

Indian Union Budget – 2017

An Analysis

of

Income Tax Proposals

Analysis by
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- ✚ Writing articles on the national level websites like www.taxguru.in, www.caclubindia.com etc.
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1. Income Tax slabs are not changed, but the tax rate for first taxable slab of income from Rs. 2,50,001/Rs. 3,00,001 to Rs. 5,00,000 is decreased from 10% to 5%. So, now there will be directly a slab of 20% after the slab of 5% tax. As in the case of very senior citizens (every individual, being a resident in India, who is of the age of eighty years or more at anytime during the previous year), tax rate is NIL till income of Rs. 5,00,000, so above mentioned change will not affect to them. **[Applicable from A. Y. 2018-19]**
2. Surcharge in case of individual, H.U.F., A.O.P., B.O.I. and artificial juridical persons will be in two phases as under.

Sr. No.	Taxable Income	Surcharge on Tax
1	More than Rs. 50 Lakhs but not exceeding Rs. 1 Crore	10%
2	More than Rs. 1 Crore	15%

[Applicable from A. Y. 2018-19]

3. Rebate under section 87A is decreased from (up to) Rs. 5,000/- to (up to) Rs. 2500/- . Further, this rebate will be available to individual resident in India whose taxable income does not exceed Rs. 3,50,000.] **[Applicable from A. Y. 2018-19]**.
4. Aggregating the effects of point no. 1, 2 and 3 given above, tax is calculated under different scenarios in tables given below.

Table-1

	Scenario-1 Taxable Income of Rs. 3,50,000/-		Scenario-2 Taxable Income of Rs. 5,00,000/-	
Particulars	AY 2017-18 (existing)	AY 2018-19 (After Budget)	AY 2017-18 (existing)	AY 2018-19 (After Budget)
Tax as per slab(s)	10,000	5,000	25,000	12,500
Less: Rebate	5,000	2,500	5,000	0
Tax after Rebate	5,000	2,500	20,000	12,500
Add: Surcharge	0	0	0	0
Add: Cess	150	75	600	375
Total Tax	5,150	2,575	20,600	12,875
Savings in Tax	2,575		7,725	

Table-2 (Tax planning)

	Scenario-3 Taxable Income of Rs. 51,00,000/-		Scenario-4 (Tax Planning) Gross Income of Rs. 51,00,000/-	
Particulars	AY 2017-18 (existing)	AY 2018-19 (After Budget)	AY 2018-19 (After Budget)	AY 2018-19 (After Budget) Suppose Rs. 1 lakh donated in Prime Minister's National Relief Fund
Tax as per slab(s)	13,55,000	13,42,500	13,42,500	13,12,500
Less: Rebate	0	0	0	0
Tax after Rebate	13,55,000	13,42,500	13,42,500	13,12,500
Add: Surcharge	0	1,00,000	1,00,000	0
Add: Cess	40,650	43,275	43,275	39,375
Total Tax	13,95,650	14,85,775	14,85,775	13,51,875
Savings/(Excess) in Tax	-90,125		1,33,900	
			So, net savings after donation Rs. 33,900	

Comment: In Table-2 (Scenario-3), you can observe that surcharge of Rs. 1 lakh (even after marginal relief) is payable after budget when someone earns Rs. 1 lakh in excess of 50 lakhs. Here one can make tax planning by contributing that amount of Rs. 1 lakh to say Prime Minister's National Relief Fund by which taxable income will get down to Rs. 50 lakhs and surcharge of Rs. 1 lakh (plus 3% Cess thereon) can be saved and further saving of tax @ 30% (plus 3% Cess thereon) on the amount of that 1 lakh.

Table-3

	Scenario-5 Taxable Income of Rs. 1,02,00,000/-	
Particulars	AY 2017-18 (existing)	AY 2018-19 (After Budget)
Tax as per slab(s)	28,85,000	28,72,500
Less: Rebate	0	0
Tax after Rebate	28,85,000	28,72,500
Add: Surcharge	2,00,000	2,00,000
Add: Cess	92,550	92,175
Total Tax	31,77,550	31,64,675
Savings/(Excess) in Tax	12,875	

Table-4 (Surcharge related controversy)

Particulars	Scenario-6		
	AY 2018-19 (After Budget) Taxable Income of Rs. 1,02,00,000/- [1]	AY 2018-19 (After Budget) Taxable Income of Rs. 1,00,00,000/- [2]	Gain/(Loss) of Tax [3]=[1]-[2]
Tax as per slab(s)	28,72,500	28,12,500	60,000
Less: Rebate	0	0	0
Tax after Rebate	28,72,500	28,12,500	60,000
Add: Surcharge	2,00,000	2,81,250	-81,250
Add: Cess	92,175	92,813	-638
Total Tax	31,64,675	31,86,563	-21,888

