

Budget



UNION BUDGET 2017-18

ANALYSIS OF THE TAXATION PROPOSALS

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Foreword

The Union Budget 2017-18 is a budget of many peculiarities. For the first time, Budget has been advanced and presented on 1st February as against the usual practice of presenting the Budget on last working day of February. Also, for the first time, no separate Railway Budget has been presented and the same is merged with the Union Budget. Similarly, there are many more such distinctiveness in the current Budget.

The taxation proposals in the current budget are more focused towards making taxation rates more reasonable, tax administration more fair and expand the tax base in the country. Effort is also made towards stimulating growth, relief to middle class, affordable housing, curbing black money, promoting digital economy, transparency of political funding and simplification of tax administration.

Under the Indirect Taxes front, not many changes are proposed considering the fact that implementation of Goods and Services Tax is around the corner. The Finance Minister reiterated the commitment of the Government to meet the implement schedule for GST.

We have made our best effort to summarise the key changes in simpler manner under this budget highlights. Trust the same would be found useful in understanding the taxation proposals.

Regards

Vishnu Daya & Co.

01.02.2017

Direct Taxes:

Non-Company Provisions

1. Changes in Rates of Taxes:

Individual, Hindu Undivided family, association of persons, body of individuals, artificial juridical person:

a. For Individual tax payers (both men and women tax payers):

Total Income	Rate of Tax
Less than or equal ₹ 2,50,000	Nil
From ₹ 2,50,001 to ₹ 5,00,000	5%
From ₹ 5,00,001 to ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

b. For Resident Individuals who is of the age of 60 years or more but less than 80 years:

Total Income	Rate of Tax
Less than or equal ₹ 3,00,000	Nil
From ₹ 3,00,001 to ₹ 5,00,000	5%
From ₹ 5,00,001 to ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

c. For Resident Individuals who is of the age of 80 years or more:

Total Income	Rate of Tax
Less than or equal ₹ 5,00,000	Nil
From ₹ 5,00,001 to ₹ 10,00,000	20%
Above ₹ 10,00,000	30%

d. The amount of income-tax computed as per above slab shall be increased by a surcharge. The surcharge rates would be as follows:

i. If the total income exceeds 50 lakh rupees but does not exceed 1 crore rupees – 10% of such income-tax; and

- ii. If the total income exceeds 1 crore rupees- 15% of such income-tax

In case of every co-operative society:

The slab rates remain same as last year which is as under:

Total Income	Rate of Tax
Less than or equal Rs. 10,000	10%
From Rs. 10,001 to 20,000	20%
Above Rs. 20,000	30%

Additional sur charge – 12 % of such income-tax in case of societies having total income exceeding Rs. 1 crore.

In case of Firm/local authority:

The basic rate of tax, surcharge and education cess will remain the same as per last year in the case of firms and local authority. Hence for the financial year 2017-18, the effective rate of tax would be as follows:

Type of tax payers	Total Income	Tax rate
Firm/Local authority	Less than ₹ 1 Crore	30.9%
	Above ₹ 1 Crore	34.608%

2. Deduction of tax at source in the case of certain Individuals and HUF:

- The existing provisions of section 194-I of the Act, *inter alia*, provide for deduction of tax at source at the time of credit or payment of rent to the account of the payee beyond a threshold limit. It is further provide that an Individual or a Hindu undivided family who is liable for tax audit under section 44AB for any financial year immediately preceding the financial year in which such income by way of rent is credited or paid shall be required to deduction of tax at source under this section.
- Therefore, under the existing provisions of the aforesaid section, an Individual and HUF, being a payer (other than those liable for tax audit) are out of the scope of section 194-I of the Act.

- In order to widen the scope of tax deduction at source, it is proposed to insert a new section 194-IB in the Act to provide that Individuals or a HUF (other than those covered under 44AB of the Act), responsible for paying to a resident any income by way of rent exceeding Rs. 50,000/- for a month or part of month during the previous year, shall deduct an amount equal to 5% of such income as income-tax thereon.
- It is further proposed that tax shall be deducted on such income at the time of credit of rent, for the last month of the previous year or the last month of tenancy if the property is vacated during the year, as the case may be, to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.
- In order to reduce the compliance burden, it is further proposed that the deductor shall not be required to obtain tax deduction account number (TAN) as per section 203A of the Act. It is also proposed that the deductor shall be liable to deduct tax only once in a previous year.
- It is also proposed to provide that where the tax is required to be deducted as per the provisions of section 206AA, such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy, as the case may be.

This amendment will take effect from 1st June, 2017.

3. Exemption from TDS in respect of insurance commission - Filing of Form 15G/15H:

In order to reduce compliance burden in the case of Individuals and HUFs, it is proposed to amend section 197A so as to make them eligible for filing self-declaration in Form.No.15G/15H for non-deduction of tax at source in respect insurance commission referred to in section 194D.

This amendment will take effect from 1st June, 2017.

4. Increasing threshold limit for maintenance of accounts for Individuals & HUF

In order to reduce the compliance burden, it is proposed to amend the provisions of section 44AA to increase monetary limits of income and total sales or turn over or gross receipts, etc. specified in said clauses for maintenance of books of accounts from ₹ 1,20,000/- to ₹ 2,50,000/- and from ₹ 10,00,000/- to ₹ 25,00,000/-, respectively in the case of Individuals and Hindu undivided family carrying on business or profession.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

5. Rationalization of deduction under section 80CCG – Investment in listed equity shares or equity oriented fund:

- Under the existing provisions of section 80CCG, deduction for three consecutive assessment years is allowed upto Rs. 25,000 to a resident individual for investment made in listed equity shares or listed units of an equity oriented fund subject to fulfilment of certain conditions.
- Considering the fact that limited number of individuals availed this deduction under section 80CCG and also to rationalize the multiplicity of deductions available under Chapter VI-A of the Act, it is proposed to phase out this deduction by providing that no deduction under section 80CCG shall be allowed from financial year 2017-18.
- However, an assessee who has claimed deduction under this section for financial year 2016-17 and earlier financial years shall be allowed deduction under this section till the financial year 2018-19 if he is otherwise eligible to claim the deduction as per the provisions of this section.

This amendment will take effect from the 1st April, 2017 and shall accordingly apply in relation to financial year 2017-18 and subsequent years.

6. Tax-exemption to partial withdrawal from National Pension System (NPS):

In order to provide further relief to an employee subscriber of NPS, it is proposed to amend the section 10 so as to provide exemption to partial withdrawal not exceeding

25% of the contribution made by an employee in accordance with the terms and conditions specified under Pension Fund Regulatory and Development Authority Act, 2013 and regulations made there under.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

7. Rationalisation of deduction under section 80CCD for self-employed individual:

- In case of an employee, the deduction allowed under section 80CCD adds up to 20% of salary [total of employer contribution and employees' contribution] whereas in case of other individuals, the total deduction under section 80CCD is limited to 10% of gross total income.
- In order to provide parity between an individual who is an employee and an individual who is self-employed, it is proposed to amend section 80CCD so as to increase the upper limit of 10% of gross total income to 20% in case of individual other than employee.

This amendment will take effect from 1st April, 2017 and, will accordingly, apply in relation to financial year 2017-18 and subsequent years.

8. Penalty for furnishing incorrect information in statutory report or certificate:

- In order to ensure that the person furnishing report or certificate undertakes due diligence before making such certification, it is proposed to insert a new section 271J so as to provide that if a Chartered Accountant or a merchant banker or a registered valuer, furnishes incorrect information in a report or certificate under any provisions of the Act or the rules made thereunder, the Assessing Officer or the Commissioner (Appeals) may direct him to pay a sum of Rs. 10,000/- for each such report or certificate by way of penalty.
- Valuation of shares by CAs and properties by the approved valuers can be a major area where this section may be applied.

- Penalty: It is also proposed to provide through amendment of section 273B that if the person proves that there was reasonable cause for the failure referred to in the said section, then penalty shall not be imposable in respect of the proposed section 271J.

These amendments will take effect from 1st April, 2017.

