An overview of

Finance Bill, 2017 – Direct Taxes

[as introduced in Lok Sabha on 01-02-2017]

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Proposed Amendments under Direct Taxes in the Finance Bill, 2017

- A. Rates of Income-tax
- B. Additional Resource Mobilization
- C. Measures for Promoting Affordable Housing and Real Estate Sector
- D. Measures for Stimulating Growth
- E. Promoting Digital Economy
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Note: The applicable date being 01.04.2018 denotes the amendment is applicable w.e.f. A.Y. 2018-19

A. Rates of Income-tax

Brief Impact:

A. Individual, Hindu undivided family, association of persons, body of individuals, artificial juridical person.

I. The rate of income tax is proposed to be reduced to 5% (from 10%) for income between INR 2.5 to INR 5 lakhs. Other tax slab and rates remain unchanged.

Total income	Proposed tax rate* (AY 2018-19)	Existing tax rate* (AY 17-18)
Up to INR 250,000**	Nil	Nil
INR 250,001 to INR 500,000	5%	10%
INR 500,001 to INR 1,000,000	20%	20%
Above INR 1,000,000	30%	30%

* Education cess and surcharge as applicable.

** Basic exemption limit for resident individuals above 60 years but less than 80 years of age at any time during the FY is INR 300,000 and for resident individuals 80 years of age or more is INR 500,000 (unchanged).

II. Surcharge @ 10% is proposed in cases where total income of an individual/HUF/AOP/BOI exceeds Rs.50 lakh but donot exceed Rs. 1.00 crores. Surcharge of 15% would continue to be applicable where the total income of an individual/HUF/AOP/BOI exceeds Rs 1.00 Crore.

Rebate u/s 87A:

1. Maximum Rebate proposed u/s 87A - Rs. 2,500 (AY 2017-18 Rs. 5,000).
2. If total Income does not exceed Rs. 3,50,000 (for AY 2017-18 Rs. 5,00,000).

Rebate u/s 87A is available only to Individual assessees, being resident in India.

B. Co-operative Societies

I. The rates of income-tax will continue to be the same as those specified for financial year 2016-17.

Total income	Tax rate*
Up to Rs. 10,000	10%
Rs. 10,000 to Rs. 20,000	20%
Above Rs. 20,000	30%

* Education cess and surcharge as applicable.

II. Surcharge of 15% would continue to be applicable where the total income of an co-operative society exceeds Rs 1.00 Crore.

C. Partnership Firms

I. The rates of income-tax will continue to be the same as those specified for financial year 2016-17 i.e. **a partnership firm (including LLP) is taxable at 30%** *[Education cess and surcharge as applicable]*.

II. Surcharge of 15% would continue to be applicable where the total income of an co-operative society exceeds Rs 1.00 Crore.

D. Local Authority

I. The rates of income-tax will continue to be the same as those specified for financial year 2016-17 i.e. **a local authority is taxable at 30%** *[Education cess and surcharge as applicable]*.

II. Surcharge of 15% would continue to be applicable where the total income of an co-operative society exceeds Rs 1.00 Crore.

C. Domestic Company

I. Paragraph E of Part III to the First Schedule: In the case of domestic companies the rate of income-tax shall be 25% (plus applicable surcharge and education cess) of the total income where the total turnover or gross receipts of previous year 2015-2016 does not exceed Rs. 50.00 crore and in all other cases the rate of income-tax shall be 30% (plus applicable surcharge and education cess) of the total income (Unchanged).

A. For a domestic company having total turnover/ gross receipts in the previous year (2015-16) not exceeding INR 50 Crores:

Particulars	Taxable income < INR 10 million	INR 10 million < taxable income < INR 100 million	Taxable income > INR 100 million
Corporate tax	25%	25%	25%
Surcharge	-	7%	12%
Corporate tax + surcharge	25%	26.75%	28%
Education cess thereon	3%	3%	3%
Effective tax rate	25.75%	27.55%	28.84%

B. For a domestic company having total turnover/ gross receipts exceeding INR 50 Crores:

Particulars	Taxable income < INR 10 million	INR 10 million < taxable income < INR 100 million	Taxable income > INR 100 million
Corporate tax	30%	30%	30%
Surcharge	-	7%	12%
Corporate tax + surcharge	30%	32.10%	33.60%
Education cess thereon	3%	3%	3%
Effective tax rate	30.90%	33.06%	34.61%

C. Foreign Company

I. The rates of income-tax will continue to be the same as those specified for financial year 2016-17 i.e. **a foreign company is taxable at 40%** *[Education cess and surcharge as applicable]*.

Particulars	Taxable income < INR 10 million	INR 10 million < taxable income < INR 100 million	Taxable income > INR 100 million
Corporate tax	40%	40%	40%
Surcharge	-	2%	5%
Corporate tax + surcharge	40%	40.80%	42.00%
Education cess thereon	3%	3%	3%
Effective tax rate	41.20%	42.02%	43.26%

B. Additional Resource Mobilisation

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S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1.	Rationalization of taxation of income by way of dividend	115BBDA	44	01-04-2018
2.	Deduction of tax at source in the case of certain Individuals and Hindu undivided family	194-I, 194-IB, 206AA	63	01-06-2017

1. Rationalization of taxation of income by way of dividend [Clauses 44]

Section 115BBDA amended w.e.f. 1st day of April, 2018

*(i) in sub-section (1), for the words "~~an assessee, being an individual, a Hindu undivided family or a firm~~", the words "**a specified assessee**" shall be substituted.*

(ii) for sub-section (3), the following Explanation shall be substituted, namely:—

'Explanation.—For the purposes of this section,—

(a) "dividend" shall have the meaning assigned to it in clause (22) of section 2 but shall not include sub-clause (e) thereof;

(b) "specified assessee" means a person other than,—

(i) a domestic company; or

(ii) a 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; or

(iii) a trust or institution registered under section 12AA.'

Brief Impact:

Section 115BBDA was introduced by Finance Act, 2016, w.e.f. 01-04-2017 to provide that in the case of an Individual, HUF or a firm who is a resident in India, any income by way of dividend declared, distributed or paid by a domestic company, in excess of 10 Lacs shall be taxable @ 10% in the hands of recipient. Further, no deduction of any expenditure or allowance or set off of loss shall be allowed in computing the income by way of dividend referred in section 2(22) except dividend referred in Section 2(22)(e).

Now, **Scope of Dividend taxability is proposed to be increased** to ensure horizontal equality. Thus, it is proposed that such income shall be taxable for all assessees (being resident in India) **other than** Domestic Company, Trust/ Institution u/s 12AA and certain funds u/s 10(23C).

2. Deduction of tax at source in the case of certain Individuals and Hindu undivided family

[Clauses 63]

New Section 194-IB (Payment of rent by certain individuals or Hindu undivided family) Inserted w.e.f. 1st day of June, 2017

*(1) Any person, being an **individual or a Hindu undivided family** (other than those referred to in the second proviso to section 194-I), responsible for paying to a resident any income by way of **rent exceeding fifty thousand rupees for a month or part of a month** during the previous year, shall **deduct an amount equal to five per cent** of such income as income-tax thereon.*

*(2) The income-tax referred to in sub-section (1) shall be deducted on such income **at the time of credit of rent, for the last month of the previous year or the last month of tenancy**, if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.*

(3) The provisions of section 203A shall not apply to a person required to deduct tax in accordance with the provisions of this section.

*(4) In a case where the tax is required to be deducted as per the provisions of section 206AA, such **deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy**, as the case may be.*

Explanation.—For the purposes of this section, "rent" means any payment, by whatever name called, under any lease, sub-lease, tenancy or any other agreement or arrangement for the use of any land or building or both.'

Brief Impact:

1. Individual and HUF (Not liable for Tax Audit) will be liable to deduct TDS on Rent Payment in excess of Rs.50,000/- per month or part of a month @ 5%.
2. TDS will be deducted only once in a year at the time of last payment in previous year or last payment if premise is vacated during the year.
3. Assessee need not to apply for TAN in this case.
4. In case landlord doesn't provide his PAN number, then TDS @20% is required to be deducted, however total TDS to be deducted cannot exceeds the rent payable for last month or last month of tenancy.

Note: For Payment of TDS a separate challan cum return form may be introduced like Form 26QB (TDS payment in case of purchase of property).

Issue for consideration

There is an issue of clarification regarding the amount on which tax has to be deducted at source in a situation where monthly rent is increased during the previous year and the increased monthly rent exceeds Rs.50,000.

Example:

The amount on which tax needs to be deducted on the last month of the previous year would generally be the total rent paid during the previous year. However, in a case when the monthly rent currently does not exceed Rs.50,000 but the same is increased, say, in the month of February and the increased rent amount exceeds Rs.50,000 per month, then it is not clear on what amount the tax needs to be deducted.

Whether the tax needs to be deducted on the rent paid during that previous year although the rent per month for some of the months is less than Rs.50,000 p.m or the rent needs to be deducted on the aggregate amount of rent for the months where rent has exceeded Rs.50,000 pm.

C. Measures for Promoting Affordable Housing and Real Estate Sector

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S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1	Incentives for Promoting Investment in immovable property	2 (42A)	3	01-04-2018
2	Rationalisation of Provisions of Section 80-IBA to promote Affordable Housing	80-IBA	37	01-04-2018
3	Tax incentive for the development of capital of Andhra Pradesh	49, 10 (37A), 194 LA	6 & 25	01-04-2015

C. Measures for Promoting Affordable Housing and Real Estate Sector Contd....

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
4	Special provisions for computation of capital gains in case of joint development agreement	45 (5A), 49	22, 25	01-04-2018
		194-IC	64	01-04-2017
5	Shifting base year from 1981 to 2001 for computation of capital gains	55	28 & 24	01-04-2018
6	Expanding the scope of long term bonds under 54EC	54EC	27	01-04-2018
7	No notional income for house property held as stock-in-trade	23	12	01-04-2018

1. Incentives for Promoting Investment in immovable property *[Clauses 3]*

3rd Proviso to Section 2(42A) amended w.e.f. 1st day of April, 2018

*"Provided also that in the case of a share of a company (not being a share listed in a recognised stock exchange in India) **or an immovable property, being land or building or both**, the provisions of this clause shall have effect as if for the words "thirty-six months", the words "twenty-four months" had been substituted."*

Brief Impact:

Period of holding is proposed to be reduced from 36 months to 24 months for calculation of LTCG in case of Immovable property being land or building or both.

2. Rationalisation of Provisions of Section 80-IBA to promote Affordable Housing *[Clauses 37]*

Section 80-IBA (*Deductions in respect of profits and gains from housing projects*) amended with Effect from 1st day of April, 2018

Brief Impact:

In section 80IBA, 100% exemptions of profits was provided to developer for **developing and building affordable housing projects as per specified conditions**. The scope of exemptions has been expanded with amendments in current Finance Bill:-

a. Builder can complete the project within a period of **5 years (Presently 3 years)** from the date of approval of competent authority.
b. Exemption is presently available to the builder who is engaged in development of units of 30 sq mtr and 60 sq mtr built up area, Now exemption is proposed to be made available for development of units of 30 Sq mtr and 60 Mtr on basis of **CARPET AREA.** Therefore, the proposed size of house got increased.

c. Limits of 30 sq mtr in case of units located within distance of 25 KM from the municipal limits of the Chennai, Delhi, Kolkata or Mumbai is proposed to be removed, therefore in these units project of 60 sq mtr can be developed.

d. "carpet area" shall have the same meaning as assigned to it in Section 2(k) of Real Estate (Regulation and Development) Act, 2016.

Under Section 2(k) of Real Estate (Regulation and Development) Act, 2016

"carpet area" means the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment.

Explanation.— For the purpose of this clause, the expression "exclusive balcony or verandah area" means the area of the balcony or verandah, as the case may be, which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee; and "exclusive open terrace area" means the area of open terrace which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee;

3. Tax incentive for the development of capital of Andhra Pradesh [Clauses 6 & 25]

In section 10, New Clause 37A inserted w.r.e.f. 1st day of April, 2015

"(37A) any income chargeable under the head "Capital gains" in respect of transfer of a specified capital asset arising to an assessee, being an individual or a Hindu undivided family, who was the owner of such specified capital asset as on the 2nd day of June, 2014 and transfers that specified capital asset under the ***Land Pooling Scheme*** *(herein referred to as "the scheme")* ***covered under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015*** *made under the provisions of the Andhra Pradesh Capital Region Development Authority Act, 2014 and the rules, regulations and Schemes made under the said Act.*

Explanation.—For the purposes of this clause, "specified capital asset" means,—

(a) the land or building or both owned by the assessee as on the 2nd day of June, 2014 and which has been transferred under the scheme; or

(b) the land pooling ownership certificate issued under the scheme to the assessee in respect of land or building or both referred to in clause (a); or

(c) the reconstituted plot or land, as the case may be, received by the assessee in lieu of land or building or both referred to in clause (a) in accordance with the scheme, if such plot or land, as the case may be, so received is transferred within two years from the end of the financial year in which the possession of such plot or land was handed over to him;"

In section 49, New sub-section (6) inserted w.e.f. 1st day of April, 2018

"(6) Where the capital gain arises from the transfer of a specified capital asset referred to in clause (c) of the Explanation to clause (37A) of section 10, which has been transferred after the expiry of two years from the end of the financial year in which the possession of such asset was handed over to the assessee, the cost of acquisition of such specified capital asset shall be deemed to be its stamp duty value as on the last day of the second financial year after the end of the financial year in which the possession of the said specified capital asset was handed over to the assessee.

Explanation.—For the purposes of this sub-section, "stamp duty value" means the value adopted or assessed or assessable by any authority of the State Government for the purpose of payment of stamp duty in respect of an immovable property."

Contd.....

Brief Impact:

For formation of new state Capital "Amaravati", government of Andhra Pradesh has acquired land from residents through Land Pooling Schemes. As per Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2014 the specified compensation is exempt from Income Tax. However, income tax doesn't provide such exemption till date. Therefore, exemption is proposed to be provided for the same in this Finance Bill retrospectively.

1. Exemption is available only to Individual or HUF.
2. Exemption will be available to assessee who owns land or building or both as on 02/06/2014.
3. If a reconstituted plot or land is received by assessee in lieu of acquired land or building, it must be transferred with in two years from end of financial year in which possession of such plot or land was handed over to him to avail exemption

Section 194 LA is also consequentially proposed to be amended to exempt such transaction from TDS applicability.

4. Special provisions for computation of capital gains in case of Joint Development Agreement [Clauses 22,25 & 64]

In section 45, New Sub-Section 5A inserted w.e.f. 1st day of April, 2018

"(5A) Notwithstanding anything contained in sub-section (1), where the capital gain arises to an assessee, being an individual or a Hindu undivided family, from the transfer of a capital asset, being land or building or both, under a specified agreement, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and for the purposes of section 48, the stamp duty value, on the date of issue of the said certificate, of his share, being land or building or both in the project, as increased by the consideration received in cash, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

***Provided that** the provisions of this sub-section shall not apply where the assessee transfers his share in the project on or before the date of issue of said certificate of completion, and the capital gains shall be deemed to be the income of the previous year in which such transfer takes place and the provisions of this Act, other than the provisions of this sub-section, shall apply for the purpose of determination of full value of consideration received or accruing as a result of such transfer.*

Explanation.—For the purposes of this sub-section, the expression—

(i) "competent authority" means the authority empowered to approve the building plan by or under any law for the time being in force;

(ii) "specified agreement" means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash;

(iii) "stamp duty value" means the value adopted or assessed or assessable by any authority of Government for the purpose of payment of stamp duty in respect of an immovable property being land or building or both."

In section 49, new sub-section (6) inserted w.e.f.1st day of April, 2018

"(7) Where the capital gain arises from the transfer of a capital asset, being share in the project, in the form of land or building or both, referred to in sub-section (5A) of section 45, not being the capital asset referred to in the proviso to the said sub-section, the cost of acquisition of such asset, shall be the amount which is deemed as full value of consideration in that sub-section."

Brief Impact:

There were lot of disputes in past on the taxability of Capital Gain for owner in respect of Joint Development agreement (Collaboration Agreement). To settle all the disputes **sub-section 5A to Section 45 is proposed to be inserted w.e.f. 1st April, 2018 (i.e. A.Y. 2018-19 and subsequent years)**.

As per this sub-section, Capital Gain arising to Individual or HUF under a specified agreement will be taxed in the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority. Presently, as per definition of transfer, taxability arises on transfer of possession to the developer. Therefore, it is seen as welcome move to remove the genuine hardship.

Consideration in this case will be stamp duty value of Land or building or both for his share increased by monetary consideration if any.

Note *– Word cash is used in sub-section (5A) and clause (ii) of Explanation, it may be classified to refer to monetary consideration. Section is only for Individual and HUF, However Other assessee also suffers from same hardship, if they want to enter into JDA for its business or some other purpose, benefits of Section 45(5A) are not available.*

New Section 194-IC (Payment under specified agreement) inserted w.e.f. 1st day of April, 2017

"Notwithstanding anything contained in section 194-IA, any person responsible for paying to a resident any sum by way of consideration, not being consideration in kind, under the agreement referred to in sub-section (5A) of section 45, shall at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ***ten per cent****. of such sum as income-tax thereon."*

Brief Impact:

TDS @ 10% is required to be deducted by developer on amount of money credited or paid by developer to resident in cash or cheque or ECS **in lieu of Joint Development Agreement.**

Issue for Consideration

1. There is disparity on TDS deduction and TDS claimed by the assessee. Generally JDA are made on some advance payment basis and developer need to deduct TDS on the same, however according to section 45(5A) it will be the income of the owner after one or two years, which leads to mismatch of TDS deduction and claimable. In such cases, department can initiate action against 143(1)(a) and prepare intimation on the basis of entry in our 26AS.

2. Though the provisions of this section defers the taxability of capital gains in the year of the issuance of the completion certificate rather than year of transfer. However, there is an issue raised in context of claiming exemption u/s 54/54F. As the time limit for claiming benefit u/s 54/54F is reckoned from date of transfer.

