GST LIVE

PROPOSALS OF UNION BUDGET 2018

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TAX CONNECT ADVISORY SERVICES LLP

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INDIRECT TAX PROPOSALS

CUSTOMS

Clause 54 amend the Customs Act

- Arrival Manifest and Departure Manifest respectively wherever import manifest and export manifest occur in the Customs Act.

Clause 55 amends Section 1 of Customs Act

- Customs Act will be applicable to a person who commits any offence or makes any contravention there under outside India.

Clause 56 Amends section 2 of Customs Act

- The definition of assessment have been substituted to extend the limit of 'Indian Customs Waters' into the sea from the existing 'Contiguous zone of India' to the 'Exclusive Economic Zone (EEZ)' of India.

Clause 57 Amends Sec 11 of Customs Act

- Sub-section (3) has been inserted for prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance.

Clause 58 Amends Sec 17 of Customs Act

- The scope of verification has been expanded beyond self-assessment to all the entries made under section 46 or section 50.
- The scope of re-assessment has been extended by omitting specific reference to valuation, classification and exemption or concessions of duty availed.

Clause 59 Amends Sec 18 of Customs Act

- Export consignments under provisional assessment of duty has been covered U/S 18 of Customs Act .
- The Board has been empowered to issue regulation for providing time-limit for the importer or exporter to submit the documents and information.

Clause 60 Inserts Section 25A and Section 25B of Customs Act

- Sec 25A empowers the Central Government to exempt goods imported for repair, further processing or manufacture from payment of whole or any part of duty of customs.
- Sec 25B empowers Central Government to exempt goods re-imported after export for repair, further processing or manufacture from payment of whole or any part of duty of customs.

Clause 61 Amends Sec 28 of Customs Act

- A definite time frame of six months and one year will be provided for adjudication of demand notices depending upon whether charges of collusion, willful mis- statement, suppression have been invoked.

- Where an order for refund is modified in appeal and the amount of refund so determined is less than the amount refunded, the excess amount so refunded shall be recovered along with interest thereon at the applicable rate, from the date of refund up to the date of recovery, as a sum due to the Government.

Clause 62 Amends Sec 28E of Customs Act

- A definition of 'appellate authority' has been included. Authority has been defined as Customs Authority for Advance Ruling & "Appellate Authority" has been substituted in place of "authority".

Clause 63 Inserts Section 28EA of Customs act

- The Board has been empowered to appoint officers of the rank of Principal Commissioner of Customs or Commissioner of Customs as Customs Authority for Advance Rulings by way of notification.

Clause 64 Amends Sec 28F of Customs Act

- Section 28F is being amended so as to substitute the word "Authority" with the words "Appellate Authority"

Clause 65 Amends Sec 28H of Customs Act

- Central Government has been enabled to notify any other matter on which advance ruling can be sought by an applicant & an applicant may be represented by a duly authorized person who is a resident in India.

Clause 67 Amends Sec 28K of Customs Act

- The period beginning with the date of advance ruling and ending with the date of order under this sub-section shall be excluded from the time period of two years and five years.

Clause 68 Inserts Sec 28KA of Customs Act

- An officer duly authorized by Board by notification, or by an applicant against the ruling or an order passed by Customs Authority for Advance Rulings can appeal to the Appellate Authority constituted under Section 245-O of the Income Tax Act.

Clause 69 Amends Sec 28L of Customs Act

- The word "Authority" has been substituted with the words "Authority or Appellate Authority"

Clause 70 Substitutes Section 28M of Customs Act

- Appellate Authority shall have power to regulate its own procedure in all matters arising out of the exercise of its powers under this act.

Clause 71 Amends Section 30 of Customs Act

- Export goods in addition to imported goods has been included as part of the information provided in the manifest.

Clause 72 Amends Section 41 of Customs Act

- Penalty provisions have been made for late filing of manifest .

Clause 73 Amends Section 45 of Customs Act

- Proper officer has been provided for clearance of goods by other to existing system of clearance.

Clause 74 Amends Section 46 of Customs Act

- Customs Automated System and the manner of presentation of bill of entry have been inserted.

Clause 75 Amends Section 47 of Customs Act

- A provision for clearance of goods by Customs Automated System in addition to existing clearance by the proper officer has been inserted.

Clause 76 Amends Section 50 of Customs Act

- Sub-section (2A) has been inserted so as to provide for observance of the accuracy, authenticity, validity of the declarations made by the exporter under this section and compliance to the prohibitions or restrictions under this act or any other law for the time being in force.

Clause 77 Amends Section 51 of Customs Act

- A provision has been made for clearance of goods by Customs Automated System in addition to existing clearance by the proper officer.

