The Finance Bill, 2017
Ek Samiksha...

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UNION BUDGET 2017-18

The Indian Rupee (in paise)

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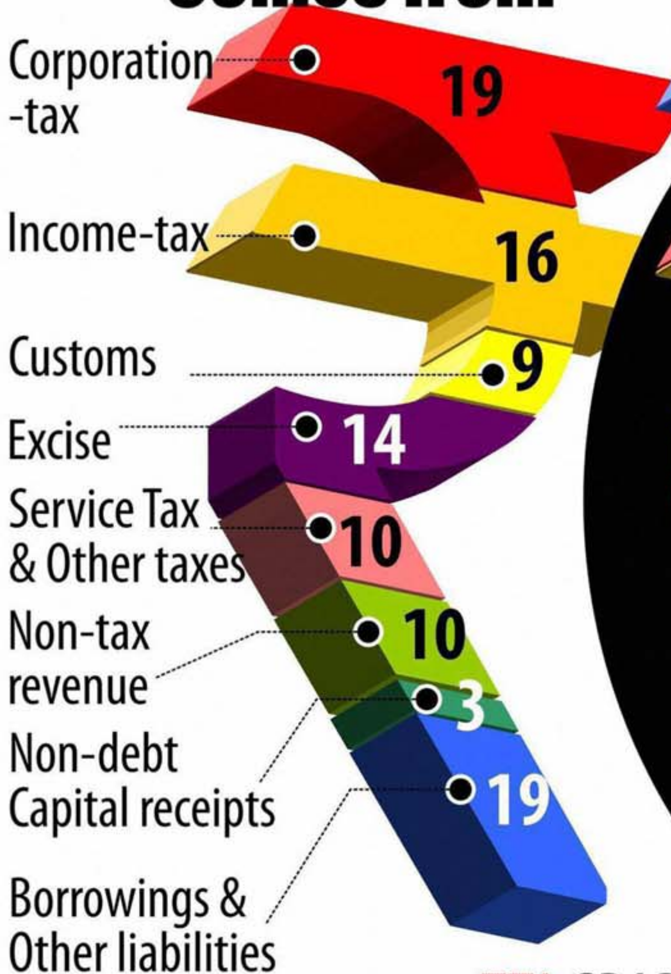

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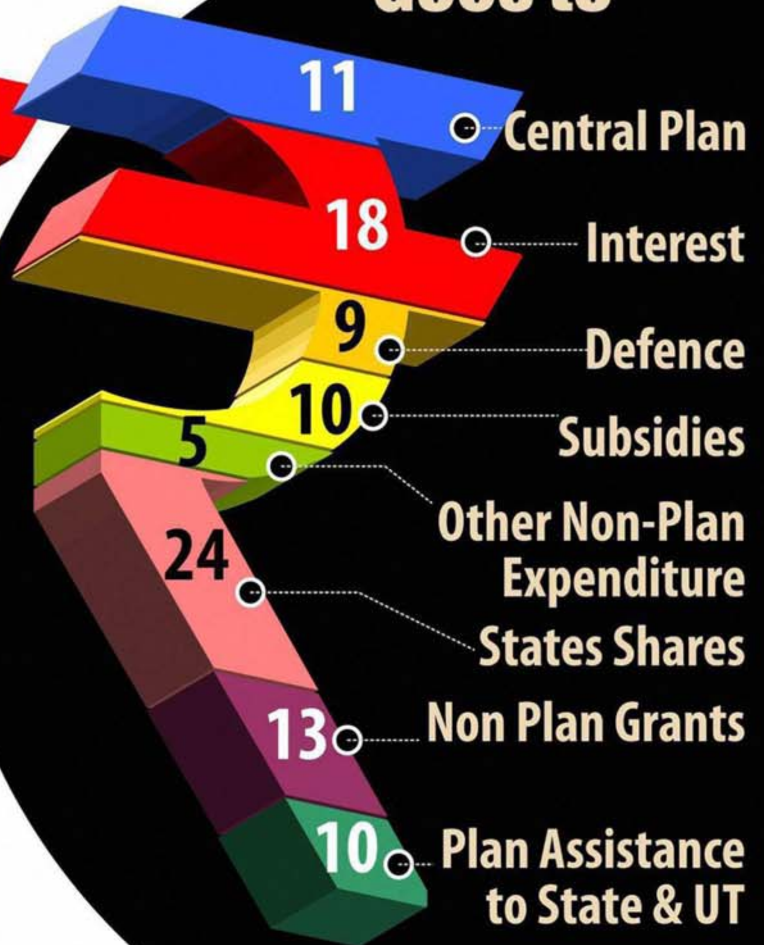

PTI GRAPHICS

5th February, 2017

Dear Madam/Sir,

The year 2016 was full of adventures with Income Disclosure Scheme 2016, (IDS) Direct Tax Dispute Resolution Scheme,2016 (DTDRS), surgical strike of Notebandi / demonetization on 8th November, 2016 followed by Pradhan Mantri Garib Kalyan Yojana (PMGKY). The year 2017 begin with continuing impact of the demonetization and promotion of digital economy measures undertaken by the Government.

At the same time we have seen lot of development in cross boarder taxation impacting investments and trade.

India amended its tax treaties with Mauritius, Cyprus and Singapore. Just a few days back, the government introduced the final guidelines on Place of Effective Management (POEM) - the criteria for determining tax resident of overseas companies in India. Clarifications have also been issued on the applicability of the General Anti Avoidance Rules. Further, as part of the global project to prevent Base Erosion and Profit Sharing (BEPS), more than 100 countries (including India) are expected to formally sign the multilateral instrument (MLI) in June 2017 for amending all the existing tax treaties.

Combined effect of these developments in domestic as well as cross boarder taxation and the expected implementation of GAAR will be seen in due course.

In the mids of all these, the Finance Minister Mr. Arun Jaitley presented his fourth budget on the special day of Vasant Panchami. Whether the expectations of all concern were fulfilled or not by the Budget proposals is a hot topic of debate at every nook and corner.

Be it may, we have, like all these years, made an attempt to appraise our esteemed clients of the important amendments as proposed by the Finance Bill, 2017 especially in the arena of Income Tax Act, 1961. An attempt is made to cover Service Tax also by broadly outlining major proposals thereof. Please also see the topic titled "Must Read………" and "An Alert" in this study notes.

This study note of ours titled "The Finance Bill, 2017 – Ek Samiksha" is enclosed herewith. After you had an opportunity to go through the same, we may discuss this further at your convenience.

Happy Reading!
With regards,
Yours truly,
Team-S. S. Jhunjhunwala & Co.

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In this note an attempt has been made to summarize various proposals of The Finance Bill, 2017. Specific guidance may be obtained before acting on the proposals and provisions.

It should be noted that the Finance Bill, 2017 will be discussed in the Parliament and is subject to any amendments that may be made pursuant to such discussion.

Now a days, two trends are seen, roll back of certain proposals and putting some new proposals at the time of enactment of the Bill. So when the Bill is enacted please have a relook at it to see changes between “Bill” and “Act”

Budget at a Glance

Rs. in crores

	Particulars	2015-2016 Actuals	2016-2017 Budget Estimates	2016-2017 Revised Estimates	2017-2018 Budget Estimates
1	**Revenue Receipts**	**11,95,025**	**13,77,022**	**14,23,562**	**15,15,771**
2	Tax Revenue(Net to Centre)	9,43,765	10,54,101	10,88,792	12,27,014
3	Non-Tax Revenue	2,51,260	3,22,921	3,34,770	2,88,757
4.	**Capital Receipts (1)**	**5,95,748**	**6,01,038**	**5,90,845**	**6,30,964**
5	Recoveries of Loans	20,835	10,634	11,071	11,932
6	Other Receipts	42132	56500	45500	72500
7	Borrowing and Other Liabilities (2)	532791	533904	534274	546532
8	**Total Receipts (1+4)**	**17,90,783**	**19,78,060**	**20,14,407**	**21,46,735**
9	**Scheme Expenditure**	**7,25,114**	**8,01,966**	**8,69,847**	**9,45,078**
10	On Revenue Account	5,45,619	6,01,900	6,31,511	6,74,057
11	On Capital Account	1,79,495	2,00,066	2,38,336	2,71,021
12	**Expenditure on Other than Schemes (13+15)**	**10,65,669**	**11,76,094**	**11,44,560**	**12,01,657**
13	On Revenue Account	9,92,142	11,29,137	11,03,049	11,62,877
14	of which, Interest Payments	4,41,659	4,92,670	4,83,069	5,23,078
15	On Capital Account	73,527	46,957	41,511	38,780
16	**Total Expenditure (9+12)**	**17,90,783**	**19,78,060**	**20,14,407**	**21,46,735**
17	On Revenue Account (10+13)	1537761	1731037	1734560	1836934
18	Of which, Grants in Aid for Creation of Capital Assets	131754	166840	171472	195350
19	On Capital Account (11+15)	2,53,022	2,47,023	2,79,847	3,09,801
20	**Revenue Deficit (17-1)**	**3,42,736**	**3,54,015**	**3,10,998**	**3,21,163**
		(2.5)	(2.3)	(2.1)	(1.9)
21	**Effective Revenue Deficit (20-18)**	**2,10,982**	**1,87,175**	**1,39,526**	**1,25,813**
		(1.6)	(1.2)	(0.9)	(0.7)
22	**Fiscal Deficit [16-(1+5+6)]**	**5,32,791**	**5,33,904**	**5,34,274**	**5,46,532**
		(3.9)	(3.5)	(3.2)	(3.2)
23	**Primary Deficit (22-14)**	**91,132**	**41,234**	**51,205**	**23,454**
		(0.7)	**(0.3)**	**(0.3)**	**(0.1)**

1 Excluding receipts under Market Stabilisation Scheme

2 Includes draw - down of Cash Balance

Notes:

(i) GDP for BE 2017-2018 has been projected at Rs. 16847455 crore assuming 11.75% growth over the Revised Estimates of 2016-2017 (Rs. 15075429 crore).

(ii) Individual items in this document may not sum up to the totals due to rounding off

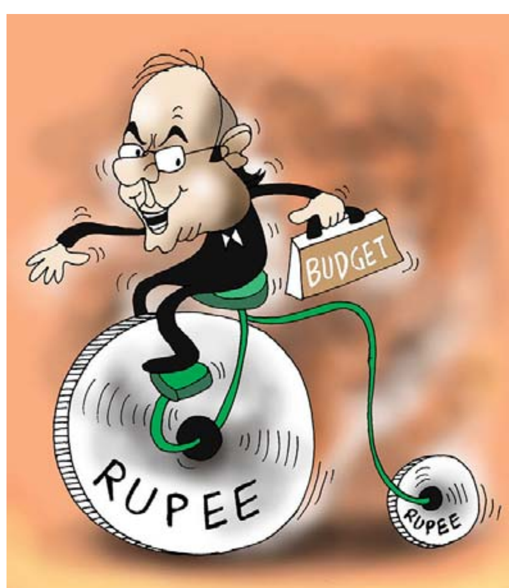
(iii) Figures in parenthesis are as a percentage of GDP

TAX RECEIPTS

The statement below summarized, by broad categories, the estimates of tax revenue receipt over a period. The estimates include the effect of budget proposals.

(Rs. in Crores)

	2013-14 Actual	2014-15 Actual	2015-16 Actual	2016-17 Budget	2016-17 Revised	2017-18 Budget
DIRECT	**6,38,541**	**6,95,744**	**7,52,021**	**8,47,097**	**8,47,097**	**9,80,000**
Income	2,42,856	2,65,733	2,99,051	3,53,174	3,53,174	4,41,255
Corporation	3,94,678	4,28,925	4,52,970	4,93,923	4,93,923	5,38,745
Wealth Tax & Others	1,007	1,086	Nil	Nil	Nil	Nil
INDIRECT	**5,00,191**	**5,49,141**	**7,07,590**	**7,83,791**	**8,56,146**	**9,31,579**
Excise	1,70,197	1,89,952	2,84,142	3,18,670	3,87,369	4,06,900
Customs	1,72,085	1,88,016	2,09,500	2,30,000	2,17,000	2,45,000
Service	1,54,778	1,67,969	2,10,000	2,31,000	2,47,500	2,75,000
Other Taxes	3,131	3,204	3,948	4,121	4,277	4,679
TOTAL	**11,38,732**	**12,44,885**	**14,59,611**	**16,30,888**	**17,03,243**	**19,11,579**
DIRECT (%)	56.07	55.88	51.52	51.94	50.27	51.27
Service Tax to total (%)	13.59	13.49	14.38	14.16	14.53	14.39



EXCERPTS FROM EXPERTS

1) **Shri Narendra Modi (Prime Minister of India)**
From railway modernization to economic reforms, from education to health, from entrepreneurship to industry, the aim at fulfilling the dreams of all is clearly visible in the Budget.

2) **Shri Arun Jaitley (Finance Minister of India)**
My Overall approach, while preparing this Budget, has been to spend more in rural areas, infrastructure and poverty alleviation and yet maintain the best standards of fiscal prudence.

3) **Shri N. Chandrasekaran (Chairman Tata Sons)**
The FM has ensured Indian economy remains on a growth path, combining fiscal responsibility with higher public investments to help accelerate inclusive GDP growth. By harnessing the power of digital, we can plan to bring in more of rural India into the formal economy. There was a clear attempt to make the economy transparent, efficient, and dynamic.

4) **Shri Kumar Mangalam Birla (Chairman Aditya Birla Group)**
The Budget has achieved an admirable balance of consumption-boosting measures, growth-oriented expenditure and yet has maintained fiscal prudence. The record expenditure on infra will surely be a growth booster. The FM has also accorded the much-needed thrust on agri and rural development. This is also the first time that significant measures have been taken to clean up political funding through initiating more transparent processes.

5) **Shri A. Bhattacharya (Chairman SBI)**
Electoral bonds are a novel idea for transparency in political funding. Curbing cash transaction beyond Rs. 3 lakh will reduce cash intensity and help financial sector to broad base activities. Infra status for affordable housing is beneficial.

6) **Shri Uday Kotak (Executive VC & MD Kotak Bank)**
The lower tax rate of 25% will give SMEs additional liquidity for growing business. SME growth also addresses employment generation. Further, NPA provisioning break for taxation increased to 8.5% will provide a boost to the banking sector.

7) **Ms. Chanda Kochhar (MD & CEO ICICI Bank)**
The thrust on e-transactions will increase the size of the formal economy. The tax measures are aimed at improving mobilization by broadening the tax base and improving I-T administration.

8) **Shri Vijay S. Sharma (CEO Paytm)**
The government has focused on the digital theme. We except to see a larger merchant ecosystem for e-payments with massive encouragement through the use of tax benefits, merchant incentives and ability to get unsecured loans.

9) Shri Binny Bansal (Group CEO Flipkart)

It is heartening to see that the FM dedicated an entire section to the promotion of e-economy. Provisions introduced for protection of tax losses and to sweeten the tax holiday regime for startups would provide a further boost.

10) Shri Ganga Banga (VC & MD – Indiabulls Housing Finance)

With infrastructure status bestowed upon the affordable housing segment, the cost of borrowing is expected to reduce for developers, thereby boosting the supply of affordable houses in the country.

11) Shri C. Rangarajan (Former RBI Governor)

It was a fairly routine Budget, in the sense that there have not been many changes on the revenue side. I am happy that the fiscal deficit is maintained at 3.2 percent.

12) Shri Naushad Forbes (President of Confederation of Indian Industry)

We see a significant boost to investment on rural areas, a fillip to MSMEs and continued focus on widening the tax base and creating a more tax compliant economy. The push for autonomy in higher education is the best way to foster quality. This year's excellent economy survey gives us direction not just for next year, but a vision for the next phase in the country's development.

13) Shri Rahul Gandhi (Vice President of Congress)

We expected fireworks, instead got a damp squib. The Budget lacked vision. He did a lot of sher-o-shayari. This government talks so much of being pro-farmer, but did nothing for them.

FINANCE BILL, 2017 – AN INTRODUCTION

Finance Bill

The proposal of government for levy of new taxes, modification of the existing tax structure or continuance of the existing tax structure beyond the period approved by the Parliament are submitted to the Parliament through this bill. It is the key document as far as taxes are concerned.

The Finance Bill, 2017 relating to direct taxes seek to amend the Income-tax Act, 1961 and Finance Act, 2016, in order to provide for-

A. Rates of Income-tax
B. Additional Resource Mobilisation
C. Measures for Promoting Affordable Housing and Real Estate Sector
D. Measures for Stimulating Growth
E. Promoting Digital Economy
F. Transparency in Electoral Funding
G. Ease of doing Business
H. Anti-abuse Measures
I. Rationalisation Measures
J. Benefit for NPS subscribers

INCOME TAX PROVISIONS

In this chapter, we have dealt with the proposed amendments to Income Tax Act, 1961 (hereinafter referred to as "the Act") by Finance Bill, 2017 (hereinafter referred to as Bill). We have made references from Notes on Clauses and Memorandum explaining the provisions of the Bill.

In this study note, we have made an attempt to put related amendments under one topic head and reference of the same is given at appropriate places.

1. Effective Dates:

- The amendments in income tax provisions are proposed to be effective from 1st April, 2018 relevant to the Assessment Year 2018–2019 unless otherwise specified.

- The amendments proposed in procedural section are effective for the proceedings taken on or after the date as specified.

- The amendments made in substantive sections are effective from the first day of the Assessment Year from which it is proposed to be effective.

2. Rates of Taxes:

a) There is no change in basic limit and slab rates for the financial year 2017-18 relevant to Assessment Year 2018-19 for all categories of tax payers; however there is

a change in the rate of the tax in case of Individual, Hindu undivided family, association of persons, body of individuals, artificial juridical person.

