

An overview of  
Finance Bill, 2015 – Direct Taxes

[as amended by Lok Sabha, dated 29-04-2015]



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I. Amendment proposed & passed by  
the Lok Sabha on 29-04-2015  
- Finance Bill, 2015

# A. Subsidies provided by the Government are taxable u/s 2(24) ..... [Clause-3]

**\*\*As proposed & passed in the Lok Sabha**

**New sub-clause (xviii) to section 2 (24) shall be inserted**

*Effective from: 1<sup>st</sup> April, 2016*

**'(xviii) – Assistance in the form of subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee other than the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of explanation 10 to clause (1) of section 43.'**

**Brief analysis:** The income of the assessee shall include the amount of any assistance provided by CG/ SG or any specified authorities by way of subsidy/ grant/ cash incentive etc, if the same is not considered as cost of any asset u/s 43(1).

**B. Period of holding – NRI received share of a company on redemption of GDR as referred u/s 115AC(1) [Clause-3]**

**\*\*As proposed & passed in the Lok Sabha**

**Amendment to section 2 (42A) – New sub-clauses (he) shall be inserted**

*Effective from: 1<sup>st</sup> April, 2016*

**“The following sub-clause shall be inserted:**

*‘(he) in case of a capital asset, being shares of a company is acquired by the non-resident assessee on redemption of Global Depository Receipts referred to in clause (b) of sub-section (1) of section 115AC held by such assessee, the period shall be reckoned from the date on which a request for such redemption was made.’*

## C. Cost of acquisition – NRI received share of a company on redemption of GDR as referred u/s 115AC(I) [Clause-14]

***\*\*As proposed & passed in the Lok Sabha***

### **New sub-section (2ABB) to Section 49 shall be inserted**

**[Effective from 1<sup>st</sup> April, 2016]**

“(2ABB) Where the capital asset, being share or shares of a company, is acquired by a non-resident assessee on redemption of Global Depository Receipts referred to in clause (b) of sub-section (1) of section 115AC held by such assessee, the cost of acquisition of the share or shares shall be the price of such share or shares prevailing on any recognized stock exchange on the date on which a request for such redemption was made.

Explanation – For the purposes of this sub-section “recognized stock exchange” shall have the meaning assigned to it in clause (ii) of the Explanation 1 to sub-section(5) of section 43”

## D. Company is resident if POEM is in India in that year [Clause-4]

**\*\*As proposed & passed in the Lok Sabha**

The words 'at any time' are omitted

### Amendment to section 6 –

*Effective from: 1<sup>st</sup> April, 2016*

*Clause (3), the following clause shall be substituted with effect from the 1st day of April, 2016, namely:—*

*'(3) A company is said to be resident in India in any previous year, if,—*

*(i) it is an Indian company; or*

*(ii) its place of effective management, at any time in that year, is in India.*

*Explanation.—For the purposes of this clause “place of effective management” means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.*

## E. Certain activities not constituted as Business Connection in India - Section 9A (newly inserted)..... [Clause-6]

***\*\*As proposed & passed in the Lok Sabha***

### **Further, amendment to Newly inserted Section 9A (3):**

***Effective from: 1<sup>st</sup> April, 2016***

- in clause (m) of sub-section (3) of section 9A, the following proviso shall be inserted:
- **“Provided** that the conditions specified in clause (e), (f) and (g) shall not apply in case of an investment fund set up by the Government or Central Bank of a foreign State or a sovereign fund, or such other fund as the Central Government may subject to conditions, if any, by notification in the Official Gazette, specify in this behalf.”

***\*\*As proposed & passed in the Lok Sabha***

**Amendment to Newly inserted Section 9A - Certain activities not constituted as Business Connection in India [Clause-6]**

***Effective from: 1<sup>st</sup> April, 2016***

**Further, a new sub-section 7A to Section 9A shall be inserted:**

- “The provisions of this section shall be applied in accordance with such guidelines and in such manner as the Board may prescribed in this behalf.”



## F. Income of the Core Settlement Fund – Section 10(23EE)

*\*\*As proposed & passed in the Lok Sabha*

**Further, newly inserted section 10(23EE) shall be amended:**

*Effective from: 1<sup>st</sup> April, 2016*

- For the purpose of meaning of “Recognised clearing corporation’ and ‘regulation’ as referred in Explanation to section 10(23EE) newly inserted vide clause 7 of Finance Bill, 2015, **the Security Contracts (Regulation) Act, 1956** shall also be specified.

*\*\*As proposed & passed in the Lok Sabha*

**Further, meaning of 'Specified person' for the purpose of newly inserted section 10(23EE) shall be amended:**

*Effective from: 1<sup>st</sup> April, 2016*

(iv) "**Specified person**" shall mean,-

a) any recognised clearing corporation which establishes and maintains the Core Settlement Guarantee Fund; and

b) Any recognised stock exchange being a shareholder in such recognised clearing corporation or a contribution to the Core Settlement Guarantee Fund;, and

c) Any clearing member contributing to the Core Settlement Guarantee Fund;”

G. Benefit of additional depreciation and investment allowance is also extended to the Industries set up in the state of Bihar or State of West Bengal ... [clause 10 & 11]

***\*\*As proposed & passed in the Lok Sabha***

For the Purpose of clause (iia) of the section 32 and section 32AD

- the state of Bihar or State of West Bengal are also specified alongwith the state of state of Andhra Pradesh or in the State of Telangana.

***Effective from: 1<sup>st</sup> April, 2016***

# H. Deduction in respect of interest paid on capital borrowed u/s Section 36..... [Clause-12A, Newly inserted]

**\*\*As proposed & passed in the Lok Sabha**

## Amendment to sub-section (1) of Section 36,

*Effective from: 1st April, 2016*

- **in clause (iii), in the proviso, the words “for extension of existing business or profession” shall be omitted;**

*“the amount of the interest paid in respect of capital borrowed for the purposes of the business or profession :*

***Provided*** that any amount of the interest paid, in respect of capital borrowed for acquisition of an asset ~~for extension of existing business or profession~~ (whether capitalised in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction.”

# I. Deduction in respect of Bad Debts u/s 36 can be claimed even without writing of the debt in the books of accounts ....

[Clause-12A, Newly inserted]

**\*\*As proposed & passed in the Lok Sabha**

## **Amendment to sub-section (1) of Section 36 [Effective from: 1st April, 2016]**

*“subject to the provisions of sub-section (2), the amount of any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year:*

***Provided** that in the case of an assessee to which clause (viiia) applies, the amount of the deduction relating to any such debt or part thereof shall be limited to the amount by which such debt or part thereof exceeds the credit balance in the provision for bad and doubtful debts account made under that clause.*

### ▪ **The following proviso shall be proposed to insert:**

*“**Provided further** that where the amount of such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof becomes irrecoverable or of an earlier previous year on the basis of income computation and disclosure standards notified under sub-section (2) of section 145 without recording the same in the accounts, **then**, such debt or part thereof shall be allowed in the previous year in which such debt or part thereof becomes irrecoverable and it shall be deemed that such debt or part thereof has been written off as irrecoverable in the accounts for the purposes of this clause.”;*

**Brief Analysis:**

If, the amount of debt has been considered while computing the income of a P.Y. on the basis of income computation & disclosure standards notified u/s 145(2) without recording the same in the accounts, **then**, such debt shall be allowed in P.Y. in which such debt or part thereof becomes irrecoverable and **it shall be deemed that such debt has been written off as irrecoverable in the accounts.**

**J. Deduction u/s 36 shall be provide to Co-operative Society engaged in manufacture of sugar.....**

**[Clause-12A, Newly inserted]**

***\*\*As proposed & passed in the Lok Sabha***

**Amendment to sub-section (1) of Section 36,**

***Effective from: 1st April, 2016***

- In clause (xvi), the following clause shall be inserted, namely:-

“(xvii) the amount of expenditure incurred by a co-operative society engaged in the business of manufacture of sugar for purchase of sugarcane at a price which is equal to or less than the price fixed or approved by the Government”.

## K. Deduction in respect of contribution to pension scheme - U/s 80CCD [Clause-17]

***\*\*As proposed & passed in the Lok Sabha***

### **Amendment:**

***Effective from: 1<sup>st</sup> April, 2016***

In section 80CCD of the Income-tax Act, with effect from the 1st day of April, 2016,-

(a) sub-section (1A) shall be omitted;

(b) the following sub-section shall be inserted, namely:-

“(1B) An assessee referred to in sub-section (1), shall be allowed a deduction in computation of his total income, ~~[in addition to the deduction allowed under sub-section (1)]~~, **[whether or not any deduction is allowed under sub-section (1)]** of the whole of the amount paid or deposited in the previous year in his account under a pension scheme notified or as may be notified by the Central Government, which shall not exceed fifty thousand rupees:

Provided that no deduction under this sub-section shall be allowed in respect of the amount on which a deduction has been claimed and allowed under sub-section (1);”

The words “in addition to the deduction allowed under sub-section (1)”, are substitute with “whether or not any deduction is allowed under sub-section (1)”. [as amended in Lok sabha]



***\*\*As proposed & passed in the Lok Sabha***

**Brief Impact:**

It is proposed to omit sub section (1A) and insert section (1B) to provide deduction up to Rs. 50,000/- (irrespective of any deduction provided u/s 80CCD(1)), for contribution made by any individual assessee under the National Pension System in place of 10% of salary or 10% of gross total income of Individual.

# L. Deduction in respect of health insurance premia - Section 80D [Clause-18]

***\*\*As proposed & passed in the Lok Sabha***

## **Further, section 80D shall be amended**

**[Effective from 1<sup>st</sup> April, 2016]**

(A) for the words “fifteen thousand rupees”, wherever they occur, the words “**twenty-five thousand rupees**” shall be substituted;

(AA) for the words “twenty thousand rupees”, wherever they occur, the words “**thirty thousand rupees**” shall be substituted;

**Consequently, from proposed substituted sub-section (4), the following lines are omitted:**

~~(iii) for the words “fifteen thousand rupees”, the words “twenty-five thousand rupees” shall be substituted;~~

~~(iv) for the words “twenty thousand rupees”, the words “thirty thousand rupees” shall be substituted;~~

**Amendment to section 115JB**     *Effective from 1<sup>st</sup> April, 2016*

**C. After Explanation 3, the following Explanation shall be inserted, namely:**

***‘Explanation 4.***—For the purposes of sub-section (2),—

- (a) the expression “Foreign Institutional Investor” shall have the meaning assigned to it in clause (a) of the *Explanation* to section 115AD;
- (b) the expression “securities” shall have the same meaning as assigned to it in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.’

# M. Provisions of MAT in case of Foreign Company [Clause-29]

## Amendment to Explanation 1 of Section 115JB(2)

[Effective from 1<sup>st</sup> April, 2016]

▪ After clause (f), the following clauses shall be inserted, namely:

*“(fa) - the amount or amounts of expenditure relatable to, income, being share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86; ”*

### Further Amendment proposed & passed in the Lok Sabha:

I. **Newly inserted clause (fb) shall be substituted :**

*“(fb) the amount or amounts of expenditure relatable to income accruing or arising to an assessee, being a foreign company, from,-*

*(A) the capital gains arising on transactions in securities; or*

*(B) the interest, royalty or fees for technical services chargeable to tax at the rate or rates specified in Chapter XII.*

*If the income-tax payable thereon in accordance with the provisions of this Act, other than the provisions of this Chapter, is at a rate less than the rate specified in sub-section (1); or”*

***\*\*As proposed & passed in the Lok Sabha***

## **Amendment to Explanation 1 of Section 115JB(2)**

[Effective from 1<sup>st</sup> April, 2016]

### **II. Newly inserted clause (fc) shall be substituted :**

“(fc) the amount representing notional loss on transfer of a capital asset, being share or a special purpose vehicle to a business trust in exchange of units allotted by that trust referred to in clause (xvii) of section 47 or the amount representing notional loss resulting from any change in 47 or the amount representing notional loss resulting from any change in carrying amount of said units or the amount of loss on transfer of units referred to in clause (xvii) of section 47; or;”

***\*\*As proposed & passed in the Lok Sabha***

**Amendment to Explanation 1 of Section 115JB(2)** [Effective from 1<sup>st</sup>  
April, 2016]

**III. After clause (k), the following clause shall be inserted, namely:-**

“(k) the amount of gain on transfer of units referred to in clause (xvii) of section 47 computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through profit or loss account, as the case may be;”

- ***After clause (iib), the following clauses shall be inserted, namely:***

*“(iic) the amount of income, being the share of the assessee in the income of an association of persons or body of individuals, on which no income-tax is payable in accordance with the provisions of section 86, if any such amount is credited to the profit and loss account; or”*

**\*\*As proposed & passed in the Lok Sabha**

**Amendment to Explanation 1 of Section 115JB** [Effective from 1<sup>st</sup> April, 2016]

I. **Newly inserted clause (iid) shall be substituted :**

“(iid) the amount of income accruing or arising to an assessee, **being a foreign company**, from,-

- A. the **capital gains** arising on transactions in securities; or
- B. the **interest, royalty or fees for technical services** chargeable to tax at the rate or rates specified in Chapter XII.

If such **income is credited to the profit and loss account** and the **income-tax payable thereon** in accordance with the provisions of this Act, other than the provisions of this Chapter, **is at a rate less than the rate specified in sub-section (1)**; or”

**In Brief:** if, the capital gain on securities or interest/ royalty/ fees for technical services is credited to P & L a/c by a Foreign Company and the tax payable of such income is less than 18.5%, the same is reduced while computing book profits.



Contd.....

## Notional gain on unit transfer of SPV - Section 115JB [Clause-29]

***\*\*As proposed & passed in the Lok Sabha***

### **Amendment to Explanation 1 of Section 115JB**

[Effective from 1<sup>st</sup> April, 2016]

**Clause (ie) shall be newly inserted:**

“(ie) **the amount representing,-**

- A. notional gain on transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust referred to in clause (xvii) of section 47; or
- B. notional gain resulting from any change in carrying amount of said units: or
- C. gain on transfer of units referred to in clause (xvii) of section 47

if any, credited to the profit and loss account; or

**In Brief: if, the notional gain on transfer of shares / unit of SVP as referred in clause (xvii) of section 47, is credited to P & L account, the same is reduced while computing book profits.**

Contd.....