Clause 78 inserts Chapter VIIA of Customs Act

- Provision has been inserted for advance deposit which would enable payment of duties, taxes, fee, and penalty through electronic cash ledger on payments governed by provisions U/S Section 51A.

Clause 79 Amends Section 54 of Customs Act

- The Board has been empowered to make regulations for manner of presenting a bill of transshipment and declaration for transshipment.

Clause 80 Amends Section 60 of Customs Act

- A provision has been made for clearance of goods by Customs Automated System in addition to existing clearance by the proper officer.

Clause 81 Amends Section 68 of Customs Act

- Provision has been made for clearance of goods by Customs Automated System in addition to existing clearance by the proper officer.

Clause 82 Amends Section 69 of Customs Act

- A provision has been made for clearance of goods by Customs Automated System in addition to existing clearance by the proper officer.

Clause 83 Amends Section 74(1)(iii) of Customs Act

- Section 82 has been omitted vide section 104 of Finance Act, 2017

Clause 84 Amends Section 75(1) of Customs Act

- The reference to section 82 with the reference to clause (a) of section 84, as section 82 has been omitted vide section 104 of Finance Act, 2017.

Clause 85 amends Nomenclature of Chapter XI of Customs Act

- Nomenclature of Chapter XI is being amended so as to include reference to courier.

Clause 86 Amends Section 83 of Customs Act

- A reference has been included to goods imported or exported by courier through the authorized courier.

Clause 87 Amends Section 84 of Customs Act

- A Reference has been included to goods imported or exported by courier and to empower the Board to make regulations in this regard. The extant provisions in the section relate to goods imported or exported by post only.

Clause 88 Inserts Chapter XIIA & section 99A of Customs act

- The manner of conducting audit shall be provided in regulations.

Clause 89 Inserts section 109A of Customs Act

- The proper officer or any other officer has been authorized to undertake Controlled Delivery of any consignment of goods to any destination in India or a foreign country.

Clause 90 Amends Section 110 of Customs Act

- The Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend the six months period by a period not exceeding six months and inform the person from whom such goods have been seized before the expiry of the time for provisional release of the seized goods & under Section 110A, the aforesaid period of six months, shall not apply.

Clause 91 Amends Section 122 of Customs Act

- The Board has been empowered to fix monetary limits for adjudication of cases by officers below the rank of Joint Commissioner by way of notification.

Clause 92 Amends Section 124 of Customs Act

- A second proviso has been inserted to provide for issuance of supplementary show cause notice under such circumstances and in such manner as may be prescribed through regulations.

Clause 93 Amends Section 125 of Customs Act

- Where the demand proceedings against a noticee / co-noticees have been closed on grounds of having paid the dues mentioned in section 28, then the provisions of this section shall not be applicable if the goods are not prohibited or restricted.

- Where redemption fine has not been paid within a period of one hundred and twenty days from the date of option given under sub-section (1), then such option shall become void, except in cases where any appeal against such order is pending.

Clause 93 Amends Section 128A of Customs Act

- Commissioner has been allowed to demand back the matters to original adjudicating authority in specified categories of cases.

Clause 95 Amends section 143AA of Customs Act

- The Board has been empowered to prescribe through regulations trade facilitation measures or separate procedure or documentation for a class of importers or exporters or for categories of goods or on the basis of the modes of transport of goods.

Clause 96 inserts section 151B of Customs Act

- Reciprocal arrangement for exchange of information is being inserted so as to: authorized Central Government to enter into an agreement or any other arrangement with the Government of any country or with such competent authorities of that country, as it deems fit, for facilitation of trade, enforcing the provisions of Customs Act and exchange of information for trade facilitation, effective risk analysis, verification of compliance and prevention, combating and investigation of offences.

- The information received under sub-section (1) will be utilized as evidence in investigations and proceedings where the Central Government has entered into a multilateral agreement for exchange of information or documents for purposes of verification of compliance in identified cases.

Clause 97 Amends section 153 of Customs Act

- Section 153 is being substituted so as to align it with the provisions of the section 169 of the CGST Act to include Speed Post, Courier, and registered email as valid modes of delivery.

Clause 98 Amends section 157 of Customs Act

- The board can make regulations relating to:-manner to deliver or present, a bill of entry, shipping bill, bill of export, import manifest, import report, export manifest, export report, bill of transshipment, declaration for transshipment, boat note and bill of coastal goods and time and manner of finalization of provisional assessment, manner of conducting pre-notice consultation, circumstances under which, and the manner of issuing supplementary notice etc.