9. Rationalization of rebate allowable under Section 87A:

- In view of proposed rationalisation of tax rates for individuals in the income slab of Rs. 2,50,000 to Rs.5,00,000, it is proposed to amend section 87A so as to reduce the maximum amount of rebate available under this section from existing Rs. 5000 to Rs. 2500.
- It is also proposed to provide that this rebate shall be available to only resident individuals whose total income does not exceed Rs. 3,50,000.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

Company Provisions

1. Basic rates for the corporates are as follows:

Particulars	Basis	Basic rate of tax
Domestic Company	Where its total turnover or the gross receipt in the previous year 2015-16 does not exceed 50 crore rupees	25% of the total income
Domestic Company	Companies other than that referred to above	30%
Foreign Company	Total Income	40%
Minimum Alternate Tax	Total Income	18.5%

Surcharge for corporates are as follows:

Particular	Domestic Company	Foreign Company
Total Income less than 1 crore	0%	0%

Total Income more than 1 crore and less than 10 crores	7%	2%
Total Income more than 10 Crores	12%	5%

Education cess of 3% will be applicable on the total tax as computed above.

2. Carry forward and set off of loss in case of certain companies:

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

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

3. Rationalisation of Provisions relating to tax credit for MAT and AMT:

It is also proposed to amend section 115JAA and 115JD so as to provide that the amount of tax credit in respect of MAT/ AMT shall not be allowed to be carried forward to subsequent year to the extent such credit relates to the difference between the amount of foreign tax credit (FTC) allowed against MAT/ AMT and FTC allowable against the tax computed under regular provisions of Act other than the provisions relating to MAT/AMT.

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

4. Exemption of income of Foreign Company from sale of leftover stock of crude oil:

- The existing provisions of clause (48A) of section 10 of the Act, provides that any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India shall be exempt, if the said storage and sale is pursuant to an agreement or an arrangement entered into by the Central Government; and having regard to the national interest, said foreign company and the said agreement or arrangement are notified by the Central Government in that behalf. The benefit of exemption presently is not available to sale out of the leftover stock of crude after the expiry of said agreement or the arrangement.

- Given the strategic nature of the project benefitting India to augment its strategic petroleum reserves, it is proposed to insert a new clause (48B) in section 10 so as to provide that any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil, if any, from a facility in India after the expiry of an agreement or an arrangement referred to in clause (48A) of section 10 of the Act shall also be exempt subject to such conditions as may be notified by the Central Government in this behalf.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to financial year 2017-18 and subsequent years.

5. Tax neutral conversion of preference shares to equity shares:

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

- Consequential amendments are also proposed in section 49 and section 2(42A) in respect of cost of acquisition and period of holding.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

6. Cost of acquisition in Tax neutral demerger of a foreign company:

It is proposed to amend section 49 so as to provide that cost of acquisition of the shares of Indian company referred to in section 47(vic) in the hands of the resulting foreign company shall be the same as it was in the hands of demerged foreign company.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

7. Limitation of Interest deduction in certain cases - Loan from non-resident Associated Enterprises:

- It is proposed to insert a new section 94B, in line with the recommendations of OECD BEPS Action Plan 4, to provide that interest expenses claimed by an entity to its associated enterprises shall be restricted to 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to associated enterprise, whichever is less.
- The provision shall be applicable to an Indian company, or a permanent establishment of a foreign company being the borrower who pays interest in respect of any form of debt issued to a non-resident or to a permanent establishment of a non-resident and who is an 'associated enterprise' of the borrower. Further, the debt shall be deemed to be treated as issued by an associated enterprise where it provides an implicit or explicit guarantee to the lender or deposits a corresponding and matching amount of funds with the lender.
- The provisions shall allow for carry forward of disallowed interest expense to eight assessment years immediately succeeding the assessment year for which the disallowance was first made and deduction against the income computed under the head "Profits and gains of business or profession to the extent of maximum allowable

interest expenditure. In order to target only large interest payments, it is proposed to provide for a threshold of interest expenditure of Rs. 1 crore exceeding which the provision would be applicable.

- It is further proposed to exclude Banks and Insurance business from the ambit of the said provisions keeping in view of special nature of these businesses.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

Common Provisions

1. Incentives for Promoting Investment in immovable property:

Long term asset - With a view to promote the real-estate sector and to make it more attractive for investment, it is proposed to amend section 2 (42A) of the Act so as to reduce the period of holding from the existing 36 months to 24 months in case of immovable property, being land or building or both, to qualify as long term capital asset.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

2. Rationalisation of Provisions of Section 80-IBA to promote Affordable Housing:

- The existing provisions of section 80-IBA provides for 100% deduction in respect of the profits and gains derived from developing and building certain housing projects subject to specified conditions. The conditions specified, inter alia, include the limit of 30 square meters for the built-up area of residential unit in respect of project located in the Chennai, Delhi, Kolkata and Mumbai or within 25 kms from the municipal limits of these four cities. Further, it is also provided that in order to be eligible to claim deductions, the project shall be completed within a period of three years.

- In order to promote the development of affordable housing sector, it is proposed to amend section 80-IBA so as to provide the following relaxations:—

- a. The size of residential unit shall be measured by taking into account the "carpet area" as defined in Real Estate (Regulation and Development) Act, 2016 and not the "built-up area".
- b. The restriction of 30 square meters on the size of residential units shall not apply to the place located outside the Municipal limit. Earlier even up to a distance of 25 kms from the municipal limits of the Chennai, Delhi, Kolkata or Mumbai was covered which is proposed to be deleted.
- c. The condition of period of completion of project for claiming deduction under this section shall be increased from existing three years to five years.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

3. Provisions for computation of capital gains in case of Joint Development Agreement:

- Under the existing provisions of section 45, capital gain is chargeable to tax in the year in which transfer takes place except in certain cases. The definition of 'transfer', inter alia, includes any arrangement or transaction where any rights are handed over in execution of part performance of contract, even though the legal title has not been transferred. In such a scenario, execution of Joint Development Agreement between the owner of immovable property and the developer triggers the capital gains tax liability in the hands of the owner in the year in which the possession of immovable property is handed over to the developer for development of a project.
- Year of Taxability of JD agreements : With a view to minimise the genuine hardship which the owner of land may face in paying capital gains tax in the year of transfer, it is proposed to insert a new sub-section (5A) in section 45 so as to provide that in case of an assessee being individual or Hindu undivided family, who enters into a specified agreement for development of a project, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.

- Computation of Consideration: It is further proposed to provide that the stamp duty value of his share, being land or building or both, in the project on the date of issuing of said certificate of completion as increased by any monetary consideration received, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset. This can have a far reaching impact in the case of commercial buildings on JDA meant for leasing as the valuation would include the value of the building.
- It is also proposed to provide that benefit of this proposed regime shall not apply to an assessee who transfers his share in the project to any other person on or before the date of issue of said certificate of completion. In such a situation, the capital gains as determined under general provisions of the Act shall be deemed to be the income of the previous year in which such transfer took place and shall be computed as per provisions of the Act without taking into account this proposed provisions.
- It is also proposed to define the following expressions "competent authority", "specified agreement" and "stamp duty value" for this purpose.
- It is also proposed to make consequential amendment in section 49 so as to provide that the cost of acquisition of the share in the project being land or building or both, in the hands of the land owner shall be the amount which is deemed as full value of consideration under the said proposed provision.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

- It is also proposed to insert a new section 194-IC in the Act so as to provide that in case any monetary consideration is payable under the specified agreement, tax at the rate of 10% shall be deductible from such payment.

This amendment will take effect from 1st April, 2017.