## Notional Loss on unit transfer of SPV - Section 115JB [Clause-29]

***\*\*As proposed & passed in the Lok Sabha***

### **Amendment to Explanation 1 of Section 115JB**

[Effective from 1<sup>st</sup> April, 2016]

**New Clause (iif) shall be inserted:**

“(iif) the amount of loss on transfer of units referred to in clause (xvii) of section 47 computed by taking into account the cost of the shares exchanged with units referred to in the said clause or the carrying amount of the shares at the time of exchange where such shares are carried at a value other than the cost through profit or loss account, as the case may be;”

**Note:** Section 47(xvii) - any transfer of a capital asset, being share of a special purpose vehicle to a business trust in exchange of units allotted by that trust to the transferor.

**Explanation.**—For the purposes of this clause, the expression "special purpose vehicle" shall have the meaning assigned to it in the Explanation to clause (23FC) of section 10.

Meaning of 'Securities' - Section 115JB [Clause-29]

***\*\*As proposed & passed in the Lok Sabha***

**Amendment to Section 115JB – Effective from 1<sup>st</sup> April, 2016**

**I. Newly inserted explanation 4 shall be substituted :**

*Explanation 4 - For the purposes of sub-section (2), the expression “**securities**” shall have the same meaning as assigned to it in **clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956.***

## N. Filing of return by resident beneficial owner/ beneficiary of assets located out side India - Section 139 (1) [Clause-34]

**\*\*As proposed & passed in the Lok Sabha**

### **Amendment to Section 139** – Effective from 1<sup>st</sup> April, 2016

I. For Fourth proviso, the following provisos shall be substituted, namely-

*“Provided also that a person, being a resident other than not ordinarily resident in India within the meaning of clause (6) of section 6, who is not required to furnish a return under this sub-section and who at any time during the previous year:-*

*a) holds, as a beneficial owner or otherwise, any asset (including any financial interest in any entity) located outside India or has signing authority in any account located outside India; or*

*b) is a beneficiary of any asset (including any financial interest in any entity) located outside India,*

*shall furnish, on or before the due date, a return in respect of his income or loss for the previous year in such form and verified in such manner and setting forth such other particulars as may be prescribed:*

***Provided*** also that nothing contained in the fourth proviso shall apply to an individual, being a beneficiary of an asset (including any financial interest in any entity) located outside India where, income, **if any, arising from such asset is includible in the income of the person referred to in clause (a) of that proviso in accordance with the provisions of this Act:**

**II. after explanation 3, the following Explanations shall be inserted:**

**Explanation 4** - For the purposes of this section “**beneficial owner**” in respect of an asset means an individual who has provided, directly or indirectly, consideration for the asset for the immediate or future benefit, direct or indirect, of himself or any other person.

**Explanation 5** - For the purposes of this section “**beneficiary**” in respect of an asset means an individual who derives benefit from the asset during the previous year and the consideration for such asset has been provided by any person other than such beneficiary.

***\*\*As proposed & passed in the Lok Sabha***

**Amendment to Section 139 (6) - a new clause shall be inserted w.e.f 1<sup>st</sup> April, 2015**

*In sub-section (6), for the words “assets of the prescribed nature, value and belonging to him”, the words **“assets of the prescribed nature and value, held by him as a beneficial owner or otherwise or in which he is a beneficiary”** shall be substituted.’*

***\*\*As proposed & passed in the Lok Sabha***

**Amendment to newly inserted sub-section (2A) of Section 234B - a new clause shall be inserted w.e.f 1<sup>st</sup> April, 2015**

*“(c) where, as a result of an order under sub-section (6B) of section 245D, the amount on which interest was payable under clause (b) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly”.*

P. Amendment to Section 245-O  
[Clause-61A, newly inserted]

***\*\*As proposed & passed in the Lok Sabha***

**Amendment to section 245-O(3) –**

In section 245-O of the Income-tax Act, in sub-section (3), for clause (d), the following clause shall be substituted, namely:-

*“(d) A law Member from the Indian Legal Service, who is, or is qualified to be, an Additional Secretary to the Government of India”.*





## II. Amendment proposed vide Finance Bill, 2015

# The proposed Amendment to Direct Taxes under the Finance Bill, 2015

**1. Measures to Curb Black Money**

**2. Measures to promote domestic manufacturing and improving the investment Climate (Make in India)**

**3. Ease of Doing Business/ Dispute Resolution**

**4. Benefits for Individual Taxpayers**

**5. Swachchh Bharat**

**6. Rationalisation Measures**

Note: The applicable date being 01.04.2015 denotes the amendment is applicable w.e.f. A.Y. 2015-16



## 1. Measures to Curb Black Money



# I. Measures to Curb Black Money

| S. No. | Brief  | Section                  | Clause No.    | Effective date [i.e. w.e.f.] |
|--------|--|--------------------------|---------------|------------------------------|
| a      | Mode of taking or accepting certain loans, deposits and specified sums and mode of repayment of loans or deposits and specified advances | 269SS, 269T, 271D & 271E | 66,67,69 & 70 | 01.06.2015                   |

a. Mode of taking or accepting certain loans, deposits and specified sums and mode of repayment of loans or deposits and specified advances [Clauses 66,67,69 & 70]

## Amendments

Effective from 1<sup>st</sup> day of June, 2015

Substitution of Section 269SS and Amendments to sections 269T, 271D and 271E

- Acceptance and repayment of “specified sum” in a mode other than through an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account is also being prohibited apart from existing restriction with respect to Loans and Deposits.
- “**Specified sum**” means any sum of money receivable, whether as advance or otherwise, in relation to the transfer of an immovable property, whether or not the transfer takes place.”
- Section 269SS has been re-substituted
- Section 269T is being amended so as to make a reference to ‘Specified advance’
- Section 271D is being amended so as to make a reference to ‘Specified Sum’
- Section 271E is being amended so as to make a reference to ‘Specified advance’

**Brief Impact:**

These provisions are aimed to curb generation of black money by way of dealings in cash in immovable property transactions. These provisions would impact the real estate sector and immovable property industry in so far as this intends to place a curb on accepting cash bookings as advances or refunding them. In case of violation of the above provisions, the aggregate amount so accepted or repayment, by way of specified sum, shall be liable to penalty u/s 271D or 271E as the case may be.



2. Measures to promote domestic  
manufacturing and improving the  
investment Climate

(Make in India)

## 2. Measures to promote domestic manufacturing and improving the investment Climate (Make in India)

| S. No. | Brief   | Section                                  | Clause No.            | Effective date [i.e. w.e.f.] |
|--------|---|--|-----------------------|------------------------------|
| a      | Deferment of provisions relating to General Anti Avoidance Rule (“GAAR”)        | 95 to 102                                | 25                    | 01.04.2015                   |
| b      | Pass through status to Category –I and Category–II Alternative Investment Funds | 10(23FB)                                 | 3, 7, 30, 32, 34 & 46 | 01.04.2016                   |
| c      | Fund Managers in India not to constitute business connection of offshore funds  | New Section 9A [9(1)(i), 271F AA, & 273B | 6, 71 & 75            | 01.04.2016                   |





Contd....

| <b>S. No.</b> | <b>Brief</b>   | <b>Section</b>  | <b>Clause No.</b>                | <b>Effective date [i.e. w.e.f.]</b> |
|---------------|--|---|----------------------------------|-------------------------------------|
| <b>d</b>      | <b>Incentives for the State of Andhra Pradesh and the State of Telangana</b>                                 | <b><u>32 (1)(ia)and New Sec. 32AD</u></b>                                       | <b>10 &amp; 11</b>               | <b>01.04.2016</b>                   |
| <b>e</b>      | <b>Taxation Regime for Real Estate Investment Trusts (REIT) and Infrastructure Investment Trusts (Invit)</b> | <b>2(13A), new clause (23FCA) to section 10 111A, 115UA, 194-I &amp; 194LBA</b> | <b>3, 7, 26, 31, 44 &amp; 45</b> | <b>01.04.2016</b>                   |
| <b>f</b>      | <b>Extension of eligible period of concessional tax rate under section 194LD</b>                             | <b>194LD</b>  | <b>47</b>                        | <b>01.06.2015</b>                   |



Contd....

| <b>S. No.</b> | <b>Brief</b>   | <b>Section</b>   | <b>Clause No.</b> | <b>Effective date [i.e. w.e.f.]</b> |
|---------------|--|------------------|-------------------|-------------------------------------|
| <b>g</b>      | <b>Reduction in rate of tax on Income by way of Royalty and Fees for technical services in case of non-residents</b> | <b>115A</b>      | <b>27</b>         | <b>01.04.2016</b>                   |
| <b>h</b>      | <b>Deduction for employment of new workmen</b>   | <b>80JJAA</b>    | <b>22</b>         | <b>01.04.2016</b>                   |
| <b>i</b>      | <b>Allowance of balance 50% additional depreciation</b>  | <b>32(1)(ia)</b> | <b>10</b>         | <b>01.04.2016</b>                   |

a. Deferment of provisions relating to General Anti Avoidance Rule (“GAAR”) till FY 2017-18 (A.Y. 2018-2019)  
[Clauses 25]

**Amendment to section 95:**

**Brief Impact:**

The GAAR provisions are being deferred in view of non finalization of the report of the OECD work group on BEPS, i.e. Base Erosion and Profit Shifting.

## b. Pass through status to Category –I and Category –II Alternative Investment Funds

[Clauses 3, 7, 30, 32, 34 & 46]

**Clause- 3** - In section 2 of the Income-tax Act, with effect from the 1st day of April, 2016,—

**(a) for clause (13A), the following clause shall be substituted, namely:-**

*“(13A) “business trust” means a trust registered as,—*

- (i) an Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992; or*
  
- (ii) a Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, and the units of which are required to be listed on recognised stock exchange in accordance with the aforesaid regulations;”*

**Clause -7 - In clause (23FB), before the Explanation, the following proviso shall be inserted, namely:-**

- *“Provided that nothing contained in this clause shall apply in respect of any income of a venture capital company or venture capital fund, being an investment fund specified in clause (a) of the Explanation 1 to section 115UB, of the previous year relevant to the assessment year beginning on or after the 1st day of April, 2016;”;*

**Clause 30 - In section 115U of the Income-tax Act, after sub-section (5), before the Explanation 1, the following sub-section shall be inserted with effect from the 1st day of April, 2016, namely:-**

*“(6) Nothing contained in this Chapter shall apply in respect of any income, of a previous year relevant to the assessment year beginning on or after the 1st day of April, 2016, accruing or arising to, or received by, a person from investments made in a venture capital company or venture capital fund, being an investment fund specified in clause (a) of the Explanation 1 to section 115UB.”*

## Special Provisions relating to tax on Income of Investment Funds and Income received from such Funds

### **Clause 32 –After Chapter XII-FA of the Income-tax Act, the following Chapter shall be inserted with effect from the 1st day of April, 2016**

- “(1) Notwithstanding anything contained in any other provisions of this Act and subject to the provisions of this Chapter, any income accruing or arising to, or received by, a person, being a unit holder of an investment fund, out of investments made in the investment fund, shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person had the investments made by the investment fund been made directly by him.*
- (2) Where in any previous year, the net result of computation of total income of the investment fund [without giving effect to the provisions of clause (23FBA) of section 10] is a loss under any head of income and such loss cannot be or is not wholly set-off against income under any other head of income of the said previous year, then,—*
- (i) such loss shall be allowed to be carried forward and it shall be set-off by the investment fund in accordance with the provisions of Chapter VI; and*
  - (ii) such loss shall be ignored for the purposes of sub-section (1).*

- (3) *The income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the person referred to in sub-section (1), as it had been received by, or had accrued or arisen to, the investment fund during the previous year subject to the provisions of sub-section (2).*
- (4) *The total income of the investment fund shall be charged to tax—*  
*(i) at the rate or rates as specified in the Finance Act of the relevant year, where such fund is a company or a firm; or*  
*(ii) at maximum marginal rate in any other case.*
- (5) *The provisions of Chapter XII-D or Chapter XII-E shall not apply to the income paid by an investment fund under this Chapter.*
- (6) *The income accruing or arising to, or received by, the investment fund, during a previous year, if not paid or credited to the person referred to in sub-section (1), shall subject to the provisions of sub-section (2), be deemed to have been credited to the account of the said person on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year.*



*(7) The person responsible for crediting or making payment of the income on behalf of an investment fund and the investment fund shall furnish, within such time as may be prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in such manner, giving details of the nature of the income paid or credited during the previous year and such other relevant details, as may be prescribed.*

**Explanation 1.—For the purposes of this Chapter**

*(a) “investment fund” means any fund established or incorporated in India in the form of a trust or a company or a limited liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II Alternative Investment Fund and is regulated under the Securities and Exchange Board of India (Alternative Investment Fund) Regulations, 2012, made under the Securities and Exchange Board of India Act, 1992;*

- (b) **“trust”** means a trust established under the Indian Trusts Act, 1882 or under any other law for the time being in force;
- (c) **“unit”** means beneficial interest of an investor in the investment fund or a scheme of the investment fund and shall include shares or partnership interests

**Explanation 2.**—For the removal of doubts, it is hereby declared that any income which has been included in total income of the person referred to in sub-section (1) in a previous year, on account of it having accrued or arisen in the said previous year, shall not be included in the total income of such person in the previous year in which such income is actually paid to him by the investment fund.’.

**Clause 34 - In section 139 of the Income-tax Act, with effect from the 1<sup>st</sup> April, 2016,—**

(II) after sub-section (4E), the following sub-section shall be inserted, namely:-

*“(4F) Every investment fund referred to in section 115UB, which is not required to furnish return of income or loss under any other provisions of this section, shall furnish the return of income in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1).”*

## Pooled Investment Vehicles Effective from 1<sup>st</sup> day of April, 2016,

### Analysis of Amendment:

- Pooled investment vehicles (other than hedge funds) engaged in making passive investments have been accorded pass through in certain tax jurisdictions. In order to rationalize the taxation of Category-I and Category-II AIFs (hereafter referred to as investment fund) it is proposed to provide a special tax regime. The taxation of income of such investment fund and their investors shall be in accordance with the proposed regime which is applicable to such funds irrespective of whether they are set up as a trust, company, or limited liability firm etc. The salient features of the special regime are:-
  - (i) income of a person, being a unit holder of an investment fund, out of investments made in the investment fund shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person had the investments, made by the investment fund, been made directly by him.

