

Indian Union Budget – 2018

An Analysis

of

Income Tax Proposals

Analysis by

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- Working as an editor-in-chief of e-newsletter of Bhavnagar Branch of WIRC of Institute of Chartered Accountants of India.
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1. Income Tax slabs and rate of surcharge are not changed, but cess (additional surcharge) rate is increased from 3% to 4% which is obviously payable on aggregate of income-tax and surcharge. Now only single cess @ 4% called "Health and Education Cess" is there. **[Applicability A. Y. 2019-20]**
2. Rate of income tax for domestic companies, where its total turnover or the gross receipt in the previous year 2016-17 does not exceed Rs. 250 crores is reduced from 30% to 25% for A.Y. 2019-20. 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. And It was 25% for A.Y. 2018-19, where its total turnover or the gross receipt in the previous year 2015-16 did not exceed Rs. 50 crores.
3. **PAN compulsory in certain cases (Section 139A):** Income Tax PAN is made compulsory for **non-individual**, which enters into a financial transaction of an amount **aggregating to** Rs. 2,50,000/- or more in a financial year; **and also for** the person who is the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer of the person referred to in preceding phrase or any person competent to act on behalf of the person referred to in said preceding phrase. **[Applicable from 01/04/2018]**
4. **Changes in Mediclaim Insurance and Medical Expenditure related deduction u/s 80D:** The entire concept of very senior citizen is removed from section 80D. Therefore, claim of medical **expenditure (not discussing premium here)** can now be made for benefit of every individual resident in India who is of the age of 60 years or more at any time during the relevant previous year.

Another thing is the limit of Rs. 30,000/- is proposed to be extended to Rs. 50,000/- everywhere in section 80D.

Further new sub-section (4A) is proposed to be inserted whereby it is provided that amount paid in lump sum in the previous year to effect or to keep in force an insurance on the health of any person specified therein **for more than a year**, then, subject to the provisions of this section, there shall be allowed for each of the **relevant previous year**, a deduction equal to the **appropriate fraction** of the amount. For the purposes of this sub-section, **"appropriate fraction" means** the fraction, the numerator of which is one and the denominator of which is the total number of relevant previous years; **"relevant previous year"** means the previous year beginning with the previous year in which such amount is paid and the subsequent previous year or years during which the insurance shall have effect or be in force.'. So one is **not** required to go by pure accrual method by calculating the eligible amount with reference to fraction of year.

So, maximum benefit an individual can avail under this section would be Rs. 50,000/- + Rs. 50,000/- = Rs. 1 Lakh and for HUF that amount would be Rs. 50,000/- **[Applicable from A.Y. 2019-20]**

5. **Changes in Mediciclaim Expenditure for specified deceases related deduction u/s 80DDB:** The entire concept of very senior citizen is removed from section 80DDB as well. It is proposed to amend the provisions of section 80DDB of the Act so as to raise this monetary limit of deduction **upto** Rs 1,00,000/- for individual resident in India who is of the age of 60 years or more at any time during the relevant previous year.

[Applicable from A. Y. 2019-20]

6. **New deduction which is only for senior citizens (Section 80TTB):** New section 80TTB is proposed to be inserted whereby senior citizens will get deduction **upto** Rs. 50,000/- on income of interest on deposits **(which may be time deposits or demand deposits)** made with bank, co-operative society, co-operative land mortgage bank, co-operative land development bank or post office. **Such individual can not avail benefit of section 80TTA.**

Where such deposit is held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed under this section in respect of such income in computing the total income of any partner of the firm or any member of the association or any body of individual. **(This is in line with the provisions of section 80TTA)**

[Applicable from A. Y. 2019-20]

7. **Standard deduction to salaried employee:** New clause (ia) is proposed to be inserted in section 16 whereby it is proposed to provide benefit of deduction of Rs. 40,000/- or the amount of the salary, **whichever is less.**

At the same time, two erstwhile benefits will get withdrawn as under.