4. Shifting base year from 1981 to 2001 for computation of capital gains:

- As the base year for computation of capital gains has become more than three decades old, assessee are facing genuine difficulties in computing the capital gains in respect of a capital asset, especially immovable property acquired before 01.04.1981 due to non-availability of relevant information for computation of fair market value of such asset as on 01.04.1981.
- In order to revise the base year for computation of capital gains, it is proposed to amend section 55 of the Act so as to provide that the cost of acquisition of an asset acquired before 01.04.2001 shall be allowed to be taken as fair market value as on 1st April, 2001 and the cost of improvement shall include only those capital expenses which are incurred after 01.04.2001.
- Consequential amendment is also proposed in section 48 so as to align the provisions relating to cost inflation index to the proposed base year.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

5. Expanding the scope of long term bonds under 54EC:

- The existing provision of section 54EC provides that capital gain to the extent of Rs. 50 lakhs arising from the transfer of a long-term capital asset shall be exempt if the assessee invests the whole or any part of capital gains in certain specified bonds, within the specified time. Currently, investment in bond issued by the National Highways Authority of India or by the Rural Electrification Corporation Limited is eligible for exemption under this section.
- In order to widen the scope of the section for sectors which may raise fund by issue of bonds eligible for exemption under section 54EC, it is proposed to amend section 54EC so as to provide that investment in any bond redeemable after three years which has been notified by the Central Government in this behalf shall also be eligible for exemption.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

6. Extension of eligible period of concessional tax rate on interest on ECB & Extension of benefit to Rupee Denominated Bonds:

- It is proposed to amend section 194LC to provide that the concessional rate of 5% TDS on interest payment under this section will now be available in respect of borrowings made before the 1st July, 2020.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

- Further, consequent upon demand from various stakeholders for granting benefit of lower rate of TDS to rupee denominated bonds, a Press Release dated 29th October, 2015 was issued clarifying that TDS at the rate of 5% would be applicable to these bonds in the same way as it is applicable for off-shore dollar denominated bonds.
- In order to give effect to the above, it is further proposed to extend the benefit of section 194LC to rupee denominated bond issued outside India before the 1st July, 2020.

This amendment will take effect retrospectively from 1st April, 2015 and will, accordingly, apply in relation to the financial year 2015-16 and subsequent years.

7. Extension of eligible period of concessional tax rate under section 194LD - Income by way of interest on certain bonds and Government securities:

It is proposed to amend section 194LD to provide that the concessional rate of 5% TDS on interest will now be available on interest payable before the 1st July, 2020.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

8. Extending the period for claiming deduction by start-ups:

- The existing provisions of section 80-IAC, inter alia, provide that an eligible start-up shall be allowed a deduction of an amount equal to 100% of the profits and gains derived from eligible business for three consecutive assessment years out of five years beginning from the year in which such eligible start-up is incorporated.
- In view of the fact that start-ups may take time to derive profit out of their business, it is proposed to provide that deduction under section 80-IAC can be claimed by an eligible start-up for any three consecutive assessment years out of seven years beginning from the year in which such eligible start-up is incorporated.

This amendment will take effect from 1st April, 2017 and will accordingly, apply in relation to financial year 2017-18 and subsequent years.

9. Restricting cash donations:

- Under the existing provisions of section 80G, deduction is not allowed in respect of donation made of any sum exceeding Rs.10,000, if the same is paid in cash.
- In order to achieve cash less economy and transparency, it is proposed to amend section 80G so as to provide that no deduction shall be allowed under the section 80G in respect of donation of any sum exceeding Rs. 2,000/- unless such sum is paid by any mode other than cash.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

10. Restriction on cash transactions:

- In order to achieve the mission of the Government to move towards a less cash economy to reduce generation and circulation of black money, it is proposed to insert section 269ST in the Act to provide that no person shall receive an amount of Rs. 3 lakh or more,—
 - a. in aggregate from a person in a day;
 - b. in respect of a single transaction; or

- c. in respect of transactions relating to one event or occasion from a person, otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account.
- It is further proposed to provide that the said restriction shall not apply to Government, any banking company, post office savings bank or co-operative bank. Further, it is proposed that such other persons or class of persons or receipts may be notified by the Central Government, for reasons to be recorded in writing, on whom the proposed restriction on cash transactions shall not apply.
- Transactions of the nature referred to in section 269SS are proposed to be excluded from the scope of the said section. It is also proposed to insert new section 271DA in the Act to provide for levy of penalty on a person who receives a sum in contravention of the provisions of the proposed section 269ST. The penalty is proposed to be a sum equal to the amount of such receipt. The said penalty shall however not be levied if the person proves that there were good and sufficient reasons for such contravention. It is also proposed that any such penalty shall be levied by the Joint Commissioner.
- It is also proposed to consequentially amend the provisions of section 206C to omit the provision relating to tax collection at source at the rate of 1% of sale consideration on cash sale of jewellery exceeding Rs. 5 lakh.

These amendments will take effect from 1st April, 2017.

11. Clarity relating to indirect transfer provisions:

- The Finance Act, 2012 inserted certain clarificatory amendments in the provisions of section 9. The amendments, inter-alia, included insertion of Explanation 5 in section 9(1)(i) w.e.f. 1st April, 1962. The Explanation 5 clarified that an asset or capital asset, being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

- In response to various queries raised by stakeholders seeking clarification on the scope of indirect transfer provisions, the CBDT issued Circular No 41 of 2016. However, concerns have been raised by stakeholders that the provisions result in multiple taxation.
- In order to address these concerns, it is proposed to amend the said section so as to clarify that the Explanation 5 shall not apply to any asset or capital asset mentioned therein being investment held by non-resident, directly or indirectly, in a Foreign Institutional Investor, as referred to in clause (a) of the Explanation to section 115AD, and registered as Category-I or Category II Foreign Portfolio Investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, as these entities are regulated and broad based. The proposed amendment is clarificatory in nature.

This amendment will take effect retrospectively from 1st April, 2011 and will, accordingly, apply in relation to financial year 2011-12 and subsequent years.

12. Non-deduction of tax in case of exempt compensation under RFCTLAAR Act, 2013:

In order to rationalise the provisions of the Act, it is proposed to amend the section 194LA to provide that no deduction shall be made under this section where such payment is made in respect of any award or agreement which has been exempted from levy of income-tax under section 96 (except those made under section 46) of RFCTLARR Act.

This amendment will take effect from 1st April, 2017.

13. Exemption from TCS under section 206C (1F) in case of certain specified buyers:

- The existing provision of sub-section (1F) of section 206C of the Act, inter-alia provides that the seller who receives consideration for sale of a motor vehicle exceeding Rs. 10 lakh, shall collect 1% of the sale consideration as tax from the buyer.

- In order to reduce compliance burden in certain cases, it is proposed to amend section 206C, to exempt the following class of buyers such as the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; local authority as defined in explanation to clause (20) of Section 10; a public sector company which is engaged in the business of carrying passengers, from the applicability of the provision of subsection (1F) of section 206C of the Act.

This amendment will take effect from 1st April, 2017.

14. TDS under section 194J at a lower rate for Call Centre:

In order to promote ease of doing business, it is proposed to amend section 194J to reduce the rate of deduction of tax at source to 2% from 10% in case of payments received or credited to a payee, being a person engaged only in the business of operation of call center.

This amendment will take effect from the 1st day of June, 2017.

15. Scope of section 92BA - Specified Domestic Transactions Restricted:

- The existing provisions of section 92BA of the Act, inter-alia provide that any expenditure in respect of which payment has been made by the assessee to certain "specified persons" under section 40A(2)(b) are covered within the ambit of specified domestic transactions.
- As a matter of compliance and reporting, taxpayers need to obtain the chartered accountant's certificate in Form 3CEB providing the details such as list of related parties, nature and value of specified domestic transactions (SDTs), method used to determine the arm's length price for SDTs, positions taken with regard to certain transactions not considered as SDTs, etc. This has considerably increased the compliance burden of the taxpayers.

- In order to reduce the compliance burden of taxpayers, it is proposed to provide that expenditure in respect of which payment has been made by the assessee to a person referred to in under section 40A(2)(b) are to be excluded from the scope of section 92BA of the Act. Accordingly, it is also proposed to make a consequential amendment in section 40(A)(2)(b) of the Act.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the financial year 2016-17 and subsequent years.

16. Income from transfer of Carbon credits:

In order to bring clarity on the issue of taxation of income from transfer of carbon credits and to encourage measures to protect the environment, it is proposed to insert a new section 115BBG to provide that where the total income of the assessee includes any income from transfer of carbon credit, such income shall be taxable at the concessional rate of 10% (plus applicable surcharge and cess) on the gross amount of such income. No expenditure or allowance in respect of such income shall be allowed under the Act.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

17. Processing of return within time & enable withholding of refund:

- The provisions of sub-section (1D) of section 143 provide that the processing of a return shall not be necessary, where a notice has been issued to the assessee under sub-section (2) of the said section. Amendment to the said sub-section brought by Finance Act, 2016 provides that with effect from assessment year 2017-18, processing under section 143(1) is to be done before passing of assessment order.
- In order to address the grievance of delay in issuance of refund in genuine cases which are routinely selected for scrutiny assessment, it is proposed that provisions of section 143(1D) shall cease to apply in respect of returns furnished for assessment year 2017-18 and onwards.

