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CHAPTER 1: BASIC CONCEPTS

EXEMPTION OF CENTRAL GOVERNMENT SUBSIDY OR GRANT OR CASH ASSISTANCE, ETC. TOWARDS CORPUS OF FUND ESTABLISHED FOR SPECIFIC PURPOSES FROM THE DEFINITION OF INCOME (SECTION 2(24) OF IT ACT)

Date of Applicability: AY 2017-18

- The Finance Act, 2015 had amended the definition of income under section 2 (24) of the Act so as to provide that the income shall include assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee other than the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of Explanation 10 to section 43 (1) of the Income-tax Act.
- As a result grant or cash assistance or subsidy etc. provided by the Central Government for budgetary support of a trust or any other entity formed specifically for operationalizing certain government schemes will be taxed in the hands of trust or any other entity. ***Therefore, it is proposed to amend section 2(24) to provide that subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or State government shall not form part of income.***

RATES OF INCOME TAX INCLUDING SURCHARGE AND CESS FOR AY 2017-18

SURCHARGE

Applicable: Individual, HUF, AOP, BOI & AJP
@ ~~12%~~ 15% on tax liability if total income exceeds Rs 1 crore.
Analysis
For other assesses other than above there is no change in rate of surcharge.

TAX RATE
For domestic companies

TI = Total Income TT = Total Turnover GR = Gross Receipts

Assessment Year	Tax Rate		SC	Cess
2017 – 18	**TT / GR ≤ Rs. 5 Crores in FY 2014 – 15**	**TT / GR > Rs. 5 Crores in FY 2014 – 15**		
TI ≤ Rs. 1 Crores	29%	30%	-	3%
TI > Rs. 1 Crore, but ≤ Rs. 10 Crores	29%	30%	7%	3%
TI > Rs. 10 Crores	29%	30%	12%	3%

RATIONALIZATION OF LIMIT OF REBATE IN INCOME-TAX ALLOWABLE UNDER SECTION 87A (REFER CLAUSE 45 OF THE BILL)

Date of Applicability: From AY 2017-18

- The existing provisions of section 87A of Income-tax Act, provide for a rebate of an amount equal to 100% of such income-tax or an amount of Rs. 2,000/-, whichever is less, from the amount of income-tax to an individual resident in India whose total income does not exceed Rs. 5 Lacs.
- With the objective to provide relief to resident individuals in the lower income slab, it is proposed to amend section 87A so as to increase the maximum amount of rebate available under this provision from existing Rs. ***2,000 to Rs. 5,000.***

Analysis: Relief under Section 87A is proposed to be raised from Rs. 2,000 to Rs. 5,000 in order to provide for relief to small taxpayers. Relief under Section 87A is available to a resident individual if his total income does not exceed Rs. 5, 00,000. For Assessment Year 2017-18, the relief shall be allowed up to income-tax liability or Rs. 5,000, whichever is less.

CHAPTER 2 RESIDENTIAL STATUS

ENABLING PROVISION FOR IMPLEMENTATION OF VARIOUS PROVISIONS OF THE ACT IN CASE OF A FOREIGN COMPANY HELD TO BE RESIDENT IN INDIA (SECTION 6(3), 115JH OF IT ACT)

Date of Applicability: From AY 2017-18

In the context of implementation of POEM based residence rule, certain issues, relating to the applicability of current provisions of the Act to a company which is incorporated outside India and has not earlier been assessed to tax in India, have arisen. In particular, the issues relate to applicability of specific provisions of the

Act relating to Advance tax payment, applicability of TDS provisions, computation of total income, set off of losses and manner of application of transfer pricing regime. These provisions have compliance requirements which would not have been undertaken by the company at relevant time due to absence of any such requirement under tax laws of country of incorporation of such company. Similarly, issues of computation of depreciation also arise when in earlier years it has not been subject to computation under the Act.

In order to provide clarity in respect of implementation of POEM based rule of residence and also to address concerns of the stakeholders, it is proposed to:

Defer the applicability of POEM based residence test **by one year** and the determination of residence based on POEM shall be applicable from 01/04/17.

Illustration 1

ABC Inc., a Swedish Company headquartered as Stockholm, not having a permanent establishment in India, has set up a liaison office in Mumbai in April, 2016 in compliance with RBI guidelines to look after its day to day business operations in India, spread awareness about the company's product and explore further opportunities. The liaison office takes decision relating to day to day routine operations and performs support functions that are preparatory and auxiliary in nature. The significant management and commercial decisions are, however, in substance made by the board of Directors at Sweden. Determine the residential status of ABC Inc., for AY 2017-18.

Solution

Sec. 6(3) has been substituted by the Finance Act, 2016 w.e.f. AY 2017-18 to provide that a company would be resident in India in any previous year, if –

a. It is an Indian company; or
b. Its place of effective management, in that year, is in India.

In this case, ABC Inc. is a foreign company. Therefore, it would be resident in India for PY 2016-17 only if its place of effective management, in that year, is in India.

Explanation to sec. 6(3) defines "place of effective management" to mean a place where key management and commercial management and commercial decision that are necessary for the conduct of the business of an entity as a whole are, in substance made. In the case of ABC Inc., Its place of effective management for PY 2016-17 is not in India, since the significant management and commercial decision that are, in substance, made by the Board of Directors outside India in Sweden.

ABC Inc. has only liaison office in India through which it looks after its routine day to day business operations in India. The place where decision relating to day to day routine operations are taken and support functions that are preparatory or auxiliary in nature are performed are not relevant in determining the place of effective management.

Hence, Abc Inc., being a foreign company is a non-resident for AY 2017-18, since its place of effective management is outside India in the PY 2016-17.

NOT DEEMED TO ACCRUE OR ARISE IN INDIA [SEC, 9(1) (i)]

Activities confined to display of rough diamonds in SNZs [Explanation 1I to section 9(1) (i):

In order to facilitate the FMCs to undertake activity of display of uncut diamond (without any sorting or sale) in a Special Notified Zone (SNZ), clause I has been inserted in Explanation 1 to section 9(1)(i) to provide that in the case of a foreign company engaged in the business of mining of diamonds, ***no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to display of uncut an unsorted diamonds in any special zone notified by the Central Government in the Official Gazette in this behalf.***

Analysis

A "Special Notified Zone" (SNZ) had been created to facilitate shifting of operations by foreign mining companies (FMC) to India and to permit he trading of rough diamonds in India by the leading diamond mining companies of the world. The activity of FMC of mere display of rough diamonds even with no actual sale taking place in India may lead to creation of business connection in India of the FMC. This potential tax exposure has been an area of concern for the mining companies willing to undertake these activates in India.

SEC 9A: CERTAIN ACTIVITIES NOT TO CONSTITUTE BUSINESS CONNECTION IN INDIA

i. Notwithstanding anything contained in section 9(1) and subject to the provisions of this section, in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund.
ii. Notwithstanding anything contained in section 6, an eligible investment fund shall not be said to be resident in India for the purpose of that section merely because the eligible fund manager, undertaking fund management activities on its behalf, is situate in India.
iii. The eligible investment fund referred to in sub-section (1), means a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following conditions, namely: -

(a) The fund is not a person resident in India;

(b) The fund is a resident of a country or a specified territory with which an agreement referred to in section 90(1) or section 90A(1) has been earned into; Or a specified territory notified by the Central Government in this behalf; **[Amended by FA16]**

(c) The aggregate participation or investment in the fund, directly or indirectly,

(d) The aggregate participation or investment in the fund, directly or indirectly, by persons' resident in India < = 5% of the corpus of the fund;

(e) The fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident;

(f) The fund has a minimum of 25 members who are, directly or indirectly, not connected persons;

(g) Any member of the fund along with connected persons shall not have any participation interest, directly or indirectly, in the fund > 10%.;

(h) The aggregate participation interest, directly or indirectly, 0of 10 or less members along with their connected persons in the fund, shall be < 50%.;

(i) The fund shall not invest > 20% of its corpus or any entity;

(j) The fund shall not make any investment in any associate entity;

(k) The monthly average of the corpus of the fund shall be = > 100 crore rupees:
Provide that If the fund has been established or incorporated in the previous year, the corpus of fund shall be = > 100 crore rupees at the end of such previous year;

(l) The fund shall not carry on or control and manage, directly or indirectly, any business in India or from India;

(m) The fund shall not carry on or control and manage, directly or indirectly, any business in India or ~~**from India;**~~ **[Omitted by FA16]**

(n) The fund is neither engaged in any activity which constitutes a business connection in India nor has any person acting on its behalf whose activities constitute a business connection in India other than the activities undertaken by the eligible fund manager on its behalf;

(o) The remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than the arm's length price of the said activity:

Provided that the conditions specified in clauses I, (f) and (g) shall not apply in case of an investment fund set up by the Government of the Central Bank of a foreign State or a sovereign fund, or such other fund as the Central Government may subject to conditions, if any, by notification in the Official Gazette, specify in this behalf.

iv. The eligible fund manager, in respect of an eligible investment fund, means any person who is engaged in the activity of fund management and fulfils the following conditions, namely: -

(a) The person is not an employee of the eligible investment fund or a connected person of the fund;

(b) The person is registered as a fund manager or an investment advisor in accordance with the specified regulations;

(c) The person is acting in the ordinary course of his business as a fund manager;

(d) The person along with his connected person shall not be entitled, directly or indirectly, to > 20% of the profits accruing or arising to the eligible investment fund from the transactions carried out by the fund through the fund manager.

v. Every eligible investment fund shall, in respect of its activities in a financial year, furnish within 90 days from the end of the financial year, a statement in the prescribed form, to the prescribed income-tac authority containing information relating to the fulfilment of the conditions specified in this section and also provide such other relevant information or documents as may be prescribed.

vi. Nothing contained in this section shall apply to exclude any income from the total income of the eligible investment fund, which would have been so included irrespective of whether the activity of the eligible fund manager constituted the business connection in India of such fund or not.

vii. Nothing contained of this section shall have any effect on the scope of total income or determination of total income in the case of the eligible fund manager.

viii. The provisions of this section shall be applied in accordance with such guidelines and in such manner as the Board may prescribe in this behalf.

ix. For the purpose of this section –

(a) "associate" means an entity in which a director or a trustee or a partner or a member or a fund manager of the investment fund or a director or a trustee or a partner or a member of the fund manager of such fund, holds, either individually or collectively, share or interest, being > 15% of its share capital or interest, as the case may be;
(b) "Connected person" shall have a meaning assigned to it in section 102(4);
(c) "Corpus" means the total amount of funds raised for the purpose of investment by the eligible investment fund as on a particular date;
(d) "entity" means any entity in which an eligible investment fund makes an investment;
(e) "Specified regulations" means the Securities and Exchange Board of India (Portfolio Managers) Regulations, 1993 or the Securities and Exchange Board of India (Investment Advisors) Regulations, 2013, or such other regulations made under the Securities and Exchange Board of India Act, 1992, which may be notified by the Central Government under this clause.

