

## **Budget 2016 - Highlights & Implications**

### **Indirect Taxes – Service Tax**

➤ **Change in Service Tax Rate:**

- Krishi Kalyan Cess has been imposed on all services at the rate of 0.5% percent to garner funds for the agriculture sector. The overall general effective rate of service tax would increase to 15% (14% services tax, 0.5% Swachh Bharat Cess and 0.5% Krishi Kalyan Cess) from 14.5%. The credit of Krishi Kalyan Cess would available for setting off against output Krishi Kalyan Cess. However, no such enabling provision has been introduced in the CENVAT Credit Rules, 2004 as yet. **The revised tax rate will be effective from June 01, 2016.**

➤ **Changes under Negative List:**

- The current service tax exemption on transportation of passengers, with or without accompanied belongings, by a stage carriage is proposed to be withdrawn from 1 June 2016. However, exemption would continue on such services provided by non-air conditioned stage carriage.
- Services by way of transportation of goods by an aircraft or a vessel from a place outside India to the first customs station of landing in India is taxable **w.e.f. June 01, 2016, accordingly such services are liable to be taxed under Reverse Charge Mechanism.**

➤ **Review of Exemptions:**

- Exemption on services provided by a senior advocate to an advocate or partnership firm of advocates withdrawn. However, services by a senior advocate would be exempt when the service is provided to a person other than a person ordinarily carrying out any activity relating to industry, commerce or any other business or profession. **The change shall be effective from April 01, 2016.**
- Exemption on services provided by a person represented on an Arbitral Tribunal to the Arbitral Tribunal withdrawn. **The change shall be effective from April 01, 2016.**
- Exemption to construction, erection, commissioning or installation of a monorail or metro withdrawn in respect of contracts entered into on or after March 01, 2016. Exemption would continue on such contracts entered into before March 01, 2016 on which appropriate stamp duty has been paid.
- Exemption is being withdrawn on transport of passengers, with or without accompanied belongings, by ropeway, cable car or aerial tramway car



- Exemption provided to Services of life insurance provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority. **The change shall be effective from April 01, 2016.**
- Exemption provided to Services provided by Securities and Exchange Board of India (SEBI) set up under SEBI Act, 1992, by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market. **The change shall be effective from April 01, 2016.**
- Exemption provided to Services provided by Employees “Provident Fund Organization (EPFO) to employees. **The change shall be effective from April 01, 2016.**
- Exemption provided to Services provided by National Centre for Cold Chain Development under Department of Agriculture, Cooperation and Farmers Welfare, Government of India, by way of knowledge dissemination. **The change shall be effective from April 01, 2016.**
- Exemption provided to Services provided by Insurance Regulatory and Development Authority (IRDA) of India. **The change shall be effective from April 01, 2016.**
- Exemption provided to Services of general insurance business provided under “Niramaya” Health Insurance scheme launched by National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability in collaboration with private/public insurance companies. **The change shall be effective from April 01, 2016.**
- Exemption provided to Services provided by way of skill/vocational training by Deen Dayal UpadhyayGrameenKaushalyaYojana training partners. **The change shall be effective from April 01, 2016.**
- Exemption provided to Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship. **The change shall be effective from April 01, 2016.**
- Exemption limit for services provided by a performing artist in folk or classical art forms of music, dance or theatre, is being increased from INR 1 lakh to INR 1.5 lakh per performance. **The change shall be effective from April 01, 2016.**
- Exemption provided to Construction, erection etc. of a civil structure or any other original works pertaining to the “In-site Rehabilitation of existing slum dwellers using land as a resource through private participation” component of Housing for All (HFA) (Urban) Mission/Pradhan MantriAwasYojana (PMAY), except in respect of such dwelling units of the projects which are not constructed for existing slum dwellers. **The change shall be effective from March 01, 2016.**
- Exemption provided to Construction, erection etc., of a civil structure or any other original works pertaining to the “Beneficiary-led individual house construction/enhancement” component of Housing for All (HFA) (Urban) Mission/Pradhan MantriAwasYojana (PMAY). **The change shall be effective from March 01, 2016.**
- Exemption provided to Construction, erection, etc., of original works pertaining to low cost houses up to a carpet area of 60 sq. mtr. house in a housing project approved by the competent authority under the “Affordable housing in partnership” component of PMAY



or any housing scheme of a State Government. **The change shall be effective from March 01, 2016.**

- Exemption provided to Services provided by the Indian Institutes of Management (IIM) by way of 2 year full time Post Graduate Programme in Management (PGPM) (other than executive development programme), admissions to which are made through Common Admission Test conducted by IIMs, 5 year Integrated Programme in Management and Fellowship Programme in Management. **The change shall be effective from March 01, 2016.**
- Exemption restored for construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of canal, dam or other irrigation works during the period 1 July 2012 to 29 January 2014. **This change would be effective from enactment of the Finance Bill, 2016.**
- Exemption restored for construction, erection, commissioning or installation of an airport or port, during the period 1 April 2015 to 29 February 2016 under a contract which had been entered into before the 1 March 2015 and on which appropriate stamp duty, where applicable, had been paid before that date. Further, subsequent exemption extended on such contracts from 1 March 2015 to 1 April 2020 by including the same in the Mega Exemption Notification. **This change would be effective from enactment of the Finance Bill, 2016.**
- Exemption restored for construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of civil structure for specified purposes during the period 1 April 2015 to 29 February, 2016 under a contract entered into before the 1 day of March, 2015 and on which appropriate stamp duty, where applicable, had been paid before that date. Further, subsequent exemption extended on such contracts from 1 March 2015 to 1 April 2020 by including the same in the Mega Exemption Notification. The specified purposes include:
  - civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession
  - a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment
  - a residential complex predominantly meant for self-use or the use of Government employees or other specified persons

**This change would be effective from enactment of the Finance Bill, 2016.**

**If Service tax has already been deposited on the aforesaid services, refund can be claimed (in line with provisions of Unjust Enrichment) within 6 months from the date on which the Finance Bill, 2016 receives the assent of the President.**

- Services withdrawn from Negative List and included under the Mega Exemption (without any change in effective rate of tax) –
  - Specified educational services. **This change would be effective from enactment of the Finance Bill, 2016.**
  - Transportation of goods by aircraft – **This change would be effective from June 01, 2016.**



- Exemption extended to services provided by Biotechnology Industry Research Assistance Council (BIRAC) approved biotechnology incubators to the incubatees. **This change would be effective from April 01, 2016.**
- Service tax is being exempted on IT software recorded on a media on which it is required, under the provisions of the Legal Metrology Act, 2009 to declare the retail sale price subject to the following conditions:
  - Value of the package has been determined under Section 4A of the Central Excise Act 1944
  - Appropriate duties of excise (in case of domestic transaction)/ Additional Duty of Customs (in case of imports) has been paid
  - Declaration to be made by service provider on the invoice relating to such service that no amount in excess of the retail sale price declared on such media has been recovered from the customer

The purpose of this exemption is to lay down the rules for identification of software which would attract service tax or excise duty/ CVD and to ensure that the levy of excise duty/ CVD and service tax is mutually exclusive.

**This change would be effective from March 01, 2016.**

➤ **Abatements:**

- Abatement on Services of a tour operator (other than a tour only for the purpose of arranging or booking accommodation) is rationalized to 70% in all cases (packaged tour and other cases). **This change would be effective from April 01, 2016.**
- Abatement on Construction of a residential unit where carpet area is less than 2000 square feet and the amount charged is less than INR 1 crore is increased to 70%. Now the effective abatement in all cases is 70% irrespective of the area and value. **This change would be effective from April 01, 2016.**
- Abatement on Transport of goods in container by rail by any person other than Indian Railways is reduced to 60%. **This change would be effective from April 01, 2016.** The services by Indian Railways shall continue to be taxed after availing abatement of 70%.
- Abatement on Services of goods transport agency in relation to transportation of used household goods is reduced to 60%. **This change would be effective from April 01, 2016.** The services of GTA for other goods shall continue to be taxed after availing abatement of 70%.
- Abatement on Transport of passengers, with or without accompanied belongings, by an air-conditioned stage carriage is 60%. **This change would be effective from June 01, 2016.**
- Abatement on services provided by a foreman of chit fund in relation to chit is 30%. **This change would be effective from June 01, 2016.**



➤ **Reverse Charge Mechanism:**

- Services provided by mutual fund agents/distributors to a mutual fund or an asset management company has been removed from the ambit of reverse charge. **This change would be effective from April 01, 2016.**
- Services of senior advocate are being excluded from reverse charge – Hence, senior advocates would be liable to charge service tax on their services. **This change would be effective from April 01, 2016.**
- All services provided by Government are being covered under reverse charge mechanism. Earlier only support services provided by the Government were covered under reverse charge. **This change would be effective from April 01, 2016.**

➤ **CENVAT Credit Rules 2004:**

- Credit availment of input services allowed under abated scheme for the following services:
  - Transport of goods by rail by Indian Railways
  - Transport of passengers by rail
  - Transport of goods in a vessel

**This change would be effective from April 01, 2016.**

- CENVAT Credit available on outbound transportation of goods by vessel. **This change would be effective from March 01, 2016.**
- Credit of Basic Excise duty cannot be used for payment of output NCCD liability. NCCD liability can be offset by using only NCCD credit. **This change would be effective from March 01, 2016.**
- Infrastructure Cess can neither be paid from CENVAT credit nor is available as CENVAT credit. **This change would be effective from April 01, 2016.**
- Scope of credit on capital goods widened to include wagons (falling under tariff heading 8606 92); specified equipment and appliance used in an office located within a factory; goods installed outside the factory used for pumping of water, for captive use in the factory. **This change would be effective from April 01, 2016.**
- Capital goods of value upto ten thousand rupees per piece to now qualify as inputs for availment of credit. **This change would be effective from April 01, 2016.**
- Credit to be allowed on jigs, fixtures, moulds, dies, or tools falling under Chapter 82, even when directly sent to another manufacturer or job worker premise. **This change would be effective from April 01, 2016.**
- The permission granted by the authorities to send inputs to a job worker and its clearance from the job worker's premise has been enhanced from one year to three years. **This change would be effective from April 01, 2016.**
- Relevant dates for filing refund claims on account of exports by a service provider defined as one year: from the date of receipt of payment in convertible foreign currency (where provision of service has been completed before receipt of payment); or from the



issuance of invoice (where payment for the service had been received in advance prior to date of issue of invoice). **This change would be effective from April 01, 2016.**

- CENVAT Credit on grant of right to use natural resource by government or any other person is to be availed proportionately over a period of such right. **This change would be effective from April 01, 2016.**
- Where such rights are further assigned, balance CENVAT credit not exceeding Service tax charged on such subsequent assignment, shall be allowed in the same financial year. **This change would be effective from April 01, 2016.**
- Rule 6 of the CENVAT Credit Rules (CCR) has been revised and rationalized. New Rule provides two methods to determine the value of eligible which are briefly mentioned below:
  - Pay an amount equal to 6% of the value of exempted goods and 7% of value of exempted services; Further, and importantly, it provides that payment of 6 / 7 % shall not exceed the benefit availed under a scheme; or
  - CENVAT Credit exclusively attributable to exempt goods and service shall not be available
  - CENVAT Credit exclusively attributable to taxable goods and services shall be available
  - CENVAT Credit of common inputs/input services shall be availed on the basis of formula prescribed under Rule 6(3A) –proportionate basis
  - Where final products or output services were not provided during the preceding financial year, CENVAT credit available shall be deemed to be fifty percent.