- (1) Medical expenditure reimbursement: It was available upto Rs. 15,000/- p.a. **on actual expense basis** u/s. 17(2) which is now withdrawn.
- (2) Transport allowance of Rs. 1,600/- p.m. (or Rs. 3,200/- p.m. to disabled individual) which was available of lower of these two amounts (i) the amount of allowance or (ii) the amount specified in Rule – 2BB. **That means actual expenditure was not necessary.**

For making change in rule-2BB, notification would be issued by CBDT in near future. It appears that Rs. 3,200/- p.m. would not be made NIL but would be decreased to Rs. 1,600/- p.m. for disabled individuals.

[Applicable from A. Y. 2019-20]

8. **Illustration of benefits to senior citizens who are getting pension:** Refer to the following table.

Examples of Tax Calculation for Senior Citizens having pension income		
AY 2019-20 (FY 2018-19)		
	Scenario-1	Scenario-2
Particulars	Amount (Rs.)	Amount (Rs.)
Pension Income	3,90,000	5,00,000
Less: Standard Deduction	40,000	40,000
Net Pension Income	3,50,000	4,60,000
Add: Interest Income	50,000	90,000
Gross Total Income	4,00,000	5,50,000
Less: Section 80C Investments (If made)	-	1,50,000
Less: Section 80TTB deduction	50,000	50,000
Net Taxable Income	3,50,000	3,50,000
Tax on Income (being senior citizen)	2,500	2,500
Rebate u/s. 87A (Being Resident)	2,500	2,500
Tax after Rebate	NIL	NIL
Gross Income before any deduction	4,40,000	5,90,000

From the above table, one can observe that senior citizen (having pension income and interest income from eligible sources) will have NIL tax liability upto Rs. 4,40,000/- and Rs. 5,90,000/- in 1st and 2nd scenario respectively. This is due to Rs. 40,000/- of benefit of standard deduction and Rs. 40,000/- extra benefit given by Section 80TTB over Section 80TTA.

9. **Introduction of Tax on erstwhile exempted LTCG on certain investments:** First we will discuss relevant changes in law in this matter and then conclude them all with proper tax planning.

Forth proviso is proposed to be added to section 10(38) whereby it is said that nothing contained in this clause shall apply to any **income arising from the transfer** of long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust, **made on or after the 01/04/2018**.

New section 112A is proposed to be inserted whereby its said that income-tax shall be calculated @ 10% on long-term capital gains exceeding Rs. 1,00,000/- which arise from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust on which STT is paid at the time of **acquisition and transfer** in case of **equity share in a company** and STT is paid at the time of **transfer** in case of **unit of an equity oriented fund or a unit of a business trust**.

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

The condition STT payment shall **not** apply to a transfer undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transfer is received or receivable in **foreign currency**. Further, the Central Government may, by notification in the Official Gazette, specify the nature of acquisition in respect of which the provision of STT payment shall not apply. For this purpose, notification no. 43/2017 dated 05/06/2017 will apply as has been said in FAQs regarding taxation of long-term capital gains proposed in Finance Bill, 2018 dated 04/02/2018.

Link and QR code of the notification no. 43/2017 dated 05/06/2017:

http://incometaxindia.gov.in/communications/notification/notification43_2017.pdf



Link and QR code of FAQs regarding taxation of long-term capital gains proposed in Finance Bill, 2018 dated 04/02/2018.

<http://www.incometaxindia.gov.in/Lists/Latest%20News/Attachments/216/FAQ-on-LTCG.pdf>



For calculating such capital gains no special calculation benefit for non-resident as well no benefit of indexation will be given as has been said in first and second provisos to section 48.

As it will be against the concept of natural justice to tax such transactions for already accrued gains also, clause has been put as under to calculate cost of acquisition in such cases.

The cost of acquisition for the purposes of computing such capital gains, in respect of the such long-term capital asset **acquired** by the assessee **before** the 01/02/2018, shall be deemed to be the **higher** of— **(1)** the actual cost of acquisition of such asset; **(2)** the **lower** of— **(i)** the fair market value of such asset as on 31/01/2018 (or earlier date in certain cases) ; **(ii)** the full value of consideration received or accruing as a result of the transfer of the capital asset.

Equity Share	Scenario - 1	Scenario - 2	Scenario - 3	Scenario - 4
Purchased on 01/01/2017	100	100	100	100
FMV as on 31/01/2018	200	200	50	200
Sales Price on 01/04/2018	250	150	150	50
So, cost of acquisition	200	150	100	100
So, LTCG/(L) will be	50	0	50	-50
				Such loss can be carried forward upto subsequent 8 years if return is filed within due date.