   There may be the cases where completion certificate for construction of building is issued after expiry of limits specified in Section 54/54F. Therefore, there is no clarification for claiming exemption u/s 54/54F in case if capital gain is taxed under section 45(5A).

5. Shifting base year from 1981 to 2001 for computation of capital gains [Clauses 28 & 24]

Section 55 amended w.e.f. 1st day of April, 2018

(A) in sub-section (1), in clause (b), in sub-clause (2), in item (i), for the figures, letters and words "1st day of April, 1981", the figures, letters and words "1st day of April, 2001" shall be substituted;

(B) in sub-section (2), in clause (b), for the figures, letters and words "1st day of April, 1981" wherever they occur, the figures, letters and words "1st day of April, 2001" shall be substituted.

Section 48 amended w.e.f. 1st day of April, 2018

(a) in the fifth proviso, for the word "subscribed", the word "held" shall be substituted;

(b) in the Explanation, in clause (iii), for the figures, letters and words "1st day of April, 1981", the figures, letters and words "1st day of April, 2001" shall be substituted.

Brief Impact:

As the base year for computation of capital gains has become more than three decades old, assessees are facing genuine difficulties in computing the capital gains in respect of a capital asset, especially immovable property acquired before 01.04.1981due to non availability of relevant information for computation of fair market value of such asset as on 01.04.1981. **Therefore, base year for the calculation of Cost of Acquisition and Cost of Improvement is changed to 01/04/2001.**

Owing to change in base year from 01/04/1981 to 01/04/2001, **consequential amendments are made in finance bill in respect of base year for calculation of Indexed Cost of Acquisition in section 48 of the Act.**

6. Expanding the scope of long term bonds u/s 54EC [clause 27]

Section 54EC (*Capital gain not to be charged on investment in certain bonds*) amended w.e.f. 1st day of April, 2018

"In sub-section (3), in the Explanation, in clause (ba), for the words and figures "the Companies Act, 1956" occurring at the end, the words and figures ***"the Companies Act, 1956; or any other bond notified by the Central Government in this behalf"*** *shall be substituted.*

Brief Impact:

At present, LTCG exemption upto Rs. 50 lacs can be availed by investment in NHAI & RECL bonds within six months from date of transfer. **Now it is proposed that exemption will also be available for purchase of other central government specified bonds.**

7. No notional income for house property held as stock-trade [Clause 12]

In Section 23, Sub-section (5) newly inserted w.e.f. 1st day of April, 2018

*"(5) Where the property consisting of any building or land appurtenant thereto is held as **stock-in-trade** and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period up to one year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be nil.".*

Brief Impact:

In case of real estate developers or builders, presently notional income on any unsold housing units held in stock in trade is taxable without having any income from it. In a step to provide relief to real estate developers or builder, exemption is provided to builders for the same if:-

1. Property or part of it is not let out during the whole or any part of the year, and
2. For a period of one year from the end of year in which completion certificate is received.

Observation.....

1. Another related amendment has been proposed in section 71 by insertion of sub-section (3A) so as to provide that set-off of loss under the head "Income from house property" against any other head of income shall be restricted to Rs.2 lakhs for any assessment year.

Presently, in case of assessee engaged in the business of real estate sector, normally, the interest expenditure incurred by the builder assessee on account of borrowings taken for construction purpose is allowable u/s 36(1)(iii) as his income is assessable under the head business and profession.

However, on a combined reading of proposed provisions as contained in section 23(5) and 71(3A), i.e. if the notional income is to be treated as "Nil" during the period of one year and thereafter, as income from house property, it appears that the interest deduction would be available u/s 24 and consequently, the restriction contained in section 71(3A) would apply. **As such, the builder assessee will be eligible for set-off of interest expenditure to the extent of Rs.2 lakh in an Assessment Year.**

Observation.....

2. Further the **Hon'ble Apex Court in the case of Chennai Properties and Investments Ltd. v. Commissioner of Income Tax [2015] 373 ITR 673 (SC) as well as in Rayala Corporation Pvt Ltd. [2016] 386 ITR 500** case, have held that incase an assessee is having his house property and by way of business he is giving the property on rent and if he is receiving rent from the said property as his business income, the said income, even if in the nature of rent, should be treated as "Business Income" because the assessee is having a business of renting his property and the rent which he receives is in the nature of his business income.

Thus, where at one hand, the proposed amendment to section 23(5) of the Act deems the income earned from a house property on account of vacant units as deemed to be let out, at the other hand, the proposed amendment to section 71(3A) restricts the claim of set off of the interest cost against income from other sources of incomes. The proposed amendment will impact these judicial pronouncements.

D.MEASURES FOR STIMULATING GROWTH

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S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1	Extension of eligible period of concessional tax rate on interest in case of External Commercial Borrowing and Extension of benefit to Rupee Denominated Bonds	194LC	67	01-04-2018/ w.e.r.f. 01-04-2016
2	Extension of eligible period of concessional tax rate under section 194LD	194LD	68	01-04-2018
3	Carry forward and set off of loss in case of certain companies	79	32	01-04-2018

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
4	Extending the period for claiming deduction by start-ups	80-IAC	36	01-04-2018
5	Rationalisation of Provisions relating to tax credit for Minimum Alternate Tax and Alternate Minimum Tax	115JAA, 115JD	46 & 48	01-04-2018
6	Extension of scope of section 43D to Co-operative Banks	43D	17 & 18	01-04-2018
7	Increase in deduction limit in respect of provision for bad and doubtful debts	36(1)(viia)(a)	14	01-04-2018

1. Extension of eligible period of concessional tax rate on interest in case of External Commercial Borrowing and Extension of benefit to Rupee Denominated Bonds [Clause 67]

Clause (i) in sub-section (2) of section 194LC (*Income by way of interest from Indian company*) amended w.e.f. 1st day of April, 2018

"(2) The interest referred to in sub-section (1) shall be the income by way of interest payable by the specified company or the business trust—

(*i*) in respect of monies borrowed by it in foreign currency from a source outside India,—

(a) under a loan agreement at any time on or after the 1st day of July, 2012 but before the ~~1st day of July, 2017~~ **1st day of July, 2020**; or

(b) by way of issue of long-term infrastructure bonds at any time on or after the 1st day of July, 2012 but before the 1st day of October, 2014; or

(c) by way of issue of any long-term bond including long-term infrastructure bond at any time on or after the 1st day of October, 2014 but before the ~~1st day of July, 2017~~ **1st day of July, 2020**,

as approved by the Central Government in this behalf; ~~and~~ **or**

(ia) in respect of monies borrowed by it from a source outside India by way of issue of rupee denominated bond before the 1st day of July, 2020, and *[w.r.e.f 01-04-2016]*

(*ii*) to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government in this behalf, having regard to the terms of the loan or the bond and its repayment."

Brief Impact:

The existing provisions of section 194LC provide that the interest payable to a non-resident by a specified company on borrowings made by it in foreign currency from sources outside India under a loan agreement or by way of issue of any long-term bond including long-term infrastructure bond shall be eligible for concessional TDS of five per cent. Now, it is proposed to extend the benefit from the existing period expiring before 1st day of July, 2017 to 1st July, 2020.

Also, Scope of section 194LC is proposed to be extended to Rupee Denomination Bonds issued to NRI by Indian companies in INR. This provision is applicable retrospectively from AY 2016-17.

Issue:- Status of TDS already deducted and deposited, if any in previous years, and whether current year TDS if deducted in excess can be adjusted in remaining two months?

2. Extension of eligible period of concessional tax rate under section 194LD [Clause 68]

Section 194LD(2) (Income by way of interest on certain bonds and Government securities) amended w.e.f. 1st day of April, 2018

"(2) The income by way of interest referred to in sub-section (1) shall be the interest payable on or after the 1st day of June, 2013 but before the ~~1st day of July, 2017~~ 1st day of July, 2020 in respect of investment made by the payee in—

(i) a rupee denominated bond of an Indian company ; or

(ii) a Government security:"

Brief Impact:

The income by way of interest to Foreign Institutional Investor or a Qualified Foreign Investor on a rupee denominated bond of an Indian company ; or a Government security was liable to TDS at the rate of 5%. **Exemption window was available till 01/07/2017, which is extended to 01/07/2020 by this finance bill.**

3. Carry forward and set off of loss in case of certain companies [Clause 32]

Section 79 (Carry forward and set off of losses in case of certain Companies) substituted w.e.f. 1st day of April, 2018

"Notwithstanding anything contained in this Chapter, where a change in shareholding has taken place in a previous year,—

(a) in the case of a company not being a company in which the public are substantially interested and other than a company referred to in clause (b), no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, unless on the last day of the previous year, the shares of the company carrying not less than fifty-one per cent. of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent. of the voting power on the last day of the year or years in which the loss was incurred;

(b) in the case of a company, not being a company in which the public are substantially interested but being an eligible start-up as referred to in section 80-IAC, the loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, if, all the shareholders of such company who held shares carrying voting power on the last day of the year or years in which the loss was incurred,—

(i) continue to hold those shares on the last day of such previous year; and

(ii) such loss has been incurred during the period of seven years beginning from the year in which such company is incorporated:

***Provided that** nothing contained in this section shall apply to a case where a change in the said voting power and shareholding takes place in a previous year consequent upon the death of a shareholder or on account of transfer of shares by way of gift to any relative of the shareholder making such gift:*

***Provided further that** nothing contained in this section shall apply to any change in the shareholding of an Indian company which is a subsidiary of a foreign company as a result of amalgamation or demerger of a foreign company subject to the condition that fifty-one per cent shareholders of the amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company."*

Brief Impact:

The existing provisions of section 79, *interalia* provides that where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year **unless** on the last day of the previous year the shares of the company carrying not less than 51 % of the voting power were beneficially held by person who beneficially held shares of the company carrying not less than 51% of the voting power on the last day of the year or years in which the loss was incurred.

In order to facilitate ease of doing business and **to promote start-up India**, it is proposed to amend section 79 to provide that where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested and **being an eligible start-up as referred to in section 80 - IAC of this Act,** loss shall be carried forward and set off against the income of the previous year, if **all the shareholders of such company which held shares carrying voting power on the last day of the year or years in which the loss was incurred,** ***being the loss incurred during the period of seven years*** **beginning from the year in which such company is incorporated, continue to hold those shares on the last day of such previous year.**

4. Extending the period for claiming deduction by start-ups [Clause 36]

Section 80-IAC (*Special provision in respect of specified business*) amended w.e.f. 1st day of April, 2018

In sub-section (*2*), for the words "five years", the words "seven years" shall be substituted"

Brief Impact:

It is proposed that deduction of amount equal to 100% of the profits and gains derived from eligible business of start-ups for three consecutive assessment years out **of seven years** beginning from the year in which such **eligible start-up** is incorporated. (Presently, deduction of profits for three consecutive assessment years out of five years is admissible u/s 80-IAC)

5. Rationalisation of Provisions relating to tax credit for Minimum Alternate Tax and Alternate Minimum Tax [Clause 46 & 48]

Second Proviso to Section 115JAA(2A) (*Tax credit in respect of tax paid on deemed income relating to certain companies*) inserted w.e.f. 1st day of April, 2018

"Provided further that where the amount of tax credit in respect of any income-tax paid in any country or specified territory outside India, under section 90 or section 90A or section 91, allowed against the tax payable under the provisions of sub-section (1) of section 115JB exceeds the amount of such tax credit admissible against the tax payable by the assessee on its income in accordance with the other provisions of this Act, then, while computing the amount of credit under this sub-section, such excess amount shall be ignored."

Proviso to Section 115JD(2) (*Tax credit for alternate minimum tax*) inserted w.e.f. 1st day of April, 2018

"Provided that where the amount of tax credit in respect of any income-tax paid in any country or specified territory outside India, under section 90 or section 90A or section 91, allowed against the alternate minimum tax payable exceeds the amount of the tax credit admissible against the regular income-tax payable by the assessee, then, while computing the amount of credit under this sub-section, such excess amount shall be ignored."

Sub-section (3A) of Section 115JAA amended w.e.f. 1st day of April, 2018

*"(3A) The amount of tax credit determined under sub-section (2A) shall be carried forward and set off in accordance with the provisions of sub-sections (4) and (5) but such carry forward shall not be allowed beyond the ~~tenth assessment year~~ **fifteenth assessment year** immediately succeeding the assessment year in which tax credit becomes allowable under sub-section (1A)."*

Sub-section (4) of Section 115JD amended w.e.f. 1st day of April, 2018

*(4) The amount of tax credit determined under sub-section (2) shall be carried forward and set off in accordance with the provisions of sub-sections (5) and (6) but such carry forward shall not be allowed beyond the ~~tenth assessment year~~ **fifteenth assessment year** immediately succeeding the assessment year for which tax credit becomes allowable under sub-section (1).*

Brief Impact:

The amount of tax credit in respect of MAT/AMT shall not be allowed to be carried forward to subsequent year to the extent such credit relates to the **difference between the amount of foreign tax credit (FTC) allowed against MAT/AMT and FTC allowable against the tax as per regular provisions of Act** (Previously the difference was allowed to be carried forward).

MAT/ AMT can be carried forward up to 15 assessment years immediately succeeding the assessment years in which such tax credit becomes allowable (Previously MAT/ AMT credit can be carried forward only up to 10 assessment years)

Issue for Consideration

Where the 10 years period has expired on or before AY 16-17 owing to completion of 10 years period on the basis of the current provisions, a question arises as to **whether the benefit which has already lapsed will get a new lease of life as the proposed extension of carry forward period to 15 years shall take effect only from April 1, 2018 (i.e. AY 2018-19)?**

Therefore, there is a need of clarification regarding carry forward and set off of MAT credit in cases where the 10 year period has expired on or before AY 2016-17 but the 15 year period has still not expired.

6. Extension of scope of section 43B & 43D to Co-operative Banks [Clause 17 & 18]

Section 43D (*Special provision in case of income of public financial institutions, public companies, etc.*) amended w.e.f. 1st day of April, 2018

Notwithstanding anything to the contrary contained in any other provision of this Act,—

(a) in the case of a public financial institution or a scheduled bank or **a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank or** a State financial corporation or a State industrial investment corporation, the income by way of interest in relation to such categories of bad or doubtful debts as may be prescribed having regard to the guidelines issued by the Reserve Bank of India in relation to such debts;

(b) in the case of a public company, the income by way of interest in relation to such categories of bad or doubtful debts as may be prescribed[11] having regard to the guidelines issued by the National Housing Bank in relation to such debts,

shall be chargeable to tax in the previous year in which it is credited by the public financial institution or the scheduled bank or **a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank or** the State financial corporation or the State industrial investment corporation or the public company to its profit and loss account for that year or, as the case may be, in which it is actually received by that institution or bank or corporation or company, whichever is earlier.

Contd....

Explanation –

(g) "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" shall have the meanings respectively assigned to them in the Explanation to sub-section (4) of section 80P.

Brief Impact:

It is proposed that the Interest income in relation to certain categories of bad or doubtful debts **received by co-operative banks other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank shall be chargeable to tax in the previous year in which it is credited to its profit and loss account for that year or actually received, whichever is earlier.**

(Taxability of Interest on sticky loans in case of Public Financial Institution's & banks now in r/o NPA accounts on receipt basis only. Clause 157 of the budget speech by Hon'ble Finance Minister)

Consequentially, provisions of section 43B (*Certain deductions to be only on actual payment*) amended w.e.f. 1st day of April, 2018

Brief Impact:

It is proposed that **interest on any loan or advances from a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank** shall be allowed as deduction on the **payment basis** i.e. if it is actually paid on or before the due date of furnishing the return of income of the relevant previous year.

(Presently co-operative banks were not included)

7. Increase in deduction limit in respect of provision for bad and doubtful debts [Clause 14]

Sub-clause (a) in clause (viia) of Section 36(1) amended w.e.f. 1st day of April, 2018

"(*viia*) in respect of **any provision for bad and doubtful debts** made by—

(a) a scheduled bank not being a bank incorporated by or under the laws of a country outside India or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, an amount not exceeding ~~seven and one-half per cent~~ **eight and one-half per cent** of the total income (computed before making any deduction under this clause and Chapter VIA) and an amount not exceeding ten per cent of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner"

Brief Impact:

It is proposed to enhance the deduction **limit for provision for bad and doubtful debts to 8.5%** of amount of total income to scheduled bank (not being a bank incorporated by or under the laws of a country outside India) or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development Bank.

E. PROMOTING DIGITAL ECONOMY

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S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1	Restricting cash donations	80G	35	01-04-2018
2	Disallowance of depreciation under section 32 and capital expenditure under section 35AD on cash payment	43, 35AD	13 & 16	01-04-2018
3	Measures to discourage cash transactions	40A	15	01-04-2018
4	Measures for promoting digital payments in case of small unorganized businesses	44AD	21	01-04-2017
5	Restriction on cash transactions	269ST, 269SS, 271DA, 206C	71, 83 & 84	01-04-2017

1. Restricting cash donations [Clause 35]

Sub-section (5) of Section 80G (*Deduction in respect of donations to certain funds, charitable institutions, etc.*) amended w.e.f. 1st day of April, 2018

"(5D) No deduction shall be allowed under this section in respect of donation of any sum exceeding ~~ten thousand rupees~~ **two thousand rupees** unless such sum is paid by any mode other than cash.

Brief Impact:

It is proposed that donation of any sum exceeding **two thousand rupees** made in cash shall not be allowed as deduction. (**Presently** donation **exceeding Ten thousand rupees paid in cash** were disallowed)

2. Disallowance of depreciation under section 32 and capital expenditure under section 35AD on cash payment [Clause 13 & 16]

(a) Disallowance of depreciation under section 32

Second Proviso to section 43(1) inserted w.e.f. 1st day of April, 2018

"Provided further that where the assessee incurs any expenditure for acquisition of any asset or part thereof in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceeds ten thousand rupees, such expenditure shall be ignored for the purposes of determination of actual cost."

Proviso to Explanation 13 in Section 43(1) inserted w.e.f. 1st day of April, 2018

"Provided that where any capital asset in respect of which deduction or part of deduction allowed under section 35AD is deemed to be the income of the assessee in accordance with the provisions of sub-section (7B) of the said section, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purposes of business since the date of its acquisition."