**This change would be effective from April 01, 2016.**

- Banking companies, financial institutions and NBFCs given the option to reverse proportionate CENVAT Credit (as per above stated options) in addition to the earlier option of 50% adhoc reversal. **This change would be effective from April 01, 2016.**
- CENVAT credit of Capital goods used exclusively in manufacture of exempted goods or provision of exempt services permitted after a period two years from the date of commencement of production or provision of services. **This change would be effective from April 01, 2016.**
- For Capital goods received after the commencement of commercial production or provision of exempt services, CENVAT credit to be available after expiry of two years from the date of installation of such Capital goods. **This change would be effective from April 01, 2016.**
- Rule 7 of the CENVAT Credit Rules has been changed to include distribution of credit to outsourced manufacturing units (such as job-worker). Key changes are provided below:
  - Credit attributable to a particular unit to be distributed to that unit.
  - Credit attributable to more than one unit but not to all units, to be distributed to such units on the basis of their turnover.
  - Credit attributable to all units to be distributed to all units proportionately.
  - Outsourced manufacturing unit shall maintain separate accounts for input service credit received for each of the input service distributor.



- Provision of Rule 6 shall not apply to distribution of credit by an input service distributor.
- Manufacturers with multiple manufacturing units allowed to take credit of inputs received from common warehouse on the basis of invoice issued by such warehouse.
- Mechanism for utilization of CENVAT credit on FIFO basis (introduced last year) deleted.

**This change would be effective from April 01, 2016.**

➤ **Miscellaneous Amendments in Chapter V of the Finance Act, 1994:**

- It has been proposed that assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof would be a service (as declared services). **This change would be effective from enactment of the Finance Bill, 2016.**
- An Explanation is proposed to be inserted in Rule 5 stating that such rule would be applicable in case of new levies as well apart from new taxable services. Hence, in case of new levies (such as Swachh Bharat Cess or KrishiKalyanCess), the point of taxation would need to be determined as per Rule 5. **This change would be effective from March 01, 2016.** Meaning thereby in case where invoice is issued and payment is received before June 01, 2016 KKC shall not be leviable. Further in case where payment is received before June 01, 2016 and invoice is issued upto June 14, 2016 KKC shall not be levied. In all other cases KKC shall be levied for payment received after June 01, 2016.
- Interest provisions rationalized – Interest provisions have been rationalized The interest provisions would be as under:
  - Delayed payment of service tax –15%
  - Service tax collected but not deposited –24%

**This change would be effective from enactment of the Finance Bill, 2016.**

Meaning thereby to calculate interest pertaining to May 2012, interest from July 06, 2012 to September 30, 2014 shall be calculated at 15%/18% as applicable. From October 01, 2014 till the enactment date of Finance Bill 2016 in accordance with slab rates and post enactment at the rate of 15%.

- Composition rate for single premium annuity policies revised to 1.4%, from 3.5%. **This change would be effective from April 01, 2016.**
- Annual returns introduced for service tax. Returns to be filed by 30 November of the succeeding financial year
- The ordinary period of limitation for issuance of show cause notice increased from 18 months to 30 months. **This change would be effective from enactment of the Finance Bill, 2016.**
- Personal penalty waiver if Service tax and interest paid within 30 days of show cause notice. **This change would be effective from enactment of the Finance Bill, 2016.**



- Power to arrest now applicable only where assessee collects Service tax amounting to INR 2 crore or more but doesn't deposit the same within six months. **This change would be effective from enactment of the Finance Bill, 2016.**
- Exporter of goods extended retrospective rebate of service tax paid on services used beyond factory during the period July 01, 2012 to February 02, 2016. **This change would be effective from enactment of the Finance Bill, 2016.**

## Indirect Taxes – Excise

### ➤ General

- Rate of interest on late payment of Excise duty reduced from 18% to 15%. **The change shall be effective from April 01, 2016.**
- The ordinary period of limitation for issuance of show cause notice increased from one year to two years. **The change are effective from the date of the enactment of the Finance Bill, 2016.**
- Number of returns reduced from 27 to 13 under Central Excise. **The change shall be effective from April 01, 2016.**
- Facility of revision of excise returns (both monthly returns and annual return) introduced –Monthly excise return can be revised within the same calendar month in which original return filed. Annual return can be revised within 1 month from the date of filing original return. **The change shall be notified from the effective date.**
- Ready mix Concrete manufactured at the site of construction for use in construction work at such site is exempted from the duty of excise.
- Benefit of SSI Scheme has been extended to specified jewellery manufacturers for clearances upto INR 6 crores in a financial year (provided that the preceding year's turnover has not exceeded INR 12 crores)

## Indirect Taxes – Dispute Resolution Scheme 2016

### ➤ Mechanism introduced for efficient disposal of pending customs, excise and service tax litigation

- Applicable to matters pending before the Commissioner (Appeals) as on March 01, 2016
- Scheme effective from June 01, 2016 and declaration by applicant can be filed up to December 31, 2016.
- The scheme offers immunity from prosecution upon payment of tax, interest and 25% penalty
- Scheme not be applicable to:
  - any search and seizure proceeding
  - where prosecution for any offence has been instituted before June 01, 2016
  - any order in respect of narcotic drugs or other prohibited goods





- any order in respect of any offence punishable under the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985 or the Prevention of Corruption Act, 1988
- any detention order under the Conservation of Foreign Exchange and Prevention of Smuggling Act

## Direct Taxes

### ➤ Tax Slabs

- Individuals (other than senior citizens and super senior citizens), HUF, AOP, BOI Artificial Judicial Persons:

| Rate of Tax                           | Existing (For F.Y. 2015-16)                   | Proposed (For F.Y. 2016-17)                  |
|---------------------------------------|---|--|
| Nil                                   | Up to Rs. 2,50,000                            | Up to Rs. 2,50,000                           |
| 10%                                   | From Rs. 2,50,001 to Rs. 5,00,000             | From Rs. 2,50,001 to Rs. 5,00,000            |
| 20%                                   | From Rs. 5,00,001 to Rs. 10,00,000            | From Rs. 5,00,001 to Rs. 10,00,000           |
| 30%                                   | Exceeding Rs. 10,00,000                       | Exceeding Rs. 10,00,000                      |
| Surcharge(subject to marginal relief) | 12%(In case total income exceeds Rs. 1 crore) | 15%(In case total income exceeds Rs.1 crore) |

- Senior Citizens (i.e. whose age is more than or equal to 60 years but less than 80 years):

| Rate of Tax                           | Existing (For F.Y. 2015-16)                   | Proposed (For F.Y. 2016-17)                   |
|---------------------------------------|---|---|
| Nil                                   | Up to Rs. 3,00,000                            | Up to Rs. 3,00,000                            |
| 10%                                   | From Rs. 3,00,001 to Rs. 5,00,000             | From Rs. 3,00,001 to Rs. 5,00,000             |
| 20%                                   | From Rs. 5,00,001 to Rs. 10,00,000            | From Rs. 5,00,001 to Rs. 10,00,000            |
| 30%                                   | Exceeding Rs. 10,00,000                       | Exceeding Rs. 10,00,000                       |
| Surcharge(subject to marginal relief) | 12%(In case total income exceeds Rs. 1 crore) | 15%(In case total income exceeds Rs. 1 crore) |

- Super Senior Citizens (i.e. whose age is more than or equal to 80 years):

| Rate of Tax                           | Existing (For F.Y. 2015-16)                   | Proposed (For F.Y. 2016-17)                  |
|---------------------------------------|---|--|
| Nil                                   | Up to Rs. 5,00,000                            | Up to Rs. 5,00,000                           |
| 20%                                   | From Rs. 5,00,001 to Rs. 10,00,000            | From Rs. 5,00,001 to Rs. 10,00,000           |
| 30%                                   | Exceeding Rs. 10,00,000                       | Exceeding Rs. 10,00,000                      |
| Surcharge(subject to marginal relief) | 12%(In case total income exceeds Rs. 1 crore) | 15%(In case total income exceeds Rs.1 crore) |

- Co-Operative Society:



| Rate of Tax                           | Existing (For F.Y. 2015-16)   | Proposed (For F.Y. 2016-17)   |
|---------------------------------------|-------------------------------|-------------------------------|
| 10%                                   | Up to Rs. 10,000              | Up to Rs. 10,000              |
| 20%                                   | From Rs. 10,001 to Rs. 20,000 | From Rs. 10,001 to Rs. 20,000 |
| 30%                                   | Exceeding Rs. 20,000          | Exceeding Rs. 20,000          |
| Surcharge(subject to marginal relief) | 12%                           | 12%                           |

- Firm, Local Authority:

| Rate of Tax                           | Existing (For F.Y. 2015-16) | Proposed (For F.Y. 2016-17) |
|---------------------------------------|-----------------------------|-----------------------------|
| 30%                                   | Whole of the total income   | Whole of the total income   |
| Surcharge(subject to marginal relief) | 12%                         | 12%                         |

- Domestic Company:

| Rate of Tax                                 | Existing (For F.Y. 2015-16)   | Proposed (For F.Y. 2016-17)   |
|---|---|---|
| 29% of total income                         | NA  | Total turnover/ Gross Receipts in <b>P.Y. 2014-15</b> was up to Rs. 5 Crore |
| 30% of total income                         | All domestic companies  | Total turnover/ Gross Receipts in <b>P.Y. 2014-15</b> exceeds Rs. 5 Crore   |
| Surcharge @ 7%(subject to marginal relief)  | When total income exceeds Rs. 1 Crore but does not exceeds Rs. 10 Crore | When total income exceeds Rs. 1 Crore but does not exceeds Rs. 10 Crore     |
| Surcharge @ 12%(subject to marginal relief) | When total income exceeds Rs. 10 Crore                                  | When total income exceeds Rs. 10 Crore                                      |

- Foreign Company:

| Rate of Tax                                | Existing (For F.Y. 2015-16)   | Proposed (For F.Y. 2016-17)   |
|--|---|---|
| 50%  | Specific Royalty/FTS  | Specific Royalty/FTS  |
| 40%  | Balance Total Income  | Balance Total Income  |
| Surcharge @ 2%(subject to marginal relief) | When total income exceeds Rs. 1 Crore but does not exceeds Rs. 10 Crore | When total income exceeds Rs. 1 Crore but does not exceeds Rs. 10 Crore |
| Surcharge @ 5%(subject to marginal relief) | When total income exceeds Rs. 10 Crore                                  | When total income exceeds Rs. 10 Crore                                  |

➤ **TAX DEDUCTION AT SOURCE (TDS):**

- Changes in threshold limit of deduction of tax at source on various payments mentioned in the relevant sections of the Act:

| Present Section | Heads  | Existing Threshold Limit(Rs.)    | Proposed Threshold Limit(Rs.)      |
|-----------------|--|----------------------------------|------------------------------------|
| 192A            | Payment of accumulated balance due to an employee                    | 30,000                           | 50,000                             |
| 194BB           | Winnings from Horse Race   | 5,000                            | 10,000                             |
| 194C            | Payments to Contractors  | Aggregate annual limit of 75,000 | Aggregate annual limit of 1,00,000 |
| 194LA           | Payment of Compensation on acquisition of certain Immovable Property | 2,00,000                         | 2,50,000                           |
| 194D            | Insurance commission   | 20,000                           | 15,000                             |
| 194G            | Commission on sale of lottery tickets                                | 1,000                            | 15,000                             |
| 194H            | Commission or brokerage  | 5,000                            | 15,000                             |