For FII, section 115AD is also proposed to be amended whereby such LTCGs exceeding Rs. 1,00,000/- will be taxable @ 10%.

Deduction under Chapter VI-A and rebate under section 87A shall not be allowed against such LTCG.

These days, mutual funds invest in units of other mutual funds also, so the definition of equity oriented fund is also modified accordingly by imposing some extra conditions in such cases.

So, we can conclude that such LTCG are taxable only if transfer of such asset is made on or after 01/04/2018 and before that date, exemption u/s. 10(38) will remain continue.

There is no clarification as to grandfathering clause applicability in case of unlisted shares acquired before 01/02/2018 and sold on or after 01/04/2018. From the plain reading of proposed section 112A, it can be observed that in such cases, there will be tax on entire capital gain. There may come some clarification in this matter in near future.

Unit linked insurance plans are yet exempt u/s. 10(10D) which may get covered in near future under this section by imposing certain justifiable exemption like exempt only on death.

Tax planning: As such LTCGs are not taxable upto Rs. 1,00,000/-, one should book gains upto Rs. 1,00,000/- each year (he/she may immediately invest the same back after redemption/sale). Brokerage cost etc. should be considered well in advance before making such redemption / sale. **[Applicable from A. Y. 2019-20]**

10. **Similar tax regime for Dividend option of equity oriented funds in line with tax @ 10% on LTCG u/s. 112A:** With a view to providing a level playing field between **growth** oriented funds and **dividend** paying funds, in the wake of new capital gains tax regime **for unit holders of equity oriented funds**, it is proposed to amend **Section 115R** to provide that where any income is distributed by a Mutual Fund being, an equity oriented fund, the mutual fund shall be liable to pay additional income tax (**DDT**) @ **10%** on income so distributed. For this purpose, equity oriented fund will have the same meaning assigned to it in the new section 112A of the Act.

Tax planning: Question arises as to which option (Dividend or Growth) is more beneficial with reference to the new tax regime?

Tax on distribution of dividend in case of equity oriented funds (section 115R) will be as under.

Basic as a <u>% of amount distributed</u>	Surcharge @ 12%	Health and Education Cess @ 4%	Total %
11.11	1.33	0.50	12.94
10/90 because of grossing up as per section 115R(2A)			

On other hand, when one opt for the growth option and earns LTCG on transfer to such units, effective tax rates under different scenarios will be as under.

For Different Income Scenarios	Effective Rate of tax u/s. 112A
Income <= Rs. 50,00,000	10% + Cess = 10.40%
Income > Rs. 50 lakhs but upto Rs. 1crore	10% + SC + Cess = 11.44%
Income > Rs. 1crore	10% + SC + Cess = 11.96%

Further, such LTCGs not exceeding Rs. 1,00,000/- per year are not taxable.

So, Growth option is more tax effective with this new tax regime. So, those persons who have already opted for dividend option will have to bear this DDT w.r.t. dividend declared on or after 01/04/2018. They can switch their fund to save this tax, but those investors who had invested in ELSS schemes will not be able to do that before expiry of 3 years from date of purchase.

[Applicable from 01/04/2018]

11. **DDT on deemed dividend [as defined u/s. 2(22)(e)] also:** So far, there was no dividend distribution tax on deemed dividend as defined u/s. 2(22)(e). But now it is proposed to amend section 115-O whereby it is proposed to tax @ 30% (**without grossing up**) as under.

Basic as a % of amount deemed to have been distributed	Surcharge @ 12%	Health and Education Cess @ 4%	Total %
30.00	3.60	1.34	34.94
No grossing up, as section 115-O (1B) is not applicable as per proviso			

As, the deemed dividend is now getting covered under section 115-O, it will be exempt in hands of receiver u/s. 10(34). But it must be noted that even such deemed dividend in excess of Rs. 10 lakhs (which is aggregate limit for all types of dividend declared, distributed or paid by domestic company) will be covered by section 115BBDA and will be subject to 10% tax + SC (if applicable) + Cess.

This has put one more requirement of reporting in point no. 36 of Form No. 3CD.