- However, to address the concern of recovery of revenue in doubtful cases, it is proposed to insert a new section 241A to provide that, for the returns furnished for assessment year commencing on or after 1st April, 2017, where refund of any amount becomes due to the assessee under section 143(1) and the Assessing Officer is of the opinion that grant of refund may adversely affect the recovery of revenue, he may, for the reasons recorded in writing and with the previous approval of the Principal Commissioner or Commissioner, withhold the refund up to the date on which the assessment is made.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply to returns furnished for assessment year 2017-18 and subsequent years.

18. Rationalisation of section 211 and section 234C relating to advance tax:

- Section 211 of the Act provides for instalments of advance tax and due dates for depositing the same. Clause (b) of sub-section (1) of the said section provides that an eligible assessee engaged in an eligible business referred to in section 44AD is liable to pay advance tax in a single instalment on or before the 15th of March every financial year.
- Vide Finance Act 2016, presumptive taxation regime has been extended to professionals also. Hence, it is proposed to amend the said clause (b) to provide that the assessee who declares profits and gains in accordance with presumptive taxation regime provided under section 44ADA shall also be liable to pay advance tax in one instalment on or before the 15th of March.
- It is also proposed to make consequential amendments in sub-section (1) of section 234C to provide that in respect of an assessee referred to in section 44ADA, interest under the said section shall be levied, if the advance tax paid on or before the 15th March, is less than the tax due on the returned income.
- Vide Finance Act, 2016, tax on certain dividends received from domestic companies is to be levied under section 115BBDA of the Act with effect from the 1st April, 2017, if such income exceeds Rs. 10 lakh. However, in view of the uncertain nature of

declaration and receipt of dividend incomes, an assessee liable to pay advance tax may not be able to correctly determine such liability within the payment schedule as specified under section 211 and shall, therefore, incur levy of interest on deferment of advance tax as specified under clauses (a) or (b) of section 234C(1).

- It is hence proposed to provide that that if shortfall in payment of advance tax is on account of under-estimation or failure in estimation of income of the nature referred to in section 115BBDA, the interest under section 234C shall not be levied subject to fulfilment of conditions specified therein.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

19. Interest on refund due to deductor:

- It is proposed to insert a new sub-section (1B) in the said section to provide that where refund of any amount becomes due to the deductor, such person shall be entitled to receive, in addition to the refund, simple interest on such refund, calculated at the rate of 1.5% for every month or part of a month comprised in the period, from the date on which claim for refund is made in the prescribed form or in case of an order passed in appeal, from the date on which the tax is paid, to the date on which refund is granted.
- It is also proposed to provide that the interest shall not be allowed for the period for which the delay in the proceedings resulting in the refund is attributable to the deductor.

This amendment will take effect from 1st April, 2017.

20. Extension of capital gain exemption to Rupee Denominated Bonds:

- In order to further provide relief in respect of gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company to secondary holders as well, it is proposed to amend

section 48 providing that the said appreciation of rupee shall be ignored for the purposes of computation of full value of consideration.

- Further, with a view to facilitate transfer of Rupee Denominated Bonds from non-resident to non-resident, it is proposed to amend section 47 so as to provide that any transfer of capital asset, being rupee denominated bond of Indian company issued outside India, by a non-resident to another non-resident shall not be regarded as transfer.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

21. Enabling claim of credit for foreign tax paid in cases of dispute:

- The existing provisions of section 155 of the Act provide for procedure for amendment of assessment order in case of certain specified errors.
- In view of rule 128 of the Income-tax Rules, 1962, which provides a mechanism for claim of foreign tax credit, it is proposed to insert sub-section (14A) in section 155 to provide that where credit for foreign taxes paid is not given for the relevant assessment year on the grounds that the payment of such foreign tax was in dispute, the Assessing Officer shall rectify the assessment order or an intimation under sub-section (1) of section 143, if the assessee, within six months from the end of the month in which the dispute is settled, furnishes proof of settlement of such dispute, submits evidence before the Assessing Officer that the foreign tax liability has been discharged and furnishes an undertaking that credit of such amount of foreign tax paid has not been directly or indirectly claimed or shall not be claimed for any other assessment year.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to financial year 2017-18 and subsequent years.

22. Amendments to the structure of Authority for Advance Rulings:

With a view to promote ease of doing business, it has been decided by the Government to merge the Authority for Advance Ruling (AAR) for income-tax, central excise, customs duty and service tax. Accordingly, necessary amendments, have been made to Chapter XIX-B to allow merger of these AARs.

23. Exemption of long term capital gains tax u/s 10(38):

It has been noticed that exemption provided under section 10(38) is being misused by certain persons for declaring their unaccounted income as exempt long-term capital gains by entering into sham transactions. With a view to prevent this abuse, it is proposed to amend section 10(38) to provide that exemption under this section for income arising on transfer of equity share acquired or on after 1st day of October, 2004 shall be available only if the acquisition of share is chargeable to Securities Transactions Tax under Chapter VII of the Finance (No 2) Act, 2004. However, to protect the exemption for genuine cases where the Securities Transactions Tax could not have been paid like acquisition of share in IPO, FPO, bonus or right issue by a listed company acquisition by non-resident in accordance with FDI policy of the Government etc., it is also proposed to notify transfers for which the condition of chargeability to Securities Transactions Tax on acquisition shall not be applicable.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent assessment years.

24. Fair Market Value to be full value of consideration in case of shares:

- Under the existing provisions of the Act, income chargeable under the head "Capital gains" is computed by taking into account the amount of full value of consideration received or accrued on transfer of a capital asset. In order to ensure that the full value of consideration is not understated, the Act also contained provisions for deeming of full value of consideration in certain cases such as deeming of stamp duty value as full value of consideration for transfer of immovable property in certain cases.
- In order to rationalise the provisions relating to deeming of full value of consideration for computation of income under the head "capital gains", it is proposed to insert a new section 50CA to provide that where consideration for transfer of share of a

company (other than quoted share) is less than the Fair Market Value (FMV) of such share determined in accordance with the prescribed manner, the FMV shall be deemed to be the full value of consideration for the purposes of computing income under the head "Capital gains".

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent assessment years.

25. Secondary adjustments in certain cases:

- "Secondary adjustment" means an adjustment in the books of accounts of the assessee and its associated enterprise to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined as a result of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee.
- As per the OECD's Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD transfer pricing guidelines), secondary adjustment may take the form of constructive dividends, constructive equity contributions, or constructive loans.
- The provisions of secondary adjustment are internationally recognised and are already part of the transfer pricing rules of many leading economies in the world. Whilst the approaches to secondary adjustments by individual countries vary, they represent an internationally recognised method to align the economic benefit of the transaction with the arm's length position.
- In order to align the transfer pricing provisions in line with OECD transfer pricing guidelines and international best practices, it is proposed to insert a new section 92CE to provide that the assessee shall be required to carry out secondary adjustment where the primary adjustment to transfer price, has been made suo moto by the assessee in his return of income; or made by the Assessing Officer has been accepted by the assessee; or is determined by an advance pricing agreement entered into by the assessee under section 92CC; or is made as per the safe harbour rules

framed under section 92CB; or is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into under section 90 or 90A.

- It is proposed to provide that where as a result of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, as the case may be, of the assessee, the excess money which is available with its associated enterprise, if not repatriated to India within the time as may be prescribed, shall be deemed to be an advance made by the assessee to such associated enterprise and the interest on such advance, shall be computed as the income of the assessee , in the manner as may be prescribed.
- It is also proposed to provide that such secondary adjustment shall not be carried out if, the amount of primary adjustment made in the case of an assessee in any previous year does not exceed Rs. 1 crore and the primary adjustment is made in respect of an assessment year commencing on or before 1st April,2016.