For Individual and HUF:-

Existing		Proposed	
Taxable income	**Rate of tax**	**Taxable income**	**Rate of tax**
Upto Rs. 2,50,000	NIL	Upto Rs. 2,50,000	NIL
Rs. 2,50,001 to Rs. 5,00,000	10% on amount exceeding 2,50,000	Rs. 2,50,001 to Rs. 5,00,000	5% on amount exceeding 2,50,000
Rs. 5,00,001 to Rs. 10,00,000	Rs. 25,000/- + 20% on amount exceeding Rs. 5,00,000/-	Rs. 5,00,001 to Rs. 10,00,000	Rs. 12,500/- + 20% on amount exceeding Rs. 5,00,000/-
Above Rs. 10,00,000	Rs. 1,25,000/- + 30% on the amount exceeding Rs. 10,00,000/-	Above Rs. 10,00,000	Rs. 1,12,500/- + 30% on the amount exceeding Rs. 10,00,000/-

Individual who is of the age of 60 years or more but less than 80 years:-

Existing		Proposed	
Taxable income	**Rate of tax**	**Taxable income**	**Rate of tax**
Upto Rs. 3,00,000	NIL	Upto Rs. 3,00,000	NIL
Rs. 3,00,001 to Rs. 5,00,000	10% on amount exceeding 3,00,000	Rs. 3,00,001 to Rs. 5,00,000	5% on amount exceeding 3,00,000
Rs. 5,00,001 to Rs. 10,00,000	Rs. 20,000/- + 20% on amount exceeding Rs. 5,00,000/-	Rs. 5,00,001 to Rs. 10,00,000	Rs. 10,000/- + 20% on amount exceeding Rs. 5,00,000/-
Above Rs. 10,00,000	Rs. 1,20,000/- + 30% on the amount exceeding Rs. 10,00,000/-	Above Rs. 10,00,000	Rs. 1,10,000/- + 30% on the amount exceeding Rs. 10,00,000/-

Individual who is of the age of 80 years or more:-

Existing		Proposed
Taxable income	**Rate of tax**	
Upto Rs. 5,00,000	NIL	**No Change**
Rs. 5,00,001 to Rs. 10,00,000	20% on amount exceeding Rs. 5,00,000/-	
Above Rs. 10,00,000	Rs. 1,00,000/- + 30% on the amount exceeding Rs. 10,00,000/-	

b) There is a change in rate of surcharge for the financial year 2017-18 relevant to Assessment Year 2018-19 in the case of individual, HUF, AOP and BOI. The changes proposed in rate of surcharge are as under:

Existing			Proposed
Type of Tax Payer	**Income at which surcharge is leviable**	**Rate of Surcharge**	**Rate of Surcharge**
Individual, HUF, AOP, BOI	Rs. 50 Lakhs to Rs. 1 crore	Nil	10%
	Rs. 1 crore	15%	No change
Firms	Rs. 1 crore	12%	No change
Co-op Society	Rs. 1 crore	12%	No change
Local Aurthority	Rs. 1 crore	12%	No change

Existing			Proposed
Domestic Company:			
Income	Rs. 1 crore	7%	No change
Income	Rs. 10 crore	12%	
Foreign Company:			
Income	Rs. 1 crore	2%	
Income	Rs. 10 crore	5%	

The above rate of surcharge is applied on tax amount. Provisions for marginal relief are provided.

c) When taxable income will exceed Rs.50,00,000, the surcharge will be leviable on tax on total income. On incremental every Rs.1,00,000, the tax amount (by way of surcharge and cess there on) will increased by Rs.3,090/- along with surcharge on tax on first Rs.50,00,000/-.

d) The education cess at the rate of 2% and secondary and higher education cess at the rate of 1% shall continue to be levied in all cases.

TABLE FOR PERSONAL TAXATION

	All Individuals other than resident senior citizen			Resident Senior Citizen (Age 60 years or more but less than 80 years)			Very Senior Citizen (Resident) (Age above 80 years)		
Taxable Income	Pre-Budget	Post Budget	Savings in Tax	Pre-Budget	Post Budget	Savings in Tax	Pre-Budget	Post Budget	Savings in Tax
(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)	(Rs.)
2,50,000	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
4,00,000	10,450	7,725	2,725	5,300	5,150	150	Nil	Nil	Nil
4,50,000	15,600	10,300	5,300	10,450	7,725	2,725	Nil	Nil	Nil
5,00,000	20,750	12,875	7,875	15,600	10,300	5,300	Nil	Nil	Nil
7,00,000	66,950	54,075	12,875	61,800	51,500	10,300	41,200	41,200	Nil
8,00,000	87,550	74,675	12,875	82,400	72,100	10,300	61,800	61,800	Nil
10,00,000	1,28,750	1,15,875	12,875	1,23,600	1,13,300	10,300	1,03,000	1,03,000	Nil
15,00,000	2,83,250	2,70,375	12,875	2,78,100	2,67,800	10,300	2,57,500	2,57,500	Nil
20,00,000	4,37,750	4,24,875	12,875	4,32,600	4,22,300	10,300	4,12,000	4,12,000	Nil
25,00,000	5,92,250	5,79,375	12,875	5,87,100	5,76,800	10,300	5,66,500	5,66,500	Nil
50,00,000	13,64,750	13,51,875	12,875	13,59,600	13,49,300	10,300	13,39,000	13,39,000	Nil
60,00,000	16,73,750	18,26,963	(1,53,213)	16,68,600	18,24,130	(1,55,530)	16,48,000	18,12,800	(1,64,800)
75,00,000	21,37,250	23,36,813	(1,99,563)	21,32,100	23,33,980	(2,01,880)	21,11,500	23,22,650	(2,11,150)
80,00,000	22,91,750	25,06,763	(2,15,013)	22,86,600	25,03,930	(2,17,330)	22,66,000	24,92,600	(2,26,600)
1,00,00,000	29,09,750	31,86,563	(2,76,813)	29,04,600	31,83,730	(2,79,130)	28,84,000	31,72,400	(2,88,400)
1,10,00,000	37,01,563	36,86,756	14,806	36,95,640	36,83,795	11,845	36,71,950	36,71,950	Nil

The education cess is leviable on the amount of tax and surcharge. No marginal relief shall be available in respect of such Cess.

e) **Rate of tax for Co-operative Societies continues to be same. There is no change in rate of surcharge. The effective rates for Financial Year 2017-18 (Assessment Year 2018-19) are as under:**

Total Income	Income tax	Surcharge	Education cess	Total
	%	%	%	%
For income upto Rs. 10,000/-	10	Nil	3	10.30
For income exceeding Rs. 10,000/- but does not exceeding Rs. 20,000/-	20	Nil	3	20.60
For income exceeding Rs. 20,000/-	30	Nil	3	30.90

A surcharge of 12% is applicable if income exceeds Rs. 1 crore. Marginal Relief is available.

f) **Rate of tax for Firms, LLP, Local authorities, Company - domestic and Company - foreign continues to be the same. In the case of domestic companies two categories are proposed to be added. The effective rates for Financial Year 2017-18 (Assessment Year 2018-19) are as under:**

	Income tax %	Surcharge %	Education cess %	Proposed Effective Rate %	Existing effective rate %
Firm, Local authorities (including LLP)					
For income upto Rs. 1 crore	30	Nil	3	30.90	30.90
For income exceeding Rs. 1 crore	30	12	3	34.61	34.61
i. For Companies incorporated on or after 01.03.2016 subject to conditions by Finance Act,2016 specified u/s 115BA (Note 1)	25	Nil	3%	25.75	25.75

ii. For Companies where total turnover or gross receipts of the previous year 2015-16 does not exceed Rs. 50 crores (Note 1)	25	Nil	3	25.75	30.90
iii. For Companies where total turnover or gross receipts of the previous year 2014-15 does not exceed Rs. 5 crores (for AY 2017-18) (Note 2)	29	Nil	3	--	29.87
iv. Others a) For income upto Rs. 1 crore	30	Nil	3	30.90	30.90
b) For income exceeding Rs. 1 crore but does not exceeding Rs. 10 crore	30	7	3	33.06	33.06
c) For income exceeding Rs. 10 crore	30	12	3	34.61	34.61

Notes:

1) Surcharge will be applicable depending on the Total Income of the Company.

2) There is no amendment in this but it seems this provision gets merged with the amendment made as per clause (ii) above.

	Income tax **%**	**Surcharge** **%**	**Education cess** **%**	**Proposed Effective Rate** **%**	**Existing effective rate** **%**
Company – Foreign					
For income upto Rs. 1 crore	40	Nil	3	41.20	41.20
For income exceeding Rs. 1 crore but does not exceeding Rs. 10 crore	40	2	3	42.03	42.03
For income exceeding Rs. 10 crore	40	5	3	43.26	43.26

In case of company assessee, applicable tax rate will be applied on total income and no slab wise calculation is required to be made.

In an interview post budget Shri Hasmukh Adhia, Revenue Secretary has stated as under:

The Budget has cut corporation tax on micro, small and medium enterprises by five percentage points. But, bigger companies are not given that relief. According to a road map announced by the finance ministry, only one Budget is left to announce a similar cut for bigger corporate. Will that be announced?
We won't be able to give any specific promise. But, yes it will be done gradually. The finance minister had also said we plan to phase out all exemptions and gradually reduce corporation tax. We decided to phase out some exemptions from April 1, 2017. We have also grandfathered them. So, benefits from phase out of exemptions are not going to come to the government immediately. So, the question is do we reduce corporation tax by increasing personal income tax, or indirect taxes or do we wait to see when we can afford to do that.

But, what about investments that may not come due to higher corporation tax rate vis-à-vis our competitors?
Last year, the finance minister had said any new companies coming in manufacturing and availing no exemptions, will be taxed at 25 percent from the first year itself. So, new investments are not going to be affected. One percent reduction in corporation tax rate for all companies will be a Rs. 19,000 crore hit for the exchequer.

If this is to be taken as a hint, the companies having turnover more than Rs. 50 crores are not likely to get reduction in tax rate in near future.

g) **Rate of MAT / AMT**

The existing MAT and AMT of 18.5% continues to be same for Financial Year 2017-18. The effective rates under the MAT and AMT for the Financial Year 2017-18 relevant to Assessment Year 2018-19 would be as under:

Particulars	Basic Rate %	Sur-charge %	Cess %	Proposed Effective Rate %	Existing effective rate %
Domestic Company (MAT)					
For income upto Rs. 1 crore	18.5	Nil	3	19.055	19.055
For income exceeding Rs. 1 crore but does not exceeding Rs. 10 crore	18.5	7	3	20.39	20.39
For income exceeding Rs. 10 crore	18.5	12	3	21.34	21.34
Company – Foreign (MAT)					
For income upto Rs. 1 crore	18.5	Nil	3	19.055	19.055
For income exceeding Rs. 1 crore but does not exceeding Rs. 10 crore	18.5	2	3	19.43	19.43

For income exceeding Rs. 10 crore	18.5	5	3	20.01	20.01
<u>Person other than a company (AMT)</u>					
For income upto Rs. 1 crore	18.5	Nil	3	19.055	19.055
For income exceeding Rs. 1 crore	18.5	12	3	21.34	21.34

(Also please refer Para 46 below)

h) **Rate of income / dividend distribution tax and other rate of tax:**
In other cases (including Sections 115-O, 115QA or 115R of the Act) the surcharge shall be levied at the rate of twelve percent and the effective rate for the Financial Year 2017-18 would be as under:

Particular	Section	Basic Rate %	Sur-charge %	Cess %	Proposed Effective Rate %	Existing effective rate %
Dividend Distribution Tax:						
<u>On Shares:</u>	115-O	17.647	12	3	20.36	20.36
<u>On Mutual Funds</u>:	115-R					
Equity Oriented Funds		Nil	Nil	Nil	Nil	Nil
Other Mutual Funds						
(i) Individual or HUF		33.33	12	3	38.45	38.45
(ii) Other Tax Payers		42.86	12	3	49.44	49.44

Under Section 115-R tax on income distributed to non-resident or foreign company by Mutual Fund under an Infrastructure Debt scheme would be 5.665% (inclusive of applicable surcharge and education cess).

3. Securities Transaction Tax (‘STT’):
There is no change proposed in the rate of STT for the Financial Year 2017-18 relevant to Assessment Year 2018-19.

4. Rate of Tax Deduction at Source (‘TDS’):

a) Under the scheme of deduction of tax at source as provided in the Act, every person responsible for payment of any specified sum to any person is required to deduct tax at source at the prescribed rate and deposit it with the Central Government within specified time. However, no deduction is required to be made if the payments do not exceed prescribed threshold limit.

b) In order to rationalize the rates and base for TDS provisions, the existing threshold limit for deduction of tax at source and the rates of deduction of tax at source are proposed to be revised as mentioned in Table 1 and Table 2 respectively.

c) Some amendments have been proposed in TDS provisions and the same are summarized here in below:

d) Insertion of new sections:

Sections	Nature of Payments	Proposed Threshold Limit (Rs.)	Proposed Rate of the Tax Deduction	Insertion w.e.f
194- IB	Individual /HUF paying rent to resident [Refer Notes (i) to (iv)]	50,000 per month or a part of the month	5%	01/06/17
194-IC	Payments under a Joint Development Agreement [Refer Note (v)]	No threshold limit	10%	01/04/17

Notes:

i) The provisions of Section 203A of the Act shall not apply.

ii) The provisions of Section 206AA of the Act shall apply subject to the rent payable for the last month of the previous year or last month of the tenancy.

iii) This provision is proposed to be introduced only for payers who are Individuals/HUF and are not subject to tax audit in the earlier year.

iv) New section 194IB:
The TDS requirement does exist at present but only for individuals and Hindu Undivided Families (HUFs) who need to get their books of accounts audited under Section 44AB of the Income-Tax (I-T) Act. Such assessees need to deduct tax if the yearly rent is more than Rs. 1.8 lakh. But, the majority of business owners and HUFs don’t need to get their books audited. Salaried individuals, too, have no such requirement. Most tenants, therefore, didn’t have to worry about TDS until now

The proposed amendment provides for TDS for rent payment by adding a new Section 194-IB to the I-T Act. This brings into the fold even those individuals and HUFs who are not covered by the requirement of tax audit under Section 44AB.

While those who get their books audited need to deduct TDS if the annual rent is over Rs. 1.8 lakh, in the new proposal a tenant has to deduct five percent tax if the rent is over Rs. 50,000 a month. The monthly figure is important. Even if you pay a rent of over Rs. 50,000 to an individual for just one month, the TDS provision will get triggered. Even if you rent a house for less than a month paying over Rs. 50,000, the TDS provision will still be applicable. But for those who get their books audited, the limit is annual.

The tax has to be deducted at the time of crediting of rent for the last month of the year or the last month of the tenancy in case the property is being vacated during the year. This is entirely different from the usual way in which tax is deducted. Typically, the deduction has to be made each month. But in the new provisions, it has to be done only in the last month when rent is paid

Also, there is no requirement for the tenant to get a tax deduction account number or TAN.

v) For discussion notes on joint development agreement and section 194-IC, please refer Para 22 below.

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

Section	Nature of Payments	Existing Rate of TDS	Proposed Rate of TDS	Applicable w.e.f
194LA	Payment of Compensation on acquisition of immovable property: - where the payment is made in respect of any award or agreement which is exempt u/s 96 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.	10%	Nil	01/04/2017
194J	Fees for Professional / Technical Service: Only for those who are engaged in business of call centre.	10%	2%	01/06/2017

f) Extension of eligible period.

Section	Nature of Payments	Existing time period before	Proposed extended period before	Applicable w.e.f
194LC	Interest payments by a Indian company (Refer Note below)	01/07/2017	01/07/2020	01/04/2018
194LD	Interest payable to Foreign Institutional Investors and Qualified Foreign Investors	01/07/2017	01/07/2020	01/04/2018

Note: It is proposed to extend the benefit of lower rate of tax @ 5% u/s 194LC to rupee denominated bonds issued outside India with retrospective effect from 1st April, 2016.

g) It is proposed to amend section 197A so as to make them eligible for filing self-declaration in Form.No.15G/15H for non-deduction of tax at source in respect insurance commission referred to in section 194D of the Act.

h) The surcharge would continue to be payable on payments to the Non resident tax payers, as under:

Type of Tax Payer (Non-Resident)	Amount of income paid at which surcharge is leviable	Rate of Surcharge
Other than Company	Rs. 1 crore	12%
Foreign Company:		
Income paid or likely to be paid	Rs. 1 crore	2%
Income paid or likely to be paid	Rs. 10 crores	5%

i) In the case of a resident assessee including domestic company, no surcharge and education cess would be levied on the amount of tax deducted at source. However, surcharge and education cess would be applicable on tax deducted at source in the case of salary payments.

5. Period of holding for Capital gains [Section 2(42A)]:

Section 2(42A) of the Act deals with definition of Short Term Capital Assets.

Existing Provision	Proposed Amendment
The existing provisions contained in clause (42A) of the section 2 of the Act defines the expression "short-term capital asset" to be a capital asset held by an assessee for not more than thirty-six months immediately preceding the date of its transfer.	It is proposed to amend the third proviso to the said clause so as to provide that in the case of an immovable property being land or building or both, the aforesaid period of holding shall be less than twenty-four months for it to be treated as short term capital asset.

Last year, the Finance Act, 2016 amended this section to provide that in case of shares of a company (not being a share listed in a recognized Stock Exchange in India) it will be a short term capital asset if it is held by an assessee for not more than 24 months immediately preceding the date of its transfer. Current year Bill proposes the similar amendment in case of immoveable property being land or building or both. Thus, after the current year's Bill is enacted, the provision for calculation of short term asset will be as under:

Nature of Asset	**Period of holding for being a short term capital asset**
Shares of a listed company	Not more than 12 months
Shares of a Company not being shares listed on a recognized Stock Exchange in India	Not more than 24 months.
Units of Mutual Funds- Equity Oriented (STT paid)	Not more than 12 months.
Units of Mutual Funds – Debt and Others (non STT paid)	Not more than 36 months.
Immoveable property i.e. land, building or both	Not more than 24 months (now proposed)
Other capital assets	Not more than 36 months.

The tax on transfer of long term capital asset has a favorable tax rate. Long term capital asset means a capital asset which is not a short term capital asset. Thus, it is now proposed that on completion of 24 months, the immovable property will become a long term capital asset and on transfer of the same, lower tax rate will apply.