CHAPTER 3 INCOME EXEMPT FROM TAX

1.	**10(12A)**	Payment from NPS Trust to an employee on closure of his account or on his opting out of the pension scheme exempt **1.** So far, under the Income tax Act, 1961, the tax treatment for the National Pension System (NPS) referred to in section 80CCD is Exempt, Exempt and Tax (EET). This implies that – (a) The monthly periodic contributions during the pension accumulation phase are allowed as deduction from income for tax purposes; (b) The returns generated on these contributions during the accumulation phase are also exempt from tax; (c) However, the terminal benefits on exit or superannuation, in the form of lump sum withdrawals, are taxable in the hands of the individual subscriber or his nominee in the year of receipt of such amounts. **2.** As per section 80CCD, any payment for National Pension System Trust on an employee on account of closure or his opting out of the pension scheme is chargeable to tax. ***3. New clause (12A) has been inserted in section 10 to provide that any payment from National Pension System Trust to an employee on account of closure or his opting out of the pension scheme referred to in section 80CCD, to the extent it does not exceed 40% of the total amount payable to him at the time of closure or his opting out of the scheme, shall be exempt from tax.*** ***4. However the whole amount received by nominee on the death of the assessee shall be exempt from tax.***
3.	**10(15)(vi)**	Exemption of interest on deposit certificates issued under the Gold Monetization Scheme, 2015 [Section 10(15)(vi)] The interest on Deposit Certificates issued under the Scheme, shall be exempt from income-tax.
2.	**10(15)**	**<u>Income Exempt u/s 10(15)</u>** Interest on Gold Deposit Bonds issued under the Gold Deposit Scheme, 1999 or w.e.f. AY 2017-18 Interest on Deposit Certificate issued under the Gold Monetisation Scheme, 2015 **[Amendment Fin Act 2016]**
3.	**10(23FC)**	Dividend u/s u/s 115-0 or interest received or receivable by a Business trust from a special purpose vehicle is exempt. • "Business Trust" means a trust registered as an Infrastructure Investment Trust or a real estate investment trust, the units of which are required to be listed on a Recognised Stock Exchange, in accordance with the regulations made under SEBI Act, 1992 and notified by Central Government. [Sec. 2(13A)] • "Special Purpose vehicle" means an Indian company in which the Business trust Holds controlling interest and any specific percentage of shareholding or interest, as may be required by the Regulations under which such Trust is granted registration.
4.	**10(34)**	**<u>Dividend Income</u>** Any income by way of dividend [other than dividend u/s. 2(22) I declared, paid or distributed by a domestic company.

		[Amendment Fin Act, 2016] Exemption u/s 10(34) shall not apply to dividend chargeable to tax u/s 115BBDA (refer chapter income from other source). Income by way of dividend as referred u/s 115BBDA is not exempt. [w.e.f. ¼/2017] **Analysis** Under the existing provisions of clause (34) of section 10 of the Act, dividend which suffer dividend distribution tax (DDT) under section 115-O is exempt in the hands of the shareholder. Under section 115-O dividends are taxed only at the rate of fifteen percent at the time of distribution in the hands of company declaring dividends. This creates vertical inequity amongst the tax payers as those who have high dividend income are subjected to tax only at the rate of 15% whereas such income in their hands would have been chargeable to tax at the rate of 30%. **Illustration 1** A Ltd., a domestic company, declared dividend of Rs. 170 lakh for the year F.Y 2015-16 and distributed the same on 10/7/2016. Mr. X holding 10% shares in A Ltd. receives dividend of Rs. 17 lakh in July, 2016. Mr. Y Holding 5% shares in A Ltd., receives dividend of Rs. 8.50 lakh. Discuss the tax implication in the hands of Mr. X and Mr. Y, assuming that Mr. X and Mr. Y have not received dividend from any other domestic company during the year. **Solution** a. the dividend of Rs. 170 lakh declared and distributed in the PY 2016-17 is subject to dividend distribution tax2 in the hands of A Ltd., a domestic company b. In the hands of Mr. X dividend received upto Rs. 10 lakh would be exempt u/s 10(34). Rs. 7 lakh, being dividend received in excess in excess of Rs. 10 lakh would be taxable u/s 115BBDA.
5.	**10(35A)**	**Income from Securitisation trust to an Investor:** 1. Income by way of Distributed Income referred in Sec. 115TA received from a Securitisation trust, by any person being an Investor of the said trust is exempt. 2. W.e.f. ¼/2017, Sec. 10(35A) Exemption not available for Income by way of Distributed Income referred u/s 115TA, received on or after 1/6/2016. "Investor" and "Securitization Trust" shall have the meanings respectively assigned to them in the explanation below Sec. 115TC & Sec. 115TCA.
6.	**10(38)**	**Long-Term capital Gain on transfer of Securities:** **1.** Income should be from transfer of a Long-term Capital Asset being – (a) A Equity share in a company, or (b) A Unit of an equity oriented Fund, or (c) A Unit of Business trust. **Note:** Exemption shall also apply in respect of any Income arising from transfer of units of a Business Trust which were acquired in consideration of a transfer referred to in Sec. 47(xvii). **2.** The sale transaction should be entered into on or after 1/10/2004.

		3. Transaction should be chargeable to securities transaction tax under Chapter VII. 9 [w.e.f. ¼/2017, this condition is not applicable for a transaction undertaken on a Recognised Stock Exchange (RSE) located in any International Financial Services Centre (IFSC) and where the consideration for such transaction is paid or payable in Foreign Currency. **4.** Equity Oriented Fund means a Fund (a) Where the investible funds are invested by way of Equity Shares in Domestic Companies to the extent of more than 65% of the total Proceeds of such Fund, and (b) Which has been set up under a Scheme of Mutual Fund specified u/s 10(23D). **Note:** Percentage of Equity Shareholding of the Fund will be determined with reference to the Annual Average of the monthly averages of the Opening and Closing Figures. **5.** The above Exempt Income is includible in computing Book Profit for determining Minimum Alternate Tax u/s 115JB.
7.	**10(48A)**	**Storage of Crude Oil** Any income accruing or arising to a Foreign Company, on account of storage of crude oil in a facility in India and sale of Crude Oil there from, to any person resident in India, is exempt. **Conditions:** **1.** the storage and sale by the Foreign Company is pursuant to an agreement or an arrangement entered into by the Central Govt or approved by the central govt, and **2.** Having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf. **Analysis** The Indian Strategic Petroleum Reserves Limited (ISPRL) is in the process of setting up underground storage facility for storage of crude oil as part of strategic reserves. The maintenance of strategic reserves is in India's national interest and ensures price stability for Indian oil companies. The filing cost of such facility entails huge financial burden. The Government has explored the possibility of meting a substantial part of the financial burden through participation of private players including foreign national oil companies (NOCs) and multinational companies (MNCs) storing and selling crude oil from outside India. However, the storage of crude oil by NOCs/MNCs and its sale in India would create tax liability for these entries.
8.	**10(50)**	Any Income arising from any specified service provided on or after the date on which provisions of Chapter VIII of the Finance Act, 2016 comes into force and chargeable to Equalisation Levy under that chapter, is exempt. **Explanation:** "Specified Service" shall have the meaning assigned to it in clause (i) of Sec. 161 of chapter VIII of the Finance Act, 2016.

SEC 10A: EXEMPTION FOR UNTS IN SEZ

The unit in SEZ begins to **mfg. or produces articles or things or provide services** during the F.Y. 05-06 **but before 31-3-2021**. **(Amendment Finance Act 16)**

Analysis: No deduction for activity starting after 1-4-21.

CHAPTER 4 INCOME FROM SALARY

Continuous service

- If employee retires from former employer and joins new employer;
- Further, RPF balance of such employee with his former employee has been transferred to the RPF account of such employee with new employer;

- Then two employments will be treated as continuation of service.

If any amount withdrawal from RPF before 5 years of continuous service (without the reason state above) then such withdrawal shall be treated as lump-sum withdrawal from URPF.

Approved superannuation fund

Any contribution to an Approved superannuation fund by the employer in excess of Rs 1, 50,000 p.a. shall be treated as perquisite.

CHAPTER 5: INCOME FROM HOUSE PROPERTY

INCREASE IN TIME PERIOD FOR ACQUISITION OR CONSTRUCTION OF SELF-OCCUPIED HOUSE PROPERTY FOR CLAIMING DEDUCTION OF INTEREST (SECTION 24 OF IT ACT)

- The existing provision of section 24 (b) provides that interest payable on capital borrowed for acquisition or construction of a house property shall be deducted while computing income from house property. The second proviso to the said clause provides that a deduction of an amount of Rs. 2 Lacs shall be allowed where a house property referred to in sub-section (2) of section 23 (self-occupied house property) has been acquired or constructed with capital borrowed on or after the 1stday of April, 1999 and such acquisition or construction is completed within 3 years from the end of the financial year in which capital was borrowed.
- In view of the fact that housing projects often take longer time for completion, it is proposed that second proviso of clause (b) of section 24 be amended to provide that the deduction under the said proviso on account of interest paid on capital borrowed for acquisition or construction of a self-occupied house property shall be available if the acquisition or construction is completed within ***5 years from the end of the financial year in which capital was borrowed.***

Comment: An assessee is allowed to claim deduction of up to Rs. 2,00,000 in respect of interest on loan taken for acquisition or construction of self-occupied house property, subject to certain conditions, inter-alia, house property should be acquired or constructed within a period of 3 years from the end of the financial year in which loan was taken. In view of the fact that housing projects often take longer time for completion, it is proposed that the deduction shall be available if property is acquired or constructed within 5 years from the end of the financial year in which capital was borrowed.