- Revision in rates of deduction of tax at source on various payments mentioned in the relevant sections of the Act:

| Present Section | Heads                                       | Existing Rate      | Proposed Rate |
|-----------------|---|--------------------|---------------|
| 194DA           | Payment in respect of Life Insurance Policy | 2%                 | 1%            |
| 194EE           | Payments in respect of NSS Deposits         | 20%                | 10%           |
| 194D            | Insurance commission                        | Rate in force(10%) | 5%            |
| 194G            | Commission on sale of lottery tickets       | 10%                | 5%            |
| 194H            | Commission or brokerage                     | 10%                | 5%            |

- Certain non-operational provisions to be omitted:

| Present Section | Heads   | Proposed Rate                   |
|-----------------|---|---------------------------------|
| 194K            | Income in respect of Units                              | To be omitted w.e.f. 01.06.2016 |
| 194L            | Payment of Compensation on acquisition of Capital Asset | To be omitted w.e.f. 01.06.2016 |

**Note:-** These amendments to take effect from 1st June, 2016:

- Enabling of Filing of Form 15G/15H for rental payments
- The provision for filing form 15G/15H under Section 197A being extended to deduction u/s 194I in respect of rent.
- This amendment will take effect from 1st June, 2016



➤ **RELIEF TO NEWLY SETUP MANUFACTURING DOMESTIC COMPANIES- SECTION 115BA (APPLICABLE FROM A.Y. 2017-18):**

- Income tax payable @ 25% + surcharge and cess at the option of the company if:
  - ✓ Setup & registered on or after 01.03.2016
  - ✓ Engaged in the business of manufacture/production of any article or thing
  - ✓ Not engaged in any other business except (ii)
  - ✓ Do not claim profit linked or investment linked deductions and do not avail of investment allowance and accelerated depreciation
  - ✓ No set off of any loss carried forward from any earlier A.Y. is claimed, if such loss is attributable to any deduction in (iv) above.

➤ **Exemption to Foreign Company from strategic storage of crude oil:**

- Strategic reserves being created for setting up underground storage facility for storage of crude oil by Indian Strategic Petroleum Reserves Limited (ISRPL)
- Any income directly or indirectly derived through or from a business connection in India by a non-resident is deemed to accrue or arise in India and hence taxable in India
- To encourage foreign national oil companies and multinational companies, Section 10 of the Act has been amended by inserting clause (48A), as a result, the 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 there from to any person resident in India will be exempt.
- Amendment to take effect retrospectively from 1<sup>st</sup> April 2016.

➤ **Special Notified Zone to add sparkle to diamonds:**

- Special notified zone created wherein no income shall be deemed to accrue or arise in India from activities which are confined to display of uncut and un assorted diamonds in such zones notified by Central Government.
- Explanation to Section 9 of the Act to be inserted to provide above mentioned benefits to foreign mining companies engaged in the business of mining of diamond.

➤ **Transmission of Power at par with Generation and Distribution of Power:**

- Benefit of additional depreciation of 20% against cost of new plant and machinery is allowed to Assessee engaged in generation and distribution of power.
- The benefit is now extended to assesses engaged in the business of transmission of power by amending section 32(1)(ia) of the Act.

➤ **Concessional Rate of Tax on Royalty from Patents:**

- Income by way of royalty in respect of a patent developed and registered in India shall be taxable at the rate of ten percent (plus applicable surcharge and cess).
- For eligibility for lower tax rate under newly inserted section 115BBF, a person shall fulfil the following criteria:
  - ✓ A resident in India
  - ✓ True and first inventor of the invention



- ✓ Name entered in the patent register as patentee in accordance with Patents Act 1970 in case more than one person registered as patentee, all such persons
- ✓ No expenditure or allowance in respect of such royalty income shall be allowed under the Act.

## **Start-up India**

### ➤ **100% Tax deduction:**

- New section 80-IAC inserted to provide a deduction of 100% (hundred percent) of the profits and gains derived from eligible business to an eligible start-up.
- Deduction to be claimed for any three consecutive years out of five years beginning from the year in which the eligible start up is incorporated.
- Eligibility criteria for start up:
  - ✓ Incorporated on or after 01.04.2016 but before 31.03.2019
  - ✓ Total turnover does not exceed twenty five crore rupees in any of the previous years beginning on or after 01.04.2016 and ending on 31.03.2021.
  - ✓ Holds certificate of eligible business from Inter-ministerial board of certification
  - ✓ It is not formed by splitting up, or reconstruction, of a business already in existence
  - ✓ It is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

### ➤ **Establishment of Funds of Funds to finance start-ups:**

- New section 54EE inserted w.e.f. 01.04.2017.
- Any long term capital gain may be exempted if the amount of capital gain is invested in long-term specified asset
- “Long-Term Specified Asset” means a unit or units, issued before the 01.04.2019, of such fund as may be notified by the Central Government in this behalf.
- Amount to be invested within a period of six months from the date of transfer and shall remain invested for three years
- Maximum investment eligible for exemption by investing in long-term specified asset during a financial year shall not exceed Rs. 50 lakhs.

### ➤ **Funding start-up by selling a residential property**

- Exemption under section 54GB of the Act extended to amount of capital gain from transfer of residential property invested by individual or HUF in the shares of eligible start-up engaged in eligible business
- Such eligible start-up to invest the proceeds in purchase of new asset being new plant and machinery
- In the case of an eligible start-up, being a technology driven start-up so certified by the Inter-Ministerial Board of Certification, the new asset shall include computers or computer software.



## **HOUSING FOR ALL**

### ➤ **Deduction to Housing Project Developers:**

- Section 80-IBA inserted to allow deduction of 100% (hundred percent) from any profits and gains derived from the business of developing and building housing projects.
- To be eligible to claim deduction under the said section a housing project shall fulfill the following conditions enumerated in section 80-IBA(2) of the Act:
  - ✓ The project shall be approved by the competent authority after 01.06.2016 but on or before 31.03.2019;
  - ✓ The project is completed within a period of three years from the date of approval by competent authority. In case of multiple approvals, the date on which the project was first approved by competent authority to be considered. Further, the project shall be deemed to have been completed when a certificate of completion of project as a whole is obtained in writing from the competent authority;
  - ✓ The built-up area of the shops and other commercial establishments included in the housing project does not exceed three per cent of the aggregate built-up area;
  - ✓ The minimum land area of plot for the project shall not be less than one thousand square meters within the cities of Chennai, Delhi, Kolkata or Mumbai or within the area of twenty-five kilo meters from the municipal limits of these cities, or two thousand square meters within the jurisdiction of any other municipality or cantonment board;
  - ✓ The residential units comprised in the housing project does not exceed thirty square meters where such project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the area of twenty-five kilo meters from the municipal limits of these cities, or sixty square meters, where such project is located within the jurisdiction of any other municipality or cantonment board;
  - ✓ Where a residential unit in the housing project is allotted to an individual, no other residential unit in the housing project shall be allotted to the individual or the spouse or the minor children of such individual;
  - ✓ The project utilizes—
    - ✓ Not less than ninety per cent of the floor area ratio permissible in respect of the plot of land under the rules to be made by the Central Government or the State Government or the local authority, as the case may be, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the area of twenty-five kilometres from the municipal limits of these cities, or not less than eighty per cent of such floor area ratio where such project is located in any area other than the areas referred to above; and
    - ✓ The assessee maintains separate books of account in respect of the housing project.
- Nothing contained in this section shall apply to any undertaking which executes the housing project as a works-contract awarded by any person (including the Central Government or the State Government)



➤ **Deduction to individuals:**

- Deduction up to Rs. 50,000 allowed to an individual assessee under section 80EE of the Act, towards interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential property.
- Deduction allowed from assessment year beginning on the 01.04.2017 and subsequent assessment years
- Conditions for availing deduction:
  - ✓ Loan sanctioned by financial institution between 01.04.2016 and 31.03.2017;
  - ✓ Value of residential property does not exceed Rs. 50 lakhs;
  - ✓ The amount of loan sanctioned for acquisition of the residential house property does not exceed thirty-five lakh rupees;
  - ✓ The assessee does not own any residential house property on the date of sanction of loan
- This deduction is in addition to benefits under section 24 of the Act.

➤ **Taxation of unrealized rent:**

- Existing provisions of sections 25A, 25AA and 25B relate to special provisions on taxation of unrealised rent allowed as deduction when realised subsequently, unrealised rent received subsequently and arrears of rent received respectively. Certain deductions are available thereon.
- These provisions are proposed to be merged under a single new section 25A and bring uniformity in tax treatment of arrears of rent and unrealised rent.
- Arrears of rent and unrealised rent shall be charged to income-tax in the financial year in which such rent is received or realised, whether the assessee is the owner of the property or not in that financial year. It is also proposed that thirty per cent of the arrears of rent or the unrealised rent realised subsequently by the assessee shall be allowed as deduction.
- W.e.f. from 1st day of April, 2017 & will apply in relation to the A.Y. 2017-2018 and subsequent years

➤ **Extension of Construction Period:**

- Interest payable on capital borrowed for acquisition or construction of a house property is deducted while computing income from house property in accordance with Section 24(b) of the Income Tax Act.
- Deduction under the said Section in respect of self-occupied property on account of interest paid on capital borrowed for acquisition or construction of a self-occupied house property shall be available up to Rs. 2,00,000/- only if the acquisition or construction is completed within *five years instead of three years* from the end of the financial year in which capital was borrowed
- This change is effective from 1st day of April, 2017 & will apply in relation to the A.Y. 2017-2018 and subsequent years



**Increase in limit in respect of rents paid**

**under Section 80GG:**

- The maximum limit of deduction under Section 80GG is proposed to be increased from existing Rs. 2000 per month to Rs. 5000 per month.
- W.e.f. from 1st day of April, 2017 & will apply in relation to the A.Y. 2017-2018 and subsequent years.

**PERSONAL TAXATION**

➤ **Rebate in income-tax allowable under Section 87A:**

- Limit of rebate in income-tax allowable under Section 87A is increased from existing Rs.2,000 to Rs.5,000
- Change effective from 1st day of April, 2017 & will apply in relation to the A.Y. 2017-2018 and subsequent years

➤ **Shares received upon demerger or amalgamation:**

- Any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not attract the provisions of section 56(2)(vii) of the Act
- Also, shares received by a shareholder of a successor co-operative bank from a shareholder of the predecessor co-operative bank in a scheme of business reorganization will be out of the purview of Section 56(2)(vii)

➤ **SOVEREIGN GOLD BOND SCHEME, 2015, RUPEE DENOMINATED BONDS AND GOLD MONETIZATION SCHEME, 2015:**

• **Sovereign Gold Bond Scheme, 2015:**

- ✓ Redemption of Sovereign Gold Bond Scheme, 2015 under the Scheme, by an individual shall not be treated as transfer in accordance with Section 47 and therefore shall be exempt from tax on capital gains
- ✓ Indexation benefits to long terms capital gains arising on transfer of Sovereign Gold Bond shall be provided to all cases of assesses
- ✓ W.e.f. from 1st day of April, 2017 & will apply in relation to the A.Y. 2017-2018 and subsequent years.