- (ii) income in the hands of investment fund, other than income from profits and gains of business, shall be exempt from tax. The income in the nature of profits and gains of business or profession shall be taxable in the case of investment fund.
- (iii) income in the hands of investor which is of the same nature as income by way of profits and gain of business at investment fund level shall be exempt
- (iv) where any income, other than income which is taxable at investment fund level, is payable to a unit holder by an investment fund, the fund shall deduct income-tax at the rate of 10%.
- (v) the income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as if it had been received by, or had accrued or arisen to, the investment fund.
- (vi) if in any year there is a loss at the fund level either current loss or the loss which remained to be set off, the loss shall not be allowed to be passed through to the investors but would be carried over at fund level to be set off against income of the next year in accordance with the provisions of Chapter VI of the Income-tax Act.

- (vii) the provisions of Chapter XII-D (Dividend Distribution Tax) or Chapter XII-E (Tax on distributed income) shall not apply to the income paid by an investment fund to its unit holders.
  
- (viii) the income received by the investment fund would be exempt from TDS requirement. This would be provided by issue of appropriate notification under section 197A(1F) of the Act subsequently.
  
- (ix) it shall be mandatory for the investment fund to file its return of income. The investment fund shall also provide to the prescribed income-tax authority and the investors, the details of various components of income, etc. for the purposes of the scheme.

Further, the existing pass through regime is proposed to be continued to apply to VCF/VCC which had been registered under SEBI (VCF) Regulations, 1996. Remaining VCFs, being part of Category-I AIFs, shall be subject to the new pass through regime..

## c. Fund Managers in India not to constitute business connection of offshore funds

[Clauses 6,71 & 75]

### Amendments to section 6 & 9

Effective from 1<sup>st</sup> day of April, 2016, i.e. from AY 2016-17

### Fund Managers in India not to constitute business connection of offshore funds – New section 9A shall be inserted:

- There are a large number of fund managers who are of Indian origin and are managing the investment of offshore funds in various countries. These persons are not locating in India due to the above tax consequence in respect of income from the investments of offshore funds made in other jurisdictions.
- In order to facilitate location of fund managers of off-shore funds in India a specific regime has been proposed in the Act in line with international best practices with the objective that, subject to fulfilment of certain conditions by the fund and the fund manager,-

- (i) the tax liability in respect of income arising to the Fund from investment in India would be neutral to the fact as to whether the investment is made directly by the fund or through engagement of Fund manager located in India; and
- (ii) that income of the fund from the investments outside India would not be taxable in India solely on the basis that the Fund management activity in respect of such investments have been undertaken through a fund manager located in India.
- The proposed regime provides that in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund.
- Further, it is proposed that an eligible investment fund shall not be said to be resident in India merely because the eligible fund manager undertaking fund management activities on its behalf is located in India. This specific exception from the general rules for determination of business connection and 'resident status' of off-shore funds and fund management activity undertaken on its behalf is subject to certain condition.



## **\*\*As proposed & passed in the Lok Sabha**

- **In clause (m) of sub-section (3) of section 9A, the following proviso shall be inserted:**

“**Provided** that the conditions specified in clause (e), (f) and (g) shall not apply in case of an investment fund set up by the Government or Central Bank of a foreign State or a sovereign fund, or such other fund as the Central Government may subject to conditions, if any, by notification in the Official Gazette, specify in this behalf.”

- **Further, a new sub-section 7A to Section 9A shall be inserted:**

“The provisions of this section shall be applied in accordance with such guidelines and in such manner as the Board may prescribed in this behalf.”

## Penalty for failure to furnish statement or information or document by an eligible investment fund.

- New Section 271FAB shall be inserted w.e.f. April 1<sup>st</sup>, 2016
- “271FAB. If any eligible investment fund which is required to furnish a statement or any information or document, as required under sub-section (5) of section 9A fails to furnish such statement or information or document within the time prescribed under that sub-section, the income-tax authority prescribed under the said sub-section may direct that such fund shall pay, by way of penalty, a sum of five hundred thousand rupees.”.

Note: Consequently, no penalty shall be imposable u/s 273B if there was reasonable cause for the said failure.

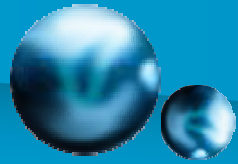
## d. Incentives for the State of Andhra Pradesh and the State of Telangana [Clauses 10 & 11]

### Amendments to section 32 (additional depreciation) and Insertion of new section 32AD Effective from 1<sup>st</sup> day of April, 2016, ie from AY 2016-17

- Section 94 of the Andhra Pradesh Reorganisation Act, 2014 inter alia provides that the Central Government shall take appropriate fiscal measures, including offer of tax incentives to the State of Andhra Pradesh and the State of Telangana, to promote industrialization and economic growth in both the States.
- Manufacturing sector plays significant role in the economic growth of any region. Therefore, in order to encourage the setting up of industrial undertakings in the backward areas of the State of Andhra Pradesh and the State of Telangana, it is proposed to provide following Income-tax incentives:-

#### (A) Additional Investment Allowance

- It is proposed to insert a new section 32AD in the Act to provide for an additional investment allowance of an amount equal to 15% of the cost of new asset acquired and installed by an assessee, if—
  - (a) he sets up an undertaking or enterprise for manufacture or production of any article or thing on or after 1st April, 2015 in any notified backward areas in the State of Andhra Pradesh and the State of Telangana; and
  - (b) the new assets are acquired and installed for the purposes of the said undertaking or enterprise during the period beginning from the 1st April, 2015 to 31st March, 2020.



- This deduction shall be available over and above the existing deduction available under section 32AC of the Act. Accordingly, if an undertaking is set up in the notified backward areas in the States of Andhra Pradesh or Telangana by a company, it shall be eligible to claim deduction under the existing provisions of section 32AC of the Act as well as under the proposed section 32AD if it fulfills the conditions (such as investment above a specified threshold) specified in the said section 32AC and conditions specified under the proposed section 32AD.
- b) Additional Depreciation at the rate of 35%

**Benefit of additional depreciation and investment allowance is also extended to the Industries set up in the state of Bihar or State of West Bengal ...**

***\*\*As proposed & passed in the Lok Sabha***

## e. Taxation Regime for Real Estate Investment Trusts (REIT) and Infrastructure Investment Trusts (Invit)

[Clauses 3,7,26,31,44 & 45]

### Amendment to sections 2(13A) & 10(23FD)

Newly inserted 10 (23FBA), 10(23FBB), 10(23FCA), 115UB, 194I, 194LBA

[Effective from 1<sup>st</sup> day of April, 2016]

- Hitherto there were tax issues relating to pass through income of REIT and INVIT as inserted by FA (No.2) of 2014.
- These taxation issues on pass through of the income by REIT and INVIT have been clarified as under: -

### In order to provide parity, it is proposed that,-

- (i) the sponsor would get the same tax treatment on offloading of units under an Initial offer on listing of units as it would have been available had he offloaded the underlying shareholding through an IPO.
- (ii) the Finance (No. 2) Act, 2004 be amended to provide that STT shall be levied on sale of such units of business trust which are acquired in lieu of shares of SPV, under an Initial offer at the time of listing of units of business trust on similar lines as in the case of sale of unlisted equity shares under an IPO.



- (iii) the benefit of concessional tax regime of tax @15 % on STCG and exemption on LTCG under section 10(38) of the Act shall be available to the sponsor on sale of units received in lieu of shares of SPV subject to levy of STT.

**In order to provide pass through to the rental income arising to REIT from real estate property directly held by it, it is proposed to provide that :-**

- i) any income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust shall be exempt;
- (ii) the distributed income or any part thereof, received by a unit holder from the REIT, which is in the nature of income by way of renting or leasing or letting out any real estate asset owned directly by such REIT, shall be deemed to be income of such unit holder and shall be charged to tax.



- (iii) the REIT shall effect TDS on rental income allowed to be passed through. In case of resident unit holder, tax shall deducted @ 10%, and in case of distribution to non-resident unit holder, the tax shall be deducted at rate in force as applicable for deduction of tax on payment to the non-resident of any sum chargeable to tax .
  
- (iv) no deduction shall be made under section 194-I of the Act where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset held directly by such REIT.

## f. Extension of eligible period of concessional tax rate under section 194LD)

[Clauses 47]

### Amendment to section 194LD      Effective from 1<sup>st</sup> day of June, 2015

- The existing provisions of section 194LD of the Act, provide for lower withholding tax at the rate of 5 percent in case of interest payable at any time on or after the 1st day of June, 2013 but before the 1st day of June, 2015 to FIIs and QFIs on their investments in Government securities and rupee denominated corporate bonds provided that the rate of interest does not exceed the rate notified by the Central Government in this regard
- It is now proposed to extend the said period of concessional tax rate under above section till 30.06.2017.

#### Brief Impact:

Concessional rate of TDS u/s 194LD @ 5% would continue to be applicable till 30.06.2017



## g. Reduction in rate of tax on Income by way of Royalty and Fees for technical services in case of non-residents [Clauses 27]

### Amendment to section 115A

Effective from 1<sup>st</sup> day of April, 2016

- The existing provisions of section 115A of the Act provide that in case of a non-resident taxpayer, where the total income includes any income by way of Royalty and Fees for technical services (FTS) received by such non-resident from Government or an Indian concern after 31.03.1976, and which is not effectively connected with permanent establishment, if any, of the non-resident in India, tax shall be levied at the rate of 25% on the gross amount of such income. This rate of 25% was provided by Finance Act, 2013.
- It is now proposed, in order to reduce the hardship to the small entities, that the TDS rate u/s 115A w.r.t. Royalty and FTS, is being reduced to 10%.

## h. Deduction for employment of new workmen [Clauses 22]

### Amendment of Section 80JJAA Effective from 1<sup>st</sup> April, 2016

- (a) *In sub-section (1), the words “**being an Indian company,**” shall be **omitted**;*
- (b) *In sub-section (2), for clause (a), the following clause shall be substituted, namely:-*  
*“(a) if the factory is acquired by the assessee by way of transfer from any other person or as a result of any business re-organisation;”;*
- (c) *In the Explanation, in clause (i), for the words “one hundred workmen”, the words “**fifty workmen**” shall be substituted.*

## **Brief Impact:**

- The existing provisions of section 80JJAA provide for deduction for additional wages incurred by an Indian Company deriving profits from manufacture of goods in a factory. Hitherto this deduction was available only to an India Company in respect of additional wages paid to new regular workmen in excess of 100. Also incase of amalgamation of such Indian Company, this deduction is not available.

## **It is now proposed, as under: -**

- a. The deduction u/s 80JJAA, would be permissible to all assessee having manufacturing units.
- b. The restriction of number of workmen has been reduced from 100 to 50.
- c. All forms of business re-organisation have been included as being ineligible for deduction u/s 80JJAA, instead of amalgamation only at present.

## i. Allowance of balance 50% additional depreciation [Clauses 10]

### **Amendment to section 32 Effective from 1<sup>st</sup> day of April, 2016 (A/y 2016-17 and onwards)**

- In respect to an assessee engaged in the business of manufacture or production of any article or thing, 12 or in the business of generation or generation and distribution of power a further sum equal to twenty per cent of the actual cost of such machinery or plant is allowed as additional depreciation. However, only 50% of this additional depreciation is permitted, if the new asset is put to use for a period less than 180 days. The remaining 50% of the additional depreciation, equivalent to 10% of the actual cost of the said asset was not being permitted by assessing officers.
- It is now proposed to permit the remaining 50% of the additional depreciation in case the capital asset was not out to use for a period exceeding 180 days in the year of purchase. This Balance 50% of the additional depreciation would be permitted in the immediately succeeding previous year.



### Brief Impact:

Balance of 50% of the additional depreciation of the actual cost of a new asset which hitherto used to be lapsed, shall be now available to the assessee in the previous year succeeding the year in which the said asset was put to use for less than 180 days.

Delhi ITAT judgement in the case of Deputy Commissioner of Income-tax v. Cosmo Films Ltd. 013 ITR (Trib) 340 duly affirmed.