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

26. Rationalization of taxation of income by way of dividend:

With a view to ensure horizontal equity among all categories of tax payers deriving income from dividend, it is proposed to amend section 115BBDA so as to provide that the provisions of said section shall be applicable to all resident assessee except domestic company and certain funds, trusts, institutions, etc.

This amendment will take effect from 1st April, 2017 and will, accordingly apply in relation to the financial year 2017-18 and subsequent years.

27. Extension of scope of section 43D to Co-operative Banks:

- With a view to provide a level playing field to co-operative banks vis-à-vis scheduled banks and to rationalise the scope of the section 43D, it is proposed to amend section

43D of the Act so as to include co-operative banks other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

- Consequentially, as per matching principle in taxation, if the interest income on bad or doubtful debts is chargeable to tax on receipt basis, the interest payable on such bad or doubtful debts need to be allowed on actual payment.
- In view of this, it is proposed to amend section 43B of the Act to provide that any sum payable by the assessee as interest on any loan or advances from a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank shall be allowed as deduction if it is actually paid on or before the due date of furnishing the return of income of the relevant previous year.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

28. Increase in deduction limit in respect of provision for bad and doubtful debts:

- The existing provisions of sub-clause (a) of section 36(1)(viia) of the Act, inter-alia provides that a scheduled bank (not being a bank incorporated by or under the laws of a country outside India) or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, can claim deduction in respect of provision for bad and doubtful debts. The amount of such deduction is limited to 7.5% of the total income (computed before making any deduction under that clause and Chapter VIA) and an amount not exceeding 10% of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner at the end of the previous year.
- In order to strengthen the financial position of the entities specified in the sub-clause (a) of section 36(1) (viia) of the Act, it is proposed to amend the said sub-clause to enhance the present limit from 7.5% to 8.5% of the amount of the total income (computed before making any deduction under that clause and Chapter VIA).

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

29. Disallowance of depreciation u/s 32 & capital exp u/s 35AD on cash payment:

- In order to discourage cash transactions even for capital expenditure, it is proposed to amend the provisions of section 43 of the Act to provide that where an assessee incurs any expenditure for acquisition of any asset in respect which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account, exceeds Rs. 10,000/-, such expenditure shall be ignored for the purposes of determination of actual cost of such asset.
- It is further proposed to amend section 35AD of the Act to provide that any expenditure in respect of which payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceeds Rs. 10,000/-, no deduction shall be allowed in respect of such expenditure.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

30. Measures to discourage cash transactions:

- In order to disincentivise cash transactions, it is proposed to amend the provision of section 40A of the Act to provide the following:
 - a. To reduce the existing threshold of cash payment to a person from Rs. 20,000/- to Rs. 10,000/- in a single day; i.e., any payment in cash above Rs. 10,000/- to a person in a day, shall not be allowed as deduction in computation of Income from "Profits and gains of business or profession";
 - b. Deeming a payment as profits and gains of business or profession if the expenditure is incurred in a particular year but the cash payment is made in any subsequent year of a sum exceeding Rs. 10,000/- to a person in a single day; and
 - c. Further expand the specified mode of payment under respective sub-section of section 40A from an account payee cheque drawn on a bank or account payee

bank draft to by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017- 18 and subsequent years.

31. Measures for promoting digital payments in case of small unorganized businesses:

In order to promote digital transactions and to encourage small unorganized business to accept digital payments, it is proposed to amend section 44AD of the Act to reduce the existing rate of deemed total income of 8% to 6% in respect of the amount of such total turnover or gross receipts received by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year. However, the existing rate of deemed profit of 8% referred to in section 44AD of the Act, shall continue to apply in respect of total turnover or gross receipts received in any other mode.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the financial year 2016-17 and subsequent years.

32. Tax incentive for the development of capital of Andhra Pradesh:

- With a view to provide relief to an individual or Hindu undivided family who was the owner of such land as on 2nd June, 2014, and has transferred such land under the land pooling scheme notified under the provisions of Andhra Pradesh Capital Region Development Authority Act, 2014, it is proposed to insert a new clause (37A) in section 10 to provide that in respect of said persons, capital gains arising from following transfer shall not be chargeable to tax under the Act:
- a. Transfer of capital asset being land or building or both, under land pooling scheme.
 - b. Sale of LPOCs by the said persons received in lieu of land transferred under the scheme.

- c. Sale of reconstituted plot or land by said persons within two years from the end of the financial year in which the possession of such plot or land was handed over to the said persons.

This amendment will take effect retrospectively, from 1st April, 2014 and will, accordingly, apply in relation to the financial year 2014-15 and subsequent years.

- It is also proposed to make amendment in section 49 so as to provide that where reconstituted plot or land, received under land pooling scheme is transferred after the expiry of two years from the end of the financial year in which the possession of such plot or land was handed over to the said assessee, the cost of acquisition of such plot or land shall be deemed to be its stamp duty value on the last day of the second financial year after the end of financial year in which the possession of such asset was handed over to the assessee.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

33. Exclusion of certain specified person from requirement of audit u/s 44AB:

In light of the various legislative changes and to reduce the compliance burden of the small tax payers and facilitate the ease of doing business, it is proposed to amend the section 44AB to exclude the eligible person, who declares profits for the previous year in accordance with the provisions of sub-section (1) of section 44AD and his total sales, total turnover or gross receipts, as the case may be, in business does not exceed Rs. 2 crore in such previous year, from requirement of audit of books of accounts under section 44AB.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the financial year 2016-17 and subsequent years.

34. Actual cost of asset in case of withdrawal of deduction in section 35AD(7B):

In light of the recommendations of Income-tax simplification committee and to bring clarity, it is proposed to amend the provisions of the section 43 of the Act, to provide

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

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

35. Disallowance for non-deduction of tax from payment to resident:

- For computing income under the head "Profits and gains of business or profession", a disallowance is made for non-deduction of tax from payment to resident also.
- With a view to improve compliance of provision relating to tax deduction at source (TDS), it is proposed to amend the said section so as to provide that provisions of section 40(a)(ia) shall, so far as they may be, apply in computing income chargeable under the head "income from other sources" as they apply in computing income chargeable under the head "Profit and gains of business or Profession".

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

36. Notional income for house property held as stock-in-trade:

- Section 23 of the Act provides for the manner of determination of annual value of house property.
- Considering the business exigencies in case of real estate developers, it is proposed to amend the said section so as to provide that where the house property consisting of any building and land appurtenant thereto is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period up to one year from the end of the financial year in which the certificate of

completion of construction of the property is obtained from the competent authority, shall be taken to be nil. If the stock remains unsold beyond this period, notional rent would have to be offered for tax.

This amendment will take effect from 1st April, 2017 and will, accordingly apply in relation to financial year 2017-18 and subsequent years.

37. Restriction on set-off of loss from House property:

In line with the international best practices it is proposed to insert sub-section (3A) in the section 71 to provide that set-off of loss under the head "Income from house property" against any other head of income shall be restricted to Rs. 2 lakh for any assessment year. However, the unabsorbed loss shall be allowed to be carried forward for set-off in subsequent years in accordance with the existing provisions of the Act.

This amendment will take effect from 1st April, 2017 and will, accordingly apply in relation to financial year 2017-18 and subsequent years.

38. Widening scope of Income from other sources:

- In order to prevent the practice of receiving the sum of money or the property without consideration or for inadequate consideration, it is proposed to insert a new clause (x) in sub-section (2) of section 56 so as to provide that receipt of the sum of money or the property by any person without consideration or for inadequate consideration in excess of Rs. 50,000 shall be chargeable to tax in the hands of the recipient under the head "Income from other sources".
- It is also proposed to widen the scope of existing exceptions by including the receipt by certain trusts or institutions and receipt by way of certain transfers not regarded as transfer under section 47.
- Consequential amendment is also proposed in section 49 for determination of cost of acquisition.

These amendments will take effect from 1st April, 2017 and the said receipt of sum of money or property on or after 1st April, 2017 shall be chargeable to tax in accordance with the provisions of proposed clause (x) of sub-section (2) of section 56.