➤ **Rupee Denominated Bonds:**

- The Reserve Bank of India has recently permitted Indian corporates to issue rupee denominated bonds outside India as a measure to enable the Indian corporates to raise funds from outside India
- The capital gains, arising in case of appreciation of rupee between the date of issue and the date of redemption of rupee denominated bonds against the foreign currency in which the investment is made shall be exempt from tax on capital gains.
- W.e.f. from 1st day of April, 2017 & will apply in relation to the A.Y. 2017-2018 and subsequent years





➤ **Gold Monetization Scheme, 2015**

- Section 2(14) of the Act is proposed to be amended so as to exclude Deposit Certificates issued under Gold Monetisation Scheme, 2015 notified by the Central Government, from the definition of capital asset and thereby exempting it from capital gains tax
- Section 10(15) of the Act is proposed to be amended to provide that interest on Deposit Certificates issued under the Scheme shall be exempted from income-tax.

➤ **TAX OF CONVERSION OF CHARITY INTO BUSINESS:**

- Section 115TD inserted to tax accreted income of trust or institution registered under section 12AA
- The said section shall apply where in any previous year, a trust or institution registered under section 12AA has—
  - ✓ Converted into any form which is not eligible for grant of registration under section 12AA;
  - ✓ Merged with any entity other than an entity which is a trust or institution having objects similar to it and registered under section 12AA; or
  - ✓ Failed to transfer upon dissolution all its assets to any other trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, within a period of twelve months from the end of the month in which the dissolution takes place.
- A trust registered u/s 12AA of the Act, will be treated as deemed to be converted into other form of entities not eligible to get registration u/s 12AA of the Act, on following situations:
  - ✓ If the registration u/s 12AA of the Act, of the trust has been cancelled,
  - ✓ Modified objects of the trust which do not confirm to the condition of registration u/s 12AA of the Act and
  - ✓ Not applied for fresh registration with modified object, or
  - ✓ Filed application for fresh registration with modified object but it got rejected.
- The accreted income shall mean the amount by which the aggregate fair market value of the total assets of the trust or the institution, as on the specified date, exceeds the total liability of such trust or institution computed in accordance with the method of valuation as may be prescribed.
- The accreted income will be taxable at the maximum marginal rate in addition to the income tax chargeable in respect of the total income of such trust or institutions.
- The Principal Officer or the trustee of the trust or institution is required to pay the tax on accreted income within fourteen days from
  - ✓ The date on which the trust has received the order cancelling the registration of trust;
  - ✓ The end of the previous year if the trust has not applied for fresh registration of trust u/s 12AA of the Act with modified object;
  - ✓ The date on which the order rejecting the application of registration of the trust with modified object has been received by the trust;



- ✓ The date on which the trust or institution registered u/s 12AA of the Act got merged with the entity which are not having object as required to register u/s 12AA of the Act; or
  - ✓ The date on which period of twelve month expires in case of dissolution of trust and the trust failed to transfer all its assets to any trust registered u/s 12AA of the Act or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10.
- The tax paid on Accreted Income will be treated as final payment of tax and there will not be further credit to be claimed by any other entity in respect of the tax paid on Accreted Income.
  - No deduction will be allowed under any other provision of the Act to any entity in respect of the Accreted Income.
  - Amendment effective from 01.06.2016.
  - Interest @1% u/s 115TE of the Act to be charged for every month or part of the month for delay in payment of tax on Accreted Income.
  - As per section 115TF of the Act, the Principal Officer of the trust or institution will be treated as “assessee in default” if tax on the accreted income has not been paid fulfilling the above mentioned provisions, and the provision with respect to “assessee in default” will apply accordingly.
  - The recipient of assets of the trust or institution registered under section 12AA upon dissolution, under conditions enumerated under section 115TD(1)(c), shall also be liable to be held as assessee in default in case of non-payment of tax and interest. However, the recipient’s liability shall be limited to the extent of the assets received.

➤ **Tax Collection at Source (TCS) on sale of vehicles; goods or services:**

- It is proposed to amend Section 206C of the Act to provide that the seller shall collect the tax at the rate of 1% from the purchaser on
- Sale of motor vehicle of the value **exceeding ten lakh rupees** and
- Sale **in cash** of any goods (other than bullion and jewellery), or providing of any services (other than payments on which tax is deducted at source under Chapter XVII-B) **exceeding two lakh rupees**.
- It is also proposed to provide that the sub-section (1D) relating to TCS in relation to sale of any goods (other than bullion and jewellery) or services shall not apply to certain class of buyers who fulfil such conditions as may be prescribed.
- This amendment will take effect from 1st June, 2016.



➤ **Rationalization of Section 50C in case sale consideration is fixed under agreement Executed prior to the date of registration of immovable property:**

- Full value consideration was taken by stamp valuation authority for the purpose of payment of Stamp duty
- No relief was provided where the seller has entered into an agreement to sell the property much before the actual date of transfer of the immovable property
- Now it is proposed that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of computing the full value of consideration.
- This proposed amendment is applicable if the amount of consideration has been paid by way of a cheque or a/c payee cheque or draft or use of ECS through a bank account before the date of the agreement for the transfer of such immovable property.
- w.e.f 1-4-2017.

➤ **Rationalisation of conversion of Company into LLP:**

- As per section 47(xiii b) of the Income Tax Act, 1961, if the private company or unlisted public company has been converted into LLP, and the conversion process has complied the condition as mentioned in section 47(xiii b) of the Act then the capital gain in the hands of company and shareholder will not arise.
- It is proposed to insert a new condition in section 47(xiii b) of the Act which is as follows:

“The total value of the assets as appearing in the books of account of the company in any of the three previous years preceding the previous year in which the conversion takes place does not exceed **five crore rupees.**”

➤ **Set off losses against deemed undisclosed income:**

- It is proposed to amend the provisions of the sub-section (2) of section 115BBE to expressly provide that no set off of any loss shall be allowable in respect of income under the sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D.
- w.e.f 1-4-2017.

➤ **Taxation of Non-compete fees and exclusivity rights in case of Profession:**

- Professional also included in clause (va) of section 28 of the Act
- It is proposed to amend clause (va) of section 28 of the Act to bring the non-compete fee received/ receivable (which are recurring in nature) in relation to not carrying out any profession, within the scope of section 28 of the Act



- Receipts for transfer of right to carry on any profession, which are chargeable to tax under the head “Capital gains”, would not be taxable as profits and gains of business or profession
- Section 55 proposed to be amended to provide that ‘cost of acquisition’ and ‘cost of improvement’ for working out “Capital gains” on capital receipts arising out of transfer of right to carry on any profession shall also be taken as ‘nil.
- w.e.f 1-4-2017.

## **PENALTY PROVISIONS**

### ➤ **Insertion of New Provision s. 270A to substitute 271 of the Act:**

- New provisions for imposing penalty for under reporting and miss reporting of income
- New provision to replace existing penal provision u/s 271 of the Act (s. 271 shall not apply for AY 2017-18 onwards)
- Penalty at the rate of 50% of tax payable on under reported income and 200% of tax payable on misreported income
- In case of company, firm or local authority, the tax payable on under reported income shall be calculated as if the under-reported income is the total income.
- In any other case the tax payable shall be thirty per cent of the under-reported income
- Merely addition or disallowance of an amount shall not form the basis for imposition of penalty
- Proposed cases of under reporting of income
- The income assessed is greater than the income determined in the return processed under clause (a) of sub-section (1) of section 143;
- The income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished;
- The income reassessed is greater than the income assessed or reassessed immediately before such re-assessment;
- The amount of deemed total income assessed or reassessed as per the provisions of section 115JB or 115JC, as the case may be, is greater than the deemed total income determined in the return processed under clause (a) of sub-section (1) of section 143;
- The amount of deemed total income assessed as per the provisions of section 115JB or 115JC is greater than the maximum amount not chargeable to tax, where no return of income has been filed;
- The income assessed or reassessed has the effect of reducing the loss or converting such loss into income.



- Under-reported income under proposed section shall not include the following cases:
  - ✓ where the assessee offers an explanation and the income-tax authority is satisfied that the explanation is bona fide and all the material facts have been disclosed;
  - ✓ where such under-reported income is determined on the basis of an estimate, if the accounts are correct and complete but the method employed is such that the income cannot properly be deducted therefrom;
  - ✓ where the assessee has, on his own, estimated a lower amount of addition or disallowance on the issue and has included such amount in the computation of his income and disclosed all the facts material to the addition or disallowance;
  - ✓ where the assessee had maintained information and documents as prescribed under section 92D, declared the international transaction under Chapter X and disclosed all the material facts relating to the transaction;
  - ✓ where the undisclosed income is on account of a search operation and penalty is leviable under section 271AAB
  
- Specified cases of misreporting of income:
  - ✓ misrepresentation or suppression of facts;
  - ✓ non-recording of investments in books of account;
  - ✓ claiming of expenditure not substantiated by evidence;
  - ✓ recording of false entry in books of account;
  - ✓ failure to record any receipt in books of account having a bearing on total income;
  - ✓ failure to report any international transaction or deemed international transaction under Chapter X.

Consequential amendments have been proposed in sections 119, 253, 271A, 271AA, 271AAB, 273A and 279 to provide reference to newly inserted section 270A

➤ **Immunity from Penalty (New Provision u/s 270AA):**

- Assessee may make application to Assessing Officer to grant immunity from imposition of penalty u/s 270A and initiation of proceedings u/s 276C, if o Tax and interest payable as per assessment order paid within a period specified in notice of demand o No appeal preferred against order of assessment or reassessment
- Application shall be made within one month from the end of the month in which order received and in the form to be prescribed and verified in prescribed manner.
- Order accepting or rejection application to be made within one month of receipt of application, in case of rejection, an opportunity of being heard to assessee
- Order made shall be final



- No appeal shall lie against the order of assessment or reassessment where application u/s 270AA has been accepted.
  - Order u/s 270AA shall be passed after expiry of time allowed for appeal u/s 249(2)(a)
  - No immunity from penalty u/s 270A in case penalty is initiated for misreporting of income.
  - w.e.f 1-4-2017.
- **Amendment of section 271AAB:**
- Section 271AAB (1)(c) provides for a minimum penalty of 30% and maximum penalty of 90% of the undisclosed income in case of search. The proposed amendment provides for a fixed penalty of 60% of the undisclosed income.
  - w.e.f 1-4-2017.
- **Amendment of Section 272A:**
- Amendment in Section 272A(1): Levy of penalty of Rs. 10,000 for each default or failure to comply with a notice issued u/s 142(1) or 143(2) or 142(2A) or failure to comply with a direction issued under sub-section (2A) of section 142.
  - Amendment of section 272(3) penalty in case of failure referred above shall be levied by the income tax authority issuing such notice or direction.
  - w.e.f 1-4-2017.
- **Incentive to generate employment:**
- Benefits of deduction of 30% of additional employee cost incurred in the course of business under Section 80JJAA of the Act extended to all businesses
  - Requirement of minimum 10% addition in workforce is done away with
  - Minimum number of days of employment in a financial year relaxed from 300 days to 240 days
  - Employee does not include an employee with emoluments of more than Rs. 25,000 per month or whose entire contribution towards Employees' Pension Scheme is paid by the Government or an employee who does not participate in the recognized provident fund.
  - Increase in number of employees to be compared with total number of employees employed as on the last day of the preceding year



- **Exemption from DDT on distribution made by Special Purpose Vehicle (SPV) to Business Trust:**
  - No dividend distribution tax on dividend distributed by specified domestic company to business trust [w.e.f. 01.06.2016; sub-section (7) to section 115-O inserted]
  - No tax in the hands of trust or investor on dividend received [amendment in Sec. 10(23FC)]
  - Exemption from levy of DDT available only when business trust holds 100% of share capital of SPV
  - Exemption on dividend distributed out of current income only after business trust acquires 100% share capital of SPV.
  
