as to provide that in case of an amalgamated Company, accumulated profit or loss in the hand of the amalgamated Company shall be **increased by** the accumulated profit of the amalgamating Company, whether capitalised or not on the date of amalgamation.

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

Provision relating to conversion of Stock-In-Trade into Capital Asset [Insertion of Section 2(24)(xiia), consequential insertion of Section 2(42A)(ba), Section 28(via) and Section 49(9) of the Act]:-

At Present, conversion of Capital Asset into Stock-In-Trade is chargeable to tax. However, existing law does not provide for taxability in case where the Stock-In-Trade is converted into or treated as a Capital Asset.



It is now Proposed to insert various Sections in the Act so as to provide taxability effects in case where Stock-In-Trade is converted into or treated as a Capital Asset, which is tabulated as under: -

Particulars	Conversion of Capital Asset into Stock-In-Trade	Conversion of Stock-In-Trade into Capital Asset
Governing Section of the Act	45(2)	28(via) r.w.s. 2(24)(xiia)
Applicable from	Existing provision	AY 2019-20 onwards
Gains up to date of conversion shall be taxed as	Capital Gain	Business Income
Gains after date of conversion shall be taxed as	Business Income	Capital Gain
Calculation of holding period for the purpose of ascertaining Short Term or Long-Term Nature of asset	From Date of Purchase of Capital Asset upto Date of Conversion of Capital Asset into Stock-in-trade	From Date of Conversion of Stock-In-Trade to Capital Asset upto Actual Date of Sale of Capital Asset.
Year of Taxability	Both Capital Gain as well as Business Income are taxable in the year of actual sale of converted Stock-in-Trade	Taxable as Business Income in the year of conversion of Stock-In-Trade into Capital Asset.
		Taxable as Capital Gain in the year of actual sale of converted Capital Asset.



Existing Provision

Example 1: - In case of conversion of Capital Asset into Stock-In-Trade: -

Particulars	Particulars
Actual Purchase Cost of Capital Asset	Rs. 100
Purchase Date of Capital Asset	1 st April 2018
Conversion of Capital Asset into Stock-In-Trade	1 st August 2018
Fair Market Value at the time of Conversion	Rs. 120
Actual Date of Sale of Stock-In-Trade	1 st July 2019
Selling price of sale of Stock-In-Trade	Rs.150

Taxability effects in case above mentioned example as per existing Provision contained in Section 45(2) is tabulated as under: -

Questions	Our Comments
Gains up to date of conversion shall be taxed as Capital Gain	Rs.20 (i.e. Rs.120-Rs.100)
Year of Taxability of Capital Gain	In AY 2020-21 (i.e. actual date of sale of Stock-In-Trade i.e.01 st July 2019)
Short Term or Long-Term Capital Gain?	Short Term Capital Gain {As period of holding is 122 days (i.e. from 01 st April 2018 to 01 st August 2018)}
Gain at the time of actual sale of Stock-In Trade shall be taxed as Business Income	Rs.30 (i.e. Rs.150-Rs.120)
Year of Taxability of Business Income	In AY 2020-21 (i.e. actual date of sale of Stock-in Trade i.e 01 st July 2019)



Proposed Amendment

Example 2: - In case of conversion of Stock-In-Trade into Capital Asset:-

Particulars	Particulars
Actual Purchase Cost of Stock-In-Trade	Rs. 100
Purchase date of Stock-in-Trade	01 st April 2018
Conversion of Stock-In-Trade into Capital Asset	1 st August 2018
Fair Market Value at the time of Conversion	Rs. 120
Actual Date of Sale of Capital Asset	1 st July 2019
Selling price of sale of Capital Asset	Rs. 150

Taxability effects in case above mentioned example is tabulated as under: -

Questions	Our Comments
Gain up to date of conversion shall be taxed as Business Income	Rs. 20 (i.e. Rs. 120-Rs. 100)
Year of Taxability of Business Income	In AY 2019-20 (i.e. actual date of conversion of Stock-In Trade in to Capital Asset i.e. 01 st August 2018)
Gain at the time of actual sale of Capital Asset shall be taxed as Capital Gain	Rs.30 (i.e. Rs. 150-Rs. 120)
Short-Term or Long-Term Capital Gain?	Short Term Capital Gain {As period of holding is 334 days (i.e. from 01 st August 2018 to 01 st July 2019)}

Above amendment shall come into force from AY 2019-20 onwards.



Aligning the scope of “Business Connection” with modified Permanent Establishment (PE) Rule to include “Dependent Agents” and “significant economic presence. [Amendment to Section 9(1) of the Act]: -

As Present, all income arising or accruing, whether directly or indirectly through or from **business connection** in India is deemed to accrue or arise in India and is taxable in India. Business connection includes business activities carried on by Non-Resident through **dependent agents**, if agent:

- is habitually authorized to conclude contracts on behalf of Non-Resident;

However, in many cases, agent acting on the behalf of the Non-Resident **only negotiates the contract but does not conclude the contract** then in that case said agent is not considered as having PE in India on behalf of the Non-Resident based on current provisions and income arising from said type of transaction shall not be taxed in India.

It is now Proposed to widen the scope of dependent agent to be qualified as PE to include agent playing **Principal Role** in conclusion of contracts by Non-Resident shall be considered as having PE in India even though he may not conclude contracts on behalf of Non-Resident.

Comparison of Provision with regard to Business Connection in India if Business activity is carried out by other person is tabulated as under: -

Particulars	Existing Provision upto AY 2018-19	Proposed Amendment
Other Person has an authority to negotiate the Contract or has a Principal role in conclusion of Contract but final authority to conclude does not lie with other person	Not considered as “Business Connection” in India	It will be treated as “Business Connection” in India



It is also Proposed that the Contract to be liable should be: -

- In the name of the Non-Resident; or
- For the transfer of the ownership or granting of the right to use, property owned by Non-Resident or that Non-Resident has the right to use; or
- For the provision of services by that Non-Resident.

It is a Common practice that various Business activities are carried out by Foreign Entity through its liaison office to promote and market its product in India. It is also seen that with digital platform easily available, the need for physical presence is reducing day by day. Accordingly, if existing provisions are to be continued, India will get very less Revenue from profits derived by Foreign Entity out of Business carried on in India. It is therefore necessary to expand the scope of "Business Connection" suitably to tax profits derived by Foreign Entity out of business carried on India whether with or without Physical Presence in India.

It is therefore proposed to provide that "**significant economic presence**" in India shall also constitute "business connection" in India.

"Significant economic presence" means: -

- Any transaction in respect of any goods, services or property carried out by a Non-Resident in India including provision of download of data or software in India if aggregate of payment arising from such transaction or transactions during the previous the previous year **exceed the amount as may be prescribed**; or
- Systematic and continuous soliciting of its business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means.

It is also Proposed to provide that the activities shall constitute significant economic presence in India, whether or not the Non-Resident has a residence or place of business in India or renders services in India.

Above amendment shall come into force from AY 2019-20 onwards.



**Royalty and FTS payment by NTRO to a Non-Resident to be tax-exempt
[Insertion of Section 10(6D) of the Act]: -**

Section 10(6C) of the Act provides exemption to Foreign Company by way of royalty or fees for technical services received in pursuance of an agreement entered into with Govt. of India for prescribed services provided in or outside India in Projects connected with **Security of India**.

Above exemption is only available to Foreign Company, which means that any Foreign Entity other than Foreign Company is not eligible for said exemption.

As there is growing need to improve intelligence information system due to growing threat from **Pakistan**, it is incumbent for India to extend the said exemption not only to Foreign Company but also to any other Foreign Entity.

It is accordingly Proposed in Section 10(6D) of the Act that income arising to Non-Resident not being a Company or Foreign Company by way of royalty or fees for technical services rendered in or outside India, to **National Technical Research Organisation (NTRO)** shall be exempt from Income Tax in India.

It is also Proposed that NTRO shall not be required to deduct TDS on such payment/credit to a Non-Resident.

National Technical Research Organisation (NTRO) is a technical intelligence agency under the National Security Advisor in the Prime Minister's Office India. NTRO acts as an agency for providing technical intelligence to other agencies on internal and external security.

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

Extending the benefit of tax-free withdrawal from NPS to non-employee subscribers. [Amendment of Section 10(12A) of the Act]: -

Particulars	Existing Provision	Proposed Amendment
<p>Sec 10(12A): -</p> <p>Exemption in respect of Withdrawal of accumulated balance from National Pension System (NPS) Trust.</p>	<p>Payment from the NPS to an employee on closure of his account or on opting out of NPS is exempt up to 40% of total amount payable.</p>	<p>Payment from the NPS to any assessee on closure of his account or on opting out of NPS shall be proposed to exempt up to 40% of total amount payable.</p> <p>This means that benefit of said exemption is proposed to be extended to all subscribers.</p>

Above amendment shall come into force from AY 2019-20 onwards.