[Applicable from 01/04/2018]

12. **Amendment in definition of accumulated profit u/s. 2(22):** Instances have come to notice of income tax department whereby companies are resorting to abusive arrangements in order to escape liability of paying tax on distributed profits. Under such arrangements, companies with large accumulated profits adopt the amalgamation route to reduce capital and circumvent the provisions of sub-clause (d) of clause (22) of section 2 of the Act. With a view to preventing such abusive arrangements and similar other abusive arrangements, it is proposed to insert a new Explanation 2A in clause (22) of section 2 of the Act to widen the scope of the term 'accumulated profits' so as to provide that in the case of an amalgamated company, accumulated profits, whether capitalised or not, or losses as the case may be, shall be increased by the accumulated profits of the amalgamating company, whether capitalized or not, on the date of amalgamation.

[Applicable from A. Y. 2018-19]

13. **Change in base of presumptive income u/s. 44AE (business of plying, hiring or leasing of goods vehicle):** So far, Rs. 7,500/- was the base of deemed income per goods vehicle for the month or part of the month during which the goods carriage is owned by the assessee, Now it is proposed to be modified as under (aggregate of following two).
1. For **heavy goods vehicle**, it shall be an amount equal to Rs. 1,000/- per ton of gross vehicle weight **or** unladen weight, **as the case may be**, for every month or part of a month during which the heavy goods vehicle is **owned** by the assessee in the previous year or an amount claimed to have been actually earned from such vehicle, **whichever is higher**;
 2. For **other than heavy goods vehicle**, shall be an amount equal to RS. 7,500/- for every month or part of a month during which the goods

carriage is **owned** by the assessee in the previous year or an amount claimed to have been actually earned from such goods carriage, **whichever is higher**.

The expression “**heavy goods vehicle**” means any goods carriage, the **gross vehicle weight** of which exceeds 12000 kilograms;’

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

[Applicable from A. Y. 2019-20]

14. **Agriculture Commodity Derivatives made Non-Speculative:** It is proposed to amend the provisions of clause (5) of section 43 to provide that a transaction in respect of trading of agricultural commodity derivatives, **which is not chargeable to CTT**, in a **registered** stock exchange or **registered** association, **will be treated as non-speculative** transaction.

[Applicable from A. Y. 2019-20]

15. **5% difference in transfer value and stamp duty value is made tolerable:** Section 43CA and Section 50C are proposed to be amended in following manner.

Where the value adopted or assessed or assessable by the authority for the purpose of payment of stamp duty **does not exceed 105%** of the **consideration received or accruing** as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of computing profits and gains from transfer of such asset / for the purposes of section 48, be deemed to be the full value of the consideration.

Section 56 is proposed to be amended in a manner that difference of **higher** of these two (1) the amount of fifty thousand rupees; and (ii) the amount equal to 5% of the consideration will be ignored.

[Applicable from A. Y. 2019-20]

16. **Treatment is defined when stock-in-trade is converted into Capital Asset:** Till date, there was only the provision about tax treatment when the capital assets is converted into stock-in-trade [section 45(2)], but no specific provision was there when stock-in-trade is converted into capital asset. Now, section 28 is proposed to be amended by insertion of clause (via) so as to provide that any profit or gains arising from conversion of **inventory into capital asset** or **its treatment as capital asset** shall be charged to tax **as business income**. It is also proposed to provide that the **fair market value** of the inventory **on the date of conversion or treatment** determined in the **prescribed manner**, shall be deemed to be the full value of the consideration received or accruing as a result of such conversion or treatment.

Further section 2(24), section 49 and section 2(42A) are also proposed to be amended accordingly.

[Applicable from A. Y. 2019-20]

17. **Certain changes in Section 54EC regarding eligible LTCG and tenure of bonds:** Section 54EC is proposed to be amended so as to restrict it to only capital gains arising from long-term capital assets, **being land or building or both**. Tenure of eligible bond is also proposed to be increased **to 5 years** from earlier tenure of 3 years.

[Applicable from A. Y. 2019-20]

18. **TDS and Cash Payment related provisions for certain exempt entities:** At present, there are no restrictions on payments made in cash by charitable or religious trusts or institutions. There are also no checks on whether such trusts or institutions follow the provisions of deduction of tax at source under Chapter XVII-B of the Act. This has led to lack of an audit trail for verification of application of income. So section 11 and section 10(23C) are amended in a manner that “for the purposes of determining the application of income under said sections, the provisions of section 40(a)(ia), and of section 40A(3) and section 40A(3A), shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head “Profits and gains of business or profession”.

