

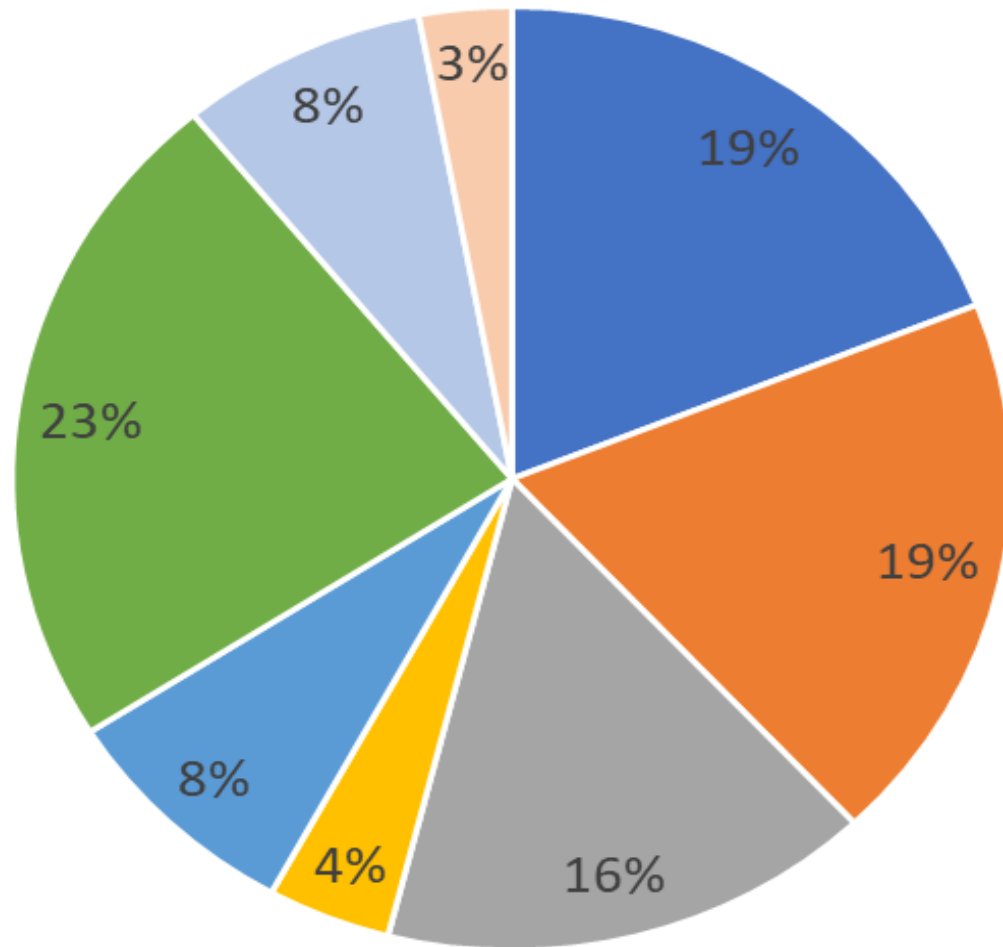
An overview of Finance Bill, 2018 – Direct Taxes

[as introduced in Lok Sabha on 01-02-2018]



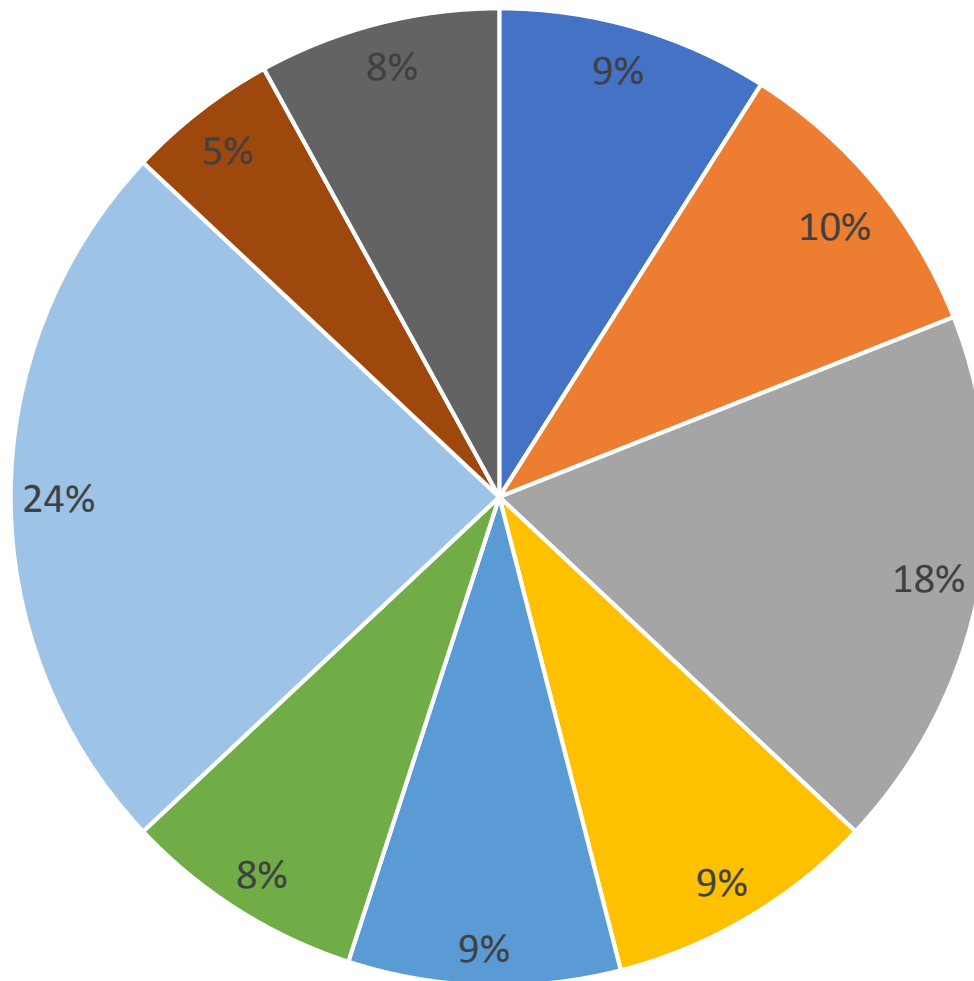
Presented by: CA. Sanjay K. Agarwal
Assisted by: CA. Apoorva Bhardwaj & CA. Sonia Rani
Email: agarwal.s.ca@gmail.com

Rupee Comes from [2018]



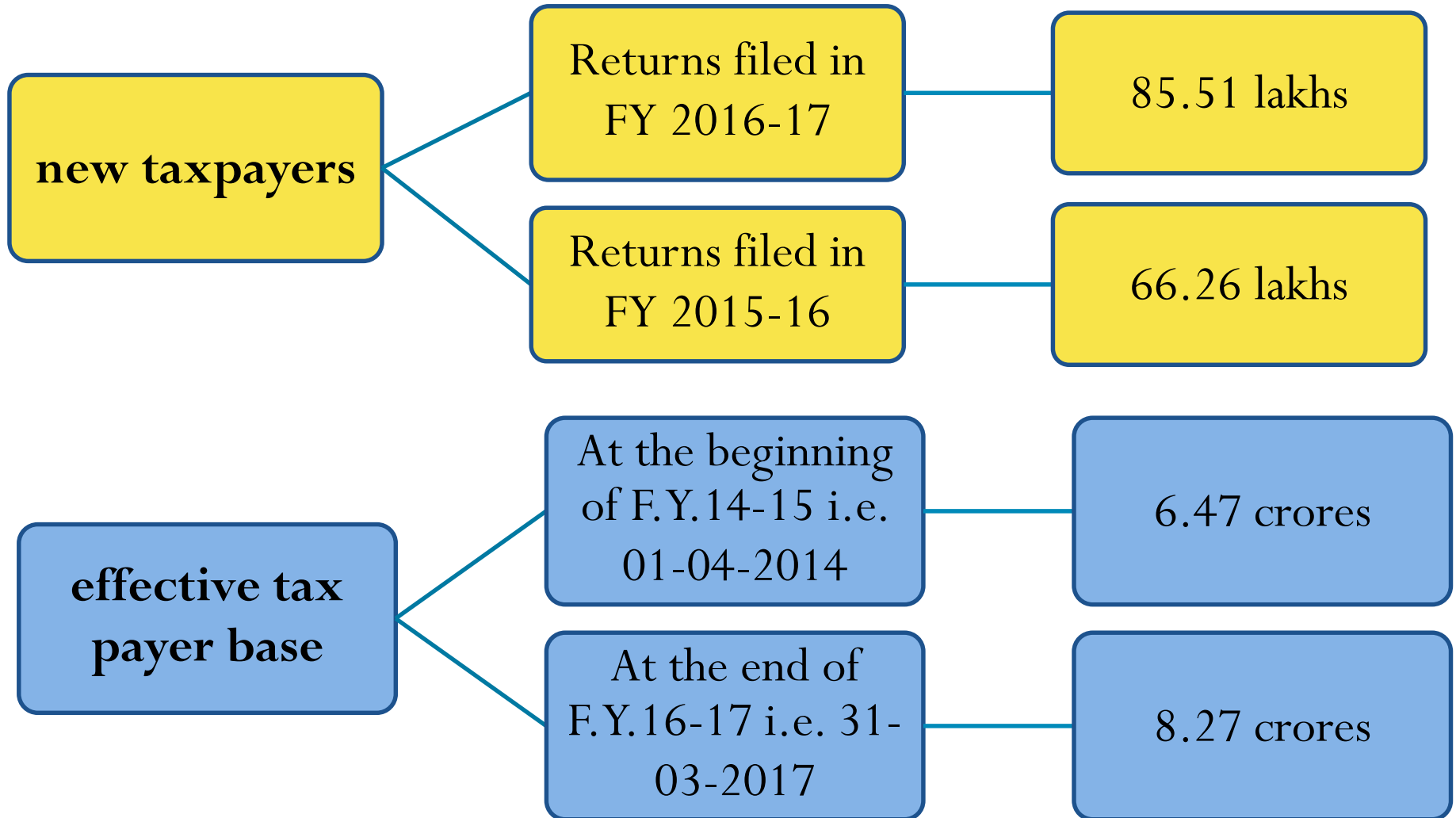
- Borrowing & other liabilities -19%
- Corporation tax -19%
- Income tax -16%
- Customs -4%
- Union excise duties -8%
- Goods and service tax & other taxes -23%
- Non tax revenue -8%
- Non debt capital receipts -3%

Rupee Goes to [2018]



- Centrally Sponsored Scheme - 9%
- Central sector scheme - 10%
- Interest Payments - 18%
- Defence - 9%
- Subsidies - 9%
- Finance Commission & Other transfers - 8%
- State Share of tax & duties - 24%
- Pensions - 5%
- Other Expenditure - 8%

Data Analysis....



Data Analysis....

Salaried individual

1.89 crore
filed returns
for AY
2016-17

paid total
tax of
Rs.1.44
lakh crores

average tax
payment of
Rs.76,306/- per
individual
salaried taxpayer

**individual
business
taxpayers
including
profession-
als**

1.88 crores
filed
returns for
AY 2016-17

paid total
tax of
Rs.48,000
crores

average tax
payment of
Rs.25,753/- per
individual
business taxpayer

Data Analysis....

**Individual,
HUF and firms**



with a meagre
average turnover
of Rs.17.97 lakhs



an average tax
payment of
Rs.7,000/- only

**Returns under
presumptive
income scheme
for AY 2017-18**



with average gross
receipts of
Rs.5.73 lakhs only



Average tax paid
by them is only
Rs.35,000/-

Proposed Amendments under Direct Taxes in the Finance Bill, 2018

A. Rates of Income-tax

B. Widening and deepening of tax base

C. Measures for promoting equity

D. Tax incentives

E. Facilitating insolvency resolution

F. Improving effectiveness of tax administration

G. Rationalisation Measures

H. Miscellaneous

Note: The applicable date being 01.04.2019, 01.04.2018 and 01.04.2017 denotes the amendment is applicable w.e.f. A.Y. 2019-20, AY 2018-19 and AY 2017-18 respectively.



A. Rates of Income-tax

Brief Impact:

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

- I. The rate of income tax is proposed to be same. Tax slab and rates remain unchanged.

Total income	Proposed tax rate* (AY 2019-20)	Existing tax rate* (AY 18-19)
Up to INR 250,000**	Nil	Nil
INR 250,001 to INR 500,000	5%	5%
INR 500,001 to INR 1,000,000	20%	20%
Above INR 1,000,000	30%	30%

* Health & Education cess and surcharge as applicable.