SIMPLIFICATION AND RATIONALIZATION OF PROVISIONS RELATING TO TAXATION OF UNREALIZED RENT AND ARREARS OF RENT

Date of Applicability: From AY 2017-18

- Existing provisions of sections 25A, 25AA and 25B relate to special provisions on taxation of Unrealised rent allowed as deduction when realized subsequently, Unrealised rent received subsequently and arrears of rent received respectively. Certain deductions are available thereon.
- It is proposed to simplify these provisions and merge them under a single new section 25A ***and bring uniformity in tax treatment of arrears of rent and unrealized rent.***
- It is proposed to provide that the amount of rent received in arrears or the amount of Unrealised rent realized subsequently by an assessee shall be charged to income-tax in the financial year in which such rent is received or realized, whether the assessee is the owner of the property or not in that financial year. ***It is also proposed that 30% of the arrears of rent or the unrealised rent realised subsequently by the assessee shall be allowed as deduction.***

CHAPTER 6: PROFIT & GAINS BUSINESS OR PROFESSION

TAXATION OF NON-COMPETE FEES AND EXCLUSIVITY RIGHTS IN CASE OF PROFESSION (SECTION 28, 32 OF IT ACT)

Date of Applicability: AY 2017-18

- ***It is proposed to amend clause (va) of section 28 of the Act to bring the non-compete fee received/receivable(which are recurring in nature) in relation to not carrying out any profession, within the scope of section 28 of the Act i.e. the charging section of profits and gains of business or profession. Further, it is also proposed to amend the proviso to clarify that receipts for transfer of right to carry on any profession, which are chargeable to tax under the head "Capital gains", would not be taxable as profits and gains of business or profession. It is also proposed to amend section 55 so as to provide that the 'cost of acquisition' and 'cost of improvement' for working out "Capital gains" on capital receipts arising out of transfer of right to carry on any profession shall also be taken as 'nil'.***

Analysis:

Further, it is also proposed to clarify that receipts for transfer of right to carry on any profession, which are chargeable to tax under the head "Capital gains", would not be taxable as profits and gains of business or profession. In such a case, it is proposed, that the 'cost of acquisition' and 'cost of improvement' for computing capital gains in respect of transfer of right to carry on any profession shall be nil.

EXTENDING THE BENEFIT OF INITIAL ADDITIONAL DEPRECIATION UNDER SECTION 32(1) (IIA) FOR POWER SECTOR

Date of Applicability: From AY 2017-18

Under the existing provisions, the benefit of additional depreciation is not available on the new machinery or plant installed by an assessee engaged in the business of transmission of power **(only for generation of power).**

In order to rationalize the incentive of power sector, it is proposed to amend this section so as to provide that an assessee ***engaged in the business of transmission of power*** shall also be allowed additional depreciation at the rate of 20% of actual cost of new machinery or plant acquired and installed in a previous year.

RATIONALIZATION OF SCOPE OF TAX INCENTIVE UNDER SECTION 32AC

Date of Applicability: From AY 2016-17

- The existing provision of section 32AC (1A) of the Act provides for investment allowance at the rate of 15% on investment made in new assets (plant and machinery) exceeding Rs. 25 crore in a previous year by a company engaged in manufacturing or production of any article or thing subject to the condition that the acquisition and installation has to be done in the same previous year. This tax incentive is available up to 31.03.2017.

- It is proposed to amend the section 32AC (1A) so as to provide that the acquisition of the plant & machinery of the specified value has to be made in the previous year. However, installation may be made by 31.03.2017 in order to avail the benefit of investment allowance of 15%. It is further proposed to provide that where the installation of the new asset is in a year other than the year of acquisition, the deduction under this sub-section shall be allowed in the year in which the new asset is installed.

Example

Company	Actual cost of new plant and machinery (Rs)	Previous year of acquisition	Previous year of installation	Assessment Year in which deduction u/s 32AC can be claimed	Deduction u/s 32AC (Rs)
B Ltd	40 Crores	PY 2015-16	PY 2016-17	AY 2017-18	6 Crores
C Ltd	50 Crores	PY 2016-17	PY 2016-17	AY 2017-18	7.50 Crores
D Ltd	60 Crores	PY 2016-17	PY 2017-18	-	-

SPECTRUM FEE FOR TELECOMMUNICATION SERVICES [SEC. 35ABA]

1	**w.e.f. ¼/2017 – Capital Expenditure for obtaining right to use Spectrum for Telecommunication Services – Conditions for allow ability:** a. Expenditure should be capital in nature b. It should be incurred for the purpose of acquiring any right to use spectrum for Telecommunication Services. c. It may be incurred may be before the commencement of the business or thereafter at any time during any previous year. d. Payment has **actually** been made to obtain a Right to use Spectrum. [Note: Payment has actually been made means the actual payment of expenditure irrespective of the PY in which the liability for the expenditure was incurred according to the method of regularly employed by the Assessee or payable in such prescribed manner.]
2	**Deduction:** A deduction equal to the appropriate fraction of the amount of such expenditure.
3	**Period of Deduction:** Deduction shall be allowed for each of the relevant Pys.
4	Failure to comply with the conditions: a. The deduction shall be deemed to have been wrongly allowed, b. The Assessing Officer may re-compute the total income of the Assessee for the said PY and make the necessary rectification, c. The time limit of 4 years as per Sec. 154(7) shall apply from the end of PY in which the failure to comply with the provisions of this section takes place.
5	Relevant Previous Years (RPY):

Situation	RPY means
a. Spectrum Fees actually paid before the commencement of business	• From PY in which business commencement, • All PY(s) during which the spectrum is in Force
b. Any other case	• From PY in which Spectrum fees is paid • All PY(s) during which the Spectrum in Force.

6	Appropriate Fraction = $\frac{1}{\text{Total No.of RPY}}$ **Note:** The provisions in Sec. 35ABB (2) (8), shall apply to Sec, 35(ABA), wherever the word "Licence", is used shall be substituted with the word "Spectrum".

DEDUCTION FOR EXPENDITURE ON SPECIFIED BUSINESS: SECTION 35 AD

Specified business	Commencement	Deduction
(a) W.e.f ¼/2018 Business of developing or maintaining or operating or developing, maintaining and operating a New Infrastructure Facility **(Amendment Finance Act 2016)** **Infrastructure facility means –** a. A road including toll road, a bridge, a rail system b. A highway project including housing or other activities being an integral part of the highway project c. A water supply project, water treatment system, irrigation project, sanitation or sewerage system or solid waste management system d. A port airport inland waterway, inland port or the navigation channel in the sea.	**on or after 01/04/2017**	100%

DEDUCTION IN RESPECT OF PROVISION FOR BAD AND DOUBTFUL DEBT IN THE CASE OF NON-BANKING FINANCIAL COMPANIES (SECTION 36(1) (VIIA) OF IT ACT)

Date of Applicability: From AY 2017-18

Provision for RDD 5%

EXTENSION OF SCOPE OF SECTION 43B TO INCLUDE CERTAIN PAYMENTS MADE TO RAILWAYS

Date of Applicability: AY 2017-18

- The existing provisions of section 43B of the Act, inter alia, provide that any sum payable by the assessee by way of tax, cess, duty or fee, employer contribution to Provident Fund, etc., is allowable as deduction of the previous year in which the liability to pay such sum was incurred (relevant previous year) if the same is actually paid on or before the due date of furnishing of the return of income irrespective of method of accounting followed by a person.

- With a view to ensure the prompt payment of dues to Railways for use of the Railway assets, it is proposed to amend section 43B so as to expand its scope to include payments made to Indian Railways for use of Railway assets within its ambit.

INCREASE IN THRESHOLD LIMIT FOR AUDIT FOR PERSONS HAVING INCOME FROM PROFESSION (SECTION 44AB OF IT ACT)

Date of Applicability: From AY 2017-18

In order to reduce the compliance burden, it is proposed to increase the threshold limit of total gross receipts, specified under section 44AB for getting accounts audited, from Rs. ***25 Lacs to Rs. 50 Lacs in the case of persons carrying on profession.***

PRESUMPTIVE TAXATION SCHEME FOR ASSESSEES ENGAGED IN ELIGIBLE PROFESSION [SECTION 44ADA]

Effective from: A.Y.2017-18

Due date for submission of audit report? – Due date of ROI u/s 139(1).

SPECIAL PROVISIONS FOR COMPUTING INCOME ON ESTIMATED BASIS			
	44AD **Amended by FA 16**	**44ADA** **Inserted by FA 16**	**44AE**
Nature of Business	Any business except the business referred to in section 44AE.	Specified Professions u/s 44AA	Plying, Leasing or Hiring goods carriages. (Goods carriages may be owned by the assessee or taken on hire purchase or installment scheme
Assessee	Resident Individual, HUF or a partnership firm, but not a LLP firm;	Resident Assessee	Any Assessee
Not Applicable to-	(i) Person claiming deduction u/s 10A, 10AA or u/s 80IA to 80RRB in the PY (ii) Person carrying on specified profession; (iii) A person earning commission or brokerage income; or (iv) A person carrying on any agency business.		
Extern clause	Where an eligible assessee declares profit for any PY in accordance with this section and he declares profit for any of the next 5 AY's not in accordance with this section, he shall not be eligible to claim the benefit of this section for next 5 AY's [44AD(4)]		
Restriction	Gross receipts	Gross receipts	Own not more than 10

on applicability	=< Rs. 200 Lakhs.	=< Rs. 50 Lakhs.	goods carriages, anytime during the PY.
Estimated Income	8% of Gross Receipts received or receivable during the PY, or higher sum claimed to have been earned by the assessee	50% of Gross Receipts received or receivable during the PY, or higher sum claimed to have been earned by the assessee	1. Rs. 7,500 pm or part during which the carriage is owned, or 2. Actual income earned w-e-more [Vehicles owned includes vehicles purchased on Hire purchase or Installment]
Deductions u/s 30 to 38	All deductions u/s 30 to 38 including depreciation are deemed to have been allowed. ~~However, in the case of a firm, the deduction u/s 40(b) shall be allowed.~~ **[Omitted by FA 2016]**		
Depreciation	Is deemed to have been claimed and allowed. WDV shall be calculated accordingly		
Set of other losses	The income from these businesses will be aggregated with other incomes of the assessee, and loss from any other activity can be set off against the estimated income in accordance with section 70, 71 or 72.		
Chapter VI-A deductions	Deductions under chapter VI-A will be available to the assessee, from the estimated incomes under these sections.		
Advance Tax	Can be paid upto 15th March of the PY	Required to be paid on relevant dates	Required to be paid on relevant dates
Books of Accounts and Audit thereof	The assessee, who files the return, estimating income at prescribed rate or a higher income, will not be required to maintain books of account u/s 44AA, nor required to get them audited u/s 44AB, in respect of such businesses.		
Can lesser income be shown?	If 44AD(4) applies then he shall have to maintain books of accounts u/s 44AA and get them audited by a CA u/s 44AB for that PY + next 5 PY's	Assessee may declare an income lower than the specified amount. In such case he shall have to maintain books of accounts u/s 44AA and get them audited by a CA u/s 44AB, irrespective of the turnover -	
	If his TI > basic exemption limit	If his TI > basic exemption limit	Even if TI < = basic exemption limit

For example, an eligible assessee claims to be taxed on presumptive basis under section 44AD for Assessment Year 2017-18 and offers income of Rs. 8 lakh on the turnover of Rs. 1 crore. For Assessment Year 2018-19 and Assessment Year 2019-20 also he offers income in accordance with the provisions of section 44AD. However, for Assessment Year 2020-21, he offers income of Rs. 4 lakh on turnover of Rs. 1 crore. In this case since he has not offered income in accordance with the provisions of section 44AD for five consecutive assessment years, after Assessment Year 2017-18, he will not be eligible to claim the benefit of section 44AD for next five assessment years i.e. from Assessment Year 2021-22 to 2025-26.