Brief Impact:

Expenditure incurred for acquisition of any asset in respect which a payment or aggregate of payments made to **a person** in **a day**, **otherwise than by** an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account, **exceeds ten thousand rupees**, such expenditure shall be **ignored** for the purposes of **determination of actual cost** of such asset.

(Previously no such disallowance if capital expenditure was incurred in cash)

(b) Disallowance of capital expenditure under section 35AD (*Deduction in respect of expenditure on specified business*) on cash payment

Sub-section (8) of section 35D amended w.e.f. 1st day of April, 2018

"(8) For the purposes of this section,—

(*f*) any expenditure of capital nature shall not include **any expenditure in respect of which the payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceeds ten thousand rupees or** any expenditure incurred on the acquisition of any land or goodwill or financial instrument."

Brief Impact:

Any expenditure in respect of which **payment** or **aggregate of payments** made to a person **in a day, otherwise** than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, **exceeds ten thousand rupees,** no deduction shall be allowed in respect of such expenditure.

(Presently no such disallowance if eligible expenditure was incurred in cash)

3. Measures to discourage cash transactions [Clause 15]

Section 40A (Expenses or payments not deductible in certain circumstances) amended w.e.f. 1st day of April, 2018

"(3) Where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, ~~exceeds twenty thousand rupees~~ ***or use of electronic clearing system through a bank account, exceeds ten thousand rupees****, no deduction shall be allowed in respect of such expenditure.*

(3A) Where an allowance has been made in the assessment for any year in respect of any liability incurred by the assessee for any expenditure and subsequently during any previous year (hereinafter referred to as subsequent year) the assessee makes payment in respect thereof, otherwise than by an account payee cheque drawn on a bank or account payee bank draft ***or use of electronic clearing system through a bank account****, the payment so made shall be deemed to be the profits and gains of business or profession and accordingly chargeable to income-tax as income of the subsequent year if the payment or aggregate of payments made to a person in a day, exceeds ~~twenty thousand rupees~~* ***ten thousand rupees***

Contd.....

Provided that no disallowance shall be made and no payment shall be deemed to be the profits and gains of business or profession under sub-section (3) and this sub-section where a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, ~~exceeds twenty thousand rupees~~ ***or use of electronic clearing system through a bank account, exceeds ten thousand rupees****, in such cases and under such circumstances as may be prescribed6, having regard to the nature and extent of banking facilities available, considerations of business expediency and other relevant factors*

Provided further that *in the case of payment made for plying, hiring or leasing goods carriages, the provisions of sub-sections (3) and (3A) shall have effect as if for the words "~~twenty thousand rupees~~* ***ten thousand rupees****", the words "thirty-five thousand rupees" had been substituted.*

(4) Notwithstanding anything contained in any other law for the time being in force or in any contract, where any payment in respect of any expenditure has to be made by an account payee cheque drawn on a bank or account payee bank draft ***or use of electronic clearing system through a bank account*** *in order that such expenditure may not be disallowed as a deduction under sub-section (3), then the payment may be made by such cheque or draft* ***or electronic clearing system****; and where the payment is so made or tendered, no person shall be allowed to raise, in any suit or other proceeding, a plea based on the ground that the payment was not made or tendered in cash or in any other manner."*

Brief Impact:

1. It is proposed that any expenditure in respect of which payment or aggregate of payments made to a person in a day exceeds Rs.10,000 shall not be allowed as deduction. Thus, the threshold of cash payments to a person in a day has been reduced from Rs.20,000 to Rs.10,000.

2. **Expenditure exceeding Rs.10,000 incurred in a particular year but the payment is made in any subsequent year** otherwise than by an account payee cheque drawn on a bank or account payee bank draft or electronic clearing system shall **be deemed to be income** under Profit & gains from Business or profession. Thus, the threshold of cash payments made in subsequent year has been reduced from Rs.20,000 to Rs.10,000.

3. Payment vide use of Electronic Clearing System through a bank account included in mode other than cash. Thus, ECS payments are now also included in payment modes other than cash.

4. Measures for promoting digital payments in case of small unorganized businesses [Clause 21]

New proviso to section 44AD(1) (*Special provision for computing profits and gains of business on presumptive basis*) inserted w.e.f. 1st day of April, 2017

"Provided that this sub-section shall have effect as if for the words "eight per cent.", the words "six per cent." had been substituted, in respect of the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date specified in subsection (1) of section 139 in respect of that previous year"

Brief Impact:

It is proposed to reduce existing rate of deemed total income of 8% to 6% in respect of the amount of such total turnover or gross receipts received by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date specified u/s 139(1) in respect of that previous year. Thus, **there will be dual tax rates of 8% in respect of turnover received in cash and tax rate of 6% in respect of turnover received by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account.**

5. Restriction on cash transactions [Clause 71, 83 & 84]

Section 269ST (Mode of undertaking Transactions) newly inserted w.e.f. 1st day of April, 2017

'No person shall receive an amount of three lakh rupees or more—

(a) in aggregate from a person in a day; or

(b) in respect of a single transaction; or

(c) in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account:

Provided that the provisions of this section shall not apply to—

(i) any receipt by—

(a) Government;

(b) any banking company, post office savings bank or co-operative bank;

(ii) transactions of the nature referred to in section 269SS;

(iii) such other persons or class of persons or receipts, which the Central Government may, by notification in the Official Gazette, specify.

Explanation.—For the purposes of this section,—

(a) "banking company" shall have the same meaning as assigned to it in clause (i) of the Explanation to section 269SS;

(b) "co-operative bank" shall have the same meaning as assigned to it in clause (ii) of the Explanation to section 269SS.'

Brief Impact:

It is proposed to provide that no person shall receive an amount of **three lakh rupees or more** in aggregate from a person **in a day** or in respect of a **single transaction**; or in respect of transactions **relating to one event or occasion from a person, otherwise than** by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account.

It is further proposed that the said **restriction shall not apply to receipts by** Government, any banking company, post office savings bank or co-operative bank, **Transactions of nature referred in Section 269SS or** Persons or class of persons central govt may notify.

The newly inserted provision is a move towards cash less economy and to reduce circulation of black Money.

Contd...

The section proposes to restrict the scope of cash transactions of Rs. 3 lakhs or more in respect of a bill, an event, an occasion and a transaction.

For example,

a. If a person has raised a bill of Rs. 9 lakhs, then he would not be able to accept amount of Rs. 3 lakh or more in cash even on different days as the same would amount to 'a single transaction'.

b. Similarly, the assessees would not be able to accept amount of Rs. 3 lakh or more in cash against the separate bills raised against any person aggregating to Rs. 3 lakhs or more as the same would amount to 'transactions relating to one event or occasion'

Contd....

Section 271DA (Penalty for failiure to comply with provisions of section 269ST) newly inserted w.e.f. 1st day of April, 2017

(1) If a person receives any sum in contravention of the provisions of section 269ST, he shall be liable to pay, by way of penalty, a sum equal to the amount of such receipt:

***Provided that** no penalty shall be imposable if such person proves that there were good and sufficient reasons for the contravention.*

(2) Any penalty imposable under sub-section (1) shall be imposed by the Joint Commissioner."

Brief Impact:

It is proposed to impose a **penalty of sum equal to the amount received in contravention of Sec. 269ST**. The penalty shall be levied by Joint commissioner. However the penalty shall not be levied if the assessee proves that there was good and sufficient reasons for such contravention.

Issues for Consideration

1. The finance bill has proposed that the provisions of section 269ST will not be applicable on receipts by Government, any banking company, post office savings bank or co-operative bank, however, there is an issue raised that, for instance, **whether the provisions of this section will be applicable on amount withdrawn by any person from her/his bank account of more than Rs. 3 Lakhs or not?**
2. The expression 'Amount' has been used in Section 269ST whereas the expression 'Sum' has been used u/s 271DA, which are creating some confusion and capable of more then one interpretations.
3. Note no. 83 of notes on clauses also provided exclusion in respect of "Any receipt from sale of agricultural produce by any person being an individual or Hindu Undivided family in whose hands such receipts constitutes agricultural income". However, the same is not present in newly proposed section 269ST.

Provisions of section 206C (*Profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.*) amended w.e.f. 1st day of April, 2017

(1D) Every person, being a seller, who receives any amount in cash as consideration for sale of bullion ~~or jewellery or any other goods (other than bullion or jewellery)~~ **or any other goods (other than bullion)** or providing any service, shall, at the time of receipt of such amount in cash, collect from the buyer, a sum equal to one per cent of sale consideration as income-tax, if such consideration,—

(i) for bullion, exceeds two hundred thousand rupees; or

~~(ii) for jewellery, exceeds five hundred thousand rupees; or~~

(iii) for any goods, other than those referred to in clauses (i) and (ii), or any service, exceeds two hundred thousand rupees

(1E) Nothing contained in sub-section (1D) in relation to sale of any goods (other than bullion ~~or jewellery~~) or providing any service shall apply to such class of buyers who fulfil such conditions, as may be prescribed.

Contd....

Explanation.—For the purposes of this section,—

~~(ab) "jewellery" shall have the meaning assigned to it in the Explanation to sub-clause (ii) of clause (14) of section 2~~

Brief Impact:

The scope of TCS on sale of jewellery is proposed to be increased. It is proposed that TCS @ 1% would be chargeable on receipt of cash on sale of jewellery of Rs. 2 lakhs & above **as the same gets covered in 'any other goods (other than bullion)'.**

F. TRANSPARENCY IN ELECTORAL FUNDING

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S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1	Transparency in electoral funding	13A	11	01-04-2018

1. Transparency In Electoral Funding [Clause 11]

Section 13A (*Special provision relating to incomes of political parties*) amended w.e.f. 1st day of April, 2018

Any income of a political party which is chargeable under the head "Income from house property" or "Income from other sources" or "Capital gains" or any income by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party.

Provided that—

(a) such political party keeps and maintains such books of account and other documents as would enable the Assessing Officer to properly deduce its income therefrom;

(b) in respect of each such voluntary contribution **other than contribution by way of electoral bond** in excess of twenty thousand rupees, such political party keeps and maintains a record of such contribution and the name and address of the person who has made such contribution; ~~and~~

(c) the accounts of such political party are audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288; **and**:

d) **no donation exceeding two thousand rupees is received by such political party otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through electoral bond.**

Explanation.—For the purposes of this proviso, "electoral bond" means a bond referred to in the Explanation to sub-section (3) of section 31 of the Reserve Bank of India Act, 1934.

Provided further that if the treasurer of such political party or any other person authorised by that political party in this behalf fails to submit a report under sub-section (3) of section 29C of the Representation of the People Act, 1951 (43 of 1951) for a financial year, no exemption under this section shall be available for that political party for such financial year.

Provided also that such political party furnishes a return of income for the previous year in accordance with the provisions of sub-section (4B) of section 139 on or before the due date under that section.

Brief Impact:

It is proposed that the political parties will have to fulfil the following additional conditions to avail the benefit of Section 13A:

a) Parties will not received donation of amount of Rs.2000 or more otherwise through by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through electoral bonds

b) Party furnishes a return of income u/s 139(4B) on or before the due date

Further, in order to address the concern of anonymity of the donors, it is proposed to amend the said section to provide that the political parties shall not be required to furnish the name and address of the donors who contribute by way of electoral bonds.

Previously the political parties to avail benefits of Section 13, were not debarred from accepting donations in cash and could even avail the exemption even if the return was not filed.

G. Ease of doing Business

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S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1	Clarity relating to Indirect transfer provisions	9	4	w.r.e.f. 01-04-2012
2	Modification in conditions of special taxation regime for off shore funds under section 9A	9A	5	w.r.e.f. 01-04-2016
3	Exemption of income of Foreign Company from sale of leftover stock of crude oil from strategic reserves at the expiry of agreement or arrangement	10	6	01-04-2018
4	Enabling of Filing of Form 15G/15H for commission payments specified u/s 194D	197	69	01-06-2017

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
5	Increasing the threshold limit for maintenance of books of accounts in case of Individuals and Hindu undivided family	44AA	19	01-04-2018
6	Exclusion of certain specified person from requirement of audit of accounts u/s 44AB	44AB	20	01-04-2017
7	Non-deduction of tax in case of exempt compensation under RFCTLAAR Act, 2013	194LA	66	01-04-2017
8	Exemption from tax collection at source under sub-section (1F) of section 206C in case of certain specified buyers	206C	71	01-04-2017

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
9	Simplification of the provisions of tax deduction at source in case Fees for professional or technical services under section 194J	194J	65	01-06-2017
10	Scope of section 92BA of the Income-tax Act relating to Specified Domestic Transactions	40A(2)(b)	15 & 41	01-04-2017

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
11	Tax neutral conversion of preference shares to equity shares	49 & 2(42A)	3, 23 & 25	01-04-2018
12	Cost of acquisition in Tax neutral demerger of a foreign company	49	25	01-04-2018
13	Income from transfer of Carbon credits	115BBG	45	01-04-2018
14	Processing of return within the prescribed time and enable withholding of refund in certain cases	241A	57 & 76	01-04-2017

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
15	Rationalisation of section 211 and section 234C relating to advance tax	44ADA & 234C	73 & 74	01-04-2017
16	Interest on refund due to deductor	244A(1B)	77	01-04-2017
17	Extension of capital gain exemption to Rupee Denominated Bonds	47	24	01-04-2018

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
18	Enabling claim of credit for foreign tax paid in cases of dispute	155(14A)	62	01-04-2018
19	Amendments to the structure of Authority for Advance Rulings	245N, 245Q, 245-O	79, 80, & 81	01-04-2017
20	Amendment of Section 253	253	82	01-04-2017
21	Empowering Board to issue directions in respect of penalty for failure to deduct or collect tax at source	271C & 271CA	49	01-04-2017

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
22	Rationalisation of time limits for completion of assessment, reassessment and re-computation and reducing the time for filing revised return	153,147 & 245A	55, 58, & 78	01-04-2017
		250, 254, 260, 262, 263, 264,142, 153		01-06-2017
		139		01-04-2018
23	Rationalisation of the provisions in respect of time limits for completion of search assessment	153A, 132, 132A, 153C, 245HA	60	01-04-2017
		153B		01-06-2016

1. Clarity relating to Indirect transfer provisions a [Clause 4]

New Explanation 5A to Section 9 inserted with retrospective effective from 1st day of April, 2012

"Explanation 5A.— *For the removal of doubts, it is hereby clarified that nothing contained in Explanation 5 shall apply to an asset or capital asset mentioned therein, which is held by a nonresident by way of investment, directly or indirectly, in a Foreign Institutional Investor as referred to in clause (a) of the Explanation to section 115AD and registered as Category-I or Category-II foreign portfolio investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992."*

Brief Impact:

Explanation 5 *(that an asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India)* shall not apply to any asset or capital asset being investment held by non-resident, directly or indirectly, **in a Foreign Institutional Investor**, as referred to in clause (a) of the Explanation to section 115AD, and registered as Category-I or Category II Foreign Portfolio Investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992.

The proposed amendment is clarificatory in nature.

2. Modification in conditions of special taxation regime for off shore funds under section 9A [Clauses 5]

New Proviso to Section 9A inserted with retrospective effective from 1st day of April, 2016 i.e. AY 2016-17 and onwards

*"**Provided further that** nothing contained in this clause shall apply to a fund which has been wound up in the previous year."*

Brief Impact:

It is proposed to provide that in the previous year in which **the eligible investment fund is being wound up**, the condition that the monthly average of the corpus of the fund shall not be less than Rs. 100 crore shall not apply. The amendment has been made to avoid unnecessary hardship to stakeholders as monthly average of corpus of Rs. 100 crores can't be maintained in the wound up period.

3. Exemption of income of Foreign Company from sale of leftover stock of crude oil from strategic reserves at the expiry of agreement or arrangement [Clause 6]

Clause (48B) to Section 10 inserted w.e.f. 1st day of April, 2018

"*any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil, if any, from the facility in India after the expiry of the agreement or the arrangement referred to in clause (48A) subject to such conditions as may be notified by the Central Government in this behalf.*"

Brief Impact:

Section 10(48A) provides that any income accruing or arising to a foreign company on account of **storage of crude oil** in a facility in India and **sale of crude oil** there from to any person resident in India shall be exempt, if the said storage and sale is pursuant to an agreement or an arrangement entered into by the Central Government; and having regard to the national interest, said foreign company and the said agreement or arrangement are notified by the Central Government in that behalf.

The benefit of exemption presently is not available to sale out of the leftover stock of crude after the expiry of said agreement or the arrangement.

4. Enabling of Filing of Form 15G/15H for commission Payments specified u/s 194D [Clause 69]

Section 197A (*No deduction to be made in certain cases*) amended w.e.f. 1st day of June, 2017

Brief Impact:

In respect of **insurance commission received/ receivable u/s 194D**, Individuals & HUFs can now file self-declaration in Form No. 15G/ 15H for non deduction of TDS if the total estimated income would be nil.