39. Definition of 'person responsible for paying' in section 195(6):

In order to bring clarity to the meaning of 'person responsible for paying' in case of payment by a resident to a non-resident in accordance with section 195(6) of the Act, it is proposed to amend the said section of the Act to provide that in the case of furnishing of information relating to payment to a non-resident, not being a company, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act, 'person responsible for paying' shall be the payer himself, or, if the payer is a company, the company itself including the principal officer thereof.

This amendment will take effect from 1st April, 2017.

40. Clarification regarding interpretation of 'terms' used in section 90 and 90A:

To bring in clarity to avoid litigation, it is proposed to amend the sections 90 and 90A of the Act, to provide that where any 'term' used in an agreement entered into under sub-section (1) of Section 90 and 90A of the Act, is defined under the said agreement, the said term shall be assigned the meaning as provided in the said agreement and where the term is not defined in the agreement, but is defined in the Act, it shall be assigned the meaning as definition in the Act or any explanation issued by the Central Government.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

41. Procedure in respect of change or modifications of object and filing of return of income in case of entities exempt under sections 11 and 12:

→ It is proposed to amend section 12A so as to provide that where a trust or an institution has been granted registration under section 12AA or has obtained registration at any time under section 12A and, subsequently, it has adopted or

undertaken modifications of the objects which do not conform to the conditions of registration, it shall be required to obtain fresh registration by making an application within a period of thirty days from the date of such adoption or modifications of the objects in the prescribed form and manner.

- Filing of returns: It is proposed to further amend section 12A so as to provide for further condition that the person in receipt of the income chargeable to income-tax shall furnish the return of income within the time allowed under section 139 of the Act.
- These amendments are clarificatory in nature.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to financial year 2017-18 and subsequent years.

42. Cost of Acquisition of capital assets of entities in case of levy of tax on accreted income under section 115TD:

- It is proposed to amend section 49 so as to provide that where the capital gain arises from the transfer of an asset, being the asset held by a trust or an institution in respect of which accreted income has been computed, and the tax has been paid thereon in accordance with the provisions of Chapter XII-EB, the cost of acquisition of such asset shall be deemed to be the fair market value of the asset which has been taken into account for computation of accreted income as on the specified date referred to in sub-section (2) of section 115TD.
- The proposed amendment is consequential in nature.

This amendment will take effect retrospectively from 1st June, 2016 and will, accordingly, apply in relation to the financial year 2015-16 and subsequent years.

43. Strengthening of PAN quoting mechanism in the TCS regime:

- In order to strengthen the PAN mechanism, it is proposed to insert new section 206CC to provide the following:

- (1) any person paying any sum or amount, on which tax is collectable at source under Chapter XVII BB (hereafter referred to as collectee) shall furnish his Permanent Account Number to the person responsible for collecting such tax (hereafter referred to as collector), failing which tax shall be collected at twice the rate mentioned in the relevant section under Chapter XVII BB or at the rate of 5% whichever is higher.
- (2) that the declaration filed under sub section (1A) of section 206C shall not be valid unless the person filing the declaration furnishes his Permanent Account Number in such declaration.
- (3) that in case any declaration becomes invalid under sub-section (2), the collector shall collect the tax at source in accordance with the provisions of sub-section (1).
- (4) no certificate under sub section (9) of section 206C shall be granted unless it contains the Permanent Account Number of the applicant.
- (5) the collector knows about the correct PAN of the collectee it is also proposed to provide for mandatory quoting of PAN of the collectee by both the collector and the collectee in all correspondence, bills and vouchers exchanged between them.
- (6) that the collectee shall furnish his Permanent Account Number to the collector who shall indicate the same in all its correspondence, bills, vouchers and other documents which are sent to collectee.
- (7) where the Permanent Account Number provided by the collectee is invalid or it does not belong to the collectee, then it shall be deemed that Permanent Account Number has not been furnished to the collector.
- (8) to exempt the non-resident who does not have permanent establishment in India from the provisions of this proposed section 206CC of the Act.

This amendment will take effect from 1st April, 2017.

44. Reason to believe to conduct a search, etc. not to be disclosed:

- Confidentiality and sensitivity are the hallmarks of proceedings under section 132 and section 132A.
- However, certain judicial pronouncements have created ambiguity in respect of the disclosure of 'reason to believe' or 'reason to suspect' recorded by the income-tax

authority to conduct a search under section 132 or to make requisition under section 132A.

- It is therefore proposed to insert an Explanation to sub-section (1) and to sub-section (1A) of section 132 and to sub-section (1) of section 132A to declare that the 'reason to believe' or 'reason to suspect', as the case may be, shall not be disclosed to any person or any authority or the Appellate Tribunal.

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

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

- Section 132 of the Act provides the power of search and seizure subject to fulfilment of conditions specified therein.
- In order to protect the interest of revenue and safeguard recovery in search cases, it is proposed to insert sub-section (9B) and (9C) in the said section, to provide that during the course of a search or seizure or within a period of sixty days from the date on which the last of the authorisations for search was executed, the authorised officer on being satisfied that for protecting the interest of revenue it is necessary so to do, may attach provisionally any property belonging to the assessee with the prior approval of Principal Director General or Director General or Principal Director or Director.
- It has been proposed that such provisional attachment shall cease to have effect after the expiry of six months from the date of order of such attachment.
- In order to enable correct estimation and quantification of undisclosed income held in the form of investment or property by the assessee by the Investigation wing of the Department, it is further proposed to insert a new sub-section (9D) in the said section

to provide that in a case of search, the authorised officer may, for the purpose of estimation of fair market value of a property, make a reference to a Valuation Officer referred to in section 142A, for valuation in the manner provided under that sub-section. It also provides that the Valuation Officer shall furnish the valuation report within sixty days of receipt of such reference.

- It is also proposed to amend Explanation 1 to section 132, so as to provide that for the purposes of sub-sections 9A, 9B and 9D, with respect to "execution of an authorisation for search" under the provisions of sub-section (2) of section 153B shall apply.

These amendments will take effect from 1st April, 2017.

46. Rationalisation of the provisions in respect of power to call for information:

- Considering the requirement of the work profile of the authorities working in the Investigation Directorate, it is proposed to amend the first proviso of section 133 and provide that the power in respect of inquiry or proceeding under the Act, as referred to in clause (6) of the said section, may also be exercised by the Joint Director, the Deputy Director and the Assistant Director.
- It is further proposed to amend the second proviso of section 133 to provide that the Joint Director, the Deputy Director or the Assistant Director may exercise the powers in respect of such inquiry, without seeking prior approval of higher authorities.

These amendments will take effect from 1st April, 2017.

47. Rationalisation of provisions of the Income Declaration Scheme, 2016 and consequential amendment to section 153A and 153C:

- The existing provisions of clause (c) of the section 197 of the Finance Act, 2016 provide that where any income has accrued, arisen or been received or any asset has been acquired out of such income prior to commencement of the Income Declaration Scheme, 2016 (the Scheme), and no declaration in respect of such income is made under the Scheme, then, such income shall be deemed to have accrued, arisen or

received, as the case may be, in the year in which a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act is issued by the Assessing Officer, and provisions of the said Act shall apply accordingly.

- In view of the various representations received from stakeholders citing genuine hardships if the said provision is made applicable, it is proposed to omit clause (c) of section 197 of the Finance Act, 2016.

This amendment will take effect retrospectively from 1st June, 2016.

- However, in order to protect the interest of the revenue in cases where tangible evidence(s) are found during a search or seizure operation (including 132A cases) and the same is represented in the form of undisclosed investment in any asset, it is proposed that section 153A relating to search assessments be amended to provide that notice under the said section can be issued for an assessment year or years beyond the sixth assessment year already provided up to the tenth assessment year if—
 - (i) the Assessing Officer has in his possession books of accounts or other documents or evidence which reveal that the income which has escaped assessment amounts to or is likely to amount to Rs. 50 lakh or more in one year or in aggregate in the relevant four assessment years(falling beyond the sixth year);
 - (ii) such income escaping assessment is represented in the form of asset;
 - (iii) the income escaping assessment or part thereof relates to such year or years.
- It is however proposed that the amended provisions of section 153A shall apply where search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.
- It is also proposed to consequentially amend section 153C to provide a reference to the relevant assessment year or years as referred to in section 153A.