TDS and manner of payment in respect of certain exempt entities [Amendment to Section 10(23C) and consequential amendment to Section 11 of the Act]: -

As per existing provision of Section 10(23C) and Section 11 of the Act, income derived out of charitable activities by any Fund / Institution / Trust / University / Hospital/ Medical Institution under sub-clause (iv), (v), (vi) or (via) under Section 10 (23C) of the Act or income derived from property held under Trust for Charitable Purpose is exempt, if 85% of the Income is spent for charitable purpose during the year. Further a time of 5 years is provided for carry forward of short fall in such spending for Charitable activities.

At Present, there is no restriction on payment made in cash by said above mentioned charitable trust/ institution / university / hospital/ medical institution and also there is no check whether such charitable trust/ institution / university / hospital/ medical institution deduct TDS under Chapter XVII-B of the Act as there is no disallowance of Expenditure in their hands due to non-deduction of TDS.



In order to encourage Digital Economy and bring Parity between charitable trust/ institution / university / hospital/ medical institution and other assessee with respect to Cash payment transaction and deduction of TDS, **it is now Proposed as under: -**

- Any payment made by said above mentioned Assessee otherwise by Account Payee cheque, Draft etc. (e.g.: cash) in excess of Rs. **10,000/-** to **a person on a single day** for Charitable purpose will attract disallowance of the said expense as per Section 40(3) and 40(3A) of the Act which means that for the purpose of computing 85% spending on Charitable Activities the said expenditure will not qualify;
- Disallowance of **30% of expenses** where on any payments by above mentioned assessee to Resident in respect to such expenses, TDS is not deducted as per Chapter XVII-B of the Act or if deducted but not paid on or before the due date of filing of Income Tax Return Act which means that for the purpose of computing 85% spending on Charitable Activities the said expenditure will not qualify.
- Provision of Section 10(23), Section 11 in compliance with Section 40(3), 40(3A) and 40(ia)(a) of the Act are tabulated as under: -

Particulars	Existing Provision Upto AY 2018-19	Proposed Amendment
Gross Income - (A)	Rs. 1,00,000	Rs. 1,00,000
Amount spent out of above Income for Charitable purpose by Cheque - (B)	Rs. 60,000	Rs. 60,000
Amount spend out of above Income for Charitable purpose in Cash , where cash payment to a person on a single day exceeds Rs.10,000/- (C)	Rs. 30,000	Rs. 30,000



Particulars	Existing Provision Upto AY 2018-19	Proposed Amendment
TDS not deducted out as per Law of amount incurred in Cheque (B) above - (D)	Rs. 10,000	Rs. 10,000
TDS not deducted out of amount incurred in Cash (C) above – (E)	Rs. 5,000	Rs. 5,000*
Disallowance of Expenses for determining application of 85% of income for charitable purpose to claim exemption from Income –(F)	NIL	Rs. 33,000 {i.e.30% x Rs. 10,000)+Rs. 30,000}
Total amount qualifying for spending for charitable purpose after disallowance of expenses (G=B+C-F)	Rs. 90,000 (i.e. Rs. 60,000+Rs. 30,000)	Rs. 57,000 {i.e.Rs.60,000- (30% of Rs.10,000)}
% of Amount spend out of above Income during year {H=(G)/A x100}	90%	57%
Whether condition of application of 85% of the income spent for charitable purpose during the year fulfilled?	Yes	No

*This amount is already disallowed u/s 40A(3) and hence will not be disallowed again u/s 40(a)(ia).

Above amendment shall come into force from AY 2019-20 onwards.



Exemption to specified income of class of Body/ Authority/ Board/ Trust or Commission. [Amendment of Section 10(46) of the Act]: -

At Present, any specified income arising to a **specified** Body/Authority /Board/Trust/Commission (by whatever name called) is exempt if: -

- They are established or constituted by or under Government Authority, with the object of regulating or administering any activity **for the benefit of the general public.**
- They are not engaged in any commercial activity;

At Present, the Central Government is required to **notify each specified Body/ Trust/ Authority separately** even if they belong to the same class of cases. Consequently, the whole process of approval is getting delayed.

It is now Proposed to provide that Central Government shall by way of notification exempt class of such Body/ Authority / Board/ Trust/ Commission (by whatever named called).

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

Exemption on sale of stock leftover of crude oil by Foreign Company: - [Amendment to Section 10 (48B) of the Act]: -

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 is 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.

Further Section 10(48B) of the Act 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 is also exempt subject to such conditions as may be notified by the Central Government in this behalf.



Presently, benefit of exemption is not available on sale out of the leftover stock of crude in case of termination of the said agreement.

It is now Proposed to provide that benefit of tax exemption in respect to income arising from sale out of the leftover stock will be available **even if the agreement or arrangement is terminated** in accordance with the terms mentioned therein.

Above amendment shall come into force from AY 2019-20 onwards.

Standard Deduction on salary Income [Amendment to Section 16 of the Act and consequential amendment to Section 17(2) of the Act]: -

Allowable Deductions	Existing Provision(Rs.)	Proposed Amendment (Rs.)
Travel Allowance	19,200	NIL*
Medical Reimbursement	15,000	NIL
Standard Deduction	NIL	40,000 or amount of Salary, whichever is less

*Except in case of Differently abled persons where exemption of Travel Allowance of Rs. 38,400/- (i.e. Rs. 3,200/- per month) will continue.

Overall incidence of tax is actually negative due to increase in Cess for most of the Salaried Employees who draw higher salaries. Same is illustrated below: -

Tax Calculation	Rs. Per annum	
Particulars	Existing Provision	Proposed Amendment
Basic Salary + DA (A)	19,77,200	19,77,200
Conveyance Allowance (non-taxable) (B)	19,200	-
Medical reimbursement (non-taxable) (C)	15,000	-
Other Taxable allowances (D)	5,22,800	5,57,000
Gross Salary (E= A +B+C+D)	25,34,200	25,34,200
Less: - Conveyance Allowance	(19,200)	-
Less: - Medical reimbursement	(15,000)	-



Tax Calculation		Rs. Per annum	
Particulars	Existing Provision	Proposed Amendment	
Less: -Standard deduction		(40,000)	
Income under the Head Salary	25,00,000	24,94,200	
Income Tax	5,62,500	5,60,760	
Less: Rebate u/s 87A	-	-	
Total Tax Payable after Rebate	5,62,500	5,60,760	
Add: -Surcharge	-	-	
Total Tax Payable after Surcharge	5,62,500	5,60,760	
Add: -Health & Education Cess 3% / 4%now	16,875	22,430	
Total Tax, Surcharge and Education Cess	5,79,375	5,83,190	
Extra Tax payable		3,815	

Above amendment shall come into force from AY 2019-20 onwards

Taxability of compensation in connection to Business or Employment [Insertion to Clause (e) in Section 28(ii) of the Act and consequential insertion to Section 56(2)(xi) of the Act]: -

At Present, certain type of compensation receipts are taxable as business income under Section 28 of the Act. However, there are compensation receipts in connection with termination or modification of contract related to business or employment which are not liable to tax.

Case I:

In a decision of ITAT in case of "3i Infotech Ltd. v. ACIT (ITA No. 3354 & 3355/Mum/2010)", it is held that compensation received for loss of a source of income would be a Capital Receipt. Facts of case are as under: -

- i. 3i Infotech Limited was providing back-office support service to ICICI Bank Ltd.
- ii. ICICI Bank Ltd took over the key employees of 3i Infotech Limited.



- iii. ICICI Bank Ltd paid compensation to 3i Infotech Limited for taking over of their key employees.

In above case, ITAT held that Compensation received by 3i Infotech Limited from ICICI Bank Ltd. is in nature of Capital receipt as such compensation received is towards loss of source of income of 3i Infotech Ltd and hence the Compensation received by 3i Infotech Ltd is not taxable as per Current Provisions of Law.

Case II:

There are also cases of sacked employees receiving compensation, business tycoons collecting fat no-compete fee, and trade partners who were paid a lump sum after their contracts were scrapped often ended up having taxability of such payment.

Several disputes have been referred to tax authority and higher Courts where person who were compensated argued that the amount should not be taxed as they have lost their source of earnings.

In order to overcome the above ruling & disputes, **it is now proposed** to bring compensation received by an assessee in connection with the termination or modification of contract even if it relates to compensation for loss of source of income will be chargeable to tax.

It is now Proposed to provide that compensation in connection **with termination or modification of contract related to business or employment** shall be taxable, which is tabulated as under: -

Particular	Section	Existing Provision Upto AY 2018-19	Proposed Amendment
Compensation receipts (whether revenue or capital) not in connection with termination or modification of terms of any contract related to Business	28(ii)(a)	Taxable as Business Income	Taxable as Business Income



Particular	Section	Existing Provision Upto AY 2018-19	Proposed Amendment
Compensation receipts (whether revenue or capital) in connection with termination or modification of terms of any contract related to Business	28(ii)(e)	Non-Taxable	Taxable as Business Income
Compensation receipts (whether revenue or capital) in connection with termination of the modification of terms of any contract related to employment	56(2)(xi)	Non-Taxable	Taxable as Income from Other Source

Above amendment shall come into force from AY 2019-20 onwards.