5. Increasing the threshold limit for maintenance of books of accounts in case of Individuals & HUFs [Clause 19]

New Proviso to Section 44AA (*Maintenance of accounts by certain persons carrying on profession or business*) inserted w.e.f 1st day of April, 2018

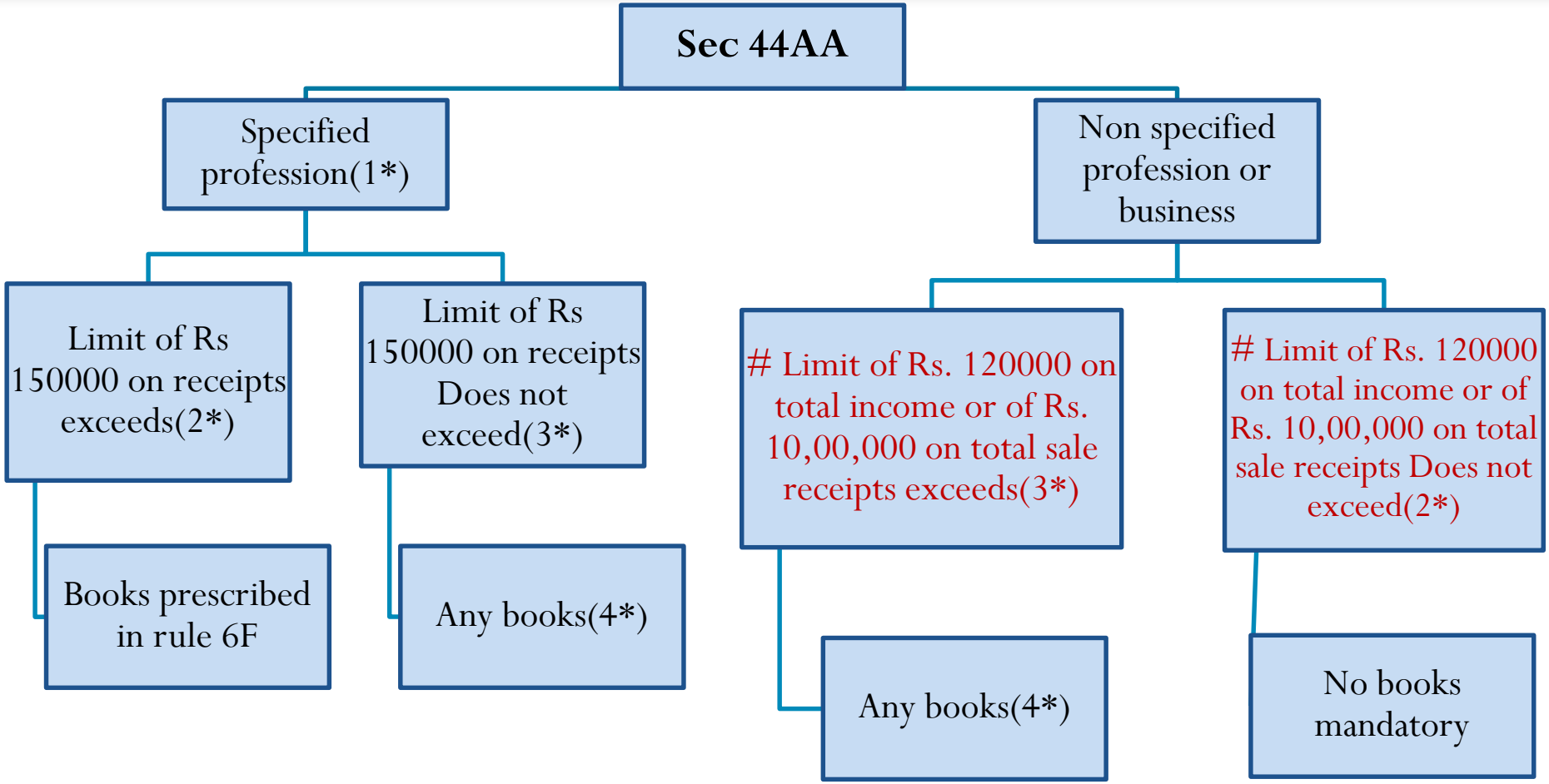
*"**Provided that** in the case of a person being an individual or a Hindu undivided family, the provisions of clause (i) and clause (ii) shall have effect, as if for the words "one lakh twenty thousand rupees", the words "two lakh fifty thousand rupees" had been substituted."*

Brief Impact:

As per clause (i) **income** from Business or Profession, threshold limit increased from1.2 Lacs to Rs. 2.5 Lacs.

As per clause (ii) **Total Sales or Turnover or Gross Receipts** from Business or Profession threshold limit increased from Rs.10 Lacs to Rs.25 Lacs.

Section 44AA - Maintenance of accounts by certain persons carrying on profession or business



Finance Bill, 2017 has proposed to revise limits from1.2 Lacs to Rs. 2.5 Lacs (total income) and Rs. 10 Lacs to Rs. 25 Lacs (total sales or receipts)

Section 44AA - Maintenance of accounts by certain persons carrying on profession or business.....

Note:

(1*) specified person: legal, medical, engineering, architectural, accountancy, technical consultancy, interior decoration or any other notified profession

(2*) In all of the three years immediately preceding the P.Y. or where the business/profession has been newly set up in the P.Y., then such P.Y.

(3*) In any one of the three years immediately preceding the previous year, or, where the business/profession has been newly set up in the previous year, then such P.Y.

(4*) Any books: means the books so as to enable the AO to compute his total income in accordance with the provisions of this Act.

Where gross professional receipts in 1 of 3 years preceding the previous year in question have not exceeded Rs.1,50,000, assessee is not required to maintain books of account for that previous year even though such gross receipts have exceeded Rs.1,50,000 in the other 2 preceding years. **A. Keshava Bhat v. ITO [2001] 237 ITR 83 (Kar.)**

6. Exclusion of certain specified person from requirement of audit of accounts under section 44AB [Clause 20]

New Proviso to Section 44AB (*Audit of accounts of certain persons carrying on business or profession*) inserted w.e.f. 1st day of April, 2017

*"**Provided that** this section shall not apply to the person, who declares profits and gains for the previous year in accordance with the provisions of sub-section (1) of section 44AD and his total sales, turnover or gross receipts, as the case may be, in business does not exceed two crore rupees in such previous year "*

Brief Impact:

The **Clarification issued by CBDT vide Press Release dated 20-06-2016 "Threshold Limit of tax audit u/s 44AB & section 44AD"** is proposed to be enacted in the law as Proviso to Section 44AB that an eligible person is not required to gets its books of accounts audited u/s 44AB, who opts for presumptive scheme u/s 44AD and the total sales, total turnover or gross receipts, as the case may be, in business does not exceed Rs. 2 crore in such previous year.

7. Non-deduction of tax in case of exempt compensation under RFCTLAAR Act, 2013 [Clauses 66]

New Proviso to Section 194LA (Payment of compensation on acquisition of certain immovable property) inserted w.e.f. 1st day of April, 2017

*"**Provided further that** no deduction shall be made under this section where such payment is made in respect of any award or agreement which has been exempted from levy of income-tax under section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013."*

Brief Impact:

It is proposed that TDS u/s 194LA (Payment of compensation on acquisition of certain immovable property) shall not be deducted where such payment is made in respect of any award or agreement which has been exempted from levy of income-tax u/s 96 (except those made u/s 46) of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR Act).

8. Exemption from tax collection at source u/s 206C(1F) in case of certain specified buyers [Clause 71]

New sub-clause (iii) in clause (aa) of the Explanation to section 206C inserted w.e.f. 1st day of April, 2017

Explanation.—For the purposes of this section,—

(aa) "buyer" with respect to—

(i) sub-section (1) means a person who obtains in any sale, by way of auction, tender or any other mode, goods of the nature specified in the Table in sub-section (1) or the right to receive any such goods but does not include,—

(A) a public sector company, the Central Government, a State Government, and an embassy, a High Commission, legation, commission, consulate and the trade representation, of a foreign State and a club; or

(B) a buyer in the retail sale of such goods purchased by him for personal consumption;

(ii) sub-section (1D) ~~or sub-section (1F)~~ means a person who obtains in any sale, goods of the nature specified in the said sub-section;

Contd....

(iii) sub-section (1F) means a person who obtains in any sale, goods of the nature specified in the said sub-section, but does not include,—

A. *the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or*

B. *a local authority as defined in Explanation to clause (20) of section 10; or*

C. *a public sector company which is engaged in the business of carrying passengers.*

Brief Impact:

It is proposed that TCS u/s 206C is **not required to be collected** on **receipt** of consideration for sale of a motor vehicle exceeding Rs.10 lakhs by CG, SG, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; local authority as defined in explanation to Section 10(20); a public sector company which is engaged in the business of carrying passengers.

9. Simplification of the provisions of TDS in case Fees for professional or technical services u/s 194J [Clause 65]

New Proviso to Section 194J *(Fees for professional or technical services)* inserted w.e.f. 1st day of April, 2017

*"**Provided also that** the provisions of this section shall have effect, as if for the words "ten per cent.", the words "two per cent." had been substituted in the case of a payee, engaged only in the business of operation of call centre."*

Brief Impact:

In case of payments made to **person engaged only in the business of operation of Call Center**, TDS will be required to be deducted @ 2% instead of 10%.

However, the definition of a person engaged only in the business of operation of call center is not defined.

10. Scope of section 92BA of the Income-tax Act relating to Specified Domestic Transactions [Clauses 15, 41]

Section 40A amended w.e.f. 1st day of April, 2017

"(2)(a) Where the assessee incurs any expenditure in respect of which payment has been or is to be made to any person referred to in clause (b) of this sub-section, and the Assessing Officer is of opinion that such expenditure is excessive or unreasonable having regard to the fair market value of the goods, services or facilities for which the payment is made or the legitimate needs of the business or profession of the assessee or the benefit derived by or accruing to him therefrom, so much of the expenditure as is so considered by him to be excessive or unreasonable shall not be allowed as a deduction :

Provided *that* ***for an assessment year commencing on or before the 1st day of April, 2016*** *no disallowance, on account of any expenditure being excessive or unreasonable having regard to the fair market value, shall be made in respect of a specified domestic transaction referred to in section 92BA, if such transaction is at arm's length price as defined in clause (ii) of section 92F."*

Section 92BA (Meaning of specified domestic transaction) amended w.e.f. 1st day of April, 2017

*"For the purposes of this section and sections 92, 92C, 92D and 92E, "**specified domestic transaction**" in case of an assessee means any of the following transactions, not being an international transaction, namely:—*

~~*(i) any expenditure in respect of which payment has been made or is to be made to a person referred to in clause (b) of sub-section (2) of section 40A;*~~

(ii) any transaction referred to in section 80A;

(iii) any transfer of goods or services referred to in sub-section (8) of section 80-IA;

(iv) any business transacted between the assessee and other person as referred to in sub-section (10) of section 80-IA;

(v) any transaction, referred to in any other section under Chapter VI-A or section 10AA, to which provisions of sub-section (8) or sub-section (10) of section 80-IA are applicable; or

(vi) any other transaction as may be prescribed,

and where the aggregate of such transactions entered into by the assessee in the previous year exceeds a sum of twenty crore rupees.

Brief Impact:

It is proposed that "specified domestic transaction" u/s 92BA shall not include any expenditure in respect of which payment has been made or is to be made to a person referred to in section 40A(2)(b).

Consequential amendment has also been proposed in Section 40A(2)(b).

11. Tax neutral conversion of preference shares to equity shares [Clause 3, 23 & 25]

Sub clause (hf) to Clause (i) in Explanation 1 to Section 2(42A) inserted w.e.f. 1st April, 2018

"(hf) in the case of a capital asset, being equity shares in a company, which becomes the property of the assessee in consideration of a transfer referred to in clause (xb) of section 47, there shall be included the period for which the preference shares were held by the assessee;"

Clause (xb) in Section 47 inserted w.e.f. 1st April, 2018

"(xb) any transfer by way of conversion of preference shares of a company into equity shares of that company;"

Sub-section (2AE) in Section 49 inserted w.e.f. 1st April, 2018

"(2AE) Where the capital asset, being equity share of a company, became the property of the assessee in consideration of a transfer referred to in clause (xb) of section 47, the cost of acquisition of the asset shall be deemed to be that part of the cost of the preference share in relation to which such asset is acquired by the assessee."

Brief Impact:

Existing Provision:

The conversion of security from one form to another is regarded as transfer for the purpose of levy of capital gains tax. However, tax neutrality is provided to the conversion of bond or debenture of a company to share or debenture of that company under the section 47. No similar tax neutrality to the conversion of preference share of a company into its equity share is provided.

Amended Provision:

In order to provide tax neutrality to the conversion of preference share of a company into equity share of that company, it is proposed to provide that **the conversion of preference share of a company into its equity share shall not be regarded as transfer under section 47.**

12. Cost of acquisition in Tax neutral demerger of a foreign company [Clause 25]

Section 49 amended w.e.f. 1st day of April, 2018

"(1) Where the capital asset became the property of the assessee—

.....

(iii).....

*(e) under any such transfer as is referred to in clause (iv) or clause (v) or clause (vi) or clause (via) or clause (viaa) or clause (viab) or clause (vib) **or clause (vic)** or clause (vica) or clause (vicb) or clause (vicc) or clause (xiii) or clause (xiiib) or clause (xiv) of section 47;*

.....

the cost of acquisition of the asset shall be deemed to be the cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of the assets incurred or borne by the previous owner or the assessee, as the case may be."

Section 47(vic) any transfer in a demerger, of a capital asset, being a share or shares held in an Indian company, by the demerged foreign company to the resulting foreign company, if—

(a) the shareholders holding not less than three-fourths in value of the shares of the demerged foreign company continue to remain shareholders of the resulting foreign company; and

(b) such transfer does not attract tax on capital gains in the country, in which the demerged foreign company is incorporated :

Provided that the provisions of sections 391 to 394 of the Companies Act, 1956 (1 of 1956) shall not apply in case of demergers referred to in this clause;

Brief Impact:

The cost of acquisition of the shares of Indian company referred to in section 47(vic) in the hands of the resulting foreign company shall be the same as it was in the hands of demerged foreign company.

13. Income from transfer of Carbon credits [Clause 45]

Section 115BBG (Tax on income from transfer of carbon Credits) newly inserted with effect from the 1st day of April, 2018

(1) Where the total income of an assessee includes any income by way of transfer of carbon credits, the income-tax payable shall be the aggregate of—

(a) the amount of income-tax calculated on the income by way of transfer of carbon credits, at the rate of ten per cent.; and

(b) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (a).

(2) Notwithstanding anything contained in this Act, no deduction in respect of any expenditure or allowance shall be allowed to the assessee under any provision of this Act in computing his income referred to in clause (a) of sub-section (1).

Explanation.—For the purposes of this section "carbon credit" in respect of one unit shall mean reduction of one tonne of carbon dioxide emissions or emissions of its equivalent gases which is validated by the United Nations Framework on Climate Change and which can be traded in marketat its prevailing market price.

Brief Impact:

The proposed introduction of new section 115BBG is to provide that where the total income of the assessee includes any income from transfer of carbon credit, such income shall be taxable at the concessional rate of 10% (plus applicable surcharge and cess) on the gross amount of such income. No expenditure or allowance in respect of such income shall be allowed under the Act.

This proposed amendment will help to resolve the uncertainty and litigation over the taxability of income from the transfer of carbon credits going forward.

14. Processing of return within the prescribed time and enable withholding of refund in certain cases [Clause 57, 76]

The word "fees" inserted at relevant places along with interest in sub-section (1) of Section 143

Section 143(1D) substituted with effect from the 1st day of April, 2018

"Notwithstanding anything contained in sub-section (1), the processing of a return shall not be necessary, where a notice has been issued to the assessee under sub-section (2):

***Provided that** the provisions of this sub-section shall not apply to any return furnished for the assessment year commencing on or after the 1st day of April, 2017."*

Brief Impact:

Prior to amendment, as per section 143(1D), the processing of a return shall not be necessary, where a notice has been issued to the assessee u/s 143(2). ["**Provided** *that such return shall be processed before the issuance of an order under sub-section (3)"]*

Now after amendment, as per section 143(1D), it is proposed that processing of a return filed upto AY 2016-17 shall not be necessary, where a notice has been issued to the assessee under sub-section (2). Thus, it is proposed that processing of return filed for AY 2017-18 & onwards shall be necessary u/s 143(1).

Section 241A newly inserted w.e.f. 1st day of April, 2018

"For every assessment year commencing on or after the 1st day of April, 2017, where refund of any amount becomes due to the assessee under the provisions of sub-section (1) of section 143 and the Assessing Officer is of the opinion, having regard to the fact that a notice has been issued under sub-section (2) of section 143 in respect of such return, that the grant of the refund is likely to adversely affect the revenue, he may, for reasons to be recorded in writing and with the previous approval of the Principal Commissioner or Commissioner, as the case may be, withhold the refund up to the date on which the assessment is made.

Brief Impact:

It is proposed that in respect of returns furnished for AY 2017-18 and onwards, where a notice has been issued u/s 143(2), the AO may withhold the refund of any amount becoming due to the assessee u/s 143(1) up to the date on which the assessment is made, if he is satisfied that grant of refund is likely to adversely affect the revenue. However, the AO is required to record the reasons in writing and take previous approval of Pr.CIT or CIT.

15. Rationalisation of section 211 and section 234C relating to advance tax [Clause 73, 74]

Clause (b) to sub section (1) of Section 211 *(Instalments of advance tax and due dates)* amended w.e.f. 1st day of April, 2017

"An assessee who declares profits and gains in accordance with the provisions of sub-section (1) of section 44AD or sub-section (1) of section 44ADA, as the case may be ~~*an eligible assessee in respect of an eligible business referred to in section 44AD,*~~ *to the extent of the whole amount of such advance tax during each financial year on or before the 15th March."*

Sub-section (1) of Section 234C (*Interest for deferment of advance tax*) amended w.e.f. 1st day of April, 2017

234C(1) Where in any financial year,—

"(a) ~~*an assessee, other than an eligible assessee in respect of the eligible business referred to in section 44AD,*~~ ***the assessee referred to in clause (b)*** *who is liable to pay advance tax under section 208 has failed to pay such tax or ....."*

(*b*) ~~*an eligible assessee in respect of the eligible business referred to in section 44AD,*~~ ***an assessee who declares profits and gains in accordance with the provisions of sub-section (1) of section 44AD or sub-section (1) of section 44ADA, as the case may be,*** *who is liable to pay advance tax under section 208 has failed to pay such tax or the advance tax paid by the assessee on its current income on or before the 15th day of March is less than the tax due on the returned income, then, the assessee shall be liable to pay simple interest at the rate of one per cent on the amount of the shortfall from the tax due on the returned income.*

Provided that nothing contained in this sub-section shall apply to any shortfall in the payment of the tax due on the returned income where such shortfall is on account of under-estimate or failure to estimate—

(*a*) the amount of capital gains; or

(*b*) income of the nature referred to in sub-clause (*ix*) of clause (*24*) of section 2; *or*

(c) *income under the head "Profits and gains of business or profession" in cases where the income accrues or arises under the said head for the first time,* ***or***

(d) income of the nature referred to in sub-section (1) of section 115BBDA

and the assessee has paid the whole of the amount of tax payable in respect of income referred to in clause (*a*) or clause (*b*) *or clause* (c) ***or clause (d),*** as the case may be, had such income been a part of the total income, as part of the remaining instalments of advance tax which are due or where no such instalments are due, by the 31st day of March of the financial year:

Brief Impact:

Section 211 amended: It is proposed that the assessees who opt for presumptive taxation u/s 44ADA shall also not be required to pay advance tax in four installments applicable to other assessees and they shall be liable to make payment of advance tax in one installment on or before March 15.