SERVICE TAX

A. Retrospective exemptions

Clause 103

Services provided or agreed to be provided by the Naval Group Insurance Fund by way of life insurance to personnel of Coast Guard, under the Group Insurance Schemes of the Central Government, are proposed to be exempted from service tax for the period commencing from the 10th September, 2004 and ending with the 30th June, 2017

Clause 104

Services provided or agreed to be provided by the Goods and Services Tax Network (GSTN) to the Central Government or State Governments or Union territories administration, are proposed to be exempted from service tax for the period commencing from 28th March, 2013 and ending with the 30th June, 2017.

Clause 105

Consideration paid to the Government in the form of Government's share of profit petroleum in respect of services provided or agreed to be provided by the Government by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, is proposed to be exempted from service tax for the period commencing from 1st April, 2016 and ending with the 30th June, 2017.

IV.Amendment MISCELLANEOUS

Amendment in notification No. 50/2017-Customs

Clause 99

Notification No. 65/2017-Customs dated 8th July 2017 amending notification No. 50/2017- Customs dated 30th June 2017 is proposed to be given retrospective effect so as to exempt integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975 on aircrafts, aircraft engines and other aircraft parts imported under cross-border lease during the period from the 1st July, 2017 to the 7th July, 2017 subject to the payment of Integrated tax leviable under section 5(1) of the IGST Act, 2017 on the said supply

A. Renaming of Central Board of Excise and Customs as the Central Board of Indirect Taxes and Customs

Clause157 &158

Name of Central Board of Excise and Customs is being changed to Central Board of Indirect Taxes and Customs with consequential amendments in the following Acts: -
The Central Boards of Revenue Act, 1963 (54 of 1963)
The Customs Act, 1962 (52 of 1962)
The Central Goods and Services Tax Act, 2017 (12 of 2017

B. REPEAL OF CERTAIN ENACTMENTS

Clause106

- Additional duty of Customs on Motor Spirit commonly known as Petrol is being abolished by repealing section 103 of the Finance Act (No.2), 1998
- Additional duty of Excise on Motor Spirit commonly known as Petrol is being abolished by repealing section 111 of the Finance Act (No.2), 1998
- Additional duty of Customs on High Speed Diesel oil is being abolished by repealing section 116 of the Finance Act, 1999
- Additional duty of Excise on High Speed Diesel oil is being abolished by repealing section 133 of the Finance Act, 1999
- Education Cess on imported goods is being abolished by omitting Chapter VI of the Finance Act (No.2), 2004
- Secondary and Higher Education Cess on imported goods is being abolished by omitting Chapter VI of the Finance Act, 2007

DIRECT TAXES

Clause 2 & First Schedule: RATES OF INCOME-TAX

I. Rates of income-tax for the assessment year 2018-19 are same as provided in Finance Act, 2017.

(1) Surcharge on income-tax:

For Individual/HUF/AOP/AJP—

- where the Income/Aggregate Income exceeds 50 lakh rupees but does not exceed 1 crore rupees-- **10% of Income Tax.**
- where the Income/Aggregate Income exceeds one crore rupees-- **15% of Income Tax.**
- liable to tax u/s 115JC of IT Act-- **at the appropriate rates.**

For co-operative societies, firms or local authorities—

- where the Total Income exceeding one crore rupees-- **12% of Income Tax**.
- liable to tax u/s 115JC of IT Act and and total income exceeds one crore rupees-- **12% of Income Tax.**

For Domestic company:

- where the Total Income exceeding one crore rupees but not exceeding ten crore rupees -- **7% of Income Tax**
- where the Total Income exceeding ten crore rupees -- **12% of Income Tax.**
- liable to tax u/s 115JC of IT Act-- **at the appropriate rates.**

For Company, other than a domestic company:

- where the Total Income exceeding 1 crore rupees but does not exceeding 10 crore rupees-- **2% of Income Tax**
- where the Total Income exceeding 10 crore rupees -- **5% of Income Tax**.
- liable to tax u/s 115JC of IT Act-- **at the appropriate rates.**

*In other cases including Sec. 115-O, 115QA, 115R, 115TA or 115TD**-- 12% of Income Tax.***

(2) Marginal Relief also been provided in all cases where surcharge is to be imposed.

(3) Education Cess @ 3% of the total of Income Tax and Surcharge-Same as provided in Finance Act, 2017.

II. Rates for TDS during the F.Y. 2018-19 from certain incomes other than "Salaries" are same as provided in Finance Act, 2017. However TDS @10 % will be applicable in case of LTCG referred to in section 112A of the Act.