Tax treatment of transactions in respect of trading in Agricultural Commodity Derivatives [Insertion of Proviso to Section 43(5) of the Act]: -

At Present, Section 43(5) of the Act defines speculative transaction. Speculative transaction means a transaction in which a contract for purchase or sale of any commodity settled **otherwise than** by actual delivery or transfer of the commodity or scrips.

However certain transactions are to be considered as non-speculative transaction even if the contracts are settled otherwise than by actual delivery and trading in commodity derivatives carried out in recognised stock exchange which is subject to commodity transaction tax (CTT).

At Present, **Agriculture Commodity Derivatives**, which is exempt from CTT are held to be "Speculative –transactions"



In order to encourage participation in trading of Agricultural Commodity Derivatives, **it is now Proposed** to provide that transaction in respect to trading of agriculture commodity derivatives, which is not chargeable to CTT in a recognised stock exchange, shall be treated as “non-speculative” transaction.

Above amendment shall come into force from AY 2019-20 onwards.

**Full value of consideration for transfer of land or building or both
[Amendment to section 43CA, 50C and 56(2)(x) of the Act]:**

At Present, sections 43CA, 50C and 56(2)(x) deals with determination of full value of consideration in case of transfer of Land or Building or both as under:

Section	Type of transaction	Applicable in case of	Full value of consideration to be considered
43CA	Transfer of Land or building or both held as stock-in-trade	Dealer or builder	Stamp Duty Value (SDV) or Agreement value (AV) whichever is higher
50C	Transfer of Land or building or both held as capital asset	Investor or a person other than dealer or builder	SDV or AV whichever is higher
56(2)(x)	Receipt of Immovable Property in any manner	Any person	(SDV – consideration) where SDV – consideration > 50,000/- In that case, difference will be chargeable to tax

There were cases where market value is actually lower than SDV due to certain locational disadvantage of a particular property compared to some other property falling in same area for e.g. No Lift facility, Nala adjacent to a property etc.



To overcome genuine hardships faced by tax payers, **it is now Proposed** that a concession of 5% of agreement value is thought necessary and hence suitable amendments are proposed to be made in sections 43CA, 50C and 56(2)(x) of the Act.

Section 56(2)(x) is introduced in Finance Budget 2017 with effect from AY 2018-19 to bring to the tax net; the transactions where any person receives any immovable property **without consideration** or for an **inadequate consideration** and it also provides for computation of taxable amounts in those cases.

It is now Proposed to amend the method for computing taxable amounts in case of immovable property received by any person for an **inadequate consideration** which is in line with above amendments in section 43CA and 50C of the Act explained above.

Proposed amendments in 43CA, 50C and 56(2)(x) are tabulated as under:

Section	Type of transaction	Applicable	Full value of consideration to be considered	
			Existing	Proposed
43CA	Where transfer of Land or Building or both held as stock-in-trade where $AV < SDV < 105\%$ of AV	Dealer of Builder	SDV	AV
	Where transfer of Land or Building or both held as stock-in-trade where $AV < SDV > 105\%$ of AV		SDV	SDV



Section	Type of transaction	Applicable	Full value of consideration to be considered	
			Existing	Proposed
50C	Where transfer of Land or Building or both held as capital asset where AV < SDV < 105% of AV	Investor or a person other than Dealer or Builder	SDV	AV
	Where transfer of Land or Building or both held as capital asset where AV < SDV > 105% of AV		SDV	SDV
Section	Type of transaction	Applicable	Amount chargeable to tax	
			Existing	Proposed
56(2)(x)	Where SDV – AV is > 50,000/-			
	AV < SDV < 105% of AV	Any person	SDV – AV	NIL
	AV < SDV > 105% of AV		SDV – AV	SDV – AV
	Where SDV – AV is ≤ 50,000/-			
	AV < SDV < 105% of AV	Any person	NIL	NIL
	AV < SDV > 105% of AV		NIL	NIL

AV means Agreement Value

SDV means Stamp Duty Valuation



Table showing examples to depict distinction between existing and proposed amendments is as under:

Particulars	Case 1	Case 2	Case 3
Agreement Value	1,00,00,000	1,00,00,000	1,00,00,000
SDV	1,04,00,000	1,05,00,000	1,06,00,000
Full value of consideration as per existing provisions	1,04,00,000	1,05,00,000	1,06,00,000
Full value of consideration as per proposed provisions	1,00,00,000	1,00,00,000	1,06,00,000

At Present, for transactions referred to in section 43CA, where the date of agreement fixing the value of consideration and the date of registration of such transfer of asset are not the same, the full value of consideration may be taken as the stamp duty value date of the agreement **only if** any part of consideration has been received on or before the date of agreement by '**any mode other than cash**'.

It is observed that tax payers were entering into back dated MOUs to take benefit of lesser SDV and used to reflect receipts by way of **Journal Entries** in books of accounts thereby misusing the phrase '**any mode other than cash**'.

In order to curb this malpractice prevalent amongst tax payers, the Act is proposed to be amended to restrict **specific modes of receipts** which is tabulated as under:

Particulars	Existing provision upto AY 2018-19	Proposed Amendment
Mode of Receipt	any mode other than cash	by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account

The above amendment with regard to specification of mode of payment is already in existence for section 50C and 56(2)(x). The same is now introduced in section 43CA as well.

Above amendments shall come into force from AY 2019-20 onwards.

Special provision for Computing Profits and Gains of business of plying, hiring or leasing goods carriages [Amendments in section 44AE of the Act]: -

At Present Truck owners are charged to tax on Presumptive Income of Rs. 7,500/- per truck per month or actual Income whichever is higher. This provision is unfair as no distinction is made between heavy trucks and small trucks. **It is accordingly Proposed** to amend the taxation scheme of Assesseees who are in the business of plying, hiring and leasing goods carriages and who are Vehicle owners.

Qualifying business:

Where the truck owner owns 10 or less trucks at any time during the year and is engaged in the business of plying, hiring and leasing goods carriages

Taxation system:

Particulars	Existing Provision upto AY 2018-19	Proposed Amendment
In case of trucks whose 'Gross Vehicle Weight' exceeds 12,000 kgs/ 12 tonnes	Minimum Rs. 7,500 per truck per month or part of the month	Minimum 1,000 per ton of 'Gross Vehicle Weight' for every month or part of the month
In case of trucks whose 'Gross Vehicle Weight' is 12,000 kgs or less/ 12 tonnes or less		Minimum Rs. 7,500/- per month or part of the month

However, if the actual income earned is higher than that calculated as per above presumptive method, actual income will have to be offered to tax.

'Gross Vehicle Weight' means Weight certified by an authority in RC book of vehicle which is aggregate of vehicle weight and maximum truck road allowable.

Above amendment shall come into force from AY 2019-20 onwards.



Transactions not regarded as transfer [Insertion of clause (viiab) in Section 47 of the Act]: -

At Present, Section 47(via) and 47(viiaa) provides that certain transactions shall not be regarded as transfer. **It is now Proposed** to insert a provision with a view to expand the scope of section 47 and has intended to benefit non-residents with regard to transfer to certain capital assets. An analysis of clause (via), (viiaa) and proposed clause (viiab) is tabulated hereunder:

Particulars	Existing Provisions upto AY 2018-19	Proposed Amendments
I. Section 47(via) & Section 47(viiaa)		
Nature of Asset transferred	Bonds or Global Depository receipts (GDRs), Rupee denominated bonds of an Indian Company	Bonds or Global Depository receipts (GDRs), Rupee denominated bonds of an Indian Company
Type of transfer	Non-resident to Non-resident	Non-resident to Non-resident
Whether regarded as transfer	No	No
II. Section 47(viiab)		
Nature of Asset transferred	Bonds or Global Depository receipts (GDRs), Rupee denominated bonds of an Indian Company and derivatives*	Bonds or Global Depository receipts (GDRs), Rupee denominated bonds of an Indian Company and derivatives*
Type of transfer	Non-resident to any person transfer to be done on a recognized stock exchange located in any International Financial Services Center AND where the consideration is paid or payable in foreign currency	Non-resident to any person transfer to be done on a recognized stock exchange located in any International Financial Services Center AND where the consideration is paid or payable in foreign currency
Whether regarded as transfer	Yes	No

* Derivatives includes derivatives of stocks/ shares, commodities



Rationalization of the provisions of section 54EC (Amendment to Section 54EC to the Act): -

In order to rationalize the provisions of section 54EC of the Act and to restrict the scope of the said section to some extent, given below is a tabular representation of comparison of existing provisions and proposed provisions:

Particulars	Existing Provisions upto AY 2018-19	Proposed Amendment
Who should be the transferor	Any Assessee	
Which Asset should have been transferred	Any Long-Term Capital Asset	Long-Term Capital Asset being Land or building or both
What bonds should be acquired to avail exemption	NHAI bonds or REC Bonds or any other bonds as notified	
Lock-in period for bonds acquired	3 years	5 years

Above amendment shall come into force from AY 2019-20 onwards.