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

II. Surcharge @ 10% is continued to be levied in cases where total income of an individual/HUF/AOP/BOI/Artificial Judicial Person exceeds Rs.50 lakh but do not exceed Rs. 1.00 crores. Surcharge of 15% would continue to be applicable where the total income of an individual/HUF/AOP/BOI exceeds Rs 1.00 Crore. **[Subject to Marginal Relief]**

III. Health and Education cess is proposed @ 4% of income tax plus surcharge. [EC and SHEC @ 3% shall proposed to be discontinue]

Rebate u/s 87A:

1. Maximum Rebate remained same u/s 87A - Rs. 2,500
2. If total Income does not exceed Rs. 3,50,000

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

B. Co-operative Societies

- I. The rates of income-tax will continue to be the same as those specified for financial year 2017-18.

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

- II. Surcharge of 12% would continue to be applicable where the total income of co-operative society exceeds Rs 1.00 Crore. [Subject to Marginal Relief]

II. Health and Education cess is proposed @ 4% of income tax plus surcharge. [EC and SHEC @ 3% shall proposed to be discontinued]

C. Partnership Firms

I. The rates of income-tax will continue to be the same as those specified for financial year 2017-18 i.e. **a partnership firm (including LLP) is taxable at 30%**

II. Surcharge of 12% would continue to be applicable where the total income of firm exceeds Rs 1.00 Crore. [**Subject to Marginal Relief**]

III. Health and Education cess is proposed @ 4% of income tax plus surcharge. [EC and SHEC @ 3% shall proposed to be discontinued]

D. Local Authority

- I. The rates of income-tax will continue to be the same as those specified for financial year 2017-18 i.e. **a local authority is taxable at 30%** *[Health and Education cess is proposed @ 4% of income tax plus surcharge additionally].*

- II. Surcharge of 12% would continue to be applicable where the total income of Local Authority exceeds Rs. 1.00 Crore. **[Subject to Marginal Relief]**

III. Health and Education cess is proposed @ 4% of income tax plus surcharge. [EC and SHEC @ 3% shall proposed to be discontinued]

C. Domestic Company

I. Paragraph E of Part III to the First Schedule: In the case of domestic companies the rate of income-tax shall be proposed @ 25% (plus applicable surcharge and health & education cess) of the total income where the total turnover or gross receipts of previous year 2016-2017 does not exceed Rs. 250.00 crore and in all other cases the rate of income-tax shall be 30% (plus applicable surcharge and health & education cess) of the total income (Unchanged).

A. For a domestic company having total turnover/ gross receipts in the previous year (2016-17) not exceeding INR 250 Crores:

Particulars	Taxable income < INR 1 crore	INR 1 crore < taxable income < INR 10 crore	Taxable income > INR 10 crore
Corporate tax	25%	25%	25%
Surcharge	-	7%	12%
Corporate tax + surcharge	25%	26.75%	28%
Health & Education cess*	4%	4%	4%
Effective tax rate	26%	27.82%	29.12%

* Proposed to be introduced w.e.f. A.Y. 2019-20.

B. For a domestic company having total turnover/ gross receipts in previous year 2016-17 exceeding INR 250 Crores:

Particulars	Taxable income < INR 1 crore	INR 1 crore < taxable income < INR 10 crore	Taxable income > INR 10 crore
Corporate tax	30%	30%	30%
Surcharge	-	7%	12%
Corporate tax + surcharge	30%	32.10%	33.60%
Health & Education cess*	4%	4%	4%
Effective tax rate	31.20%	33.38%	34.94%

* Proposed to be introduced w.e.f. A.Y. 2019-20.

C. Foreign Company

- I. The rates of income-tax will continue to be the same as those specified for financial year 2017-18 i.e. **a foreign company is taxable at 40%** [*Health & Education cess and surcharge as applicable*].

Particulars	Taxable income < INR 10 million	INR 10 million < taxable income < INR 100 million	Taxable income > INR 100 million
Corporate tax	40%	40%	40%
Surcharge	-	2%	5%
Corporate tax + surcharge	40%	40.80%	42.00%
Health & Education cess*	4%	4%	4%
Effective tax rate	41.60%	42.43%	43.68%

* Proposed to be introduced w.e.f. A.Y. 2019-20.



B. WIDENING AND DEEPENING OF TAX BASE

B. Widening and deepening of Tax base

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1.	Entities to apply for Permanent Account Number in certain cases	139A	42	01-04-2018
2.	Widening of scope of Accumulated profits for the purposes of Dividend	2	3	01-04-2018
3.	Application of Dividend Distribution Tax to Deemed Dividend	115Q, 115-O	38,39	01-04-2018
4.	New regime for taxation of long-term capital gains on sale of equity shares etc.	10, 112A	5,31	01-04-2019

B. Widening and deepening of Tax base

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
5.	Dividend distribution tax on dividend payouts to unit holders in an equity oriented fund	115R,115T, 97	40, 41, 214	01-04-2018
6.	Taxation of long-term capital gains in the case of Foreign Institutional Investor	115AD	32	01-04-2019
7.	Tax deduction at source and manner of payment in respect of certain exempt entities	10, 11	5, 6	01-04-2019

B. Widening and deepening of Tax base

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
8.	Aligning the scope of “business connection” with modified PE Rule as per Multilateral Instrument (MLI).	9	4	01-04-2019
9.	“Business connection” to include “Significant Economic presence”	9	4	01-04-2019
10.	Taxability of compensation in connection to business or employment	28, 56, 2	3, 9, 21	01-04-2019
11.	Presumptive income under section 44AE in case of goods carriage	44AE	16	01-04-2019

i. Entities to apply for Permanent Account Number in certain cases [Clause 42]

Clause (v) & (vi) inserted in Section 139A(1) w.e.f. 1st day of April, 2018

“(v) not being an individual, which enters into a financial transaction of an amount aggregating to two lakh fifty thousand rupees or more in a financial year; or

(vi) who is the managing director, director, partner, trustee, author, founder, *karta*, chief executive officer, principal officer or office bearer of the person referred to in clause (v) or any person competent to act on behalf of the person referred to in clause (v),”.

Brief Impact:

Every person, other than individual, which enters into financial transaction of an amount aggregating to Rs.2,50,000/- or above in a FY shall be required to apply for allotment of PAN.

In order to link the financial transactions with the natural persons, it is also proposed that the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer or any person competent to act on behalf of such entities shall also apply to the Assessing Officer for allotment of PAN.

This amendments will take effect from 1st April, 2018 i.e. AY 2018-19

2. Widening of scope of Accumulated profits for the purposes of Dividend [Clause 3]

Explanation 2A in clause (22) of Section 2 inserted w.e.f. 1st day of April, 2018

“Explanation 2A.— In the case of an amalgamated company, the accumulated profits, whether capitalised or not, or loss, as the case may be, shall be increased by the accumulated profits, whether capitalised or not, of the amalgamating company on the date of amalgamation.”;

Brief Impact:

Scope of the term ‘accumulated profits’ widened so as to provide that in the case of an amalgamated company, accumulated profits, whether capitalised or not, or losses as the case may be, shall be increased by the accumulated profits of the amalgamating company, whether capitalized or not, on the date of amalgamation.

3. Application of Dividend Distribution Tax to Deemed Dividend [Clauses 38 & 39]

Section 115-O and 115Q amended w.e.f. 1st day of April, 2018

- In **section 115-O(1)**, following proviso shall be inserted, namely:—
‘Provided that in respect of dividend referred to in sub-clause (e) of clause (22) of section 2, this sub-section shall have effect as if for the words “fifteen per cent.”, the words “thirty per cent.” had been substituted;’;
- In **section 115-O(1B)**, following proviso shall be inserted, namely:—
“Provided that this sub-section shall not apply in respect of dividend referred to in sub-clause (e) of clause (22) of section 2.”.
- In **section 115Q**, Explanation shall be omitted.

~~Explanation.—For the purposes of this Chapter, the expression "dividends" shall have the same meaning as is given to "dividend" in clause (22) of section 2 but shall not include sub-clause (e) thereof.~~

Brief Impact:

DDT u/s 115-O is proposed to be made applicable in respect of deemed dividend u/s 2(22)(e) at 30% (without grossing up). Thus, tax on deemed dividend is to be paid by the company itself. Further, Section 115Q is proposed to be amended so as to provide that the Company and the principal officer of the company shall be deemed to be an assessee in default if tax on distributed profits is not paid in accordance with the provisions of section 115-O in respect of deemed dividend u/s 2(22)(e)

4. New regime for taxation of long-term capital gains on sale of equity shares etc. [Clauses 5 & 31]

Fourth proviso to Section 10(38) inserted w.e.f. 1st day of April, 2019

“Provided also that nothing contained in this clause shall apply to any income arising from the transfer of long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust, made on or after the 1st day of April, 2018.”;

Section 112A newly inserted w.e.f the 1st day of April, 2019, namely:—

(1) Notwithstanding anything contained in section 112, the tax payable by an assessee on his total income shall be determined in accordance with the provisions of sub-section

(2), if—

(i) the total income includes any income chargeable under the head “Capital gains”;

(ii) the capital gains arise from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust;

(iii) securities transaction tax under Chapter VII of the Finance (No.2) Act, 2004 has,—

- (a) in a case where the long-term capital asset is in the nature of an equity share in a company, been paid on acquisition and transfer of such capital asset; or
 - (b) in a case where the long-term capital asset is in the nature of a unit of an equity oriented fund or a unit of a business trust, been paid on transfer of such capital asset.
- (2) The tax payable by the assessee on the total income referred to in sub-section (1) shall be the aggregate of—
- (i) the amount of income-tax calculated on such long-term capital gains exceeding one lakh rupees at the rate of ten per cent.; and
 - (ii) the amount of income-tax payable on the balance amount of the total income as if such balance amount were the total income of the assessee:

Provided that in the case of an individual or a Hindu undivided family, being a resident, where the total income as reduced by such long-term capital gains is below the maximum amount which is not chargeable to income-tax, then, the long-term capital gains, for the purposes of clause (i), shall be reduced by the amount by which the total income as so reduced falls short of the maximum amount which is not chargeable to income-tax.

(3) The condition specified in clause (iii) of sub-section (1) shall not apply to a transfer undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transfer is received or receivable in foreign currency.

(4) The Central Government may, by notification in the Official Gazette, specify the nature of acquisition in respect of which the provisions of sub-clause (a) of clause (iii) of sub-section (1) shall not apply.

(5) The capital gains under sub-section (1) shall be computed without giving effect to the provisions of the first and second provisos to section 48.

(6) The cost of acquisition for the purposes of computing capital gains referred to in sub-section (1) in respect of the long-term capital asset acquired by the assessee before the 1st day of February, 2018, shall be deemed to be the higher of—

(i) the actual cost of acquisition of such asset; and

(ii) the lower of—

(a) the fair market value of such asset; and

(b) the full value of consideration received or accruing as a result of the transfer of the capital asset.

(7) Where the gross total income of an assessee includes any long-term capital gains referred to in sub-section (1), the deduction under Chapter VI-A shall be allowed from the gross total income as reduced by such capital gains.

(8) Where the total income of an assessee includes any long-term capital gains referred to in sub-section (1), the rebate under section 87A shall be allowed from the income-tax on the total income as reduced by tax payable on such capital gains.

Explanation.—For the purposes of this section,—

(a) “equity oriented fund” means a fund set up under a scheme of a mutual fund specified under clause (23D) of section 10 and,—

(i) in a case where the fund invests in the units of another fund which is traded on a recognized stock exchange,—

(A) a minimum of ninety per cent. of the total proceeds of such fund is invested in the units of such other fund; and

(B) such other fund also invests a minimum of ninety per cent. of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange; and 29

(ii) in any other case, a minimum of sixty-five per cent. of the total proceeds of such fund is invested in the equity shares of domestic companies listed on a recognised stock exchange:

Provided that the percentage of equity shareholding or unit held in respect of the fund, as the case may be, shall be computed with reference to the annual average of the monthly averages of the opening and closing figures;

(b) “fair market value” means,—

(i) in a case where the capital asset is listed on any recognised stock exchange, the highest price of the capital asset quoted on such exchange on the 31st day of January, 2018:

Provided that where there is no trading in such asset on such exchange on 31st day of January, 2018, the highest price of such asset on such exchange on a date immediately preceding the 31st day of January, 2018 when such asset was traded on such exchange shall be the fair market value;

- (ii) in a case where the capital asset is a unit and is not listed on a recognised stock exchange, the net asset value of such asset as on the 31st day of January, 2018;
- (c) “International Financial Services Centre” shall have the meaning assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005;
- (d) “recognised stock exchange” shall have the meaning assigned to it in clause (ii) of Explanation 1 to clause (5) of section 43.’