PHASING OUT OF DEDUCTIONS AND EXEMPTIONS (SEC 35AC, 35CCD, 32, 35(1), 35(1) (iia), 35(1) (iii), 35(2AA), 35(2AB), 35AD, 35CCC OF IT ACT)

Date of Applicability: From AY 2018-19

The Finance Minister in his Budget Speech, 2015 has indicated that the rate of corporate tax will be reduced from 30% to 25% over the next four years along with corresponding phasing out of exemptions and deductions. The Government proposed to implement this decision in a phased manner. In this regard, broad guiding principles had been put in the public domain for receiving comments from the stakeholders.
These guiding principles are listed below for reference:

- Profit linked, investment linked and area based deductions will be phased out for both corporate and non-corporate tax payers.
- The provisions having a sunset date will not be modified to advance the sunset date. Similarly the sunset dates provided in the Act will not be extended.
- In case of tax incentives with no terminal date, a sunset date of 31.3.2017 will be provided either for commencement of the activity or for claim of benefit depending upon the structure of the relevant provisions of the Act.
- There will be no weighted deduction with effect from 01. 04.2017.

Based on the above guiding principles and taking into account the response of the stakeholders on the proposed phasing out plan, the following incentives under the Act are proposed to be phased out in the manner as tabulated below in Tables:

S. No.	Section	Incentive currently available in the Act	Proposed phase out measures/ Amendment
1	32 read with rule 5 of Income-tax Rules, 1962Accelerated Depreciation	Accelerated depreciation is provided to certain Industrial sectors in order to give impetus for investment. The depreciation under the Income-tax Act is available up to100% in respect of certain block of assets.	Income-tax Rules, 1962Accelerated Depreciation. Accelerated depreciation is provided to certain Industrial sectors in order to give impetus for investment. The depreciation under the Income-tax Act is available up to100% in respect of certain block of assets. To amend the new Appendix IA read with rule 5 of Income-tax Rules, 1962 to provide that highest rate of depreciation under the Income-tax Act shall be restricted to 40% w.e.f 01.4.2017. (i. e. from previous year 2017-18 and subsequent years). The new rate is proposed to be made applicable to all the assets (whether old or new) falling in the relevant block of assets.
2	35(1) (ii) –	Weighted deduction from the	Weighted deduction shall be restricted to

	Expenditure on scientific research.	business income to the extent of 175 per cent of any sum paid to an approved scientific research association which has the object of undertaking scientific research. Similar deduction is also available if A sum is paid to an approved University, College or other institution and if such sum is used scientific research.	150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20) and deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
3	35(1) (iia) – Expenditure on scientific research.	Weighted deduction from the business income to the extent of 125 per cent of any sum paid as contribution to an approved scientific research company.	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).
4.	35(1) (iii) – Expenditure on scientific research.	Weighted deduction from the business income to the extent of 125 per cent of contribution to an approved research association or university or college or other institution to be used for research in social science or statistical research.	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).
5	35(2AA) – Expenditure on scientific research.	Weighted deduction from the business income to the extent of 200 per cent of any sum paid to a National Laboratory or a university or an Indian Institute of Technology or a specified person for the purpose of approved scientific research programme.	Weighted deduction shall be restricted to 150 per cent with effect from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20). Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
6	35(2AB)- Expenditure on scientific research	Weighted deduction of 200 per cent of the expenditure (not being expenditure in the nature of cost of any land or building) incurred by a company, engaged in the business of bio-technology or in the business of manufacture or production of any article or thing except some items appearing in the negative list specified in Schedule-XI, on	Weighted deduction shall be restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20). Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).

		scientific research on approved in-house research and development facility.	
7	35AC- Expenditure on eligible projects or schemes.	Deduction for expenditure incurred by way of payment of any sum to a public sector company or a local authority or to an approved association or institution, etc. on certain eligible social development project or a scheme.	No deduction shall be available with effect from 1.4.2017 (i.e. from previous year 2017-18 and subsequent years).
8	35AD- Deduction in respect of specified business.	In case of a cold chain facility, warehousing facility for storage of agricultural produce, an affordable housing project, production of fertilizer and hospital weighted deduction of 150 per cent of capital expenditure (other than expenditure on land, goodwill and financial assets) is allowed.	In case of a cold chain facility, warehousing facility for storage of agricultural produce, hospital, an affordable housing project, production of fertilizer, deduction shall be restricted to 100 per cent of capital expenditure w.e.f. 01.4.2017 (i.e. from previous year 2017-18 onwards).
9	Sec 35CCC	Weighted deduction of 150 % of expenditure incurred on notified agricultural extension project.	Notified agricultural extension project. Weighted deduction of 150 % of expenditure incurred on notified agricultural extension project. Deduction shall be restricted to 100 per cent from 1.4.2017 (i.e. from previous year2017-18 onwards).
10	35CCD- Expenditure on skill development project.	Weighted deduction of 150 per cent on any expenditure incurred (not being expenditure in the nature of cost of any land or building) on any notified skill development project by a company.	Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).

CHAPTER 7 CAPITAL GAIN

CAPITAL ASSET SEC 2(14)

Amendment Finance Act 2016 Deposits certificate issued under Gold monetisation scheme 2015 (notified by Central Government) with retrospective effect from AY 2016-17

SHORT TERM CAPITAL ASSET SEC 2(42A)

For unlisted shares period of short term shall be 24 moths. (Earlier 36months)

INDEXATION

- Cost inflation index PY 2016-17 – 1125
- Indexation benefit shall be available in case of LTCG arising of transfer of Sovereign Gold Bond. [W.e.f. AY 2017-18]

TRANSACTION NOT REGARDED AS TRANSFER [SECTION 46 AND 47]

<table>
<tr>
<td><u>Sec.47 (viic)</u></td>
<td>Sovereign Gold Bond Scheme, 2015:
The Government of India has introduced the Sovereign Gold Bond Scheme with the aim of reducing the demand for physical gold so as to reduce the outflow of foreign exchange on account of import of gold.

Any redemption of Sovereign Gold Bond issued by RBI under the Sovereign Gold Bold Scheme 2015 by an Individual shall not be considered as transfer

However of transfer of Sovereign Gold Bond shall be taxable and indexation benefit is available on transfer of long term of Sovereign Gold Bond.

<table>
<tr><th rowspan="2">Particulars</th><th colspan="2">Sovereign Gold Bonds, 2015</th><th rowspan="2">Gold Monetization Scheme</th></tr>
<tr><th>Owned by an individual</th><th>Owned by others</th></tr>
<tr><td>Interest</td><td>Taxable</td><td>Taxable</td><td>Not taxable u/s 10(15)(vi)</td></tr>
<tr><td>It is capital asset</td><td>Yes</td><td>Yes</td><td>No</td></tr>
<tr><td>Capital gains arising on time of redemption</td><td>Not Taxable u/s 47(viic)</td><td>Taxable Indexation available</td><td>Not taxable (as not an asset)</td></tr>
<tr><td>Capital gains arising on time of transfer</td><td>Taxable Indexation available</td><td>Taxable Indexation available</td><td>Not taxable (as not an asset)</td></tr>
<tr><td></td><td></td><td></td><td></td></tr>
</table>
</td>
</tr>
<tr>
<td>Sec. 47 (xiiib)</td>
<td>Any transfer of a capital asset or intangible asset by a private company or unlisted public company (hereafter in this clause referred to as the company) to a limited liability partnership as a result of conversion of the company into a limited liability partnership in accordance with the provisions of</td>
</tr>
</table>

	section 56 or section 57 of the Limited Liability Partnership Act, 2008 (a) Under Section 47(xiiib), any transfer of a capital asset or intangible asset on conversion of a private company or unlisted public company to a Limited Liability Partnership (LLP) shall not be regarded as transfer as transfer of levy of capital gains tax, on fulfilment of certain conditions. (b) The proviso to section 47(xiiib) stipulated the various conditions to be fulfilled for the transaction to not constitute a transfer for the purpose of capital gains. One of the conditions is that the company's gross receipts, turnover or total sales in any of the preceding three previous years should not exceed Rs. 60 lakh (c) Clause (ea) has been inserted in the said proviso to stipulate an additional condition for claim exemption under section 47(xiib). Accordingly, the total value of assets as appearing in the books of account of the company in any of the three previous years preceding the previous year in which the conversion takes place, should not exceed Rs. 5 crore. ***(Amendment Finance Act 2016)***
SEC. 47 XIX	**Transfer of units by holders on consolidation of plans within a mutual fund scheme not to be regarded as transfer [Section 47(xix)]** **Effective from: AY 2017-18** **Exemption for consolidation of mutual fund schemes:** ➢ Under the existing provisions of section 47(xviii), any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund is not chargeable to tax. ➢ It is proposed to extend the tax exemption, available on merger or consolidation of mutual fund schemes, to the merger or consolidation of different plans in a mutual fund scheme. For this purpose, it is proposed to amend Section 47 so as to provide that any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund shall not be considered transfer for capital gain tax purposes and thereby shall not be chargeable to tax.

EXEMPTION RUPEE DENOMINATED BOND ISSUED BY INDIAN CORPORATES

- The Reserve Bank of India has recently permitted Indian corporates to issue rupee denominated bonds outside India as a measure to enable the Indian corporates to raise funds from outside India.
- Accordingly, with a view to provide relief to non-resident investor who bears the risk of currency fluctuation, it is proposed to amend section 48 of the Act so as to provide that the capital gains, arising in case of appreciation of rupee between the date of issue and the date of redemption against the foreign currency in which the investment is made shall be exempt from tax on capital gains.