Exclusion of some Companies whose Resolution plan approved under Insolvency & Bankruptcy Code, 2016. [Amendment to Section 79 of the Act]:-

- Section 79 of Act provides that carry forward and set off of losses in a closely held Company shall be allowed only if there is continuity in the beneficial owner of the shares carrying **51%** or more of the voting power, on the last day of the year or years in which the loss is incurred. Thus, a significant change in beneficial ownership of a Company would lapse the losses brought forward by the Company.
- In case of Companies undergoing Insolvency & Bankruptcy proceedings as per law, one of the mode in which Company can be revived is by bringing some investor who will buy shares from the existing promoters of the Company. In such cases, the investor may be discouraged to make investment in such Company where brought forward losses are not allowed to be carried forward due to change of ownership.



- With a view not to discourage investors in making investment in such Companies, **it is now Proposed** that rigor of Section 79 with regard to non-allowability of unabsorbed losses to be carried forward in case of Companies undergoing Insolvency & bankruptcy proceedings will not apply in case the resolution plan is approved under the Insolvency & Bankruptcy Code, 2016 after affording a reasonable opportunity of being heard to the Jurisdictional Principal Commissioner or Commissioner.

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

Deductions in respect of certain incomes not to be allowed unless Return is filed by the due date [Amendment to Section 80AC of the Act]:-

- The existing Provisions contained in the Section 80AC of the Act provided that no deduction would be admissible under Section 80-IA or Section 80-IAB or Section 80-IB or Section 80-IC or Section 80-ID or Section 80-IE, unless the Return of income is furnished on or before the due date of filing Return as per Section 139(1) of the Income tax Act.
- The budget has expanded the scope of Section 80AC to include all the deductions specified under heading "C" of Chapter VIA i.e. "Deductions taken in respect of certain incomes" & not restricted to only those sections mentioned above.
- Some of the deductions have come under the ambit of Section 80AC & hence Return of Income must be filed on time to claim the benefits of such deductions. Examples of a few of those deductions are as follows: -

Sections falling under heading 'C' of Chapter VIA
80JJAA: Deduction in respect of employment of new Employees
80RR: Deduction in respect of professional income from foreign sources in certain cases
80P: Deduction in respect of income of co – operative societies
Other Sections include 80-I, 80-IA, 80-IAB, 80-IAC, 80-IB, 80-IBA, 80-IC, 80-ID, 80-IE, 80J, 80JJ, 80LA, 80-O, 80Q, 80QQA, 80QQB, 80R, 80RRA, 80RRB



- **It may also be noted that deduction u/s 80C, 80D etc. will be allowed even though the Return of Income is filed after due date as these sections are prescribed under heading "B" of Chapter VIA & not heading "C"**

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

Increase in deduction on Medical & Health expenses [Amendment to Section 80D of the Act]:-

- At Present, expenditure made towards premium on a health insurance policy or preventive health checkup or medical expenditure for a Senior Citizen is eligible for deduction subject to maximum of Rs. 30,000.
- This limit of Rs. 30,000/- has now been increased to **Rs. 50,000/-** for Senior Citizens.
- In case of a single premium health insurance policy having a cover of more than one year, the deduction shall be allowed on a proportionate basis over the duration covered by the policy, subject to the limits mentioned above.
- Also, the Section no longer differentiates between Senior Citizens & very Senior Citizens. The words 'Senior Citizen' is used to refer to both Senior & very Senior Citizens.

Above amendment shall come into force from AY 2019-20 onwards.

Increase in deduction for Medical Treatment of Severe Diseases [Amendment to Section 80DDB of the Act]:-

- Under Section 80DDB deduction can be availed for expenditure incurred towards medical treatment of specified diseases.
- The deduction can be availed by an assessee for himself or a dependent (spouse, children, parents, siblings) & in case of an HUF it can be availed for any Member of the HUF.



- **It is now Proposed** to enhance the limit of above expenditure which is explained below:

Particulars	For the medical treatment of		
	Non-Senior Citizens	Senior Citizens	Very Senior Citizens
Existing Limit (Upto AY 2018-19)	40,000	60,000	80,000
Proposed Limit	40,000	1,00,000	1,00,000

Above amendment shall come into force from AY 2019-20 onwards.

Extended tax incentive for Employment Generation [Amendment in Section 80JJAA of the Act]:-

- At Present, the deduction under Section 80JJAA of the Income Tax Act can be claimed by all Assesseees having income under the head profits and gains from business.
- This deduction is aimed at encouraging Assesseees to promote employment & reduce unemployment levels in India which has been a major cause of concern.

Present Provisions

- The deduction can be taken @ **30%** of additional cost incurred for paying the new Employees for the previous year and can be taken upto 3 assessment years (i.e. the 30% deduction would be allowed for 3 years).
- New Employees do not include:
- An Employee with emoluments (earnings) more than Rs. 25,000/- per month.
 - An Employee for whom the entire contribution is paid by the Government under the Employees' Pension Scheme.



- iii. An Employee who was employed for a period of less than **240 days** during the previous year. In case of apparel manufacturers, the minimum employment period is **150 days** for any Employee.
- iv. An Employee who does not participate in the recognized provident fund.

Proposed Amendment

- **It is now Proposed** that the requirement of minimum period of employment for any employee during any previous year for **footwear or leather products** manufacturing businesses shall be reduced from **240 days to 150 days**, in the same manner as that of apparel manufacturing businesses.
- In other words, it shall be at par with apparel manufacturing business. The same is tabulated below:
- **Minimum period of employment required by an Employee in any Previous Year in order to be eligible to claim deduction u/s 80JJAA:**

Particulars	Manufacturer of Apparels	Manufacturer of Leather & footwear products	Other businesses
Existing provision (upto AY 2018-19)	150 days	240 days	240 days
Proposed Amendment	150 days	150 days	240days

- **It is further Proposed** that if an Employee was employed during the previous year for a period less than 240days/ 150days but has fulfilled the criteria of minimum employment period in the immediately succeeding year, then the assessee shall be eligible to claim deduction for that Employee in the succeeding year as if he is employed in that succeeding financial year. This can be explained in the following illustration:



Particulars	FY 2018-19	FY 2019-20
Employee 'A' joining on	01 st February 2019	N.A.
His Salary for the F.Y.	40,000	2,40,000
Deduction u/s 80JJAA in respect of Employee 'A'	NIL*	72,000 [#]

* As he had not completed the minimum employment period of 240 days in FY 2018-19

As he has completed the minimum employment period of 240 days in FY 2019-20 i.e. in the immediate succeeding year.

- This deduction shall be available only if the Income Tax Return is filed on or before the due date under Section 139(1) by virtue of amendment made in Section 80AC of the Act.

Above amendment shall come into force from AY 2019-20 onwards.

Measures to promote Start-Ups [Amendment of Section 80-IAC of the Act]:-

Section 80-IAC of the Income Tax Act, provides that deduction of 100% of profits derived from the specific business shall be available to an eligible start-up for three consecutive assessment years out of seven years at the option of the assessee. Following are the amendments made in this Section:

Existing Provisions (upto AY 2017-18)	Amended Provisions (from AY 2018-19)
(i) it is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, 2019;	(i) it is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, 2021;



Existing Provisions (upto AY 2017-18)	Amended Provisions (from AY 2018-19)
(ii) the total turnover of its business does not exceed twenty-five crores Rupees in any of the previous years beginning on or after the 1st day of April, 2016 and ending on the 31st day of March, 2021	(ii) the total turnover of its business does not exceed twenty-five crores Rupees in any of the "seven previous years beginning from the year in Which it is incorporated" .
(iii) it is engaged in the eligible business which involves innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.	(iii) It is engaged in eligible business which involves innovation, development or improvement of products or processes or services, or a scalable business model with a high potential of employment generation or wealth creation.

Thus, the Government with a view to enhance growth of startups in India has extended the time limit of incorporation by 2 more years along with widening its scope of activities which startups can engage into by modifying the definition of 'Eligible Business'.

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

Deduction in case of Producer Companies [Insertion of new Section 80PA]:-

- A new Section 80PA is proposed to be inserted where Producer Companies (as defined under Companies Act, 2013) will be eligible for deduction of an amount equal to 100% of profit and gains of eligible businesses during a previous year, provided the total turnover of the Company is less than 100 crore rupees.
- A Producer Company is a Company registered with an objective of producing, harvesting, procurement, grading, pooling, handling, marketing, selling, and export of primary produce of the Members or import of goods such as machinery and services such as consultancy services etc. to its Members for their benefit.



- Primary Produce means Produce of Farmers
- This deduction shall be available for a period of 5 Assessment Years i.e. from AY 2019-20 to AY 2024-25 from agriculture, animal husbandry, horticulture, floriculture etc.
- An Eligible business for this section means:
 - The marketing of agricultural produce grown by the Members; or
 - The purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to the Members; or
 - The processing of the agricultural produce of the Members;
- The Profits & Gains of eligible business should form part of the Gross Total Income of the Company.
- The total deduction under this Section should not exceed the Gross Total Income of the assessee. Therefore, it is restricted to Gross Total Income of assessee less deductions taken under any other provisions of Chapter VIA.
- The objective of introducing such Section is to promote the agricultural sector which has been a key highlight of Union Budget, 2018.
- This deduction shall be available only if the Income Tax Return is filed on or before the due date under Section 139(1) by virtue of amendment made in Section 80AC of the Act.