Brief Impact:

- It is proposed to tax capital gain on transfer of long term capital asset being equity shares of a company or unit of MF or unit of business asset, where STT has been paid, exceeding Rs.1 lac at the rate of 10% u/s 112A. [Presently exempt u/s 10(38)]
- LTCG will be computed without giving effect to first & second provisos to section 48 i.e. indexation benefit and benefit of computation of capital gains in foreign currency in the case of a non-resident will not be allowed.

- The pre-requisite of payment of STT is proposed to be exempt where transfer is undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transfer is received or receivable in foreign currency. Further, CG may specify the nature of acquisitions in respect of which requirement of payment of STT shall not apply in case of equity share in a company.
- In respect of long term capital asset acquired before 01-02-2018, cost of acquisitions shall be deemed to be the higher of –
 - a) the actual cost of acquisition of such asset; and
 - b) the lower of FMV and full value of consideration received or accruing as a result of such transfer
- Where the gross total income includes such capital gain, deduction under Chapter VI-A shall be allowed only from **gross total income as reduced by such capital gains**. Also, Relief u/s 87A shall be allowed only from **tax payable on total income as reduced by such capital gain tax**.

5. Dividend distribution tax on dividend payouts to unit holders in an equity oriented fund [Clause 40, 41, 214]

Section 115R(2) amended w.e.f. the 1st day of April, 2018

(2) Notwithstanding anything contained in any other provision of this Act, any amount of income distributed by the specified company or a Mutual Fund to its unit holders shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income-tax on such distributed income at the rate of—

(i) twenty-five per cent. on income distributed to any person being an individual or a Hindu undivided family by a money market mutual fund or a liquid fund;

(ii) thirty per cent. on income distributed to any other person by a money market mutual fund or a liquid fund;

(iii) ten per cent. on income distributed to any person by an equity oriented fund;

(iv) twenty-five per cent. on income distributed to any person being an individual or a Hindu undivided family by a fund other than a money market mutual fund or a liquid fund or an equity oriented fund; and

(v) thirty per cent. on income distributed to any other person by a fund other than a money market mutual fund or a liquid fund or an equity oriented fund:”;

- (B) in the second proviso, clause (b) shall be omitted.

Provided further that nothing contained in this sub-section shall apply in respect of any income distributed,—

- (a) by the Administrator of the specified undertaking, to the unit holders; or
- ~~(b) to a unit holder of equity oriented funds in respect of any distribution made from such funds.~~

Meaning of equity oriented fund amended in Section 115T w.e.f. 1st day of April, 2018

(b) “equity oriented fund” means a fund referred to in clause (a) of the Explanation to section 112A and the Unit Scheme, 1964 made by the Unit Trust of India;

Meaning of equity oriented fund in Section 97 of the Finance (No.2) Act, 2004 amended w.e.f. 1st day of April, 2018

(5) “equity oriented fund” means a fund referred to in clause (a) of *Explanation* to section 112A of Income-tax Act, 1961.’.

Brief Impact:

- Presently Section 115R exempts from tax any income distributed to a unit holder of equity oriented funds by the specified company or a Mutual Fund. It is now proposed that where any income is distributed by a Mutual Fund being, an equity oriented fund, the mutual fund shall be liable to pay additional income-tax at the rate of 10% on income so distributed.
- An equity oriented fund is defined in Explanation to newly proposed Section 112A.

6. Taxation of long-term capital gains in the case of Foreign Institutional Investor [Clause 32]

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

(b) after clause (iii), the following proviso shall be inserted, namely:—

“Provided that in case of income arising from the transfer of a long-term capital asset referred to in section 112A, income-tax at the rate of ten per cent. shall be calculated on such income exceeding one lakh rupees; and”.

Brief Impact:

LTCG arising from transfer of long term capital asset being equity shares of a company or a unit of equity oriented fund or a unit of business trusts will become taxable in the hands of Foreign Institutional Investors also in respect of amount of such gains exceeding Rs.1 lakh.

7. Tax deduction at source and manner of payment in respect of certain exempt entities [Clauses 5 & 6]

12th proviso to Section 10(23C) amended w.e.f. 1st day of April, 2019

‘**Provided also that** for the purposes of determining the amount of application under item (a) of the third proviso, the provisions of sub-clause (ia) of clause (a) of section 40 and sub-sections (3) and (3A) of section 40A, shall, *mutatis mutandis*, apply as they apply in computing the income chargeable under the head “Profits and gains of business or profession”:

Explanation 3 in Section 11(1) inserted w.e.f. 1st day of April, 2019

‘**Explanation 3.**—For the purposes of determining the amount of application under clause (a) or clause (b), the provisions of sub-clause (ia) of clause (a) of section 40 and sub-sections (3) and (3A) of section 40A, shall, *mutatis mutandis*, apply as they apply in computing the income chargeable under the head “Profits and gains of business or profession”.’.

Brief Impact:

- It is proposed that for the purposes of determining the amount of application u/s 11(1)(a)/(b) & Sec. 10(23C), the provisions of sec. 40(a)(ia) & 40A(3)/(3A) shall apply.
- **Section 40(a)(ia)**- disallowance of 30% of expenditure where TDS is not deducted or, after deduction, not paid on or before the due date specified in Section 139(1)
- **Section 40A(3)/(3A)**- no deduction allowed where cash payment is made exceeding Rs.10,000

8. Aligning the scope of “business connection” with modified PE Rule as per Multilateral Instrument (MLI). [Clause 4]

Section 9(1) amended w.e.f. 1st day of April, 2019

(I) in *Explanation 2*, for clause (a), the following clause shall be substituted, namely:—

“(a) has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident or habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by that non-resident and the contracts are—

(i) in the name of the non-resident; or

(ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that non-resident has the right to use; or

(iii) for the provision of services by the non-resident; or”;

Brief Impact:

- Explanation 2 to clause (i) of section 9(1) provides that “business connection” shall include any business activity carried out through a person who, acting on behalf of the non-resident, has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident, unless his activities are limited to the purchase of goods or merchandise for the non-resident; or has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or habitually secures orders in India, mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident.
- The proviso to the said Explanation provides that such business connection shall not include any business activity specified therein.

- It is proposed to amend meaning of “business connection” so as to include any business activity carried through a person who, acting on behalf of the non-resident, has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident or habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by the non-resident and the contracts are—
 - (i) in the name of the non-resident; or
 - (ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that non-resident has the right to use; or
 - (iii) for the provision of services by that non-resident.

9. “Business connection” to include “Significant Economic presence” [Clause 4]

Explanation 2A to Section 9 inserted w.e.f. 1st day of April, 2019

Explanation 2A.—For the removal of doubts, it is hereby clarified that the significant economic presence of a non-resident in India shall constitute “business connection” in India and “significant economic presence” for this purpose, shall mean—

(a) transaction in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the previous year exceeds such amount as may be prescribed; or \

(b) systematic and continuous soliciting of business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means:

Provided that the transactions or activities shall constitute significant economic presence in India, whether or not the non-resident has a residence or place of business in India or renders services in India:

Provided further that only so much of income as is attributable to the transactions or activities referred to in clause (a) or clause (b) shall be deemed to accrue or arise in India.’

Brief Impact:

- It is proposed to insert a new Explanation 2A in clause (i) of section 9(1) so as to provide that the significant economic presence of a non-resident in India shall constitute “business connection” of the non-resident in India and the “significant economic presence” for this purpose, shall mean—
 - a) any transaction in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the previous year exceeds such amount as may be prescribed; or
 - b) systematic and continuous soliciting of its business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means.

- It is further proposed to provide that the transactions or activities shall constitute significant economic presence in India, whether or not the non-resident has a residence or place of business in India or renders services in India.
- It is also proposed to provide that only so much of income as is attributable to the transactions or activities referred to in clause (a) or clause (b) shall be deemed to accrue or arise in India.

10. Taxability of compensation in connection to business or employment [Clauses 3, 9, 21]

Clause (xviib) to Section 2(24) inserted w.e.f. 1st day of April, 2019

(*xviib*) any compensation or other payment referred to in clause (*xi*) of sub-section (2) of section 56;”;

Sub-clause (e) in clause (ii) of Section 28 inserted w.e.f. 1st day of April, 2019

“(e) any person, by whatever name called, at or in connection with the termination or the modification of the terms and conditions, of any contract relating to his business;”;

Clause (xi) to Section 56(2) inserted w.e.f. 1st day of April, 2019

“(xi) any compensation or other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment or the modification of the terms and conditions relating thereto.”

Brief Impact:

- It is proposed to amend section 28 so as to provide that any compensation received or receivable, whether revenue or capital, in connection with the termination or the modification of the terms and conditions of any contract relating to its business shall be taxable as business income. Further, where such compensation is relating to its employment shall be taxable under section 56.
- Consequential amendment is made in Section 2(24)

II. Presumptive income under section 44AE in case of goods carriage [Clause 16]

Sub-section (2) of Section 44AE substituted w.e.f. 1st April, 2019

“(2) For the purposes of sub-section (1), the profits and gains from each goods carriage,—

- i. being a heavy goods vehicle, shall be an amount equal to one thousand rupees per ton of gross vehicle weight or unladen weight, as the case may be, for every month or part of a month during which the heavy goods vehicle is owned by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, whichever is higher;
- ii. other than heavy goods vehicle, shall be an amount equal to seven thousand five hundred rupees for every month or part of a month during which the goods carriage is owned by the assessee in the previous year or an amount claimed to have been actually earned from such goods carriage, whichever is higher.”;

Clause (a) of Explanation to Section 44AE substituted w.e.f. 1st day of April, 2019

‘(a) the expressions “goods carriage”, “gross vehicle weight” and “unladen weight” shall have the respective meanings assigned to them in section 2 of the Motor Vehicles Act, 1988;

(aa) the expression “heavy goods vehicle” means any goods carriage, the gross vehicle weight of which exceeds 12000 kilograms;’.

Brief Impact:

In order to create distinction between large capacity goods carriages and small capacity goods carriages, in respect of heavy goods vehicle (more than 12MT gross vehicle weight), it is proposed that income would deemed to be Rs.1000 per ton of gross vehicle weight or unladen weight, as the case may be, per month or part of a month for each goods vehicle or the amount claimed to be actually earned by the assessee, whichever is higher. The vehicles other than heavy goods vehicle will continue to be taxed as per the existing rates.



C. MEASURES FOR PROMOTING EQUITY

C. MEASURES FOR PROMOTING EQUITY

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1	Deductions available to senior citizens in respect of health insurance premium and medical treatment	80D	24	01-04-2019
2	Enhanced deduction to senior citizens for medical treatment of specified diseases	80DDB	25	01-04-2019
3	Deduction in respect of interest income to senior citizen	80TTA, 80TTB	29, 30 & 47	01-04-2019
4	Standard deduction on salary income	16	7 & 8	01-04-2019

i. Deductions available to senior citizens in respect of health insurance premium & medical treatment **[Clauses 24]**

In sub-section (2) of section 80D,

- (i) for the words “thirty thousand rupees” wherever they occur, the words “fifty thousand rupees” shall be substituted;
- (ii) in the first proviso occurring after clause (d), the word “very” shall be omitted;

In sub-section (3) of section 80D,

- (i) for the words “thirty thousand rupees” at both the places where they occur, the words “fifty thousand rupees” shall be substituted;
- (ii) the word “very” shall be omitted;

In sub-section (4) of section 80D,—

- (i) the words “or a very senior citizen” shall be omitted;
- (ii) for the words “thirty thousand rupees”, the words “fifty thousand rupees” shall be substituted;

New sub-section (4A) u/s 80D inserted w.e.f. 1st day of April, 2019

“(4A) Where the amount specified in clause (a) or clause (b) of sub-section (2) or clause (a) of sub-section (3) is paid in lump sum in the previous year to effect or to keep in force an insurance on the health of any person specified therein for more than a year, then, subject to the provisions of this section, there shall be allowed for each of the relevant previous year, a deduction equal to the appropriate fraction of the amount.”

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

- (i) “appropriate fraction” means the fraction, the numerator of which is one and the denominator of which is the total number of relevant previous years;*
- (ii) “relevant previous year” means the previous year beginning with the previous year in which such amount is paid and the subsequent previous year or years during which the insurance shall have effect or be in force.’;*

In the Explanation occurring after sub-section (5) of section 80D, clause (ii) shall be omitted.