### 3. Ease of Doing Business/ Dispute Resolution



### 3. Ease of Doing Business/ Dispute Resolution

| S. No. | Brief   | Section  | Clause No.             | Effective date [i.e. w.e.f.] |
|--------|---|--|------------------------|------------------------------|
| a      | Clarity relating to Indirect transfer provisions                          | 9(1)(i), 9(1)(v)(c), 47, 49, <u>New Section 271GA</u> , 273B & <u>New section 285A</u> | 5, 13, 14, 72, 75 & 76 | 01.04.2016                   |
| b      | Raising the threshold for specified domestic transaction                  | 92BA   | 24                     | 01.04.2016                   |
| c      | Rationalisation of definition of charitable purpose in the Income-tax Act | 2(15)  | 3                      | 01.04.2016                   |



Contd...

| <b>S. No.</b> | <b>Brief</b>  | <b>Section</b>                        | <b>Clause No.</b>  | <b>Effective date [i.e. w.e.f.]</b> |
|---------------|---|---------------------------------------|--------------------|-------------------------------------|
| <b>d</b>      | <b>Exemption to income of Core Settlement Guarantee Fund (SGF) of the Clearing Corporations</b> | <b>10(23EE) (new clause inserted)</b> | <b>7</b>           | <b>01.04.2016</b>                   |
| <b>e</b>      | <b>Raising the income-limit of the cases that may be decided by single member bench of ITAT</b> | <b>255(3)</b>                         | <b>64</b>          | <b>01.06.2015</b>                   |
| <b>f</b>      | <b>Tax neutrality on merger of similar schemes of Mutual Funds</b>                              | <b>47 &amp; 49</b>                    | <b>13 &amp; 14</b> | <b>01.04.2016</b>                   |





Contd...

| <b>S. No.</b> | <b>Brief</b>   | <b>Section</b>                      | <b>Clause No.</b> | <b>Effective date [i.e. w.e.f.]</b> |
|---------------|--|-------------------------------------|-------------------|-------------------------------------|
| <b>g</b>      | <b>Procedure for appeal by revenue when an identical question of law is pending before Supreme Court</b> | <b><u>New Section 158AA</u></b>     | <b>39</b>         | <b>01.06.2015</b>                   |
| <b>h</b>      | <b>Enabling the Board to notify rules for giving foreign tax credit</b>                                  | <b>295</b>                          | <b>78</b>         | <b>01.06.2015</b>                   |
| <b>i</b>      | <b>Abolition of levy of wealth-tax under Wealth-tax Act, 1957</b>  | <b>Section 3 of W.Tax Act, 1957</b> | <b>79</b>         | <b>01.04.2016</b>                   |

## a. Clarity relating to Indirect transfer provisions

[Clauses 5, 13, 14, 72, 75 & 76]

### **Amendment to Section 9, 47, 49, 271GA, 273B, and section 285A Effective from 1<sup>st</sup> day of April, 2016 (A/y 2016-17 and onwards)**

- Pursuant to the Bombay High Court Judgement holding that there is no income on share premium received on issuance of shares and decision of the Union Cabinet, not to prefer an appeal in the Supreme Court and clarification by the Finance Ministry that the decision would be applicable in respect of pending litigations involving similar issues, such as Cairn Energy, etc and considering the Report of the Expert Advisory Committee headed by Parthasarthy Shome and also in view of the manifestation of the Government against Retrospectivity and with an endeavour to bring more clarity in Revenue Laws, the government has brought more clarification in regard to transfer of shares of Indian Companies outside India by Foreign Companies as under: -
  - (i) the share or interest of a foreign company or entity shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if on the specified date, the value of Indian assets,-
    - (a) exceeds the amount of ten crore rupees ; and
    - (b) represents at least fifty per cent. of the value of all the assets owned by the company or entity.



- (ii) value of an asset shall mean the fair market value of such asset without reduction of liabilities, if any, in respect of the asset.
- (iii) the specified date of valuation shall be the date on which the accounting period of the company or entity, as the case may be, ends preceding the date of transfer.
- (iv) however, if the book value of the assets of the company on the date of transfer exceeds by at least 15% of the book value of the assets as on the last balance sheet date preceding the date of transfer, then instead of the date mentioned in (iii) above, the date of transfer shall be the specified date of valuation.
- (v) the manner of determination of fair market value of the Indian assets vis-a vis global assets of the foreign company shall be prescribed in the rules.
- (vi) the taxation of gains arising on transfer of a share or interest deriving, directly or indirectly, its value substantially from assets located in India will be on proportional basis. The method for determination of proportionality are proposed to be provided in the rules.



- (vii) the exemption shall be available to the transferor of a share of, or interest in, a foreign entity if he along with its associated enterprises,
  - (a) neither holds the right of control or management,
  - (b) nor holds voting power or share capital or interest exceeding five per cent. of the total voting power or total share capital, in the foreign company or entity directly holding the Indian assets (direct holding company).
  
- (viii) in case the transfer is of shares or interest in a foreign entity which does not hold the Indian assets directly then the exemption shall be available to the transferor if he along with its associated enterprises,-
  - (a) neither holds the right of management or control in relation to such company or the entity,
  - (b) nor holds any rights in such company which would entitle it to either exercise control or management of the direct holding company or entity or entitle it to voting power exceeding five percent. in the direct holding company or entity.



- (ix) exemption shall be available in respect of any transfer, subject to certain conditions, in a scheme of amalgamation, of a capital asset, being a share of a foreign company which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company.
  
- (x) exemption shall be available in respect of any transfer, subject to certain conditions, in a demerger, of a capital asset, being a share of a foreign company which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company.



- (xi) there shall be a reporting obligation on Indian concern through or in which the Indian assets are held by the foreign company or the entity. The Indian entity shall be obligated to furnish information relating to the off-shore transaction having the effect of directly or indirectly modifying the ownership structure or control of the Indian company or entity. In case of any failure on the part of Indian concern in this regard a penalty shall be leviable. The proposed penalty shall be-
- (a) a sum equal to two percent of the value of the transaction in respect of which such failure has taken place in case where such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern; and
  - (b) a sum of five hundred thousand rupees in any other case.

## b. Raising the Threshold for specified Domestic transaction, Amendment to section 92BA [Clause 24]

### Amendment Effective from 1<sup>st</sup> day of April, 2016 (A/y 2016-17 and onwards)

- The monetary Limit for aggregate 'specified domestic transaction' stated in section 92BA is being increased from existing limit of Rs. 5 crores to Rs. 20 crores.

#### Brief Impact:

In order to address the issue of compliance cost in case of small businesses on account of low threshold of five crores rupees, it is proposed to amend section 92BA to provide that the aggregate of specified transactions entered into by the assessee in the previous year should exceed a sum of twenty crore rupees for such transaction to be treated as 'specified domestic transaction.

## C. Rationalisation of definition of charitable purpose in the Income-tax Act [Clause 3]

### Amendment to Section 2(15) [Effective from 1<sup>st</sup> day of April, 2016 (AY 2016-17 and onwards)]

*in clause 2(15),—*

- (i) after the word “education,”, the word “yoga” shall be inserted;*
- (ii) for the first and the second provisos, the following proviso shall be substituted, namely:—*

*“Provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless—*

- (i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and*
- (ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent. of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year;”*

### Brief Impact:

- The expression “Yoga” is being added in the definition of ‘charitable purpose’.



It is also being provided that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless:

- i. such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and
- ii. the aggregate receipts from such activity or activities, during the previous year, do not exceed twenty percent. of the total receipts, of the trust or institution undertaking such activity or activities, for the previous year .

d. Exemption to income of Core Settlement Guarantee Fund  
(SGF) of the Clearing Corporations [Clause-7]

**Amendment to section 10 - New clause (23EE) shall be inserted**

*Effective from: 1<sup>st</sup> April, 2016*

**“After clause (23ED), the following clause shall be inserted, namely:**

*‘**(23EE)** - any specified income of such Core Settlement Guarantee Fund, set up by a recognised clearing corporation in accordance with the regulations, as the Central Government may, by notification in the Official Gazette, specify in this behalf:*

***Provided** that where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part with the specified person, the whole of the amount so shared shall be deemed to be the income of the previous year in which such amount is so shared and shall, accordingly, be chargeable to income-tax.”*

**Explanation.—For the purposes of this clause,—**

- i. **“recognised clearing corporation”** shall have the same meaning as assigned to it in clause (o) of sub-regulation (1) of regulation 2 of the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992;*
- ii. **“regulations”** means the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992;*
- iii. **“specified income”** shall mean,—*
  - a) the income by way of contribution received from specified persons;*
  - b) the income by way of penalties imposed by the recognised clearing corporation and credited to the Core Settlement Guarantee Fund; or*
  - c) the income from investment made by the Fund;*
- (iv) **“specified person”** shall mean,—*
  - a) any recognised clearing corporation which establishes and maintains the Core Settlement Guarantee Fund; and*
  - b) any recognised stock exchange being shareholder in such recognised clearing corporation.*

Contd...

Income of Swachh Bharat Kosh and Clean Ganga Fund is exempted u/s 10 [Clause-7]

**Amendment to clause (23C) of section 10** *Effective from: 1<sup>st</sup> April, 2015*

The existing provisions of section 10 of the Act provide for exemption from tax in respect of the income of certain charitable funds or institutions like the Prime Minister's National Relief Fund ; the Prime Minister's Fund (Promotion of Folk Art); the Prime Minister's Aid to Students Fund; the National Foundation for Communal Harmony. Considering the importance of Swachh Bharat Kosh and Clean Ganga Fund, it is also proposed to amend section 10 of the Act, so as to exempt the income of Swachh Bharat Kosh and Clean Ganga Fund from income-tax.

**Brief Impact:**

It is proposed to amend section 10 to exempt the income of Swachh Bharat Kosh and Clean Ganga Fund.

e. Raising Income limit of the cases that may be decided by single member bench of ITAT *(Clause 64)*

**Amendment to Section 255(3)** *(Effective from 1<sup>st</sup> day of June, 2015)*

*“In section 255 of the Income-tax Act, in sub-section (3), with effect from the 1st day of June, 2015, for the words “five hundred thousand rupees”, the words “fifteen lakh rupees” shall be substituted.”*

**Brief Impact:**

The existing provision of Section 255(3) provides for constitution of a single member bench and a Special Bench. It provides that single member bench may dispose of any case which pertains to an assessee whose total income as computed by the AO does not exceed 5 lakh rupees.

It is proposed to amend to provide that a single member bench may dispose of a case where the total income as computed by the AO does not exceed Rs. 15 lakh.

## f. Tax neutrality on Merger of similar Schemes of Mutual fund (clause 13 & 14)

Amendment to Section 47 (Effective from 1<sup>st</sup> day of April , 2016)

after clause (xvii), the following clause shall be inserted, namely:

*“(xviii) - Any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund:*

***Provided that the consolidation is of two or more schemes of equity oriented fund or of two or more schemes of a fund other than equity oriented fund.***

Amendment to Section 47 (Effective from 1<sup>st</sup> day of April , 2016)

Explanation.— For the purposes of this clause,—

- a) “**consolidating scheme**” means the scheme of a mutual fund which merges under the process of consolidation of the schemes of mutual fund in accordance with the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992.
- b) “**consolidated scheme**” means the scheme with which the consolidating scheme merges or which is formed as a result of such merger;
- c) “**equity oriented fund**” shall have the meaning assigned to it in clause (38) of section 10;
- d) “**mutual fund**” means a mutual fund specified under clause (23D) of clause 10.’

**Amendment to Section 49**

[With effect from the 1<sup>st</sup> day of April, 2016]

After sub-section (2AC), the following sub-section shall be inserted, namely:—

*“(2AD) - Where the capital asset, being a unit or units in a consolidated scheme of a mutual fund, became the property of the assessee in consideration of a transfer referred to in clause (xviii) 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 scheme of the mutual fund.**”*



*Brief Impact:*

- Merger or consolidation of two or more scheme of any an equity oriented fund is no more treated as transfer for the Capital Gain purpose.
- In such case the Cost of acquisition of the units of consolidated scheme shall be the cost of original units purchased and period of holding of the units of the consolidated scheme shall include the earlier period also.

g. Procedure for appeal by revenue when an identical question of law is pending before Supreme Court (Clause 39)

New Section 158AA

*(Effective from 1<sup>st</sup> day of June , 2015)*

*Brief Impact*

- Notwithstanding anything contained in the act where any question of law arising in the case of any assessee for any assessment year is identical with a question of law arising in his question for another assessment year which is pending before supreme court in an appeal filled by revenue. The commissioner may instead of the directing the AO to appeal to ITAT, direct the AO to make application to the ITAT stating that an appeal on the question of law arising in the relevant case may be filled when the decision of the question of law become final in earlier case

## h. Enabling Board to Notify rules for Foreign Tax Credit (Clause 78)

Amendment in Section Sub Section (2 )of Section 295

*(Effective from 1<sup>st</sup> day of June , 2015)*

### Brief Impact

- CBDT may make rules to provide the procedure for granting relief or deduction of any Income tax paid in any country or specified territory outside India under section 90,90A or 91 against the Income tax payable under the Act.



## i. Abolition of Wealth Tax Act *(Clause 79)*

Abolition of Section *(Effective from 1st day of April, 2016)*

### *Brief Impact*

- Levy of Wealth Tax is abolished however information relating to Assets which is currently required to be furnishing in wealth tax return shall be captured in modifying income Tax Return



## 4. Benefits for Individual Taxpayers



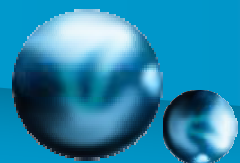
## 4. Benefits for Individual Taxpayers

| <b>S. No.</b> | <b>Brief</b>  | <b>Section</b>      | <b>Clause No.</b> | <b>Effective date [i.e. w.e.f.]</b> |
|---------------|---|---------------------|-------------------|-------------------------------------|
| <b>a</b>      | <b>Tax benefits under section 80C for the girl child under the Sukanya Samriddhi Account Scheme</b> | <b>10 &amp; 80C</b> | <b>7 &amp; 15</b> | <b>01.04.2015</b>                   |
| <b>b</b>      | <b>Amendment in section 80D relating to deduction in respect of health insurance premia</b>         | <b>80D</b>          | <b>18</b>         | <b>01.04.2016</b>                   |
| <b>c</b>      | <b>Raising the limit of deduction under section 80DDB</b>   | <b>80DDB</b>        | <b>20</b>         | <b>01.04.2016</b>                   |



Contd...

| <b>S. No.</b> | <b>Brief</b>   | <b>Section</b>        | <b>Clause No.</b>  | <b>Effective date [i.e. w.e.f.]</b> |
|---------------|--|-----------------------|--------------------|-------------------------------------|
| <b>d</b>      | <b>Raising the limit of deduction under section 80DD and 80U for persons with disability and severe disability</b> | <b>80DD &amp; 80U</b> | <b>19 &amp; 23</b> | <b>01.04.2016</b>                   |
| <b>e</b>      | <b>Raising the limit of deduction under 80CCC</b>  | <b>80CCC</b>          | <b>16</b>          | <b>01.04.2016</b>                   |
| <b>f</b>      | <b>Additional deduction under 80CCD</b>  | <b>80CCD</b>          | <b>17</b>          | <b>01.04.2016</b>                   |



Contd...

| <b>S. No.</b> | <b>Brief</b>   | <b>Section</b> | <b>Clause No.</b> | <b>Effective date [i.e. w.e.f.]</b> |
|---------------|--|----------------|-------------------|-------------------------------------|
| <b>g</b>      | <b>Enabling of filing of Form 15G/15H for payment made under life insurance policy</b> | <b>197A</b>    | <b>49</b>         | <b>01.06.2015</b>                   |
| <b>h</b>      | <b>Relaxing the requirement of obtaining TAN for certain deductors</b>                 | <b>203A</b>    | <b>52</b>         | <b>01.06.2015</b>                   |
| <b>i</b>      | <b>One hundred per cent deduction for National Fund for Control of Drug Abuse</b>      | <b>80G</b>     | <b>21</b>         | <b>01.04.2016</b>                   |





## a. Benefits for Individual Tax payers (Clause 7 and 15)

New clause (ba) shall be inserted to sub-section (4) of section 80C  
(Effective from 1<sup>st</sup> day of April , 2015)

- Investment under the Sukanya Samriddhi Account is allowable as deduction under Section 80C
- Interest Accruing on deposit under Sukanya Samriddhi Account will be exempt from Income Tax under new clause 11A of Section 10 .
- Withdrawal/maturity from same scheme is also exempt from Tax.