Comment: In Table-4 (Scenario-6), you can observe that person whose income is Rs. 1 crore will have to pay more tax of Rs. 21,888/- as compared to the tax on income of Rs. 1.02 crore. This is against the **canon of equity** which says “The subjects of every state ought to contribute towards the support of the Government, as nearly as possible, in proportion to their respective abilities, that is, in proportion to their revenue which they respectively enjoy under the protection of the State”.

So, it is suggested to finance ministry to add the para given below as point (c) at the end of Paragraph A to Part III to The First Schedule to The Finance Bill, 2017.

“(c) Notwithstanding anything contained in preceding para (b), minimum surcharge payable, in case of taxable income exceeding Rs. 1 crore, will be determined as per following formula.

Surcharge = amount of taxable income * 2,81,250 / 1 crore

“.

By inserting the above provision, it can be assured that proportion of surcharge payable on income of Rs. 1 crore will be applied to those whose income is in excess of Rs. 1 crore (even when he/she gets marginal relief regarding surcharge).

- Rate of income tax for domestic companies, where its total turnover or the gross receipt in the previous year 2015-16 does not exceed Rs. 50 crores is reduced from 30% to 25% for A.Y. 2018-19. It was 29% for A.Y. 2017-18, where its total turnover or the gross receipt in the previous year 2014-15 did not exceed Rs. 5 crores.
- Tax on dividend of more types of assesses as well change in section 234C:** Already in previous budget, tax on dividend income was levied @10% in case of individual, Hindu undivided family or a firm, resident in India where dividends in

aggregate exceeds Rs. 10 lakhs during the year. 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 a fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 and a trust or institution registered under section 12AA. **[Applicable from A. Y. 2018-19]**

It is hence proposed to provide in section 234C 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. **[Applicable from A. Y. 2017-18]**

7. **TDS once in a year on Rent – a separate section for individual or a Hindu undivided family to whom second proviso to section 194-I is not applicable:** 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. **[Applicable from 01/06/2017]**

8. **Period of holding is reduced in case of capital gains:** 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 existing 36 months to 24 months in case of immovable property, being land or building or both, to qualify as long term capital asset. **[In a country, where many people don't have own home for residence, such incentive was not required to be given at all to investors in this sector.] [Applicable from A. Y. 2018-19]**
9. **Relaxations in provisions of Section 80-IBA:** Section 80-IBA was introduced in Budget 2016 so as to promote the development of affordable housing sector. In this Budget, some conditions laid down by that section are relaxed as under.

1. 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".
2. The restriction of 30 square meters on the size of residential units shall not apply to the place located within a distance of 25 kms from the municipal limits of the Chennai, Delhi, Kolkata or Mumbai.
3. The condition of period of completion of project for claiming deduction under this section shall be increased from existing 3 years to 5 years.

[Applicable from A. Y. 2018-19]

10. **Provisions laid down for joint development transactions:** New sub-section (5A) in proposed to be inserted in section 45 whereby it is proposed that Notwithstanding anything contained in sub-section (1), where the capital gain arises to an assessee, being an individual or a Hindu undivided family, from the transfer of a capital asset, being land or building or both, under a specified agreement, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority; and for the purposes of section 48, the stamp duty value, on the date of issue of the said certificate, of his share, being land or building or both in the project, as increased by the consideration received in cash, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset:

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

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

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

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.

New section 194-IC is proposed to be inserted whereby - Notwithstanding anything contained in section 194-IA, any person responsible for paying to a resident any sum by way of consideration, not being consideration in kind, under the agreement referred to in sub-section (5A) of section 45, shall at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to 10% of such sum as income-tax thereon. **[Applicable from A. Y. 2018-19]**

- 11. Base year of indexation is changed:** As the base year for computation of capital gains has become more than three decades old, assesseees 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.

[It would be proved to be beneficial provision for assesseees, because when we compare the indexed cost of acquisition from 1981 to 2001 it comes to nearly 4 times, but Fair Market Value is likely to remain higher as on 01/04/2001 to its comparison]

[Applicable from A. Y. 2018-19]

- 12. More scope will be there in selection of bonds for section 54EC benefit:** At present bonds issued by National Highways Authority of India or by the Rural Electrification Corporation Limited are eligible for exemption under this section. It is proposed to amend this section whereby investment in any bond redeemable after 3 years which has been notified by the Central Government in this behalf shall also be eligible for exemption.