Section 234C amended: For assessee referred in section 44AD(1) and 44ADA(1), interest under the said section shall be levied, if the advance tax paid on or before the 15th March is less than the tax due on the returned income.

Interest u/s 234C shall not be levied on account of shortfall in payment of advance Tax for under estimation of Dividend income received from domestic companies under sub-section (*1*) of section 115BBDA.

16. Interest on refund due to deductor [Clause 77]

Sub-section (1B) to section 244A newly inserted w.e.f 1st day of April, 2017

"Where refund of any amount becomes due to the deductor in respect of any amount paid to the credit of the Central Government under Chapter XVII-B, such deductor shall be entitled to receive, in addition to the said amount, simple interest thereon calculated at the rate of one-half per cent. for every month or part of a month comprised in the period, from the date on which—

(a) claim for refund is made in the prescribed form; or

(b) tax is paid, where refund arises on account of giving effect to an order under section 250 or section 254 or section 260 or section 262,

to the date on which the refund is granted."

Sub-section (2) of section 244A amended w.e.f 1st day of April, 2017

"If the proceedings resulting in the refund are delayed for reasons attributable to the assesse ***or the deductor, as the case may be,*** *whether wholly or in part, the period of the delay so attributable to him shall be excluded from the period for which interest is payable under sub-sections (1) or (1A)* ***or (1B)****, and where any question arises as to the period to be excluded, it shall be decided by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner whose decision thereon shall be final."*

Brief Impact:

Where refund of any amount becomes due to the deductor in respect of any amount paid to the credit of the Central Government under Chapter XVII-B, such **deductor shall be entitled to receive, in addition to the said amount, simple interest thereon at the rate of one-half per cent** for every month or part of a month from the date on which claim for refund is made or in case order passed in appeal, from the date on which tax is paid, to the date on which refund is granted.

Interest shall not be allowed for the period of delay in proceedings is attributable to the deductor.

17. Extension of capital gain exemption to Rupee Denominated Bonds [Clause 24]

Fifth Proviso and Explnation clause (iii) to section 48 amended w.e.f. 1st day of April, 2018

"Provided also that in case of an assessee being a non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company ~~subscribed~~ **held** by him, shall be ignored for the purposes of computation of full value of consideration under this section:"

Explanation:-

"(iii) "indexed cost of acquisition" means an amount which bears to the cost of acquisition the same proportion as Cost Inflation Index for the year in which the asset is transferred bears to the Cost Inflation Index for the first year in which the asset was held by the assessee or for the year beginning on the ~~1st day of April, 1981,~~ **1st day of April, 2001**, whichever is later;"

Brief Impact:

Any transfer, made outside India, of a capital asset being rupee denominated bond of an Indian company issued outside India, by a non-resident to another non-resident shall not be regarded as transfer.

Gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company **to secondary holders as well, said appreciation of rupee shall be ignored for the purposes of computation of full value of consideration.**

18. Enabling claim of credit for foreign tax paid in cases of dispute [Clause 62]

Sub-section (14A) to section 155 newly inserted w.e.f. 1st day of April, 2018

"Where in the assessment for any previous year or in any intimation or deemed intimation under sub-section (1) of section 143 for any previous year, credit for income-tax paid in any country outside India or a specified territory outside India referred to in section 90, section 90A or section 91 has not been given on the ground that the payment of such tax was under dispute, and if subsequently such dispute is settled; and the assessee, within six months from the end of the month in which the dispute is settled, furnishes to the Assessing Officer evidence of settlement of dispute and evidence of payment of such tax along with an undertaking that no credit in respect of such amount has directly or indirectly been claimed or shall be claimed for any other assessment year, the Assessing Officer shall amend the order of assessment or any intimation or deemed intimation under sub-section (1) of section 143, as the case may be, and the provisions of section 154 shall, so far as may be, apply thereto: Provided that the credit of tax which was under dispute shall be allowed for the year in which such income is offered to tax or assessed to tax in India."

Brief Impact:

Credit of foreign tax which was under dispute shall be allowed for the year in which such income is offered to tax or assessed to tax in India for foreign taxes if subsequently such dispute is settled; and assessing officer will rectify the assessment order and intimation u/s 143(1), if the assessee, within six months from the end of the month in which the dispute is settled, furnishes to the Assessing Officer evidence of settlement of dispute and evidence of payment of tax.

19. Amendments to the structure of Authority for Advance Rulings [Clause 79, 80 & 81]

Clause (b) of Section 245N (Definitions) amended w.e.f. 1st day of April, 2017

"(*b*) "applicant" means—

(*A*) any person who—

(I) is a non-resident referred to in sub-clause (*i*) of clause (*a*); or

(II) is a resident referred to in sub-clause (*ii*) of clause (*a*); or

(III) is a resident referred to in sub-clause (*iia*) of clause (*a*) falling within any such class or category of persons as the Central Government may, by notification in the Official Gazette, specify; or

(IV) is a resident falling within any such class or category of persons as the Central Government may, by notification in the Official Gazette, specify in this behalf; or

(V) is referred to in sub-clause (*iv*) of clause (*a*),

and makes an application under sub-section (*1*) of section 245Q;

(*B*) an applicant as defined in clause (*c*) of section 28E of the Customs Act, 1962;

(*C*) an applicant as defined in clause (*c*) of section 23A of the Central Excise Act, 1944;

(*D*) an applicant as defined in clause (*b*) of section 96A of the Finance Act, 1994;'."

Section 245-O (Authority for Advance Rulings) amended w.e.f. 1st day of April, 2017

(3) A person shall be qualified for appointment as—

(a) Chairman, who has been a Judge of the Supreme Court **or the Chief Justice of a High Court or for at least seven years a Judge of a High Court**;

(b) Vice-Chairman, who has been Judge of a High Court;

~~(c) a revenue Member from the Indian Revenue Service, who is a Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General;~~

(c) a revenue Member—

(i) from the Indian Revenue Service, who is, or is qualified to be, a Member of the Board; or

(ii) from the Indian Customs and Central Excise Service, who is, or is qualified to be, a Member of the Central Board of Excise and Customs,

on the date of occurrence of vacancy

(d) a law Member from the Indian Legal Service, who is, or is qualified to be, an Additional Secretary to the Government of India **on the date of occurrence of vacancy**.

New sub-section (6A) & (6B) in Section 245-O (Authority for Advance Rulings) inserted w.e.f. 1st day of April, 2017

"(*6A*) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the senior-most Vice-chairman shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(*6B*) In case the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the senior-most Vice-chairman shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties."

Sub-section (1) of Section 245-Q (Application for advance ruling) amended w.e.f. 1st day of April, 2017

"(1) An applicant desirous of obtaining an advance ruling under this Chapter **or under Chapter V of the Customs Act, 1962 or under Chapter IIIA of the Central Excise Act, 1944 or under Chapter VA of the Finance Act, 1994** may make an application in such form and in such manner as may be prescribed73, stating the question on which the advance ruling is sought"

Brief Impact:

To promote ease of doing business, it has been decided by the Government to **merge the Authority for Advance Ruling (AAR) for Income-Tax, Central Excise, Customs Duty and Service Tax**.

20. Amendment of Section 253 [Clause 82]

Clause (f) of sub-section(1) in Section 253 (Appeals to the Appellate Tribunal) amended w.e.f. 1st day of April, 2017

"(f) An order passed by the prescribed authority under **sub-clause (iv) or sub-clause (v) or** sub-clause (vi) or sub-clause (via) of clause (23C) of section 10."

Brief Impact:

It is proposed to **expand the scope of the section 253** to provide that the orders passed by the prescribed authority under sub-clauses (iv) and (v) of sub-section (23C) of section 10 shall also be appealable before the ITAT.

21. Empowering Board to issue directions in respect of penalty for failure to deduct or collect tax at source [Clause 49]

Clause (a) of sub-section (2) of Section 119 (Instructions to subordinate authorities) amended w.e.f. 1st day of April, 2017

*"The Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections 115P, 115S, 115WD, 115WE, 115WF, 115WG, 115WH, 115WJ, 115WK, 139, 143, 144, 147, 148, 154, 155, 158BFA, sub-section (1A) of section 201, sections 210, 211, 234A, 234B, 234C 234E, 270A, 271, **271C, 271CA** and 273 or otherwise), general or special orders in respect of any class of incomes or fringe benefits or class of cases, setting forth directions or instructions (not being prejudicial to assessees) as to the guidelines, principles or procedures to be followed by other income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties and any such order may, if the Board is of opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information."*

Brief Impact:

It is proposed to **insert reference of sections 271C and 271CA, so as to empower the CBDT to issue Directions or Instructions in respect of the said sections also.**

22. Rationalisation of time limits for completion of assessment, reassessment and re-computation and reducing the time for filing revised return [Clause 55, 58 & 78]

Sub-section (5) of Section 139 (Return of income) amended w.e.f. 1st day of April, 2018

"(5) If any person, having furnished a return under sub-section (1) or sub-section (4), 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."

Provisos to Sub-section (1) of Section 153 (Time limit for completion of assessment, reassessment and recomputation) inserted w.e.f. 1st day of April, 2018

Provided that *in respect of an order of assessment relating to the assessment year commencing on the 1st day of April, 2018, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted:*

Provided further that *in respect of an order of assessment relating to the assessment year commencing on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted.*

Proviso to Sub-section (2) of Section 153 inserted w.e.f. 1st day of April, 2018

*"**Provided that** where the notice under section 148 is served on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "nine months", the words "twelve months" had been substituted."*

Proviso to Sub-section (3) of Section 153 inserted w.e.f. 1st day of April, 2018

*"**Provided that** where the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner on or after the 1st day of April, 2019, the provisions of this sub-section shall have effect, as if for the words "nine months", the words "twelve months" had been substituted."*

New Proviso to Sub-section (5) of Section 153 inserted w.e.f. 1st day of June, 2016

*"**Provided further that** where an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee, the order giving effect to the said order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264 shall be made within the time specified in sub-section (3)."*

Proviso to Sub-section (9) of Section 153 inserted w.e.f. 1st day of June, 2016

*"**Provided that** where a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or section 148 has been issued prior to the 1st day of June, 2016 and the assessment or reassessment has not been completed by such date due to exclusion of time referred to in Explanation 1, such assessment or reassessment shall be completed in accordance with the provisions of this section as it stood immediately before its substitution by the Finance Act, 2016."*

Third Proviso under Explanation 1 of Section 153 amended w.e.f. 1st day of April, 2018

Provided also that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment, reassessment or recomputation, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year; and for the purposes of determining the period of limitation undersections 149, ~~153B~~, 154, 155 and 158BE and for the purposes of payment of interest under section 244A, this proviso shall also apply accordingly.

Clause (iv) of Explanation to clause (b) of Section 245A (Definitions) amended w.e.f. 1st day of April, 2017

(iv) a proceeding for assessment for any assessment year, other than the proceedings of assessment or reassessment referred to in clause (i) or clause (iii) or clause (iiia), shall be deemed to have commenced from the date on which the return of income for that assessment year is furnished under section 139 or in response to a notice served under section 142 and concluded on the date on which the assessment is made; or on the expiry of ~~two years from the end of the relevant assessment year~~ **the time specified for making assessment under sub-section (1) of section 153**, in case where no assessment is made.

Brief Impact:

1. It is proposed to amend **sub-section (1)** of the section 153, that the **time limit for making an assessment order under sections 143 or 144 shall be as follows:**

Assessment Year	Time-limit (start from end of the assessment year)
2018-19	18 months
2019-20 onwards	12 months

(amended with effect from the 1st day of April, 2017)

2. It is further proposed to amend **sub-section (2) of section 153** to provide that the time limit for making an **order of assessment, reassessment or re-computation under section 147, in respect of notices served under section 148 on or after the1st April, 2019 shall be twelve months** from the end of the financial year in which notice under section 148 is served. ***(amended with effect from the 1st day of April, 2017)***

3. It is also proposed to amend **sub-section (3)** of section 153 to provide that the time limit for making an **order of fresh assessment in pursuance of an order passed or received in the financial year 2019-20 and onwards under sections 254 or 263 or 264 shall be twelve months** from the end of the financial year in which order under section 254 is received or order under section 263 or 264 is passed by the authority referred therein. ***(amended with effect from the 1st day of April, 2017)***

4. It is also proposed to amend **sub-section (5)** of section 153 to provide that where an **order under section 250 or 254 or 260 or 262 or 263 or 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee, the time limit relating to fresh assessment provided in sub-section (3) shall apply to the order giving effect to such order.** ***(amended retrospectively with effect from the 1st day of June, 2016)***

Contd...

5. It is also proposed to amend **sub-section (9)** of section 153 to provide that where a **notice under sub-section (1) of section 142 or sub-section (2) of section 143 or under section 148 has been issued prior to the 1st day of June, 2016 and the assessment or reassessment has not been completed by such date due to exclusion of time referred to in Explanation 1, such assessment or reassessment shall be completed in accordance with the provisions of section 153 as it stood immediately before its substitution by the Finance Act, 2016.** ***(amended retrospectively with effect from the 1st day of June, 2016)***

6. It is proposed to amend the provisions of sub-section (5) of section 139 to provide that the time for **furnishing of revised return shall be available upto the end of the relevant assessment year or before the completion of assessment, whichever is earlier**. ***(amended with effect from the 1st day of April, 2018 (A.Y. 2018-19 and onwards))***

23. Rationalisation of the provisions in respect of time limits for completion of search assessment [Clause 60]

Section 153B (Time limit for completion of assessment under section 153A) amended w.e.f. 1st day of April, 2017

(1) Notwithstanding anything contained in section 153, the Assessing Officer shall make an order of assessment or reassessment,—

(a) in respect of each assessment year falling within six assessment years ***and for the relevant assessment year or years*** *referred to in clause (b) of sub-section (1) of section 153A, within a period of twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed;*

(b) in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, within a period of twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed:

Provided *that* *in case of other person referred to in section 153C, the period of limitation for making the assessment or reassessment shall be the period as referred to in clause (a) or clause (b) of this sub-section or nine months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:*

Second & Third Proviso substituted

Provided further that *in the case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on the 1st day of April, 2018,—*

(i) the provisions of clause (a) or clause (b) of this sub-section shall have effect, as if for the words "twenty-one months", the words "eighteen months" had been substituted;

(ii) the period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period of eighteen months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twelve months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

Provided also that *in the case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed during the financial year commencing on or after the 1st day of April, 2019,—*

(i) the provisions of clause (a) or clause (b) of this sub-section shall have effect, as if for the words "twenty-one months", the words "twelve months" had been substituted;

(ii) the period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period of twelve months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or twelve months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later:

***Provided also that** in case where the last of the authorisations for search under section 132 or for requisition under section 132A was executed and during the course of the proceedings for the assessment or reassessment of total income, a reference under sub-section (1) of section 92CA is made, the period available for making an order of assessment or reassessment shall be extended by twelve months:*

***Provided also that** in case where during the course of the proceedings for the assessment or reassessment of total income in case of other person referred to in section 153C, a reference under sub-section (1) of section 92CA is made, the period available for making an order of assessment or reassessment in case of such other person shall be extended by twelve months.'*

Brief Impact:

It is proposed to amend sub-section (1) to provide that for search and seizure cases conducted in the **FY 2018-19**, the time limit for making an assessment order under section 153A shall be **reduced from existing twenty-one months to eighteen months** from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed.

It is further proposed that for search and seizure cases conducted in the **FY 2019-20** and onwards, the said time limit shall be further **reduced to twelve months** from the end of the financial year in which the last of the authorizations for search under section 132 or for requisition under section 132A was executed.

Proviso to sub-section (3) inserted w.r.e.f. 01-06-2016

"Provided that where a notice under section 153A or section 153C has been issued prior to the 1st day of June, 2016 and the assessment has not been completed by such date due to exclusion of time referred to in the Explanation, such assessment shall be completed in accordance with the provisions of this section as it stood immediately before its substitution by the Finance Act, 2016."

Proviso to Explanation to sub-section (3) inserted w.r.e.f. 01-04-2017

"Provided also that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section to the Assessing Officer for making an order of assessment or reassessment, as the case may be, shall, after the exclusion of the period under sub-section (4) of section 245HA, be not less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year."

Brief Impact:

It is also proposed to insert a proviso to the Explanation to provide that where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section for assessment or reassessment shall after the exclusion of the period under sub-section (4) of section 245HA shall not be less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year.

Section 153B in brief

Contd.....

[Time limit for completion of assessment u/s 153A]

Section 153A: Six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and of the relevant assessment year or years and Assessment year relevant to previous year in which search is conducted or requisition is made

Last of the authorisations for search u/s 132 or requisition u/s 132A was executed			
before 01-06-2016*	**during 01-06-2016 and 31-03-2018***	**during FY 2018-19**	**during FY 2019-20 & onwards**
2 Years from the end of Financial Year in which such last authorization was executed	**21 Months** from the end of Financial Year in which such last authorization was executed	**18 Months** from the end of Financial Year in which such last authorization was executed	**12 Months** from the end of Financial Year in which such last authorization was executed

***Note: upto 31-03-2017: AY relevant to previous year in which search is conducted or requisition is made and 6 AYs immediately preceding such AY**

In case of other person referred to in section 153C: Six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made and relevant assessment year or years and assessment year relevant to the previous year in which search is conducted or requisition is made.