(1) Surcharge on TDS—

In the case of a non-resident person (other than a company),

For Individual/HUF/BOI/AOP/every artificial juridical person—

- where the Income/Aggregate Income subject to the deduction exceeds 50 lakh rupees but does not exceed 1 crore rupees-- **10% of Income Tax**
- where the Income/Aggregate Income subject to the deduction exceeds exceeds one crore rupees-- **15% of Income Tax.**
- liable to tax u/s 115JC of IT Act-- **at the appropriate rates.**

For co-operative societies, firms—

- where the Total Income subject to the deduction exceeding one crore rupees-- **12% of Income Tax.**
- liable to tax u/s 115JC of IT Act and and total income exceeds one crore rupees-- **12% of Income Tax.**

For Company, other than a domestic company:

- where the Total Income subject to the deduction exceeding 1 crore rupees but does not exceeding 10 crore rupees-- **2% of Income Tax**
- where the Total Income subject to the deduction exceeding 10 crore rupees -- **5% of Income Tax.**

(2) **Education Cess and Secondary and Higher Education Cess shall be discontinued and** a new cess "**Health and Education Cess"** shall be levied at the rate of **4%** on Income Tax incl. Surcharge in the cases of persons not resident in India including company other than a domestic company.

III. Rates for deduction of income-tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 2018-19.

In case of Individual, HUF, AOP, BOI, artificial juridical person, the rates of TDS are same as 2017:

Upto Rs.2,50,000	-	NIL
Rs. 2,50,001 to Rs. 5,00,000	-	5%
Rs. 5,00,001 to Rs. 10,00,000	-	20%
Above Rs. 10,00,000	-	30%

In case of Resident Individual, who is of the age of sixty years or more but less than eighty years (Senior Citizen)

Upto Rs.3,00,000	-	NIL
Rs. 3,00,001 to Rs. 5,00,000	-	5%
Rs. 5,00,001 to Rs. 10,00,000	-	20%
Above Rs. 10,00,000	-	30%

<u>In case of Resident Individual, who is of the age of eighty years or more (Super Senior Citizen)</u>

Upto Rs.5,00,000	-	NIL
Rs. 5,00,001 to Rs. 10,00,000	-	20%
Above Rs. 10,00,000	-	30%

- **Surcharge and Marginal relief will be applicable as earlier.**

A. **Rates of income-tax for Co-operative Societies will continue to be the same as provided in Finance Act, 2017.**
B. **Rates of income-tax for Firms will continue to be the same as provided in Finance Act, 2017.**
C. **Rates of income-tax for Local authorities will continue to be the same as provided in Finance Act, 2017.**

Surcharge and Marginal relief shall be applicable for the above**.**

D. **Rates of income-tax for Companies shall be:**

25% of the Total Income	- If total turnover or gross receipts of the previous year 2016-17 **does not exceed 250 crore rupees.**
30% of the Total Income	- **In All other cases**

- The rates of tax in the case of **company other than domestic company** are the same as those specified for the financial year 2017-18.

- Additional surcharge called the "**Health and Education Cess on income-tax"** shall be levied at the rate of 4% on the tax computed, inclusive of surcharge in all cases. **No marginal relief shall be available in respect of such cess.**

<u>Clause 42: Sec. 139A- persons shall be required to apply to the Assessing Officer for allotment of PAN, w.e.f. 1st April 2018:</u>

I. Every person, not being an individual, which enters into a financial transaction of an amount aggregating to **two lakh and fifty thousand rupees or more** in a financial year.
II. Managing director, Director, Partner, Trustee, Author, Founder, Karta, CEO, Principal officer or office bearer or any person competent to act on behalf of such entities.(w.e.f 1st April,2018)

<u>Clause 3: Widening of scope of Accumulated profits for the purposes of Dividend</u>

w.e.f. 1st April, 2018 Explanation 2A to be inserted in Sec.2(22) of the Income Tax 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.

Clause 38 & 39: Application of Dividend Distribution Tax to Deemed Dividend.

Imposition of dividend distribution tax @ 30% on deemed dividend will apply to Deemed Dividend undertaken on or after 1st April, 2018.

Clause 5 & 31: New regime for taxation of LTCG on sale of equity shares etc. w.e.f. 1st April, 2019.

The exemption under Sec. 10(38), where long term capital gains arising from transfer of long term capital assets, being equity shares of a company or an unit of equity oriented fund or an unit of business trusts , is exempt from income-tax shall be withdrawn.

Introduces a new sec. 112A in the Act to provide that LTCG arising from 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 shall be taxed at 10% of such capital gains exceeding one lakh rupees subject to conditions specified.