[Applicable from A. Y. 2018-19]

- 13. No deemed income on house property held as stock-in-trade:** Sub-section (5) is proposed to be inserted in Section 23 which will be as under.

Where the property consisting of any building or land appurtenant thereto is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period up to 1 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.

[Applicable from A. Y. 2018-19]

- 14. Special Relaxation to Start Ups in provisions of Section 79:** The existing provisions of section 79 of the Act, inter-alia provides that where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year unless on the last day of the previous year the shares

of the company carrying not less than 51% of the voting power were beneficially held by person who beneficially held shares of the company carrying not less than 51% of the voting power on the last day of the year or years in which the loss was incurred.

In order to facilitate ease of doing business and to promote start up India, it is proposed to amend section 79 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 7 years beginning from the year in which such company is incorporated, continue to hold those shares on the last day of such previous year.

[Applicable from A. Y. 2018-19]

15. **Special Relaxation to Start Ups for claiming deduction:** In view 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 3 consecutive assessment years out of 7 years (it was 5 years earlier) beginning from the year in which such eligible start-up is incorporated.

[Applicable from A. Y. 2018-19]

16. **Relaxation and Rationalization of provisions of MAT/AMT:** Currently, the tax credit can be carried forward upto 10th assessment year. Now it is proposed to allow carry forward up to 15th assessment year. Further, 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) [under section 90 or section 90A or section 91] allowed against MAT/ AMT and FTC allowable against the tax computed under regular provisions of Act other than the provisions relating to MAT/AMT. **For example**, FTC availed against MAT is Rs. 50,000/- and FTC availed against Normal Income Tax is Rs. 35,000/-, then Rs. 15,000/- (50,000 – 35,000) will not be allowed to be carried forward.

[Applicable from A. Y. 2018-19]

17. **Benefit of Section 43B and 43D to Co-operative Banks :** The existing provisions of section 43D of the Act, inter-alia, provides that interest income in relation to certain categories of bad or doubtful debts received by scheduled banks, public financial institutions, State financial corporations, State industrial investment corporations and certain public companies like Housing Finance companies, shall be chargeable to tax in the previous year in which it is credited to its profit and loss account for that year or actually received, whichever is earlier. This provision is an exception to the accrual system of accounting which is regularly followed by such assesseees for computation of total income. 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 so that they can get benefit of these provisions.

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.

[Applicable from A. Y. 2018-19]

- 18. Increase in deduction limit u/s. 36(1)(viiia) :** The existing provisions of sub-clause (a) of section 36(1)(viiia) 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. It is proposed to amend the said sub-clause to enhance the present limit from 7.5% to 8.5%.

[Applicable from A. Y. 2018-19]

- 19. More stringent provision in case of cash donation:** 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 not paid by any mode other than cash. Now this limit is proposed to be restricted to Rs. 2,000/- only so that people switch to cashless transactions and transparency can be improved.

[Applicable from A. Y. 2018-19]

- 20. More stringent provisions for Political Parties:** It is proposed to amend the provisions of section 13A to provide for additional conditions for availing the benefit of the said section which are as under.

i. No donations of Rs.2000/- or more is received otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through electoral bonds,

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

Further, in order to address the concern of anonymity of the donors, it is proposed to amend the said section to provide that the political parties shall not be required to furnish the name and address of the donors who contribute by way of electoral bond. **[Applicable from A. Y. 2018-19]**

21. **Disincentivize the cash payments u/s. 32 (Section 43 in fact) and 35AD also:** 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.

[Applicable from A. Y. 2018-19]

22. **Disincentivize the cash payments u/s. 40A:** It is proposed to amend the provision of section 40A of the Act to provide the following.