Note: New clause (11A) to section 10 shall be inserted – “any payment from an account, opened in accordance with the Sukanya Samriddhi Account Rules, 2014 made under the Government Savings Bank Act, 1873;”;

## b. Deduction Under Health Insurance Premium – Section 80D [Clause-18]

***\*\*As proposed & passed in the Lok Sabha***

### **Section 80D shall be amended**

**[Effective from 1<sup>st</sup> April, 2016]**

(A) for the words “fifteen thousand rupees”, wherever they occur, the words “**twenty-five thousand rupees**” shall be substituted;

(AA) for the words “twenty thousand rupees”, wherever they occur, the words “**thirty thousand rupees**” shall be substituted;

**Consequently, from proposed substituted sub-section (4), the following lines are omitted:**

~~(iii) for the words “fifteen thousand rupees”, the words “twenty-five thousand rupees” shall be substituted;~~

~~(iv) for the words “twenty thousand rupees”, the words “thirty thousand rupees” shall be substituted;~~

## c. Deduction under Health Insurance Premium – Section 80DDB (Clause 20)

Amendment to Section 80DDB (Effective from 1<sup>st</sup> day of April , 2016)

### Brief Impact

- Claiming Deduction for medical treatment for certain diseases a Certificate in prescribed format from a Doctor working in a Government Hospital is no more required. Now, assessee will required to obtain a prescription from a specialized doctor to claim the deduction .
- Further a very senior citizen is entitled for a higher deduction upto Rs. 80000/-

d. Deduction under section 80DD and Section 80U for person with disability and severe disability (Clause 19 and 23 )

Amendment to Section 80DD & Section 80U

(Effective from 1<sup>st</sup> day of April , 2016)

Brief Impact

- Limit of Deduction in respect of a person with disability from Rs. 50000 to Rs. 75000/- under Section.
- In respect of person with severe disability from Rs. 100000/- to Rs 125000/- .

## e. Raising the limit of deduction under 80CCC [Clause-16]

### Amendment:

*Effective from: 1<sup>st</sup> April, 2016*

Under the existing provisions contained in sub-section (1) of the section 80CCC, an assessee, being an individual is allowed a deduction upto one lakh rupees in the computation of his total income, of an amount paid or deposited by him to effect or keep in force a contract for any annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension from a fund set up under a pension scheme.

In order to promote social security, it is proposed to amend sub-section (1) of the said section so as to raise the limit of deduction under section 80CCC from one lakh rupees to one hundred and fifty thousand rupees, within the overall limit provided in section 80CCE.

### Brief Impact:

It is proposed to raise the limit of deduction u/s 80CCC(1) from Rs.100,000 to Rs. 150,000/- with in the overall limit provided in section 80CCE .

## f. Deduction in respect of contribution to pension scheme - U/s 80CCD [Clause-17]

**\*\*As proposed & passed in the Lok Sabha**

### **Amendment:**

***Effective from: 1<sup>st</sup> April, 2016***

In section 80CCD of the Income-tax Act, with effect from the 1st day of April, 2016,-

(a) sub-section (1A) shall be omitted;

(b) the following sub-section shall be inserted, namely:-

“(1B) An assessee referred to in sub-section (1), shall be allowed a deduction in computation of his total income, [~~in addition to the deduction allowed under sub-section (1)~~], **whether or not any deduction is allowed under sub-section (1)** of the whole of the amount paid or deposited in the previous year in his account under a pension scheme notified or as may be notified by the Central Government, which shall not exceed fifty thousand rupees:

Provided that no deduction under this sub-section shall be allowed in respect of the amount on which a deduction has been claimed and allowed under sub-section (1);”

The words “in addition to the deduction allowed under sub-section (1)”, are substitute with “whether or not any deduction is allowed under sub-section (1)”. [as amended in Lok sabha]

***\*\*As proposed & passed in the Lok Sabha***

**Brief Impact:**

It is proposed to omit sub section (1A) and insert section (1B) to provide deduction up to Rs. 50,000/- (irrespective of any deduction provided u/s 80CCD(1)), for contribution made by any individual assesses under the National Pension System in place of 10% of salary or 10% of gross total income of Individual.

## g. Enabling of filing of Form 15G/15H for payment made under life insurance policy [Clause-49]

### **Amendment to section 197A:**

*Effective from: 1<sup>st</sup> June, 2015*

It is, therefore, proposed to amend the provisions of section 197A for making the recipients of payments referred to in section 194DA also eligible for filing self-declaration in Form No.15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A.

### **Brief Impact:**

The recipients of payments made under life insurance policy under section 194DA are eligible to file 15G/15H for non-deduction of TDS in accordance with the provisions of section 197A.



## h. Relaxing the requirement of obtaining TAN for certain deductors [Clause-52]

### Amendment to section 203A

*Effective from: 1<sup>st</sup> June, 2015*

The obtaining of TAN creates a compliance burden for those individuals or Hindu Undivided Family (HUF) who are not liable for audit under section 44AB of the Act. The quoting of TAN for reporting of Tax Deducted at Source (TDS) is a procedural matter and the same result can also be achieved in certain cases by mandating quoting of PAN especially for the transactions which are likely to be one time transaction such as single transaction of acquisition of immovable property from non-resident by an individual or HUF on which tax is deductible u/s 195. To reduce the compliance burden of these types of deductors, it is proposed to amend the provisions of section 203A of the Act so as to provide that the requirement of obtaining and quoting of TAN u/s 203A of the Act shall not apply to the notified deductors or collectors.

### Brief Impact:

The requirement of obtaining and quoting of TAN under section 203A of Act shall not apply to notified deductors or collectors i.e. individuals or Hindu Undivided Family (HUF) who are not liable for audit under section 44AB of the Act.

## i. 100% deduction for National Fund for Control of Drug Abuse [Clause-21]

### Amendment to section 80G:

*Effective From: 1<sup>st</sup> April, 2016*

The National Fund for Control of Drug Abuse is a fund created by the Government of India in the year 1989, under the Narcotic Drugs and Psychotropic Substances Act, 1985. Since National Fund for Control of Drug Abuse is also a Fund of national importance, it is proposed amend section 80G so as to provide hundred percent. deduction in respect of donations made to the said National Fund for Control of Drug Abuse.

With a view to encourage and enhance people's participation in the national effort to improve sanitation facilities and rejuvenation of river Ganga, it is proposed to amend section 80G of the Act so as to incentivize donations to the two funds. It is proposed to provide that donations made by any donor to the Swachh Bharat Kosh and donations made by domestic donors to Clean Ganga Fund will be eligible for a deduction of hundred per cent from the total income

### Brief Impact:

It is proposed to amend section 80G so as to provide 100% deduction in respect of donations made to National fund for Control of Drug Abuse. 100 % deduction made by any donor to Swachh Bharat Kosh and domestic donor to Clean Ganga Fund .



## 5. Swachchh Bharat



## 5. Swachchh Bharat

| S. No. | Brief   | Section             | Clause No.        | Effective date [i.e. w.e.f.] |
|--------|---|---------------------|-------------------|------------------------------|
| a      | <b>Tax benefits for Swachh Bharat Kosh and Clean Ganga Fund</b> | <b>10 &amp; 80G</b> | <b>7 &amp; 21</b> | <b>01.04.2015</b>            |



## 6. Rationalisation Measures



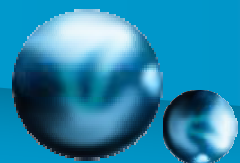
## 6. Rationalisation Measures

| <b>S. No.</b> | <b>Brief</b>  | <b>Section</b>     | <b>Clause No.</b> | <b>Effective date [i.e. w.e.f.]</b> |
|---------------|---|--------------------|-------------------|-------------------------------------|
| <b>a</b>      | <b>Clarity regarding source rule in respect of interest received by the non-resident in certain cases</b>                   | <b>9</b>           | <b>5</b>          | <b>01.04.2016</b>                   |
| <b>b</b>      | <b>Rationalisation of provisions of section 11 relating to accumulation of Income by charitable trusts and institutions</b> | <b>11 &amp; 13</b> | <b>8 &amp; 9</b>  | <b>01.04.2016</b>                   |
| <b>c</b>      | <b>Furnishing of return of income by certain universities and hospitals referred to in section 10 (23C) of the Act</b>      | <b>139</b>         | <b>34</b>         | <b>01.04.2016</b>                   |



Contd...

| <b>S. No.</b> | <b>Brief</b>  | <b>Section</b> | <b>Clause No.</b> | <b>Effective date [i.e. w.e.f.]</b> |
|---------------|---|----------------|-------------------|-------------------------------------|
| <b>d</b>      | <b>Power of the Central Board of Direct Taxes to prescribe the manner and procedure for computing period of stay in India</b> | <b>6</b>       | <b>4</b>          | <b>01.04.2015</b>                   |
| <b>e</b>      | <b>Rationalising the provisions of section 115JB</b>  | <b>115JB</b>   | <b>29</b>         | <b>01.04.2016</b>                   |
| <b>f</b>      | <b>Amendments relating to Global Depository receipts (GDRs)</b>   | <b>115ACA</b>  | <b>28</b>         | <b>01.04.2016</b>                   |



Contd...

| <b>S. No.</b> | <b>Brief</b>   | <b>Section</b>                            | <b>Clause No.</b>                  | <b>Effective date [i.e. w.e.f.]</b> |
|---------------|--|---|------------------------------------|-------------------------------------|
| <b>g</b>      | <b>Settlement Commission</b>   | <b>245A, 245D, 245H, 245HA &amp; 245K</b> | <b>35, 57, 58, 59, 60 &amp; 61</b> | <b>01.06.2015</b>                   |
| <b>h</b>      | <b>Orders passed by the prescribed authority under section sub-clauses (vi) and (via) of clause (23C) of section 10 made appealable before Income-tax Appellate Tribunal</b> | <b>253 &amp; 10(23C)(vi)</b>              | <b>63</b>                          | <b>01.06.2015</b>                   |





Contd...

| <b>S. No.</b> | <b>Brief</b>  | <b>Section</b>            | <b>Clause No.</b> | <b>Effective date [i.e. w.e.f.]</b> |
|---------------|---|---------------------------|-------------------|-------------------------------------|
| <b>i</b>      | <b>Assessment of income of a person other than the person in whose case search has been initiated or books of account, other documents or assets have been requisitioned.</b> | <b>153C</b>               | <b>36</b>         | <b>01.06.2015</b>                   |
| <b>j</b>      | <b>Simplification of approval regime for issue of notice for re-assessment</b>  | <b>151 (substitution)</b> | <b>35</b>         | <b>01.06.2015</b>                   |
| <b>k</b>      | <b>Interest for defaults in payment of advance tax in case of re-assessment and where additional income is disclosed before the Settlement Commission under section 245C</b>  | <b>234B</b>               | <b>56</b>         | <b>01.06.2015</b>                   |



Contd...

| <b>S. No.</b> | <b>Brief</b>  | <b>Section</b> | <b>Clause No.</b> | <b>Effective date [i.e. w.e.f.]</b> |
|---------------|---|----------------|-------------------|-------------------------------------|
| <b>l</b>      | <b>Revision of order that is erroneous in so far as it is prejudicial to the interests of revenue</b>             | <b>263</b>     | <b>65</b>         | <b>06.01.2015</b>                   |
| <b>m</b>      | <b>Clarification regarding deduction of tax from payments made to transporters</b>                                | <b>194C</b>    | <b>43</b>         | <b>01.06.2015</b>                   |
| <b>n</b>      | <b>Rationalisation of provisions relating to deduction of tax on interest (other than interest on securities)</b> | <b>194A</b>    | <b>42</b>         | <b>01.06.2015</b>                   |



Contd...

| <b>S. No.</b> | <b>Brief</b>  | <b>Section</b>   | <b>Clause No.</b>   | <b>Effective date [i.e. w.e.f.]</b> |
|---------------|---|--|---|-------------------------------------|
| <b>o</b>      | <b>Rationalisation of provisions relating to Tax Deduction at Source (TDS) and Tax Collection at Source (TCS)</b> | <b>154 156,192(2D) inserted,195, 200, 200A, 206C, 206CB, 220, 246A, New section 271-l, 272A &amp; 273B</b> | <b>37, 38, 40, 48, 50, 51, 53, 54, 55, 62,73, 74 &amp; 75</b> | <b>01.06.2015</b>                   |
| <b>p</b>      | <b>Simplification of Tax Deduction at Source (TDS) mechanism for Employees Provident Fund Scheme (EPFS)</b>       | <b>New Section 192A &amp; 197A</b>   | <b>41 &amp; 49</b>  | <b>01.06.2015</b>                   |



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| <b>S. No.</b> | <b>Brief</b>  | <b>Section</b>  | <b>Clause No.</b> | <b>Effective date [i.e. w.e.f.]</b> |
|---------------|---|---|-------------------|-------------------------------------|
| <b>q</b>      | <b>Amendment to the conditions for determining residency status in respect of Companies</b>   | <b>Explanation to clause 2 (inserted) to Sec.6 and clause (3) to Sec. 6 (substituted)</b> | <b>4</b>          | <b>01.04.2016</b>                   |
| <b>r</b>      | <b>Prescribed conditions relating to maintenance of accounts, audit etc to be fulfilled by the approved in-house R&amp;D facility</b> | <b>35(2AB)</b>  | <b>12</b>         | <b>01.04.2016</b>                   |
| <b>s</b>      | <b>Certain accountants not to give reports/certificates</b>   | <b>288</b>  | <b>77</b>         | <b>01.06.2015</b>                   |



Contd...

| <b>S. No.</b> | <b>Brief</b>   | <b>Section</b> | <b>Clause No.</b> | <b>Effective date [i.e. w.e.f.]</b> |
|---------------|--|----------------|-------------------|-------------------------------------|
| <b>t</b>      | <b>Amount of tax sought to be evaded for the purposes of penalty for concealment of income under clause (iii) of sub-section (1) of section 271</b>      | <b>271</b>     | <b>68</b>         | <b>01.04.2016</b>                   |
| <b>u</b>      | <b>Cost of acquisition of a capital asset in the hands of resulting company to be the cost for which the demerged company acquired the capital asset</b> | <b>49</b>      | <b>14</b>         | <b>01.04.2016</b>                   |

## a. Clarity regarding source rule in respect of interest received by the non-resident in certain cases

[Clause-5]

### **Amendment to section 9(1)(v)**

*Effective From : 1<sup>st</sup> April, 2016*

### **Clarity regarding source rule in respect of interest received by the non-resident in certain cases**

#### **Brief Impact:**

Interest payable by permanent establishment (PE) in India of a person engaged in the business of banking, in the head office or any PE or any other part of such non-resident outside India shall be deemed to accrue or arise in India and shall be chargeable to tax in addition to any income attributable to the PE in India.