- **Modification in conditions of special taxation regime for off shore funds Section 9A:**
  - Section 9A of the Act provides for a special regime in respect of offshore funds. The sub-section (3) of section 9A provides for the conditions for the eligibility of the fund. It is proposed to modify conditions mentioned in sub-section (3) to provide that the eligible investment fund for purposes of section 9A, shall also mean a fund established or incorporated or registered outside India in a country or a specified territory notified by the Central Government in this behalf. It is also proposed to provide that the condition of fund not controlling and managing any business in India or from India shall be restricted only in the context of activities in India.
  
- **Transition provision regarding residency of Foreign Company:**
  - Provision relating to company being treated as Resident in India on the basis of Place of Effective Management ('POEM') [particularly foreign companies] are likely to face certain transitional issues like payment of advance tax, applicability of TDS provisions, set off of losses etc. To make provisions to mitigate these problems, implementation of the concept of POEM is deferred by 1 year and will now be applicable from 01.04.2017.
  
- **Introduction of Presumptive taxation scheme for persons having income from profession (w.e.f.1st April, 2017):**
  - Section 44ADA is proposed to be inserted in the Act to provide for estimating the income of an assessee who is engaged in any profession referred to in sub-section (1) of section 44AA
  - No books of accounts to be maintained as per section 44AB of the Act
  - Profit deemed to be 50% of gross receipts



- **Increase in threshold limit for audit for persons having income from profession (w.e.f 1st April 2017)-Sec 44AB:**
  - Threshold limit of total gross receipts is increased from twenty five lakh rupees to fifty lakh rupees in the case of persons carrying on profession section 44AB for getting accounts audited.
  
- **Increase in threshold limit for presumptive taxation scheme for persons having income from business- Sec 44 AD:**
  - Increase the threshold limit of one crore rupees specified in the definition of “eligible business” to two crore rupees
  - Expenditure in the nature of salary, remuneration, interest etc. paid to the partner as per clause(b) of section 40 shall not be deductible while computing the income under section 44AD
  - If there is a break in declaring profit under this provision in any previous year then the assessee shall not be entitled to avail the benefit of this provision for subsequent five years following such previous years.
  
- **Deduction in respect of provision for bad and doubtful debt in the case of Non-Banking Financial companies:**
  - The Finance Bill, 2016 seeks to amend the provision of clause (viiia) of sub-section (1) of section 36 is proposed to provide deduction from total income (computed before making any deduction under this clause and Chapter-VIA) on account of provision for bad and doubtful debts to the extent of five per cent of the total income in the case of NBFCs.
  - This amendment will take effect from 1<sup>st</sup> April, 2017 and will apply in relation to the assessment year 2017-18 and subsequent years.
  
- **Rationalization of tax incentive u/s 32AC:**
  - Existing provisions provide for investment allowance @15% if the acquisition and installation is done in the same P.Y.
  - It is proposed to amend Section 32AC(1A) to provide that the acquisition of the plant & machinery has to be made in the previous year. However, installation may be made by 31.03.2017 in order to avail the benefit of investment allowance of 15%.
  - If year of installation and acquisition are not same, the deduction shall be allowed in the year in which the new asset is installed.
  - With retrospective effect from 1st day of April, 2016 & will apply in relation to the A.Y. 2016-17 and 2017-18





- **Exemption from requirement of furnishing PAN under section 206AA to certain non-resident.**
  - Substitution of new sub-section for sub-section (7) exempting the following from ‘requirement of furnishing PAN number’ in respect of:
    - (i) payment of interest on long-term bonds as referred to in section 194LC; and (ii) any other payment subject to such conditions as may be prescribed.”.
  - This amendment will be substituted with effect from the 1st day of June, 2016.
- **Non-Application of MAT Provision on Foreign Institutional Investors/ Foreign Companies w.e.f. 01.04.2001:**
  - New explanation 4 to S. 115JB to provide for non-application of MAT provisions in case of an assessee, being foreign company,
    - ✓ which is a resident of country or specified territory with which India has DTAA agreement or Central Govt. has entered in agreement u/s 90A and doesn't have PE in accordance with agreement or
    - ✓ which is resident of country with which there is no agreement and the assessee is not required to seek registration under any law for the time being in force relating to companies.
- **Tax Incentives to International Financial Services Centre:**
  - “International Financial Services Centre” shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005
  - MAT payable at the rate of 9% u/s 115JB of the Act as compared to 18.5% in case of other assessee
  - Any long term capital gain arising from transaction undertaken on recognized stock exchange in International Financial Services Centre are proposed to be exempt u/s 10(38) of the Act.
  - STT not leviable on such transaction undertaken on recognized stock exchange .
- **Providing Time limit for disposing applications made by assessee under section 273A, 273AA or 220(2A) (w.e.f 1st June, 2016):**
  - In section 220 it is proposed that an order accepting or rejecting application of an assessee for reduction or waiver of interest shall be passed by the concerned Principal Chief Commissioner, Chief Commissioner, Principal Commissioner or Commissioner within a period of twelve months from the end of the month in which such application is received.



- In section 273A (reduction or waiver of penalty) and section 273AA (granting immunity from penalty) it is proposed that an order accepting or rejecting the application of an assessee shall be passed by the Principal Commissioner or Commissioner within a period of twelve months from the end of the month in which such application is received.
  - Without giving opportunity of being heard no order rejecting the application of the assessee under section 220 or 273A, 273AA shall be passed
  - Application pending as on 1 st day June 2016 the order under aforementioned section shall be passed on or before 31<sup>st</sup> May 2017 .
- **Providing legal framework for automation of various processes and paperless assessment:**
- Amendment is proposed in sub-section (1) of Section 282A proposing to provide that notices and documents required to be issued by income-tax authority under the Act shall be signed and issued either in paper form or may be communicated in electronic form by the prescribed authority in a prescribed manner.
  - Amendment is proposed in sub-section (2) of Section 143 to provide that, the Notice under the said sub-section may be served either by the Assessing Officer or the prescribed income tax authority for timely service of notice.
  - A new clause (23C) is proposed to be inserted in section 2 to define the term “hearing” to include communication of data and documents through electronic mode.
  - These amendments will take effect from the 1st day of June, 2016.
- **No capital gains tax on consolidation of ‘plans’ within a ‘scheme’ of mutual fund:**
- New clause (xix) inserted in Section 47 to provide that any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund shall not be considered to be transfer for capital gain tax purposes.

- **Reduction of Exemptions and Deductions:**

• The Finance Ministry has reduced Some Exemptions and deduction as provided under the Act which are as follows:-

➤ **Proposed Phase out plan of incentives (Profit linked Deductions/Weighted Deduction) Available under the Act:**

| <b>Section</b>   | <b>Incentive currently available</b>  | <b>Proposed amendment</b>  |
|--|---|--|
| 10AA- Special provision in respect of newly established units in Special Economic Zones (SEZ). | Profit linked deductions for units in SEZ for profit derived from export of articles or things or services  | No deduction shall be available to units commencing manufacture or production of articles or things or start providing services on or after 01.04.2020 (from previous year 2020-21 onwards). |
| 35AC-Expenditure on eligible projects or schemes.  | Deduction for expenditure incurred by way of payment of any sum to a public sector company or a local authority or to an approved association or institution etc. , on certain eligible social development project or a scheme. | No deduction shall be available w.e.f. 1.4.2017 (i.e. from previous year 2017-18 and subsequent years).  |
| 35CCD-Expenditure on skill development project.  | Weighted deduction of 150 percent on any expenditure incurred (not being expenditure in the nature of cost of any land or building) on any notified skill development project by a company.                                     | Deduction shall be restricted to 100 percent from 01.04.2020 (i.e. from previous year 2020-21 onwards).  |
| 80-IA Development, operation and maintenance of an infrastructure facility                     | 100 percent profit linked deductions for specified period on eligible business carried on by industrial undertakings or enterprises referred in section 80IA.   | To avail the benefit u/s 80-IA, the development or operation and maintenance of the infrastructure facility shall commence before 01.04.2017   |
| 80-IAB Deductions in respect of profits and gains by an undertaking or enterprise engaged in   | 100 percent profit linked deductions or specified period on eligible business carried on by industrial undertakings or enterprises referred in section  | To avail the benefit u/s 80-IAB, the development of special economic zone (SEZ) shall commence before 01.04.2017   |



|                    |       |  |
|--------------------|-------|--|
| development of SEZ | 8oIAB |  |
|--------------------|-------|--|

➤ **Proposed Phase out plan of incentives (Accelerated Depreciation/Weighted Deduction) available under the Act:**

| <b>Section</b>   | <b>Incentive currently available in the Act Amendment</b>  | <b>Proposed phase out measures</b>  |
|--|--|---|
| 32 read with rule 5 of Income tax Rules, 1962- Accelerated Depreciation. | Accelerated depreciation is provided to certain Industrial sectors in order to give impetus for investment. The depreciation under the Act is available up to 100% in respect of certain block of assets.  | Highest rate of depreciation under the Act shall be restricted to 40% w.e.f 01.4.2017. (i.e. from previous year 2017-18 and subsequent years). The new rate is proposed to be made applicable to all the assets (whether old or new) falling in the relevant block of assets.       |
| 35(1)(ii)- Expenditure on scientific research.                           | Weighted deduction from the business income to the extent of <b>175 per cent</b> of any sum paid to an approved scientific research association which has the object of undertaking scientific research. Similar deduction is also available if a sum is paid to an approved university, college or other institution and if such sum is used for scientific research. | Weighted deduction shall be restricted to <b>150 per cent from 01.04.2017 to 31.03.2020</b> (i.e. from previous year 2017-18 to previous year (2019-20) and deduction shall be <b>restricted to 100 per cent from 01.04.2020</b> onwards (i.e. from previous year 2020-21 onwards). |
| 35(1)(ia)- Expenditure on scientific research.                           | Weighted deduction from the business income to the extent of <b>125 per cent</b> of any sum paid as contribution to an approved scientific research company.   | Deduction shall be restricted to <b>100 per cent</b> with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).  |
| 35(1)(iii)- Expenditure on scientific research.                          | Weighted deduction from the business income to the extent of 125 percent of contribution to an approved research association or  | Deduction shall be <b>restricted to 100 per cent</b> with effect from 1.04.2017 (i.e. from previous year 2017-18 and subsequent years).   |



|  |   |   |
|--|---|---|
|  | university or college or other institution to be used for research in social science or statistical research.   |   |
| 35(2AA)- Expenditure on  | Weighted deduction from the business  | Weighted deduction shall be   |
| scientific research.   | income to the extent of 200 percent of any sum paid to a National Laboratory or a university or an Indian Institute of Technology or a specified person for the purpose of approved scientific research programme.  | restricted to 150 percent with effect from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20).<br>Deduction shall be restricted to 100 per cent from 01.04.2020 onwards (i.e. from previous year 2020-21 onwards).   |
| 35(2AB)- Expenditure on  | Weighted deduction of 200 percent   | Weighted deduction shall be   |
| scientific research.   | of the expenditure (not being expenditure in the nature of cost of any land or building) incurred by a company, engaged in the business of bio-technology or in the business of manufacture or production of any article or thing except some items appearing in the negative list specified in Schedule-XI, on scientific research on approved in-house research and development facility. | restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20).<br>Deduction shall be restricted to 100 per cent from 01.04.2020 onwards (i.e. from previous year 2020-21 onwards).  |
| 35AD- Deduction in respect of specified business.              | In case of a cold chain facility, warehousing facility for storage of agricultural produce, an affordable housing project, production of fertiliser and hospital weighted deduction of 150 percent of capital expenditure (other than expenditure on land, goodwill and financial assets) is allowed.   | In case of a cold chain facility, warehousing facility for storage of agricultural produce, hospital, an affordable housing project, production of fertilizer, deduction shall be restricted to 100 percent of capital expenditure w.e.f. 01.4.2017 (i.e. from previous year (2017-18 onwards). |
| 35CCC- Expenditure on notified agricultural extension project. | Weighted deduction of 150 percent of expenditure incurred on notified agricultural extension project.   | Deduction shall be restricted to 100 percent from 1.4.2017 onwards (i.e. from previous year 2017-18 onwards).   |