Above amendment shall come into force from AY 2019-20 onwards.



Increase in deduction for interest on deposits [Amendment in Section 80TTA of the Act and insertion of Section 80TTB]:-

Table showing Comparison of Section 80TTA with proposed Section 80TTB applicable from AY 2019-20 onwards:

Particulars	Section 80TTA	Section 80TTB
Applicability to	Non Senior Citizen Individuals and HUF's	Senior Citizens
Nature of deduction	Interest from savings accounts in banks, post office.	Interest from all deposits (FD, term deposits, savings, etc.)
Quantum of deduction	Upto Rs. 10,000	Upto Rs. 50,000

Above amendment shall come into force from AY 2019-20 onwards.

Verification of Return of Income in Certain Cases [Amendment to Section 140 of the Act]: -

At Present, Section 140 deals with Persons who shall verify Return of Income filed by various types of Person.

Currently, there is no provision contained in Section 140 of the Act for verification of Return of Income of Companies, who has made an application for Corporate Insolvency Resolution Process under Insolvency and Bankruptcy Code, 2016, which has been admitted.

It is now Proposed to amend Section 140 of the Act so as to provide that Return of Income of the said Companies shall be verified by Insolvency Resolution Professional duly appointed by the Adjudicating Authority under the Insolvency & Bankruptcy Code, 2016.

Resolution Professional duly appointed is an independent authority who shall be issuing instructions to Board of Directors, Auditors, Financial Institution etc. and accordingly shall be in charge of the affairs of the Company.



It is necessary that such independent authority should verify the Return of such Companies going into liquidation so that chances of manipulations, if any, by Board of Directors are eliminated.

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

Rationalization of prima-facie adjustments during processing of Return of Income [Amendment to Section 143 of the Act]: -

Section 143(1) provides for processing of Return of Income filed under Section 139, or in response to a notice u/s 142(1).

Section 143(1)(a) provides that at the time of processing of Return, the total income or loss shall be computed after making certain adjustments which are specified in clauses (i) to (vi) of the said Section.

The existing Section 143(1)(a)(vi) provides for adjustment in respect of additions to total income out of entries appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income by an Assessee in the Return of Income filed.

Above Provision led to unwarranted additions to the total income as, at times, Deductor files incorrect TDS Return with PAN of wrong assessee. With the result, the said income was incorrectly included in the hands of wrong assessee at the time of processing an intimation u/s 143(1)(a) of the Act.

It is also possible that, if a Recipient is declaring income on receipt basis in subsequent year whereas the Deductor has reflected the TDS in earlier year, there is a possibility that there can be additions to total income in the hands of Recipient in earlier year based on entries appearing in Form 26AS.

In order to overcome the above genuine hardship to the assessee, **it is now Proposed** that **No Adjustments** shall be made under Section 143(1)(a)(vi) of the Act in respect of difference in 26AS or Form 16 or Form 16A while processing the Return of Income.

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



New scheme for scrutiny assessment [Amendment to Section 143 of the Act]: -

Section 143 of the Act provides for the procedure for assessment.

At Present, Section 143(3) empowers the Assessing Officer to make, by an order in writing, an assessment of total income or loss of the Assessee, and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

It is now Proposed to amend the Section 143, by inserting 3 new sub-sections, namely, (3A), (3B) and (3C) after sub-section (3),

- **Section 143(3A): It is now Proposed** to notify a new scheme for assessment where the assessment will be done in electronic mode which will almost eliminate person to person contact leading to greater effectiveness, efficiency and transparency and it will also help in reducing corruption to a great extent.
- **Section 143(3B):** The Central Government may direct, by notification in the Official Gazette, that any of the provisions of this Act relating to assessment shall not apply, or shall apply with such exceptions, modifications and adaptations as may be specified therein. However, no such direction shall be issued after the 31st March 2020.
- **Section 143(3C):** Every notification issued u/s 143(3A) and 143(3B) shall be laid before each House of Parliament, as soon as may be.

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



Amendments to Section 145, consequential amendment in Section 36, Section 40A, Section 145A and insertion of Section 43AA, Section 43CB and Section 145B of the Act in relation to notified Income Computation and Disclosure Standards: -

At Present, Section 145 of the Act empowers the Central government to notify Income Computation and Disclosure Standards (ICDS). In pursuance to the same, the Central Government has notified 10 such ICDS effective from 1st April 2017 relating to Assessment year 2017-18. These are applicable to all Assesses (other than an individual or a Hindu undivided family who are not subject to tax audit under Section 44AB of the said Act) for the purposes of computation of income chargeable to income-tax under the head "Profits and gains of business or profession" or "Income from other sources".

Chamber of Tax Consultants had filed writ petition against the provisions of ICDS which has the effect of over ruling the decision of various Courts, and Legal Provisions. In pursuant to the writ petition filed by Chamber of Tax Consultants, **Delhi High Court in the case of the Chamber of Tax Consultants & Anr Vs. Union of India & Ors** held that wherever the ICDS amended the judicial pronouncements and Income Tax provisions, it should be brought by the legislature and not the executive.

With a view to provide parliamentary accent and constitutional validity to the ICDS, in the wake of judgment of High Court of Delhi on the issue of applicability of ICDS **it is now Proposed** to amend and insert various Sections of the Act to give effects of various provisions of ICDS at par with provisions of Income Tax Act only, same is tabulated as under: -



ICDS	Provisions of ICDS	Proposed Insertion or Amendment to Section of the Act covering provisions of ICDS
ICDS VI – Effects of Changes in Foreign	<ol style="list-style-type: none">1. Mark-to-Market Loss is allowed in case of inventory and Foreign Currency Monetary Items only by ICDS II and ICDS VI.2. Marked – to - Market gain/ loss in case of foreign exchange contract held for trading or speculation purpose cannot be recognized as Income/ Expenses till such time they are eventually settled.	Section 36(1)(xviii) and corresponding amendment in Section 40A of the Act.



ICDS	Provisions of ICDS	Proposed Insertion or Amendment to Section of the Act covering provisions of ICDS
	<p>Exchange gain/(loss) arising on conversion of Non-monetary foreign currency (such as inventory, fixed assets, share investments, investment in associates etc.) items into reporting currency at the last day of previous year shall not be recognized as income or as expense in that previous year, subject to sec.43A of the Act.</p> <p>Section 43A is applicable for a foreign currency liability in respect to fixed asset acquired from country outside India and exchange difference in said type of transaction shall be adjusted against cost of asset in the year payment of corresponding liability.</p> <p>Therefore, in case of foreign currency liability for purchase of an asset in India, Section 43A of the Act will not be applicable and exchange gain/(loss) on said type of transaction shall not be recognized as income or as expense in that previous year even if payment was made against corresponding liability.</p>	<p>Section 43AA of the Act.</p>



ICDS	Provisions of ICDS	Proposed Insertion or Amendment to Section of the Act covering provisions of ICDS
ICDS VI – Effects of Changes in Foreign	Exchange gain/(loss) arising on conversion or settlement of Monetary foreign currency items into reporting currency at last day of the previous year shall be recognized as income or expenses in that previous year.	Section 43AA of the Act.
ICDS III – Construction Contracts	<p>Retention money would be a part of the contract and the same has to be assessed to tax based on “proportionate computation” method.</p> <p>Para 12 of ICDS III also deals with incidental income related to contract which do not form part of contract revenue shall be reduced from Contract Cost.</p> <p>Example of Incidental Income: - Sale of Surplus materials, disposal of plant and equipment at the end of contract.</p> <p>Incidental income not related to contract for this purpose does not include income in the nature of interest, dividend and capital gains and these incomes shall be taxed separately in accordance with applicable provisions of the Act.</p>	Section 43CB of the Act.



ICDS	Provisions of ICDS	Proposed Insertion or Amendment to Section of the Act covering provisions of ICDS
ICDS IV – Revenue Recognition	Revenue from Construction Contracts (other than service contract) shall be recognized by the % completion method .	Section 43CB of the Act
	Revenue from Service Contracts shall be recognized as under: - a) If duration of Services Contract is 90 days or less, then Project Completion Method; b) If duration of Service Contract is more than 90 days, then % Completion Method ; c) If duration involving indeterminate number of acts over a specified period of time, then Straight-Line Method (SLM).	
ICDS II – valuation of Inventories	Inventory shall be valued at lower of actual cost or net realizable value (NRV) . Valuation of purchase and sale of goods or services and sale of goods or services and inventory should be by inclusive method i.e. by including all taxes actually paid or incurred by the assessee to bring the goods to the place of its location and condition [#]	Section 145A of the Act.