Brief Impact:

- Section 80D presently allows deduction of Rs.30,000/- in respect of health insurance policy, or preventive health check-up, of a senior citizen, or medical expenditure in respect of very senior citizen. It is proposed to increase deduction upto Rs.50,000/- in aggregate. Distinction between senior citizen and very senior citizen removed for the purpose of this section.
- It is further proposed to provide that where an amount is paid in lump sum in the previous year to effect or to keep in force an insurance on the health of a person specified therein for more than a year, then, subject to the provisions of this section, there shall be allowed for each of the relevant previous years, a deduction equal to the appropriate fraction of the amount. It is also proposed to define the expressions "appropriate fraction" and "relevant previous years".

2. Enhanced deduction to senior citizens for medical treatment of specified diseases [Clauses 25]

Section 80DDB amended with effect from the 1st day of April, 2019,—

- (a) in the third proviso, for the words “sixty thousand rupees”, the words “one hundred thousand rupees” shall be substituted;
- (b) the fourth proviso shall be omitted;
- (c) in the Explanation, clause (v) shall be omitted.

Brief Impact:

Presently section 80DDB provide that a deduction is available to an individual and HUF with regard to amount paid for medical treatment of specified diseases in respect of very senior citizen upto Rs 80,000/- and in case of senior citizens upto Rs 60,000/- subject to specified conditions. It is proposed to raise deduction to Rs 1,00,000/- for both senior citizens and very senior citizens

3. Deduction in respect of interest income to senior citizen [Clause 29, 30 & 47]

Sub-section (1) of Section 80TTA amended w.e.f. 1st day of April, 2019

“Where the gross total income of an assessee, other than the assessee referred to in section 80TTB being an individual or a Hindu undivided family, includes any income by way of interest on deposits (not being time deposits) in a savings account with —”

New section 80TTB inserted w.e.f. 1st day of April, 2019

(1) Where the gross total income of an assessee, being a senior citizen, includes any income by way of interest on deposits with—

(a) a banking company to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act);

(b) a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or

(c) a Post Office as defined in clause (k) of section 2 of the Indian Post Office Act, 1898, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction—

(i) in a case where the amount of such income does not exceed in the aggregate fifty thousand rupees, the whole of such amount; and

(ii) in any other case, fifty thousand rupees.

(2) Where the income referred to in sub-section (1) is derived from any deposit held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under this section in respect of such income in computing the total income of any partner of the firm or any member of the association or any individual of the body.

Explanation.—*For the purposes of this section, “senior citizen” means an individual resident in India who is of the age of sixty years or more at any time during the relevant previous year.’*

3rd proviso to clause (i) in sub-section (3) of section 194A inserted w.e.f. 1st day of April, 2018

‘Provided also that in case of payee being a senior citizen, the provisions of sub-clause (a), sub-clause (b), and sub-clause (c) shall have effect as if for the words “ten thousand rupees”, the words “fifty thousand rupees” had been substituted.

Explanation.—*For the purposes of this clause, “senior citizen” means an individual resident in India who is of the age of sixty years or more at any time during the relevant previous year;’*

Brief Impact:

- Presently section 80TTA provides for deduction upto Rs.10,000/- where gross total income of an Individual or HUF includes any income by way of interest on deposits in a savings bank account with certain entities. It is proposed that no deduction under section 80TTA shall be allowed in case of senior citizens for whom new section 80TTB is proposed to inserted.
- New section 80TTB proposes that where gross total income of an assessee, being a senior citizen, includes any income by way of interest on deposits with
 - a banking company to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act) or
 - a co-operative society engaged in the business of banking (including a co-operative land mortgage bank or a co-operative land development bank) or
 - a Post Office as defined in clause (k) of section 2 of the Indian Post Office Act, 1898,a deduction of an amount up to Rs.50,000/- shall be allowed.

- It is further proposed that where the income referred to in this section is derived from any deposit held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under this section in respect of such income in computing the total income of any partner of the firm or any member of the association or any individual of the body.
- Consequent changes are proposed in section 194A

4. Standard deduction on salary income

[Clause 7 & 8]

New clause (ia) under section 16 is inserted w.e.f. 1st day of April, 2019

“(ia) a deduction of forty thousand rupees or the amount of the salary, whichever is less;”.

Proviso occurring after sub-clause (viii), clause (v) in clause (2) of section 17 shall be omitted w.e.f. 1st day of April, 2019

Brief Impact:

- It is proposed to amend section 16 to allow deduction of Rs.40,000/- or the amount of the salary, whichever is less, for the purpose of computing the income chargeable under the head ‘Salaries’.
- It is further proposed to omit Clause (v) of the proviso occurring after sub-clause (viii) of clause (2) of section 17 which provides that any sum paid by the employer in respect of any expenditure actually incurred by the employee.



D. TAX INCENTIVES

D. Tax Incentives

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1.	Deduction in respect of income of Farm Producer Companies	80PA	28	01-04-2019
2.	Measures to promote start-ups	80-IAC	26	01-04-2018
3.	Measures to promote International Financial Services Centre (IFSC)	47, 115JC, 115JF	17,36,37	01-04-2019
4.	Incentive for employment generation	80-JJAA	27	01-04-2019

D. Tax Incentives

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
5.	Tax treatment of transactions in respect of trading in agricultural commodity derivatives	43	12	01-04-2019
6.	Exemption of income of Foreign Company from sale of leftover stock of crude oil on termination of agreement or arrangement	10	5	01-04-2019
7.	Royalty and FTS payment by NTRO to a non-resident to be tax-exempt	10	5	01-04-2018

i. Deduction in respect of income of Farm Producer Companies [Clause 28]

New Section 80PA inserted w.e.f. 1st day of April, 2019

(1) Where the gross total income of an assessee, being a Producer Company having a total turnover of less than one hundred crore rupees in any previous year, includes any profits and gains derived from eligible business, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to one hundred per cent. of the profits and gains attributable to such business for the previous year relevant to an assessment year commencing on or after the 1st day of April, 2019, but before the 1st day of April, 2025.

(2) In a case where the assessee is entitled also to deduction under any other provision of this Chapter, the deduction under this section shall be allowed with reference to the income, if any, as referred to in this section included in the gross total income as reduced by the deductions under such other provision of this Chapter.

- *Explanation.*—For the purposes of this section,
 - (i) “*eligible business*” means—
 - (a) the marketing of agricultural produce grown by the members; or
 - (b) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to the members; or
 - (c) the processing of the agricultural produce of the members;
 - (ii) “**member**” shall have the meaning assigned to it in clause (d) of section 581A of the Companies Act, 1956;
 - (iii) “**Producer Company**” shall have the meaning assigned to it in clause (l) of section 581A of the Companies Act, 1956.’.

Brief Impact:

It is proposed to introduced section 80PA to provide benefit to Farm Producer Companies (FPC) [*similar to section 80P for cooperative society*], having a total turnover up to Rs 100 Crore, whose gross total income includes any income from-

- I. the marketing of agricultural produce grown by its members, or
- II. the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members, or
- III. the processing of the agricultural produce of its members

The whole of the amount of income or profits and gains and business attributable to any one or more of such activities shall be deducted in computing the total income of the assessee for the previous year.

- **The benefit shall be available for a period of five years from the financial year 2018-19** i.e. relevant to any assessment year commencing on or after the 1st day of April, 2019, but before the 1st day of April, 2025.
- It is further proposed to provide that where the assessee is entitled also to deduction under any other provision or provisions of Chapter VIA, the deduction under this section shall be allowed from the gross total income as reduced by the deductions under such other provision or provisions of the said Chapter.

2. Measures to promote start-ups

[Clause 26]

Explanation below sub-section (4) of section 80-IAC amended w.e.f. 1st day of April, 2018

a) Clause (i) is entirely substituted, as under:-

‘(i) “eligible business” means a business carried out by an eligible start up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation;’

b) Clause (ii) is substituted as under:-

(a) it is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, ~~2019~~ 2021;

(b) the total turnover of its business does not exceed twenty-five crore rupees in any of the ~~previous years beginning on or after the 1st day of April, 2016 and ending on the 31st day of March, 2021~~ seven previous years beginning from the year in which it is incorporated; and

Brief Impact:

In order to improve the effectiveness of the scheme for promoting start ups in India, it is proposed to make following changes in the taxation regime for the start ups for providing deduction u/s 80-IAC of the Act:—

- I. The benefit under that section would also be available to start ups incorporated on or after 01/04/2019 but before 01/04/2021 (*earlier it was for start-ups incorporated after 01/04/2016 but before 01/04/2019*)
- II. The requirement of the turnover not exceeding Rs. 25 Crore would apply to seven previous years commencing from the date of incorporation;

III. The definition of eligible business u/s 80-IAC has been expanded to provide that the benefit would be available if it is engaged in innovation, development or improvement of products or processes or services, or a scalable business model with a high potential of employment generation or wealth creation.

[The amendment will take effect, from 01/04/2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent assessment years]

3. Measures to promote International Financial Services Centre (IFSC) [Clause 17,36 & 37]

New clause (viiab) of section 47 is inserted w.e.f. 1st day of April, 2019

(viiab) any transfer of a capital asset, being—

- (a) bond or Global Depository Receipt referred to in sub-section (1) of section 115AC; or*
- (b) rupee denominated bond of an Indian company; or*
- (c) derivative,*

made by a non-resident on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency.

Explanation. *For the purposes of this clause, (a) “International Financial Services Centre” shall have the meaning assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005;*

(b) “recognised stock exchange” shall have the meaning assigned to it in clause (ii) of Explanation 1 to clause (5) of section 43;

(c) “derivative” shall have the meaning assigned to it in clause (ac) of section 2 of the Securities Contracts (Regulation) Act, 1956.

Brief :

Section 47 of the Act provides for tax neutrality relating to certain transfer. It is proposed to insert a new clause (*viiab*) in the said section so as to provide that any transfer of a capital asset, being bond or Global Depository Receipt referred to in sub-section (1) of section 115AC or rupee denominated bond of an Indian company or derivative, made by a non-resident on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency, shall not be regarded as transfer.

This amendment will take effect, from 1st April, 2019 and will, accordingly, apply in relation to the assessment year 2019-20 and subsequent assessment years.

New sub-section (4) of section 115JC is inserted w.e.f. 1st day of April, 2019

‘(4) Notwithstanding anything contained in sub-section (1), where the person referred to therein, is a unit located in an International Financial Services Centre and derives its income solely in convertible foreign exchange, the provisions of sub-section(1) shall have effect as if for the words “eighteen and one-half per cent.”, the words “nine per cent.” had been substituted.’

Brief Impact:

Section 115JC of the Act provides for alternate minimum tax at the rate of 18.50 percent. of adjusted total income in the case of a non-corporate person.

In order to promote the development of world class financial infrastructure in India, it is further proposed to amend the section115JC so as to provide that in case of a unit located in an International Financial Service Center, **the alternate minimum tax under section 115JC shall be charged at the rate of 9 percent.**

Clause (b) of section 115JF is amended w.e.f. 1st day of April, 2019

(b) "alternate minimum tax" means the amount of tax computed on adjusted total income ~~at a rate of eighteen and one-half per cent,-~~

(i) in case of an assessee being a unit referred to in sub-section (4) of section 115JC, at a rate of nine per cent.;

(ii) in any other case, at a rate of eighteen and one-half per cent.;;'

New clause (ba) & (bb) of section 115JF is inserted w.e.f. 1st day of April, 2019

'(ba) "convertible foreign exchange" means a foreign exchange which is for the time being treated by the Reserve Bank of India as convertible foreign exchange for the purpose of the Foreign Exchange Management Act, 1999 and the rules made thereunder;

(bb) "International Financial Services Centre" shall have the meaning assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005;'

New clause (e) of section 115JF is inserted w.e.f. 1st day of April, 2019

'(e) "unit" means a unit established in an International Financial Services Centre.'

Brief Impact:

section 115JF of the Income-tax Act relating to interpretation in this Chapter. Consequential amendment in section 115JF is proposed to be made in respect of section 115JC.

It is proposed to amend section 115JF so as to provide that the assessee being a person other than a company, is a unit located in an International Financial Service Centre and derives its income solely in convertible foreign exchange, the rate of tax minimum alternate tax shall be nine per cent.

It is further proposed to define certain expressions used therein.