[Applicable from A. Y. 2019-20]

19. **Compensation in connection with business or employment is made taxable specifically:** It is proposed to amend section 28 of the Act to provide that any compensation received or receivable, **whether revenue or capital**, in connection with the **termination or the modification** of the terms and conditions of any contract relating to its **business** shall be taxable **as business income**. It is **further proposed** that any compensation received or receivable, whether in the nature of **revenue or capital**, in connection with the **termination or the modification** of the terms and conditions of any contract relating to its **employment** shall be taxable under **section 56** (other source income) of the Act.

[Applicable from A. Y. 2019-20]

20. **Deduction to Farm Producer Companies:** New section 80PA is proposed to be inserted whereby Producer Company having a total **turnover of less than Rs. 100 crore** in any previous year, includes any profits and gains derived from eligible business, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to 100% of the profits and gains attributable to such business for the previous year relevant to an assessment year commencing on or after the 01/04/2019, but before the 01/04/2025.

[Applicable from A. Y. 2019-20]

21. **Incentive for employment generation:** Section 80JJAA is proposed to be amended so as to give benefit of minimum 150 days (instead of 240 days) employment to footwear or leather industry also in addition to manufacturing of apparel. Further, it is proposed that where an employee is employed during the previous year for a period of less than 240 days or 150 days, as the case may be, but is employed for a period of 240 days or 150 days, as the case may be, in the **immediately** succeeding year, he shall be **deemed** to have been employed **in the succeeding year** and the provisions of this section shall apply accordingly and it

would get deduction of 30% of additional employee cost incurred in the course of such business in the previous year, **for three assessment years** including the assessment year relevant to the previous year in which such employment is provided.

[Applicable from A. Y. 2019-20]

22. **Certain changes in MAT provisions Section 115JB:** It is proposed to amend section 115JB to provide that the **aggregate (not lower of)** amount of unabsorbed depreciation and loss brought forward (excluding unabsorbed depreciation) shall be allowed to be reduced from the book profit, if a company's application for corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 has been **admitted** by the Adjudicating Authority.

[Applicable from A. Y. 2019-20]

A clarificatory amendment is also proposed in section 115JB of the Act to provide that the provisions of section 115JB of the Act shall **not be applicable** and shall be **deemed never to have been applicable** to an assessee, being a **foreign company**, **if-** its total income comprises **solely** of profits and gains from business referred to in section 44B **or** section 44BB **or** section 44BBA **or** section 44BBB **and** such income has been **offered to tax** at the rates specified in the said sections.

[Applicable from A. Y. 2001-02]

23. **Benefit of carry forward and set off of the losses u/s. 79:** Section 79 is proposed to be amended whereby third proviso is added as under.

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

[Applicable from A. Y. 2018-19]

24. **E-scrutiny Assessment:** New subsection (3A) is proposed to be inserted in section 143 whereby the Central Government may make a scheme, by notification in the Official Gazette, for the purposes of making assessment of total income or loss of the assessee under sub-section (3) so as to impart greater efficiency, transparency and accountability by—(a) eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible; (b) optimising utilisation of the resources through economies of scale and functional specialisation; (c) introducing a team-based assessment with dynamic jurisdiction.

New subsection (3B) is proposed to be inserted in section 143 whereby the Central Government may, for the purpose of giving effect to the scheme made under sub-section (3A), by notification in the Official Gazette, direct that any of the provisions of this Act relating to assessment of total income or loss shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in

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

New subsection (3C) is proposed to be inserted in section 143 whereby every notification issued under sub-section (3A) and sub-section (3B) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.”

[Applicable from A. Y. 2018-19]

25. **“Options” in commodity futures are subject to CTT:** Section 116(7) of Finance Act, 2013 is proposed to be amended by which option on commodity derivatives would be made taxable for the purposes of commodities transaction tax.
[Applicable from A. Y. 2018-19]

26. **Certain changes in processing of ITR u/s. 143(1) :** Sub-clause(vi) of section 143(1)(a) provides for adjustment in respect of addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return.