ICDS	Provisions of ICDS	Proposed Insertion or Amendment to Section of the Act covering provisions of ICDS
ICDS VIII – Valuation of Securities	<p>a) Securities held as inventory, not listed or listed but no quoted on recognized stock exchange shall be valued at Cost initially recognized.</p> <p>b) Listed Securities held as inventory shall be valued at “lower of actual cost or net realizable value”. However, for purpose of comparison of actual cost and net realizable value, value shall be done category wise and not individual scrip wise.</p> <p>(*Example of the same is illustrated below)</p>	
ICDS IV – Revenue Recognition	<p>Recognition of income from export incentive in the year of making of the claim, if reasonable certainty of its realization is achieved.</p> <p>Recognition of interest income received on compensation or on enhanced compensation in the year of receipt.</p>	Section 145B of the Act.
ICDS VII – Government Grants	<p>Recognition of income with respect to government grants cannot be postponed beyond the date of actual receipt, if not charged to tax in an earlier year.</p> <p>In other words, income has to be recognized on receipt basis which may not have accrued.</p>	



*Example of the valuation of listed securities held as inventory is tabulated as under: -

Valuation as per Existing Provision: -

Particulars	Cost	NRV	Lower of Cost of NRV (Script Wise)
Share A	100	120	100
Share B	100	70	70
Total	200	190	170
Valuation as per Existing Provision Rs. 170/-			

Valuation as per Proposed Amendment: -

Particulars	Cost	NRV	Valuation to be done category-wise
Share A	100	120	-
Share B	100	70	-
Total	200	190	-
Valuation as per Proposed Amendment Rs. 190/- (Lower of Cost or NRV in totality)			

#Note:

For Inventory, Purchase & Sale of Goods or services: - By Inclusive Method i.e. by including all taxes actually paid or incurred by the assessee to bring the goods to the place of its location and condition.

Concept of Valuation of Services is not described in the existing provisions of Section 145A but due to introduction of GST, the valuation of **Services** is also inserted in New Section 145A.

There are certain Tribunal Rulings which held that Provisions of Section 43B does not apply to outstanding service tax as service tax is not required to be debited to Profit & Loss Account as Section 145A does not apply to Services.



However, due to introduction of valuation of services on inclusive basis in the accounts, for the first time in the current budget proposal, it will allow department to disallow outstanding GST Liability u/s 43B of the Act.

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

TDS on Interest on 7.75% GOI Savings (Taxable) Bonds, 2018 [Amendment to Section 193 of the Act]: -

Government is introducing new bonds carrying fixed rate of interest called 7.75% GOI Savings (Taxable) Bonds, 2018.

These bonds will replace existing 8% GOI Savings (Taxable) Bonds, 2003

The comparison between both the types of bonds and relevant income tax provisions applicable to both is tabulated below: -

Particulars	Existing 8% GOI Savings (Taxable) Bonds, 2003	Proposed 7.75% GOI Savings (Taxable) Bonds, 2018
Effective From	01 st April 2003	01 st April 2018
Interest Rate	8% Per Annum	7.75% Per Annum
Limit of Investment	Minimum Rs. 1,000/- Maximum – No Limit Investment should be made in multiples of Rs. 1,000/-	Minimum Rs. 1,000/- Maximum – No Limit Investment should be made in multiples of Rs. 1,000/-
TDS is deducted at the time of	Payment or Credit of such Interest Whichever is earlier	Only on Payment of Interest
Exemption from TDS Deduction	Upto Rs. 10,000/-	Upto Rs. 10,000/-
Tenure	6 Years	7 Years
Payment of Interest	Half Yearly Basis	Half Yearly Basis



Particulars	Existing 8% GOI Savings (Taxable) Bonds, 2003	Proposed 7.75% GOI Savings (Taxable) Bonds, 2018
Option of Interest	Cumulative/ Non-Cumulative	Cumulative/ Non-Cumulative
Facility of Collateral Security	Available	Available
Eligible Investors	Individual & HUF	Individual & HUF

The Income Tax related provisions shall be applicable from AY 2018-19 onwards.

Tax on Long term capital gain in certain cases [Insertion of New Section 112A of the Act] and Income not included in total income [Consequential Amendment under Section 10(38) of the Act]: -

At Present Section 10(38) provides exemption of Income from LTCG on sales of Equity Shares or any Equity-Oriented Fund or a Unit of a business trust **(hereinafter referred to as "The Said Assets")** subject to certain conditions, without any monetary limit.

It is now Proposed that Long Term Capital Gain on transfer of said Assets shall be taxed @ 10%.



Salient features of new scheme of Taxation of such type of Income is explained below:

Nature of Income	Proposed Long Term Capital Gain
Type of Capital Asset	Transfer of an Equity Share in a Company or Units of any Equity-Oriented Fund or Units of a business trust.
Conditions to be fulfilled to be eligible for Concessional Rate of Tax	<p>A) Equity Shares: - STT to be paid at the time of acquisition and transfer. However, for certain mode of acquisition, STT is not required to be paid at the time of acquisition, which will be notified.</p> <p>B) Units of any Equity Oriented Fund or Units of Business Trust STT to be paid at the time of transfer.</p> <p>However, not applicable if a Unit of any Equity-Oriented Fund or a Unit of a business trust if transfer is undertaken on recognized stock exchange in any International Financial Services Centre (IFSC) and consideration received or receivable in foreign currency.</p>
Tax Payable	<p>A) Special Rate of Tax 10% of (LTCG on Sale of "said assets" – Rs. 1,00,000/-)</p> <p>B) Normal Tax On balance income as per normal Rates.</p>
Cost of Acquisition of Capital Asset acquired before 1st February, 2018	<p>Higher of A or B</p> <p>A) Actual Cost of Acquisition. And</p> <p>B) Lower of,</p> <ul style="list-style-type: none">- Fair Market Value.- Selling price received on transfer.



Nature of Income	Proposed Long Term Capital Gain
Fair Market Value	<p>Where Capital Asset is listed, the highest price quoted on stock exchange on the 31st January, 2018.</p> <p>If there is no trading on 31st January, 2018 then the highest price quoted on immediately preceding date from 31st January, 2018.</p> <p>Where Capital Asset is not listed, the Net Asset Value as on 31st January, 2018.</p>

Summary of Proposed Taxability of Long Term Capital Gains Equity Shares from AY 2019-20 Onwards: -

Nature of Shares	Resident Investor		Non – Resident Investor	
	Rates	Indexation	Rates	Indexation
Unlisted Shares	20%	With Indexation	10%	Without Indexation
Listed Shares (Sold off market)	10%	Without Indexation	10%	Without Indexation
	20%	With Indexation		
Listed Shares (STT paid on sales & purchase)	10% (Exceeding Rs. 1 Lakh)	Without Indexation	10% (Exceeding Rs. 1 Lakh)	Without Indexation

Following additional points are proposed:

- No Indexation benefit shall be available for computing Special tax payable on Long Term Capital gain on Sale of said Assets.
- No deduction is allowable under chapter VIA on the said Income.



- No rebate under Section 87A is allowable in respect of said Special tax computed.
- Though it is announced by Government that LTCG upto Rs. 1,00,000/- is exempt, there is no Provision to that effect in the Proposed Amendments.
- If any Assessee does not have any other income sufficient to absorb limit of maximum amount not chargeable to tax (hereinafter referred to as "Shortfall") then the amount of LTCG of the said Assets shall be reduced to the extent of Shortfall and only on balance LTCG, special Rate of tax @ 10% will apply.

E.g. Working of Tax Rate as per Proposed amendment in Section 112A of the Act [Applicable from AY 2019-20 onwards]:

Particulars	Case 1	Case 2
Date of Purchase	01 st April 2014	01 st April 2014
Actual Cost of Acquisition	Rs.10,00,000	Rs.10,00,000
Fair Market Value as on 31st January, 2018	Rs.15,00,000	Rs.15,00,000
Selling Price in FY 2018-19	Rs.20,00,000	Rs.7,00,000
Adjusted Cost of Acquisition	Rs.15,00,000	Rs.10,00,000
Tax Payable u/s 112A	Rs. 40,000 [20,00,000-15,00,000] = 5,00,000 [5,00,000-1,00,000]*10%	(Rs.0) [7,00,000-10,00,000] =(3,00,000)



E.g. Working of Long Term Capital Gain on Sale of Listed Equity Shares as per existing Section 45 of the Act [Upto AY 2018-19]:

Particulars	Case 1	Case 2
Date of Purchase	01 st April 2014	01 st April 2014
Cost of Acquisition	Rs.10,00,000	Rs.10,00,000
Indexed cost of acquisition	Rs.11,33,000 [10,00,000*272/240]	Rs.11,33,000 [10,00,000*272/240]
Sale in FY 2018-19	Rs.15,00,000	Rs.7,00,000
Long Term Capital Gain	Rs.3,67,000	(Rs.4,33,000)
Tax Payable	NIL	NIL

CASE STUDY:

The facts are as under:

- Mr. S has acquired 1000 Equity Shares of M/s L. Ltd. two years back, say on 1st January, 2016 at the rate of Rs 500/- per share. Thus, the total cost was Rs 5,00,000/-
- The fair market value as on 31st January 2018 is Rs 800/- per share.
- Mr. S Proposes to sell these shares on-
 - Before 31st March, 2018(say on 21st March, 2018)
 - After 31st March, 2018 (say on 4th May, 2018)
- The realizable value of shares of L Ltd. on recognized stock exchange on these dates are as under:
 - On 21st March, 2018, Rs. 1,200/- per share.
 - On 4th May, 2018, Rs. 1,300/- per share.
- There is no other transaction resulting into long term capital gain on sale of shares and/or Units of Equity-Oriented Fund/ business trust.
- All other conditions are assumed to have been complied with.