Further Explanation 1 of Section 2(42A) of the Act is proposed to be amended to insert following two new sub-clauses for determining the period for which the capital asset is held by the assessee:

a) It is proposed to insert a new sub-clause (hf) in Clause (i) of Explanation 1 to section 2(42A) of the Act to provide that in the case of a capital asset being equity shares in a company, which becomes the property of the assessee in consideration of a transfer referred to in clause (xb) of section 47, there shall be included the period for which the preference shares were held by the assessee. This section 47(xb) is also proposed to be introduced by this bill which provides that any transfer by way of conversion of preference shares of a company into equity shares will not be subject to capital gains (please refer Para 23(b) and 25(b) below).

b) It is proposed to insert new sub-clause (hg) in Clause (i) of Explanation 1 to section 2(42A) of the Act to provide that period of holding of the units of consolidated plan of mutual fund scheme shall include the period for which the units in consolidating plan of mutual fund scheme were held by the assessee, as referred to in section 47(xix) of the Act. Finance Act, 2016 amended section 47 of the Act so as to provide tax neutrality to the transfer of units in a consolidating plan of mutual fund scheme made in consideration of the allotment of units in the consolidated plan of that mutual fund scheme.

The present amendment is proposed as a consequence of the amendment made by Finance Act, 2016.

Effective Date:
The amendment is proposed to be made effective from 1st April, 2018 and shall accordingly, apply in relation to assessment year 2018-19 and subsequent years.

Please refer Para 25(c) below.

6. Income deemed to accrue or arise in India [Section 9]:
Section 9 of the Act deals with cases of income which are deemed to accrue or arise in India. Sub-section (1) of the said section creates a legal fiction that certain incomes shall be deemed to accrue or arise in India. Clause (i) of said sub-section (1) provides that all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India, or through the transfer of a capital asset situate in India shall be deemed to accrue or arise in India.

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

In response to various queries raised by stakeholders seeking clarification on the scope of indirect transfer provisions, the CBDT issued Circular No 41 of 2016 dated 21st December, 2016. However, concerns have been raised by stakeholders that the provisions read with circular result in multiple taxation. The Circular was therefore withdrawn by Circular No. 4 dated 20th January, 2017.

Now, it is proposed to amend the section of the Act to clarify that the Explanation 5 shall not apply to any asset or capital asset mentioned therein being investment held by non-resident, directly or indirectly, in a Foreign Institutional Investor, as referred to in clause (a) of the Explanation to section 115AD, and registered as Category-I or Category II Foreign Portfolio Investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, as these entities are regulated and broad based. The proposed amendment is clarificatory in nature.

Effective Date:
This amendment will take effect retrospectively from 1st April, 2012 and will, accordingly, apply in relation to assessment year 2012-13 and subsequent years.

In an interview post budget Shri Hasmukh Adhia, Revenue Secretary has stated as under:

On indirect transfer of assets as well, the Budget has exempted FPIs category I and II, but not others. Others are worried…..

Here again the idea is very clear that it is only the intention of indirect transfer provision of 2012 to tax those gross transactions where transfer of Indian assets takes place outside India. If it is a small investment made by investors in India based funds and once that investment changes hand abroad, we don't want to tax them. If it is an investment in listed securities, then obviously capital gains tax will be paid if Indian securities are sold in portfolio. So valuation of portfolio will take care of that. According to that valuation, if somebody has to pay tax again, it's not fair. All those transactions will not be part of this tax. With proposed amendments, FPIs I and II will be excluded. Also, by notification we will be excluding many others. Basic principle is as long as tax liability is taken care of in Indian transactions, secondary transactions of investors need not be taxed for capital gain again.

7. Modification in conditions of special taxation regime for off shore funds [Section 9A]:

Section 9A(3) of the Act provides for the conditions for the eligibility of the fund. These conditions, inter-alia, are related to residence of fund, corpus, size, investor broad basing, investment diversification and payment of remuneration to fund manager at arm's length.

Existing Provision	Proposed Amendment
In respect of corpus of the fund, the condition is that the monthly average of the corpus of the fund shall not be less than one hundred crore rupees except where the fund has been established or incorporated in the previous year in which case, the corpus of fund shall not be less than one hundred crore rupees at the end of such previous year.	It is proposed to provide that in the previous year in which the fund is being wound up, the condition that the monthly average of the corpus of the fund shall not be less than one hundred crore rupees, shall not apply.

It is stated that the representations have been received stating that in the year in which the fund is being wound up, it would not be possible to maintain the monthly average of the corpus of the fund to an amount which would not be less than one hundred crore rupees as required. In order to rationalise the regime and to address the concerns of the stakeholders, this amendment is proposed in Section 9A(3) of the Act.

Effective Date:

This amendment will take effect retrospectively from 1st April, 2016 and shall apply to the assessment year 2016-17 and subsequent years.

8. Incomes not included in total income [Section 10 and 10AA]:

In computing the total income of a previous year of any person, any income falling under following clauses mentioned in section 10 of the Act shall not be included:

a) **Income by way of interest on Non Resident External Account in any Bank in India [Section 10(4)]:**

Existing Provision	Proposed Amendment
Sub-clause (ii) of clause (4) of the said section refers to any income of an individual by way of interest on moneys standing to his credit in a Non-Resident (External) Account in any bank in India in accordance with the Foreign Exchange Management Act, 1999 (42 of 1999), and the rules made there under. The proviso to the said sub-clause refers individual to be a person resident outside India, as defined in clause (q) of section 2 of the Foreign Exchange Management Act, 1999.	It is proposed to amend sub-clause (ii) of clause (4) to refer clause (w) of section 2 of the Foreign Exchange Management Act, 1999 as the definition of the expression person resident outside India is under clause 2(w) of the said Act.

Effective Date:
This amendment will take effect retrospectively from 1st April, 2013 and will accordingly apply in relation to A.Y. 2013-14 and subsequent assessment years.

b) **Partial withdrawal from National Pension System Trust [Section 10(12B)]:**
Clause (12A) of the section 10 of the Act provides exemption up to 40% of the total amount payable from National Pension System Trust paid to an employee at the time of closure or his opting out of the scheme.

It is proposed to insert a new clause (12B) in the said section so as to provide exemption from tax at the time of partial withdrawal by an employee from National Pension System Trust in accordance with the terms and conditions specified under Pension Fund Regulatory Development Authority Act, 2013 and regulations made thereunder, to the extent it does not exceed 25% of the amount of contributions made by him.

Effective Date:
This amendment will take effect from 1st April, 2018 and will, accordingly, apply in relation to assessment year 2018-2019 and subsequent years.

c) **Income of certain funds [Section 10(23C)]:**
The provisions contained in clause (23C) of the said section, provide exemption in respect of income of certain funds which, inter alia, include, the Prime Minister's National Relief Fund. However, income in the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund referred to in sub- clause (iiihf) of clause (a) of sub-section (2) of section 80G, are not exempt under the said clause (23C) of section 10 of the Act.

It is proposed to insert a new sub-clause (iiiaaaa) in clause (23C) so as to provide the benefit of exemption of Income also to the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund.

Effective Date:
This amendment will take effect retrospectively from 1st April, 1998 and will accordingly apply in relation to A.Y. 1998-99 and subsequent assessment years.

d) **Donations not to be treated as Application of income of certain funds for the purpose of its objects [Section 10(23C) and Section 11]:**
As per the existing provisions of the Act, donations made by a trust to any other trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, except those made out of accumulated income, is considered as application of income for the purposes of its objects.

Similarly, donations made by entities exempted under sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 to any trust or institution registered under section 12AA, except those made out of accumulated income, is also considered as application of income for the purposes of its objects.

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

It is proposed to insert a new proviso in clause (23C) of Section 10 of the Act to provide restriction in respect of any amount credited or paid out of income, being voluntary contributions with specific direction that they shall form part of the corpus, to any trust or institution registered under section 12AA by not treating the said contribution of amount as application of income to the objects of such entities.

It is also proposed to insert a new Explanation to section 11 of the Act to provide that any amount credited or paid, out of income referred to in clause (a) or clause (b) of sub-section (1) of section 11, being contributions with specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income.

Lets take an example, an industry house has a charitable trust with a good source of income on its funds accumulated over the years. Its not possible to carry out all the activities in one trust. So, they decide to establish smaller trust for carrying out specific charitable activity at different locations. To make these smaller trusts self reliant, the bigger trust proposes to give a good amount of donation as a corpus to this smaller trust with an intent that from the income of this corpus they will be able to carry out the specified charitable purpose.

With this proposed amendment, the amount given as a donation by the bigger trust to the smaller trust will not amount to application of income and consequently, the bigger trust will be subject to tax. This will hamper pursuing of charitable activities in general.

If some people are misusing the existing provisions, the Assessing Officer should catch them and not punish the charity at large.

If we look at macro level, why the industry houses need to carry out charitable objects, such as, building and maintaining and running schools, hospitals, medical facilities, etc., etc. The government has not yet been able to make publicly available these facilities of a reasonably good standard at an affordable price and hence these people come forward to help the society. Is it correct to bring in proposals which come in the way of charity for the sake of punishing few misusers of the provisions?

Effective Date:
This amendment will take effect from 1st April, 2018 and will accordingly apply in relation to A.Y. 2018-19 and subsequent assessment years.

e) **Tax incentive for the development of capital of Andhra Pradesh [Section 10(37A) and Section 49]:**

It is proposed to insert a new clause (37A) in section 10 to provide that in respect of an individual or Hindu undivided family who was the owner of such land as on 2nd June, 2014, and has transferred such land under the land pooling scheme notified under the provisions of Andhra Pradesh Capital Region Development Authority Act, 2014, capital gains arising from following transfer shall not be chargeable to tax under the Act:

- Transfer of capital asset being land or building or both, under land pooling scheme.
- Sale of LPOCs by the said persons received in lieu of land transferred under the scheme.
- Sale of reconstituted plot or land by said persons within two years from the end of the financial year in which the possession of such plot or land was handed over to the said persons.

It is proposed to insert a new sub-section (6) in the section 49 of the Act so as to provide that where the capital gain arises from the transfer of specified capital asset referred to in clause (c) of the Explanation to clause (37A) of section 10, received under the Land Pooling Scheme covered under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015 made under the provisions of Andhra Pradesh Capital Region Development Authority Act, 2014 and the rules, regulations and schemes made under the said Act, which has been transferred after the expiry of two years from the end of the financial year in which the possession of such specified capital asset was handed over to the assessee, the cost of acquisition of that specified capital asset shall be deemed to be the stamp duty

value of the said specified capital asset as on the last day of the second financial year after the end of the financial year in which the possession of the said specified capital asset was handed over to the assessee.

Effective Date:
This amendment will take effect from 1st April, 2018 and will accordingly apply in relation to A.Y. 2018-19 and subsequent assessment years.

f) **Long term capital gain [Section 10(38)]:**

Existing Provision	Proposed Amendment
Under the existing provisions of the Section 10(38) of the Income-tax Act, 1961, the income arising from a transfer of long term capital asset, being equity share of a company or a unit of an equity oriented fund, is exempt from tax if the transaction of sale is undertaken on or after 1st October, 2014 and is chargeable to Securities Transaction Tax under Chapter VII of the Finance (No.2) Act, 2004.	It is proposed to amend the said clause (38) so as to provide that any income arising from the transfer of a long term capital asset, being an equity share in a company shall not be exempted, if the transaction of acquisition, other than the acquisition notified by the Central Government in this behalf, of such equity share is entered into on or after the 1st day of October, 2004 and such transaction is not chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004.

The Memorandum explaining the provision of the Bill states that to protect the exemption for genuine cases where the Securities Transactions Tax could not have been paid like acquisition of share in IPO, FPO, bonus or right issue by a listed company acquisition by non-resident in accordance with FDI policy of the Government etc., it is also proposed to notify transfers for which the condition of chargeability to Securities Transactions Tax on acquisition shall not be applicable.

Thus, to qualify for tax exemption on sale of listed shares through recognized stock exchanged, it is necessary that STT should have been paid on both the end i.e., at the time of purchase as well as at the time of sale. The proposed amendment covers purchases made from October 2004. This is going to create a lot of issues. In most of the cases the assessee will not be having any purchase records readily available with him leading to more litigation even though he might have paid STT at the time of purchase. Also, does it mean wherever the old records are not available or otherwise, the assessee should sell the shares before 31st March, 2017 before this amendment is made applicable.

Effective Date:
This amendment will take effect from 1st April, 2018 and will accordingly apply in relation to A.Y. 2018-19 and subsequent assessment years.

In an interview post budget Shri Hasmukh Adhia, Revenue Secretary has stated as under:

Private equity players and those holding stock options are worried that the government is after them following imposition of long term capital gain tax (LTCGT) if securities transaction tax is not imposed on them after 2004. Are their worries genuine?
We are not targeting genuine allotment of shares made by listed or unlisted companies. The provision has been brought in for "khoka (shell)" companies misusing the provisions of LCGT by investing in unlisted companies first and then artificially jacking up their prices, then listing it and getting benefit of LCGT.

But, how will the concerns of private equity players and others be addressed?
These will be tackled because we have powers to exempt certain kinds of transactions. We will use that power. Nobody needs to worry about this. Let people write to us, whatever are the genuine class of investments that we need to exclude, we may make a final list and exclude them. Most of the start-up investments coming through FDI (foreign direct investment) route will be exempt from the requirement of paying securities transaction tax at the time of purchase for availing long term capital gains and also domestic investment made in eligible start-ups.

g) **Income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India [Section 10(48)]:**

Existing Provision	Proposed Amendment
Clause (48A) of section 10 provides that any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India shall be exempt, if the said storage and sale is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; and having regard to the national interest, the said foreign company and the said agreement or arrangement is notified by the Central Government in that behalf. The benefit of exemption presently is not available to sale out of the leftover stock of crude after the expiry of said agreement or the arrangement.	It is proposed to insert a new clause (48B) in section 10 so as to provide that any income accruing or arising to a foreign company on account of sale of **leftover stock of crude oil**, if any, from a facility in India after the expiry of an agreement or an arrangement referred to in clause (48A) of section 10 of the Act shall also be exempt subject to such conditions as may be notified by the Central Government in this behalf.

The amendment is proposed to benefit such projects so as to augment its Strategic petroleum reserve.

Effective Date:
This amendment will take effect from 1st April, 2018 and will accordingly apply in relation to A.Y. 2018-19 and subsequent assessment years.

h) **Special provisions in respect of newly established Units in Special Economic Zones [Section 10AA]:**
Under the existing provisions of the section 10AA, deduction is allowed from the total income of an assessee, in respect of profits and gains from his Unit operating in SEZ, subject to fulfillment of certain conditions.

Section 10AA allows deduction in computing the total income of the assessee, hence the deduction is to be allowed for the total income of the assessee as computed in accordance with the provision of the Act before giving effect to the provisions of section 10AA. However, courts have taken a view (while deciding the matter pertaining to section 10A which also contains similar provision) that the deduction is to be allowed from the total income of the undertaking and not from the total income of the assessee.

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

Effective Date:
This amendment will take effect from 1st April, 2018 and will accordingly apply in relation to A.Y. 2018-19 and subsequent assessment years.

9. Income of a Trust [Section 11]:
It is proposed to insert a new Explanation 2 in respect of giving of corpus donation to another trust.

Please refer Para 8(d) above.

10. Conditions for applicability of Section 11 and Section 12 [Section 12A]:
It is proposed to insert a new clause (ab) in sub-section (1) of said section so as to provide another condition for applicability of sections 11 and 12, where a trust or an institution has been granted registration under section 12AA of the Act or has obtained registration at any time under section 12A of the Act [as it stood before its amendment by the Finance (No. 2) Act, 1996], and, subsequently, it has adopted or undertaken modification of the objects which do not conform to the conditions of registration, it shall be required to make an application for registration in the prescribed form and manner, within a period of thirty days from the date of such adoption or modification in the objects, and that it is registered under section 12AA of the Act.

It is also proposed to insert a new clause (c) in sub-section of the said section so as to provide that the person in receipt of the income shall furnish the return of income referred to in sub-section (4A) of section 139 within the time allowed under that section.

Effective Date:
This amendment will take effect retrospectively from 1st April, 2018 and shall apply to the assessment year 2018-19 and subsequent years.

The Income Tax Appellate Tribunal Mumbai in the case of Board of Control for Cricket in India reported in 136 ITD 301 has held as under:

> "To sum up, it is opined that the registration granted under section 12A, and the benefits flowing therefrom, cannot be extended to the amended objects of the society unless the Director of Income-tax examines the same and comes to a conclusion that the registration under section 12A, can be extended to the revised objects, memorandum and by-laws. It would be illogical to hold that once an institution is registered under section 12A, no matter whatever may be the changes in the objects, rules and regulations, for any number of times, the institution should be given the benefit of sections 11 to 13 of the Act, in view of the original registration granted under section 12A. The assessee-society should approach the registering authority with the changes and amendments so that the authorities could examine as to whether the amendments in question meet the requirement of law. Since the stand of the revenue, as already stated, is that the letter dated 18-11-2009, is only advisory in nature and is not an exercise of a statutory power and that it is not a withdrawal or cancellation of registration under section 12A, the appeal is not maintainable under section 253."

The proposed amendment is in line of this decision.

11. Special Provisions relating to incomes of Political Parties [Section 13A]:
Transparency in Electoral funding is one of the objective of this Finance Bill 2017.

The existing provisions of section 13A of the Act, inter-alia provides that political parties that are registered with the Election Commission of India, are exempt from paying income-tax. To avail the exemption, the political parties are required to submit a report to the Election Commission of India as mandated under sub-section (3) of section 29C of the Representation of the People Act,1951 (43 of 1951) furnishing the details of contributions received by a political party in excess of Rs.20,000 from any person. However, under existing provisions of the Act, there is no restriction of receipt of any amount of donation in cash by a political party.

Secondly, a political party is also required to file its return of income under section 139(4B) of the Act, if its income exceeds the maximum amount not chargeable to tax (without considering the exemption under section 13A). However, filing of the return is not a condition precedent for availing exemption under the said section.