1. 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"
2. Deeming a payment as profits and gains of business of 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
3. Further to expand the specified mode of payment under respective sub-section of section 40A by incorporating the use of electronic clearing system through a bank account as a permissible mode of payment. **[What about Payment Wallets like Paytm, Freecharge etc. ?]**

[Applicable from A. Y. 2018-19]

23. **Incentives for non-cash receipts u/s. 44AD :** Presumptive rate of income of 8% is proposed to be reduced to 6% in case of the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date specified in subsection (1) of section 139 in respect of that previous year. **[What about Payment Wallets like Paytm, Freecharge etc. ?]**

[Applicable from A. Y. 2018-19]

24. **Curbing a cash based economy of huge amount transactions:** it is proposed to insert section 269ST in the Act to provide that no person shall receive an amount of Rs. 3 lakhs or more,—
- i. in aggregate from a person in a day;
 - ii. in respect of a single transaction; or
 - iii. 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 lakhs. **[Due to this omission of clause (ii) to section 206(1D), jewellery will also be governed by clause (iii) hence its threshold will be Rs. 2 lakhs for the purpose of TSC]**

[effect from 1st April, 2017]

- 25. Form No. 15G/H mechanism is made applicable to insurance commission also:** Presently, the payment in the nature of income referred to in section 194D is not covered by provisions of section 197A. 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.

[effect from 1st June, 2017]

- 26. Reduction in compliance burden regarding books of accounts:** 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 Rs. 1,20,000/- to Rs. 2,50,000/- and from Rs. 10 lakhs to Rs. 25 lakhs rupees, respectively in the case of Individuals and Hindu undivided family carrying on business or profession.

[Applicable from A. Y. 2018-19]

- 27. Non TDS in case of “exempt compensation” under RFCTLAAR Act, 2013 :** 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 (Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement) Act. **[effect from 1st April, 2017]**

28. **Special exemption in TCS in case of certain buyers** : 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 [Regarding 1% TCS on sales of a motor vehicle] of the Act. **[effect from 1st April, 2017]**

29. TDS rate u/s. 194J is proposed to be reduced from 10% to 2%, especially in a case, where payee is engaged only in the business of operation of call centre. **[effect from 1st June, 2017]**

30. **Reduced scope of Specified Domestic Transactions**: 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.

[Applicable from A. Y. 2018-19]

31. **Tax neutrality of conversion of preference shares to equity shares**: Tax neutrality to the conversion of bond or debenture of a company to share or debenture of that company is already provided under the section 47. No similar tax neutrality to the conversion of preference share of a company into its equity share is provided, so 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. **[Applicable from A. Y. 2018-19]**

32. **Clarity regarding Income from transfer of Carbon credits**: Income-tax Department has been treating the income on transfer of carbon credits as business income which is subject to tax at the rate of 30%. However, divergent decisions have been given by the courts on the issue as to whether the income received or receivable on transfer of carbon credit is a revenue receipt or capital receipt.

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. **[Applicable from A. Y. 2018-19]**

33. **Enabling measures 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 upto the date on which the assessment is made. **[Apply to returns furnished for assessment year 2017-18 and subsequent years.]**

34. **Rationalization of Section 234C:** 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. **[Applicable from A. Y. 2018-19]**

35. **Interest on refund due to “deductor” u/s 244A:** 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 0.5% 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. **[effect from 1st April, 2017]**

36. **Merged Advance Ruling Authority:** 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. Necessary amendments are also proposed in other three tax related provisions. Provisions of indirect taxes are proposed to be amended so as to **(1)** increase the application fee for seeking advance ruling from Rs. 2,500 to Rs. 10,000 on the lines of the Income-tax Act and **(2)** provide time of limit of 6 months by which Authority shall pronounce its ruling on the lines of the Income-tax Act. **[effect from 1st April, 2017]**

37. **Empowering Board to issue directions in respect of penalty for failure to deduct or collect tax at source:** In order to reduce the genuine hardship which may be faced by a person responsible for deduction and collection of tax at source due to levy of penalty under section 271C or 271CA, it is proposed to insert reference of sections 271C and 271CA in the said clause, so as to empower the Board to issue directions or instructions in respect of the said sections also. **[effect from 1st April, 2017]**

38. **Rationalization of deadlines for assessment etc.:** Kindly refer to the table given below for details.

Sr. No.	Assessment, Re-assessment etc. u/s.	For A.Y.	Proposed Deadline
1	143 & 144	2018-19	18 Months from end of A.Y.
2	143 & 144	2019-20 and onwards	12 Months from end of A.Y.
3	147	notices served u/s. 148 on or after the 01/04/2019	12 Months from the end of the FY in which notice u/s. 148 is served
4	254, 263 & 264	order passed or received in the FY 2019-20 and onwards	12 Months from the end of the FY in which order u/s. 254 is received or order u/s. 263 or 264 is passed
5	139(5) Revised Return	2018-19 and onwards	end of the relevant AY or before the completion of assessment, whichever is earlier

Example of Deadlines for Scrutiny Assessment				
Sr. No.	Assessment Year	Last date of filing return	Last date of issuance of notice (based on preceding column)	Last date to complete Assessment
1	2016-17	31/03/2018	30/09/2018	31/12/2018
2	2017-18	31/03/2018	30/09/2018	31/12/2019
3	2018-19	31/03/2019	30/09/2019	30/09/2020
4	2019-20	31/03/2020	30/09/2020	31/03/2021

39. **Relaxation of condition laid down u/s. 10(38) in certain cases:** Its proposed to insert the following proviso before the Explanation [as inserted by section 7 of the Finance Act, 2016] in section 10(38)

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

Exemption under this section is proposed to be given in certain cases even where no STT is there 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. which may be notified by the Central Government in this behalf.