The PE in India obligated to deduct tax at source on any interest payable to head office or any other branch or PE etc. of the non-resident outside India. Non-deduction would result in disallowance of interest claimed as expenditure by the PE and may also attract levy of interest and penalty.

## b) Rationalisation of provisions of section 11 relating to accumulation of Income by charitable trusts and institutions [Clause-8 & 9]

### Amendment to section 11

[Effective from 1<sup>st</sup> April, 2016]

- i. *In sub-section (1), in Explanation, in clause (2), after sub-clause (b), in the long line, for the brackets and words “(such option to be exercised in writing before the expiry of the time allowed under sub-section (1) of section 139 for furnishing the return of income)”, **the brackets and words “(such option to be exercised before the expiry of the time allowed under sub-section (1) of section 139 for furnishing the return of income, in such form and manner as may be prescribed)” shall be substituted;***

**Amendment to section 11**

[Effective from 1<sup>st</sup> April, 2016]

II. *In sub-section (2), for clauses (a) and (b) and the first and second provisos, the following shall be substituted, namely:-*

*“(a) such person furnishes a statement in the prescribed form and in the prescribed manner to the Assessing Officer, stating the purpose for which the income is being accumulated or set apart and the period for which the income is to be accumulated or set apart, which shall in no case exceed five years;*

*(b) the money so accumulated or set apart is invested or deposited in the forms or modes specified in sub-section (5);*

*(c) the statement referred to in clause (a) is furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year:*

**Provided** *that in computing the period of five years referred to in clause (a), the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.”.*



**Amendment to section 13**[Effective from 1<sup>st</sup> April, 2016]

After sub-section (8) and before *Explanation 1*, the following sub-section shall be inserted, namely:—

*“(9) Nothing contained in sub-section (2) of section 11 shall operate so as to exclude any income from the total income of the previous year of a person in receipt thereof, if—*

*(i) the statement referred to in clause (a) of the said sub-section in respect of such income is not furnished on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the previous year; or*

*(ii) the return of income for the previous year is not furnished by such person on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the said previous year.”*

**Amendment to section 2***Effective From : 1<sup>st</sup> April, 2016*

In order to remove the ambiguity regarding the period within which the assessee is required to file Form 10, and to ensure due compliance of the above conditions within time, it is proposed to amend the Act to provide that the said Form shall be filed before the due date of filing return of income specified u/s 139 of the Act for the fund or institution. **In case the Form 10 is not submitted before this date, then the benefit of accumulation would not be available and such income would be taxable at the applicable rate. Further, the benefit of accumulation would also not be available if return of income is not furnished before the due date of filing return of income.**

**Brief Impact:**

To accumulation of income by charitable trusts and Institutions u/s 11, it is proposed that Form no. 10 and return of income shall be filed before the due date of filing of return of Income as specified u/s 139 of the Act for the fund or institution

## c) Furnishing of return of income by certain universities and hospitals referred to in section 10 (23C) of the Act [Clause-34]

### Amendment to section 139

*Effective From: 1<sup>st</sup> April, 2016*

*In sub-section (4C), in clause (e),—*

- a) “after the words “other educational institution referred to in”, the words, brackets, figures and letters “sub-clause (iiiab) or” shall be inserted;*
- b) after the words “other medical institution referred to in”, the words, brackets, figures and letters “sub-clause (iiiac) or” shall be inserted.”*

Under the existing provisions, there is no mandatory requirement of filing of return of income u/s 139 for the education institutions & hospitals which are wholly or substantially financed by the Government as referred in sub-clauses (iiiab) and (iiiac) of clause (23C) of section 10.

### *Brief Impact:*

Universities and hospitals referred in sub clause (iiiab) and (iiiac) of clause (23C) of section 10 are now mandatorily are required to file their return of income u/s 139

## d. Power of the CBDT to prescribe the manner & procedure for computing Period of Stay in India [Clause-4]

### Amendment to section 6

Effective from 1<sup>st</sup> April, 2015

In clause (1), the Explanation shall be numbered as Explanation 1 thereof and after Explanation 1 as so numbered, the following Explanation shall be inserted, namely:—

**“Explanation 2.—For the purposes of this clause, in the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in` the manner and subject to such conditions as may be prescribed.”**

### Brief Impact:

Section 6(1) amended , in case of an individual, being citizen of India and a member of the crew of a foreign bound ship leaving India, the period of stay in India shall, in respect of each voyage, be determined in the manner and subject to such conditions as may be prescribed

## e. Rationalisation the provisions of section 115JB

[Clauses 29]

Already discussed above (Refer S. No. 20-27)



## f. Global Depository Receipts (Clause 28)

### Amendment relating to GDR

*(Effective from 1st day of April , 2016)*

- As per the new scheme, DRs can be issued against the securities of listed, unlisted or private or public companies against underlying securities which can be debt instruments, shares or units etc; Further, both the sponsored issues and unsponsored deposits and acquisitions are permitted. DRs can be freely held and transferred by both residents and non-residents.
- Since the tax benefits under the Act were intended to be provided in respect of sponsored GDRs and listed companies only, it is proposed to amend the Act in order to continue the tax benefits only in respect of such GDRs as defined in the earlier depository scheme.

### Brief Impact

- Tax benefit is proposed to restrict in respect of sponsored GDR and listed companies only i.e. GDR issued against unsponsored deposit and unlisted of private and public companies are no more eligible.

## g. Settlement Commission (Clause 35, 57, 58, 59,60 , 61 & 33 )

### **Clause 35 – Substitution of new section 155 – Sanction for issue of notice:**

*(Effective from 1<sup>st</sup> June , 2015)*

#### **“Section 151**

- (1) No notice shall be issued under section 148 by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.*
- (2) In a case other than a case falling under sub-section (1), no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.*
- (3) For the purposes of sub-section (1) and sub-section (2), the Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner or the Joint Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under section 148, need not issue such notice himself.”*

**Clause 57 – Amendment of section 245A**

**In clause (b), in the Explanation, with effect from the 1<sup>st</sup> June, 2015**

A. For clause (i), the following clause shall be substituted, namely:

*“(i) a proceeding for assessment or reassessment or recomputation under section 147 shall be deemed to have commenced—*

*a) from the date on which a notice under section 148 is issued for any assessment year;*

*b) from the date of issuance of the notice referred to in sub-clause (a), for any other assessment year or assessment years for which a notice under section 148 has not been issued, but such notice could have been issued on such date, if the return of income for the other assessment year or assessment years has been furnished under section 139 or in response to a notice under section 142.”*



**Clause 57 – Amendment of section 245A**

**In clause (b), in the Explanation, with effect from the 1<sup>st</sup> June, 2015**

**B. In clause (iv), for the words, figure and letters “~~from the 1<sup>st</sup> day of the assessment year and concluded on the date on which the assessment is made~~” occurring at the end, the words and figures**

**“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 relevant assessment year, in case where no assessment is made”**

*shall be substituted.*

**Clause 58 – Amendment of Section 245D Effective from 1<sup>st</sup> June, 2015**

The following sub-section shall be substituted, namely:—

*“(6B) - The Settlement Commission may, with a view to rectifying any mistake apparent from the record, amend any order passed by it under sub-section (4)—*

- a) at any time within a period of six months from the end of the month in which the order was passed; or*
- b) at any time within the period of six months from the end of the month in which an application for rectification has been made by the Principal Commissioner or the Commissioner or the applicant, as the case may be:*

***Provided** that no application for rectification shall be made by the Principal Commissioner or the Commissioner or the applicant after the expiry of six months from the end of the month in which an order under sub-section (4) is passed by the Settlement Commission:*

***Provided further** that an amendment which has the effect of modifying the liability of the applicant shall not be made under this sub-section unless the Settlement Commission has given notice to the applicant and the Principal Commissioner or Commissioner of its intention to do so and has allowed the applicant and the Principal Commissioner or Commissioner an opportunity of being heard.”.*

▪ **Clause 59 – Amendment of Section 245H Effect from the 1<sup>st</sup> June, 2015**

*In Sub-section (1) after the words “subject to such conditions as it may think fit to impose”, the words “for the reasons to be recorded in writing” shall be inserted.*

▪ **Clause 60 – Amendment of Section 245HA(1) Effect from the 1<sup>st</sup> June, 2015,**

A. After clause (iii), the following clause shall be inserted, namely:

*“(iia) in respect of any application made under section 245C, an order under sub-section (4) of section 245D has been passed not providing for the terms of settlement; or”;*

B. In the Explanation, after clause (c), the following clause shall be inserted, namely:

*“(ca) in respect of an application referred to clause (iia), the day on which the order under sub-section (4) of section 245D was passed not providing for the terms of settlement;”*

## Clause 61 – Amendment of Section 245K Effective from the 1<sup>st</sup> June, 2015

- A. In sub-section (1), for the words “he shall not be entitled to apply”, the words and brackets **“he or any person related to such person (herein referred to as related person) shall not be entitled to apply”** shall be substituted;
- B. In sub-section (2), for the words “shall not be subsequently entitled”, the words **“or any related person shall not be subsequently entitled”** shall be substituted;
- C. After sub-section (2), the following Explanation shall be inserted, namely:  
**‘Explanation.**—For the purposes of this section, **“related person”** with respect to a person means,—
- i. where such person is an individual, any company in which such person holds more than fifty per cent. of the shares or voting rights at any time, or any firm or association of persons or body of individuals in which such person is entitled to more than fifty per cent. of the profits at any time, or any Hindu undivided family in which such person is a karta;
  - ii. where such person is a company, any individual who held more than fifty per cent. of the shares or voting rights in such company at any time before the date of application before the Settlement Commission by such person;
  - iii. where such person is a firm or association of persons or body of individuals, any individual who was entitled to more than fifty per cent. of the profits in such firm, association of persons or body of individuals, at any time before the date of application before the Settlement Commission by such person;
  - iv. where such person is a Hindu undivided family, the karta of that Hindu undivided family;

**Clause 33 – Amendment of Section 132B** Effective from the 1<sup>st</sup> June, 2015

*In sub-section (1), in clause (i), for the words “~~deemed to be in default, may be recovered out of such assets~~” occurring at the end, the words, brackets, figures and letter “deemed to be in default, or the amount of liability arising on an application made before the Settlement Commission under sub-section (1) of section 245C, may be recovered out of such assets” shall be substituted.*

**Brief Impact:**

Assets Seized u/s 132 or requisitioned u/s 132 may be also be adjusted against the Liabilities arising on an application made under sub section (1) of Section 245C before the settlement commission.

**Brief Impact :****Clause (iv) of the Explanation to clause (b) of Section 245A**

- Proceedings for any assessment year, other than proceeding of assessment or reassessment referred to in clause (i), (iii) and (iii a) shall be deemed to commenced from the date of furnishing the return u/s 139 or in response of notice u/s 142 and concluded on the date on which assessment is made or expiry of two years from the and of relevant assessment years, in a case no assessment is made.

**Sub Section (6B) of section 245D**

- Settlement Commission now rectify any mistake apparent from the record amend any order passed by it under Section 245D(4).
- On an application made by commissioner before the end of six month from the end of month in which order was passed, at any time with in a period of six month from the end of month in which such application was made.

- **Amendment in sub section (1) of Section 245H**
  - Now settlement commission while granting immunity to any person shall record the reason in writing .
  
- **Sub section (1) of Section 245HA**
  - An order passed under Sub section 4 of Section 245D for application made under section 245C without providing terms of settlement the proceeding before the settlement commission shall abate on the day on which such order was passed.
  
- **Amendment in Section 245K**
  - Any person related to the person who already approached the settlement commission once, also cannot approach the settlements commission subsequently.

▪ **Related person means** -

- In case of individual , Any company in which such individual hold more than 50% share or voting power at any time , or any firm or AOP or BOI, in which such person entitled to more than 50% of profit at any time; or HUF in which such person is Karta.
- In case of company, any individual who hold more than 50% of the share or voting power in such company at any time before the date of application before the settlement commission
- In case of Firm, AOP and BOP – any individual who was entitled more than 50% of the profit at any time before the date of application before the settlement commission
- In case of HUF – Karta of HUF



**h. Orders passed by the prescribed authority u/s 10 (23C) (vi) and (via) made appealable before ITAT [Clause – 63]**

**Amendment to Section 253**

***[Effective from 1<sup>st</sup> June, 2015]***

In sub-section (1), after clause (e), the following clause shall be inserted, namely:-

*“(f) an order passed by the prescribed authority under sub-clause (vi) or sub-clause (via) of clause (23C) of section 10.”*

**Brief Impact:**

**Order refusing registration to an Educational or Medical Institution u/s 10(23C) of the Act is now Appealable before the ITAT instead of going to High Court under Writ jurisdiction.**

i. Assessment of income of a person other than the person in whose case search has been initiated or books of account, other documents or assets have been requisitioned [Clauses 36]

**Amendment to Section 153C    *Effective from the 1<sup>st</sup> June, 2015***

**In section 153C** For the portion beginning with the words and figures

“Notwithstanding anything contained in section 139” and ending with the words “the Assessing Officer having jurisdiction over such other person”, the words, figures, brackets and letters

**“Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that,—**

- a) *any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or*
- b) *any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to, a person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person”*

shall be inserted.