Existing Provision	Proposed Amendment
Section 13A of the Act, inter alia, provides that any income of a political party which is chargeable under the head "Income from house property" or" Income from other sources" or "Capital gains" or any income by way of voluntary contributions received by a political party from any person shall be excluded in computing the total income of the previous year of such political party subject to the conditions that: • such political party keeps and maintains such books of account and other documents, • maintains a record of voluntary contribution in excess of twenty thousand rupees • the accounts are audited by an accountant as defined in the Explanation below sub-section (2) of section 288 and furnishes a report under sub-section (3) of section 29C of the Representation of the People Act,1951 to the Election Commission.	It is proposed to amend the said section so as to further provide, inter alia, that political party shall be eligible for exemption of income-tax under section 13A if, • no donation exceeding two thousand rupees is received otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through electoral bond; • it furnishes a return of income for the previous year in accordance with the provisions of sub-section (4B) of section 139 on or before the due date as per section 139. It is further proposed to provide that any contributions received by way of electoral bond shall be excluded from reporting as per clause (b) of said section.

“Electoral bond” means a bond referred to in the Explanation to sub-section (3) of section 31 of the Reserve Bank of India Act, 1934.

It is further explained in the Memorandum that to address the concern of anonymity, the political parties shall not be required to furnish the name and address of the donors who contribute by way of Electoral Bond.

In an interview post budget Shri Shaktikanta Das, Economic Affairs Secretary has stated as under:

> **Could you elaborate on the proposed electoral bonds?**
> Electoral bonds will provide anonymity to the donor, which will not lead to misuse and money laundering. These have to be purchased through a cheque or digital means. That bond acquires value when it is deposited into a declared bank account by a political party. These can change hands but the value is only realized when these are deposited. These are bearer bonds; face value is the final value. These can’t be traded and carry no interest.

What about the worry that if the Reserve Bank and banks have the details of those purchasing these, the party forming the central government could also access that data?
Under the banking laws, there is secrecy. Just because we ask for the list of depositors, the banks are not going to give it. Say, if the enforcement directorate is investigating a case of money laundering, it can write to the banks and get details of particular transactions of the person being investigated. Otherwise, getting such details will be violative of the banking secrecy laws.
(Source: Business Standard dated 3rd February, 2017)

Effective Date:
This amendment will take effect from 1st April, 2018 and shall apply to the assessment year 2018-19 and subsequent years.

12. Annual Value of House Property [Section 23]:
Section 23 of the Act provides for the manner of determination of annual value of house property.

It is proposed to amend the said section so as to provide that where the house property consisting of any building and land appurtenant thereto is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period upto one year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be nil.

The ready flats (building and land appetent thereto) are generally stock-in-trade for a builder. The stock in trade is meant for sale.

During interim period of completion of construction and sale, sometime the premises are given on rent. The issue arises is whether the rental income is assessable under the head “Business income”. It is a debatable issue.

The Hon’ble High Court of Gujarat in the case of Neha Builders Pvt. Ltd. reported in 296 ITR 661 has held that - “True it is, that income derived from the property would always be termed as ‘income’ from the property, but if the property is used as ‘stock-in-trade’, then the said property would become or partake the character of the stock, and any income derived from the stock, would be ‘income’ from the business, and not income from the property. If the business of the assessee is to construct the property and sell it or to construct and let out the same, then that would be the ‘business’ and the business stocks, which may include movable and immovable, would be taken to be ‘stock-in-trade’, and any income derived from such stocks cannot be termed as ‘income from property’.”

The Delhi High Court in the case of Ansal Housing and Construction reported in 389 ITR 373 has taken a different view. The Hon’ble High Court of Delhi has held that the assessee engaged in business of construction of house property, would be liable to pay tax on Annual Letting Value of flats lying unsold during year.

The debate is not yet settled.

Another connected issue with it is when such stock-in-trade is lying idle and no actual rent is received, whether an assessee is liable to pay tax on notional rent receivable on the same. The concept of including notional rent in total income is there under the head “Income from House Property” and not under the head “Business income”. The debate and litigation is on.

As some Court has taken a view that on such stock in trade also, notional rent is required to be added to total income, in assessment proceedings for A.Y. 2013-14 and A.Y. 2014-15, the department has made addition on this account. So the department has now conclusively assumed that issue is settled and notional income is taxable in respect of such stock in trade under the head “Income from House Property”.

Tax dept looks to augment revenue from top biz houses

NEW I-T STRATEGY

- Chief commissioners to closely monitor 6,000 top corporates. Cases of scrutiny to be closely watched. Already they contribute about 90% of total corporate tax collection
- Top I-T officials have been given task of collecting Rs 43,000cr of dividend distribution tax in the current year. Officials asked to monitor BSE website about dividend declaration by companies
- In case of real estate firms, I-T men have been asked to ensure that vacant flats in stock-in-trade are taxed as income from house property
- Interest income earned on fixed deposits by large clubs and income from room rentals is now to be taxed
- To identify ‘suitable’ cases for survey to mop up revenue this means more business houses and high net worth individuals suspected of tax evasion could face I-T survey
- ‘Widening & deepening’ of tax base on high priority: This means I-T officials have to brin in more people under tax net

Under this background to give a relief to real estate developers this amendment is proposed.

With due respect, it is stated that whether for such stock in trade, notional rent is includible in total income or not is still a debatable issue.

By showing that a relief is granted indirectly, it is confirming that notional rent on property lying in stock in trade is chargeable to tax.

Effective Date:
This amendment will take effect from 1st April, 2018 and shall apply to the assessment year 2018-19 and subsequent years.

13. Deduction in respect of expenditure on specified business [Section 35AD]:
The existing provisions of section 35AD of the Act provides that deduction in respect of the whole of any expenditure of capital nature incurred, wholly and exclusively, for the purposes of any specified business carried on during the previous year in which such expenditure is incurred, is allowed to an assessee.

Existing Provision	Proposed Amendment
Clause (f) of sub-section (8) of the said section provides for exclusion of any expenditure incurred on the acquisition of any land or goodwill or	It is proposed to amend the said clause (f) so as to provide additional condition that any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank

financial instrument from the purview of expenditure of capital nature accordingly, not be allowed as deduction.	or an account payee bank draft or use of electronic clearing system through a bank account, exceeds ten thousand rupees, no deduction shall be allowed in respect of such expenditure also.

Effective Date:
This amendment will take effect from 1st April, 2018 and shall apply to the assessment year 2018-19 and subsequent years.

Also please refer Para 16 below

14. Other deductions [Section 36]:
The existing provisions of sub-clause (a) of section 36(1)(viia) of the Act, inter-alia provides that a scheduled bank (not being a bank incorporated by or under the laws of a country outside India) or a non-scheduled bank or a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank, can claim deduction in respect of provision for bad and doubtful debts.

Existing Provision	Proposed Amendment
The amount of such deduction is limited to seven and one-half percent of the total income (computed before making any deduction under that clause and Chapter VIA) and an amount not exceeding ten percent of the aggregate average advances made by the rural branches of such bank computed in the prescribed manner at the end of the previous year.	It is proposed to amend the said sub-clause to enhance the present limit from seven and one-half percent to eight and one-half percent of the amount of the total income (computed before making any deduction under that clause and Chapter VIA). All other terms and conditions remains the same.

Effective Date:
This amendment will take effect retrospectively from 1st April, 2018 and shall apply to the assessment year 2018-19 and subsequent years.

15. Expenses or payments not deductible in certain circumstances [Section 40A]:
The existing provision of sub-section (3) of Section 40A of the Act, provides that any expenditure in respect of which payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, shall not be allowed as a deduction. Further, sub-section (3A) of section 40A also provides for deeming a payment as profits and gains of business of profession if the expenditure is incurred in a particular year but the payment is made in any subsequent year of a sum exceeding twenty thousand rupees otherwise than by an account payee cheque drawn on a bank or account payee bank draft.

In order to disincentivise cash transactions, it is proposed to amend the provision of section 40A of the Act to provide the following:

(i) To reduce the existing threshold of cash payment to a person from twenty thousand rupees to ten thousand rupees in a single day; i.e any payment in cash above ten thousand rupees to a person in a day, shall not be allowed as deduction in computation of Income from "Profits and gains of business or profession";

(ii) Deeming a payment as profits and gains of business of profession if the expenditure is incurred in a particular year but the cash payment is made in any subsequent year of a sum exceeding ten thousand rupees to a person in a single day; and

(iii) Further expand the specified mode of payment under respective sub-section of section 40A from an account payee cheque drawn on a bank or account payee bank draft to by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account.

Effective Date:
This amendment will take effect from 1st April, 2018 and shall apply to the assessment year 2018-19 and subsequent years.

Also please refer Para 13 above and Para 16 below.

16. Definitions of Actual Cost [Section 43]:
Clause (1) of the said section provides for the definition of "actual cost" for the purposes of claiming depreciation under section 32 of the Act.

It is proposed to insert a proviso before Explanation 1 of clause (1) of said section so as to provide that where the assessee incurs any expenditure for acquisition of any asset in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, exceeds ten thousand rupees, such expenditure shall be ignored for the purposes of determination of actual cost. Consequently depreciation on the same will not be allowed.

It is also proposed to insert a proviso in Explanation 13 of clause (1) of the said section so as to provide that where any capital asset in respect of which deduction or part of deduction allowed under section 35AD is deemed to be the income of the assessee in accordance with the provisions of sub-section (7B) of the said section, the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purposes of business since the date of its acquisition.

Effective Date:
This amendment will take effect from 1st April, 2018 and shall apply to the assessment year 2018-19 and subsequent years.

Please refer Para 13 above.

17. Certain deductions to be only on actual payment [Section 43B]:

Existing Provision	Proposed Amendment
The said section inter alia, provides that any sum payable by the assessee by way of tax, cess, duty or fee, or interest on any loan or borrowing from any scheduled bank or public financial institution, etc., shall be allowed as deduction of the previous year in which the liability to pay such sum was incurred (relevant previous year) and if the same is actually paid on or before the due date of furnishing of the return of income.	It is proposed to amend the said section so as to additionally provide that any sum payable by the assessee as interest on any loan or advances from a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank shall also be allowed as deduction, if it is actually paid on or before the due date of furnishing the return of income of the relevant previous year.

It is further proposed to include the definitions of the expressions "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" in the said section.

Effective Date:
This amendment will take effect from 1st April, 2018 and shall apply to the assessment year 2018-19 and subsequent years.

18. Special provision in case of income of public financial institutions, public companies, etc [Section 43D]:

Existing Provision	Proposed Amendment
The said section inter alia, provides that interest income in relation to certain categories of bad or doubtful debts received by certain institutions or banks or corporations or companies, as referred to in the Explanation to the said section, shall be chargeable to tax in the previous year in which it is credited to its profit and loss account for that year or actually received, whichever is earlier.	It is proposed to amend the said section so as to additionally provide that the interest income in relation to certain categories of bad or doubtful debts received by a co-operative bank other than a primary agricultural credit society or a primary co- operative agricultural and rural development bank shall also be chargeable to tax in the previous year in which it is credited to its profit and loss account for that year or actually received, whichever is earlier.

It is further proposed to include the definitions of the expressions "co-operative bank", "primary agricultural credit society" and "primary co-operative agricultural and rural development bank" in the said section.

Effective Date:
This amendment will take effect from 1st April, 2018 and shall apply to the assessment year 2018-19 and subsequent years.

19. Maintenance of accounts by certain persons carrying on profession or business [Section 44AA]:

Section 44AA(2) of the Act provides that certain persons carrying on business or profession are required to maintain books of account and such other documents if the income from business or profession exceeds the sum specified therein.

The summary of the existing and proposed limit is as under:

Particulars	Specified Limit for maintaining books of accounts	
	Existing Limit (Rs.)	Proposed Limit (Rs.)
A) In case the business or profession started during the previous year		
i) Income exceeding	1,20,000	2,50,000
ii) Sales, turnover, gross receipts exceeding	10,00,000	25,00,000
B) In case the business or profession is carried on since earlier years		
i) Income exceeding	1,20,000	2,50,000
ii) Sales, turnover, gross receipts exceeding	10,00,000	25,00,000
In any one of the three years immediately preceding the previous year		

Effective Date:
This amendment will take effect from 1st April, 2018 and shall apply to the assessment year 2018-19 and subsequent years.

20. Audit of accounts of certain persons carrying on business or profession [Section 44AB]:

Threshold limit for applicability of Tax Audit is proposed to be revised.

Existing Provision	Proposed Amendment
Section 44AB, inter alia, provides that every person carrying on business is required to get his accounts audited before a specified date, if the total sales, turn over or gross receipts in a previous year, as	It is proposed to amend the said section so as to insert a new proviso to provide that this section shall not apply to the person, who declares profits and gains for the previous year in accordance with the provisions of sub-section (1) of section

the case may be, exceed or exceeds one crore rupees.	44AD and his total sales, turnover or gross receipts, as the case may be, in business does not exceed two crore rupees in such previous year.

This is proposed to bring it in line with amendment made under section 44AD of the Act by Finance Act, 2016. There is no change in threshold limit for Tax Audit in case of professional. The threshold limit for tax audit for professional is Rs. 50 lakhs.

Effective Date:
This amendment will take effect from 1st April, 2017 and shall apply to the assessment year 2017-18 and subsequent years.

21. Special provision for computing profits and gains of business on presumptive basis [Section 44AD]:

The provisions contained in the said section (as amended by the Finance Act, 2016), provides that notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an eligible assessee engaged in an eligible business, having total turnover or gross receipts not exceeding two crore rupees, a sum equal to eight percent of the total turnover or gross receipts of the assessee in the previous year on account of such business, or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head "profits and gains of business or profession".

It is further proposed to insert a proviso to the said sub-section so as to reduce the existing rate of deemed total income of eight percent to six percent, in respect of the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date specified in sub-section (1) of section 139 in respect of that previous year. However, the existing rate of deemed profit and gains of eight percent referred to in the provisions of the said section, shall continue to apply in respect of total turnover or gross receipts received in any other mode.

Effective Date:
This amendment will take effect from 1st April, 2017 and shall apply to the assessment year 2017-18 and subsequent years.

22. Capital Gains - Taxation of Joint Development [Section 45 & New Section 194-IC]:

Under section 45 of the Act, the capital gain is chargeable in the year in which transfer take place except in certain cases as provided in the said section. The definition of 'transfer', inter alia, includes any arrangement or transaction where any rights are handed over in execution of part performance of contract, even though the legal title has not been transferred. In such a scenario, execution of Joint Development Agreement between the owner of immovable property and the developer triggers the

capital gains tax liability in the hands of the owner in the year in which the possession of immovable property is handed over to the developer for development of a project.

It is proposed to insert a new sub-section (5A) in section 45 so as to provide that in case of an assessee being individual or Hindu undivided family, who enters into a specified agreement for development of a project, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.

It is further proposed to provide that the stamp duty value of his share, being land or building or both, in the project on the date of issuing of said certificate of completion as increased by any monetary consideration received, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

It is also proposed to provide that benefit of this proposed regime shall not apply to an assessee who transfers his share in the project to any other person on or before the date of issue of said certificate of completion. It is also proposed to provide that in such a situation, the capital gains as determined under general provisions of the Act shall be deemed to be the income of the previous year in which such transfer took place and shall be computed as per provisions of the Act without taking into account this proposed provisions.

The terms "specified agreement" is defined as under:

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

Similarly, the expressions "competent authority" and "stamp duty value" has been defined.

Please note that this benefit is available only to individual and HUF assessees.

It is explained that the amendments are proposed to minimize the genuine hardship which the owner of land may face in paying capital gains tax in the year of transfer, as in the year of transfer, the owner of the land does not get any cash flow to make the payment of taxes. Also, if for any reason the project does not materialized, the owner of the land does not realize any value and still has to shell out taxes from his pocket.

It is also proposed to insert new sub-section (7) in section 49 of the Act to provide that cost of acquisition of the share in the project being land or building or both, in case of joint development refer to above in newly inserted sub-section (5A) to the Section 45 of the Act, in the hands of the land owner shall be the amount which is deemed as full value of consideration under the said proposed provision.

It is also proposed to insert a new section 194-IC provide any person responsible for paying to resident any sum by way of consideration, not being consideration in kind, under the agreement referred to in sub-section (5A) of section 45, shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to ten percent of such sum as income-tax thereon.

Effective Date:
These amendments will take effect from 1st April, 2018 and will accordingly apply in relation to A.Y. 2018-19 and subsequent assessment years.

Earlier, the Hon'ble Bombay High Court in the case Chaturbhuj Dwarkadas Kapadia reported in 260 ITR 491 has held as under:

> "In this case, the agreement is a Development Agreement and in our view, the test to be applied to decide the year of chargeability is the year in which the transaction was entered into.
>
> If the contract, read as a whole, indicates passing of or transferring of complete control over the property in favour of the developer, then the date of the contract would be relevant to decide the year of chargeability."

Considering the hardship and to encourage real estate sector the amendment is proposed to dilute the ratio of this decision.

23. Capital Gains – Not a Transfer for Capital Gain purposes [Section 47]:
Section 2(47) of the Act has defined the term "transfer" in relation to a capital asset. Section 47 of the Act carves out instances wherein although it is a transfer as per definition u/s 2(47) of the Act, the same is not subject to capital gain tax.

a) **Extension of Capital Gain Exemption to Rupee Denominated Bonds:**
Reserve Bank of India (RBI) permitted Indian Corporates to issue rupee denominated bonds outside India as a measure to enable the Indian Corporates to raise funds from a source outside India.

It is proposed to insert clause (viia) in section 47 of the Act to provide that any transfer of capital asset, being rupee denominated bond of Indian company issued outside India, by a non- resident to another non- resident shall not be regarded as transfer. Consequently, it will not be subject to capital gain tax in India.

It has been represented to allow exemption in respect of transfer of Rupee Denominated Bonds from non-resident to non-resident for the purpose of increasing acceptability and transferability of such instrument in the foreign market. Therefore, it is proposed to insert this new clause in section 47 of the Act to facilitate transfer of Rupee Denominated Bonds from non-resident to non-resident without attracting capital gain tax in India.

b) **Tax neutral conversion of preference shares to equity shares:**

Under the existing provisions of section 47 of the Act, conversion of security from one form to another is regarded as transfer for the purpose of levy of capital gains tax. However, tax neutrality to the conversion of bond or debenture of a company to share or debenture of that company is provided under the section 47. No similar tax neutrality to the conversion of preference share of a company into its equity share is provided.

It is now proposed to insert new clause (xb) in section 47 to provide that the conversion of preference share of a company into its equity share shall not be regarded as transfer.