[Applicable from A. Y. 2018-19]

40. **FMV in case of unquoted shares to be Full Value of Consideration:** New section 50CA is proposed to be inserted whereby – “Where the consideration received or accruing as a result of the transfer by an assessee of a capital asset, being share of a company other than a quoted share, is less than the fair market value of such share determined in such manner as may be prescribed, the value so determined shall, for the purposes of section 48, be deemed to be the full value of consideration received or accruing as a result of such transfer.” . **[Applicable from A. Y. 2018-19] [Buyer is already covered under Section 56]**
41. **Widening the scope of less/no consideration transactions:** Clause (vii) and clause (viiia) are so merged by insertion of new clause (x) to section 56(2) that instead of applying these provisions to either individual or HUF or Firm etc, making it applicable to “any person”. **[on or after the 1st day of April, 2017]**
42. **Extension of applicability of Section 40(a)(ia) to Income from Other Sources also:** With a view to improve compliance of provision relating to TDS, it is proposed to amend the section 58 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”. **[Applicable from A. Y. 2018-19]**
43. **Curbing the BEPS (Base Erosion and Profit Shifting):** As we know, debt is tax efficient in the sense that it is deductible from profit and then the tax is calculated. Sometimes, huge debt from abroad drags profit and also affects the tax base of country. In view of the above, it is proposed to insert a **new section 94B (applicable to an Indian company, or a permanent establishment of a foreign company in India)**, 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.
- i. Provided that where the debt is issued by a lender which is not associated but an associated enterprise either provides an implicit or explicit guarantee to such lender or deposits a corresponding and matching amount of funds with the lender, such debt shall be deemed to have been issued by an associated enterprise.
 - ii. 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.
 - iii. Not applicable to the business of banking or insurance
 - iv. Excess interest can be carried forward upto 8 A.Y.s
 - v. “Associated enterprise”, “debt” and “permanent establishment” are defined.
- [Applicable from A. Y. 2018-19]**
44. **Fees on delayed filing of return of income:** 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 assessment year 2018-19 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. 5000 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 lakhs, it is proposed that the fee amount shall not exceed Rs. 1000.

Consequently, 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 assessment year 2018-19 and onwards.

[It is to be noted that penalty u/s. 271F was within the discretionary powers of A.O., but fees payable under section 234F is mandatory in nature]

[Applicable from A. Y. 2018-19]

45. **Penal provision for experts** : New section 271J is proposed to be inserted whereby it is proposed that Without prejudice to the provisions of this Act, where the Assessing Officer or the Commissioner (Appeals), in the course of any proceedings under this Act, finds that an accountant or a merchant banker or a registered valuer has **furnished incorrect information** in any report or certificate furnished under any provision of this Act or the rules made thereunder, the Assessing Officer or the Commissioner (Appeals) may direct that such accountant or merchant banker or registered valuer, as the case may be, shall pay, by way of penalty, a sum of Rs. 10,000 for **each** such report or certificate.

[Effect from 1st April, 2017.]

[In above mentioned proposal power is given to Assessing Officer or the Commissioner (Appeals), but the same must be given to ITAT/High Court instead. Further, under the same section, it should be proposed that if in the course of any proceedings under this Act, it is found that A.O. has neglected the provisions of this Act and/or law of natural justice, then A.O. shall be liable to penalty of Rs. 50,000 which shall be confirmed by ITAT/High Court]

46. **PAN quoting mechanism in TCS Matters**: In line with section 206AA which provides PAN quoting mechanism in TDS Matters, new section 206CC is proposed to be inserted whereby following provisions would be there.