**Brief Impact:**

The amendment aims to reduce to disputes on the interpretation of the words “belongs to” in respect of a document as for instance when a given document seized from a person is a copy of the original document. Accordingly, it is proposed to amend the aforesaid section to provide that notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the AO is satisfied that any money, bullion, jewellery or other valuable article or thing belongs to, or any books of account or documents seized or requisitioned pertain to, or any information contained therein, relates to, any person, other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the AO having jurisdiction over such other person and that AO shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.

## J. Simplification of approval regime for issue of notice u/s 148 for re-assessment [Clauses 35]

### **Amendment to Section 151**

*Effective from 1<sup>st</sup> day of June, 2015*

### **Substitution of new section for section 151**

- (1) No notice shall be issued under section 148 by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.
- (2) In a case other than a case falling under sub-section (1), no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied, on the reasons recorded by such Assessing Officer, that it is a fit case for the issue of such notice.



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- (3) For the purposes of sub-section (1) and sub-section (2), the Principal Chief Commissioner or Chief Commissioner or the Principal Commissioner or Commissioner or the Joint Commissioner, as the case may be, being satisfied on the reasons recorded by the Assessing Officer about fitness of a case for the issue of notice under section 148, need not issue such notice himself.

### Brief Impact:

To bring simplicity, it is proposed to provide that no notice under section 148 shall be issued by an assessing officer upto four years from the end of relevant assessment year without the approval of Joint Commissioner and beyond four years from the end of relevant assessment year without the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner

k. Interest for defaults in payment of advance tax in case of re-assessment and where additional income is disclosed before the Settlement Commission u/s 245C [Clause – 56]

**Amendment to Section 234B**

*Effective from 1<sup>st</sup> June 2015*

- i. after sub-section (2), the following sub-section shall be inserted, namely:-

**Sub-section (2A)** – *“(a) Where an application under sub-section (1) of section 245C for any assessment year has been made, the assessee shall be liable to pay simple interest at the rate of one per cent. For every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of making such application, on the additional amount of income-tax referred to in that sub-section.*

*(b) Where as a result of an order of the Settlement Commission under sub-section (4) of section 245D for any assessment year, the amount of total income disclosed in the application under sub-section (1) of section 245C is increased, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of such order, on the amount by which the tax on the total income determined on the basis of such order exceeds the tax on the total income disclosed in the application filed under sub-section (1) of section 245C.”*

***\*\*As proposed & passed in the Lok Sabha***

**Amendment to newly inserted sub-section (2A) of Section 234B - a new clause shall be inserted w.e.f 1<sup>st</sup> April, 2015**

*“(c) where, as a result of an order under sub-section (6B) of section 245D, the amount on which interest was payable under clause (b) has been increased or reduced, as the case may be, the interest shall be increased or reduced accordingly”.*

II. For sub-section (3), the following sub-section shall be substituted, namely:-

**“Sub-section (3)** – *“Where, as a result of an order of reassessment or recomputation under section 147 or section 153A, the amount on which interest was payable in respect of shortfall in payment of advance tax for any financial year under sub-section (1) is increased, the assessee shall be liable to pay simple interest at the rate of one per cent. for every month or part of a month comprised in the period commencing on the 1st day of April next following such financial year and ending on the date of the reassessment or recomputation under section 147 or section 153A, on the amount by which the tax on the total income determined on the basis of the reassessment or recomputation exceeds the tax on the total income determined under sub section (1) of section 143 or on the basis of the regular assessment as referred to in subsection (1), as the case may be.”;*

III. in sub-section (4), the words, brackets, figures and letter “or an order of the Settlement Commission under sub-section (4) of section 245D” shall be omitted.



**Brief Impact:**

- It is proposed to amend sub-section (3) of section 234B of the Income-tax Act to provide that the period for which the interest is to be computed will begin from the 1<sup>ST</sup> April next following the Financial Year and end on the date of determination total income u/s 147 or section 153A.

**Brief Impact:**

- In case an application is filed before the Settlement Commission u/s 245C declaring an additional amount of income-tax, there is no specific provision in section 234B for charging interest on that additional amount.
- Accordingly, it is proposed to insert a New sub-section (2A) so as to provide that where as a result of an order of the Settlement Commission u/s 245D(4) for any A.Y., the amount of total income disclosed in the application u/s 245C(1) is increased, the assessee shall be liable to pay simple interest at the rate of 1% for every month or part of a month comprised in the period commencing on the 1<sup>st</sup> day of April of such A.Y. and ending on the date of such order, on the amount by which the tax on the total income determined on the basis of such order exceeds the tax on the total income disclosed in the application filed u/s 245C(1) of the Act.

# 1. Revision of order that is erroneous in so far as it is prejudicial to the interests of revenue [Clauses 65]

## Amendment

*Effective from 1<sup>st</sup> day of June 2015*

In section 263 of the Income-tax Act, the following *Explanation* shall be inserted:

- “*Explanation 2.*—For the purposes of this section, it is hereby declared that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,—
- (a) the order is passed without making inquiries or verification which should have been made;
- (b) the order is passed allowing any relief without inquiring into the claim;
- (c) the order has not been made in accordance with any order, direction or instruction issued
- by the Board under section 119; or
- (d) the order has not been passed in accordance with any decision which is prejudicial to the
- assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.”

## Brief Impact:

The amendment enlarges the scope of interpretation of section 263 of the Income Tax Act, 1961 by providing that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,—

- (a) the order is passed without making inquiries or verification which, should have been made;
- (b) the order is passed allowing any relief without inquiring into the claim;
- (c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or

## Brief Impact:

(d) the order has not been passed in accordance with any decision, prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

Accordingly the amendment is proposed to widen the powers of the commissioner to review any order passed by the Assessing Officer if the same falls under the above categories. This may provide draconian power of review to the Commissioner and may lead to harassment of assesses by repeated and prolonged income tax proceedings and will increase litigation.

## m. Clarification regarding deduction of tax from payments made to transporters [Clauses 43]

### Amendment of section 194C

Effective from 1<sup>st</sup> June 2015

In sub-section (6) for the words “~~on furnishing of~~”, the words “where such contractor owns ten or less goods carriages at any time during the previous year and furnishes a declaration to that effect along with” shall be substituted.

#### Brief Impact:

Now only small transporters will be exempt from the provision of TDS and the relaxation u/s 194C (6) from non-deduction of tax shall only be applicable to the payment in the nature of transport charges (*whether paid by a person engaged in the business of transport or otherwise*) made to an contractor who is engaged in the business of transport i.e. plying, hiring or leasing goods carriage and who is eligible to compute income as per the provisions of section 44AE of the Act (*i.e. a person who is **not owning more than 10 goods carriage at any time during the previous year***) and who has also furnished a declaration to this effect along with his PAN.

## n. Rationalisation of provisions relating to TDS on interest (other than interest on securities) [Clauses 42]

### **Amendment:**

***Effective from 1<sup>st</sup> June 2015***

In section 194A of the Income-tax Act, in sub-section (3), with effect from the 1st day of June, 2015,—

(a) in clause (i), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that the amount referred to in the first proviso shall be computed with reference to the income credited or paid by the banking company or the co-operative society or the public company, as the case may be, where such banking company or the co-operative society or the public company has adopted core banking solutions;”;

(b) in clause (v), for the words “paid by a co-operative society to a member thereof or”, the words and brackets “paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society” shall be substituted;

(c) after clause (v), the following *Explanation* shall be inserted, namely:—

*Explanation.*—For the purposes of this clause, “co-operative bank” shall have the same as meaning assigned to it in Part V of the Banking Regulation Act, 1949

d) for clause (ix), the following clauses shall be substituted, namely:—

“(ix) to such income credited by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal;

(ixa) to such income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed fifty thousand rupees;”;

(e) in *Explanation 1* below clause (xi), for the word “excluding”, the word “including” shall be substituted.



## **Brief Impact:**

### **Scope of TDS widened by including the following interest payments within the Ambit of TDS:**

- Interest payment by a co-operative society to a member thereof or any other co-operative society. [Section 194A(3)(v) of the Act]
- Interest payments on deposits by a primary agricultural credit society or primary credit society or co-operative land mortgage bank or co-operative land development bank. [Section 194A(3)(vii)(a) of the Act]
- Interest payment on deposits other than time deposit by a co-operative society engaged in the business of banking other than those mentioned in section 194A(3)(vii)(a) of the Act. [Section 194A(3)(vii)(b) of the Act]

- Interest on Recurring Deposits
- Total interest income credited or paid by the banking company or the co-operative society or the public company, as the case may be, where such banking company or the co-operative society or the public company has adopted core banking solutions.
- TDS on Interest on compensation amount awarded by the Motor Accident Claims Tribunal if the amount of such payment or aggregate amount of such payments during a financial year exceeds Rs.50,000/-- shall be made only at the time of payment (Clarification)

## O. Rationalisation of provisions relating to TDS & TCS [Clauses 37, 38, 40, 48, 50, 51, 53, 54, 55, 62,73, 74 & 75 ]

### Amendment to section 200A for computation of fee u/s 234E for late filing of TDS statement:

Finance (No.2) Act, 2009 inserted section 200A in the Act which provides for processing of TDS statements for determining the amount payable or refundable to the deductor. However, as section 243E was inserted after the insertion of section 200A in the Act, the existing provisions of section 200A of the Act does not provide for determination of fee payable under section 234E of the Act at the time of processing of TDS statements. It is, therefore, proposed to amend the provisions of section 200A of the Act so as to enable computation of fee payable u/s 234E of the Act at the time of processing of TDS statement u/s 200A of the Act.

## **Amendment to section 206C - TCS returns can now be corrected (revised) by the Collector**

Currently, the provisions of sub-section (3) of section 200 of the Act enable the deductor to furnish TDS correction statement and consequently, section 200A of the Act allows processing of the TDS correction statement. However, currently, there does not exist any provision for allowing a collector to file correction statement in respect of TCS statement which has been furnished. It is, therefore, proposed to amend the provisions of section 206C of the Act so as to allow the collector to furnish TCS correction statement.

## Processing of TCS statements on the lines of TDS statements and computation of fee under section 234E for late filing of TCS statement.

- Currently, the provisions of sub-section (3) of section 200 of the Act enable the deductor to furnish TDS correction statement and consequently, section 200A of the Act allows processing of the TDS correction statement. However, currently, there does not exist any provision for allowing a collector to file correction statement in respect of TCS statement which has been furnished. It is, therefore, proposed to amend the provisions of section 206C of the Act so as to allow the collector to furnish TCS correction statement.
- Under the existing provisions of the Act, after processing of TDS statement, an intimation is generated specifying the amount payable or refundable. This intimation generated after processing of TDS statement is (i) subject to rectification under section 154 of the Act; (ii) appealable under section 246A of the Act; and (iii) deemed as notice of demand under section 156 of the Act. As the intimation generated after the proposed processing of TCS statement shall be at par with the intimation generated after processing of TDS statement, it is, further, proposed to provide that intimation generated after processing of TCS statement shall also be—



## Contd...

- (i) subject to rectification under section 154 of the Act;
- (ii) appealable under section 246A of the Act; and
- (iii) deemed as notice of demand under section 156 of the Act.

As the intimation generated after proposed processing of TCS statement shall be deemed as a notice of demand under section 156 of the Act, the failure to pay the tax specified in the intimation shall attract levy of interest as per the provisions of section 220(2) of the Act. However, section 206C (7) of the Act also contains provisions for levy of interest for non-payment of tax specified in the intimation to be issued. To remove the possibility of charging interest on the same amount for the same period of default both under section 206C (7) and section 220(2) of the Act, it is proposed to provide that where interest is charged for any period under section 206C (7) of the Act on the tax amount specified in the intimation issued under proposed provision, then, no interest shall be charged under section 220(2) of the Act on the same amount for the same period.

## Government deductors to furnish statement in form 24G within due time

In order to improve the reporting of payment of TDS/TCS made through book entry and to make existing mechanism enforceable, it is proposed to amend the provisions of sections 200 and 206C of the Act to provide that where the tax deducted [including paid under section 192(1A)] / collected has been paid without the production of a challan, the PAO/TO/CDDO or any other person by whatever name called who is responsible for crediting such sum to the credit of the Central Government, shall furnish within the prescribed time a prescribed statement for the prescribed period to the prescribed income-tax authority or the person authorised by such authority by verifying the same in the prescribed manner and setting forth prescribed particulars. To ensure compliance of this proposed obligation of filing statement, it is proposed to amend the provisions of section 272A of the Act so as to provide for a penalty of Rs.100/- for each day of default during which the default continues subject to the limit of the amount deductible or collectible in respect of which the statement is to be furnished.

## Deductor to obtain evidence or proof of deductions/ claims in prescribed form for deduction of TDS on Salaries u/s 192

It is proposed to amend the provisions of section 192 of the Act to provide that the person responsible for paying, for the purposes of estimating income of the assessee or computing tax deductible under section 192(1) of the Act, shall obtain from the assessee evidence or proof or particulars of the prescribed claim (including claim for set-off of loss) under the provisions of the Act in the prescribed form and manner.



**Amendment to section 195 – Any person making any payment to a non resident or a foreign company shall be required to furnish information/ statement in prescribed format**

it is proposed to amend the provisions of section 195 of the Act to provide that the person responsible for paying any sum, whether chargeable to tax or not, to a non-resident, not being a company, or to a foreign company, shall be required to furnish the information of the prescribed sum in such form and manner as may be prescribed. Further, currently there is no provision for levying of penalty for non-submission/inaccurate submission of the prescribed information in respect of remittance to non-resident. For ensuring submission of accurate information in respect of remittance to non-resident, it is further proposed to insert a new provision in the Act to provide that in case of non-furnishing of information or furnishing of incorrect information



## Contd...

under sub-section (6) of section 195(6) of the Act, a penalty of one lakh rupees shall be levied. It is also proposed to amend the provisions of section 273B of the Act to provide that no penalty shall be imposable under this new provision if it is proved that there was reasonable cause for non-furnishing or incorrect furnishing of information under sub-section (6) of section 195 of the Act.