Further, the new provision of section 112A also provides the following:

i. The long term capital gains will be computed without giving effect to the inflation indexation in respect of cost of acquisitions and cost of improvement, if any, and the benefit of computation of capital gains in foreign currency in the case of a non-resident, will not be allowed.

ii. The cost of acquisitions in respect of the long term capital asset acquired by the assessee before the 1st day of February, 2018 , shall be deemed to be the higher of –

a) the actual cost of acquisition; and

b) the lower of –

(I) Fair Market Value of such asset; and

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

iii. "equity oriented fund" has been defined.

iv. Fair market value has been defined

v. The benefit of deduction under chapter VIA shall be allowed from the gross total income as reduced by such capital gains. The rebate u/s 87A shall be allowed from the income tax on the total income as reduced by tax payable on such capital gains.

Clause 40, 41 & 214: Dividend distribution tax on dividend payouts to unit holders in an equity oriented fund w.e.f. 1st April, 2018.

Amended Sec.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 @ 10% on income so distributed.

Clause 32: Taxation of long-term capital gains in the case of Foreign Institutional Investor w.e.f.1st April, 2019.

Amended Sec.115AD to provide that LTCG on sale of equity shares will become taxable in the hands of Foreign Institutional Investors also, in respect of amount of such gains exceeding one lakh rupees.

Clause 5 & 6: TDS and manner of payment in respect of certain exempt entities, w.e.f. 1st April, 2019.

A new Explanation to the section 11 has been inserted to provide that for the purposes of determining the application of income under the provisions of Sec. 11(1), Sec.40(a)(ia), and of sec.40A (3) and 40(3A), shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

Similar proviso has been also inserted in clause 10(23C) 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 application of income.

Clause 4: Aligning the scope of "business connection" with modified PE Rule as per Multilateral Instrument (MLI), w.e.f. 1st April, 2019.

Amendment has been done in Sec.9 of Income Tax Act to align them with the provisions in the DTAA as modified by MLI so as to make the provisions in the treaty effective.

Clause 4: "Business connection" to include "Significant Economic presence", w.e.f. 1st April, 2019.

Amendment has been done in Sec. 9(1) (i) of Income Tax Act to provide that 'significant economic presence' in India shall also constitute 'business connection'. Further meaning of "significant economic presence" is also defined.

Clause 3, 9 & 21: Taxability of compensation in connection to business or employment, w.e.f. 1st April, 2019.

Amendment has been done in Sec. 28 of Income Tax 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 provided 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 of the Act.

Clause 16: Presumptive income under section 44AE in case of goods carriage, w.e.f. 1st April, 2019.

Section 44AE amended to provide that, in the case of heavy goods vehicle (more than 12MT gross vehicle weight), the income would deemed to be an amount equal to one thousand rupees per ton of gross vehicle weight or unladen weight, as the case may be, per month or part of a month for each goods vehicle or the amount claimed to be actually earned by the assessee, whichever is higher.

The vehicles other than heavy goods vehicle will continue to be taxed as per the existing rates.

Clause 24: Amends Deductions available to senior citizens in respect of health insurance premium and medical treatment u/s 80D.

It is proposed to amend Sec. 80D so as to raise the monetary limit of deduction from Rs 30,000/- to Rs 50,000/-.These amendments will take effect, from 1st April, 2019.

Clause 25: Enhances the deduction to senior citizens for medical treatment of specified diseases U/S 80DDB

It is proposed to amend the provisions of section 80DDB of the Act so as to raise this monetary limit of deduction to Rs 1,00,000/- for both senior citizens and very senior citizens. This amendment will take effect, from 1st April, 2019

Clause 29, 30 & 37: Amends Deduction in respect of interest income to senior citizen

It is proposed to insert a new section 80TTB so as to allow a deduction upto Rs 50,000/- in respect of interest income from deposits held by senior citizens. However, no deduction under section 80TTA shall be allowed in these cases. This amendment will take effect from 1st April, 2019

It is also proposed to amend section 194A so as to raise the threshold for deduction of TDS on interest income for senior citizens from Rs 10,000/- to Rs 50,000/-. This amendment will take effect, from 1st April, 2018.

Clause 7 & 8: Standard deduction on salary income

It is proposed to allow a standard deduction upto Rs 40,000/- or the amount of salary received, whichever is less. Consequently the present exemption in respect of Transport Allowance (except in case of differently abled persons) and reimbursement of medical expenses is proposed to be withdrawn. These amendments will take effect from 1st April, 2019

Clause 28 : Deduction in respect of income of Farm Producer Companies

Amended Sec.80P and It is proposed to extend 100 percent deduction in respect of profit to Farm Producer Companies (FPC), having a total turnover upto Rs 100 Crore, The benefit shall be available for a period of five years from the financial year 2018-19.This amendment will take effect from 1st April, 2019.