Last of the authorisations for search u/s 132 or requisition u/s 132A was executed			
before 01-06-2016*	**during 01-06-2016 and 31-03-2018***	**during FY 2018-19**	**during FY 2019-20 & onwards**
(i) 36 Months from the end of Financial Year in which such last authorization was executed, or **(ii) 24 Months** from the end of F.Y. in which books of accounts handed over to the jurisdictional AO Whichever is later	**(i) 21 Months** from the end of FY in which such last authorization for search was executed, or (ii) **9 Months** from the end of F.Y. in which books of accounts handed over to jurisdictional AO Whichever is later	**(i) 18 Months** from the end of FY in which such last authorization for search was executed, or (ii) **12 Months** from the end of F.Y. in which books of accounts handed over to jurisdictional AO Whichever is later	**(i) 12 Months** from the end of FY in which such last authorization for search was executed, or (ii) **12 Months** from the end of F.Y. in which books of accounts handed over to jurisdictional AO Whichever is later

***Note: upto 31-03-2017: AY relevant to previous year in which search is conducted or requisition is made and 6 AYs immediately preceding such AY**

Note:

Where during the course of the proceedings for the assessment or reassessment of total income, a **reference under sub-section (*1*) of section 92CA is made**,

the period available for making an order of assessment or reassessment shall be extended by twelve months

H. ANTI-ABUSE MEASURES

H. ANTI-ABUSE MEASURES

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1	Exemption of long term capital gains tax u/s 10(38)	10(38)	6	01-04-2018
2	Fair Market Value to be full value of consideration in certain cases	50CA	26	01-04-2018
3	Widening scope of Income from other sources	56(2)(vii), 56(2)(X), 49	25 & 29	01-04-2017
4	Disallowance for non-deduction of tax from payment to resident	58	30	01-04-2018
5	Limitation of Interest deduction in certain cases	94B	43	01-04-2018

H. ANTI-ABUSE MEASURES contd...

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
6	Secondary adjustments in certain cases	92CE	42	01-04-2018
7	Restriction on exemption in case of corpus donation by exempt entities to other exempt entities	11, 10(23C)	6 & 8	01-04-2018
8	Mandatory furnishing of return by certain exempt entities	139(4C)	55	01-04-2018
9	Fee for delayed filing of return	234F, 140A, 143(1), 271F	56, 57, 75 & 85	01-04-2018
10	Penalty on professionals for furnishing incorrect information in statutory report or certificate	271J, 273B	86 & 87	01-04-2017

1. Exemption of long term capital gains tax u/s 10(38) [Clause 6]

New Proviso inserted in clause (38) of section 10 w.e.f. 1st day of April, 2018

*"**Provided also that** nothing contained in this clause shall apply to any income arising from the transfer of a long-term capital asset, being an equity share in a company, if the transaction of acquisition, other than the acquisition notified by the Central Government in this behalf, of such equity share is entered into on or after the 1st day of October, 2004 and such transaction is not chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004.";*

Brief Impact:

It is proposed to amend section 10(38) to provide that exemption under this section for income arising on **transfer of equity share acquired or on after 1st day of October, 2004 shall be available only if the acquisition of share is chargeable to Securities Transactions Tax under Chapter VII of the Finance (No 2) Act, 2004**.

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

Issue:- Finance Bill silent on Off Market and ESOP transactions.

2. Fair Market Value to be full value of consideration in certain cases [Clause 26]

Section 50CA newly inserted w.e.f. 1st day of April, 2018

Special provision for full value of consideration for transfer of share other than quoted share.

'Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in such manner as may be prescribed, the value so determined shall, for the purposes of section 48, be deemed to be the full value of consideration received or accruing as a result of such transfer.

Explanation.—For the purposes of this section, "quoted share" means the share quoted on any recognised stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business.'

Brief Impact:

Where consideration for **transfer of share of a company (other than quoted share) is less than the Fair Market Value (FMV)** of such share **determined in** accordance with the **prescribed manner.**

FMV shall be deemed to be the full value of consideration for the purposes of computing income under the head "Capital gains".

3. Widening scope of Income from other sources [Clause 25 & 29]

New clause (x) in sub-section (2) of section 56 is inserted w.e.f. 1st April, 2017

(*x*) where any person receives, in any previous year, from any person or persons on or after the 1st day of April, 2017,—

(a) any sum of money, without consideration, the aggregate value of which exceeds fifty thousand rupees, the whole of the aggregate value of such sum;

(b) any immovable property,—

(A) without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property;

(B) for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration:

Provided that where the date of 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 agreement may be taken for the purposes of this sub-clause:

Provided further that the provisions of the first proviso shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of agreement for transfer of such immovable property:

Provided also that where the stamp duty value of immovable property is disputed by the assessee on grounds mentioned in sub-section (*2*) of section 50C, the Assessing Officer may refer the valuation of such property to a Valuation Officer, and the provisions of section 50C and sub-section (*15*) of section 155 shall, as far as may be, apply in relation to the stamp duty value of such property for the purpose of this sub-clause as they apply for valuation of capital asset under those sections;

(c) any property, other than immovable property,—

(A) without consideration, the aggregate fair market value of which exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property;

(B) for a consideration which is less than the aggregate fair market value of the property by an amount exceeding fifty thousand rupees, the aggregate fair market value of such property as exceeds such consideration:

Provided that this clause shall not apply to any sum of money or any property received—

(I) from any relative; or

(II) on the occasion of the marriage of the individual; or

(III) under a will or by way of inheritance; or

(*IV*) in contemplation of death of the payer or donor, as the case may be; or

(*V*) from any local authority as defined in the *Explanation* to clause (*20*) of section 10; or

(*VI*) from any fund or foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in clause (*23C*) of section 10; or

(*VII*) from or by any trust or institution registered under section 12AA; or

(*VIII*) by any fund or trust or institution 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; or

(*IX*) by way of transaction not regarded as transfer under clause (*i*) or clause (*vi*) or clause (*via*) or clause (*viaa*) or clause (*vib*) or clause (*vic*) or clause (*vica*) or clause (*vicb*) or clause (*vid*) or clause (*vii*) of section 47.

Explanation.— For the purposes of this clause, the expressions "assessable", "fair market value", "jewellery", "property", "relative" and "stamp duty value" shall have the same meanings respectively assigned to them in the *Explanation* to clause (*vii*).'

Brief Impact:

It is proposed that **receipt of any sum of money or property by any person without consideration or for inadequate consideration in excess of Rs. 50,000 shall be chargeable to tax in the hands of the recipient** under the head "Income from other sources".

It is proposed to widen the scope of existing exceptions by including the receipt by certain trusts or institutions and receipt by way of certain transfers not regarded as transfer under section 47.

New clause (x) is proposed to be applicable to all assessee whereas clause (vii) & (viia) are applicable to specific assessees (i.e. Individuals/ HUF and firm or a company not being a company in which the public are substantially interested.

Issue for consideration

The proposed amendment will lead to double taxation of the same income on deeming basis as explained in the example below:

Example:

'X' transfers his unquoted shares purchased at a cost of Rs.8 lakhs to 'Y' at Rs. 10 lakhs whereas the FMV of the shares as determined in the prescribed manner is Rs. 1 crore. Then in this situation, the provisions of proposed Section 50CA would be attracted in the hands of the seller, whose full value of consideration for computation of capital gains would be Rs.1 crore. Further, 'Y' who is purchaser would be liable to tax under section 56(2)(x)(c) on Rs. 90 lakhs (i.e. Rs. 1 crore less Rs. 10 lakhs) as income from other sources.

Hence, **the difference of Rs.90 lakhs between FMV & actual consideration will be taxable:**

a) **Under section 50CA, in the hands of seller; and**
b) **Under section 56(2)(x), in the hands of recipient**.

A similar consequence of **double taxation resulting on account of the provisions of section 50C/43CA & 56(2)(x)(b).**

4. Disallowance for non-deduction of tax from payment to resident [Clause 30]

Section 58(1A) (Amounts not deductible) is amended w.e.f. 1st April, 2018

*"(1A) The provisions of ~~sub-clause (iia)~~ **sub-clauses (ia) and (iia)** of clause (a) of section 40 shall, so far as may be, apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profits and gains of business or profession"*

Brief Impact:

Section 58 is proposed to be amended to improve compliance of provision relating to tax deduction at source (TDS). It is proposed to apply provisions of Section 40(a)(ia) in computing income chargeable under the head " income from other sources" as they apply in computing income chargeable under the head "profit and gains of business or Profession."

5. Limitation of Interest deduction in certain cases [Clause 43]

Section 94B (Limitation on interest deduction in certain cases) newly inserted w.e.f. 1st day of April, 2018

"(1) Notwithstanding anything contained in this Act, where an Indian company, or a permanent establishment of a foreign company in India, being the borrower, pays interest or similar consideration exceeding one crore rupees which is deductible in computing income chargeable under the head "Profits and gains of business or profession" in respect of any debt issued by a non-resident, being an associated enterprise of such borrower, the interest shall not be deductible in computation of income under the said head to the extent that it arises from excess interest, as specified in sub-section (2):

Provided that *where the debt is issued by a lender which is not associated but an associated enterprise either provides an implicit or explicit guarantee to such lender or deposits a corresponding and matching amount of funds with the lender, such debt shall be deemed to have been issued by an associated enterprise.*

(2) For the purposes of sub-section (1), the excess interest shall mean an amount of total interest paid or payable in excess of thirty per cent. of earnings before interest, taxes, depreciation and amortisation of the borrower in the previous year or interest paid or payable to associated enterprises for that previous year, whichever is less.

(3) Nothing contained in sub-section (1) shall apply to an Indian company or a permanent establishment of a foreign company which is engaged in the business of banking or insurance.

Contd.....

(4) Where for any assessment year, the interest expenditure is not wholly deducted against income under the head "Profits and gains of business or profession", so much of the interest expenditure as has not been so deducted, shall be carried forward to the following assessment year or assessment years, and it shall be allowed as a deduction against the profits and gains, if any, of any business or profession carried on by it and assessable for that assessment year to the extent of maximum allowable interest expenditure in accordance with sub-section (2):

***Provided that** no interest expenditure shall be carried forward under this sub-section for more than eight assessment years immediately succeeding the assessment year for which the excess interest expenditure was first computed.*

(5) For the purposes of this section, the expressions—

(i) "associated enterprise" shall have the meaning assigned to it in sub-section (1) and sub-section (2) of section 92A;

(ii) "debt" means any loan, financial instrument, finance lease, financial derivative, or any arrangement that gives rise to interest, discounts or other finance charges that are deductible in the computation of income chargeable under the head "Profits and gains of business or profession";

(iii) "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.'

Brief Impact:

Section 94B relates to interest expenses more than Rs.1 crore claimed by an entity, paid or payable to its associated enterprises (non-resident):

1. **Interest expenses claimed** by any entity to its associates enterprises **restricted to 30% of its EBITDA or interest paid or payable to associates enterprises whichever is less**
2. Applicable to Indian Company or Permanent establishment of a foreign Company in India(Borrower)
3. Debt issued to Non Resident or to a permanent establishment of a non-resident and who is associated enterprises. (includes guarantee also)
4. Allow to carry forward of disallowed interest expenses for eight assessment years immediately succeeding the assessment year for which the disallowance was first made.
5. Maximum allowance in subsequent years is to extent of maximum allowable interest expenditure in that particular year.
6. Exclude Banks and insurance business.

6. Secondary adjustments in certain cases [Clause 42]

Section 92CE (Secondary adjustment in certain cases) newly inserted w.e.f. 1st day of April, 2018

"(1) Where a primary adjustment to transfer price,—

(i) has been made suo motu by the assessee in his return of income;

(ii) made by the Assessing Officer has been accepted by the assessee;

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

(iv) is made as per the safe harbour rules framed under section 92CB; or

(v) is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into under section 90 or section 90A for avoidance of double taxation, the assessee shall make a secondary adjustment:

***Provided that** nothing contained in this section shall apply, if,–*

(i) the amount of primary adjustment made in any previous year does not exceed one crore rupees; and

(ii) the primary adjustment is made in respect of an assessment year commencing on or before the 1st day of April, 2016.

(2) Where, as a result of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, as the case may be, of the assessee, the excess money which is available with its associated enterprise, if not repatriated to India within the time as may be prescribed, shall be deemed to be an advance made by the assessee to such associated enterprise and the interest on such advance, shall be computed in such manner as may be prescribed.

(3) For the purposes of this section,—

(i) "associated enterprise" shall have the meaning assigned to it in sub-section (1) and sub-section (2) of section 92A;

(ii) "arm's length price" shall have the meaning assigned to it in clause (ii) of section 92F;

(iii) "excess money" means the difference between the arm's length price determined in primary adjustment and the price at which the international transaction has actually been undertaken;

(iv) "primary adjustment" to a transfer price means the determination of transfer price in accordance with the arm's length principle resulting in an increase in the total income or reduction in the loss, as the case may be, of the assessee;

(v) "secondary adjustment" means an adjustment in the books of account of the assessee and its associated enterprise to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined as a result of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee.'.

Brief Impact:

"Secondary adjustment" means an adjustment in the books of accounts of the assessee and its associated enterprise **to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined as a result of primary adjustment**, thereby removing the imbalance between cash account and actual profit of the assessee. It can be form of constructive dividends, constructive equity contributions, or constructive loans.

1. Applicable where primary adjustment to transfer price, has been made suomotu by the assessee or made by AO accepted by the assesse or is determined by an advance pricing agreement entered into by the assesse under section 92CC; or is made as per the safe harbour rules framed under section 92CB; or is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into under section 90 or 90A.

Contd.....

2. In case of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, the excess money which is available with its associated enterprise, if not repatriated to India within the time as may be prescribed, shall be deemed to be an advance made by the assessee to such associated enterprise and the interest on such advance, shall be computed as the income of the assessee, in the manner as may be prescribed.

3. Also proposed to provide that such secondary adjustment shall not be carried out if, the amount of primary adjustment made in the case of an assessee in any previous year does not exceed one crore rupees and the primary adjustment is made in respect of an assessment year commencing on or before 1st April,2016.

7. Restriction on exemption in case of corpus donation by exempt entities to other exempt entities

[Clause 6 & 8]

New Explanation to section 11 is inserted w.e.f. 1st day of April, 2018

"*Explanation* 2.—Any amount credited or paid, out of income referred to in clause (*a*) or clause (*b*) read with *Explanation* 1, to any other trust or institution registered under section 12AA, being contribution with a specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income for charitable or religious purposes."

New proviso in Section 10(23C) inserted w.e.f. 1st day of April, 2018

"Provided also that any amount credited or paid out of income of any fund or trust or institution 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*), to any trust or institution registered under section 12AA, being voluntary contribution made with a specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income to the objects for which such fund or trust or institution or university or educational institution or hospital or other medical institution, as the case may be, is established:"

Brief Impact:

Current Situation: Corpus Donation given by exempt entities to another exempt entity out of current year receipt/income of such donor is considered application of income in the hands of donor trust but is not considered as income of the recipient trust.

Now, it is proposed that it shall not be treated as application of income in hand of donor trust or other exempted entities. (Exempt entities: Entities registered under Section 12AA or under Section 10(23C)(iv)/(v)/(vi)/(via).)

8. Mandatory furnishing of return by certain exempt entities [Clause 55]

Sub-section (4C) of section 139 amended w.e.f. 1st day of April, 2018

Following clauses added under Sub-section (4C):

(*ca*) person referred to in clause (*23AAA*) of section 10;

(*eba*) Investor Protection Fund referred to in clause (*23EC*) or clause (*23ED*) of section 10;

(*ebb*) Core Settlement Guarantee Fund referred to in clause (*23EE*) of section 10;

(*fa*) Board or Authority referred to in clause (*29A*) of section 10;

Brief Impact:

Any person as referred to in clause (23AAA), Investor Protection Fund referred to in clause (23EC) or clause (23ED), Core Settlement Guarantee Fund referred to in clause (23EE) and any Board or Authority referred to in clause (29A) of section 10 shall also be mandatorily required to furnish a return of income under section 139(4C) of the Act.

9. Fee for delayed filing of return [Clause 56, 57, 75 & 85]

Section 234F newly inserted w.e.f. 1st day of April, 2018

Fee for default in furnishing return of income

"(*1*) Without prejudice to the provisions of this Act, where a person required to furnish a return of income under section 139, fails to do so within the time prescribed in sub-section (*1*) of said section, he shall pay, by way of fee, a sum of,—

(a) five thousand rupees, if the return is furnished on or before the 31st day of December of the assessment year;

(b) ten thousand rupees in any other case:

Provided that if the total income of the person does not exceed five lakh rupees, the fee payable under this section shall not exceed one thousand rupees.

(*2*) The provisions of this section shall apply in respect of return of income required to be furnished for the assessment year commencing on or after the 1st day of April, 2018."

Brief Impact:

It is proposed to levy fees in case of delay in filing of return from AY 2018-19 and onwards:

In case return is furnished after the due date but on or before 31st December of the relevant assessment year	Rs.5,000/-
In other cases	Rs.10,000/-

However, in a case where the total income does not exceed Rs.5 lakh, it is proposed that the fee amount shall not exceed Rs.1,000/-.

10. Penalty on professionals for furnishing incorrect information in statutory report or certificate [Clause 86 & 87]

Section 271J newly inserted w.e.f. 1st day of April, 2018

Penalty for furnishing incorrect information in reports or certificates

"Without prejudice to the provisions of this Act, where the Assessing Officer or the Commissioner (Appeals), in the course of any proceedings under this Act, finds that an accountant or a merchant banker or a registered valuer has furnished incorrect information in any report or certificate furnished under any provision of this Act or the rules made thereunder, the Assessing Officer or the Commissioner (Appeals) may direct that such accountant or merchant banker or registered valuer, as the case may be, shall pay, by way of penalty, a sum of ten thousand rupees for each such report or certificate.

Explanation.—For the purposes of this section,—

(a) "accountant" means an accountant referred to in the Explanation below sub-section (2) of section 288;

(b) "merchant banker" means Category I merchant banker registered with the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992;

(c) "registered valuer" means a person defined in clause (oaa) of section 2 of the Wealth-tax Act, 1957.'