This is proposed to provide tax neutrality to the conversion of preference share of a company into equity share of that company.

Consequential amendments are also proposed in section 49 and section 2(42A) in respect of cost of acquisition and period of holding (please refer Para 5 above and 25 below).

Effective Date:

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

24. Capital Gain – Mode of Computation [Section 48]:

a) The Finance Act, 2016, inter-alia, amended section 48 of the Act with effect from the 1st April, 2017 so as to provide that the gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company subscribed by him, shall be ignored for the purpose of computation of full value of consideration.

In respect of computation on redemption of rupee denominated bond of Indian company, following amendment is proposed:

Existing Provision	Proposed Amendment
The fifth proviso to section 48 of the Act provides that in case of an assessee being a non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company subscribed by him, shall be ignored for the purposes of computation of full value of consideration.	It is proposed to substitute the word "subscribed" with word "held" so that the clause reads as under: "In case of an assessee being a non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company held by him, shall be ignored for the purposes of computation of full value of consideration."

Representations have been received to allow exemption from capital gain arising to secondary holders as well. In order to further provide relief in respect of gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company to secondary holders as well, it is proposed to amend section 48 providing that the said appreciation of rupee shall be ignored for the purposes of computation of full value of consideration.

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

b) For calculating cost of acquiring asset and cost of improvement in computing capital gains, base year is shifted from 1981 to 2001 (please refer Para 28 below).

25. Capital Gain – Cost with reference to certain modes of acquisition [Section 49]:
Section 49 of the Act provides that where the capital asset became the property of the assessee under certain situations, the cost of acquisition of the asset shall be deemed to be the cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of the assets incurred or borne by the previous owner or the assessee, as the case may be. Following amendments are proposed in this section:

a) Transfer of shares of Indian Company in Foreign Demerger:

Existing Provision	Proposed Amendment
Section 47(vic) of the Act provides that the transfer of shares of an Indian company by a demerged foreign company to a resulting foreign company is not regarded as transfer.	It is proposed to amend sub-clause (e) of clause (iii) of section 49(1) of the Act so as to provide that cost of acquisition of the shares of Indian company referred to in section 47(vic) in the hands of the resulting foreign company shall be the same as it was in the hands of demerged foreign company.

The proposed amendment is in line with the existing provisions u/s 47(vic) of the Act.

b) Conversion of preference shares into equity shares:

Existing Provision	Proposed Amendment
Now neutrality to the conversion of preference share of a company into its equity share is proposed in section 47(xb).	It is proposed to insert a new sub-section (2AE) in Section 49 of the Act so as to provide that where the capital asset, being equity share of a company, became the property of the assessee in consideration of conversion of preference share of a company into equity share of that company as per clause (xb) of section 47 of the Act, the cost of acquisition of the equity shares

	shall be deemed to be the cost of the preference share in relation to which such equity shares are acquired by the assessee.

This amendment is proposed in line with amendment to section 47(xb) of the Act. Please refer Para 23 above.

c) Conversion of units of consolidated plan of mutual fund:

Existing Provision	Proposed Amendment
Finance Act, 2016 amended section 47(xix) of the Act so as to provide tax neutrality to the transfer of units in a consolidating plan of mutual fund scheme made in consideration of the allotment of units in the consolidated plan of that mutual fund scheme.	It is proposed to insert a new sub-section 2(AF) in section 49 of the Act to provide that cost of acquisition of the units in the consolidated plan of mutual fund scheme referred to in section 47(xix) shall be the cost of units in consolidating plan of mutual fund scheme.

This amendment is proposed in line with amendment to section 47(xix) of the Act by Finance Act, 2016. Please also refer Para 23 above. Thus, on combined reading of proposed amendments to section 2(42A) and section 49, it is now proposed that cost of acquisition of the units in the consolidated plan of mutual fund scheme referred to in section 47(xix) shall be the cost of units in consolidating plan of mutual fund scheme and period of holding of the units of consolidated plan of mutual fund scheme shall include the period for which the units in consolidating plan of mutual fund scheme were held by the assessee.

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

d) Tax incentive for the development of capital of Andhra Pradesh:
Please refer Para 8(e) above.

e) Tax on joint development agreement:
Please refer Para 22 above.

f) Tax on accreted income of certain trust and institution:
Chapter XII-EB was inserted by Finance Act, 2016 with effect from 1st June, 2016, in respect of tax on accreted income of certain trust and institution.

It is proposed to insert new sub-section (8) in section 49 of the Act to provide that where the capital gain arises from the transfer of an asset, being the asset held by a trust or an institution in respect of which accreted income has been computed, and the tax has been paid thereon in accordance with the provisions of Chapter XII-EB, the cost of acquisition of such asset shall be deemed to be the fair market value of the asset which has been taken into account for computation of accreted income as on the specified date referred to in sub-section (2) of section 115TD.

Effective Date:
This amendment will take retrospective effect from 1st June, 2016.

26. Special provision for full value of consideration for transfer of share other than quoted share [New Section 50CA]:

Under the existing provisions of the Act, income chargeable under the head "Capital gains" is computed by taking into account the amount of full value of consideration received or accrued on transfer of a capital asset. In order to ensure that the full value of consideration is not understated, the Act also contained provisions for deeming of full value of consideration in certain cases such as deeming of stamp duty value as full value of consideration for transfer of immovable property in certain cases.

It is now proposed to insert a new section 50CA to provide that where consideration for transfer of share of a company (other than quoted share) is less than the Fair Market Value (FMV) of such share determined in accordance with the prescribed manner, the FMV shall be deemed to be the full value of consideration for the purposes of computing income under the head "Capital gains".

The term "quoted shares" is defined as under:

> "Quoted shares means the share quoted on any recognized stock exchange with regularity from time to time, where the quotation of such share is based on current transaction made in the ordinary course of business."

The term "fair market value" is not defined under this provision. Section 2(22B) of the Act defines the term as under:

> "Fair market value, in relation to a capital asset, means –
>
> i) the price that the capital asset would ordinarily fetch on sale in the open market on the relevant date; and
>
> ii) where the price referred to in sub-clause (i) is not ascertainable, such price as may be determined in accordance with the rules made under this Act."

Mode of calculation of fair market value has not been prescribed.

Currently there are sections 56(2)(vii) and (viia) under the Act, which provides for taxation of deemed gift in the hands of receiver of the shares of a company (not being a company in which public are substantially interested) on fulfilling of the following conditions:

a) Recipient is an individual or HUF or firm or a closely held company (i.e., a company in which the public are not substantially interested).

b) The asset (which is received) is in the form of shares in a closely held company (i.e. , a company in which the public are not substantially interested).

c) These shares are received from any person.

d) Such shares are received on or after 1st June, 2010.

e) Such shares are received without consideration or for an inadequate consideration.

f) Such shares are not received by way of a transaction referred to in section 47(via)/(vic)/(vicb)/(vid)/(vii) (i.e., receipt of shares by a shareholder in a scheme of amalgamation, demerger, etc.).

On fulfilling the above conditions, the difference between the fair market value and the transfer price is taxable in the hands of the receiver, if aggregate difference exceeds Rs. 50,000/-.

Under these sections the rules for calculation of fair market value has been prescribed as Rule 11U and 11UA of the Income Tax Rules, 1962. These rules mainly provide for valuation of FMV on net asset basis.

Now the proposed amendment is in respect of transferor of such shares. If the transferor transfers the shares for less than FMV then for the purposes of calculation of capital gains, FMV of such shares will be taken as full consideration.

Thus, on combined reading of proposed section 50CA and existing sections 56(2)(vii) and (viia), it will amount to taxation in the hands of both –

- The transferor will pay capital gain tax on the difference between the FMV and transfer price (along with capital gains tax calculated on transfer price.

- The transferee (the receiver of shares) will also pay tax on the differential amount between FMV and transfer price as income from other sources, if the aggregate difference exceeds Rs. 50,000/-.

In case of taxation in the hands of transferee on deemed gift under the head income from other sources, the mode of calculation of FMV has been prescribed. But no such mode of calculation is prescribed for transferor. If, the mode of calculation prescribed u/s 50CA is different than provided u/s 56(2)(vii) and (viia) of the Act, it will create a lot of confusion and imbalances.

Please also refer Para 29 below.

Effective Date:
This amendment will take effect from 1st April, 2018 and will accordingly apply in relation to A.Y. 2018-19 and subsequent assessment years.

27. Investment in Specified Bonds [Section 54EC]:

Section 54EC of the Act provides for exemption from capital gains on investment in certain bonds.

The existing provision of section 54EC provides that capital gain to the extent of Rs. 50 lakhs arising from the transfer of a long-term capital asset shall be exempt if the assessee invests the whole or any part of capital gains in certain specified bonds, within the specified time. Currently, investment in bond issued by the National Highways Authority of India or by the Rural Electrification Corporation Limited is eligible for exemption under this section.

It is proposed to amend section 54EC so as to provide that investment in any bond redeemable after three years which has been notified by the Central Government in this behalf shall also be eligible for exemption.

The amendment is proposed to widen the scope of sectors which may raise fund by issue of bonds eligible for exemption under this section.

Effective Date:

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

28. Capital Gains: Cost of Acquisition [Section 55]:

Section 55 of the Act has defined the term “cost of acquisition” for the purposes of section 48 and 49 of the Act.

The existing provisions provide that for computation of capital gains, an assessee shall be allowed deduction for cost of acquisition of the asset and also cost of improvement, if any. However, for computing capital gains in respect of an asset acquired before 1st April, 1981, the assessee has been allowed an option of either to take the fair market value of the asset as on 1st April, 1981 or the actual cost of the asset as cost of acquisition. The assessee is also allowed to claim deduction for cost of improvement incurred after 1st April, 1981, if any.

It is proposed to revise the base year for computation of capital gains, so as to provide that the cost of acquisition of an asset acquired before 1st April, 2001 shall be allowed to be taken as fair market value as on 1st April, 2001 and the cost of improvement shall include only those capital expenses which are incurred after 1st April, 2001.

Similarly, it is proposed that in such cases the cost of improvement will be taken to be the cost of improvement on or after 1st April, 2001.

The current base year for computation of capital gains has become more than 3 decades old and, therefore, the assessees are facing difficulties in getting relevant information for computation of fair market value of assets as on 1st April, 1981. In order to revise the base year, the amendment is proposed.

Effective Date:
This amendment will take effect from 1st April, 2018 and will accordingly apply in relation to A.Y. 2018-19 and subsequent assessment years.

29. Widening scope of Income from other sources [Section 56]:
Under the existing provisions of section 56(2)(vii), any sum of money or any property which is received without consideration or for inadequate consideration (in excess of the specified limit of Rs. 50,000) by an individual or Hindu undivided family is chargeable to income-tax in the hands of the resident under the head "Income from other sources" subject to certain exceptions.

Further, receipt of certain shares by a firm or a company in which the public are not substantially interested is also chargeable to income-tax in case such receipt is in excess of Rs. 50,000 and is received without consideration or for inadequate consideration u/s 56(2)(viia) of the Act.

The existing provision for individual and HUF is applicable to all types of property which includes immovable property, jewellery, shares, paintings, etc. In case of firm and the company, it applies only in respect of certain shares.

It is now proposed to widen the scope of section to cover all types of properties for all types of assessees. Accordingly, the new sub section (x) in section 56(2) is proposed to be inserted, covering all types of properties including money and all categories of assessees.

Further, the existing exception contained in the said section is proposed to be rationalized by including certain additional exceptions.

It is also provided that for the purposes of this clause, the expressions “assessable”, “fair market value”, “jewellery”, “property”, “relative” and “stamp duty value” shall have the same meanings respectively assigned to them in the Explanation to clause (vii). Therefore, also, the mode of calculation of fair market value will continue to be as per Rule 11U and Rule 11UA of the Income Tax Rules, 1962.

Effective Date:
This provision is proposed to be effective in respect of any property or money received from any person on or after 1st April, 2017. Consequently, sunset clause has been proposed in section 56(2)(vii) and (viia) of the Act.

30. Disallowance in computing income from other sources [Section 58]:
The provisions of section 58 of the Act specify the amounts which are not deductible in computing the income from other sources.

It is proposed to amend sub-section (1A) of the said section so as to provide that the provisions of section 40(ia) of the Act shall also apply in computing the income chargeable under the head "Income from other sources" as they apply in computing the income chargeable under the head "Profit and gains of business or profession". Section 40(ia) of the Act deals with disallowance of 30% of sum payable to a resident

on which TDS was deductible but not deducted or after deduction it is not paid before the due date of filing of the return.

Thus, in respect of an item of expenditure claimed in calculating income from other sources, if TDS provisions of deduction or deduction and payment are not complied with, then 30% of such expenditure will be disallowed.

Effective Date:
This amendment will take effect from 1st April, 2018 and will accordingly apply in relation to A.Y. 2018-19 and subsequent assessment years.

31. Set off of loss from Income from House Property against any other income [Section 71]:

Section 71 of the Act deals with set off of loss from one head against income from another.

Existing Provision	Proposed Amendment
Where in respect of any assessment year the net result of the computation under any head of income, other than "Capital gains", is a loss and the assessee has no income under the head "Capital gains", he shall, subject to the provisions of this Chapter, be entitled to have the amount of such loss set off against his income, if any, assessable for that assessment year under any other head.	It is further proposed to insert a new sub-section (3A) in the aforesaid section to provide that notwithstanding anything contained in sub-section (1) or sub-section (2) of the said section, set off of loss under the head "Income from house property" against any other head of income shall be restricted to two lakh rupees for any assessment year.

Thus, the loss from house property bought for renting was earlier allowed to be set off without limit against salary/business income, now capped at 2 lakhs.

Effective Date:
This amendment will take effect from 1st April, 2018 and will accordingly apply in relation to A.Y. 2018-19 and subsequent assessment years.

32. Carry Forward and set off of Losses in case of certain companies [Section 79]:

The existing provisions of section 79 of the Act, inter-alia provides that where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year unless on the last day of the previous year the shares of the company carrying not less than fifty-one percent of the voting power were beneficially held by person who beneficially held shares of the company carrying not less than fifty-one percent of the voting power on the last day of the year or years in which the loss was incurred.

It is proposed to amend section 79 of the Act to provide that where a change in shareholding has taken place in a previous year in the case of a company, not being a

company in which the public are substantially interested and being an eligible start-up as referred to in section 80 -IAC of this Act, loss shall be carried forward and set off against the income of the previous year, if all the shareholders of such company which held shares carrying voting power on the last day of the year or years in which the loss was incurred, being the loss incurred during the period of seven years beginning from the year in which such company is incorporated, continue to hold those shares on the last day of such previous year.

Thus, for start-up companies, it is proposed that the business loss of the companies for first 7 years would not lapse even if there is a dilution of more than 51% in the shareholding of the company by way of new issue of shares to other new investors / partners as long as all the equity shareholders of the company on the last day of the year in which loss is incurred continue to hold those shares on the last day of the previous year in which the loss is claimed for set-off.

Thus it allows to bring in new investor in the Company but it does not allow encashing the value of original shares held by promoters.

It is also proposed to provide that the provisions of this section shall not apply to a case where a change in the voting power and shareholding, as aforesaid, takes place in a previous year consequent upon the death of a shareholder or on account of transfer of shares by way of gift to any relative of the shareholder making such gift.

It is also proposed to provide that nothing contained in this section shall apply to any change in the shareholding of an Indian company which is a subsidiary of a foreign company as a result of amalgamation or demerger of a foreign company subject to the condition that fifty-one percent shareholders of the amalgamating or demerged foreign company continue to be the shareholders of the amalgamated or the resulting foreign company.

To give effect to the above, it is proposed to substitute existing section 79 with the new section 79 of the Act.

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

33. Deduction in respect of contribution to pension scheme of Central Government [Section 80CCD]:
Section 80CCD of the Income-tax Act deals with deduction in respect of contribution to pension scheme of the Central Government.

Existing Provision	Proposed Amendment
Sub-section (1) of the said section inter alia, provides that in the case of an individual employed by the Central Government on or after the 1st day of January, 2004 or, being an individual employed by any other employer, or any other assessee, being an	It is proposed to amend sub-section (1) so as to increase the upper limit of gross total income from ten percent to twenty percent in case of an individual other than employee.

individual who has in the previous year paid or deposited any amount in his account under a pension scheme notified or as may be notified by the Central Government, he shall be allowed a deduction of an amount not exceeding ten percent of his salary in the previous year. In case of any other assessee, the deduction is limited to ten percent of gross total income in the previous year.	

Effective Date:
This amendment will take effect, from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-2019 and subsequent years.

Please also refer Para 8(b) above for exemption of partial withdrawal from such scheme.

34. Deduction in respect of Investment made under an equity savings scheme [Section 80CCG]:

Section 80CCG of Act deals with deduction in respect of investment made under an equity savings scheme – Rajiv Gandhi Equity Saving scheme, 2013 / Rajiv Gandhi Equity Saving scheme, 2012.

Existing Provision	Proposed Amendment
The existing provisions of the said section provides that where an assessee, being a resident individual, has, in a previous year, acquired listed equity shares or listed units of an equity oriented fund in accordance with a scheme, as may be notified by the Central Government, he shall, subject to certain conditions, be allowed a deduction, in the computation of his total income of the assessment year relevant to such previous year, of fifty percent of the amount invested in such equity shares or units to the extent such deduction does not exceed twenty-five thousand rupees.	It is proposed to insert a new sub-section (5) in the said section so as to provide that no deduction under the said section shall be allowed in respect of any assessment year commencing on or after the 1st day of April, 2018. However, an assessee who has acquired shares or units in accordance with the aforesaid scheme and claimed deduction under the provisions of the said section for any assessment year commencing on or before the 1st day of April, 2017 shall be allowed deduction under the said section till the assessment year commencing on the 1st day of April, 2019, if he is otherwise eligible to claim the deduction in accordance with the other provisions of this section.

Effective Date:
This amendment will take effect, from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-2019 and subsequent years.