Clause 26 : Measures to promote start-ups

The benefits Sec.80-IAC of the act would also be available to specified category of start ups engaged in specified fields and incorporated on or after the 1st day of April 2019 but before the 1st day of April, 2021;The requirement of the turnover not exceeding Rs 25 Crore would apply to seven previous years commencing from the date of incorporation; The amendment will take effect, from 1st April, 2018.

Clause 17, 36 & 37: Measures to promote International Financial Services Centre (IFSC)- Amendment U/S 47

It is proposed to amend the section 47 of the Act so as to provide that transactions in bond or GDR's, rupee denominated bond of an Indian company or Derivatives by a non-resident on a recognized stock exchange located in any IFSC shall not be regarded as transfer, if the consideration is paid or payable in foreign currency. This amendment will take effect, from 1st April, 2019.

It is further proposed to amend the section 115JC so as to provide that in case of a unit located in an IFSC, the alternate minimum tax under section 115JC shall be charged at the rate of 9 percent. Consequential amendment in section 115JF is also proposed to be made. This amendment will take effect, from 1st April, 2019.

Clause 27: Amends Incentive for employment generation U/S 80JJAA

It is proposed to extend the minimum period of employment in case of footwear and leather industry to 150 days U/S 80-JJAA to claim the benefit of a deduction of 30% in addition to normal deduction of 100% in respect of emoluments paid to eligible new employees.

Clause 12: Amends Tax treatment of transactions in respect of trading in agricultural commodity derivatives U/S 43

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. These amendments will take effect from 1st April, 2019

Clause 5: Exemption of income of Foreign Company from sale of leftover stock of crude oil on termination of agreement or arrangement U/S 10

It is proposed to amend clause (48B) of section 10 to provide that the benefit of tax exemption in respect of income from left over stock will be available even if the agreement or the arrangement is terminated in accordance with the terms mentioned therein. This amendment will take effect from 1st of April, 2019.

Clause 5 : Royalty and FTS payment by NTRO to a non-resident to be tax-exempt

It is proposed to amend section 10 so as to provide that the income arising to non-resident, not being a company, or a foreign company, by way of royalty from, or fees for technical services rendered in or outside India to, the NTRO will be exempt from income tax. Hence, NTRO will not be required to deduct tax at source on such payments. This amendment will take effect from 1st April, 2018

Clause 35: Relief from Liability of Minimum Alternate Tax (MAT) U/S 115JB

It is proposed to amend section 115JB to provide that the aggregate 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. This amendment will take effect from 1st April, 2018.

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. This amendment will take effect, retrospectively from 1st April, 2001

Clause 22 & 43: Benefit of carry forward and set off of losses U/S 79

It is proposed to relax the rigors of section 79 in case of such companies, whose resolution plan has been approved under the Insolvency and Bankruptcy Code, 2016, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner. This amendment will take effect from 1st April, 2018

It is also proposed to amend section 140 of the Act so as to provide that during the resolution process under the Insolvency and Bankruptcy Code, 2016, the return shall be verified by an insolvency professional appointed by the Adjudicating Authority under the Insolvency and Bankruptcy Code, 2016. This amendment will take effect from 1st April, 2018

Clause 44: New scheme for scrutiny assessment U/S 143

It is proposed to amend the section 143, by inserting a new sub-section (3A), after sub-section (3), enabling the Central Government to prescribe the new scheme for scrutiny assessments, by way of notification in the Official Gazette. It is further proposed to insert sub-section (3B) in the said section, enabling the Central Government to direct, that any of the provisions of this Act relating to assessment shall not apply, or shall apply with such exceptions, modifications and adaptations as may be specified therein. However, no such direction shall be issued after the 31st March 2020.These amendments will take effect from 1st April, 2018.

Clause 215 : Rationalization of the provisions relating to Commodity Transaction Tax

It is proposed to amend the clause (7) of section 116 so as to include “options in commodity futures” in the definition of “taxable commodities transactions”.It is also proposed to amend the provisions of section 117 so as to prescribe the rate at which sale of an option on commodity derivative shall be chargeable and such tax shall be payable by the seller. These amendments will take effect from 1st April, 2018.

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

It is proposed to amend the Sec 46(4) of Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 so as to provide that the Joint Director shall also be vested with the power to approve an order imposing a penalty. It is also proposed to amend clause (b) of the said sub-section so as to include reference to the Assistant Director and Deputy Director therein. These amendments will take effect from lst April, 2018.