## Amendment to section 6, 2015

[Clause 4]

### Amendment to section 6:

(i) in clause (1), the *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanation* shall be inserted, namely:—

“*Explanation 2.*—For the purposes of this clause, in the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed.”;

(ii) for clause (3), the following clause shall be substituted with effect from the 1st day of April, 2016, namely:—

‘(3) A company is said to be resident in India in any previous year, if,—

(i) it is an Indian company; or

(ii) its place of effective management, ~~\*\*at any time~~ in that year, is in India.

*Explanation.*—For the purposes of this clause “place of effective management” means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

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**\*\*The words ‘at any time’ are omitted - As amended & passed in the Lok Sabha**

## Brief Impact:

### Residence of a Company

Every company incorporated outside India will be considered to be resident in India if its place of effective management, in that year, is in India. Prior to this amendment a foreign company was considered to be a resident in India if the control and management of its affairs is situated wholly in India during a particular year. This amendment increases the scope of section 6.

Further, it is proposed to define the place of effective management to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made. Since POEM is an internationally well accepted concept, there are well recognised guiding principles for determination of POEM although it is a fact dependent exercise. However, it is proposed that in due course, a set of guiding principles to be followed in determination of POEM would be issued for the benefit of the taxpayers as well as, tax administration



## Amendment to section 35

[Clause-12]

### Amendment

In section 35 of the Income-tax Act, with effect from the 1st day of April, 2016,—

(i) In sub-section (2AA), in the proviso, after the words “submit its report to the”, the words “Principal Chief Commissioner or Chief Commissioner or” shall be inserted;

(ii) In sub-section (2AB),—

(a) In clause (3), for the words “for audit of accounts maintained for that facility”, the words “fulfils such conditions with regard to maintenance of accounts and audit thereof and furnishing of reports in such manner as may be prescribed” shall be substituted;

(b) In clause (4), after the words “approval of the said facility to the”, the words “Principal Chief Commissioner or Chief Commissioner or” shall be inserted.



Contd.....

### Brief Impact:

It is proposed to amend the provisions of section 35(2AB) of the Act to provide that deduction under the said section shall be allowed if the company enters into an agreement with the prescribed authority for cooperation in such research and development facility and fulfills prescribed conditions with regard to maintenance and audit of accounts and also furnishes prescribed reports. It is also proposed to insert reference of the Principal Chief Commissioner or Chief Commissioner in section 35(2AA) and section 35(2AB) of the Act so that the report referred to therein may be sent to the Principal Chief Commissioner or Chief Commissioner having jurisdiction over the company claiming the weighted deduction under the said section.

### **Certain accountants not to give reports/certificates – Conditions imposed on lines of CAG Report**

In section 288 of the Income-tax Act, with effect from the 1st day of June, 2015,

(i) after sub-section (2), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

*‘Explanation.—*In this section, “accountant” means a chartered accountant as defined in clause

(b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under sub-section (1) of section 6 of that Act, but does not include [except for the purposes of representing the assessee under sub-section (1)]—

- (a) in case of an assessee, being a company, the person who is not eligible for appointment as an auditor of the said company in accordance with the provisions of sub-section (3) of section 141 of the Companies Act, 2013; or
- (b) in any other case,—
  - (i) the assessee himself or in case of the assessee, being a firm or association of persons or Hindu undivided family, any partner of the firm, or member of the association or the family;
  - (ii) in case of the assessee, being a trust or institution, any person referred to in clauses (a), (b), (c) and (cc) of sub-section (3) of section 13;



- (iii) in case of any person other than persons referred to in sub-clauses (i) and (ii), the person who is competent to verify the return under section 139 in accordance with the provisions of section 140;
- (iv) any relative of any of the persons referred to in sub-clauses (i), (ii) and (iii);
- (v) an officer or employee of the assessee;
- (vi) an individual who is a partner, or who is in the employment, of an officer or employee of the assessee;

(vii) an individual who, or his relative or partner—

(I) is holding any security of, or interest in, the assessee:

Provided that the relative may hold security or interest in the assessee of the face value not exceeding one hundred thousand rupees;

(II) is indebted to the assessee:

Provided that the relative may be indebted to the assessee for an amount not exceeding one hundred thousand rupees;

(III) has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee:

Provided that the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount not exceeding one hundred thousand rupees;

- (*viii*) a person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed;
- (*ix*) a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction.';

**(ii) in sub-section (4),** for the portion beginning with brackets, letter and words “(c) who has become an insolvent,” and ending with the words, brackets and letter “in the case of a person referred to in sub-clause (c)”, the following shall be substituted, namely:—

“(c) who has become an insolvent; or

(d) who has been convicted by a court for an offence involving fraud, shall be qualified to represent an assessee under sub-section (1), for all times in the case of a person referred to in clause (a), for such time as the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner may by order determine in the case of a person referred to in clause (b), for the period during which the insolvency continues in the case of a person referred to in clause (c), and for a period of ten years from the date of conviction in the case of person referred to in clause (d).”;



Contd....

**(iii) after sub-section (7),** the following *Explanation* shall be inserted:

*Explanation.*—For the purposes of this section, “relative” in relation to an individual, means—

- (a) spouse of the individual;
- (b) brother or sister of the individual;
- (c) brother or sister of the spouse of the individual;
- (d) any lineal ascendant or descendant of the individual;
- (e) any lineal ascendant or descendant of the spouse of the individual;
- (f) spouse of a person referred to in clause (b), clause (c), clause (d) or clause (e);
- (g) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.’.

## Brief Impact

To ensure the independence of auditor, sub-section (3) of section 141 of the Companies Act, 2013 contains a list of certain persons who are not eligible for appointment as auditor. The audit/certification function under the Income-tax Act is mainly provided for protecting the interests of revenue. An auditor who is not independent cannot meaningfully discharge his function of protecting the interests of revenue. Therefore, it is proposed to amend section 288 of the Act to provide that an auditor who is not eligible to be appointed as auditor of a company as per the provisions of sub-section (3) of section 141 of the Companies Act, 2013 shall not be eligible for carrying out any audit or furnishing of any report/certificate under any provisions of the Act in respect of that company. On similar lines, ineligibility for carrying out any audit or furnishing of any report/certificate under any provisions of the Act in respect of non-company is also proposed to be provided.

## Brief Impact:

However, it is proposed to provide that the ineligibility for carrying out any audit or furnishing of any report/certificate in respect of an assessee shall not make an accountant ineligible for attending income-tax proceeding referred to in sub-section (1) of section 288 of the Act as authorised representative on behalf of that assessee. It is further proposed to provide that the person convicted by a court of an offence involving fraud shall not be eligible to act as authorised representative for a period of 10 years from the date of such conviction. (It is also proposed to revise the definition of 'accountant' in Explanation below section 288(2) of the Act on the lines of definition of 'chartered accountant' in the Companies Act, 2013).

# Amendment to Section 271

[Clause- 68]

## Amendment

In section 271 of the Income-tax Act, with effect from the 1st day of April, 2016, in sub-section

(1), for *Explanation 4*, the following *Explanation* shall be substituted, namely:—

“*Explanation 4.*— For the purposes of clause (iii) of this sub-section,—

(a) the amount of tax sought to be evaded shall be determined in accordance with the following formula—

$(A - B) + (C - D)$  where,

A = amount of tax on the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (herein called general provisions);

B = amount of tax that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished;



C = amount of tax on the total income assessed as per the provisions contained in section 115JB or section 115JC;

D = amount of tax that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished:

Provided that where the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished on any issue is considered both under the provisions contained in section 115JB or section 115JC and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under item D:

Provided further that in a case where the provisions contained in section 115JB or section 115JC are not applicable, the item ( $C - D$ ) in the formula shall be ignored;

- (b) where in any case the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished has the effect of reducing the loss declared in the return or converting that loss into income, the amount of tax sought to be evaded shall be determined in accordance with the formula specified in clause (a) with the modification that the amount to be determined for item  $(A - B)$  in that formula shall be the
- amount of tax that would have been chargeable on the income in respect of which particulars have been concealed or inaccurate particulars have been furnished had such income been the total income;
- (c) where in any case to which *Explanation 3* applies, the amount of tax sought to be evaded shall be the tax on the total income assessed as reduced by the amount of advance tax, tax deducted at source, tax collected at source and self-assessment tax paid before the issue of notice under section 148.”.

Impact

Shortfall in MAT is now subject to penalty under section 271 as penalty for concealment of Income

It is proposed to amend section 271 of the Act so as to provide that the amount of tax sought to be evaded shall be the summation of tax sought to be evaded under the general provisions and the tax sought to be evaded under the provisions of section 115JB or 115JC. However, if an amount of concealment of income on any issue is considered both under the general provisions and provisions of section 115JB or 115JC then such amount shall not be considered in computing tax sought to be evaded under provisions of section 115JB or 115JC. Further, in a case where the provisions of section 115JB or 115JC are not applicable, the computation of tax sought to be evaded under the provisions of section 115JB or 115JC shall be ignored.



## Amendment to section 49

[Clause- 14]

**Amendment** - In section 49 of the Income-tax Act, with effect from the 1st day of April, 2016,—

(I) in sub-section (1), in clause (iii), in sub-clause (e), for the words, brackets, figures and letters “or clause (viaa) or clause (vica) or clause (vicb)”, the words, brackets, figures and letters “or clause (viaa) or clause (viab) or clause (vib) or clause (vica) or clause (vicb) or clause (vicc)” shall be substituted;

(II) after sub-section (2AC), the following sub-section shall be inserted, namely:—

“(2AD) Where the capital asset, being a unit or units in a consolidated scheme of a mutual fund, became the property of the assessee in consideration of a transfer referred to in clause (xviii) 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 scheme of the mutual fund.”

### Brief Impact

It is proposed to amend sub-clause (e) of clause (iii) of sub-section (1) of section 49 of the Income-tax Act to include transfer under clause (vib) of section 47 and to provide that the cost of acquisition of an asset acquired by resulting company shall be the cost for which the demerged company acquired the capital asset as increased by the cost of improvement incurred by the demerged company.

# Simplification of Tax Deduction at Source (TDS) mechanism for Employees Provident Fund Scheme (EPFS) [Clause – 41 & 49]

## Clause 41 – New Section 192A shall be inserted

Effective from 1<sup>st</sup> June, 2015

- ***“Notwithstanding anything contained in this Act, the trustees of the Employees’ Provident Fund Scheme, 1952, framed under section 5 of the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 or any person authorised under the scheme to make payment of accumulated balance due to employees, shall, in a case where the accumulated balance due to an employee participating in a recognised provident fund is includible in his total income owing to the provisions of rule 8 of Part A of the Fourth Schedule not being applicable, at the time of payment of the accumulated balance due to the employee, deduct income-tax thereon at the rate of ten per cent.”***

- *“**Provided** that no deduction under this section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payment to the payee is less than thirty thousand rupees:*
- ***Provided further** that any person entitled to receive any amount on which tax is deductible under this section shall furnish his Permanent Account Number to the person responsible for deducting such tax, failing which tax shall be deducted at the maximum marginal rate.”*

## Clause 49 – Amendment to Section 197A

Effective from 1<sup>st</sup> June, 2015

- “(i) in sub-section (1A), for the words, figures and letter “section 193 or section 194A” at both the places where they occur, the words, figures and letters “section 192A or section 193 or section 194A or section 194DA” shall respectively be substituted;*
- (ii) in sub-section (1C), for the words, figures and letter “section 193 or section 194 or section 194A” at both the places where they occur, the words, figures and letters “section 192A or section 193 or section 194 or section 194A or section 194DA” shall respectively be substituted.”*



## **Brief Impact:**

- It is proposed to insert a new provision in Act for deduction of tax at the rate of 10% on pre-mature taxable withdrawal from EPFS.
- To reduce the compliance burden of the employees having taxable income below the taxable limit. It is also proposed to provide a threshold of payment of Rs.30,000/- for applicability of this proposed provision.
- In spite of providing this threshold for applicability of deduction of tax, there may be cases where the tax payable on the total income of the employees may be nil even after including the amount of pre-mature withdrawal. For reducing the compliance burden of these employees. It is further proposed that the facility of filing self-declaration for non-deduction of tax u/s 197A shall be extended to the employees receiving pre-mature withdrawal i.e. an employee can give a declaration in Form No. 15G to the effect that his total income including taxable pre-mature withdrawal from EPFS does not exceed the maximum amount not chargeable to tax and on furnishing of such declaration, no tax will be deducted by the trustee of EPFS while making the payment to such employee.

**Brief Impact:**

- Similar facility of filing self-declaration in Form No. 15H for non-deduction of tax under section 197A of the Act shall also be extended to the senior citizen employees receiving pre-mature withdrawal.
- However, some employees making pre-mature withdrawal may be paying tax at higher slab rates (20% or 30%). Therefore, the shortfall in the actual tax liability vis-à-vis TDS is required to be paid by these employees either by requesting their new employer to deduct balance tax or through payment of advance tax / self-assessment tax.
- For ensuring the payment of balance tax by these employees, furnishing of valid Permanent Account Number (PAN) by them to the EPFS is a prerequisite. The existing provisions of section 206AA of the Act provide for deduction of tax @ 20% in case of non-furnishing of PAN where the rate of deduction of tax at source is specified. As mentioned earlier, there may be employees who are liable to pay tax at the highest slab rate. In order to ensure the collection of balance tax by these employees, it is also proposed that non-furnishing of PAN to the EPFS for receiving these payments would attract deduction of tax at the maximum marginal rate.

**Clause 46 - After section 194LBA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2015, namely:—**

*‘194LBB. Where any income, other than that proportion of income which is of the same nature as income referred to in clause (23FBB ) of section 10, is payable to a unit holder in respect of units of an investment fund specified in clause (a) of the Explanation 1 to section 115UB, the person responsible for making the payment shall, at the time of credit of such income to the account of 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 income-tax thereon at the rate of ten per cent.’*



**Thank You...!!!**

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