VALUATION OF CONSIDERATION IN CASE OF LAND OR BUILDING OR BOTH [SECTION 50C]

In case of transfer of immovable capital asset being land or building or both, sale consideration shall be higher of the following:

1. Actual consideration received or accrued on such transfer; or
2. The value adopted or assessed or assessable# by any authority of a State Government (i.e. Stamp Valuation authority) for the purpose of payment of stamp duty.

3. **Where date of agreement and date of registration are not same w.e.f. AY 2017-18**

   Where the date of an agreement fixing the value of consideration and the date of registration of immovable property are not same then the stamp duty value may be taken as on date of the Agreement for transfer and not as on date of registration for such transfer only if the amount of consideration or a part thereof has been received by way of an account payee cheque or draft or by use of ECS to a bank account on or before the date of agreement for transfer.

CAPITAL GAIN IN CASE OF SELF GENERATED ASSET [SEC 55(2) (a)]

Amendment in AY 2017-18: COA and COI for the purpose of computing capital gains on capital receipts arising out of transfer of right to carry on any **profession** shall be taken as nil.

EXEMPTIONS FROM CAPITAL GAINS ON INVESTMENT IN UNITS OF A SPECIFIED FUND [SEC. 54EE]

Further, in order to promote the start-up ecosystem in the country, it is envisaged in 'start-up India Action Plan' to establish a Fund of Funds which intends to raise Rs 2500 crores annually for four years to finance the start-ups.

Keeping this objective in view, it is proposed to insert a new Section 54EE to provide exemption from capital gains tax if the long term capital gains proceeds are invested by an asset in units of such specified fund, as may be notified by the Central Government in this behalf, subject to the condition that he amount remains invested for three years failing which the exemption shall be withdrawn. The investment in the units of the specified fund shall be allowed up to Rs. 50 lakh

Applicability	**All Assessee**
Asset Transferred	Transfer of Long Term Capital Asset (Called Original Asset)
New Asset to be acquired	Long – Term Specified Asset, i.e. Units(s), issued before 01/04/2019, of fund notified by Central Government.
Time Limit for Investment	Investment shall be made on or after 01/04/2016 in the Long-term Specified Asset, any time within 6 months after the date of transfer of Original Asset.
Limit on Investment Amount in New Asset	• Investment made in the Long –Term Specified Asset by an Assessee during any financial year does not exceed Rs. 50 Lakhs. • Investment made by an assessee in the Long-Term Specified Asset, from Capital Gains arising from the transfer of one or more Original

<table>
<tr><td></td><td>Assets, during the financial year in which the Original Asset or Assets are transferred and in the subsequent financial year does not exceed Rs. 50 Lakhs.</td></tr>
<tr><td>Amount of Exemption</td><td><table><tr><th>Cost of LT Specified Asset</th><th>Exemption</th></tr><tr><td>• $\geq$ Capital Gain</td><td>Entire Capital Gain</td></tr><tr><td>• $\leq$ Capital Gain</td><td>$\% \text{ of } \frac{\text{Investment}}{\text{Capital Gain}}$</td></tr></table><u>Note</u>: Cost means the amount invested in Such Specified Asset out of Capital Gains received or accruing as a result of the transfer of the Original Asset.</td></tr>
<tr><td>Holding Period of New Asset</td><td>Three Years from the date of its acquisition.</td></tr>
<tr><td>Sale of New Asset within holding period</td><td>Long Term Capital Gain exempted u/s 54EE shall be deemed to be Income (as LTCG) of the previous year in which Long Term Specified Asset is transferred.
Note: Taking any loan or Advance on the security of the Specified Asset, is deemed to be transfer of specified asset on the date on which such loan or advance taken.</td></tr>
</table>

DEDUCTION FROM CAPITAL GAIN ON TRANSFER OF RESIDENTIAL PROPERTY FOR INVESTMENT IN ELIGIBLE COMPANY [SEC. 54GB]

1) Assessee must have transferred a **long-term** eligible for exemption capital asset being **residential property** (i.e. a house or a plot of land)
2) Such transfer should take place during **01-04-2012 and 31-03-2019. (AY 2017-18)**
3) Assesse must purchase equity shares of Eligible company
4) **<u>Meaning of Eligible Company:</u>**

a) It is an Indian company: -
The company should be incorporated during the period from the 1st day of April of the previous year relevant to the assessment year in which the capital gain arises to the due date of furnishing of return of income u/s. 139(1) by the assessee. E.g. : If Mr. X has transferred his residential property as on 10/8/2016, then company should be incorporated between 01/04/2016 and due date of furnishing return u/s. 139(1) by Mr. X (i.e. 31/07/2017 assuming his accounts are not liable for tax audit).

b) The company is engaged in the business of manufacture of an article or a thing.

c) It is a company in which the assessee has more than 50% share capital of more than 50% voting rights after the subscription in shares by the assessee; and

d) It is a company which equalities to be a small or medium enterprise (i.e. SME) under the Micro. Small and Medium Enterprises Act, 2006 (i.e. investment in plant and machinery is more than Rs. 25 lakhs but does not exceed Rs. 10 crore). or is an eligible start up **<u>[Amendment Fin Act 2016]</u>**

<u>Note</u>: Eligible start up and eligible business shall have meaning assigned in explanation below Sec. 80-IAC (4)

<u>New asset means new plant and machinery but does not include:</u>

(a) Any machinery or plant which before its installation by the assessee, was used either within or outside India by any other person (Second hand machine),

(b) Any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest - house.

(c) Any office appliances including computers or computer software;

Note: ***W.e.f. ¼./2017***, New Asset includes Computers or Computer Software in the case of an Eligible Start-Up, being a technology driven Start-Up so certified by the Inter-Ministerial Board of Certification notified by the Central Government.

(d) Any vehicle; or Any machinery or plant for which 100% deduction is allowed (whether by way of depreciation or otherwise) in computing the income chargeable under the head "profits and gains of business or profession" of any previous year

WHAT IS ELIGIBLE START UP OR ELIGIBLE BUSINESS [AY 2017-18]

Eligible business means a business which involves innovation, development, deployment, or commercialized of new products processes or service driven by technology or intellectual property. Eligible start-ups means a company engaged in eligible business and satisfies the following conditions:

a. It is incorporated during ¼/2016 – 31/3/2019

b. Total turnover of its business does not exceed Rs. 25 crore in any of the PY during ¼/2016 to 31/3/2021

It holds a certificate of eligible business from the enter – Ministerial Board of certification notified by the CG] [AY 2017-18]

TAX RATES

Short term capital gain

W.e.f. ¼/2017, where a transaction is undertaken on a Recognized Stock Exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in Foreign Currency, Such transaction is chargeable at 15% even **STT not paid.**

Explanation for the Terms:

- "Equity Oriented Fund" shall have the meaning assigned to in Explanation to Sec. 10(38),
- "International Financial Service Centre" shall have the same meaning as assigned to it Sec. 2(q) of the Special Economic Zone Act, 2005,
- "Recognized Stock Exchange" shall have the meaning assigned to it in clause (ii) of the Explanation 1 of Sec. 43(5).

Long term capital gain

Long-term capital gains on shares of private companies to be subject to concessional rate of tax @ 10%.

CHAPTER 8 INCOME FROM OTHER SOURCE

RATIONALIZATION OF SECTION 56 OF THE INCOME-TAX ACT

Date of Applicability: From AY 2017-18

- The existing provisions of section 56 (2) (vii) of the Act provide for chargeability of income from other sources in case any money, immovable property or other property with or without consideration in excess of Rs 50,000 is received by an assessee being an individual or an Hindu undivided family (HUF). The provisions also apply where shares of a company are received as a consequence of demerger or amalgamation of a company. Such a transaction is not regarded as transfer where the recipient is a firm or a company.
- With a view to bring uniformity in tax treatment, it is proposed to amend the Act so as to provide that any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not attract the provisions of clause (vii) of sub-section (2) of section 56.

TAX ON DIVIDEND IN CERTAIN SITUATIONS [SEC. 115BBDAA]

1. **Applicability:** Assessee being an Individual, HUF or a Firm, Resident in India
2. **Nature of Income:** Any Income in aggregate exceeding Rs. 10 Lakhs, by way of Dividends cleared, distributed or paid by a Domestic Company.
3. **Rate of Tax:** Tax = 10% on the Income in aggregate by way of such Dividends. [Note: this is in addition to the Tax Payable on Other Total Income.]
4. **No Deduction:** No deduction in respect of any expenditure or allowance or set off of loss shall be allowed to the Assessee under any provision of this Act in computing the income by way of dividends u/s 115BBDA(1)(a).
5. **Meaning:** Dividend shall have the same meaning as per Sec. 2(22) but excludes sub-clause I thereof.

CHAPTER 9 CLUBBING OF INCOME

No amendment

CHAPTER 10: SET OFF & CARRY FORWARD OF LOSSES

TIME LIMIT FOR CARRY FORWARD AND SET OFF OF SUCH LOSS UNDER SECTION 73A OF THE INCOME-TAX ACT DATE OF APPLICABILITY

- The existing provisions of section 73A of the Act provide that any loss, computed in respect of any specified business referred to in section 35AD shall not be set off except against profits and gains, if any, of any other specified business. Further, section 80 of the Act inter-alia provides that a loss which has not been determined in pursuance of return filed in accordance with the provisions of sub-section (3) of section 139, shall not be carried forward and set-off under sub-section (1) of section 72 or subsection (2) of section 73 or sub-section (1) or sub-section (3) or section 74 or sub-section 74A.
- In accordance with the scheme of the Act, this loss is to be allowed if the return is filed within the specified time i.e. by the due date of filing of the return of the income as provided in section 80 for other losses determined under the Act.
- **Accordingly, it is proposed to amend section 80 so as to provide that the loss determined as per section 73A of the Act shall not be allowed to be carried forward and set off if such loss has not been determined in pursuance of a return filed in accordance with the provisions of sub-section (3) of section 139.**
- It is also proposed to amend the said sub-section (3) of section 139 so as to give reference of subsection (2) of section 73A in the said sub-section.

CLARIFICATION REGARDING SET OF LOSES AGAINST DEMED UNDISCLOSED INCOME

No deduction in respect of any expenditure/ allowance or any set off of any loss shall be allowed to the Assessee under any provisions of this Act against 30% Tax on amount taxable u/s 68, 69, 69A, 69B, 69C, 69D.