## **Income Declaration Scheme:**

➤ **Compliance Window for Domestic Black Money Holders:**

- Income Declaration Scheme has been proposed to enable those who have not declared their incomes in earlier years to come clean by paying tax, surcharge and penalty in a given compliance window. In this regard, Finance Bill, 2016 seeks to promulgate Income Declaration Scheme, 2016.

➤ **Arrangement of Sections:**

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| <b>Clause of Finance Bill</b> | <b>Chapter IX<br/>Income Declaration Scheme, 2016</b>   |
|-------------------------------|---|
| 178                           | Short title and commencement.   |
| 179                           | Definitions.  |
| 180                           | Declaration of undisclosed income.  |
| 181                           | Charge of tax and surcharge.  |
| 182                           | Penalty.  |
| 183                           | Manner of declaration.  |
| 184                           | Time for payment of tax.  |
| 185                           | Undisclosed income declared not to be included in total income.   |
| 186                           | Undisclosed income declared not to affect for finality of completed assessments.<br>Undisclosed income declared not to be treated as benami transaction in certain cases. |
| 187                           |   |
| 188                           | Tax in respect of voluntarily disclosed income not refundable.  |
| 189                           | Declaration not admissible in evidence against declarant.   |
| 190                           | Declaration by misrepresentation of facts to be void.   |
| 191                           | Exemption from Wealth-tax in respect of assets specified in declaration.<br>Applicability of certain provisions of Income-tax Act and of Chapter V of Wealth-tax Act.     |
| 192                           |   |
| 193                           | Scheme not to apply to certain persons.   |
| 194                           | Removal of doubts.  |
| 195                           | Power to remove difficulties.   |
| 196                           | Power to make rules.  |

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➤ **Highlights of Schemes:**

➤ **Applicability:**

- Any person may make, on or after the date of commencement of this Scheme but before a date to be notified by the Central Government in the Official Gazette, a declaration in respect of any income chargeable to tax under the Income-tax Act for any assessment year prior to the assessment year beginning on the 1st day of April, 2017—
- For which he has failed to furnish a return under section 139 of the Income-tax Act;
- which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the date of commencement of this Scheme
  
- which has escaped assessment by reason of the omission or failure on the part of such person to furnish a return under the Income-tax Act or to disclose fully and truly all material facts necessary for the assessment or otherwise.

➤ **Income declared is in the form of investment:**

- Where the income chargeable to tax is declared in the form of investment in any asset, the fair market value of such asset as on the date of commencement of this Scheme shall be deemed to be the disclosed income. The fair market value of any asset shall be determined in such manner, as may be prescribed.
- The provisions of the Benami Transactions (Prohibition) Act, 1988 shall not apply in respect of the declaration of undisclosed income made in the form of investment in any asset, if the asset existing in the name of a benamidar is transferred to the declarant, being the person who provides the consideration for such asset, or his legal representative, within the period notified by the Central Government.

**No deduction in respect of any expenditure or allowance** shall be allowed against the income in respect of which declaration is made

**Amnesty Window:** From 1<sup>st</sup> June 2016 upto the date to be notified by the Central Government (likely to be 30.09.2016)

- **Tax and Penalty:** Tax, surcharge and penalty totaling in all to *forty-five per cent* of such undisclosed income declared. The same is illustrated here-in-below:

|   | <b>Particulars</b>     | <b>Amount</b> |
|---|------------------------|---------------|
| A | Declared Income        | (XX)          |
| B | Tax payable            | 30% of A      |
| C | Krishi Kalyan Cess     | 7.5% of A     |
| D | Penalty                | 7.5% of A     |
|   | Amount Payable (B+C+D) | 45% of (XX)   |

➤ **Scheme not to apply in certain cases:**

- where notices have been issued under section 142(1) or 143(2) or 148 or 153A or 153C, or
- where a search or survey has been conducted and the time for issuance of notice under the relevant provisions of the Act has not expired, or
- where information is received under an agreement with foreign countries regarding such income, or
  - ✓ cases covered under the Black Money Act, 2015, or
  - ✓ persons notified under the Special Court Act, 1992, or
  - ✓ to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, or
  - ✓ cases covered under Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967 and the Prevention of Corruption Act, 1988.

➤ **Immunity:**

- Declaration shall not be admissible in evidence against the declarant for the purpose of any proceeding relating to imposition of penalty, or for the purposes of prosecution under the Income-tax Act or the Wealth-tax Act, 1957
- Exemption from wealth-tax in respect of assets specified in declaration
- No scrutiny and enquiry under the Income-tax Act and Wealth-tax Act to be undertaken





- **Payment of tax, surcharge and penalty:**
  - Payment of tax, surcharge and penalty shall be made on or before a date to be notified by the Central Government in the Official Gazette
  - Non-payment up to the date so notified shall render the declaration made under the scheme void
  - In cases where any declaration has been made but no tax and penalty referred to the scheme has been paid within the time specified, the undisclosed income shall be chargeable to tax under the Income-tax Act in the previous year in which such declaration is made.
  - Tax in respect of voluntarily disclosed income is not refundable.
  
- **Undisclosed income declared not to be included in total income:**
  - The amount of undisclosed income declared shall not be included in the total income of the declarant for any assessment year under the Income-tax Act, if the declarant makes the payment of tax and surcharge and the penalty by the specified date.
  
- **Undisclosed income declared not to affect finality of completed assessment:**
  - Declarant under this Scheme shall not be entitled, in respect of undisclosed income declared or any amount of tax and surcharge paid thereon, to re-open any assessment or reassessment made under the Income-tax Act or the Wealth-tax Act, 1957, or claim any set off or relief in any appeal, reference or other proceeding in relation to any such assessment or reassessment.
  
- **Misrepresentation or suppression of facts:**
  - Declaration made by misrepresentation or suppression of facts shall be treated as void.
  
- **Power to make Rules:** CBDT with the approval of the Central Government shall make rules for the purpose of the scheme.

## **THE DIRECT TAX DISPUTE RESOLUTION SCHEME, 2016**

- **Eligibility:**
  - A declarant can file a declaration to the designated authority in respect of tax arrears or specified tax, as the case may be.
  
- **Specified Tax:**
  - A tax the determination of which is in consequence of or validated by any amendment made to the Income-tax Act or the Wealth-tax Act with retrospective effect
  - Relates to a period prior to the date on which the Act amending the Income-tax Act or the Wealth-tax Act, as the case may be, received the assent of the President
  - Dispute in respect of which is pending as on the 29th day of February, 2016;
  
- **Tax Arrear:**



- The amount of tax, interest or penalty determined under the Income-tax Act or the Wealth-tax Act, 1957
- Of which appeal is pending before the Commissioner of Income-tax/wealth Tax (Appeals) on 29th day of February, 2016.

➤ **Quantum of Payment:** In case of Specified Tax Amount of tax so determined

In case 'Tax Arrear'

Being Tax & Interest

|                        |  |
|------------------------|--|
| Disputed Tax < 10 lacs | Whole disputed tax + interest up to the date of re / assessment                                |
| Other case             | Whole disputed tax + 25% of min. penalty leviable + interest up to the date of re / assessment |

Being Penalty

Penalty : 25% of min. penalty leviable

➤ **Time Period:**

- Declaration to be filed on or after 01.06.2016 but on or before a date the date to be notified by the Central Government in the Official Gazette.

➤ **Procedure:**

- Declarant to file declaration to the Designated Authority.
- In case of Specified Tax, prior to making the declaration the declarant shall withdraw the appeal / notice. However, in case of Tax Arrear when the declaration is filed, the Appeal filed before the Commissioner shall be deemed to have been withdrawn.
- Declarant shall furnish an undertaking in such form and verified in such manner as may be prescribed, waiving his right, to seek or pursue any remedy or any claim in relation to the specified tax.
- Designated Authority shall, within a period of 60 days, determine the amount of tax and other payable by the declarant and grant a certificate setting forth the particulars of the tax arrear.
- The Declarant shall pay the sum within thirty days of the date of receipt of the certificate and intimate the designated authority along with proof.
- The Designated Authority shall thereupon pass an order stating that the Declarant has paid the sum.

➤ **Benefits of the Scheme:**

- Immunity from proceedings from any offence under the Income tax Act / Wealth Tax Act
- Immunity/Waiver from imposition of penalty
- Waiver of remaining interest

➤ **Drawbacks:**

- Scheme shall not apply in the following cases:-



✓ Search and seizure

- ✓ Re-Assessment/Assessment in pursuance of survey
- ✓ Prosecution has been instituted
- ✓ Relating to any undisclosed income from a source located outside India
- ✓ Information received through TIEA

➤ **Other Concerns:**

- Order passed under the scheme is conclusive and no matter covered by such order shall be reopened in any other proceedings.
- Amount paid under the scheme is non-refundable

➤ **Rationalization of taxation of Income by way of dividend:**

- Insertion of new section 115BBDA & proviso to section 10(34) [w.e.f. 01.04.2017]
- Taxation of dividends of more than Rs.10 lac @ 10% in the hands of Individual, HUF & firm (resident in India)
- No deduction of expenditure / allowance / set off allowed
- Deemed Dividend u/s 2(22)(e) excluded

➤ **Amendment to rate of Securities Transaction Tax (STT):**

- W.e.f 1 June 2016
- Increase in rate of STT from 0.017% to 0.05% by amending section 98 of Finance (No.2) Act, 2004.