With a view to restrict the scope of adjustments, it is proposed to insert a new proviso to the said clause to provide that no adjustment under sub-clause (vi) of the said clause shall be made in respect of any return **furnished** on or after the assessment year commencing on 01/04/2018.

27. **Benefit of tax-free withdrawal from NPS to non-employees also:** Under the existing provisions of the clause (12A) of section 10 of the Act, an employee contributing to the NPS is allowed an exemption in respect of 40% of the total amount payable to him on closure of his account or on his opting out. This exemption is not available to non-employee subscribers. In order to provide a level playing field, it is proposed to amend clause (12A) of section 10 of the Act to extend the said benefit to **all subscribers**.
[Applicable from A. Y. 2019-20]

28. **File the return in time to get certain deductions:** Section 80AC is proposed to be amended whereby no deduction under the heading “C.—Deductions in respect of certain incomes” shall be allowed unless he furnishes a return of his income for such assessment year on or before the due date specified under sub-section (1) of section 139. Heading “C.—Deductions in respect of certain incomes” includes deductions u/s. 80HH to section 80RRB. In some newspapers, this amendment was presented in incorrect manner by referring section 80C [which is under Heading B] instead of Heading C. **[Applicable from A. Y. 2018-19]**

29. **Extension of tax neutral transfers to Section 56:** In order to further facilitate the transaction of money or property between a wholly owned subsidiary company and its holding company, it is proposed to amend the section 56 so as to exclude such transfer from its scope as has been described u/s. 47(iv) and (v). **[Applicable in respect of transaction made on or after 1st April, 2018.]**

30. **Increase in penalty for failure to furnish statement of financial transaction or reportable account u/s. 285BA(1):** In order to ensure compliance of the reporting obligations under section 285BA, it is proposed to amend the section 271FA so as to increase the penalty leviable from Rs. 100 to Rs. 500 and from Rs. 500 to Rs. 1,000/-, for each day of continuing default. **[W.e.f 01/04/2018]**

31. **Order u/s. 271J by CIT(A) is made appealable before ITAT :** In budget 2017, section 271J was introduced by which following provision was made.

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.

Such an order of penalty is proposed to be made appealable before ITAT in this budget by the way of amendment in section 253(1)(a). **[W.E.F A. Y. 2018-19]**

32. **Various ICDS provisions are proposed to be inserted in Act itself in response to recent judgment of Delhi High Court:** Chamber of Tax Consultants and CA. C.S. Mathur filed a writ petition in Delhi Court challenging the constitutional validity of notification No. 87/2016 dated 29th September 2016 issued by the Central Board of Direct Taxes (CBDT), Circular No. 10 of 2017 dated 23rd March 2017 issued by the CBDT and substituted and amended Section 145 of the Act itself.

High court gave its ruling on 08/11/2017 in which its main observation was - amendments to section 145 permit the Central Government, as a delegate of the legislature, to notify the standards for income computation **but not to bring about changes to settled principles laid down in judicial precedents. It is only a competent legislature that can make a validation law to override judicial precedents. It is not open to central government to override it unless there is an amendment to the IT Act.**

Link and QR code of that judgment is given below.

<http://itatonline.org/archives/the-chamber-of-tax-consultants-vs-uo-i-delhi-high-court-s-1452-icds-s-145-2-has-to-be-read-down-to-restrict-power-of-the-central-government-to-notify-icds-that-do-not-seek-to-override-binding-ju/ctc-icds-145-2-writ-petition-ultra-vires/>



So, to bring certainty on issue of applicability of ICDS, various provisions of ICDS are proposed to be inserted in law itself with effect from A.Y. 2017-18.

33. **Other changes in this budget:** Some other changes are also proposed regarding various income tax provisions in this budget which do not affect much to small taxpayers as well as small and medium tax practitioners so they are not discussed in detail here.

Disclaimer:

This is not a professional opinion or an advice to any specified person or in general, but simply an analysis by the Author. Author will not be responsible for any loss caused to anyone who acts on the basis of this analysis without obtaining written opinion of author. Budget proposals may change or may be different at the time the Budget is passed by the Parliament and notified by the Government. For a detailed study, please refer to the budget documents available on www.indiabudget.nic.in