CHAPTER 11 PREMISSIBLE DEDUCTION

INCENTIVES FOR PROMOTING HOUSING FOR ALL (SECTION 80EE OF IT ACT)

Date of Applicability: From AY 2017-18

Under the provisions of **section 80EE,** it is proposed to incentivize first-home buyers availing home loans, by providing additional deduction in respect of interest on loan taken for residential house property from any financial institution up to Rs. 50,000.

This incentive is proposed to be extended to a house property of a value less than Rs. 50 Lacs in respect of which a loan of an amount not exceeding Rs. 35 Lacs has been sanctioned during the period from the 01.04.2016 to the 31.03.2017.

It is also proposed to extend the benefit of deduction till the repayment of loan continues. The deduction under the proposed section is over and above the limit of Rs 2, 00,000 provided for a self-occupied property under section 24 of the Act.

Comment: Section 80EE proposes an additional deduction of up to Rs. 50,000 every year in respect of interest on housing loan. Such deduction shall be allowed to the first time individual buyers of a residential house property, if:

- Value of residential house property does not exceed Rs. 50 lakh;
- Amount of loan does not exceed Rs. 35 lakh; and
- The loan is sanctioned between 01-04-2016 and 31-03-2017.

The proposed deduction shall be in addition to deduction of Rs. 2, 00,000 allowed under section 24 of the Act.

RATIONALIZATION OF LIMIT OF DEDUCTION ALLOWABLE IN RESPECT OF RENTS PAID UNDER SECTION 80GG

Date of Applicability: From AY 2017-18

In order to provide relief to the individual tax payers, it is proposed to amend section 80GG so as to increase the maximum limit of deduction from existing Rs. 2000 per month to Rs. 5000 per month.

SECTION 80-IA: DEDUCTION IN RESPECT OF PROFIT & GAINS FROM INDUSTRIAL UNDERTAKING OR ENTERPRISE ENGAGED IN INFRASTRUCTURAL DEVELOPMENT

INFRASTRUCTURAL FACILITY

Conditions:

- Enterprise provides infrastructural facility.
- The enterprise is owned by an Indian company or consortium of such companies or by an authority, board or corporation established under any Central or State Act.
- The enterprise has entered into an agreement with Central Government or State Government or local authority or any other statutory body for developing, maintaining or operating new infrastructure facility

- The enterprise starts operating and maintaining the infrastructure facility after April 1, 1995. but before 1-4-2017 **(Amendment finance act 16)**
- Deduction should be claimed in the return of Income and the return should be submitted on or before the due date of submission.

DEDUCTION IN RESPECT OF PROFITS AND GAINS BY AN UNDERTAKING OR ENTERPRISE ENGAGED IN DEVELOPMENT OF SPECIAL ECONOMIC ZONE

Conditions

- Applicable to all assessee
- The taxpayer is a Developer of Special Economic Zone
- The Gross Total income includes Profit from business of developing SEZ
- SEZ is notified after 1-4-2005
- No deduction for any enterprise which starts the development all operation and maintenance of infrastructure facility on or after 1-4-2017 **(Amendment Fin Act 2016)**
- Books are audited & Return is filed in time.

Amount of Deduction

100% deduction for 10 out of 15 years beginning with the year when the SEZ was notified by the Govt.

MINERAL OILS AND REFINING OF MINERAL OIL [Sec 80-IB(9)]

Conditions:

- Applicable to all assessee.

Deduction

Type of Business	Date of commencement	Amount of Deduction	Period
Production of Mineral Oil	After 31/3/1997	100%	First 7 A.Y.
Refining of Mineral Oil	After 30/9/1998 anywhere in India but before 31/03/2012	100%	First 7 A.Y.
Commercial production of Natural Gas	On or after 01/09/2009	100%	First 7 A.Y.

Deduction under section 80IB (9) will not be available to an undertaking which commences production of mineral oil/ natural gas on or after April 1, 2017. [AY 2017 – 18]

80IAC: SPECIAL PROVISION IN RESPECT OF SPECIFIED BUSINESS (W.e.f. AY 17-18)

1. **Applicability:** Assessee being an eligible start-up.
2. **Quantum of deduction:** 100% of the profit and gains derived from such eligible Start-Up business.
3. **Period of Deduction:** deduction can be claimed at the option of the Assessee, for any 3 consecutive assessment years out of 5 years beginning from the year in which the eligible start-up incorporated.
4. **Conditions to be satisfied for claiming deduction:**

(a) Bar on Formation Style: It should not be formed by splitting up or re-construction of an exciting business, [Rehabilitation u/s 35B is permissible.]

(b) bar and Old Machinery: it should not be formed by transfer of Plant and Machinery previously used for any purpose, except as under –
   (i) Imported Machine: The bar on use of Old Machinery does not apply if –
   - Such plant or machinery is imported,
   - Such plant or machinery is previously not use in India,
   - No Depreciation on such Plant or Machinery is allowed to any person for any Asst. year
   (ii) Low value: If Value of Plant or Machinery

(c) Provisions of Sec. 80-IA (5) and (7) to (11) shall be applicable for claiming deduction u/s 80-IAC.

5. Meaning of Terms:

(a) "Eligible Business" means a business which involves innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property.

(b) "Eligible Start-Up" means a company or Limited Liability Partnership engaged in eligible business, which fulfils the following conditions, namely –
   - It is incorporated on or after 1-4-2016 but before 1-4-2019,
   - The Total Turnover of its business does not exceed Rs. 25 crores in any of the previous years beginning ¼/2016 and ending on 31/3/2021, and
   - It holds a Certificate of Eligible Business for the Inter-Ministerial Board of Certification as notified by the Central Government.

(c) "Limited Liability Partnership" (LLP) means a partnership referred to in Sec. (2) (1) I of the Limited Liability Partnership Act, 2008.

SECTION 80IBA: DEDUCTIONS FOR PROFITS & GAINS FROM HOUSING PROJECTS (W.E.F. AY 17-18)

1. **Applicability:** All Assessee
2. **Nature of Business:** Business of developing and building Housing Projects.
   Note: Assessee who executes the Housing Project as a Works – Contract awarded by any person (including Central/ State Govt) is not eligible for Deduction.
3. **Quantum of Deduction:** 100% of the Profits & Gains derived from such Business.
4. **Conditions:**

Project Approval	The project shall be approved by the Authority after 1/6/2016 but on or before 31/3/2019.
Project Completion	The project shall be completed within a period a period of 3 years from the date of approval by the competent Authority. • **Frist Approval:** if the approval in respect of a Housing Project is obtained more than once the project shall be deemed to have been approved on the date on which the Building Plan of such Housing Project was first approved by the Competent Authority. • **Deemed Completion:** The project is deemed to have been completed when a Certificate of Completion of Project as a whole is obtained in writing from the Competent Authority.

Shops and Commercial Establishment	The built-up area of the shops and other commercial establishment included in the housing project does not exceed 3%. Of the aggregate built-up area.		
Conditions as to Land Area, Residential Unit Area, Floor Area, etc.	Housing project location	Chennai, delhi, Kolkata or Mumbai or within distance measure aerially of 25 Kms from the Municipal Limits of these cities	In any other place
	Minimum Land Area for the Housing Project	1,000 sq. m	2,000 sq. m
	Note: The project u/s 80IBA shall be the only housing project on the above mentioned land.		
	Maximum built up Area for Residential Units in the Housing Project	30 sq. m	60 sq. m
	minimum Floor Area Ratio utilization as per Rules by Central Govt./ State Govt./ Local Authority	90% of the permissible Ratios	80% of the Permissible Ratio
Allotment Restriction	If a Resident unit is allotted to an individual, no other Residential Unit in the Housing Project shall be allotted to the Individual or the Spouse or the Minor Children of such Individual.		
Maintenance of Books	The Assessee maintains separate books of account in respect of the Housing Project.		

5. Non completion in 3 years: if the Housing Project is not completed within 3 years from the date of approval, and in respect of which a deduction has been claimed and allowed u/s 80-IBA, the total amount of deduction so claimed and allowed in one or more previous years, shall be deemed to be the income of the Assessee chargeable as “Profits and Gains of Business or Profession” of the previous year in which the period for completion so expires.

6. No Double Deduction: Where any amount of Profits and Gains derived from the business of developing and building Housing Projects is claimed and allowed u/s 80-IBA for any AY, deduction to the extent of such profit and gain shall not be allowed under any other previous of this Act

(a) Meaning of Terms: “built-Up Area” means the inner measurements of the Residential Unit at the floor level, including projections and balconies, as increased by the thickness of the walls, but does not include the common areas shares with other residential Units, including any open terrace so shares.

(b) “Competent Authority” means the authority empowered to approved the Building plan by or under any law for the time being in force,

(c) “Floor Area Ratio” means the quotient obtained by dividing the total covered area of plinth area on all the floors by the area of the plot of land.

(d) "Floor Area Ratio" means a project consisting pre-dominantly of Resident units which such other facilities and amenities as the Competent Authority may approve subject to the provisions of this section.

(e) "Residential Unit" means an independent housing unit with separate facilities for living, cooking and sanitary requirements, distinctly separated from other Residential Units within the building, which is directly accessible from an outer door or through and interior door in a shared hallway and not by walking through the living space of another household.

TAX INCENTIVE FOR EMPLOYMENT GENERATION (SECTION 80JJAA OF IT ACT)

Applicable to: All assessee who has income from business and is subject to tax audit u/s 44AB.

Conditions:

1. Business is not acquired by the assessee by way of transfer from any other person or as a result of any business reorganisation
2. The business of the assessee is not formed by splitting up, or the reconstruction, of an existing business, Except Sec. 33B
3. Books of account should be audited and report of audit should be submitted along with the return of income.
4. deduction should be claimed in the return of income (otherwise deduction is not available)

Deduction

An amount equivalent to 30% of Additional Employee Cost (incurred in the course of such business in the PY) is deduction u/s 80JJAA for 3 assessment years including the AY relevant to the PY in which such employment is provided.