Question: What would be the tax payable on sale of shares in above two scenarios?



Solution:

Particulars	Notations	Sale of Shares before 31 st March 2018	Sale of Shares After 31 st March 2018
Name of the Script	A	L Ltd	L Ltd
Date of Purchase	B	01 st January 2016	01 st January 2016
Number of shares	C	1000	1000
Cost per share	D	Rs. 500	Rs.500
Total cost	$E = C \times D$	Rs.5,00,000	Rs.5,00,000
FMV per share as on 31/01/2018	F	Rs.800	Rs.800
Date of sale	G	21 st March 2018	04 th May 2018
Sale price per share	H	Rs. 1,200	Rs. 1,300
Gain/(Loss) per share	$I = H - D$ $I = H - F$	Rs.700	Rs.500
Total gain/(loss)	$J = C \times I$	Rs.7,00,000	Rs. 5,00,000
Tax payable	K	Nil	Rs. 40,000 [#]

*[K=10% of (J - 1,00,000)]

NOTES: -

- Section 112A is overriding to Section 112 with respect to LTCG on transfer of "Said Assets".
- For Intra Source set off under Section 70, for Intra Head set off under Section 71 & for Carry Forward of Losses under Section 74 the Provisions of Section 45 to 48 with respect to Computation of Capital Gain to be applied respectively instead of Section 112A.
- Disallowance under Section 14A in respect of Investment in Equity Shares of Listed Companies may not apply from AY 2019-2020 as LTCG are liable to tax.
- Section 112A only deals with Computation of Tax payable on LTCG on transfer of said Assets, it does not compute Income under the head "Capital Gains".



- Similarly, Gains earned by Equity Oriented Mutual Fund which are distributed by way of Dividend are liable @10% of tax on Dividend Income u/s 115R of the Act to as to bring Parity between Growth Fund & Regular Income Fund.

Above amendment shall come into force from AY 2019-20 onwards.

Consequential Amendment under Section 10(38) of the Act: -

Long Term Capital Gain Exemption in respect of listed STT paid Equity Shares **is Proposed** to be withdrawn as the said income is proposed to be taxed u/s 112A of the Act.

Above amendment shall come into force from AY 2019-20 onwards.

Tax on income of Foreign Institutional Investors from Securities or Capital Gains arising from their transfer [Amendment to Section 115AD of the Act]: -

At Present LTCG of a Foreign Institutional Investor (FII) from transfer of certain securities is taxable at the rate of 10%. However, LTCG from transfer of Equity Shares or a Unit of Equity-Oriented Fund or a Unit of business trust is exempt under Section 10(38) of the Act.

It is now Proposed that Income of Foreign Institutional Investors by transfer of Long Term Capital Assets as referred in Section 112A exceeding Rs. 1 Lakh will be taxed @ 10% on the same line as that of Resident.

Above amendment shall come into force from AY 2019-20 onwards.

Tax on income of certain Domestic Companies [Amendment to Section 115BA of the Act]: -

At Present, newly setup Domestic Companies engaged in the business of manufacture or production of article or thing, are given option to tax rate @ 25% subject to fulfill certain conditions. If the said option is selected then tax on STCG & LTCG are liable to tax as per Section 111A & Section 112 respectively.



It is now Proposed that, except business income from manufacture or production of article or thing, all other income of the nature specified in Chapter XII will be liable as per rates specified in relevant provisions contained in Section 110 to 115BBG of the chapter XII.

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

Tax on income referred to in Section 68 or Section 69 or Section 69A or Section 69B or Section 69C or Section 69D [Amendment to Section 115BBE of the Act]: -

At Present, Section 115BBE of the Act provides that any income of the nature of unexplained cash credit, unexplained Investment, unexplained expenditure etc. is either declared in the Return of Income or determined by the Assessing Officer, said income will be taxed at a flat rate of 60% without any basic exemptions. It is further provided that in case of income declared in Return of Income, no deduction in respect of expenditure or allowances or setoff of any loss will be allowed.

From the above existing provision, it can be interpreted that, where such income is determined by the Assessing Officer, the deduction of expenditure or allowances or setoff of any loss are allowed.

This is unintended and hence **it is now Proposed** that even in case where such type of income is determined by the assessing officer, no deduction of expenditure or allowances or setoff of any loss allowed.

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



Special provision for payment of tax by certain Companies [Amendment to Section 115JB of the Act]: -

At Present Section 115JB deals with Minimum alternate tax (MAT) on the "book profit" of a Company. Amount of loss brought forward or unabsorbed depreciation whichever is less is deducted while calculating Book Profit under Section 115JB. No deduction is allowed where loss brought forward or unabsorbed depreciation is "NIL".

A Company undergoing insolvency proceedings under the insolvency and Bankruptcy Code (IBC) is likely to undergo debt write-back or restructuring. Such write-back off or waiver of the debt leads to a higher 'Book Profit' and consequential higher Minimum Alternate Tax (MAT) liability. This had led to significant additional tax cost and was posing challenges to effective implementation of such proceedings.

With a view to provide relief to those Companies who are undergoing insolvency proceedings a relief in quantum of Minimum Alternate Tax (MAT) liability is necessary to provide much needed Liquidity to such Companies.

It is therefore Proposed to allow **aggregate amount of unabsorbed depreciation and loss brought forward** as a deduction from "book profit" to Companies in whose case an application for corporate insolvency resolution process has been admitted by the adjudicating authority.

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

Further, it is now Proposed to insert Explanation 4A which seeks to clarify the applicability of Minimum Alternate Tax (MAT) provisions to Foreign Companies.

The Explanation states that Section 115JB will not be applicable to the Foreign Company having income comprises solely of profits and gains from business of shipping or exploration of mineral oils or operation of aircraft or civil construction in certain turnkey power projects.

Above amendment shall come into force retrospectively from **AY 2001-02** onwards



Special provisions for payment of tax by certain persons other than a Company [Amendment to Section 115JC & 115JF of the Act]: -

At Present Section 115JC provides for Alternate Minimum Tax (AMT) at the rate of 18.5% of adjusted total income in case of a non-corporate Entity. Further Section 115JF provides rate of Alternate Minimum Tax (AMT) applicable.

There is no concession or exemption from payment of AMT to the Units located in International Financial Service Centre if the consideration is paid or payable in foreign currency. In other words, said Units are taxed in the same manner as any other person.

With a view to provide concession to such Units, **it is now Proposed** that the said Unit shall be charged to Alternate Minimum Tax (AMT) @ 9% instead of 18.5%.

Above amendment shall come into force from AY 2019-20 onwards.

Tax on distributed profits of Domestic Companies [Amendment to Section 115-O of the Act]: -

At Present Deemed Dividend under Section 2(22)(e) is taxed in the hands of Shareholder at applicable Marginal Rate under the head Income from Other Sources.

With a view to bringing clarity & certainty in the taxation of Deemed Dividends **it is now Proposed** to bring Deemed Dividend also under scope of dividend distribution tax u/s 115-O. Further such deemed dividend has to be taxed at the rate of 30% without grossing up in order to prevent camouflaging dividend in various ways such as granting loans & advances to Shareholders. Which means that Companies shall be liable to tax on Deemed Dividend and not shareholders.

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



Tax on distributed income to Unit holders [Amendment to Section 115R of the Act]: -

Distributor	Unit Holder	Existing rate Upto AY 2017-18	Proposed rate
Money Market Mutual Fund or Liquid Fund	Individual or HUF	25%	25%
	Any other person	30%	30%
Equity Oriented Fund	Individual or HUF	-	10%
	Any other person	-	10%
Other than Money Market Mutual Fund or Liquid Fund or Equity Oriented Fund	Individual or HUF	25%	25%
	Any other person	30% (excluding Equity Oriented Fund)	30%

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

Permanent Account Number (PAN) [Amendment to Section 139A of the Act]: -

At Present this Section mandates obtaining of PAN to certain persons.

It is now Proposed to extend the applicability of this Section to other than individual (here and after refer to as "such entity"), who enters into financial transaction of an amount aggregating to Rs. 2.50 lacs or more in financial year will have to take PAN.

Alternatively, **it is also Proposed** to extend the applicability of this Section to Managing director, Director, Partner, Trustee, Author, Founder, Karta, Chief Executive Officer, Principal officer or Office bearer of such entity shall take PAN on behalf of such entity if such entity due to any such reason not able to take PAN.