Clause 44: Rationalisation of prima-facie adjustments during processing of return of income

It is proposed to insert a new proviso u/s 143(1) 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 the first day of April, 2018. This amendment will take effect from lst April, 2018

Clause 53 : Rationalisation of provisions relating to Country-by-Country Report U/S 286

Following amendments are proposed to be made so as to improve the effectiveness and reduce the compliance burden of such reporting :

(i) the time allowed for furnishing the Country-by-Country Report (CbCR), in the case of parent entity or Alternative Reporting Entity (ARE), resident in India, is proposed to be extended to twelve months from the end of reporting accounting year;

(ii) constituent entity resident in India, having a non-resident parent, shall also furnish CbCR in case its parent entity outside India has no obligation to file the report of the nature referred to in sub-section (2) in the latter’s country or territory;

(iii) the time allowed for furnishing the CbCR, in the case of constituent entity resident in India, having a non-resident parent, shall be twelve months from the end of reporting accounting year;

(iv) the due date for furnishing of CbCR by the the ARE of an international group, the parent entity of which is outside India, with the tax authority of the country or territory of which it is resident, will be the due date specified by that country or territory;

(v) Agreement would mean an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A, and also an agreement for exchange of the report referred to in sub-section (2) and sub-section (4) as may be notified by the Central Government;

(vi) "reporting accounting year" has been defined to mean the accounting year in respect of which the financial and operational results are required to be reflected in the report referred to in sub-section (2) and sub-section (4). These amendments will take effect retrospectively from the 1st April, 2017

Clause 33: Rationalisation of provision of section 115BA relating to certain domestic companies

It is proposed to amend section 115BA so as to clarify that the provisions of section 115BA is restricted to the income from the business of manufacturing, production, research or distribution referred to therein; and income which are at present taxed at a scheduler rate will continue to be so taxed. The amendment will take effect retrospectively from the 1st April, 2017

Clause 5: Extending the benefit of tax-free withdrawal from NPS to non-employee subscribers

It is proposed to amend clause (12A) of section 10 of the Act to extend the said benefit to all subscribers. This amendment will take effect, from 1st April, 2019

Clause 23: Deductions in respect of certain incomes not to be allowed unless return is filed by the due date

That the benefit of deduction under the entire class of deductions under the heading "C.—Deductions in respect of certain incomes" in Chapter VIA shall not be allowed unless the return of income is filed by the due date. This amendment will take effect, from 1st April, 2018

Clause 14, 19 & 21: Rationalization of section 43CA, section 50C and section 56

It is proposed that no adjustments shall be made in a case where the variation between stamp duty value and the sale consideration is not more than five percent of the sale consideration. These amendments will take effect from 1st April, 2019

Clause 3, 9 & 18: Rationalisation of provision relating to conversion of stock-in-trade into Capital Asset

In order to provide symmetrical treatment and discourage the practice of deferring the tax payment by converting the inventory into capital asset, it is proposed to amend the provisions of —

- section 28 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;

- clause (24) of section 2 so as to include such fair market value in the definition of income;
- section 49 so as to provide that for the purposes of computation of capital gains arising on transfer of such capital assets, the fair market value on the date of conversion shall be the cost of acquisition;
- clause (42A) of section 2 so as to provide that the period of holding of such capital asset shall be reckoned from the date of conversion or treatment.

These amendments will take effect, from 1st April, 2019

Clause 21: Tax neutral transfers

It is proposed to amend the section 56 so as to exclude the transfers referred to in clause (iv) and clause (v) of section 47 from its scope of sec 56. This amendment will take effect, from 1st April, 2018.

Clause 20: Rationalization of the provisions of section 54EC

In order to rationalise the provisions of section 54EC of the Act and to restrict the scope of the section only to capital gains arising from long-term capital assets, being land or building or both and to make available funds at the disposal of eligible bond issuing company for more than three years, it is proposed to amend the section 54EC so as to provide that capital gain arising from the transfer of a long-term capital asset, being land or building or both, invested in the long-term specified asset at any time within a period of six months after the date of such transfer, the capital gain shall not be charged to tax subject to certain conditions specified in this section

It is also proposed to provide that long-term specified asset, for making any investment under the section on or after the 1st day of April, 2018, shall mean any bond, redeemable after five years and issued on or after 1st day of April, 2018 by the National Highways Authority of India or by the Rural Electrification Corporation Limited or any other bond notified by the Central Government in this behalf. This amendment will take effect, from 1st April, 2019

Clause 34: Rationalisation of the provisions of section 115BBE

Sub-section (2) of said section provides that no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the assessee under any provision of the Act in computing his income referred to in clause (a) of sub-section (1).

In order to rationalize the provisions of section 115BBE, it is proposed to amend the said sub-section (2) so as to also include income referred to in clause (b) of sub-section (1). This amendment will take effect retrospectively from 1st April, 2017.