35. Deduction for donation given [Section 80G]:

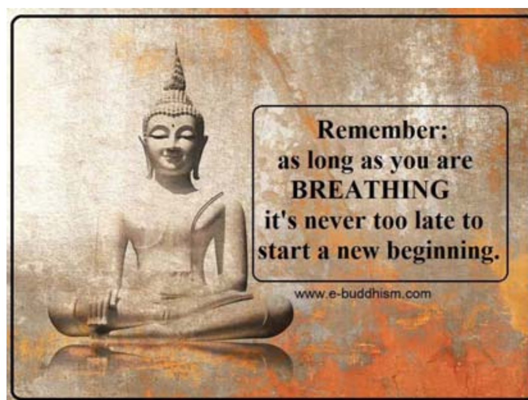
Section 80G of the Act deals with deduction in respect of donations to certain funds, charitable institutions, etc.

Existing Provision	Proposed Amendment
Under the existing provisions contained in sub-section (5D) of the said section, no deduction is allowed in respect of donation of any sum exceeding ten thousand rupees unless such sum is paid by any mode other than cash.	It is proposed to amend the said sub-section so as to provide that no deduction is allowed in respect of donation of any sum exceeding two thousand rupees unless such sum is paid by any mode other than cash.

Effective Date:
This amendment will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-2019 and subsequent years.

36. Deduction for startup Entity [Section 80-IAC]:

Section 80-IAC of the Act deals with special provision in respect of specified business for startup entities.



It is stated that start-ups may take time to derive profit out of their business and therefore, eligibility period is proposed to be extended from 5 years to 7 years beginning from the year in which such eligible start-up is incorporated.

Existing Provision	Proposed Amendment
The existing provisions of said section, inter alia, provide that where the gross total income of an assessee, being an eligible start-up, includes any profits and gains derived from eligible business, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to one hundred percent of the profits and gains derived from such business for three consecutive assessment years and at the option of the assessee the said deduction may be claimed for any three consecutive assessment years out of five years beginning from the year in which the	It is proposed to amend the said sub-section so as to provide that the deduction shall be allowed for any three consecutive assessment years out of seven years instead of five years, beginning from the year in which such eligible start-up is incorporated.

eligible start- up is incorporated subject to the condition that it is incorporated.	

Effective Date:
This amendment will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-2019 and subsequent years.

37. Deductions in respect of profits and gains from housing projects [Section 80-IBA]:

The existing provisions of section 80-IBA provides for 100% deduction in respect of the profits and gains derived from developing and building certain housing projects subject to specified conditions.

Existing Provision	Proposed Amendment
The conditions specified, inter alia, include:—	It is proposed to amend section 80-IBA so as to provide the following relaxations:—
i) The limit of 30 square meters for the built-up area of residential unit in respect of project located in the Chennai, Delhi, Kolkata and Mumbai	i) The size of residential unit shall be measured by taking into account the "carpet area" as defined in Real Estate (Regulation and Development) Act, 2016 and not the "built-up area".
ii) The limit of 30 sq.mtrs. for built up area shall also apply to area within 25 kms from the municipal limits of these four cities.	ii) The restriction of 30 square meters on the size of residential units shall not apply to the place located within a distance of 25 kms from the municipal limits of the Chennai, Delhi, Kolkata or Mumbai.
iii) Further, it is also provided that in order to be eligible to claim deductions, the project shall be completed within a period of three years.	iii) The condition of period of completion of project for claiming deduction under this section shall be increased from existing three years to five years.

It is stated that the amendments are proposed to promote the development of affordable housing sector.

Effective Date:
This amendment will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-2019 and subsequent years.

38. Rebate of Income tax in case of certain individuals [Section 87A]:

Section 87A of the Act deals with rebate of income-tax in case of certain individuals.

Existing Provision	Proposed Amendment
The existing provisions contained in the said section provide that an assessee, being an individual resident in India, whose total income does not exceed five hundred thousand rupees, shall be entitled to a deduction, from the amount of income-tax (as computed before allowing the deductions under Chapter VIII) on his total income with which he is chargeable for any assessment year, of an amount equal to one hundred percent of such income-tax or an amount of five thousand rupees, whichever is less.	It is proposed to amend the said section so as to provide that the deduction under the said section shall be allowed to an assessee, being an individual resident in India, whose total income does not exceed three hundred fifty thousand rupees, upto hundred percent. of income chargeable for any assessment year or two thousand five hundred rupees, whichever is less.

Effective Date:
This amendment will take effect, from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-2019 and subsequent years.

39. Clarification with regard to interpretation of 'terms' used in an agreement entered into under section 90 and 90A [Sections 90 & 90A]:

Under the existing provisions of Section 90 of the Act, power has been conferred upon the Central Government to enter into agreement with the Government of any country outside India for granting relief in respect of income on which income- tax has been paid both under the said Act and income-tax Act in that foreign country, avoidance of double taxation of income, exchange of information for the prevention of evasion or avoidance of income-tax or recovery of income-tax.

Similar provisions are provided in section 90A of the Act in the case of an agreement entered into by any specified association in India with any specified association in the specified territory outside India.

It is further provided in section 90 and 90A of the Act that any 'term' used but not defined in this Act or in the agreement referred to in sub-section (1) of respective provisions shall have the meaning assigned to it in the notification issued by the Central Government in the Official Gazette in this behalf, unless the context otherwise requires, provided the same is not inconsistent with the provisions of this Act or the agreement.

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

The Income-tax simplification committee in its final report has suggested to bring in more clarity in the Act in respect of interpretation of 'terms' used in an agreement entered under section 90 or 90A for the purposes of its application in order to reduce the avoidable litigation related to taxation of non- residents. The amendments are proposed to carry out the intent of the above report.

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

40. Specified Domestic Transaction [Section 92BA]:
Section 92BA of the Act deals with meaning of specified domestic transaction. The term "specified domestic transaction" in case of any assessee means:

Any of the following transactions, not being an international transaction, namely:—

(i) Any expenditure in respect of which payment has been made or is to be made to a person referred to in clause (b) of sub-section (2) of section 40A;

(ii) Any transaction referred to in section 80A;

(iii) Any transfer of goods or services referred to in sub-section (8) of section 80-IA;

(iv) Any business transacted between the assessee and other person as referred to in sub-section (10) of section 80-IA;

(v) Any transaction, referred to in any other section under Chapter VI-A or section 10AA, to which provisions of sub-section (8) or sub-section (10) of section 80-IA are applicable; or

(vi) Any other transaction as may be prescribed, - (nothing has been prescribed so far)

and where the aggregate of such transactions entered into by the assessee in the previous year exceeds a sum of twenty crore rupees.

It is proposed to omit clause (i) i.e. any expenditure to a related party as per section 40A(2)(b) of the Act. Thus, domestic transfer pricing audit will not apply in respect of payment to related party as per section 40A(2)(b) of the Act. However, domestic transfer pricing will continue to be applied in respect of remaining four items i.e. clauses (ii) to (v) above, provided the aggregate of such transaction exceed the threshold limit of Rs. 20 crores.

The purpose seems to be that in case of companies the rate of corporate tax is same/ in similar range (the difference can only be for surcharge)., therefore, effectively there is no leakage of revenue by paying higher or lower transfer pricing in respect of such domestic transactions. The other four clauses are linked to profit base deduction and

it affects the effective rate of corporate tax. Therefore, the provisions have been retained in respect of such entities.

Traditionally, transfer pricing applied to international transactions entered into by a company in India with related parties, such as its foreign parent company or overseas group companies. Pricing of the transaction had to be at arm's length to ensure that India get its due share of tax. However, the Finance Act, 2012 expanded the ambit to cover domestic transactions (which included payment to directors) entered into by a company with related parties if the aggregate of such transactions in a year was over Rs. 5 crores. Now the limit is extended to Rs. 20 crores.

The top most challenge of Indian companies was substantiating that director fees / remuneration paid by it was at an arm's length. A director fee / remuneration would depend on many factors, including size of the company. Even Mukesh Ambani and Azim Premji were unlikely to receive the same quantum of fees. This amendment will put an end to fears of litigation.

Now the domestic transfer pricing provision are proposed to be applied only if one of the parties to a deal is availing of tax benefits.

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

41. Secondary adjustments in certain cases [Section 92CE]:

"Secondary adjustment" means an adjustment in the books of accounts of the assessee and its associated enterprise to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined as a result of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee. As per the OECD's Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (OECD transfer pricing guidelines), secondary adjustment may take the form of constructive dividends, constructive equity contributions, or constructive loans.

The provisions of secondary adjustment are internationally recognized and are already part of the transfer pricing rules of many leading economies in the world. Whilst the approaches to secondary adjustments by individual countries vary, they represent an internationally recognized method to align the economic benefit of the transaction with the arm's length position.

In order to align the transfer pricing provisions in line with OECD transfer pricing guidelines and international best practices, it is proposed to insert a new section 92CE. It is provided that a secondary adjustment is required to carried out whom primary adjustment to transfer price has been made is following cases –

i) has been made suo motu by the assessee in his return of income; or

ii) made by the Assessing Officer has been accepted by the assessee; or

iii) is determined by an advance pricing agreement entered into by the assessee under section 92CC; or

iv) is made as per the safe harbour rules framed under section 92CB; or is arising as a result of resolution of an assessment by way of the mutual agreement procedure under an agreement entered into under section 90 or 90A.

It is proposed to provide that where as a result of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, as the case may be, of the assessee, the excess money which is available with its associated enterprise, if not repatriated to India within the time as may be prescribed, shall be deemed to be an advance made by the assessee to such associated enterprise and the interest on such advance, shall be computed as the income of the assessee , in the manner as may be prescribed.

It is also proposed to provide that such secondary adjustment shall not be carried out if:

i) The amount of primary adjustment made in the case of an assessee in any previous year does not exceed one crore rupees: and

ii) The primary adjustment is made in respect of an assessment year commencing on or before 1st April, 2016.

Thus, the secondary adjustment will be made:

a) In respect of A.Y. 2016-17 and earlier year, when the amount of such adjustment is Rs. 1 crore or more.

b) If it is in respect of A.Y. 2017-18 and subsequent year, then secondary adjustment need to be made even for rupee 1.

Effective Date:
This amendment will take effect from 1st April, 2018 and shall apply to the assessment year 2018-19 and subsequent years.

42. Limitation of Interest deduction in certain cases [Section 94B]:

A company is typically financed or capitalized through a mixture of debt and equity. The way a company is capitalized often has a significant impact on the amount of profit it reports for tax purposes as the tax legislations of countries typically allow a deduction for interest paid or payable in arriving at the profit for tax purposes while the dividend paid on equity contribution is not deductible . Therefore, the higher the level of debt in a company, and thus the amount of interest it pays, the lower will be its taxable profit. For this reason, debt is often a more tax efficient method of finance than equity. Multinational groups are often able to structure their financing arrangements to maximize these benefits. For this reason, country's tax administrations often introduce rules that place a limit on the amount of interest that can be deducted in computing a company's profit for tax purposes. Such rules are

designed to counter cross-border shifting of profit through excessive interest payments, and thus aim to protect a country's tax base.

Under the initiative of the G-20 countries, the Organization for Economic Co-operation and Development (OECD) in its Base Erosion and Profit Shifting (BEPS) project had taken up the issue of base erosion and profit shifting by way of excess interest deductions by the MNEs in Action plan 4. The OECD has recommended several measures in its final report to address this issue.
In view of the above, it is proposed to insert a new section 94B, in line with the recommendations of OECD BEPS Action Plan 4, to provide that interest expenses claimed by an entity to its associated enterprises shall be restricted to 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to associated enterprise, whichever is less.

The provision shall be applicable to an Indian company, or a permanent establishment of a foreign company being the borrower who pays interest in respect of any form of debt issued to a non-resident or to a permanent establishment of a non-resident and who is an 'associated enterprise' of the borrower. Further, the debt shall be deemed to be treated as issued by an associated enterprise where it provides an implicit or explicit guarantee to the lender or deposits a corresponding and matching amount of funds with the lender.

The provisions shall allow for carry forward of disallowed interest expense to eight assessment years immediately succeeding the assessment year for which the disallowance was first made and deduction against the income computed under the head "Profits and gains of business or profession to the extent of maximum allowable interest expenditure.

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

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

For direct borrowing from Associated Enterprises, it provides that AE should be a non-resident but in case where AE provides guarantee or deposits funds with a lender who in turns gives loan to the assessee, it is not stated that lender should be a non resident.

Does it mean, if Non-Resident AE has given guarantee to a bank and the branch of a bank in India has given loan to the assessee, this clause applies.

Also, it needs to be considered, whether it will amount to discrimination which is not permissible under most of the treaties.

Effective Date:
This amendment will take effect retrospectively from 1st April, 2018 and shall apply to the assessment year 2018-19 and subsequent years.

43. Tax on certain dividends received from domestic companies [Section 115BBDA]:
Under the existing provisions of section 115BBDA of the Act-

Existing Provision	Proposed Amendment
In case of an assessee, being an individual, Hindu undivided family or a firm, resident in India, tax is charged at the rate of ten percent on income by way of dividend exceeding ten lakh rupees.	It is proposed to amend the said section so as to provide that this section shall be applicable to all resident persons other than a domestic company, a fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 or a trust or institution registered under section 12AA of the Income-tax Act.

Earlier the additional tax of 10% on dividend received from domestic companies was payable only by Individual, HUF and a Firm. It is now proposed to apply this provision to all the assessees except domestic companies, charitable trusts, religious trusts, hospitals and educational institutions. The new law will also be applicable to the private or family trust and also to the trust that operate and manage Employee Stock Ownership Plans (ESOPs)

Many promoters of Indian business houses moved their shareholding to family trusts. Under this concept the beneficiaries and managers (trustees) are different. This ensures that the head of the family can have wealth distribution and management the way he wished even after he passes away. This structure is more suitable as in helps in estate planning, succession planning, managing wealth jointly and had been tax efficient so far.

The proposed amendment will have an adverse impact on taxation of such family trust.

Family trusts owning shares of companies of the top 100 companies (from the BSE 100 index) earned dividend income of Rs. 1,600 crores in FY 16. Assuming the same dividend in FY 18, these families owned trusts would have to cough up Rs. 160 crore as additional dividend tax.

Top family trusts and their tax burden based on FY 16 dividend income:

Company	Additional tax burden	Trust Name
Cadila Health	24.50	Zydus Family Trust
Wipro	24.20	Azim Premji Trust
BPCL	22.80	BPCL Trust for Investment in Shares
Eicher	12.50	The Simran Siddhartha Tara Benefit Trust – trustee Vikram Lal
Reliance Ind	11.50	Petroleum Trust (Through Trustees for Sole Beneficiary – Reliance Industrial Investments and Holdings Ltd.
Marico	19.80	Various Family Trusts
Tech Mahindra	11.50	TML Benefit Trust
Adani Ports	9.60	S B Adani Family Trust
IOCL	8.20	IOC Shares trust
All*	160.10	

Figures in Rupees crores
*Filtered for BSE 1000 companies
(Source: Business Standard, dated 3rd February, 2017)

Effective Date:
These amendments will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-2019 and subsequent years.

44. Tax on income from transfer of carbon credits [New Section 115BBG]:
Carbon credits is an incentive given to an industrial undertaking for reduction of the emission of GHGs (Green House gases), including carbon dioxide which is done through several ways such as by switching over to wind and solar energy, forest regeneration, installation of energy-efficient machinery, landfill methane capture, etc. The Kyoto Protocol commits certain developed countries to reduce their GHG emissions and for this, they will be given carbon credits. A reduction in emissions entitles the entity to a credit in the form of a Certified Emission Reduction (CER) certificate. The CER is tradable and its holder can transfer it to an entity which needs Carbon Credits to overcome an unfavourable position on carbon credits.

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

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

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

45. Tax credit for MAT and AMT [Section 115JAA & 115JD]:

Section 115JAA of the Act contains provisions regarding carrying forward and set off of tax credit in respect of Minimum Alternate Tax (MAT) paid by companies under section 115JB of the Act. Currently, the tax credit can be carried forward upto tenth assessment years. It is proposed to amend section 115JAA of the Act to provide that the tax credit determined under this section can be carried forward up to fifteenth assessment years immediately succeeding the assessment years in which such tax credit becomes allowable. Further, similar amendment is proposed in section 115JD of the Act so as to allow carry forward of Alternate Minimum Tax (AMT) paid under section 115JC of the Act upto fifteenth assessment years in case of non corporate assessee.

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

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

46. MAT - Rationalization of provisions of section 115JB in line with Indian Accounting Standard (Ind-AS) [Section 115JB]:

Central Government notified the Indian Accounting Standards (Ind AS) which are converged with International Financial Reporting Standards (IFRS) and prescribed the Companies (Indian Accounting Standards) Rules, 2015 which laid down a roadmap for implementation of these Ind AS.

Globally, different approaches have been adopted to deal with the tax issues arising from adoption of IFRS. Also, the book profit based on Ind AS compliant financial statement is likely to be different from the book profit based on existing Indian GAAP. For ensuring horizontal equity across the companies CBDT has taken following steps:

a) Irrespective of the fact that whether they follow Ind AS or the existing Indian GAAP, the Central Government has issued Income Computation and Disclosure Standards (ICDS) for computation of taxable income for specified heads of income.

b) Based on the final report of the Committee, constituted for this purpose, it is proposed to amend section 115JB so as to provide the framework for

computation of book profit for Ind AS compliant companies in the year of adoption and thereafter.

The said section provides for levy of tax on certain companies on the basis of book profit which is determined after making certain adjustments to the net profit disclosed in the profit and loss account prepared in accordance with the provisions of the Companies Act, 1956.

It is proposed to amend the section so as to align the provisions of section 115JB for the company preparing financial statements in accordance with the provisions of Indian Accounting Standards and to update the provisions of the Companies Act, 1956 referred in the said section in accordance with the provisions of the new Companies Act, 2013.

The main features of the proposed frame work are explained in Memorandum explaining the provisions of the Bill and the same is placed under Chapter head "Memorandum explaining Provisions of MAT in line with Ind AS".

Thus, a company complying with Ind AS has to make two separate workings:

a) Working of normal income considering ICDS;
b) Working of book profit and MAT considering proposed amendment.

Effective Date
Ind-AS is required to be adopted by certain companies for financial year 2016-17 mandatorily. These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent assessment years.

47. Power of Board to issue instruction [Section 119]:
Sub-clause (a) of sub-section (2) of the said section empowers the Board to issue orders setting forth directions or instructions (not being prejudicial to assessees) to be followed by the subordinate authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties.