- i. 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 the twice the rate mentioned in the relevant section under Chapter XVII BB or at the rate of 5% whichever is higher.
- ii. 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. **[Form No. 27C]**

- iii. 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).
- iv. no certificate under sub section (9) of section 206C shall be granted unless it contains the Permanent Account Number of the applicant. **[lower rate certy]**
- v. 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.
- vi. 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.
- vii. 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.
- viii. to exempt the non-resident who does not have permanent establishment in India from the provisions of this proposed section 206CC of the Act.

[Effect from 1st April, 2017.]

47. Phased out 80CCG deduction: It is proposed that no deduction under section 80CCG shall be allowed from assessment year 2018-19. However, an assessee who has claimed deduction under this section for assessment year 2017-18 and earlier assessment years shall be allowed deduction under this section till the assessment year 2019-20 if he is otherwise eligible to claim the deduction as per the provisions of this section. **[Applicable from A. Y. 2018-19]**

48. Trust related amendments: At present there is no explicit provision in the Act which mandates trust or institution to approach for fresh registration in the event of adoption or undertaking modifications of the objects **after** the registration has been granted. So, 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 30 days from the date of such adoption or modifications of the objects in the prescribed form and manner.

In order that such trusts file return of income within due date specified under section 139(4A), it is proposed that the person in receipt of the income chargeable (exempt actually) to income-tax u/s. 11 & 12 shall furnish the return of income within the time allowed under section 139(4A) of the Act.

Donation given by exempt entities to another exempt entity, with specific direction that it shall form part of corpus, is though considered application of income in the hands of donor trust but is not considered as income of the recipient trust. Trusts, thus, engage in giving corpus donations without actual applications. Therefore, 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.

[Applicable from A. Y. 2018-19]

49. **Loss from House property can be set off within prescribed limit:** 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 lakhs 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. **[Applicable from A. Y. 2018-19]**
50. **Secrecy of reason to believe to conduct a search, etc.:** It is proposed amend section 132 and 132A whereby it is proposed that '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, shall not be disclosed to any person or any authority or the Appellate Tribunal. **[will be effective retrospectively 01/04/1962 and 01/10/1975]**
51. **Extension of the power to survey:** The existing provisions of section 133A empower an income-tax authority to enter any place, at which a business or profession is carried on, or at which any books of account or other documents or any part of cash or stock or other valuable article or thing relating to the business or profession are kept, for the purposes of conducting a survey. It is proposed to widen the scope of the said section by amending sub-section (1) to include any place, at which an activity for charitable purpose is carried on. **[Effect from 1st April, 2017.]**
52. **Centralised issuance of notice u/s. 133C:** Section 133C of the Act empowers the prescribed income-tax authority to issue notice calling for information and documents for the purpose of verification of information in its possession. In order to expedite verification and analysis of the information and documents so received, it is proposed to amend section 133C to empower the Central Board of Direct Taxes to make a scheme for centralised issuance of notice calling for information and documents for the purpose of verification of information in its possession, processing of such documents and making the outcome thereof available to the Assessing Officer for necessary action, if any. **[Effect from 1st April, 2017.]**
53. **Proposed to omit Section 197(c) of Finance Act, 2016 :** In view of the various representations received from stakeholders citing genuine hardships if the said provision is made applicable, it is proposed that this clause shall be omitted and shall be deemed to have been omitted with effect from the 1st day of 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 upto 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 fifty lakh rupees or more in one year or in aggregate in the relevant four assessment years(falling beyond the sixth year);
- ii. such income escaping assessment is represented in the form of asset;
- iii. the income escaping assessment or part thereof relates to such year or years.

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.

- 54. Further relief to an employee subscriber of NPS :** The existing provision (laid down under Finance Act, 2016) of section 10(12A) provides that payment from National Pension System (NPS) trust to an employee on closer of his account or opting out shall be exempt up to 40% of total amount payable to him.

In order to provide **further** relief to an employee subscriber of NPS, it is proposed to amend the section 10 (insertion of sub-section 12B) 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.
[Applicable from A. Y. 2018-19]

- 55. Rationalisation of deduction under section 80CCD [NPS]:** The existing provisions of section 80CCD provides that employee or other individuals shall be allowed a deduction for amount deposited in National Pension System trusts (NPS). The deduction under section 80CCD (1) cannot exceed 10% of salary in case of an employee or 10% of gross total income in case of other individuals. However, under the provisions of section 80CCD (2) of the Act, further deduction to an employee in respect of contribution made by his employer is allowed up to 10% of salary of the employee. Thus, in case of an employee, the deduction allowed under section 80CCD adds up to 20% of salary 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 ten per cent of gross total income to 20% in case of individual other than employee.

[Applicable from A. Y. 2018-19]

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