These amendments will take effect from 1st April, 2019 and will, accordingly, apply in relation to the assessment year 2019-2020 and subsequent years.

4. Incentive for employment generation

[Clause 27]

Proviso of clause (ii) of Explanation of sub-section (2) of section 80JJAA amended w.e.f. 1st day of April, 2019

“in the proviso, after the words “manufacturing of apparel”, the words “or footwear or leather products” shall be inserted;”

New Proviso of clause (ii) of Explanation of sub-section (2) of section 80JJAA is inserted w.e.f. 1st day of April, 2019

“Provided further that where an employee is employed during the previous year for a period of less than two hundred and forty days or one hundred and fifty days, as the case may be, but is employed for a period of two hundred and forty days or one hundred and fifty days, as the case may be, in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year and the provisions of this section shall apply accordingly;”

Brief Impact:

Under section 80-JJAA of the Act, a deduction of 30% is allowed in addition to normal deduction of 100% in respect of emoluments paid to eligible new employees who have been employed for a minimum period of 240 days during the year. **However, the minimum period of employment is relaxed to 150 days in the case of apparel industry. In order to encourage creation of new employment, it is proposed to extend this relaxation to footwear and leather industry.**

It is further proposed to provide that where a new employee is employed during the previous year for a period of less than 240 days or 150 days, as the case may be, but is employed for a period of 240 days or 150 days, as the case may be, in the immediately succeeding year, he shall be deemed to have been employed in the succeeding year and the deduction under section 80-JJAA shall apply accordingly.

These amendments will take effect from 1st April, 2019 and will, accordingly, apply in relation to the assessment year 2019-2020 and subsequent years.

5. Tax treatment of transactions in respect of trading in agricultural commodity derivatives [Clause 12]

Section 43, in clause (5), after the proviso and before Explanation 1 new proviso is inserted, w.e.f. 1st day of April, 2019

“Provided further that for the purposes of clause (e) of the first proviso, in respect of trading in agricultural commodity derivatives, the requirement of chargeability of commodity transaction tax under Chapter VII of the Finance Act, 2013 shall not apply”

Brief Impact:

section 43 of the Income-tax Act relating to definitions of certain terms relevant to income from profits and gains of business or profession. Clause (5) of the said section provides for the definition of speculative transaction. Clause (e) of the proviso to the said clause (5) provides that trading in commodity derivatives carried out in a recognised stock exchange, which is chargeable to commodity transaction tax is a non-speculative transaction.

It is proposed to insert a new proviso for the purposes of clause (e) of the first proviso so as to provide that for transaction in respect of trading in agricultural commodity derivatives, the requirement of chargeability to commodity transactions tax under Chapter VII of the Finance Act, 2013 shall not apply. (w.e.f. 01/04/2019)

6. Exemption of income of Foreign Company from sale of leftover stock of crude oil on termination of agreement or arrangement [Clause 5]

Clause (48B) of section 10 is amended w.e.f. 1st day of April, 2019

any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil, if any, from the facility in India after the expiry of the agreement or the arrangement referred to in ~~clause (48A)~~ or on termination of the said agreement or the arrangement, in accordance with the terms mentioned therein, as the case may be subject to such conditions as may be notified by the Central Government in this behalf;

Brief Impact:

clause (48B) of section 10 provides that any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil after the expiry of the agreement or arrangement shall be exempt subject to such conditions as may be notified by the Central Government. The benefit of exemption is presently not available on sale out of the leftover stock of crude in case of termination of the said agreement or the arrangement.

It is proposed to amend clause (48B) of section 10 to provide that the benefit of tax exemption in respect of income from left over stock will be available even if the agreement or the arrangement is terminated in accordance with the terms mentioned therein. **(w.e.f. 01/04/2019)**

7. Royalty and FTS payment by NTRO to a non-resident to be tax-exempt [Clause 5]

New clause (6D) is inserted u/s 10 w.e.f. 1st day of April, 2018

“(6D) any income arising to a non-resident, not being a company, or a foreign company, by way of royalty from, or fees for technical services rendered in or outside India to, the National Technical Research Organisation;”

Brief Impact:

Section 195 requires a person to deduct tax at the time of payment or credit to a non-resident.

Given the business exigencies of the National Technical Research Organisation (NTRO), it is proposed to amend section 10 so as to provide that the income arising to non-resident, not being a company, or a foreign company, by way of royalty from, or fees for technical services rendered in or outside India to, the NTRO will be exempt from income tax.

Consequently, NTRO will not be required to deduct tax at source on such payments. (w.e.f. 01/04/2018 i.e. A.Y. 2018-19 onwards)



E. FACILITATING INSOLVENCY RESOLUTION

E. Facilitating Insolvency Resolution

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1.	Relief from liability of Minimum Alternate Tax (MAT)	115JB	35	01-04-2018
2.	Benefit of carry forward and set off of losses	79, 140	22 & 43	01-04-2018

i. Relief from liability of Minimum Alternate Tax (MAT) [Clauses 35]

New clause (iih) is inserted in Explanation 1 u/s 115JB w.e.f. 1st day of April, 2018

“(iih) the aggregate amount of unabsorbed depreciation and loss brought forward in case of a company against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016”.

***Explanation.**—For the purposes of this clause, the expression “Adjudicating Authority” shall have the meaning assigned to it in clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016 and the loss shall not include depreciation; or’;*

Clause (iii) in explanation 1 u/s 115JB is substituted w.e.f. 1st day of April, 2018

“(iii) the amount of loss brought forward or unabsorbed depreciation, whichever is less as per ~~books of account~~ in case of a company other than the company referred to in clause (iih)”

Brief Impact:

Section 115JB of the Act, provides for levy of a minimum alternate tax (MAT) on the “book profits” of a company. In computing the book profit, it provides, inter alia, for a deduction in respect of the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of account. Consequently, where the loss brought forward or unabsorbed depreciation is Nil, no deduction is allowed. This non-deduction is a barrier to rehabilitating companies seeking insolvency resolution.

It is proposed to amend *Explanation 1* to the said section so as to provide that in case of a company, against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016, the aggregate amount of unabsorbed depreciation and loss brought forward shall be allowed to be reduced from the book profit and the loss shall not include depreciation.

These amendments will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent years.

New Explanation 4A is inserted u/s 115JB w.e.f. 1st day of April, 2001

“Explanation 4A.—For the removal of doubts, it is hereby clarified that the provisions of this section shall not be applicable and shall be deemed never to have been applicable to an assessee, being a foreign company, where its total income comprises solely of profits and gains from business referred to in section 44B or section 44BB or section 44BBA or section 44BBB and such income has been offered to tax at the rates specified in those sections.” (retrospective effect from 01-04-2001)

Brief Impact: A clarificatory amendment is proposed in section 115JB of the Act to provide that the provisions of section 115JB of the Act shall not be applicable and shall be deemed never to have been applicable to an assessee, being a foreign company, if- its total income comprises solely of profits and gains from business referred to in section 44B (*shipping business in the case of non-residents*) or section 44BB (*business of exploration, etc., of mineral oils*) or section 44BBA (*operation of aircraft in the case of non-residents*) or section 44BBB (*business of civil construction, etc., in certain turnkey power projects*) and such income has been offered to tax at the rates specified in the said sections. **(w.r.e.f. 01/04/2001)**

2. Benefit of carry forward and set off of losses

[Clauses 22 & 43]

3rd Proviso of section 79 is inserted w.e.f. 1st day of April, 2018

“Provided also that nothing contained in this section shall apply to a company where a change in the shareholding takes place in a previous year pursuant to a resolution plan approved under the Insolvency and Bankruptcy Code, 2016, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner”.

Brief Impact:

- Section 79 of Act provides that carry forward and set off of losses in a closely held company shall be allowed only if there is a continuity in the beneficial owner of the shares carrying not less than 51 percent. of the voting power, on the last day of the year or years in which the loss was incurred.
- It is proposed to amend the aforesaid section to provide that nothing contained in the said section shall apply to a company where a change in the shareholding takes place in a previous year pursuant to approved resolution plan under the Insolvency and Bankruptcy Code, 2016, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner. **(w.e.f. 01/04/2018 i.e. A,Y, 2018-19 onwards)**

Clause (b) of 2nd proviso of clause (c) of section 140 is amended w.e.f. 1st day of April, 2018

“(b) where the management of the company has been taken over by the Central Government or any State Government under any law, the return of the company shall be verified by the principal officer thereof ; or”

New Clause (c) of 2nd proviso of clause (c) of section 140 is inserted w.e.f. 1st day of April, 2018

‘(c) where in respect of a company, an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016, the return shall be verified by the insolvency professional appointed by such Adjudicating Authority.

***Explanation.**—For the purposes of this clause the expressions “insolvency professional” and “Adjudicating Authority” shall have the respective meanings assigned to them in clause (18) of section 3 and clause (1) of section 5 of the Insolvency and Bankruptcy Code, 2016;”*

Brief Impact:

section 140 of the Income-tax Act relating to return by whom to be verified. It is proposed to amend the said section so as to provide that where in respect of a company an application has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016, the return shall be verified by the insolvency professional appointed by such Adjudicating Authority. It is further proposed to define the expressions "insolvency professional" and "Adjudicating Authority" in the said section.

This amendment will take effect from 1st April, 2018 and will, accordingly apply to return filed on or after the said date.



F. IMPROVING EFFECTIVENESS OF TAX ADMINISTRATION

F. Improving Effectiveness of Tax Administration

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1.	New scheme for scrutiny assessment	143	44	01-04-2018

i. New scheme for scrutiny assessment

[Clauses 44]

New sub-sections (3A), (3B) & (3C) u/s section 143 is inserted w.e.f. 1st day of April, 2018

“(3A) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of making assessment of total income or loss of the assessee under sub-section (3) so as to impart greater efficiency, transparency and accountability by—

- (a) eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible;*
- (b) optimising utilisation of the resources through economies of scale and functional specialisation;*
- (c) introducing a team-based assessment with dynamic jurisdiction”.*

“(3B) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (3A), by notification in the Official Gazette, direct that any of the provisions of this Act relating to assessment of total income or loss shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

***Provided** that no direction shall be issued after the 31st day of March 2020”.*

“(3C) Every notification issued under sub-section (3A) and sub-section (3B) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.”

Brief Impact:

- It is proposed to insert sub-sections (3A), (3B) and (3C) in the said section so as to, inter alia, provide for a scheme, by notification in the Official Gazette, for the purpose of making assessment of total income or loss of the assessee under sub-section (3).



G. Rationalisation Measures



G. Rationalisation Measures

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1	Rationalisation of the provisions relating to Commodity Transaction Tax	116, 117 & 118 of the Finance Act, 2013	215	01-04-2018
2	Rationalisation of section 276CC relating to prosecution for failure to furnish return	276CC	52	01-04-2018
3	Rationalisation of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015	46,55 of the Black Money (Undisclosed Foreign Income & Assets) & Imposition of Tax Act, 2015	216	01-04-2018



G. Rationalisation Measures

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
4	Rationalisation of prima-facie adjustments during processing of return of income	143	44	01-04-2018
5	Rationalisation of provisions relating to Country-by-Country Report	286	53	w.r.e.f 01-04-2017
6	Rationalisation of provision of section 115BA relating to certain domestic companies	115BA	33	w.r.e.f 01-04-2017



G. Rationalisation Measures

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
7	Extending the benefit of tax-free withdrawal from NPS to non-employee subscribers	10	5	01-04-2019
8	Deductions in respect of certain incomes not to be allowed unless return is filed by the due date	80AC	23	01-04-2018
9	Rationalization of section 43CA, section 50C and section 56.	43CA,56, 50C	14,19,21	01-04-2019



G. Rationalisation Measures

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
10	Rationalisation of provision relating to conversion of stock-in-trade into Capital Asset	2,49,28	3,9,18	01-04-2019
11	Tax neutral transfers	56	21	01-04-2018
12	Rationalization of the provisions of section 54EC	54EC	20	01-04-2019



G. Rationalisation Measures

S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
13	Rationalisation of the provisions of section 115BBE	115BBE	34	w.r.e.f 01-04-2017
14	Amendments in relation to notified Income Computation and Disclosure Standards.	36, 40A, 43AA, 43CB, 145A, 145B	10, 11, 13, 15, 45	w.r.e.f 01-04-2017
15	Tax deduction at source on 7.75% GOI Savings (Taxable) Bonds, 2018	193	46	01-04-2018

1. Rationalisation of the provisions relating to Commodity Transaction Tax [Clause 215]

Sub section 7 of Section 116 of Finance Act, 2013 amended w.e.f. 1st day of April, 2018