It is proposed to insert reference of sections 271C and 271CA in the said sub-section, so as to empower the Board to issue directions or instructions in respect of the said sections also. Section 271C of the Act deals with penalty for failure to deduct tax at source and section 271CA of the Act deals with penalty for failure to collect tax at source.

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

48. Search and Seizure [Section 132]:
Section 132 of the Act deals with provisions relating to search and seizure.

Existing Provision	Proposed Amendment
Sub-section (1) of the said section provides that where an income-tax authority mentioned therein, based on the information in his possession, has reason to believe of circumstances specified therein, he may authorize an authority specified therein to carry out search and seizure.	It is proposed to insert an Explanation after the fourth proviso to the said sub-section (1) so as to provide that the reason to believe recorded by the income-tax authority specified therein under the said sub-section shall not be disclosed to any person or any authority or the Appellate Tribunal.

Effective Date:
This amendment will take effect retrospectively from 1st April, 1962, the date of commencement of the Income-tax Act, 1961.

Existing Provision	Proposed Amendment
Sub-section (1A) of the said section provides that where an authority mentioned therein, based on the information in his possession, has reason to suspect of the circumstances specified therein, he may authorize an authority specified therein to carry out search and seizure.	It is proposed to insert an Explanation in the said sub- section (1A) so as to declare that reason to suspect recorded by the income-tax authority specified therein under the provisions of the said sub-section shall not be disclosed to any person or any authority, or the Appellate Tribunal.

Effective Date:
This amendment will take effect retrospectively from 1st October, 1975.

It is further proposed to insert sub-section (9B) in the said section, to provide that in a search case, where the authorized officer is satisfied that for the purpose of protecting the interest of revenue and for reasons to be recorded in writing it is necessary so to do he may, by order in writing, attach provisionally any property belonging to the assessee with the prior approval of Principal Director General or Director General or Principal Director or Director.

It is also proposed to insert sub-section (9C) in the said section, so as to provide that such provisional attachment shall cease to have effect after the expiry of six months from the date of order of attachment.

It is also proposed to insert sub-section (9D) in the said section, to provide that in a search case, the authorized officer for estimation of fair market value of a property, may make a reference to a Valuation Officer referred to in section 142A, for valuation in the manner provided under the said sub- section. It is also proposed that the Valuation Officer shall furnish the valuation report within sixty days of receipt of such reference.

It is also proposed to amend Explanation 1 to section 132, so as to provide that for the purposes of sub-section (9A), sub-section (9B) and sub-section (9D), with respect to

"execution of an authorization for search" the provisions of sub-section (2) of section 153B shall apply.

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

Section 132A of the Act deals with provisions relating to powers to requisition books of account, etc.

Existing Provision	Proposed Amendment
Sub-section (1) of the said section provides that the specified income-tax authority, based on the information in his possession, has reason to believe of circumstances specified therein, may authorize other income-tax authority mentioned therein to requisition from other officer or authority referred to in clauses (a) to (c) of the said sub-section to deliver books of account, documents or assets of the assessee to the income-tax authority so authorized.	It is proposed to insert an Explanation in the said sub- section, so as to declare that the reason to believe for making the requisition as recorded by the income-tax authority shall not be disclosed to any person or any authority or the Appellate Tribunal.

Effective Date:
This amendment will come into effect retrospectively from 1st October, 1975.

The rational for proposing these changes is explained in Memorandum that confidentiality and sensitivity are the hallmarks of proceedings under section 132 and section 132A. However, certain judicial pronouncements have created ambiguity in respect of the disclosure of 'reason to believe' or 'reason to suspect' recorded by the income-tax authority to conduct a search under section 132 or to make requisition under section 132A. It is therefore proposed to insert an Explanation to sub-section (1) and to sub-section (1A) of section 132 and to sub-section (1) of section 132A to declare that the 'reason to believe' or 'reason to suspect', as the case may be, shall not be disclosed to any person or any authority or the Appellate Tribunal.

The Income Tax Appellate Tribunal, Jodhpur Bench in the case of Parma Ram Bhakar reported in 39 taxmann.com 119 has held as under:

i) From the provisions (1) to section 132 it is clear that it contemplates existence of certain eventualities in the event of existence whereof the competent authority should have reason to believe the existence of the circumstances mentioned in clauses (a) to (c) of sub-section (1) of section 132 and in the event, the competent authority mentioned in clauses (a) and (b) of sub-section (1) of section 132 can authorize the authorities mentioned in these two clause to conduct the search.

ii) If the existence of reason to believe in consequence of the information in possession of the officer about existence of the reason to believe is not satisfied, there could possibly be no authorization, irrespective of the fact that it may have been made, and in turn, if any search is conducted in pursuance of the authorization issued in absence of the eventualities mentioned in clauses (a) to (c) of sub-section (1) of section 132, the said search under section 132 cannot be said to be valid search.

iii) In the instant case, there was no complete information in possession of SP, CBI about any bullion, jewellery, cash or any other document, which could reveal that the assessee was in possession of undisclosed assets or incriminating documents. It appears that the department acted upon the information provided by the police department on 29-3-2007 and on the same day, the warrant of authorization was issued and the search was conducted, but nothing is brought on record to substantiate that any cash was found, although, search was conducted on the information that undisclosed cash was being carried out by the assessee.

iv) Therefore, the authorization to conduct search based on reason under section 132(1) did not exist and search became invalid. Therefore, the assessment order based on the said search could not stand and had to be set aside.

The proposed amendment overrules this decision.

49. Power to call for information [Section 133]:

Section 133 of the Act deals with the provisions relating to power to call for information.

The said section empowers certain income-tax authorities to call for information for the purpose of any inquiry or proceeding under the Act.

It is proposed to amend the first proviso of the said section so as to provide that the power in respect of inquiry or proceeding under the Act, as referred to in clause (6) of the said section, may also be exercised by the Joint Director, Deputy Director or Assistant Director.

It is further proposed to amend the second proviso of the said section, so as to provide that the Joint Director, Deputy Director or Assistant Director, in a case where no proceeding is pending, may exercise the powers in respect of inquiry without seeking prior approval of the authorities as specified in the said proviso.

Effective Date:

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

50. Power of Survey [Section 133A]:

Section 133A of the Act deals with the provisions relating to power of survey.

The said section empowers an income-tax authority to survey a place, at which a business or profession is carried on, or at which any books of account or other

documents or any part of cash or stock or other valuable article or thing relating to the business or profession are kept.

It is proposed to amend sub-section (1) of the said section, so as to provide that a place, at which an activity for charitable purpose is carried on may also be surveyed by an income- tax authority.

It is further proposed to insert the reference of activity for charitable purpose in the Explanation to sub-section (1) of the said section which is consequential in nature.

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

51. Power to call for Information by prescribed income tax authority [Section 133C]:
Section 133C of the Act empowers the prescribed income-tax authority to issue notice calling for information and documents for the purpose of verification of information in its possession.

It is proposed to amend section 133C to empower the Central Board of Direct Taxes to make a scheme for centralized issuance of notice calling for information and documents for the purpose of verification of information in its possession, processing of such documents and making the outcome thereof available to the Assessing Officer for necessary action, if any.

It is stated that in order to expedite verification and analysis of the information and documents so received, this amendment has been proposed. This is an indication that tax department is going to issue lot of notices of enquiry / cross verification in respect of various data collected from various sources. The notices received post demonetization (cash deposit in bank account) may be one such example.

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

52. Filing of Return of Income [Section 139]:

a) The existing provisions of sub-section (4C) of section 139 mandate filing of return by certain entities which are exempt from the levy of income-tax.

In order to verify that certain entities which enjoy exemption under section 10 actually carry out the activities for which the exemption has been provided under the Act, it is proposed to provide that any person as referred to in clause (23AAA), Investor Protection Fund referred to in clause (23EC) or clause (23ED), Core Settlement Guarantee Fund referred to in clause (23EE) and any Board or Authority referred to in clause (29A) of section 10 shall also be mandatorily required to furnish a return of income.

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

b) **Time limit for filing revised return of income:**

Existing Provision	Proposed Amendment
Sub-section (5) of the said section 139 provides that a person can furnish a revised return, in case he discovers any omission or wrong statement in his return of income already furnished, within one year from the end of the relevant assessment year or before completion of assessment, whichever is earlier.	It is proposed to amend the said sub-section (5) so as to provide that the time for furnishing of revised return shall be available upto the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

Amendments have been proposed in other sections of the Act for expediting the assessment proceedings. It is stated in the Memorandum that in order to expedite assessments by the Department, it is critical that the returns for an assessment year also freeze by the end of the assessment year.

Effective Date:
These amendments will take effect from 1st April, 2018 and will, accordingly apply in relation to assessment year 2018-2019 and subsequent years.

53. Self assessment tax and Fee for delay in furnishing return of income [Section 140A, New Section 234F & 271F]:
Section 140A of the Act deals with the provisions relating to payment of self-assessment tax. The following amendment is proposed in this section. As a consequence of proposed insertion of new section 234F:

Existing Provision	Proposed Amendment
The said section provides that the assessee shall be liable to pay tax together with interest payable under any provision of the Income-tax Act as reduced by the amounts of taxes paid before furnishing a return under the said Act. It also provides the manner of calculation of the amount so payable and consequence of non-payment of the said amount.	It is proposed to amend the said section to include that in case of delay in furnishing of return of income, along with the tax and interest payable as aforesaid, fee for delay in furnishing of return of income shall also be payable.

It is also proposed to insert a New Section 234F to provide that a fee for delay in filing of return shall be paid for assessment year 2018-2019 and onwards in a case where the return is not filed within the due dates specified for filing of return under sub-section (1) of section 139. It is further proposed that-

- A fee of five thousand rupees be payable, if the return is furnished after the due date but on or before the 31st day of December of the assessment year.

- A fee of ten thousand rupees is proposed to be payable in any other case.

- However, in a case where the total income does not exceed five lakh rupees, it is proposed that the fee amount shall not exceed one thousand rupees.

Thus, it is now proposed that if there is a delay in filing the details beyond the time specifies, a fee is payable and that fee has to be paid before filing the return of income as self assessment tax and the details of such payment has to be furnished in the return of income. Please note non-payment of self assessment tax may amount to filing a defective return.

Consequent to proposed insertion of section 234F, it is proposed to provide sunset clause to penalty for failure to furnish return of income provided u/s 271F of the Act.

Thus, now for default of furnishing return of income, a fee is payable instead of penalty.

Effective Date:
This amendment will take effect from 1st April, 2018 and will, accordingly apply in relation to assessment year 2018- 2019 and subsequent years.

54. Issue of Refund on processing of return and withholding of refund in certain cases [Section 143 & New Section 241A]:

Let us see the development in Law on the subject in last few years:

a) Section 143(1) of the Act provides that a return filed is to be processed within one year from the end of the financial year in which the return is made.

b) Finance Act, 2012 with effect from 1st July, 2012 inserted new sub-clause (1D) to provide that notwithstanding anything contained in sub-section (1), the processing of a return shall not be necessary, where a notice has been issued to the assessee under sub-section (2).

c) Finance Act, 2016 further amended the sub-section (1D) of the Act to provide that before making an assessment under sub-section (3) of that section, a return shall be processed under sub-section (1) of section 143.

d) Department initially internally issued an Instruction No. 1 of 2015 dated 13th January, 2015 to provide that no refund is to be issued where the case is selected for scrutiny.

e) The various Courts have held against the same.

It is now proposed to provide that the provisions of this sub-section (1D) (as substituted by the Finance Act, 2016) shall not apply to any return furnished for the assessment year commencing on or after 1st April, 2017.

Thus, on combined reading of the provisions, it will provide that for the returns filed upto for the A.Y. 2016-17, the processing of the return will not be necessary, if the

case is selected for the scrutiny. The processing will be done only before the issuance of an order u/s 143(3) of the Act.

For the returns filed for the A.Y. 2017-18 and thereafter the processing of the return will be necessary.

When return is not processed, the refund is not determined and an assessee is not granted such refund. So still the refunds for the assessment years upto 2016-17 may be delayed considerably if the case is selected for the scrutiny.

Further, it is proposed to insert a new section 241A to provide that, for the returns furnished for assessment year commencing on or after 1st April, 2017, where refund of any amount becomes due to the assessee under section 143(1) and the Assessing Officer is of the opinion that grant of refund may adversely affect the recovery of revenue, he may, for the reasons recorded in writing and with the previous approval of the Principal Commissioner or Commissioner, withhold the refund upto the date on which the assessment is made. Thus, on one hand the provision is made from A.Y. 2017-18 to process the return and give refund and on the other hand power is given to the Assessing Officer to withhold the refund for the reasons to be recorded.

Thus, an assessee may not get refund / get lower amount of refund in following cases:

i) There is a mismatch in the taxes paid as per return of income and the database of the tax department.

ii) Adjustment has been made to the total income while processing the return u/s 143(1) of the Act, consequently resulting into lower amount of refund, no refund or a demand.

iii) For the returns upto A.Y. 2016-17, the Assessing Officer may choose not to process the return if the case is selected for the scrutiny.

iv) Having processed the return and refund determined, the Assessing Officer is of the view that grant of refund is likely to adversely affect the recovery by the revenue in cases where it is selected for scrutiny.

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

Also, it is proposed to amend sub-section (1) of section 143 of the Act to provide that in computation of amount payable or refund due, as the case may be, on account of processing of return under the said sub-section, the fee payable under section 234F (i.e., fee for delay in filing return of income) shall also be considered.

55. Time limit for completion of assessment, reassessment and recomputation [Section 153]:

Section 153 of the Act deals with the provisions relating to time-limit for completion of assessment, reassessment and recomputation.

Proceedings	Existing Timelines	Proposed Timelines
Assessment / Best judgment assessment	Twenty one months from end of the assessment year	**Assessment Year 2018-19** Eighteen months from the end of the assessment year **Assessment Year 2019-20** Twelve months from the end of the assessment year
Re-assessment	Nine months from end of financial year in which notice is served	Within twelve months from the end of the financial year, if notice is served on or after 1 April 2019
Fresh assessment in pursuance of order by ITAT / order under section 263 / 264 (i.e. orders which are prejudicial to the interest of revenue / assessee)	Nine months from the end of financial year in which order of ITAT is received or order under section 263 / 264 is passed by the prescribed authority	Within twelve months from the end of the financial year in which order is received / passed by the prescribed authority in respect of order passed or received on or after 1 April 2019
Effect to CIT/ITAT order or 263 / 264 order which requires verification of any issue by way of submission of any document or where opportunity of being heard is to be provided		Within twelve months from end of the financial year in which order is received or passed. This timeline will be effective retrospectively from 1 June 2016
Notice for assessment or re-assessment issued prior to 1 June 2016 and assessment or reassessment not completed by 1 June 2016		Two years from end of assessment year in case of scrutiny assessment One year from end of financial year in which notice under section 148 is served in case of re-assessment. This timeline will be effective retrospectively from 1 June 2016
Proceedings for settlement of cases to commence from	From the date on which return of income is furnished or in response to notice under section 142 and concluded on the date on which assessment is made; or on the expiry of two years from the end of the relevant assessment year, in case where no assessment is made	In case of time limit of two years it is now proposed that time limit as applicable for assessment / best judgment assessment will be applicable.

56. Assessment in case of search or requisition: Increasing the coverage to 10 years [Section 153A & 153C]:

Section 153A of the Act deals with provisions relating to assessment in case of search or requisition.

Sub-section (1) of the aforesaid section provides that where a search is conducted under section 132 or requisition is made under section 132A of the Act, a notice shall be issued to such person to furnish the return of income in respect of each assessment year falling within six assessment years immediately preceding the assessment year relevant to the previous year in which search is conducted or requisition is made. It also provides for assessment or reassessment of total income of the said years.

It is proposed that issuance of notice and assessment or reassessment under the said section can also be made for an assessment year preceding the assessment year relevant to the previous year in which search is conducted or requisition is made which falls beyond six assessment years but not beyond ten assessment years from the assessment year relevant to the previous year in which search is conducted or requisition is made, provided that—

i) the Assessing Officer has in his possession books of account or other documents or evidence which reveal that the income which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in one year or in aggregate in the relevant assessment years;

ii) such income escaping assessment is represented in the form of asset which shall include immovable property being land or building or both, shares and securities, deposits in bank account, loans and advances;

iii) the income escaping assessment or part thereof relates to such year or years; and

iv) search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.

It is further proposed to make consequential amendment to the provisos of the said sub-section.

It is also proposed to define the expression "relevant assessment year" and "asset" in the form of Explanation.

Thus, the coverage of block period is increased from 6 years to 10 years subject to certain compliance as stated above.

The rational of such amendment is explained in the Memorandum as under:

The existing provisions of clause (c) of the section 197 of the Finance Act, 2016 provide that where any income has accrued, arisen or been received or any asset has been acquired out of such income prior to commencement of the Income Declaration

Scheme, 2016 (the Scheme), and no declaration in respect of such income is made under the Scheme, then, such income shall be deemed to have accrued, arisen or received, as the case may be, in the year in which a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act is issued by the Assessing Officer, and provisions of the said Act shall apply accordingly.

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

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

However, in order to protect the interest of the revenue in cases where tangible evidence(s) are found during a search or seizure operation (including 132A cases) and the same is represented in the form of undisclosed investment in any asset, it is proposed that section 153A relating to search assessments be amended to provide that notice under the said section can be issued for an assessment year or years beyond the sixth assessment year already provided upto the tenth assessment year

It is also proposed to consequentially amend section 153C to provide a reference to the relevant assessment year or years as referred to in section 153A of the Act.

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

57. Time limit for completion of assessment under section 153A [Section 153B]:
The existing provisions of section 153B of the Act provide for the time limit for completion of assessment under section 153A of the Act.

It is explained that since the time limit for completion of assessment under section 153 of the Act is proposed to be rationalized, the time limit for completion of assessment under section 153A is also proposed to be consequentially rationalized.