➤ **Equalisation Levy:**

- Charge of Equalisation Levy on consideration for 'Specified Services' from Non-residents to:
  - ✓ Person resident in India & doing business/profession

OR

- ✓ Non-resident having PE in India. (hereinafter referred as "Assessee")
- Specified Service (SS) means – Online advertisement, provision for digital advertising space or any other facility or service for the purpose of online advertisement & as notified by Central Government.
- Rate of Levy @6% of consideration.
- Income arising from Specified Services mentioned in Chapter VIII of Finance Bill exempt under new section 10(50) [date to be notified].
- Every Assessee shall deduct the equalisation levy from the amount paid or payable to non-resident @6%
- Provisions of above not applicable in following cases:
  - NR providing specified service has PE in India and that Specified Service is connected with that PE OR
  - Aggregate consideration for Specified Service does not exceed 1 lac rupees OR
  - Person resident in India is not carrying on business or profession



- Every Assessee has to undertake compliances in respect of deduction & payment of tax and furnishing of statement.
  - There shall be disallowance u/s 40 in case of non-deduction & non-payment of deductible amount – Insertion of sub-clause (ib) w.e.f. 1st June 2016.
  - Interest, penalty and prosecution on Assessee for failure to comply with the provision of Equalisation levy Scheme.
  - Any order of penalty shall be appealable before appellate authorities
  - Effective date yet to be notified by the Government.
- **Rationalization of tax deduction at source provisions relating to payments by Category-I and Category-II Alternate Investment Funds to its investors (w.e.f. 01.06.2016):**
- Section 194LBB of existing Act provide for deduction @ 10%, however no provisions for lower deduction certificate u/s 197
  - Proposed amendment in the definition of term ‘rates in force’ to include the rates specified in Section 194LBB and 194LBC
  - Non-resident investor or foreign companies can also take certificate of lower deduction of tax from assessing officer
  - Tax deduction in case of resident investor at the rate of 10% and in case payee is non-resident (not being a company) or a foreign company at the rates in force
- **Amendment to Tax regime for Securitisation Trust:**
- Definition of Securitisation Trust widened: To include SPV/Trusts set up by Reconstruction companies and securitisation companies under SARFAESI Act
    - ✓ The income of securitisation trust shall continue to be exempt.
    - ✓ Income of investor from securitisation trust would be taxable in the hands of investors w.e.f. 1.6.2016. o TDS would be applicable at following rates:

|                            |                |
|----------------------------|----------------|
| Resident Individual or HUF | 25%            |
| Others                     | 30%            |
| Non-resident investors     | rates in force |

The facility for the investors to obtain low or nil deduction of tax certificate would be available

- **Adoption of BEPS Action plan for CbC reporting:**
- Introduction of the concepts of ‘Parent Entity’, ‘Constituent Entity’, ‘International Group’.
  - Requirement of maintaining information and documents enhanced for constituent entities by inserting new section 286.
  - Applicability in case when consolidated group revenue of international group as reflected in consolidated financial statement exceeds prescribed amount. (Current international consensus is threshold of Euro 750 million equivalent of local currency – approx. Rs.5395 crores).

| Condition             | Action                         | Remarks                     |
|-----------------------|--------------------------------|-----------------------------|
| If Constituent Entity | Notify prescribed IT authority | Details of parent entity or |

is resident in India

alternate reporting entity

|                                    |  |  |
|------------------------------------|--|--|
| If Parent entity resident in India | Furnish Report in prescribed form to prescribed IT authority | (a) Information about revenue, profit or loss, IT paid, accumulated earnings etc.<br>(b) Details of constituent entity and country of residence<br>(c) Nature of business activity |
|------------------------------------|--|--|

- Failure to comply will attract penalties u/s 271GB – Rs. 5000 for each day for which failure continues or Rs.15000 each day for failure continuing beyond 1 month.
- **Exemption of Central Government subsidy or grant or cash assistance, etc. towards corpus of fund established for specific purposes:**
  - Subsidy, grant or disbursement granted by the Central Government for the corpus of a trust or institution established by the Central Government or State Government shall not form part of income. Sub Clause (xviii) to Clause (24) of Section 2 be amended.
  - This amendment will take effect from 1st April, 2017 and will apply in relation to the assessment year 2017-18 and subsequent years.
- **Extension of scope of section 43B to include certain payments made to Railways:**
  - Amendment is proposed in Section 43B by way of inserting clause (g) to expand the scope of the section to include payments made to Indian Railways for use of Railway assets, within the deductions to be allowed only on actual payments.
  - This amendment will take effect from 1st April, 2017 and will apply in relation to the assessment year 2017-18 and subsequent years.
- **Clarification regarding the definition of the term ‘unlisted securities’ for the purpose of Section 112 (1) (c) 01.04.2017:**
  - Judgment in case of Dahiben Umedbhai Patel And Others vs Norman James Hamilton And Others in (1983) 85 BOMLR 275 held that share of private company are not securities for the purpose of this section
  - It is proposed to amend the provisions of clause (c) of sub-section (1) of section 112 of the Income- tax Act, so as to provide that long-term capital gains arising from the transfer of a capital asset being shares of a company not being a company in which the public are substantially interested, shall be chargeable to tax at the rate of 10 per cent (without taking benefit of indexation)
- **Time limit for carry forward and set off of such loss under section 73A of the Income-tax Act:**



- Losses pertaining specified business as per section 345AD are determined u/s 73A. Henceforth, such loss shall be carried forward and set-off only in pursuance if return filed u/s 139(3).

➤ **Proposed Amended provision of section 211/209 relating to installments of advance tax etc.**

| <b>Assessee</b>  | <b>Due dates and amount of advance tax payable</b>  | <b>Remarks</b>                                     |
|--|---|--|
| All Assessee Other than Assessee engaged in eligible business u/s 44AD | a. on or before 15 <sup>th</sup> June <15%<br>b. on or before 15 <sup>th</sup> September <45%<br>c. On or before the 15th December <75%<br>d. On or before the 15th March <100% | Small professionals would fall under this category |
| Assessee engaged in eligible business u/s 44AD                         | On or before the 15 <sup>th</sup> March < whole of the amount of advance tax  |  |

- Any amount paid by way of advance tax on or before the 31st day of March shall also be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act
- Failure to comply with the above, interest will be levied u/s 234C at the rate of 1% of the shortfall. However, interest u/s 234C on shortfall amount of installments at the rate of 1%, however no interest if the amount of advance tax paid is not less than 12% or 36% of current income in case of first and second installment.

➤ **Interest on Refund (w.e.f. 01.06.2016):**

- Where refund is due out of TCS, advance tax, amount considered as paid u/s 199, interest payable to Assessee @ 0.5% p.m. or part of month
- In case return is filed within due date > from 1st day of April of the AY till the date of granting of refund
- In case of delayed filing of return interest > from the date of filing of return till the date of granting of refund
- No interest payable on refund if amount of refund is less than 10% tax determined u/s 143(1) or regular assessment
- Additional interest at the rate of 3% per annum on refund resulting from the order of any appellate or superior authority from the date of expiry in section 153(5) to the date of granting of refund.

➤ **Amortisation of spectrum fee for purchase of spectrum:**



(New section inserted 35ABA of the Act w.e.f.

01.04.2017)

- any capital expenditure incurred and actually paid by an assessee on the acquisition of any right to use spectrum for telecommunication services by paying spectrum fee will be allowed as a deduction in equal instalments over the period for which the right to use spectrum remains in force
- where the spectrum is transferred and proceeds of the transfer are less than the expenditure remaining unallowed, a deduction equal to the expenditure remaining unallowed as reduced by the proceeds of transfer, shall be allowed in the previous year in which the spectrum has been transferred
- if the spectrum is transferred and proceeds of the transfer exceed the amount of expenditure remaining unallowed, the excess amount shall be chargeable to tax as profits and gains of business in the previous year in which the spectrum has been transferred.
- unallowed expenses in a case where a part of the spectrum is transferred would be amortised
- under the scheme of amalgamation, if the amalgamating company sells or transfer the spectrum to an amalgamated company, being an Indian company, then the provisions of this section will apply to amalgamated company as they would have applied to amalgamating company if later has not transferred the spectrum.

➤ **Filing of Return of Income:**

- **Section 139(1)**

Section 139(1) of the Income Tax Act, 1961 Act has been amended w.e.f. 1.04.2017, to include that if a person during the previous year earns income which is exempt under section 10(38) and income of such

person without giving effect to the said clause of section 10 exceeds the maximum amount which is not chargeable to tax, shall also be liable to file return of income for the previous year within the due date.

- **Section 139(3)**

Section 139(3) of the Income Tax Act, 1961 Act has been amended to include that if there is any loss from any specified business referred to in section 35AD, then a return of income shall be filed to carry forward the loss.

- **Section 139(4)**

W.e.f. 1.04.2017, section 139(4) is substituted to provide that any person who has not furnished a return within the time allowed to him under sub-section (1), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

- **Section 139(5)**



W.e.f. 1.04.2017, section 139(5) has been substituted so as to provide that if any person, having furnished a return under section 139(1) or section 139(4), or in a return furnished in response to notice issued under section 142(1), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

- **Section 139(9)**

W.e.f. 1.04.2017, Clause (aa) of Explanation to sub-section (9) of the section 139 has been omitted and hence, a return which is otherwise valid would not be treated defective merely because self-assessment tax and interest payable in accordance with the provisions of section 140A has not been paid on or before the date of furnishing of the return.

- **Processing of return and scrutiny assessment (01.04.2017):**

- Under the existing provision of section 143(1D), processing of a return is not necessary where a notice u/s 143(2) has been issued to the assessee. It is proposed to amend s. 143(1D) to provide that before making an assessment under sub-section (3) of section 143, a return shall be mandatorily processed under sub-section (1) of section 143.
- any amount paid by way of advance tax on or before the 31st day of March shall also be treated as advance tax paid during the financial year ending on that day for all the purposes of this Act
- Interest u/s 234C on shortfall amount of installments at the rate of 1%, however no interest if the amount of advance tax paid is not less than 12% or 36% of current income in case of first and second installment.

- **Interest on Refund (w.e.f. 01.06.2016):**

- In case of delayed filing of return interest shall accrue from the date of filing of return and not from 1st April of AY till the date of granting of refund
- No interest payable on refund if amount of refund is less than 10% tax determined u/s 143(1) or regular assessment
- New sub-section 1A to provide In a case where a refund arises as a result of giving effect to an appeal effect or revision effect wholly or partly, otherwise than by making a fresh assessment or reassessment,

the assessee shall be entitled to receive an additional interest on such amount of refund calculated at the rate of three per cent per annum, for the period beginning from the date following the date of expiry of the time allowed under sub-section (5) of section 153 to the date on which the refund is granted.