(7) "taxable commodities transaction" means a transaction of sale of commodity derivatives or option on commodity derivatives in respect of commodities, other than agricultural commodities, traded in recognised associations;

Brief Impact:

- The existing clause (7) of section 116 of the Finance Act, 2013 provides the definition of “taxable commodities transaction” to mean a transaction of sale of commodity derivatives in respect of commodities, other than agricultural commodities, traded in recognised association.
- In order to align the definition of “taxable commodities transaction” with instruments allowed for transaction in commodity derivatives, it is proposed to amend the clause (7) of section 116 so as to include “options in commodity futures” in the definition of “taxable commodities transactions” (**w.e.f. 01/04/2018 i.e. A,Y, 2018-19 onwards**)

Section 117 & 118 of Finance Act, 2013 substituted w.e.f. 1st day of April, 2018

Section 117- On and from the 1st day of April, 2018, there shall be charged a commodities transaction tax in respect of taxable commodities transaction specified in column (2) of the Table below, at the rate specified in the corresponding entry in column (3) of the said Table, on the value of such transaction and such tax shall be payable by the purchaser or the seller, as the case may be, as specified in the corresponding entry in column (4) of the said Table:

S NO.	Taxable Commodities Transaction	Rate (%)	Payable by
(1)	(2)	(3)	(4)
1.	Sale of a commodity derivative;	0.01	Seller
2.	Sale of an option on commodity derivative;	0.05	Seller
3.	Sale of an option on commodity derivative, where option is exercised.	0.0001	purchaser

Section 118- *The value of taxable commodities transaction referred to in section 117,—*

(a) in the case of a taxable commodities transaction relating to a commodity derivative, shall be the price at which the commodity derivative is traded; (b) in the case of a taxable commodities transaction relating to an option on commodity derivative, shall be—

(i) the option premium, in respect of transaction at serial number 2 of the Table in section 117;

(ii) the settlement price, in respect of transaction at serial number 3 of the Table in section 117.”;

Section 128 of Finance Act, 2013 amended w.e.f. 1st day of April, 2018

“The provisions of sections 119, 120, 131, 133A, 156, 178, 220 to 227, 229, 232, 260A, 261, 262, 265 to 269, 278B, 282 and 288 to 293 of the Income-tax Act, 1961 (43 of 1961) shall apply, so far as may be, in relation to commodities transaction tax, as they apply in relation to income-tax.”

Brief Impact:

- The existing section 117 of the Finance Act, 2013 provides the rate at which a commodities transaction tax in respect of every commodities transaction, being sale of commodity derivative shall be chargeable and such tax shall be payable by the seller. In order to propose rates for option on commodity derivative, it is proposed to amend the provisions of section 117 so as to prescribe the rate at which sale of an option on commodity derivative shall be chargeable and such tax shall be payable by the seller. It is further proposed to amend the provisions of section 117 so as to prescribe the rate at which sale of an option on commodity derivative, where option is exercised, shall be chargeable and such tax shall be payable by the purchaser. **(w.e.f. 01/04/2018 i.e. A,Y, 2018-19 onwards)**
- The existing section 118 of the Finance Act, 2013 provides the value of taxable commodities transactions, being commodity derivative and chargeable under section 117 of the Finance Act, 2013. It is proposed to amend the provisions of section 118 so as to include the value of taxable commodities transaction, being option on commodities, chargeable under section 117 of the Finance Act, 2013, in the said section. **(w.e.f. 01/04/2018 i.e. A,Y, 2018-19 onwards)**

2. Rationalisation of section 276CC relating to prosecution for failure to furnish return [Clause 52]

Proviso to Section 276CC substituted w.e.f. 1st day of April, 2018

”(ii) For any assessment year commencing on or after the 1st day of April, 1975, if—

(a) The return is furnished by him before the expiry of the assessment year; or

(b) ~~The tax payable by him~~ tax payable by such person, not being a company, on the total income determined on regular assessment, as reduced by the advance tax, if any, paid, and any tax deducted at source, does not exceed three thousand rupees.”

Brief Impact:

- Section 276CC provides that if a person willfully fails to furnish in due time the return of income which he is required to furnish, he shall be punishable with imprisonment for a term, as specified therein, with fine. Sub-clause (b) of clause (ii) of the proviso to the said section provides that a person shall not be proceeded against under the said section for any assessment year commencing on or after the 1st day of April, 1975, if the tax payable by him on the total income determined on regular assessment as reduced by the advance tax, if any, paid and any tax deducted at source, does not exceed three thousand rupees.
- **It is proposed to amend the provisions of the said sub-clause (b) so as to provide that the conditions specified therein shall not be applicable in respect of a company. This amendment will take effect from 1st April, 2018**

3. Rationalisation of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 [Clause 216]

Sub section 4 of Section 46 of Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 amended w.e.f. 1st day of April, 2018

(4) An order imposing a penalty under this Chapter shall be made with the approval of the Joint Commissioner or the Joint Director, if—

(a) The penalty exceeds one lakh rupees and the tax authority levying the penalty is in the rank of Income-tax Officer; or

(b) The penalty exceeds five lakh rupees and the tax authority levying the penalty is in the rank of Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director.

Brief Impact:

- Section 46 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 provides for the procedure for imposing penalty. Sub-section (4) of the said section provides that an order imposing a penalty shall be made with the approval of the Joint Commissioner, in the circumstances specified therein. The Assistant Director or the Deputy Director, investigating a case of undisclosed foreign income or asset, can also be assigned the concurrent jurisdiction of the Assessing Officer and, therefore, can also initiate penalty. However, the said authorities shall require approval of the superior officers of the rank of Joint Director or Additional Director for imposition of penalty.
- Accordingly, it is proposed to amend the said sub-section so as to provide that the Joint Director shall also be vested with the power to approve an order imposing a penalty. It is also proposed to amend clause (b) of the said sub-section so as to include reference to the Assistant Director and Deputy Director therein. **(w.e.f. 01/04/2018)**

Section 55 of Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 amended w.e.f. 1st day of April, 2018

Prosecution to be at instance of ~~Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner~~

Prosecution to be at instance of Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General or Principal Commissioner or Commissioner.

(1) A person shall not be proceeded against for an offence under section 49 to section 53 (both inclusive) except with the sanction of the Principal Commissioner or Commissioner or the Commissioner (Appeals), as the case may be.

*(2) The Principal Chief Commissioner or the Chief Commissioner **or the Principal Director General or the Director General** may issue such instructions, or directions, to the tax authorities referred to in sub-section (1) as he may think fit for the institution of proceedings under this section.*

(3) The power of the Board to issue orders, instructions or directions under this Act shall include the power to issue orders, instructions or directions (including instructions or directions to obtain its previous approval) to other tax authorities for the proper initiation of proceedings of offences (including an authorisation to file and pursue complaints by one or more Inspectors of tax) under this section.

Brief Impact:

Section 55 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 provides for institution of proceedings for an offence under that Act. Sub-section (1) of the said section provides that a person shall not be proceeded against for an offence under section 49 to section 53 except with the sanction of the Principal Commissioner or Commissioner or the Commissioner (Appeals). Sub-section (2) of the said section provides that the Principal Chief Commissioner or the Chief Commissioner may issue such instructions, or directions, to the tax authorities referred to in sub-section (1), as he may think fit for the institution of proceedings.

It is proposed to amend the said sub-section so as to empower the Principal Director General or the Director General also to issue instructions or directions to the tax authorities under the said sub-section. It is also proposed to amend the marginal heading of the said section accordingly so as to include the reference of Principal Director General or Director General. These amendments will take effect from 1st April, 2018.

4. Rationalisation of prima-facie adjustments during processing of return of income [Clause 44]

Proviso to Sub section (1) of Section 143 inserted w.e.f. 1st day of April, 2018

“Provided also that no adjustment shall be made under sub-clause (vi) in relation to a return furnished for the assessment year commencing on or after the 1st day of April, 2018;”

Brief Impact:

- Clause (a) of section 143(1) provides that at the time of processing of return of income u/s 139, or in response to a notice u/s 142(1), the total income or loss shall be computed after making the adjustments specified in clauses (i) to (vi) therein. Sub-clause (vi) provides for adjustment in respect of addition of income appearing in Form 26AS/ Form 16A/ Form 16 which has not been included in computing the total income in the return.
- It is proposed to insert a new proviso to the said clause so as to provide that no adjustment under sub-clause (vi) of the said clause shall be made in respect of any return furnished for AY 2018-19 and onwards.

5. Rationalisation of provisions relating to Country-by-Country Report [Clause 53]

Sub section 2 of Section 286 substituted w.r.e.f. 1st day of April, 2017

(2) “Every parent entity or the alternate reporting entity, resident in India, shall, for every reporting accounting year, in respect of the international group of which it is a constituent, furnish a report, to the prescribed authority ~~on or before the due date specified under sub-section (1) of section 139, for furnishing the return of income for the relevant accounting year~~ within a period of twelve months from the end of the said reporting accounting year, in the form and manner as may be prescribed.”

Sub section 3 of Section 286 amended w.r.e.f. 1st day of April, 2017

(3)” For the purposes of sub-section (2) and sub-section (4), the report in respect of an international group shall include.”

Sub section 4 of Section 286 inserted w.r.e.f. 1st day of April, 2017

(4) “A constituent entity of an international group, resident in India, other than the entity referred to in sub-section (2), shall furnish the report referred to in the said sub-section, in respect of the international group for a reporting accounting year within the period specified in that sub-section, if the parent entity is resident of a country or territory,—

(a) where the parent entity is not obligated to file the report of the nature referred to in sub-section (2);

(aa) with which India does not have an agreement providing for exchange of the report of the nature referred to in sub-section (2); or

(b) there has been a systemic failure of the country or territory and the said failure has been intimated by the prescribed authority to such constituent entity:

Sub section 5 of Section 286 substituted w.r.e.f. 1st day of April, 2017

*(5) “Nothing contained in sub-section (4) shall apply, if, an alternate reporting entity of the international group has furnished a report of the nature referred to in sub-section (2), with the tax authority of the country or territory in which such entity is resident, on or before the date specified ~~in the said sub-section~~ **by that country or Territory** and the following conditions are satisfied, namely:—*

(a) the report is required to be furnished under the law for the time being in force in the said country or territory;

(b) the said country or territory has entered into an agreement with India providing for exchange of the said report;

(c) the prescribed authority has not conveyed any systemic failure in respect of the said country or territory to any constituent entity of the group that is resident in India;

- (d) *the said country or territory has been informed in writing by the constituent entity that it is the alternate reporting entity on behalf of the international group; and*
- (e) *the prescribed authority has been informed by the ~~entities~~ entity referred to in sub-section (4) in accordance with sub-section (1)."*

Sub section 9 of Section 286 amended w.r.e.f. 1st day of April, 2017

Clause(b)

~~(b) "agreement" means an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A or any agreement as may be notified by the Central Government in this behalf;~~

(b) "agreement" means a combination of all of the following agreements, namely:—

(i) an agreement entered into under sub-section (1) of section 90 or sub-section (1) of section 90A; and

(ii) an agreement for exchange of the report referred to in sub-sections (2) and (4) and notified by the Central Government;"

Clause(d) Sub Clause(iii)

"constituent entity" means,—

(iii) any permanent establishment of any separate business entity of the international group included in ~~clause (i) or clause (ii)*~~ sub-clause (i) or sub-clause (ii), if such business unit prepares a separate financial statement for such permanent establishment for financial reporting, regulatory, tax reporting or internal management control purposes;*

Clause(h)

"parent entity" means a constituent entity, of an international group holding, directly or indirectly, an interest in one or more of the other constituent entities of the international group, such that,—

- (i) it is required to prepare a consolidated financial statement under any law for the time being in force or the accounting standards of the country or territory of which the entity is resident; or
- (ii) it would have been required to prepare a consolidated financial statement had the equity shares of any of the enterprises were listed on a stock exchange, and, there is no other constituent entity of such group which, due to ownership of any interest, directly or indirectly, in the first mentioned constituent entity, is required to prepare a consolidated financial statement, under the circumstances referred to in ~~*clause (i) or *clause (ii)~~ sub-clause (i) or sub-clause (ii), that includes the separate financial statement of the first mentioned constituent entity;

Clause(j)

"reporting accounting year" means the accounting year in respect of which the financial and operational results are required to be reflected in the report referred to in ~~sub-section (2)~~ sub-sections (2) and (4);

Brief Impact:

- Section 286 contains provisions relating to specific reporting regime in the form of Country-byCountry Report (CbCR) in respect of an international group. Based on model legislation of Action Plan 13 of Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD) and others, following amendments are proposed to be made so as to improve the effectiveness and reduce the compliance burden of such reporting:—
- a) the time allowed for furnishing the Country-byCountry Report (CbCR), in the case of parent entity or Alternative Reporting Entity (ARE), resident in India, is proposed to be extended to twelve months from the end of reporting accounting year;(earlier it was on or before due date u/s 139(1))
- b) constituent entity resident in India, having a nonresident parent, shall also furnish CbCR in case its parent entity outside India has no obligation to file the report of the nature referred to in sub-section (2) in the latter's country or territory;

- c) the time allowed for furnishing the CbCR, in the case of constituent entity resident in India, having a nonresident parent, shall be twelve months from the end of reporting accounting year;
- d) the due date for furnishing of CbCR by the the ARE of an international group, the parent entity of which is outside India, with the tax authority of the country or territory of which it is resident, will be the due date specified by that country or territory;
- e) Agreement would mean an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A, and also an agreement for exchange of the report referred to in sub-section (2) and subsection (4) as may be notified by the Central Government;
- f) “reporting accounting year” has been defined to mean the accounting year in respect of which the financial and operational results are required to be reflected in the report referred to in sub-section (2) and sub-section (4).