"Additional Employee"	"Additional Employee" means an employee who has been employed during the PY and whose employment has the effect of increasing the total number of employees employed by the employer as on the last date of the preceding year, but does not include – **a.** An employee whose total emoluments are more than Rs. 25,000 per month **b.** An employee for whom the entire contribution is paid by the government under the Employee Pension Scheme notified in accordance with the provisions of the "Employees Provident Funds and Miscellaneous Provisions Act, 1952; **c.** An employee employed for a period of less than 240 days during the PY; or **d.** An employee who does not participate in the recognised provident fund.
Additional employee cost	"Additional employee cost" means total emoluments paid or payable to additional employees employed during the PY **1.** In the case of existing business, the additional employee cost shall be nil, if – a. There is no increase in the number of employees from the total number of employees employed as on the last date of the preceding year. b. Emoluments are paid otherwise than by an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account. **2.** In the first year of a new business, emoluments paid or payable to employees

	employed during the PY shall be deemed to be the additional employee cost.
Emoluments	"Emoluments" means any sum paid or payable to an employee in lieu of his employment by whatever name called, but does not include employer's contribution to pension fund/ provident fund/ any other fund for the benefit of employer under any law. Further, it does not include lump sum payment at the time of termination of service, or superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefits, commutation of pension, and the like.
Note	The provisions of old section 80JJAA shall apply to an assessee who is eligible to claim any deduction under section 80JJAA for the AY 2016-17 (or any earlier AY)

Illustration 1

Mr. Krishnan has commenced the operations of Manufacture of goods in a factory on 01/04/2016. He employed 125 new workmen during the PY 2016 – 17, - as under

(a) 20 Casual Workmen, [Wages paid by cash.]
(b) 10 Workmen employed through Contract Labour, [Wages Paid by Account Payee Cheque]
(c) 30 Regular Workmen employed from 01/04/2016 to 30/03/2017
(d) 30 Regular Workmen employed on 01/05/2016 whom wages at Rs. 30,000 pm paid.
(e) 15 Regular Workmen employed on 01/07/2016

Compute the Deduction, available to Mr. A for AY 2017 – 18, if wages paid to each workmen at Rs. 10,000 p.m. except those employee on 01/05/2015 and the profit and Gains from the Manufacture of Goods in the Factory for AY 2017 – 18 is Rs. 4.75 Lakhs.

Solution

Computation of Deduction u/s 80JJAA

Particulars	Workmen	Reason
Casual Workmen	Nil	Emoluments repaid by way of cash
Regular employed through Contract Labour	NIL	Emoluments repaid by way of Account Payee of Cheque
Regular Workmen employed on Not in employment on 31/03/2017 Total Emoluments are more than Rs. 25,000 p.m. - 01/09/2016	 NIL NIL NIL	Additional employee does not include Employee employed for a period less than 240 days during PY. Hence, Workmen employed on 01/07/2016 included.
Additional employees	10	
Additional Employee Cost	Rs. 12,00,000	Rs. 10,000 × 10 Employees × 12 months
Deduction u/s 80JJAA	Rs. 3,60,000	Rs. 30,000 × 30%

CHAPTER 12: ADVANCE TAX

INSTALLMENTS OF ADVANCE TAX AND DUE DATES [SECTION 211]

In the case of non-company assessee, advance tax has to be paid in three installments. However, in the case of a company assessee, advance tax is payable in four installments. The relevant due dates of installments are given below:

Amendment Finance Act 2016

Due date of Installment in the relevant previous year	Upto 31/5/2016 for corporate assessee, and w.e.f. 01/06/2016 for all assessee other than Eligible Assessee as referred in Sec. 44AD	Assessee covered under section 44AD
	Not less than	
On or before June 15	15% of Advance Tax payable	
On or before September 15	45% of Advance Tax Payable	
On or before December 15	75% of Advance Tax Payable	
On or before March 15	100% of Advance Tax Payable	100% of Advance Tax Payable

INTEREST U/S 234 C FOR DEFEREMENT OF ADVANCD TAX (Assessee not eligible u/s 44AD)

Due date	Advance tax payable	Interest payable
15th june	15% of tax due of returned income	Simple interest @ 1% per month for a period of 3 months on the amount of the shortfall from 15% (No int if adv tax paid is => 12%)
15th Sept	45% of tax due of returned income	Simple interest @ 1% per month for a period of 3 months on the amount of the shortfall from 45% (No int if adv tax paid is => 36%)
15th Dec	75% of tax due of returned income	Simple interest @ 1% per month for a period of 3 months on the amount of the shortfall from 75%
15th March	100% of tax due of returned income	Simple interest @ 1% per month for a period of 1 months on the amount of the shortfall from 100%

INTEREST U/S 234 C FOR DEFEREMENT OF ADVANCD TAX (Assessee eligible u/s 44AD)

Due date	Advance tax payable	Interest payable
15th March	100% of tax due of returned income	Simple interest @ 1% per month for a period of 1 months on the amount of the shortfall from 100%

CHAPTER 13 TDS AND TCS

Increase in threshold limit of deduction of tax at source on various payments mentioned in the relevant Sections of the Act:

Section	Heads	Existing Threshold Limit	Proposed Threshold Limit
192A	Payment of accumulated balance due to an employee	30,000	50,000
194BB	Winnings from Horse Race	5,000	10,000
194C	Payments to Contractors	75,000	1,00,000
194LA	Payment of Compensation on acquisition of certain Immovable Property	2,00,000	2,50,000
194D	Insurance commission	20,000	15,000
194G	Commission on sale of lottery tickets	1,000	15,000
194H	Commission or brokerage	5,000	15,000

Revision in rates of deduction of tax at source on various payments mentioned in the relevant sections of the Act:

Section	Heads	Existing Rate of TDS (%)	Proposed Rate of TDS (%)
194DA	Payment in respect of Life Insurance Policy	2%	1%
194EE	Payments in respect of NSS Deposits	20%	10%
194D	Insurance commission	10%	5%
194G	Commission on sale of lottery tickets	10%	5%
194H	Commission or brokerage	10%	5%

ENABLING OF FILING OF FORM 15G/15H FOR RENTAL PAYMENTS (SECTION 197A OF IT ACT) (REFER CLAUSE 84 OF THE BILL):

Date of Applicability: 01.06.2016

The provision of sub-section 194-I of the Act, inter alia, provides for tax deduction at source (TDS) for payments in the nature of rent beyond a threshold limit. The existing provisions provide threshold of Rs. 1, 80,000 per financial year for deduction of tax under this section. In spite of providing higher threshold for deduction tax under this section, there may be cases where the tax payable on recipient's total income, including rental payments, will be nil. The existing provisions of section 197A of the Income-tax Act, inter alia provide that tax shall not be deducted, if the recipient of certain payments on which tax is deductible furnishes to the payer a self- declaration in prescribed Form No 15G/15H declaring that the tax on his estimated total income of the relevant previous year would be nil. In order to reduce compliance burden in such cases, it is proposed to amend the provisions of section 197A for making the recipients of payments referred to in section 194-I also eligible for filing self-declaration in Form no 15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A.

TAX COLLECTION AT SOURCE (TCS) ON SALE OF VEHICLES, GOODS OR SERVICES (SECTION 206C OF IT ACT) (REFER CLAUSE 86 OF THE BILL):

Date of Applicability: 01.06.2016

- The existing provision of section 206C of the Act, inter alia, provides that the seller shall collect tax at source at specified rate from the buyer at the time of sale of specified items such as alcoholic liquor for human consumption, tendu leaves, scrap, mineral being coal or lignite or iron ore, bullion etc. in cash exceeding Rs. 2 lacs.
- In order to reduce the quantum of cash transaction in sale of any goods and services and for curbing the flow of unaccounted money in the trading system and to bring high value transactions within the tax net, it is proposed to amend the aforesaid section to provide that the seller shall collect the tax at the rate of 1% from the purchaser on sale of motor vehicle of the value exceeding Rs. 10 lacs and sale in cash of any goods (other than bullion and jewellery), or providing of any services (other than payments on which tax is deducted at source under Chapter XVII-B) exceeding Rs. 2 lacs.
- It is also proposed to provide that the sub-section (1D) relating to TCS in relation to sale of any goods (other than bullion and jewellery) or services shall not apply to certain class of buyers who fulfil such conditions as may be prescribed.

Analysis: 1% TCS need to collect by the seller from buyer in case of sale of any motor vehicle having value more than Rs. 10 lacs. This includes new as well as old cars. This transaction also applies to individuals subject to other provisions and conditions given u/s 206C.

Further, for any sale of goods or services above Rs. 2 lacs in cash, the seller need to collect 1% TCS from the buyer. This provision is also applicable on all the individuals subject to other provisions and conditions given u/s 206C.

CHAPTER 14: RETURN, ASSESSMENT, PROCEDURE & INTERST

FILING OF RETURN [SEC. 139(1)]

Every individual HUF, etc. must file return of income if it's Gross total income before claiming exemption u/s 10(38) exceeds the exempted celling. [W.e.f. AY 2017-18]

LOSS RETURN [SEC. 139(3)]

Sec. 73A (AY 2017-18)	Losses from specified business u/s 35AD	Loss return must be TIMELY filed

BELATED RETURN [SEC. 139(4)]

Any person who has not furnished a return within the time allowed to him u/s 139(1) then he can file a belated return. Such return can be file at any time –

Time limit : Before a ~~one year from~~ end of the relevant assessment year; or [w.e.f. AY 2017-18]

REVISED RETURN [SEC. 139(5)]

If any person having furnished a return u/s 139(1) or 139(4) discovers any Bonafide (genuine) error or omission in his original return filed he may furnished a revised return u/s 139(5). [W.e.f. AY 2017-18]

Time limit for revision : Any time before the expiry of 1 year from the end of relevant assessment year or before the completion of assessment whichever is earlier.

Note:

- A belated return can ~~not~~ be revised. [w.e.f. 2017-18]
- However return filed under response to notice u/s 142(1) can not be revised.

DEFECTIVE RETURN [SEC. 139(9)]

W.e.f. AY 2017-18, a return (which is otherwise valid) would not be treated as defective merely because self-assessment tax and interest payable in accordance with the provisions of section 140A, have not been paid on or before the date of furnishing of the return.

EXEMPTION FROM REQUIREMENT OF FURNISHING PAN UNDER SECTION 206AA TO CERTAIN NON-RESIDENT

Date of Applicability: 01.06.2016

In order to reduce compliance burden, it is proposed to amend section 206AA so as to provide that the provisions of this section shall also not apply to a non-resident, not being a company, or to a foreign company, in respect of any other payment, other than interest on bonds, subject to such conditions as may be prescribed.