Clause 10, 11, 13, 15 & 45: Amendments in relation to notified Income Computation and Disclosure Standards.

In order to bring certainty in the wake of recent judicial pronouncements on the issue of applicability of ICDS, it is proposed to —

(i) amend section 36 of the Act to provide that marked to market loss or other expected loss as computed in the manner provided in ICDS notified under sub-section (2) of section 145, shall be allowed deduction.

(ii) amend 40A of the Act to provide that no deduction or allowance in respect of marked to market loss or other expected loss shall be allowed except as allowable under newly inserted clause (xviii) of sub-section(1) of section 36.

(iii) insert a new section 43AA in the Act to provide that, subject to the provisions of section 43A, any gain or loss arising on account of effects of changes in foreign exchange rates in respect of specified foreign currency transactions shall be treated as income or loss, which shall be computed in the manner provided in ICDS as notified under sub-section (2) of section 145.

(iv) insert a new section 43CB in the Act to provide that profits arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method except for certain service contracts, and that the contract revenue shall include retention money, and contract cost shall not be reduced by incidental interest, dividend and capital gains.

(v) amend section 145A of the Act to provide that, for the purpose of determining the income chargeable under the head "Profits and gains of business or profession,**—**

(a) the valuation of inventory shall be made at lower of actual cost or net realizable value computed in the manner provided in ICDS notified under (2) of section 145.

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

(c) inventory being securities not listed, or listed but not quoted, on a recognised stock exchange, shall be valued at actual cost initially recognised in the manner provided in ICDS notified under (2) of section 145.

(d) inventory being listed securities, shall be valued at lower of actual cost or net realisable value in the manner provided in income computation and disclosure standards notified under (2) of section 145 and for this purpose the comparison of actual cost and net realisable value shall be done category-wise.

(ii) insert a new section 145B in the Act to provide that-

a. Interest received by an assessee on compensation or on enhanced compensation, shall be deemed to be the income of the year in which it is received.

b. the claim for escalation of price in a contract or export incentives shall be deemed to be the income of the previous year in which reasonable certainty of its realisation is achieved.

c. income referred to in sub-clause (xviii) of clause (24) of section 2 shall be deemed to be the income of the previous year in which it is received, if not charged to income tax for any earlier previous year.It is proposed to bring the amendments retrospectively with effect from 1st April, 2017 i,e the date on which the ICDS.

Clause 46: Tax deduction at source on 7.75% GOI Savings (Taxable) Bonds, 2018

Government has now decided to discontinue the existing 8% Savings (Taxable) Bonds, 2003 with a new 7.75% GOI Savings (Taxable) Bonds, 2018. The provisions of section 193 are proposed to be amended to allow for deduction of tax at source at the time of making payment of interest on such bonds to residents. However, no TDS will be deducted if the amount of interest is less than or equal to ten thousand rupees during the financial year. This amendment will take effect from 1st April, 2018.

Clause 5: Exemption to specified income of class of body, authority, Board, Trust or Commission in certain cases

Clause 46 of section 10 of the Act empowers the Central Government to exempt, by notification, specified income arising to a body or authority or Board or Trust or Commission. It is proposed to amend the said clause so as to enable the Central Government to also exempt, by notification, a class of such body or authority or Board or Trust or Commission (by whatever name called). This amendment will take effect from 1st April, 2018.

Clause 51: Penalty for failure to furnish statement of financial transaction or reportable account

It is proposed to amend the section 271FA so as to increase the penalty leviable from one hundred rupees to five hundred rupees and from five hundred rupees to one thousand rupees, for each day of continuing default for failure in furnishing the statement of financial transaction or reportable account under sub-section (1) of section 285BA. This amendment will take effect from 1st April, 2018.

Clause 48 & 49: Amendments to the structure of Authority for Advance Rulings

it is proposed to amend the provisions of section 245-O so as to provide that **Authority for Advance Rulings , and constitution of its benches** shall cease to act as an Authority for Advance Rulings, and shall act as an Appellate Authority for the purpose of Chapter V of the Customs Act, 1962.

It is further proposed that Authority for Advance Rulings shall not admit any appeal against any ruling or order passed earlier by it in the capacity of Authority for Advance ruling after the date of appointment of Customs Authority for Advance Rulings under section 28EA of the Customs Act, 1962. This amendment will take effect from 1st April, 2018.

Clause 50: Appeal against penalty imposed by Commissioner (Appeals) under section 271J

It is proposed to make an order passed by a Commissioner (Appeals) under section 271J appealable before the Appellate Tribunal. This amendment will take effect from lst April, 2018.