6. Rationalisation of provision of section 115BA relating to certain domestic companies [Clause 33]

Sub section (1) of section 115BA substituted w.r.e.f 1st day of April, 2017

(1) "Notwithstanding anything contained in this Act but subject to the ~~provisions of section 111A and section 112~~ other provisions of this Chapter, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2017, shall, at the option of such person, be computed at the rate of twenty-five per cent, if the conditions contained in sub-section (2) are satisfied."

Brief Impact:

- The section presently provides that subject to the fulfillment of conditions specified therein & provisions of sec. 111A & 112 of Chapter XII, from AY 2017-2018, the total income of certain a **newly set up domestic companies** shall, at their option, be taxed at the rate of 25%.
- It is proposed to provide that the provisions of this section shall be subject to the other provisions of the said Chapter instead of only sections 111A & 112.

7. Extending the benefit of tax-free withdrawal from NPS to non-employee subscribers [Clause 5]

- Clause (12A) of section 10 substituted w.e.f 1st day of April, 2019

(12A) “any payment from the National Pension System Trust to an ~~employee~~ assessee on closure of his account or on his opting out of the pension scheme referred to in section 80CCD, to the extent it does not exceed forty per cent of the total amount payable to him at the time of such closure or his opting out of the scheme;”

Brief Impact:

- It is proposed to amend Clause (12A) so as to extend the exemption to **all the assessees** who have subscribed to the National Pension System Trust. [Any payment from National Pension System Trust to an assessee on closure of his account or on his opting out of the pension scheme referred to in section 80CCD, shall be exempt to the extent it does not exceed 40% of total amount payable to him at the time of such closure or his opting out of the scheme.]

8. Deductions in respect of certain incomes not to be allowed unless return is filed by the due date

[Clause 23]

Section 80AC substituted w.e.f 1st day of April, 2018

80AC. “Where in computing the total income of an assessee of any previous year relevant to the assessment year commencing on or after—

(i) the 1st day of April, 2006 but before the 1st day of April, 2018, any deduction is admissible under section 80-IA or section 80-IAB or section 80-IB or section 80-IC or section 80-ID or section 80-IE;

(ii) the 1st day of April, 2018, any deduction is admissible under any provision of this Chapter under the heading “C.—Deductions in respect of certain incomes”,

no such deduction shall be allowed to him unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139.”.

Brief Impact:

- Presently section 80AC provides that where, in computing the total income of an assessee i.r.o. AY 2006-07 and onwards, any deduction admissible u/s 80-IA/ 80-IAB/ 80-IB/ 80-IC/ 80-ID/ 80-IE, shall be allowed to him only if he furnishes a return of his income for such AY on or before the due date specified under sub-section (1) of section 139.
- It is now proposed to provide that in computing the total income of an assessee i.r.o. AY 2018-19 and onwards, deduction under any other provisions of Chapter VIA under the heading "C.—Deductions in respect of certain incomes" shall be allowed only if the return is filed within the due date specified under sub-section (1) of section 139.
- For claiming deduction u/s 80JJA, 80JJAA, 80LA, 80O, 80P, 80Q, 80QQA, 80QQB, 80R, 80RR, 80RRA, 80RRB, filing Return of Income u/s 139(1) is now proposed to be made mandatory.

9. Rationalization of section 43CA, section 50C & section 56. [Clause 14, 19 & 21]

- Proviso to sub section 1 of Section 43CA inserted w.e.f 1st day of April, 2019
“Provided that where the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty does not exceed one hundred and five per cent. of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration.”
- Sub section 4 of Section 43CA substituted w.e.f 1st day of April, 2019
(4) “The provisions of sub-section (3) shall apply only in a case where the amount of consideration or a part thereof has been received ~~by any mode other than cash~~ by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account on or before the date of agreement for transfer of the asset.”

- 3rd proviso to Sub Section 1 of section 50C inserted w.e.f 1st day of April, 2019

“Provided also that where the value adopted or assessed or assessable by the stamp valuation authority does not exceed one hundred and five per cent. of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for purposes of section 48, be deemed to be the full value of the consideration.”

- Item (B) of sub clause (b) of clause (x) of sub section 2 of section 56 substituted w.e.f 1st day of April, 2019

“(B) for a consideration, the stamp duty value of such property as exceeds such consideration, if the amount of such excess is more than the higher of the following amounts, namely:—

- (i) the amount of fifty thousand rupees; and
- (ii) the amount equal to five per cent. of the consideration:”

Brief Impact:

- It is proposed to provide that the full value of consideration shall not be revised to stamp duty value, where the stamp duty value does not exceed **105% of the consideration received or accruing as a result of the transfer.**
- It is further proposed in section 43CA to provide that where date of agreement fixing the value of consideration for transfer of asset & date of registration are not the same, the value referred to in sub-section (1) may be taken as the stamp duty value in respect of such transfer on the date of the agreement **where the amount of consideration or a part thereof has been received by way of an account payee cheque or an account payee bank draft or by use of ECS through a bank account on or before the date of agreement for transfer of the asset. [earlier written ‘by any mode other than cash’]**

10. Rationalization of provision relating to conversion of stock-in-trade into Capital Asset [Clause 3, 9 & 18]

- Sub clause (ba) of clause(1) of explanation 1 to clause 42A of section 2 inserted w.e.f 1st day of April, 2019

(ba)” In the case of a capital asset referred to in clause (via) of section 28, the period shall be reckoned from the date of its conversion or treatment;”

- Clause (via) of section 28 inserted w.e.f 1st day of April, 2019

“(via) the fair market value of inventory as on the date on which it is converted into, or treated as, a capital asset determined in the prescribed manner;”

- Sub section (9) of section 49 inserted w.e.f 1st day of April, 2019

“(9) Where the capital gain arises from the transfer of a capital asset referred to in clause (via) of section 28, the cost of acquisition of such asset shall be deemed to be the fair market value which has been taken into account for the purposes of the said clause.”

Brief Impact:

Where stock is trade in converted into or treated as Capital asset, it is proposed as under:

- that FMV determined in the prescribed manner of the inventory as on the date of its conversion or treatment as capital assets shall be chargeable to tax under the head “Profit and gains of business and profession” u/s 28.
- that where the capital gain arises from the transfer of a such converted/ treated capital asset, the cost of acquisition of such asset u/s 49 shall be deemed to be FMV which has been taken into account for the purposes of the said clause.
- that period of holding u/s 2(42A) shall be reckoned from the date of its conversion or the treatment.

II. Tax neutral transfers

[Clause 21]

Clause (IX) of 4th proviso to clause (x) of sub section 2 of section 56 amended w.e.f 1st day of April, 2019

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

Clause (xi) of sub section 2 of section 56 inserted w.e.f 1st day of April, 2019

(xi) “any compensation or other payment, due to or received by any person, by whatever name called, in connection with the termination of his employment or the modification of the terms and conditions relating thereto.”

Brief Impact:

It is proposed to amend the fourth proviso to clause (x) of section 56(2) so as to exclude from the scope of clause (x) of the said sub-section, the transfer of capital asset between holding company & its wholly owned Indian subsidiary company and between subsidiary company & its Indian holding company, which are not regarded as transfer under clause (iv) or clause (v) of section 47.

12. Rationalization of the provisions of section 54EC [Clause 20]

Sub section (1) of section 54EC amended w.e.f 1st day of April, 2019

(1) Where the capital gain arises from the transfer of a long-term capital asset *being land or building or both*, (the capital asset so transferred being hereafter in this section referred to as the original asset) and the assessee has, at any time within a period of six months after the date of such transfer, invested the whole or any part of capital gains in the long-term specified asset, the capital gain shall be dealt with in accordance with the following provisions of this section

Clause (ba) of Explanation of sub section (3) substituted w.e.f 1st day of April, 2019

(ba) “long-term specified asset” for making any investment under this section,—

(i) on or after the 1st day of April, 2007 but before the 1st day of April, 2018, means any bond, redeemable after three years and issued on or after the 1st day of April, 2007 but before the 1st day of April, 2018;

(ii) on or after the 1st day of April, 2018, means any bond, redeemable after five years and issued on or after the 1st day of April, 2018,

by the National Highways Authority of India constituted under section 3 of the National Highways Authority of India Act, 1988 or by the Rural Electrification Corporation Limited, a company formed and registered under the Companies Act, 1956 or any other bond notified in the Official Gazette by the Central Government in this behalf.

Brief Impact:

- It is proposed to restrict scope of Section 54EC in respect of only transfer of land or building or both.
- It is also proposed to provide that long-term specified asset for making any investment under the section-
 - a) on or after 01-04-2007 but before 01-04-2018 shall mean any bond, redeemable after three years and issued on or after 01-04-2007 but before 01-04-2018 and
 - b) on or after 01-04-2018 shall mean any bond, redeemable after five years and issued on or after 01-04-2018by National Highways Authority of India or by Rural Electrification Corporation Limited or any other bond notified by Central Government in this behalf.

13. Rationalisation of the provisions of section 115BBE [Clause 34]

Section 115BBE amended w.r.e.f from 1st day of April, 2017

In sub-section (2), after the word, brackets and letter “clause (a)”, the words, brackets and letter “and clause (b)” shall be inserted and shall be deemed to have been inserted.

Brief Impact:

- Section 115BBE provides for tax on income referred to in section 68 or section 69 or section 69A or section 69B or section 69C or section 69D at a higher rate of sixty percent. Sub-section (2) of said section provides that no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any provision of the Act in computing his income referred to in clause (a) of sub-section (1).
- In order to rationalize the provisions of section 115BBE, it is proposed to amend the said sub-section (2) so as to also include income referred to in clause (b) of sub-section (1) i.e. **No expenditure or allowance or set off of any loss shall be allowed in respect of undisclosed income determined by AO under said section. (w.r.e.f. 01/04/2017)**

14. Amendments in relation to notified Income Computation & Disclosure Standards. [Clauses 10, 11, 13, 15, 45]

Section 36 amended with retrospective effect from 1st day of April, 2017

In sub-section (1), after clause (xvii), the following clause shall be inserted and shall be deemed to have been inserted namely:—

“(xviii) marked to market loss or other expected loss as computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145.”

Brief Impact:

Marked to market loss or other expected loss as computed in accordance with the income computation and disclosure standards notified under section 145(2) shall now be allowed as deduction in computing the income referred to in section 28. The same is in accordance with the provision of ICDS -1 which were struck down by Hon'ble Delhi High Court. However, there is complete silence wrt MTM Profits.

Section 40A amended with retrospective effect from 1st day of April, 2017

After sub-section (12) [as omitted by section 17 of the Finance Act, 1992], the following sub-section shall be inserted and shall be deemed to have been inserted namely:—

“(13) No deduction or allowance shall be allowed in respect of any marked to market loss or other expected loss, except as allowable under clause (xviii) of sub-section (1) of section 36.”

Brief Impact:

No deduction or allowance shall be allowed in respect of any marked to market loss or other expected loss, except as computed in accordance with the income computation and disclosure standards notified under section 145(2) as allowable u/s 36(1)(xviii).

After section 43A, Section 43AA inserted with retrospective effect from 1st day of April, 2017

“43AA.(1) Subject to the provisions of section 43A, any gain or loss arising on account of any change in foreign exchange rates shall be treated as income or loss, as the case may be, and such gain or loss shall be computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145.