Brief Impact:

If an accountant or a merchant banker or a registered valuer, furnishes incorrect information in a report or certificate under any provisions of the Act or the rules made thereunder, the Assessing Officer or the Commissioner (Appeals) may direct him to pay a sum of 10,000/- for each such report or certificate by way of penalty.

Section 273B is also amended that if the person proves that there was reasonable cause for the failure referred to in the said section, then penalty shall not be imposable in respect of the proposed section 271J.

No power to CIT to levy penalty u/s 271J. Also, Order passed u/s 271J shall not be appealable.

I. Rationalisation Measures

I. Rationalisation Measures

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1	Rationalisation of provisions of section 115JB in line with Indian Accounting Standard (Ind-AS)	115JB	47	01-04-2017
2	Clarification regarding the applicability of section 112	112	150	w.r.e.f 01-04-2013
3	Rationalization of rebate allowable under Section 87A	87A	38	01-04-2018
4	Rationalisation of provisions of Section 10AA	10AA	7	01-04-2018

I. Rationalisation Measures

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
5	Consolidation of plans within a scheme of mutual fund	2(42A), 49	3 & 25	01-04-2017
6	Definition of 'person responsible for paying' in case of payments covered under sub-section (6) of section 195	195, 204	70	01-04-2017

I. Rationalisation Measures

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
7	Clarification with regard to interpretation of 'terms' used in an agreement entered into under section 90 and 90A.	90, 90A	39 & 40	01-04-2018
8	Actual cost of asset in case of withdrawal of deduction in terms of Sub-section (7B) of section 35AD	35AD	16	01-04-2018
9	Clarity of procedure in respect of change or modifications of object and filing of return of income in case of entities exempt under sections 11 and 12	11, 12 & 12AA	9 & 10	01-04-2018

I. Rationalisation Measures

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
10	Cost of Acquisition of capital assets of entities in case of levy of tax on accreted income under section 115TD	49, 115TD	25	w.r.e.f. 01-06-2016
11	Strengthening of PAN quoting mechanism in the TCS regime	206CC	72	01-04-2017
12	Rationalization of deduction under section 80CCG.	80CCG	34	01-04-2018

I. Rationalisation Measures

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
13	Restriction on set-off of loss from House property	71	31	01-04-2018
14	Reason to believe to conduct a search, etc. not to be disclosed	132, 132A	50 & 51	01-04-1962, 01-10-1975
15	Power of provisional attachment and to make reference to Valuation Officer to authorised officer	132	50	01-04-2017

I. Rationalisation Measures

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
16	Rationalisation of the provisions in respect of power to call for information	133	52	01-04-2017
17	Extension of the power to survey	133A	53	01-04-2017
18	Legislative framework to enable centralised issuance of notice and processing of information under section 133C	133C	54	01-04-2017

I. Rationalisation Measures

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
19	Rationalisation of provisions of the Income Declaration Scheme, 2016 and consequential amendment to section 153A and 153C	197, 153A, 153C	59, 61 & 150	01-06-2016, 01-04-2017
20	Exemption of income of Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund	10(23C)	6	01-04-1998
21	Correct reference to FEMA instead of FERA	10(4)(ii)	6	01-04-2013

1. Rationalisation of provisions of section 115JB in line with Indian Accounting Standard (Ind-AS)

[Clause 47]

Section 115JB amended w.e.f. 1st April, 2017

'(2A) For a company whose financial statements are drawn up in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015, the book profit as computed in accordance with Explanation 1 to sub-section (2) shall be further—

(a) increased by all amounts credited to other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss";

(b) decreased by all amounts debited to other comprehensive income in the statement of profit and loss under the head "Items that will not be re-classified to profit or loss";

(c) increased by amounts or aggregate of the amounts debited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger in accordance with Appendix A of the Indian Accounting Standards 10;

(d) decreased by all amounts or aggregate of the amounts credited to the statement of profit and loss on distribution of non-cash assets to shareholders in a demerger in accordance with Appendix A of the Indian Accounting Standards 10:

Provided that *nothing contained in clause (a) or clause (b) shall apply to the amount credited or debited to other comprehensive income under the head "Items that will not be re-classified to profit or loss" in respect of—*

(i) revaluation surplus for assets in accordance with the Indian Accounting Standards 16 and Indian Accounting Standards 38; or

(ii) gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 109:

Provided further that *the book profit of the previous year in which the asset or investment referred to in the first proviso is retired, disposed, realised or otherwise transferred shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the first proviso for the previous year or any of the preceding previous years and relatable to such asset or investment.*

(2B) In the case of a resulting company, where the property and the liabilities of the undertaking or undertakings being received by it are recorded at values different from values appearing in the books of account of the demerged company immediately before the demerger, any change in such value shall be ignored for the purpose of computation of book profit of the resulting company under this section.

(2C) For a company referred to in sub-section (2A), the book profit of the year of convergence and each of the following four previous years, shall be further increased or decreased, as the case may be, by one-fifth of the transition amount:

***Provided that** the book profit of the previous year in which the asset or investment referred to in sub-clauses (B) to (E) of clause (iii) of the Explanation is retired, disposed, realised or otherwise transferred, shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the said sub-clause relatable to such asset or investment:*

Provided further that the book profit of the previous year in which the foreign operation referred to in sub-clause (F) of clause (iii) of the Explanation is disposed or otherwise transferred, shall be increased or decreased, as the case may be, by the amount or the aggregate of the amounts referred to in the said sub-clause relatable to such foreign operations.

Explanation.—For the purposes of this sub-section, the expression—

(i) "year of convergence" means the previous year within which the convergence date falls;

(ii) "convergence date" means the first day of the first Indian Accounting Standards reporting period as defined in the Indian Accounting Standards 101;

Contd....

(iii) "transition amount" means the amount or the aggregate of the amounts adjusted in the other equity (excluding equity component of compound financial instruments, capital reserve, and securities premium reserve) on the convergence date but not including the following,—

(A) amount or aggregate of the amounts adjusted in the other comprehensive income on the convergence date which shall be subsequently re-classified to the profit or loss;

(B) revaluation surplus for assets in accordance with the Indian Accounting Standards 16 and Indian Accounting Standards 38 adjusted on the convergence date;

(C) gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with the Indian Accounting Standards 109 adjusted on the convergence date;

(D) adjustments relating to items of property, plant and equipment and intangible assets recorded at fair value as deemed cost in accordance with paragraphs D5 and D7 of the Indian Accounting Standards 101 on the convergence date;

(E) adjustments relating to investments in subsidiaries, joint ventures and associates recorded at fair value as deemed cost in accordance with paragraph D15 of the Indian Accounting Standards 101 on the convergence date; and

(F) adjustments relating to cumulative translation differences of a foreign operation in accordance with paragraph D13 of the Indian Accounting Standards 101 on the convergence date.'

Brief Impact:

The Finance Bill, 2017 proposes to amend section 115JB so as to provide the framework for computation of book profit for Ind AS compliant companies in the year of adoption and thereafter. Provisions of proposed sections 115JB(2A), 2(B) and (2C) are to be made applicable with effect from assessment year 2017-18 and, therefore, are relevant for companies adopting Ind AS mandatorily from financial year 2016-17.

Ind AS income statement consists of profit and loss account and, what is known as other comprehensive income (OCI). The Finance Bill proposes no further adjustments to the net profits before OCI of Ind AS compliant companies, other than those already specified under section 115JB of the Act shall be made. In other words, MAT calculations would be based on profit before tax.

A. Reference year for first time adoption adjustments

In the first year of adoption of Ind AS, the companies would prepare Ind AS financial statement for reporting year with a comparative financial statement for immediately preceding year. As per Ind AS 101, a company would make all Ind AS adjustments on the opening date of the comparative financial year. The entity is also required to present an equity reconciliation between previous Indian GAAP and Ind AS amounts, both on the opening date of preceding year as well as on the closing date of the preceding year.

Therefore, It is proposed that for the purposes of computation of book profits of the year of adoption and the proposed adjustments, the amounts adjusted as of the opening date of the first year of adoption shall be considered.

For example, companies which adopt Ind AS with effect from 1 April 2016 are required prepare their financial statements for the year 2016-17 as per requirements of Ind AS. Such companies are also required to prepare an opening balance sheet as of 1 April 2015 and restate the financial statements for the comparative period 2015-16. In this case, the first time adoption adjustments as of 31 March 2016 shall be considered for computation of MAT liability for previous year 2016-17 (Assessment year 2017-18) and thereafter.

B. MAT on Ind AS compliant financial statement

I. Those adjustments recorded in other comprehensive income and which would subsequently be reclassified to the profit and loss, shall be included in book profits in the year in which these are reclassified to the profit and loss;

II. Those adjustments recorded in other comprehensive income that will permanently be recorded in reserves and hence which would never be subsequently reclassified to the profit and loss shall be included in book profits as specified hereunder-

Sl. No.	Items	Point of Time	
		MAT implications for ongoing Ind AS reporting	**MAT on first time adoption**
1.	Changes in revaluation surplus of Property, Plant or Equipment (PPE) and Intangible assets (Ind AS 16 and Ind AS 38)	To be included in book profits at the time of realisation/ disposal/ retirement or otherwise transferred	

Sl. No.	Items	Point of Time	
		MAT implications for ongoing Ind AS reporting	**MAT on first time adoption**
2.	Gains and losses from investments in equity instruments designated at fair value through other comprehensive income (Ind AS 109)	To be included in book profits at the time of realisation/ disposal/ retirement or otherwise transferred	
3.	Re-measurements of defined benefit plans (Ind AS 19)	To be included in book profits every year as the re-measurements gains and losses arise	To be included in book profits equally over a period of five years starting from the year of first time adoption of Ind AS
4.	Any other item		

The period of five years proposed above shall be previous years 2016-17 to 2020-21 for phase I Ind AS companies (Ind AS effective from financial year 2016-17 onwards) and previous years 2017-18 to 2021-22 for phase-II Ind AS companies (Ind AS effective from financial year 2017-18 onwards).

III. All other adjustments recorded in Reserves and Surplus which would otherwise never subsequently be reclassified to the profit and loss account, shall be included in the book profits, equally over a period of five years starting from the year of **first time adoption of Ind AS** subject to the following—

a) Fair valuation of PPE and intangible asset as deemed cost upon first time adoption of Ind AS

An entity may use fair value in its opening Ind AS balance sheet as deemed cost for an item of PPE or an intangible asset as per provisions of Ind AS 101. If such an option is availed, the items of PPE or intangible asset are measured at fair value at the transition date with a corresponding impact on the retained earnings/reserves. In such cases the treatment under MAT proposed is as under:

- The adjustments in retained earnings on first time adoption with respect to items of PPE and Intangible assets shall be ignored for the purposes of computation of book profits.
- Depreciation shall be computed ignoring the amount of aforesaid retained earnings adjustment.
- Similarly, gain/loss on realisation/ disposal/ retirement of such assets shall be computed ignoring the aforesaid retained earnings adjustment

b) Investments in subsidiaries, joint ventures and associates at fair value as deemed cost

upon first time adoption of Ind AS Ind AS 101 allows an entity either to fair value its investments in subsidiary, associate and joint venture companies or to measure them at cost in its separate financial statements. If the fair value option is used the investments are measured at fair value at the transition date with a corresponding impact on retained earnings/reserves. In such cases, retained earnings adjustment shall be included in the book profit at the time of realisation of such investment.

c) Cumulative translation differences

An entity may elect a choice whereby the cumulative translation differences for all foreign operations are deemed to be zero at the date of transition to Ind AS. Further, the gain or loss on a subsequent disposal of any foreign operation shall exclude translation differences that arose before the date of transition to Ind AS and shall include only the translation differences after the date of transition.

In such cases, to ensure that such Cumulative translation differences on the date of transition which have been transferred to retained earnings, are taken into account, these shall be included in the book profits at the time of disposal of foreign operations as mentioned in paragraph 48 of Ind AS 21.

d) Deferred tax

Section 115JB of the Act already provides for adjustments on account of deferred tax and its provision. The Bill clarifies that any deferred tax adjustments arising on first time adoption of Ind AS recorded in reserves and surplus shall also be ignored for the purpose of MAT.

IV. Non-cash distribution to shareholders (such as demerger)

Appendix A of Ind AS 10 provides that any distributions of non-cash assets to shareholders (for example, in a demerger) shall be accounted for at fair value. The difference between the carrying value of the assets and the fair value is recorded in the profit and loss account. Correspondingly, the reserves are debited at fair value to record the distribution as a 'deemed dividend' to the shareholders. As there is a corresponding adjustment in retained earnings, this difference arising on demerger shall be excluded from the book profits.

However, in the case of a resulting company, where the property and the liabilities of the undertaking or undertakings being received by it are recorded at values different from values appearing in the books of account of the demerged company immediately before the demerger, any change in such value shall be ignored for the purpose of computing of book profit of the resulting company.

2. Clarification regarding the applicability of section 112 [Clause 150]

Amendment to Section 112 (*Tax on long-term capital gains*) introduced by Finance Act, 2016 w.e.f. 1st April, 2017 now amended to be applicable retrospectively w.e.f. 1st April, 2013

Section 112(1)(c)(iii)- "the amount of income-tax on long-term capital gains arising from the transfer of a capital asset, being unlisted securities **[or shares of a company not being a company in which the public are substantially interested]**, calculated at the rate of ten per cent on the capital gains in respect of such asset as computed without giving effect to the first and second proviso to section 48;"

Brief Impact:

It is clarified that the share of company in which public are not substantially interested sold by non-resident shall also be chargeable to tax at the rate of ten per cent for long term capital gain with effect from 1st April, 2013. Presently, there is uncertainty about the applicability of the amendment to the intervening period as the concessional rate was provided with effect from 1st April, 2013.

3. Rationalization of rebate allowable under Section 87A [Clause 38]

Provisions of section 87A (Rebate of income-tax in case of certain individuals) amended with effect from 1st April, 2018

*An assessee, being an individual resident in India, whose total income does not exceed ~~five hundred thousand rupees~~ **three hundred fifty thousand rupees**, shall be entitled to a deduction, from the amount of income-tax (as computed before allowing the deductions under this Chapter) on his total income with which he is chargeable for any assessment year, of an amount equal to hundred per cent of such income-tax or an amount of ~~five thousand rupees~~ **two thousand five hundred rupees**, whichever is less.*

Brief Impact:

1. Maximum Rebate u/s 87A - Rs. 2,500 (presently Rs. 5,000).
2. If total Income does not exceed Rs. 3,50,000 (earlier Rs. 5,00,000).

Thus, it is proposed that no rebate u/s 87A will be given if total income exceeds Rs 3,50,000.

4. Rationalization of provisions of Section 10AA [Clause 7]

Explanation to Section 10AA (Special provisions in respect of newly established Units in Special Economic Zones) inserted w.e.f. 1st April, 2018

"Explanation.—For the removal of doubts, it is hereby declared that the amount of deduction under this section shall be allowed from the total income of the assessee computed in accordance with the provisions of this Act, before giving effect to the provisions of this section and the deduction under this section shall not exceed such total income of the assessee."

Brief Impact:

It is proposed to clarify that the amount of deduction referred to in section 10AA shall be allowed from the total income of the assessee computed in accordance with the provisions of the Act before giving effect to the provisions of the section 10AA **and the deduction under Section 10AA in no case shall exceed the said total income.**

5. Consolidation of plans within a scheme of mutual fund [Clause 3 & 25]

Sub-clause (hf) in clause (i) of Explanation 1 to section 2(42A) inserted w.e.f. 1st April, 2017

"(hg) in the case of a capital asset, being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in clause (xix) of section 47, there shall be included the period for which the unit or units in the ***consolidating plan of a mutual fund scheme*** *were held by the assessee;"*

Sub-section (2AF) inserted to Section 49 inserted w.e.f. 1st April, 2017

"(2AF) Where the capital asset, being a unit or units in a consolidated plan of a mutual fund scheme, became the property of the assessee in consideration of a transfer referred to in clause (xix) of section 47, the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating plan of the scheme of the mutual fund."

Brief Impact:

1. Cost of acquisition of the units in the consolidated plan of mutual fund scheme referred to in section 47(xix) shall be the cost of units in consolidating plan of mutual fund scheme. (Section 49)

2. Period of holding of the units of consolidated plan of mutual fund scheme shall include the period for which the units in consolidating plan of mutual fund scheme were held by the assessee. (Section 2(42A))

6. Definition of 'person responsible for paying' in case of payments covered under sub-section (6) of section 195 [Clause 70]

Clause (iib) to Section 204 inserted w.e.f. 1st April, 2017

"(iib) in the case of furnishing of information relating to payment to a non-resident, not being a company, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act, the payer himself, or, if the payer is a company, the company itself including the principal officer thereof;".

Brief Impact:

Definition of "Person responsible for paying" u/s 195(6) now proposed to be clarified vide new clause (iib) to section 204 proposed to be inserted with effect from 1st April, 2017

7. Clarification with regard to interpretation of 'terms' used in an agreement entered into under section 90 and 90A. [Clause 39 & 40]

New Explanation in Section 90 (Agreement with foreign countries or specified territories) inserted w.e.f. 1st April, 2018

"Explanation 4.—For the removal of doubts, it is hereby declared that where any term used in an agreement entered into under sub-section (1) is defined under the said agreement, the said term shall have the same meaning as assigned to it in the agreement; and where the term is not defined in the said agreement, but defined in the Act, it shall have the same meaning as assigned to it in the Act and any explanation given to it by the Central Government."

New Explanation in Section 90A (Adoption by Central Government of agreement between specified associations for double taxation relief) inserted w.e.f. 1st April, 2018

"Explanation 4.—For the removal of doubts, it is hereby declared that where any term used in an agreement entered into under sub-section (1) is defined under the said agreement, the said term shall have the same meaning as assigned to it in the agreement; and where the term is not defined in the said agreement, but defined in the Act, it shall have the same meaning as assigned to it in the Act and any explanation given to it by the Central Government."