These amendments will take effect from 1st April, 2017.

48. Fee for delayed filing of return:

- In order to ensure that return is filed within due date, it is proposed to insert a new section 234F in the Act to provide that a fee for delay in furnishing of return shall be levied for financial year 2017-18 and onwards in a case where the return is not filed within the due dates specified for filing of return under sub-section (1) of section 139. The proposed fee structure is as follows:—
 - (i) a fee of Rs. 5,000/- shall be payable, if the return is furnished after the due date but on or before the 31st day of December of the assessment year;
 - (ii) a fee of Rs. 10,000/- shall be payable in any other case.
- However, in a case where the total income does not exceed Rs. 5 lakh, it is proposed that the fee amount shall not exceed Rs. 1,000/-.
- In view of above, it is proposed to make consequential amendment in section 140A to include that in case of delay in furnishing of return of income, along with the tax and interest payable, fee for delay in furnishing of return of income shall also be payable.
- It is also proposed to make consequential amendment in sub-section (1) of section 143, to provide that in computation of amount payable or refund due, as the case may be, on account of processing of return under the said sub-section, the fee payable under section 234F shall also be taken into account.
- Consequentially, it is also proposed that the provisions of section 271F in respect of penalty for failure to furnish return of income shall not apply in respect of financial year 2017-18 and onwards.

These amendments will take effect from 1st April, 2017 and will, accordingly apply in relation to financial year 2017-18 and subsequent years.

49. Rationalisation of provisions of Section 10AA- applicable to SEZs:

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

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017-18 and subsequent years.

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

- It is proposed to insert a new Explanation to section 11 of the Act to provide that any amount credited or paid, out of income referred to in clause (a) or clause (b) of sub-section (1) of section 11, being contributions with specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income.
- It is also proposed to insert a proviso in clause (23C) of section 10 so as to provide similar restriction as above on the entities exempt under sub-clauses (iv), (v), (vi) or (via) of said clause in respect of any amount credited or paid out of their income.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the financial year 2017- 18 and subsequent years.

51. Repeal of the Research and Development Cess Act, 1986:

The Research and Development Cess Act, 1986 is repealed. Therefore, on technology payments R & D Cess is not required to be paid.

The provisions of this Part shall come into force on the 1st day of April, 2017.

Indirect Taxes:

Customs:

1. Duty rate changes:

Changes are effective from February 2nd, 2017:

Goods description	Existing rate %	Revised rate %
Cashew nut, roasted, salted or roasted and salted	30	45
Liquefied Natural Gas (LNG)	5	2.5
o-Xylene	2.5	Nil
2-Ethyl Anthraquinone,	7.5	2.5
Vinyl Polyethylene Glycol use in manufacture of Poly Carboxylate Ether	10	7.5
Catalyst and Resin use in manufacture of cast components of Wind Operated Electricity Generator	7.5	5
Wattle extract, Myrobalan fruit extract	7.5	2.5
Nylon Monofilament yarn use in Monofilament long line systems for tuna fishing	7.5	5
Solar tempered glass or solar tempered (anti-reflective coated) glass for manufacture of Solar cells/panels/modules	5	Nil
Hot Rolled Coils use in the manufacture of welded tubes and pipes	12.5	10
Magnesium Oxide (MgO) coated cold rolled steel coils use in the manufacture of cold rolled grain oriented steel	10	5
Nickel and articles	2.5	Nil
Reverse Osmosis (RO) membrane element for household type filters	7.5	10
Ball Screws, Linear Motion Guides, CNC System use in the manufacture of all types of CNC machine tools	7.5	2.5

Items of machinery, including, instruments, apparatus and appliances, transmission equipment and auxiliary equipment (including those required for testing and quality control) and components, required for initial setting up of fuel cell based system for generation of power or for demonstration	10/7.5	5
Items of machinery, including, instruments, apparatus and appliances, transmission equipment and auxiliary equipment (including those required for testing and quality control) and components, required for balance of systems operating on biogas or bio-methane or by-product hydrogen	10/7.5	5

→ **Miscellaneous Changes:**

- ✓ SAD is being exempted on Catalyst [3815 90 00] and Resin [3909 40 90] for use in the manufacture of cast components of WOEG, subject to actual user condition (valid till 30th June, 2017)
- ✓ CVD exemption [under S.No.324 of notification No.12/2012-Customs, dated 17.03.2012] on silver medallions and coins having silver content not below 99.9%, other semi-manufactured forms of silver or articles of silver is being withdrawn. Simultaneously, articles of silver are being excluded from the scope of CVD exemption.
- ✓ Exemption from Basic Customs duty (BCD) on Co-polymer coated MS tape/ stainless steel tape for manufacture of telecommunication grade optical fibres or optical fibre cables is being withdrawn.
- ✓ 10% concessional BCD is being prescribed on Co-polymer coated MS tape/stainless steel tape for manufacture of telecommunication grade optical fibres or optical fibre cables, subject to actual user condition.
- ✓ Populated PCBs use in manufacture of mobile phones is subject to 2% concessional SAD.

- ✓ BCD, CVD and SAD exempted on Micro ATMs as per standards version 1.5.1, fingerprint reader / scanner, and Iris Scanner including parts and components for manufacture of these devices
- ✓ BCD, CVD and SAD exempted on miniaturised POS card reader for mPOS (other than Mobile phone or Tablet Computer) including parts and components for manufacture of these devices.
- ✓ BCD, CVD and SAD exempted on Goods imported through postal parcels, packets and letters, of CIF value not more than Rs 1,000 per consignment.
- ✓ 5% concessional (BCD) on all parts for use in the manufacture of LED lights or fixtures including LED Lamps.
- ✓ 5% concessional BCD on imports of inputs for use in the manufacture of LED (Light Emitting Diode) driver or MCPCB (Metal Core Printed Circuit Board) for LED lights and fixtures or LED Lamps.
- ✓ Exemption limit increased from 3% to 5% of FOB Value of exports during preceding FY for duty free imports of Buckles; 'D' rings; eyes; rivets; studs; etc. imported by a manufacturer of leather footwear or synthetic footwear or other leather products for exports.

2. Other changes:

Changes effective from the date of enactment of the Finance Bill:

- Sub-section (2) of section 27 is being amended so as to keep outside the ambit of unjust enrichment, the refund of duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made, where –
 - ✓ Such excess payment is evident from the bill of entry in the case of self-assessed bill of entry; or
 - ✓ The duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.
- Changes to the provisions of Advance Ruling:
 - ✓ Section 28F is being amended so as to provide that the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act shall be the Authority for giving advance rulings for the purposes of the Customs Act. It further seeks to provide that the Member of the Indian Revenue Service (Customs

and Central Excise), who is qualified to be a Member of the Board, shall be the revenue Member of the Authority for the purposes of Customs Act. It is also provided that pending cases shall be transferred to the above mentioned Advance Ruling Authority after the enactment of the Finance Bill.

- ✓ Application fees for seeking Advance Ruling is proposed to be increased from existing Rs. 2,000/- to Rs. 10,000/-.
 - ✓ Time limit for pronouncing the ruling amended to 6 months in line with Income Tax provisions.
 - ✓ The above amendment is proposed even in respect of the Advance Ruling provisions applicable to Central Excise and Service Tax.
- Section 46 (3) is amended making it mandatory to file bill of entry before the end of the next day following the day on which vessel or aircraft arrives.

Central Excise:

1. Duty rate changes:

Changes are effective from February 2nd, 2017:

- General duty rate retained at 12.50%.
- The additional duty of excise on Pan masala (not containing tobacco) (2106 90 20) is increased from 5.5% to 9%.
- The additional duty of excise on Un-manufactured tobacco and tobacco refuse, [2401] bearing a brand name is increased from 4.2% to 8.3%.
- The additional duty of excise on chewing tobacco [2403 99 10] is increased from 6% to 12%, Jarda Scented Tobacco [2403 99 30] is increased from 6% to 12%, Pan masala containing tobacco 'gutkha' [2403 99 90] is increased from 6% to 12%.
- BED @ 6% of all items of machinery, including instruments, apparatus and appliances, transmission equipment and auxiliary equipment and components, required for –
 - ✓ Initial setting up of fuel cell based system for generation of power or for demonstration purposes; or
 - ✓ Balance of systems operating on bio-gas or bio-methane or by-product hydrogen.