- **Amendment relating to Appellate Tribunal 01.06.2016:**





- Post of Senior Vice President abolished
  - Appeals lies against the order passed u/s 270A(new provision substituting provision of section 271(1) )
  - No Appeals of the Department against the orders of DRP shall lie before the Tribunal
  - Time limit to rectify the order passed by Appellate Tribunal reduced to six month from the end of the month in which order was passed.
  - Single member bench may dispose of any case which pertains to an assessee whose total income as computed by the Assessing Officer does not exceed fifty lakh rupees (as against fifteen lakh at present)
- **Provision for bank guarantee under section 281B:**
- W.e.f. 1.06.2016, provisional attachment of property could be substituted by a bank guarantee
  - Guarantee shall be from a scheduled bank for an amount not less than the fair market value of the property provisionally attached
  - Assessing Officer may also accept guarantee from a scheduled bank for an amount lower than the fair market value of the property if he is satisfied that the same is sufficient to protect the interests of the revenue
  - Assessing Officer may make a reference to the Valuation Officer for for determining the fair market value of the property.
  - Time limit for revocation of provisional attachment
  - Where reference has been made to Valuation Officer è 45 days from the date of receipt of the guarantee
  - In any other case è within fifteen days from the date of receipt of guarantee
  - Bank Guarantee shall be renewed atleast 15 days before the expiry of the Guarantee, otherwise the Assessing Officer has the power to invoke the Guarantee.
  - Upon service of Demand Notice if the assessee fails to pay the sum as specified in the notice of demand, the Assessing Officer may invoke the guarantee furnished, wholly or in part, to recover the amount.
  - The amount realised by invoking the Bank Guarantee shall be adjusted against the existing demand and the balance amount shall be deposited in the Personal Deposit Account of the Principal Commissioner or Commissioner
- **Extension of Time limit for TPO in certain cases:**
- Existing provision – TPO has to pass his order 60 days prior to date on which limitation for assessment expires.
  - Not able to meet the time limits – Reason – Court Stay or information from abroad
  - Now, amendment to exclude such period from consideration of time limits.
- **Legislative framework to enable and expand the scope of electronic processing of information**



- In order to expedite verification and analysis of the information and documents received as per existing Section 133C, it is proposed to amend section 133C to provide adequate legislative backing for processing of information and documents so obtained and making the outcome thereof available to the Assessing Officer for necessary action, if any.
  - It is also proposed to amend Explanation 2 to section 147 to provide for reopening of cases by the AO on the basis of the information so received.
  - In order to expeditiously remove the mismatch between the return and the information available with the Department, it is proposed to expand the scope of adjustments that can be made at the time of processing of returns under sub-section (1) of section 143. It is proposed that such adjustments can be made based on the data available with the Department in the form of audit report filed by the assessee, returns of earlier years of the assessee, 26AS statement, Form 16, and Form 16A. However, before making any such adjustments, in the interest of natural justice, an intimation shall be given to the assessee either in writing or through electronic mode requiring him to respond to such adjustments. The response received, if any, will be duly considered before making any adjustment. However, if no response is received within thirty days of issue of such intimation, the processing shall be carried out incorporating the adjustments without giving any further intimation.
  - These amendments will take effect from the 1st day of June, 2016.
- **Assumption of jurisdiction of Assessing Officer:**
- It is proposed to amend sub-section (3) of section 124 to specifically provide that cases where search is initiated under section 132 or books of accounts, other documents or any assets are requisitioned under section 132A, no person shall be entitled to call into question the jurisdiction of an Assessing Officer after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 153A or sub-section (2) of section 153C or after the completion of the assessment, whichever is earlier.
  - This amendment will take effect from the 1st day of June, 2016.
- **Amendments in the NPS:**
- Insertion of new sub-section (12A) in section 10 to provide that any payment from the National Pension System Trust to an employee on closure of his account or on his opting out of the pension scheme, to the extent it does not exceed 40% of the total amount payable to him at the time of such closure or his opting out of the scheme shall be exempt from tax.
  - Amendment to sec. 17(2) by extending the limit of employer contribution to superannuation from Rs. 1 lac to Rs. 1.5 lac not to be included as Perquisites.
  - In the event of death of assessee, any amount received by his nominee on account of closure or opting out of the pension scheme shall not be taxable.
  - With a view to bring all the pension plans under one umbrella, following is proposed:
  - Exemption to one-time portability from a recognised provident fund to National Pension System;



• any payment from an approved superannuation fund by way of transfer to the account of the employee under NPS referred to in section 80CCD and notified by the Central Government shall be exempt from tax.

➤ **Rationalization of time limit for assessment, reassessment and recomputation:**

- Substitution of new section for section 153 [w.e.f.01.06.2016];

| <b>Section</b> | <b>Assessment/Reassessment/Recomputation</b>  | <b>Existing Time limit</b> | <b>Revised time limit</b>   |
|----------------|---|----------------------------|---|
| 153(1)         | Completion of assessment u/s 143 or 144   | 2 years                    | 21 month  |
| 153(2)         | Completion of assessment u/s 147  | 1 year                     | 9 Months  |
| 153(3)         | Completion of fresh assessment in pursuance of an order u/s 254 or 263 or 264, setting aside or cancelling an assessment                                | 1 year                     | 9 months  |
| 153(4)         | Where reference u/s 92CA(1) is made the period available for completion of assessment or reassessment under subsection (1), (2) & (3)                   | N/A                        | Shall be Extended by 12 months  |
| 153(5)         | Period for giving effect to an order u/s 250 or 254 or 260 or 263 or 264 or an order of the settlement commission u/s 245D(4)                           | N/A                        | 3 months from the end of the month in which order is received or passed, as the case may be, by the principal chief commissioner or principal commissioner or commissioner (additional time if 6 months may be granted) |
| 153(6)         | (i) where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of section 250, 254, 260, 262, 263, or 264 | N/A                        | Assessment, Reassessment or recomputation shall be made on or before the expiry of 12 months from the end of the month in which such order is received by the principal commissioner or commissioner                    |



|  |  |  |   |
|--|--|--|---|
|  | <p>or in an order of any court in a proceeding otherwise than by way of appeal or reference<br/> (ii) where an assessment is made on a partner of the firm in consequence of an assessment made on the firm u/s<br/> 147</p> |  | <p>Such assessment be made on or before the expiry of 12 month from the end of the month in which the assessment order in the case of the firm is passed.</p> |
|--|--|--|---|

➤ **Rationalization of time limit for assessment in Search cases**

- Substitution of new section for section 153B [w.e.f. 01.06.2016];

| <b>Section</b>                  | <b>Assessment in search cases</b>   | <b>Existing time limit</b>   | <b>Revised Time limit</b>   |
|---------------------------------|---|--|---|
| Clause (a) & (b) of sec. 153(1) | Completion of assessment u/s 153A, in respect of each assessment year falling within six assessment year & in respect of A.Y. relevant to P.Y. in which search is conducted u/s 132 or requisition is made u/s 132A | 2 Year   | 21 month  |
| Provision to Sec.153(1)         | Completion of assessment in case of other person referred to in section 153C  | 2 Years from the end of F.Y. in which the last authorization for search u/s 132 or requisition u/s 132A was executed 1 year from the end of F.Y in which the books of accounts or documents or assets seized or requisition are handed over u/s 153C to AO having jurisdiction over such other person, whichever is later. | 21 months from the end of F.Y. in which the last authorization for search u/s 132 or requisition u/s 132A was executed 9 months (changed from the existing 1 year) from the end of F.Y in which the books of accounts or documents or assets seized or requisition are handed over u/s 153C to AO having jurisdiction over such other person, whichever is later. |



➤ **Proposed Amendment provision of section-211**

| <b>Assessee</b>  | <b>Due dates</b>   | <b>Remarks</b>  |
|--|--|---|
| All Assessee other than assessee engaged in eligible business u/s 44AD | e. on or before 15th June < 15%<br>f. on or before 15th September <45%<br>g. on or before the 15th December <75%<br>h. on or before the 15 th march < 100% | Small professionals would fall under this category  |
| Assessee engaged in eligible business u/s 44 AD                        | On or before the 15th march > whole of the amount of advance tax   | Interest at the rate 1% shall be levied u/s 234C n the shortfall from tax due on returned income. |

➤ **PROPOSED CHANGES/REFORMS IN FDI AND RELATED POLICIES**

- In order to promote ease of doing business for foreign investors, following proposals are made:

➤ **Enhancement of FDI limits**

| <b>Sectors</b>                 | <b>Existing</b>  | <b>Proposed</b>   |
|--------------------------------|--|---|
| Insurance                      | Automatic route upto 26%,<br>approval route above 26% upto 49% | Automatic route upto 49%  |
| Asset Reconstruction Companies | Automatic route upto 49%                                       | Automatic route upto 100%   |
| NBFC                           | FDI allowed in 18 specified                                    | FDI will be allowed beyond the 18 specified NBFC activities in the automatic route in other activities which are regulated by financial sector regulators |
| Marketing of food products     | Not specified  | 100% FDI through FIPB route in marketing of food products produced and manufactured in India  |



- Eligible FDI instruments will be expanded to include hybrid instruments to be specified. (currently they are Equity shares, compulsorily convertible preference shares and compulsorily convertible debentures)
- Foreign Portfolio Investments – Limit of 24% proposed to be increased to 49% for FPI in Central Public Sector Enterprises (except banks).
- Investment limits for foreign entities in Indian Stock Exchanges to be enhanced from 5% to 15% on par with domestic institutions.
- Foreign Investors to be accorded 'Residency Status' instead of existing business visa of 5 years in order to promote ake in India.

➤ **RBI Act to be amended to set up monetary policy committee:**

- In the RBI Act 1934, new chapter has been inserted as Chapter III F
- To provide statutory basis for a Monetary Policy Framework and a Monetary Policy Committee
- The primary objective of the monetary policy is to maintain price stability while keeping in mind the objective of growth
- The Monetary Policy Committee shall determine the Policy Rate required to achieve the inflation target.
- The decision of the Monetary Policy Committee shall be binding on the Bank.

➤ **The Prevention of Money Laundering Act, 2002, The Smugglers and Foreign Exchange Manipulators (Forfeiture of Property Act, 1976 and Narcotics Drugs and Psychotropic Substances Act, 1985:**

- Amendments have been made to the three Acts to merge the three Tribunals established under these Acts and to provide that Appellate Tribunal established under the Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 shall be the Appellate Tribunal for hearing the appeals against the orders made under all these three Acts.

➤ **The Foreign Exchange Management Act, 1999:**

- New section 14A relating to power to recover arrears of penalty in the Foreign Exchange Management Act [FEMA], 1999 inserted to incorporate provisions contained under the Second Schedule appended to the Income-tax Act, 1961, so as to empower an officer not below the rank of Assistant Director to recover arrears of penalty under the FEMA 1999 by exercising the powers conferred under the Income-tax Act, 1961.

➤ **Code on Resolution of Financial Firms:**

- A comprehensive Code on Resolution of Financial Firms will be introduced as a Bill in the Parliament during 2016-17.



- This Code will provide a specialised resolution mechanism to deal with bankruptcy situations in banks, insurance companies and financial sector entities.
  - This Code, together with the Insolvency and Bankruptcy Code 2015, when enacted, will provide a comprehensive resolution mechanism for our economy.
- **Central Sales Tax Act, 1956:**
- An explanation has been inserted to section 3 of the Act to provide that where the gas sold or purchased and transported through a common carrier pipeline or any other common transporter distribution system becomes co-mingled and fungible with other gas in the pipeline or system and such gas is introduced into the pipeline or system in one State and is taken out from the pipeline in another State, such sale or purchase of gas shall be deemed to be a movement of goods from one State to another.
- **Companies Act, 2013:**
- A bill to amend the Companies Act, 2013 in the current Budget Session of the Parliament is proposed to be introduced to remove difficulties to ease of doing business.
  - The Bill would also improve the enabling environment for start-ups. The registration of companies will also be done in one day.
- **SEBI Act 1992:**
- It is proposed to amend the SEBI Act 1992 in the coming year to provide for more members and benches of the Securities Appellate Tribunal.
- **SARFAESI Act 2002:**
- To tackle the problem of stressed assets in the banking sector, it is proposed to make necessary amendments in the SARFAESI Act 2002 to enable the sponsor of an Asset Reconstruction Company to hold up to 100% stake in the Asset Reconstruction Company and permit non-institutional investors to invest in Securitization Receipt.

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