Brief Impact:

For the removal of doubts, it is hereby proposed to be declared that where any term used in an agreement entered into under sub-section (1) of section 90/ 90A of the Act, is defined under the said agreement, the said term shall have the same meaning as assigned to it in the agreement; and where the term is not defined in the said agreement, but defined in the Act, it shall have the same meaning as assigned to it in the Act and any explanation given to it by the Central Government

Note: The definition of "Term" as defined in respective Tax Treaty is having an overriding effect over the Act and if not defined in the respective Tax Treaty meaning will be taken from the Act or any Central Govt. explanation.

8. Actual cost of asset in case of withdrawal of deduction in terms of Sub-section (7B) of section 35AD

[Clause 16]

New proviso in Explanation 13 of clause (1) to section 43 inserted w.e.f. 1st day of April, 2018

"Provided that where any capital asset in respect of which deduction or part of deduction allowed under section 35AD is deemed to be the income of the assessee in accordance with the provisions of sub-section (7B) of the said section, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purposes of business since the date of its acquisition."

Brief Impact:

It is proposed that where the provisions of section 35AD(7B) applies, the actual cost of the asset to the assesse shall be reduced by the amount of depreciation allowable at the rates had the asset been used for business since its acquisition.

9. Clarity of procedure in respect of change/ modifications of object & filing of return of income in case of entities exempt u/s 11 & 12 [Clause 9 & 10]

New Clause (ab) in section 12A(1) (Conditions for applicability of sections 11 and 12) inserted w.e.f. 1st day of April, 2018

"(ab) the person in receipt of the income has made an application for registration of the trust or institution, in a case where a trust or an institution has been granted registration under section 12AA or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996], and, subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, in the prescribed form and manner, within a period of thirty days from the date of said adoption or modification, to the Principal Commissioner or Commissioner and such trust or institution is registered under section 12AA;"

New Clause (ba) in section 12A(1) inserted w.e.f. 1st day of April, 2018

"(ba) the person in receipt of the income has furnished the return of income for the previous year in accordance with the provisions of sub-section (4A) of section 139, within the time allowed under that section."

Section 12AA (Procedure for registration) amended so as to give reference to new clauses w.e.f 1st day of April, 2018

(a) in sub-section (1), after the word, brackets and letters "clause (aa)", the words, brackets and letters "or clause (ab)" shall be inserted;

(b) (b) in sub-section (2), after the word, brackets and letters "clause (aa)", the words, brackets and letters "or clause (ab)" shall be inserted.

Brief Impact

1. Fresh registration required within 30 days in case of fresh adoption or modification of objects.
2. Return of income mandatorily to be filed within prescribed time limit u/s 139(4)
3. Failure of above shall lead to cancelation of registration.
4. As per Section 139(4A), the trust is required to furnish return as if it file return u/s 139(1). **However, the memorandum refers to time allowed u/s 139 which may include 139(4) also.**

10. Cost of Acquisition of capital assets of entities in case of levy of tax on accreted income under section 115TD [Clause 25]

Sub-section (8) to Section 49 newly inserted with retrospective effect from 1st day of June, 2016

"(8) Where the capital gain arises from the transfer of an asset, being the asset held by a trust or an institution in respect of which accreted income has been computed and the tax has been paid thereon in accordance with the provisions of Chapter XII-EB, the cost of acquisition of such asset shall be deemed to be the fair market value of the asset which has been taken into account for computation of accreted income as on the specified date referred to in sub-section (2) of section 115TD."

Brief Impact:

Cost of acquisition of assets sold by a trust or institution which has paid tax on its accreted income u/s 115TD shall be deemed to be **fair market value of the asset** which has been taken into account for computation of accreted income as on the specified date referred to in sub-section (2) of section 115TD.

11. Strengthening of PAN quoting mechanism in the TCS regime [Clause 72]

Section 206CC (Requirement to furnish Permanent Account Number by Collectee) newly inserted w.e.f. 1st April, 2017

1) *Notwithstanding anything contained in any other provisions of this Act, any person paying any sum or amount, on which tax is collectible at source under Chapter XVII-BB (herein referred to as collectee) shall furnish his Permanent Account Number to the person responsible for collecting such tax (herein referred to as collector), failing which tax shall be collected at the higher of the following rates, namely:—*
   (i) at twice the rate specified in the relevant provision of this Act; or
   (ii) at the rate of five per cent.
2) *No declaration under sub-section (1A) of section 206C shall be valid unless the person furnishes his Permanent Account Number in such declaration.*
3) *In case any declaration becomes invalid under sub-section (2), the collector shall collect the tax at source in accordance with the provisions of sub-section (1).*
4) *No certificate under sub-section (9) of section 206C shall be granted unless the application made under that section contains the Permanent Account Number of the applicant.*

5) *The collectee shall furnish his Permanent Account Number to the collector and both shall indicate the same in all the correspondence, bills, vouchers and other documents which are sent to each other.*

6) *Where the Permanent Account Number provided to the collector is invalid or does not belong to the collectee, it shall be deemed that the collectee has not furnished his Permanent Account Number to the collector and the provisions of sub-section (1) shall apply accordingly.*

7) *The provisions of this section shall not apply to a non-resident who does not have permanent establishment in India.*

Explanation.—For the purposes of this sub-section, the expression "permanent establishment" includes a fixed place of business through which the business of the enterprise is wholly or partly carried on.'

Brief Impact:

In case of non furnishing of PAN for TCS (in case of Resident only)

1. Higher rate of TCS (twice of the prescribed rates or 5% whichever is more)
2. No Credit of TCS as no certificate will be generated.
3. Section 206CC is not applicable to Non resident having no Permanent Establishment in India.

12. Rationalization of deduction under section 80CCG. [Clause 34]

Sub-section 5 to section 80CCG (Deduction in respect of investment made under an equity savings scheme) newly inserted w.e.f. 1st day of April, 2018

"(5) Notwithstanding anything contained in sub-sections (1) to (4), no deduction under this section shall be allowed in respect of any assessment year commencing on or after the 1st day of April, 2018

***Provided that** an assessee, who has acquired listed equity shares or listed units of an equity oriented fund in accordance with the scheme referred to in sub-section (1) and claimed deduction under this section for any assessment year commencing on or before the 1st day of April, 2017, shall be allowed deduction under this section till the assessment year commencing on the 1st day of April, 2019, if he is otherwise eligible to claim the deduction in accordance with the other provisions of this section."*

Brief Impact:

No deduction is allowed under section 80CCG from AY 2018-19. However, an assessee who has claimed deduction under this section for assessment year 2017-18 and earlier assessment years shall be allowed deduction under this section till the assessment year 2019-20 if he is otherwise eligible to claim the deduction as per the provisions of this section.

13. Restriction on set-off of loss from House property [Clause 31]

Sub section (3A) to section 71 (Set off of loss from one head against income from another) newly inserted w.e.f. 1st day of April, 2018

'Notwithstanding anything contained in sub-section (1) or sub-section (2), where in respect of any assessment year, the net result of the computation under the head "Income from house property" is a loss and the assessee has income assessable under any other head of income, the assessee shall not be entitled to set off such loss, to the extent the amount of the loss exceeds two lakh rupees, against income under the other head.'

Brief Impact:

Monetary restriction of Rs.2lacs imposed for set off of loss from house property against inter head income from other heads of income.

14. Reason to believe to conduct a search, etc. not to be disclosed [Clause 50 & 51]

Explanation after fourth proviso to Section 132(1) w.r.e.f. 01-04-1962

"Explanation.—For the removal of doubts, it is hereby declared that the reason to believe, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal."

Explanation in Section 132(1A) inserted w.r.e.f. 01-04-1962

"Explanation.—For the removal of doubts, it is hereby declared that the reason to suspect, as recorded by the income-tax authority under this sub-section, shall not be disclosed to any person or any authority or the Appellate Tribunal."

Brief Impact:

Non disclosure of "reasons to believe" and "reasons to suspect" recorded by the income-tax authority to conduct a search under section 132 or to make requisition under section 132A, to any person or authority or ITAT.
Judicial Pronouncements nullified.

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

15. Power of provisional attachment and to make reference to Valuation Officer to authorised officer

[Clause 50]

Insertion of new sub section (9B), (9C) & (9D) to section 132 w.e.f 1st April, 2017

"(9B) Where, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, the authorised officer, for the reasons to be recorded in writing, is satisfied that for the purpose of protecting the interest of revenue, it is necessary so to do, he may with the previous approval of the Principal Director General or Director General or the Principal Director or Director, by order in writing, attach provisionally any property belonging to the assessee, and for the said purpose the provisions of the Second Schedule shall, mutatis mutandis, apply

(9C) Every provisional attachment made under sub-section (9B) shall cease to have effect after the expiry of a period of six months from the date of the order referred to in sub-section (9B)."

(9D) The authorised officer may, during the course of the search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, make a reference to a Valuation Officer referred to in section 142A, who shall estimate the fair market value of the property in the manner provided under that section and submit a report of the estimate to the said officer within a period of sixty days from the date of receipt of such reference."

Brief Impact:

1. Enabling provisions for provisional attachment of any property by authorized officer during search or within 60 days from the date of last authorization executed by income tax authority with prior approval of Principal Director General or Director General or Principal Director or Director. Further proposed that such provisional attachment shall cease to have effect after the expiry of 6 months from the date of order of such attachment.

2. Enabling provisions for reference u/s 142A to Valuation officer for estimation of FMV of any property by authorized officer during search or within 60 days from the date of last authorization executed by income tax authority. The Valuation Officer shall submit the report within 60 days of such reference.

16. Rationalization of the provisions in respect of power to call for information [Clause 52]

Section 133 (Power to call for information) amended with effect from 1st April, 2017

Provided *that the powers referred to in clause (6), may also be exercised by the Principal Director General or Director-General, the Principal Chief Commissioner or Chief Commissioner, the Principal Director or Director ~~and the Principal Commissioner or Commissioner~~* ***or the Principal Commissioner or Commissioner or the Joint Director or Deputy Director or Assistant Director:***

Provided further *that the power in respect of an inquiry, in a case where no proceeding is pending, shall not be exercised by any income-tax authority below the rank of Principal Director or Director or Principal Commissioner or Commissioner,* ***other than the Joint Director or Deputy Director or Assistant Director,*** *without the prior approval of the Principal Director or Director or, as the case may be, the Principal Commissioner or Commissioner:*

Brief Impact:

Powers now proposed to be given to Joint Director, Deputy Director and Assistant Director to call for the information in respect of inquiry or proceeding under the Act, as referred to in clause (6) of the section, even when no proceedings are pending before them.

17. Extension of the power to survey

[Clause 53]

Section 133A amended w.e.f. 1st April, 2017

(i) in the long line, for the portion beginning with "at which a business or profession" and ending with "such business or profession—", the following shall be substituted, namely:—

"at which a business or profession or an activity for charitable purpose is carried on, whether such place be the principal place or not of such business or profession or of such activity for charitable purpose, and require any proprietor, trustee, employee or any other person who may at that time and place be attending in any manner to, or helping in, the carrying on of such business or profession or such activity for charitable purpose—";

(ii) in the Explanation, after the words "business or profession" wherever they occur, the words "or activity for charitable purpose" shall be inserted

Brief Impact:

It is proposed for extension of the powers to Survey by an Income Tax Authority where any activity for charitable purpose is carried on and also to record statement of trustee, employees, the attending or helping carrying out of charitable activity.

18. Legislative framework to enable centralised issuance of notice and processing of information under section 133C [Clause 54]

New sub-section (3) of Section 133C (Power to call for information by prescribed income-tax authority) inserted w.e.f. 1st April, 2017

"(*3*) The Board may make a scheme for centralised issuance of notice and for processing of information or documents and making available the outcome of the processing to the Assessing Officer."

Brief Impact:

Section 133C proposed to be amended so as to empower CBDT to frame a scheme for Centralised issuance of notice and processing of information and making available outcome of processing to the Assessing Officer.

19. Rationalization of provisions of the Income Declaration Scheme, 2016 and consequential amendment to section 153A and 153C [Clause 59, 61 & 150]

Section 153A amended w.e.f. 1st day of June, 2016

(1) Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated undersection 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003, the Assessing Officer shall—

(a) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years ***and for the relevant assessment year or years*** *referred to in clause (b), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;*

(b) assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made ***and of the relevant assessment year or years*** *:*

Provided that *the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years* ***and for the relevant assessment year or years****:*

Provided further *that assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years* ***and for the relevant assessment year or years*** *referred to in this sub-section pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate:*

Provided also that *the Central Government may by rules made by it and published in the Official Gazette (except in cases where any assessment or reassessment has abated under the second proviso), specify the class or classes of cases in which the Assessing Officer shall not be required to issue notice for assessing or reassessing the total income for six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made* ***and for the relevant assessment year or years****.*

Fourth Proviso in Section 153A(1) inserted w.e.f 01-04-2017

*"**Provided also that** no notice for assessment or reassessment shall be issued by the Assessing Officer for the relevant assessment year or years unless—*

a) the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income, represented in the form of asset, which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in the relevant assessment year or in aggregate in the relevant assessment years;

b) the income referred to in clause (a) or part thereof has escaped assessment for such year or years; and

c) the search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.

***Explanation 1**.—For the purposes of this sub-section, the expression "relevant assessment year" shall mean an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not later than ten assessment years from the end of the assessment year relevant to the previous year in which search is conducted or requisition is made.*

***Explanation 2**.—For the purposes of the fourth proviso, "asset" shall include immovable property being land or building or both, shares and securities, loans and advances, deposits in bank account.'."*

Amendment proposed in Finance Act, 2016 Regarding Income Disclosure Scheme, 2016 w.e.f. 1st day of June, 2016

Section 197- Removal of Doubts

For the removal of doubts, it is hereby declared that—

a) *Nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Scheme.*

b) *In cases where any declaration has been made **but** no tax & penalty has been paid within the specified time, the undisclosed income shall be chargeable to tax under the Income-tax Act in the previous year in which such declaration is made.*

~~c) *In cases where any income has accrued, arisen or received or any asset has been acquired out of such income prior to commencement of this Scheme and no declaration in respect of such income is made*~~

~~(i) *such income shall be deemed to have accrued, arisen or received, or*~~

~~(ii) *the value of the asset acquired out of such income shall be deemed to have been acquired or made,*~~

~~*in the year in which a notice u/s 142, 143(2) or 148 or 153A or 153C of the Income-tax Act is issued by the AO & the provisions of the Income-tax Act shall apply accordingly.*~~

Brief Impact:

To **protect the interest of the revenue** in cases where **tangible evidence(s)** are found during a **search or seizure operation** (including 132A cases) and the same is represented in the form of undisclosed investment in any asset, it is proposed that section 153A relating to search assessments be amended to provide that notice under the said section can be issued for an assessment year or years beyond the sixth assessment year already provided up to the tenth assessment year if:

(i) the **AO has in his possession** books of accounts or other documents or **evidence** which reveal that the income which has **escaped assessment amounts** to or is likely to amount to **fifty lakh rupees or more** in one year or in aggregate in the relevant four assessment years (falling beyond the sixth year);

(ii) such income escaping assessment is represented in the form of asset;

(iii) the income escaping assessment or part thereof relates to such year or years.

Amended provisions of section 153A shall apply where search u/s 132 is initiated or requisition u/s 132A is made on or after the 1st day of April, 2017

20. Exemption of income of Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund

[Clause 6]

Sub-clause (iiiaaaa) of clause (23C) of Section 10 inserted w.e.f. 1st day of April, 1998

"(iiiaaaa) the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund in respect of any State or Union territory as referred to in sub-clause (iiihf) of clause (a) of sub-section (2) of section 80G; or"

Brief Impact:

Exemption to the income of CM/LG relief fund.

This amendment will take effect retrospectively from the 1st April, 1998, the date on which sub-clause (iihf) of clause (a) of sub-section (2) of section 80G relating to deduction in any sum paid to the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund came into force, and will, accordingly, apply in relation to assessment year 1998-99 and subsequent years.

21. Correct reference to FEMA instead of FERA [Clause 6]

Proviso to clause (ii) of Section 10(4) amended w.r.e.f. 1st day of April, 2013

"**Provided that** such individual is a person resident outside India as defined in ~~clause (q)~~ **clause (w)** of section 2 of the said Act or is a person who has been permitted by the Reserve Bank of India to maintain the aforesaid Account;"

Brief Impact:

Correct reference to FEMA instead of FERA to the definition of " Person resident outside India" is provided.

This amendment will take effect retrospectively from 1st April, 2013, and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent years.

J. BENEFIT FOR NPS SUBSCRIBERS

J. BENEFIT FOR NPS SUBSCRIBERS

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1	Tax-exemption to partial withdrawal from National Pension System (NPS)	10	6	01-04-2018
2	Rationalisation of deduction under section 80CCD for self-employed individual	80CCD	33	01-04-2018

1. Tax-exemption to partial withdrawal from National Pension System (NPS) [Clause 6]

Clause (12B) in section 10 inserted w.e.f. 1st day of April, 2018

"(12B) any payment from the National Pension System Trust to an employee under the pension scheme referred to in section 80CCD, on partial withdrawal made out of his account in accordance with the terms and conditions, specified under the Pension Fund Regulatory and Development Authority Act, 2013 and the regulations made thereunder, to the extent it does not exceed twenty-five per cent. of the amount of contributions made by him;"

Brief Impact:

Exemption to employee subscriber on partial withdrawal not exceeding 25% of the contribution made by employee, in addition to exemption of 40% at the time of opting out or closure of account under NPS.

2.Rationalization of deduction under section 80CCD for self-employed individual [Clause 33]

Clause (b) of Section 80CCD(1) amended w.e.f. 1st day of April, 2018

In section 80CCD of the Income-tax Act, in sub-section (*1*), in clause (*b*), for the words "ten per cent.", the words "twenty per cent." shall be substituted with effect from the 1st day of April, 2018

Brief Impact:

Contribution to NPS can be made upto 20% of gross total income in case of non salaried subscriber to bring parity with the employee subscriber.

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Thank You...!!!

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