(2) For the purposes of sub-section (1), gain or loss arising on account of the effects of change in foreign exchange rates shall be in respect of all foreign currency transactions, including those relating to—

- (i) monetary items and non-monetary items;*
- (ii) translation of financial statements of foreign operations;*
- (iii) forward exchange contracts;*
- (iv) foreign currency translation reserves.”*

Brief Impact:

Subject to the provisions of section 43A, any gain or loss arising on account of any change in foreign exchange rates shall be treated as income or loss, as the case may be, and such gain or loss shall be computed in accordance with the income computation and disclosure standards notified under section 145(2) and shall be in respect of all foreign currency transactions, including those relating to—

monetary items and non-monetary items; translation of financial statements of foreign operations; forward exchange contracts; foreign currency translation reserves.” **(Section 43AA newly inserted w.r.e.f. 01/04/2017)**

This is in accordance with ICDS -6, which was struck down by Hon’ble Delhi High Court.

After section 43CA, Section 43CB inserted with retrospective effect from 1st day of April, 2017

“43CB. (1) The profits and gains arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145:

Provided that profits and gains arising from a contract for providing services,—

(i) with duration of not more than ninety days shall be determined on the basis of project completion method;

(ii) involving indeterminate number of acts over a specific period of time shall be determined on the basis of straight line method.

(2) For the purposes of percentage of completion method, project completion method or straight line method referred to in sub-section (1)—

(i) the contract revenue shall include retention money;

(ii) the contract costs shall not be reduced by any incidental income in the nature of interest, dividends or capital gains.”

Brief Impact:

The profits and gains arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method (Except certain contract for providing services - project completion method; for duration of not more than ninety days and straight line method for indeterminate number of acts over a specific period of time) in accordance with the ICDS notified under section 145(2) and that the contract revenue shall include retention money; and the contract costs shall not be reduced by any incidental income in the nature of interest, dividends or capital gains.”. **(Section 43CB newly inserted w.r.e.f. 01/04/2017)**

This is in accordance with ICDS-3, Construction contracts, which was struck down by Hon’ble Delhi High Court. However, the other provision of ICDS-3 such as treatment of retention money, etc has not been included.

For Section 145A, the following sections shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2017, namely:—

‘145A. For the purpose of determining the income chargeable under the head “Profits and gains of business or profession”,--

(i) the valuation of inventory shall be made at lower of actual cost or net realisable value computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145;

(ii) the valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation;

(iii) the inventory being securities not listed on a recognised stock exchange, or listed but not quoted on a recognised stock exchange with regularity from time to time, shall be valued at actual_cost initially recognised in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145;

(iv) the inventory being securities other than those referred to in clause (iii), shall be valued at lower of actual cost or net realisable value in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145:

Provided that the comparison of actual cost and net realisable value of securities shall be made category-wise.

- Explanation 1.—For the purposes of this section, any tax, duty, cess or fee (by whatever name called) under any law for the time being in force, shall include all such payment notwithstanding any right arising as a consequence to such payment.*
- Explanation 2.—For the purposes of this section, “recognised stock exchange” shall have the meaning assigned to it in clause (ii) of Explanation 1 to clause (5) of section 43.”*

Brief Impact:

Amendment is proposed to section 145A of the Act (w.r.e.f. 01/04/2017) to provide that, for the purpose of determining the income chargeable under the head “Profits and gains of business or profession,—

- a) the valuation of inventory shall be made at lower of actual cost or net realizable value computed in the manner provided in ICDS notified under section 145(2). [Valuation of Inventory as per ICDS -2]
- b) the valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation. [old provisio of section 145A].

- c) inventory being securities not listed on a recognized stock exchange, or listed but not quoted, shall be valued at actual cost initially recognized in the manner provided in ICDS notified under section 145(2). [Para 12 of ICDS-8, Securities]
- d) inventory being listed securities, shall be valued at lower of actual cost or net realizable value in the manner provided in ICDS notified under section 145(2) and for this purpose the comparison of actual cost and net realizable value shall be done category-wise. [Para 9, 10, 11 of ICDS-8, Securities]

145B. Taxability of certain income. [New section inserted and shall be deemed to have been substituted with effect from the 1st day of April, 2017, namely:—

- (1) Notwithstanding anything to the contrary contained in section 145, the interest received by an assessee on any compensation or on enhanced compensation, as the case may be, shall be deemed to be the income of the previous year in which it is received.*
- (2) Any claim for escalation of price in a contract or export incentives shall be deemed to be the income of the previous year in which reasonable certainty of its realisation is achieved.*
- (3) The income referred to in sub-clause (xviii) of clause (24) of section 2 shall be deemed to be the income of the previous year in which it is received, if not charged to income-tax in any earlier previous year.’.*

Brief Impact:

Propose to insert a new section 145B in the Act to provide that-

- a) interest received by an assessee on compensation or on enhanced compensation, shall be deemed to be the income of the year in which it is received.
- b) the claim for escalation of price in a contract or export incentives shall be deemed to be the income of the previous year in which reasonable certainty of its realisation is achieved. [ICDS-7, Government Grants and ICDS-4, revenue recognition]
- c) income of the nature of Subsidy, Grant, cash incentive or Duty Drawback, etc referred to in sub-clause (xviii) of clause (24) of section 2 shall be deemed to be the income of the previous year in which it is received, if not charged to income tax for any earlier previous year. [ICDS-7, Government Grants].

It is proposed to bring the amendments retrospectively with effect from 1st April, 2017 i.e the date on which the ICDS was made effective and will, accordingly, apply in relation to assessment year 2017-18 and subsequent assessment years

15. Tax deduction at source on 7.75% GOI Savings (Taxable) Bonds, 2018 [Clause 46]

Section 193 amended w.e.f. 1st day of April, 2018

“In section 193 of the Income-tax Act, in the proviso, in clause (iv), in the proviso, after the figures, words and brackets “8% Savings (Taxable) Bonds, 2003”, the words, figures and brackets “or 7.75% Savings (Taxable) Bonds, 2018” shall be inserted”

Brief Impact:

Government had introduced 8% Savings (taxable) Bonds, 2003 in 2003 which has been discontinued and new 7.75% Savings (taxable) Bonds, 2018 is proposed to be issued. Further, TDS would be required to be deducted u/s 193 of the Act, by the payer if the interest is more than 10,000 during a financial year. As such, there is no change in applicability of TDS provisions on these new Bonds.



H. MISCELLANEOUS

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S. No.	Brief	Section	Clause No.	Effective date [i.e. w.e.f.]
1.	Exemption to specified income of class of body, authority, Board, Trust or Commission in certain cases	10	5	01-04-2018
2.	Penalty for failure to furnish statement of financial transaction or reportable account	271FA	51	01-04-2018
3.	Amendments to the structure of Authority for Advance Rulings	245O & 245Q	48 & 49	01-04-2018
4.	Appeal against penalty imposed by Commissioner (Appeals) under section 271J	253	50	01-04-2018

I. Exemption to specified income of class of body, authority, Board, Trust or Commission in certain cases

[Clause 5]

Clause (46) of section 10 is substituted w.e.f. 1st day of April, 2018

“(46) any specified income arising to a body or authority or Board or Trust or Commission ~~(by whatever name called)~~ or a class thereof which- (a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;

(b) is not engaged in any commercial activity; and

(c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

Explanation. *For the purposes of this clause, "specified income" means the income, of the nature and to the extent arising to a body or authority or Board or Trust or Commission ~~(by whatever name called)~~ or a class thereof referred to in this clause, which the Central Government may, by notification in the Official Gazette, specify in this behalf;*

Brief Impact:

- Clause (46) of section 10 provides for notification in respect of exemption to specified income arising to a body or authority or Board or Trust or Commission (by whatever name called), not engaged in any commercial activity, established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public.
- It is proposed to amend clause (46) so as to provide such exemption to specified income arising to a class of body or authority or Board or Trust or Commission also.

2. Penalty for failure to furnish statement of financial transaction or reportable account [Clause 51]

Section 271FA is substituted w.e.f. 1st day of April, 2018

271FA. If a person who is required to furnish a statement of financial transaction or reportable account under sub-section (1) of section 285BA, fails to furnish such statement within the time prescribed under sub-section (2) thereof, the income-tax authority prescribed under said sub-section (1) may direct that such person shall pay, by way of penalty, a sum of ~~one hundred rupees~~ five hundred rupees for every day during which such failure continues:

Provided that where such person fails to furnish the statement within the period specified in the notice issued under sub-section (5) of section 285BA, he shall pay, by way of penalty, a sum of ~~five hundred rupees~~ one thousand rupees for every day during which the failure continues, beginning from the day immediately following the day on which the time specified in such notice for furnishing the statement expires.

Brief Impact:

- Presently section 271FA provides that if a person who is required to furnish the statement of financial transaction or reportable account u/s 285BA(1) fails to furnish such statement within the prescribed time, he shall be liable to pay penalty of Rs.100 for every day of default.
- Further, in case such person fails to furnish such statement within the period specified in notice u/s 285BA(5), he shall be liable to pay penalty of Rs.500 for every day of default.
- It is proposed to increase the penalty from Rs.100/- to Rs.500/- and from Rs.500/- to Rs.1,000/- for each day of continuing default.

3. Amendments to the structure of Authority for Advance Rulings [Clause 48 & 49]

New proviso to sub-section (1) of section 245O is inserted w.e.f. 1st day of April, 2018

“Provided that the Authority shall cease to act as an Authority for Advance Rulings for the purposes of Chapter V of the Customs Act, 1962 on and from the date of appointment of the Customs Authority for Advance Rulings under section 28EA of that Act.”

New sub-section (1A) of section 245O is inserted w.e.f. 1st day of April, 2018

“(1A) On and from the date of appointment of the Customs Authority for Advance Rulings referred to in the proviso to sub-section (1), the Authority shall act as an Appellate Authority, for the purpose of Chapter V of the Customs Act, 1962:

Provided that the Authority shall not admit any appeal against any ruling or order passed earlier by it in the capacity of the Authority for Advance Rulings in relation to any matter under Chapter V of the Customs Act, 1962 after the date of such appointment of the Customs Authority for Advance Rulings.”

New proviso to sub-section (7) of section 245O is inserted w.e.f. 1st day of April, 2018

“Provided that where the Authority is dealing with an application seeking advance ruling in any matter relating to this Act, the revenue Member of the Bench shall be such Member as referred to in sub-clause (i) of clause (c) of sub-section (3).”

Sub-section (1) of section 245Q is substituted w.e.f. 1st day of April, 2018

In section 245Q of the Income-tax Act, in sub-section (1), the words, letter and figures “or under Chapter V of the Customs Act, 1962” shall be omitted with effect from the date of appointment of the Customs Authority for Advance Rulings under section 28EA of the Customs Act, 1962.

Brief Impact:

- It is proposed to provide that from the date of appointment of Customs Authority for Advance Rulings under section 28EA of the Customs Act, 1962, the Authority for Advance Rulings u/s 245-O shall cease to act as an Authority for Advance Rulings for the purpose of Chapter V of the Customs Act, 1962 and such Authority shall act as an Appellate Authority, for the purpose of Chapter V of the Customs Act, 1962 on and from the said date.
- It is further proposed that such Authority shall not admit any appeal against any ruling or order passed earlier by it in the capacity of Authority for Advance Rulings for the purposes of Chapter V of the Customs Act, 1962 after the date of appointment of Customs Authority for Advance Rulings.
- It is also proposed that where such Authority is dealing with an application seeking advance ruling in the matters of the Income-tax Act, the revenue Member of the Bench shall be such member as referred to in sub-clause (i) of clause (c) of sub-section (3) of the said section.
- Consequential amendment is proposed in Section 245Q.

4. Appeal against penalty imposed by Commissioner (Appeals) under section 271J [Clause 50]

Clause (a) of sub-section (1) of section 253 is amended w.e.f. 1st day of April, 2018

*(a) an order passed by a Deputy Commissioner (Appeals) before the 1st day of October, 1998 or, as the case may be, a Commissioner (Appeals) under section 154, section 250, section 270A, section 271, section 271A, **section 271J** or section 272A; or*

Brief Impact:

It is proposed to make an order passed by a Commissioner (Appeals) under section 271J also appealable to the Appellate Tribunal u/s 253.



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Thank You...!!!

Presented by: CA. Sanjay K. Agarwal

Assisted by: CA. Apoorva Bhardwaj & CA. Sonia Rani

Email: agarwal.s.ca@gmail.com