- BED is decreased from 12.5% to 6% is introduced Membrane Sheet and Tricot / spacer for use in the manufacture of Reverse Osmosis (RO) membrane for household type filters. (Concessional rate is valid till 30th June 2017)
- BED is decreased from 12.5% to 6% on Solar tempered glass for use in the manufacture of: -
 - ✓ Solar photovoltaic cells or modules;
 - ✓ Solar power generating equipment or systems;
 - ✓ Flat plate solar collectors;
 - ✓ Solar photovoltaic module and panel for water pumping and other applications.*(Concessional rate is valid till 30th June, 2017)*
- BED @6% on Parts / Raw material for use in the manufacture of Solar tempered glass for use in: -
 - ✓ Solar photovoltaic cells or modules;
 - ✓ Solar power generating equipment or systems;
 - ✓ Flat plate solar collectors;
 - ✓ Solar photovoltaic module and panel for water pumping and other applications.
- BED is decreased from 12.5% to 6% on all parts for use in the manufacture of LED lights or fixtures including LED Lamps.
- Nil excise duty, on waste and scrap of precious metals or metals clad with precious metals, arising in course of manufacture of goods, is being made subject to condition that no credit of input or input services or capital goods has been availed by manufacturers of such goods.
- Nil excise duty, on Silver coins of purity 99.9% above, bearing a brand name, is being made subject to condition that no credit of input or input services or capital goods has been availed by manufacturers of such goods.
- Excise duty is being exempted on Micro ATMs as per standards version 1.5.1, fingerprint reader / scanner, and Iris Scanner. Further, excise duty is also being exempted on parts and components for manufacture of these devices, subject to actual user condition. This exemption from excise duty will be valid till 30th June, 2017.
- Excise duty is being exempted on miniaturised POS card reader for mPOS (other than Mobile phone or Tablet Computer). Further, excise duty is also being exempted on parts and components of miniaturised POS card reader for use in the manufacture of

miniaturised POS card reader for mPOS (other than Mobile phone or Tablet Computer), subject to actual user condition. This exemption from excise duty will be valid till 30th June, 2017.

- Rate of duty is changed for Chewing tobacco and Jarda Scented tobacco, packing machines based on the packing of pouches per minutes.
- Ratio of distribution of the Rate of duty on Tobacco packing machine is changed.
- BED for Cigar and cheroots, Cigarilos, are increased from 12.5% or Rs. 3,755 per thousand whichever is higher to 12.5% or Rs. 4,006 per thousand whichever is higher.
- BED for Cigarettes of tobacco substitutes increased from Rs. 3775 per thousand to Rs. 4006 per thousand.
- Additional excise duty for tobacco and tobacco products Non-filter Cigarettes of length not exceeding 65mm is increased from Rs. 215 per thousand to Rs. 311 per thousand.

2. Other changes:

Changes effective from 2nd February, 2017:

- In the CENVAT Credit Rules, 2004, in rule 6, in sub-rule (3D), in Explanation I, in clause (e), the following proviso shall be inserted, to provide that the exclusion given in respect of the interest shall not apply to a banking company and a financial institution including a non-banking financial company, engaged in providing services by way of extending deposits, loans or advances.
- Amendment is made to rule 10 of the CCR 2004, specifying that the transfer of the CENVAT Credit shall be allowed within a period of three months from the date of receipt of application by the Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be. Further, said period can be extended by further 6 months by the Principal Commissioner of Central Excise or Commissioner of Central Excise.
- In the Central Excise Rules, 2002, rule 21 amended to provide for 3 months' time for allowing the remission of duty.

→ **Clarification by the Board:**

EOUs can procure inputs/raw materials at concessional duty - bar under Sec 5A is only for goods manufactured by EOUs - Important clarification by Board

As per the proviso to sub-section (1) of Sec 5A, the exemption under Sec 5A is not applicable to the EOUs unless it is specifically provided in the Notification. Though the EOUs can procure inputs/raw materials without payment of duty under Notification No 22/2003 CE and 52/2003 Cus, which are specific for EOUs, what will happen if the inputs/raw materials are otherwise generally exempted either fully or partially, for manufacture of specified final products? It appears that some of the EOUs are not able to avail such benefit as the same is denied by applying the proviso to Sec 5A.

Board has examined the issue and clarified that:

- Non-applicability of exemptions under notifications issued under section 5A of the Central Excise Act, 1944 is only in respect of excisable goods produced or manufactured by an EOU and cleared to DTA and not in respect of inputs/raw materials procured by them domestically and utilised for production/manufacture of goods which are cleared by them to DTA.
- In view of the above, it is hereby clarified that EOUs will also be eligible to import or procure raw materials/inputs at other concessional/Nil rate of BCD, excise duty/CVD or SAD, as the case may be, provided they fulfill all conditions for being eligible to such concessional or Nil duty. For these purposes, if an EOU is already registered with the jurisdictional Central Excise Authority, it will not be required to take any fresh registration under the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 or the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable and Other Goods) Rules, 2016, as the case may be. Further, there will be no need for an EOU to separately comply with the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 for availing the CVD exemption, if the procedure under the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rule, 2016 is followed by it for availing exemption / concession from BCD on imports of inputs/raw material.

(Annex III of JS TRU-1 letter D.O.F.No.334/7/2017-TRU., dated 1.2.2017)

Service Tax:

1. Changes effective from 2nd February, 2017:

- Exemption now relaxed to include **non-residential** PG programmes in Management for the Post Graduation Diploma in Management also to which admissions are made on the basis of CAT.
- Following new exemptions granted:
 - ✓ Air service provided by Government for transportation of passengers which embarks or terminates at a Regional Connectivity Scheme Airport, against which consideration is in form of Viability Gap Funding (VGF).
This exemption is limited to one year from the date of commencement of operations of the Regional Connectivity Scheme Airport.
 - ✓ Life insurance service provided by the Army, Naval and Air Force Insurance Funds to the members of the Army, Navy and Air Force under the Group insurance schemes of the Central Government.

2. Changes effective from the date of enactment of the Finance Bill:

- Services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption, omitted from Negative list and inserted as Mega Exemption.
- The meaning of the word 'process amounting to manufacture or production of goods' has been omitted from Section 65B (40) and has been inserted in Para 2 of Mega Exemption Notification.
- In respect of the Advance Ruling, amendment has been proposed in line with the amendment proposed under the Customs Provisions.
- **R & D Cess Act, 1986 is proposed to be repealed.** Consequently, the exemption available under Service Tax in respect of the R & D Cess paid shall also be done away with. Consequently, with effect from the enactment of the Finance Bill, 2017, the exemption from service tax under notification No. 14/2012-ST would be no longer be available to a taxable service involving import of technology. **Full service tax along with cesses (Swachh Bharat Cess and Krishi Kalyan Cess) would be applicable to such taxable service.**

3. Retrospective Amendment:

- Valuation with respect to works contract which includes goods and land/undivided share of land has been included under the Rule 2A of the Service Tax Valuation Rules. This amendment has incorporated the abatement provided for the Construction Services under Notification No. 26/2012. Retrospective amendment is proposed w.e.f. 01.07.2010.

The intent of amendment is to nullify the effect of the ruling of the Delhi High Court in the case of Suresh Kumar Bansal vs. UOI & Others 2016-TIOL-1077-HC-DEL-ST wherein the Hon'ble Delhi High Court ruled that in the absence of any Rules to identify the Service element in composite contracts, no Service tax can be levied. Except to this, the amendment is not impacting the rate of Service Tax payable in respect of the works contract services.

- Exemption has been introduced on one time upfront amount with respect to service provided by a State Government Industrial Development Corporation or undertaking to Industrial Units relating to long term lease of 30 years or more of Industrial Plot (w.r.e.f 1st June, 2007 upto 21st September, 2016). Refund option and the period of six month from the date of receiving the assent of the President, being the time limit for filing application of refund, is provided.

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