ASSESSMENT PROCEDURE

Scope of permissible adjustments while processing a return under section 143(1)(a) expanded Effective from: A.Y.2017-18

SUMMARY ASSESSMENT: (SUB SEC 1)

(1) Where a return has been made under section 139, or in response to a notice u/s 142(1), such return shall be processed in the following manner, namely:—

(a) The total income or loss shall be computed after making the following adjustments, namely:
- (i) Any arithmetical error in the return;
- (ii) An incorrect claim, if such incorrect claim is apparent from any information in the return;
- **(iii) Disallowance of loss claimed, if return of the previous year for which set off of loss is claimed was furnished beyond the due date specified u/s 139(1).**
- **(iv) Disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return;**
- **(v) Disallowance of deduction claimed u/s, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or section 80-IE, if the return is furnished beyond the due date specified u/s 139 (1) or**
- **(vi) 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**

Provided that no such adjustments shall be made unless an intimation is given to the assessee of such adjustments either in writing or in electronic mode:

Provided further that the response received from the assessee, if any, shall be considered before making any adjustment, and in a case where no response is received within 30 days of the issue of such intimation, such adjustments shall be made;

[Sub clause (iii) to (vi) and both the proviso inserted by FA 16 w-e-f 1-4-16]

"an incorrect claim apparent from any information in the return" shall mean a claim, on the basis of an entry, in the return,—
(i) of an item, which is inconsistent with another entry of the same or some other item in such return;
(ii) in respect of which the information required to be furnished under this Act to substantiate such entry has not been so furnished; or
(iii) in respect of a deduction, where such deduction exceeds specified statutory limit which may have been expressed as monetary amount or percentage or ratio or fraction;

(b) The tax and interest, if any, shall be computed on the basis of the total income computed under clause (a);

(c) The sum payable by, or the amount of refund due to, the assessee shall be determined after adjustment of the tax and interest, if any, computed under clause (b) by any TDS, TCS, advance tax paid, relief u/s 90, or 90A, or 91, any tax paid on self-assessment and any amount paid otherwise by way of tax or interest;

(d) An intimation shall be prepared or generated and sent to the assessee specifying
- i. The sum payable by the assessee, or

ii. The amount of refund due to the assessee; and

(e) The amount of refund due to the assessee in pursuance of the determination under clause I shall be granted to the assessee.

Intimation of Loss: Provided that an intimation shall also be sent to the assessee in a case where the loss declared in the return by the assessee is adjusted but no tax or interest is payable by, or no refund is due to, him:

Deemed Intimation: The acknowledgement of the return shall be deemed to be the intimation in a case where no sum is payable by, or refundable to, the assessee, and where no adjustment has been made under clause (a)

Time for sending the intimation: Intimation shall be sent before the expiry of 1 year from the end of the financial year in which the return is made.

Processing of return not necessary: the processing of a return shall not be necessary before the expiry of such period, where a notice has been issued to the assessee U/S 143(2)

However, such return shall be processed before the issuance of an order under sub-section (3). [Substituted by FA 16]

TIME LIMITS FOR COMPLETION OF ASSESSMENT, REASSESSMENT AND RECOMPUTATION [SEC. 153]

Effective from: 1st June, 2016

(a) The time limit for completion of assessment proceedings is 2 years from the end of the assessment year in which the income was first assessable. Further, no order of assessment, reassessment or recomputation could be made u/s 147 after the expiry of one year from the end of the financial year in which notice u/s 148 was served.
Since digitization of processes within the Department has enhanced its efficiency in handling workload, the time limit has been accordingly reduced, so that the assessment proceedings are finalised more expeditiously.

(b) In order to simplify the provisions of section 153 by retaining only those provisions that are relevant to the current provisions of the Act, Sec 153 has been substituted w.e.f. 1st June, 2016 to provide for the new time limits for completion of assessment in the following cases.

Sec	Proceeding	New time limit for completion of assessment or reassessment
153(1)	Order of assessment u/s 143 or 144	21 months from the end of the assessment year in which the income was first assessable
153(2)	Order of assessable reassessment or recomputation u/s 147	9 months from the end of the financial year in which the notice u/s 148 was served
153(3)	Fresh assessment u/s 143/144/147 where the original assessment has been set aside, cancelled and referred back to the Assessing	9 months from the end of the financial year in which the said order u/s 245 is received by the PCC/CC/PC/CIT4 or the order u/s 264 is passed by

	Officer by an order u/s 254/263/264	the PC/CIT
153(5)	Giving effect to an order u/s 250, 254, 260, 262,264 by AO wholly or partly otherwise than fresh assessment	**3 months** from the end of months in which order u/s250, 254, 260, 262, is received by the PCCIT, CCIT, PCIT, CIT or the order u/s 263, 264 is passed by the PCIT/CIT. Extension can be given of **6 months** on the request of AO where it is not possible to give effect within 3 months.
153(6)(i)	Making an order of assessment/ re assessment/ re-computation on assesse (or any person) in consequence of or to give effect to any finding/ direction contained in an order u/s 250/ 254 / 260 / 262 / 263 / 264 or an order of any court in a proceeding (not by way of appeal/ reference under this act)	12 MOTHS from the end of the month in which such order is received / passed by PCIT, CIT.

SEC. 244A: INTEREST PAYABLE TO THE ASSESSEE ON REFUND

Provision	An assessee, entitled to get refund, shall be entitled to interest on such refund.	
Amount for calculation of interest	On the amount of refund	
Rate of Interest	0.5% S.I. p.m. (or a par thereof)	
~~**Period**~~	~~**Case**~~	~~**Period**~~
	~~Where refund is out of TDS/ TCS/ Advance Tax~~	~~From the very beginning of relevant assessment to the date on which such refund is granted.~~
	~~Other Refund~~	~~From the date of payment of such tax to the date on which such refund is granted.~~

Date of Applicability: 01.06.2016

- Section 244A inter alia provides that an assessee is entitled to interest on refund arising out of excess payment of advance tax, tax deducted or collected at source. It also provides that the period for which the interest is paid on such excess payment of tax begins from the 1st April of the assessment year and ends on the date on which refund is granted. **(if return is filed on time)**
- In order to ensure filing of return within the due date it is proposed to amend section 244A to provide that in cases where the **return is filed after the due date**, the period for grant of interest on refund may begin from the date of filing of return.

Note: However if amount of refund is less than 10 % of tax determined under section 143(1) or on regular assessment, no interest is payable in above cases.

- It is also proposed to provide that where a refund arises out of appeal (u/s 250/254/260/262/264) effect being delayed beyond the time prescribed under sub-section (5) of section 153, the assessee shall be entitled to receive, in addition to the interest payable under sub-section (1) of section 244A, an additional interest on such refund amount calculated at the rate of three per cent per annum, for the period beginning from the date following the date of expiry of the time allowed under sub-section (5) of section

153 to the date on which the refund is granted. It is clarified that in cases where extension is granted by the Principal Commissioner or Commissioner by invoking proviso to sub-section (5) of section 153, the period of additional interest, if any, shall begin from the expiry of such extended period.

INTEREST FOR FAILURE TO PAY TAX ACCORDING TO DEMAND NOTICE [SEC. 220(2)]

Provision	An assessee should pay the amount specified in the notice of demand u/s 156 within 30 days of the service of the notice or lesser period as specified by the Assessing officer with prior approval of Joint Commissioner).	
Condition	Assessee fails to pay such amount within the specified time.	
Interest	On the amount specified in the notice of demand.	
Rate of Interest	1% S.I. p.m. (or a part thereof)	
Period	From	The day immediately after the expiry of 30 days (or specified period1)
	To	The day on which such amount is paid.

'In case the Assessing Officer is of the opinion that it will be detrimental to revenue if the full period of 30 days is allowed, then he may with the previous approval of the Joint Commissioner direct that the sum specified in the notice of demand shall be paid within such time as may be specified by him in the notice. In such case, interest shall be calculated for a period commencing from the period specified in the notice.

Hence Sec. 220(2) empowers the PCCIT/CCIT/PCIT/CIT to reduce or waive to amount of interest Sec. 220(2) has been amended w.e.f. 1-4-2016 to provide that an order accepting or rejecting application of an assessee shall be passed by the concerned Principal Chief CIT / Chief CIT / Principal CIT / CIT within a period of 12 months from end of the month in which such application is received. Further an opportunity of being heard must be given before rejecting such application [Amendment in AY 2017-18]

INCOME DECLARATION SCHEME

The Income Declaration Scheme, 2016 (Refer clause 178 to 196 of the bill):

Date of Applicability: From the date of notification in official gazette

An opportunity is proposed to be provided to **persons who have not paid full taxes in the past to come forward and declare the undisclosed income and pay tax, surcharge and penalty** totaling in all to 45% of such undisclosed income declared. The scheme is proposed to be made applicable in respect of undisclosed income of any financial year up to 2015-16.

Tax is proposed to be charged at the rate of 30% on the declared income as increased by surcharge at the rate of 25% of tax payable (to be called the Krishi Kalyan cess). A penalty at the rate of 25% of tax payable is also proposed to be levied on undisclosed income declared under the scheme.

It is proposed that following cases shall not be eligible for the scheme:

- Where notices have been issued under section 142(1) or 143(2) or 148 or 153A or 153C, or
- Where a search or survey has been conducted and the time for issuance of notice under the relevant provisions of the Act has not expired, or
- Where information is received under an agreement with foreign countries regarding such income,
- Cases covered under the Black Money Act, 2015, or
- Persons notified under Special Court Act, 1992, or
- Cases covered under Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988.

It is proposed that payment of tax, surcharge and penalty may be made on or before a date to be notified by the Central Government in the Official Gazette and non-payment up to the date so notified shall render the declaration made under the scheme void.

It is proposed to provide that declarations made under the scheme shall be exempt from wealth-tax in respect of assets specified in declaration. It is also proposed that no scrutiny and enquiry under the Income-tax Act and Wealth-tax Act be undertaken in respect of such declarations and immunity from prosecution under such Acts be provided. Immunity from the Benami Transactions (Prohibition) Act, 1988 is also proposed for such declarations subject to certain conditions.

In cases where any income has accrued, arisen or received or any asset has been acquired out of such income prior to commencement of this Scheme, and no declaration in respect of such income is made under the Scheme such income shall be deemed to have accrued, arisen or received, or the value of the asset acquired out of such income shall be deemed to have been acquired or made, in the year in which a notice under section 142, section 143(2) or section 148 or section 153A or section 153C of the Income-tax Act is issued by the Assessing Officer and the provisions of the Income-tax Act shall apply accordingly.