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



Amendments to the structure of Authority for Advance Rulings (AAR) [Amendment to Section 245-O & 245Q of the Act]: -

With a view to promote ease of doing business it was enacted in Finance Act, 2017 to merge the authority of Advanced Ruling for Income Tax, Central Excise, and Custom Duty & Service Tax.

In Current Budget **it is now Proposed** to appoint a separate AAR under Customs Act, 1962 dealing with matters connected to Customs Duty. Accordingly, **it is now Proposed** that such authority shall cease to act as an authority for advanced ruling, and shall act as an appellate authority for the purpose of Customs Act, 1962 from the date of appointment of Customs Authority for advanced Ruling.

So, AAR will perform following functions: -

1. Act as AAR for Income Tax Act, 1962, Central Excise & Service Tax.
2. Act as an Appellate Authority for Customs Act.

It is also provided that AAR appointed under Income Tax Act, shall not admit cases as an appellate Authority in respect of orders passed by itself in the capacity of Authority for Advanced Ruling prior to proposed amendment.

It is also Proposed that Revenue Member who shall be part of AAR shall only be from Indian Revenue Service and not from Custom & Central Excise Department for the reasons that said Member from Custom & Central Excise will serve as part of Customs Authority for Advanced Ruling.

Consequential Amendment is made in Section 245Q of the Act

Section 245Q deals with Application for Advanced Ruling under Laws of Income Tax, Central Excise, Custom Duty & service Tax.

It is now Proposed to omit application under Customs Act for obvious reasons as application under Custom Act will be made under a newly constituted authority, namely, Customs Authority for advanced Ruling.

Above amendment shall come into force from AY 2019-20 onwards.



Appeal against penalty imposed by Commissioner (Appeals) under Section 271J [Amendment to Section 253(1) of the Act]: -

Section 253(1) deals with list of Appealable Orders before Income Tax Appellate Tribunal (ITAT)

In Last year's Budget, a new penalty on Professional was introduced for the first time in Section 271J of the Act.

However, consequential Amendment in Section 253(1) was not made so as to include Penalty Order passed by Commissioner (Appeals) as Appealable Order under Section 253(1) of the Act.

The said mistake is sought to be rectified by proposing an Amendment in Section 253(1) of the Act seeking to include Order u/s 271J passed by Commissioner (Appeals) as an appealable order before ITAT.

Above amendment shall come into force from AY 2019-20 onwards.

Penalty for failure to furnish statement of financial transaction or reportable account [Amendment to 271FA of the Act]

At Present, Penalty under Section 271FA of the Act provides for Penalty for failure to furnish a statement of financial transaction or reportable account. Notified financial transactions to be reported by an assessee are prescribed in Section 285BA which are as under: -

- transaction of purchase, sale or exchange of goods or property or right or interest in a property;
- transaction for rendering any service;
- transaction under a works contract;
- transaction by way of an investment made or an expenditure incurred;
- transaction for taking or accepting any loan or deposit;

which may be prescribed.



It is now Proposed to enhance the penalty for not furnishing the information as required under Section 285BA to Rs.500/- per day as against existing penalty of Rs.100/- per day.

Further, at Present, it is provided in Section 285BA (5) of the Act in case a person does not furnish the statement of Financial information, the prescribed Income Tax Authority may serve upon the said person a notice requiring him to furnish the said information within 30 days from the date of service of the said notice.

At Present, penalty for not filing the said Statement in response to notice by Income Tax Authority within 30 days, is Rs. 500/- per day of continuing default.

The said Penalty **is Proposed** to be enhanced to Rs.1000/- per day from existing penalty of Rs. 500/- per day.

Above amendment shall come into force from AY 2019-20 onwards.

Penalty for failure to furnish statement of financial transaction or reportable account [Amendment to Section 276CC of the Act]

At Present, 276CC provides for action of prosecution for willful failure of furnishing Return of Fringe Benefit or Return of Income by any assessee.

It is also provided that if tax payable by a Person, who has willfully failed to furnish Return of Income, after deducting TDS & Advance Tax, is less than Rs.3000/-, then no action of prosecution shall be taken against the said Person.

It is now Proposed that the said exemption from prosecution shall not apply to Company Assessee. Which means that Company Assessee can be prosecuted even if tax payable after deducting TDS & advance is less than Rs. 3,000/-.

Above amendment shall come into force from AY 2019-20 onwards.



Rationalization of provisions relating to Country-by-Country Report [Amendment to Section 286 of the Act]

At Present, Section 286 requires a Parent Entity or Alternate Reporting Entity resident in India, to furnish a Report to the prescribed authority with regard to International Group on or before the due date for furnishing the Return of Income as specified in Section 139(1) of the Act.

The said due date for filing of Report mentioned above **is proposed** to be extended to, within a period of 12 months from the end of reporting accounting year.

At Present, as per provisions of Section 286(4), there is another report to be furnished by Constituent Entity of an International Group, who is resident of India, in respect of International Group for a reporting accounting year if the Parent Entity is a resident of a Country or Territory with whom India does not have an Agreement for exchange of information or if the said country or territory fails to provide information.

Contents of Report of Parent Entity or Alternate Reporting Entity are prescribed in Section 286(3) of the Act. However, there was no provision prescribing the contents of Report by Constituent entity.

It is accordingly Proposed, that the contents of Report by Constituent Entity as required under Section 286(4) of the Act shall be same as content of Report prescribed under Section 286(3) for Parent Entity or Alternate Reporting Entity.

Further time limit for furnishing Report by Constituent Entity u/s 286(4) shall be same as time limit prescribed for Parent Entity or Alternate Reporting Entity.

At Present as per Section 286(5), it is provided that in case, a Report is already filed by an Alternate Reporting Entity of the International Group in a Country or Territory with whom we have exchange of Report Agreement, within the time limit specified in Sub Section 2, i.e. within 12 months from the end of Reported Accounting year, then there is no need for Constituent Entity to file Report as required in Sub Section 2 mentioned above.



In the above existing provisions, there was a mistake wherein it is stated that the said Alternate Reporting Entity must file Return as per Due date mentioned in Indian tax laws which may be different from due date applicable in the other Country.

Thus, in order to rectify the said mistake, **it is now Proposed** that Return to be filed with other Country must be according to due date as per tax laws of other Country and not as per tax laws of India to be qualifying for not filing Return in India as required under Section 286(4) of the Act.

Further, certain miscellaneous errors in drafting of Section 286 are proposed to be rectified.

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



SERVICE TAX

Following retrospective exemptions introduced under Service tax:

- Services by Naval Group Insurance Fund by way of life insurance to personnel of Coast Guard, under Group Insurance Schemes of the Central Government (From 10th September, 2004 to 30th June, 2017)
- Services by GSTN to the Central Government or State Governments or Union territories administration (From 28th March, 2013 to 30th June, 2017)
- Consideration paid to the Government in the form of Government's share of profit petroleum in respect of services provided or agreed to be provided by the Government by way of grant of license or lease to explore or mine petroleum crude or natural gas or both (1st April, 2016 to 30th June, 2017)



CUSTOMS

- Scope of Customs Act amended to include any offence or contravention committed thereunder outside India by any person
- Definition of term “assessment” and “re-assessment” expanded significantly to include factors such as classification, valuation, exemption or concession, quantity, weight & measure, origin and any other specific factor which impact the computation of Customs duty
- The limit of ‘Indian Customs Waters’ into the sea from the existing ‘Contiguous zone of India’ has been extended to the ‘Exclusive Economic Zone (EEZ)’ of India
- Verification of self-assessed imported goods shall be based on a risk based selection criteria
- Provisional assessment of duty would also cover export consignments
- Provision to exempt goods imported for repair, further processing of manufacture from payment of Customs Duty introduced, similar provisions inserted for re-import of exported goods as well
- Pre-notice consultation to be held with Assesseees in cases not involving collusion, willful mis-statement, suppression before issue of demand notice
- Provision for issuance of supplementary show cause notice introduced subject to specified timelines and circumstances
- Adjudication of notices to be completed within prescribed timelines
 - 6 months for notices issued under normal limitation period
 - 1 year for cases involving collusion, willful mis-statement, suppression.

Time limit extendable up to 6 months / 1 year subject to approval from the higher authorities



- Proceedings of a Show Cause Notice shall be deemed to be concluded if adjudication not completed within specified prescribed timelines
- Definition of "Advance Ruling" expanded to cover subjects beyond mere determination of duty
- Advance Ruling can now be obtained in respect of taxes apart from duties either under Customs Act or any other law for the time being in force
- Time limit to pronounce Advance Ruling reduced from 6 months to 3 months
- Customs authorities or applicant authorized to file appeal against a ruling passed by the Advance Ruling authorities within 60 days from the date of communication of the ruling - extendible up to 30 days
- Presentation of Bill of Entry/ Shipping Bill/ Bill of Export can also be made through Customs Automated System for import and export of goods
- Provision for advance payment of duty under Electronic Cash Ledger introduced
- Audit provisions introduced under the Customs Act
- New Section inserted regarding reciprocal arrangement for exchange of information between India and any other country in connection with specified Customs matters



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