It is accordingly proposed to amend sub- section (1) of the said section to provide that for search and seizure cases conducted in the financial year 2018-19, the time limit for making an assessment order under section 153A of the Act shall be reduced from existing twenty-one months to eighteen months from the end of the financial year in which the last of the authorizations for search under section 132 or for requisition under section 132A was executed. It is further proposed that for search and seizure cases conducted in the financial year 2019-20 and onwards, the said time limit shall be further reduced to twelve months from the end of the financial year in which the last of the authorizations for search under section 132 of the Act or for requisition under section 132A of the Act was executed.

It is further proposed to provide that period of limitation for making the assessment or reassessment in case of other person referred to in section 153C of the Act, shall be the period available to make assessment or reassessment in case of person on whom search is conducted or twelve months from the end of the financial year in which

books of accounts or documents or assets seized or requisitioned are handed over under section 153C of the Act to the Assessing Officer having jurisdiction over such other persons, whichever is later.

It is also proposed to insert a proviso to the Explanation of the said section to provide that where a proceeding before the Settlement Commission abates under section 245HA of the Act, the period of limitation available under this section for assessment or reassessment shall after the exclusion of the period under sub-section (4) of section 245HA of the Act shall not be less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year.

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

It is also proposed to amend sub-section (3) of section 153B of the Act to provide that where a notice under section 153A of the Act or section 153C of the Act has been issued prior to 1st day of June, 2016 and the assessment has not been completed by such date due to exclusion of time referred to in the Explanation, such assessment shall be completed in accordance with the provisions of this section as it stood immediately before its substitution by the Finance Act, 2016.

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

58. Procedure for amendment of assessment order [Section 155]:
The existing provisions of section 155 of the Act provide for procedure for amendment of assessment order in case of certain specified errors.

Rule 128 of the Income Tax Rules, 1962 is inserted by the Income Tax (Eighteenth Amendment) Rules, 1962 with effect from 1st April, 2017. The Rules provides a mechanism for claim of foreign tax credit. It provides that an assessee, being a resident shall be allowed a credit for the amount of any foreign tax paid by him in a country or specified territory outside India, by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India, in the manner and to the extent as specified in this rule.

It is proposed to insert a new sub-section (14A) in the said section so as to provide that where credit for income- tax paid in any country outside India or a specified territory outside India, referred to in section 90, section 90A or section 91 of the Act, has not been given in the order of assessment for the relevant assessment year on the grounds that the payment of such tax was in dispute, then, the Assessing Officer shall rectify the order of assessment or an intimation under sub- section (1) of section 143 of the Act, if the assessee, within six months from the end of the month in which the dispute is settled, furnishes proof of settlement of such dispute and evidence of payment of such tax along with an undertaking that no credit of such amount of tax has been directly or indirectly claimed or shall be claimed for any other assessment year.

Effective Date:
This amendment will take effect from 1st April, 2018 and will, accordingly, apply in relation to assessment years 2018- 2019 and subsequent years.

59. Profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc. [Section 206C]:

a) **Section 206C (1D) (ii):**
It is proposed to omit the clause (ii) of sub section (1D) of the said section relating to tax collection at source at the rate of one percent of sale consideration on cash sale of jewellery exceeding five lakh rupees.

With this amendment now, the jewellers would not be liable to collect TCS.

This amendment is consequential to insertion of new section 269ST. For details please refer Para 66 below.

b) **Section 206C (1F):**

Existing Provision	Proposed Amendment
Sub-section (1F) of the section 206C, inter alia, provides that the seller who receives any amount as consideration for sale of a motor vehicle of the value exceeding ten lakh rupees, shall at the time of receipt of such amount, collect from the buyer a sum equal to one percent of the sale consideration as income-tax.	It is proposed to insert a new sub-clause (iii) in clause (aa) of the Explanation to section 206C to exempt the following class of buyers from the provision of sub-section (1F) of the said section, namely:— • the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; or • local authority as defined in the Explanation to clause (20) of section 10; or • a public sector company which is engaged in the business of carrying passengers.

Effective Date:
This amendment will take effect retrospectively from 1st April, 2017 and shall apply to the assessment year 2017-18 and subsequent years.

60. Non Furnishing of PAN to the collector [Section 206CC]:
It is proposed to insert new section 206CC of the Act to provide the following:

- any person paying any sum or amount, on which tax is collectable at source under Chapter XVII BB (hereafter referred to as collectee) shall furnish his Permanent Account Number to the person responsible for collecting such tax (hereafter referred to as collector), failing which tax shall be collected at the

twice the rate mentioned in the relevant section under Chapter XVII BB or at the rate of five percent whichever is higher.

- that the declaration filed under sub section (1A) of section 206C of the Act shall not be valid unless the person filing the declaration furnishes his Permanent Account Number in such declaration.

- that in case any declaration becomes invalid under sub-section (2), the collector shall collect the tax at source in accordance with the provisions of sub-section (1).

- no certificate under sub section (9) of section 206C shall be granted unless it contains the Permanent Account Number of the applicant.

- that the collectee shall furnish his Permanent Account Number to the collector who shall indicate the same in all its correspondence, bills, vouchers and other documents which are sent to collectee.

- where the Permanent Account Number provided by the collectee is invalid or it does not belong to the collectee, then it shall be deemed that Permanent Account Number has not been furnished to the collector.

- to exempt the non-resident who does not have permanent establishment in India from the provisions of this proposed section 206CC of the Act.

For the purposes of this section, the expression "Permanent Establishment" includes a fixed place of business through which the business is wholly or partly carried on.

Effective Date:
This amendment will take effect retrospectively from 1st April, 2017 and shall apply to the assessment year 2017-18 and subsequent years.

61. Due date for installment of advance tax [Section 211]:
Section 211 of the Act deals with the provisions relating to installments of advance tax and due dates.

Section 211 of the Act provides for payment advance tax in four installments during each financial year and also provides the due dates for the payments and amounts payable.

Clause (b) of sub-section (1) of the said section provides that an eligible assessee engaged in an eligible business referred to in section 44AD is liable to pay advance tax in a single installment on or before the 15th of March every financial year.

It is proposed to provide that professionals who will be paying taxes under presumptive scheme u/s 44ADA of the Act need to pay advance tax in one installment before 15th March of every financial year. This amendment is in line with payment of advance tax by eligible businesses u/s 44AD of the Act.

Effective Date:
This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-2018 and subsequent years.

62. Interest for deferment of advance tax [Section 234C]:
Section 234C of the Act deals with interest for deferment of advance tax.

It is proposed to provide that in respect of an assessee referred to in section 44ADA of the Act, interest under the aforesaid section shall be levied, if the advance tax paid on or before the 15th day of March, is less than the tax due on the returned income. The said amendment is consequential to the amendment of section 211 of the Act.

The first proviso to sub-section (1) of section 234C of the Act lays down exceptions to the applicability of the said sub- section to short fall in the payment of advance tax in case of certain incomes. It is proposed to amend the aforesaid proviso so as to provide that no interest under said section shall be levied on the income referred to in sub-section (1) of section 115BBDA of the Act subject to the conditions specified therein.

Tax on certain dividends received from domestic companies is being levied under section 115BBDA of the Act with effect from the 1st April, 2017, if such income exceeds ten lakh rupees.

Thus, now it is provided that no interest under this section shall apply to any short fall in the payment of tax due on the returned income where such short fall is on account of under estimate or failure to estimate income of the nature referred to in section 115BBDA(1) of the Act, provided the assessee has paid the whole of the amount of tax payable in respect of such income as part of remaining installments of advance tax which are due or where no such installments are due by the 31st day of March of the financial year.

Effective Date:
These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-2018 and subsequent years.

63. Interest on Refund [Section 244A]:
Section 244A of the Act provides that an assessee is entitled to receive interest on refund arising out of excess payment of advance tax, tax deducted or collected at source, etc.

The deductor of the tax has paid excess TDS is entitled to claim the refund of the same.

It is proposed to insert a new sub-section (1B) in the said section so as to provide that where refund of any amount becomes due to the deductor of tax at source, then such person shall be entitled to receive, in addition to the refund, simple interest on such refund, calculated at the rate of one-half percent for every month or part of a month comprised in the period, from the date on which –

- Claim for refund is made in the prescribed form; or

- Tax is paid, where refund arises on account of giving effect to an order under section 250 or section 254 or section 260 or section 262 of the Act.

to the date on which the refund is granted.

It is also proposed to provide that the interest shall not be allowed for the period for which the delay in the proceedings resulting in the refund is attributable to the deductor.

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

The Hon'ble Supreme Court in the case of Tata Chemicals Ltd. reported in 363 ITR 658 has held as under:

> "In the present case, it is not in doubt that the payment of tax made by resident/depositor is in excess and the department chooses to refund the excess payment of tax to the depositor. As already held the interest requires to be paid on such refunds. The catechise is from what date interest is payable, since the present case does not fall either under clause (a) or (b) of section 244A of the Act. In the absence of an express provision as contained in clause (a), it cannot be said that the interest is payable from the 1st of April of the assessment year."

The proposed amendment is in line of this decision.

64. Amendments to the structure of Authority for Advance Rulings [Sections 245N, 245O & 245Q]:
Chapter XIX-B of the Act relates to the Advance rulings under the Act.

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

Accordingly, it is proposed to amend the definition of applicant in section 245N of the Act to provide reference of applications for Advance Ruling made under the Customs Act, 1962, the Central Excise Act, 1944 and the Finance Act, 1994 (which makes provisions in respect of Service Tax Matters).

Similarly, amendment has been proposed to section 245Q of the Act which relates to application for advance ruling.

It is further proposed to amend the qualifications for appointment as revenue Member of the AAR and provide that an officer of the Indian Revenue Service qualified to be a Member of the Central Board of Direct Taxes Board and an officer of the Indian Customs and Central Excise Service, who is qualified to be a member of the Central

Board of Excise & Customs, shall be eligible to be appointed as revenue Member of AAR.

In order to improve the efficiency and efficacy of the AAR, and to increase the available pool for appointment as Chairman, AAR, it is proposed to amend the qualifications for appointment as Chairman as provided in section 245-O and provide that a former Chief Justice of a High Court, or a person who has been a High Court Judge for at least seven years shall also be eligible to be Chairman of the AAR.

It is also proposed to provide that the qualifications for appointment as revenue Member or law Member shall be considered as on the date of occurrence of the vacancy.

It is also proposed that in the event the Chairman is unable to discharge his functions owing to absence, illness or any other reason, or in the event that the office of the Chairman falls vacant, the Vice-chairman shall discharge the functions of the Chairman until the new Chairman enters upon his office or until the incumbent Chairman resumes his duties.

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

65. Appeals to the Appellate Tribunal [Section 253]:
Section 253 of the Act is proposed to be amended so as to make an order passed by the prescribed authority under section 10(23C)(iv) and (v) of the Act also appealable before the Appellate Tribunal.

The orders passed u/s 10(23C)(iv) and (v) of the Act are in respect of –

> (iv) any other fund or institution established for charitable purposes, having regard to the objects of the fund or institution and its importance throughout India or throughout any State or States;
>
> (v) any trust (including any other legal obligation) or institution wholly for public religious purposes or wholly for public religious and charitable purposes, having regard to the manner in which the affairs of the trust or institution are administered and supervised for ensuring that the income accruing thereto is properly applied for the objects thereof.

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

66. Restriction on cash transactions [New Sections 269ST and 271DA]:
It is proposed to insert section 269ST in the Act to provide that no person shall receive an amount of three lakh rupees or more,—

a) in aggregate from a person in a day;

b) in respect of a single transaction; or

c) in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account.

It is further proposed to provide that the said restriction shall not apply to Government, any banking company, post office savings bank or co-operative bank. Further, it is proposed that such other persons or class of persons or receipts may be notified by the Central Government, for reasons to be recorded in writing, on whom the proposed restriction on cash transactions shall not apply. Transactions of the nature referred to in section 269SS of the Act are proposed to be excluded from the scope of the said section.

It is also proposed to insert new section 271DA in the Act to provide for levy of penalty on a person who receives a sum in contravention of the provisions of the proposed section 269ST of the Act. The penalty is proposed to be a sum equal to the amount of such receipt. The said penalty shall however not be levied if the person proves that there were good and sufficient reasons for such contravention. It is also proposed that any such penalty shall be levied by the Joint Commissioner.

It is also proposed to consequentially amend the provisions of section 206C of the Act to omit the provision relating to tax collection at source at the rate of one percent of sale consideration on cash sale of jewellery exceeding five lakh rupees.

The rational of the proposed amendment is explained in the Memorandum as under:

> "In India, the quantum of domestic black money is huge which adversely affects the revenue of the Government creating a resource crunch for its various welfare programmes. Black money is generally transacted in cash and large amount of unaccounted wealth is stored and used in form of cash. In order to achieve the mission of the Government to move towards a less cash economy to reduce generation and circulation of black money, these amendments have been proposed."

The proposed amendment applies to all types of receipts in cash. Take for an example – hospitals insist deposit of cash in advance at the time of admission or at the time of discharge of patient. The hospitals insist for payment in cash and in most of the cases they are not willing to accept cheques. Admittedly, most of the hospitals do accept payments through debit / credit cards but everybody does not hold debit / credit card and even if they are having it, the limit may not be high enough to make such payments. Such issues need to be looked at.

We are given statistics of other countries where digital payment / non cash payments on day-to-day transactions are as high as 80% to 85%. Yes, that is correct, but those data has to be read with reference to –

- Population of those countries as compared to ours.
- Literacy ratio in those countries as compared to ours.

- Banking facilities available in the interiors in those countries as compared to ours.

The difficulty is that there is a presumption in the mind set of tax department that every cash transaction is non-genuine.

Now with these proposed amendments the tax consequences are provided on both the sides –

- Person making the payment in cash – disallowance of expenses, disallowance of depreciation on assets purchased in cash, disallowance of deduction, penalty for giving loan in cash, etc. as provided in Sections 40A(3), 32, 35AD, 269SS, etc.;

- Person receiving in cash – receiving of loans in cash, repayment of loans in cash, receiving any amount in cash above Rs. 3 lakhs, etc. as provided in Sections 269SS, 269T, 269ST, etc.;

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

67. Penalty on professionals for furnishing incorrect information in reports or certificates [New Section 271J & Section 273B]:

It is proposed to insert a new section 271J of the Act so as to provide that if an accountant or a merchant banker or a registered valuer, furnishes incorrect information in a report or certificate under any provisions of the Act or the rules made thereunder, the Assessing Officer or the Commissioner (Appeals) may direct him to pay a sum of ten thousand rupees for each such report or certificate by way of penalty.

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

This mandates professionals to keep proper backup papers in their file to defend their own case of penalty.

The expression "accountant", "merchant banker" and "registered valuer" are defined as under:

a) "accountant" means an accountant referred to in the Explanation below sub-section (2) of section 288;

   As per Explanation below sub-section (2) of Section 288, "accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) who holds a valid certificate of practice under sub-section (1) of section 6 of that Act.

b) "merchant banker" means Category I merchant banker registered with the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992;

c) "registered valuer" means a person defined in clause (oaa) of section 2 of the Wealth-tax Act, 1957.'.

It is stated that the thrust of the Government in recent past is on voluntary compliance. Certification of various reports and certificates by a qualified professional has been provided in the Act to ensure that the information furnished by an assessee under the provisions of the Act is correct. Various provisions exist under the Act to penalize the defaulting assessee in case of furnishing incorrect information. However, there exists no penal provision for levy of penalty for furnishing incorrect information by the person who is responsible for certifying the same.

In order to ensure that the person furnishing report or certificate undertakes due diligence before making such certification, the amendments have been proposed. However, in practice we all know that although various reports are furnished by the accountants and other professionals, the Assessing Officer makes independent verification in most of the cases.

In any case, fixation of accountability is always a welcome step, may be this time, it is on professionals.

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

Generally, the total accountability is always of the assessee and now some accountability is cast on professionals issuing reports / certificates, etc.

Lets hope in near future even accountability of Assessing Officer is brought on statute.

Must Read…….

Certain provisions under the Act were introduced by earlier Finance Acts. Some of these are already in force in current financial year 2016-17 and the most important one will be effective for transaction entered into on or after 1st April, 2017. The industry was expecting some postponement of applicability of these provisions. However, neither any announcement is made in the Budget Speech nor any such proposal finds place in fine prints of Finance Bill, 2017. Thus, these will be implemented now and therefore, whether we like it or not, we need to gear up to prepare ourselves to comply with the same. In this note, we will discuss only following issues:

1. POEM
2. ICDS
3. C by C Reporting
4. GAAR
5. Concept of BEPS

1. **<u>Place of Effective Management (POEM):</u>**

Section 6(3) of the Income Tax Act, 1961 was amended vide Finance Act, 2015, with effect from 1st April, 2016 to provide that a company is said to be resident in India in any previous year, if –

i) It is an Indian company; or
ii) Its place of effective management in that year is in India.

"Place of effective management" is defined in the Act to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance, made.

The Finance Act, 2016 has changed the effectivity of the said amendment to section 6(3) of the Act. The amended provision would now apply to Assessment Year 2017-18 and subsequent assessment years.

Thus, the provision is already effective for the running financial year 2016-17 relevant to A.Y. 2017-18.

The CBDT has issued Guiding Principles for determination of Place of Effective Management (POEM) of a Company vide Circular No. 06 of 2017 dated 24th January, 2017. Circular provides guidelines as to what will constitute place of effective management. The circular has also introduced new terms such as, "active business outside India" and "passive income".

Also, the Controlled Foreign Company Rules (CFC) as recommended by Base Erosion and Profit Shifting (BEPS) Action Plan 3 has also been included in part in this Circular.

If POEM is held to be in India, then a Company not incorporated in India would be treated as tax resident company in India and being tax resident of India -

- Its Global Income would be taxable in India;
- It will have to obtain PAN, TAN, maintain books of accounts and get them audited;
- It will have to compute its taxable income as per the Act and file its income tax return in India and
- All other provisions of the Act would be applicable which are applicable to companies.

The Finance Act, 2016 had also introduced section 115JH in the Income-tax Act, 1961 to enable the Government to notify rules in relation to computation of income, carry forward and set-off of losses, treatment of unabsorbed depreciation and applicability of transfer pricing in relation to foreign companies which are treated as being resident in India. Rules in this regard are still awaited.

Thus, the corporate needs to have internal check to see whether POEM situation exists.

2. **Income Computation & Disclosure Standards (ICDS)**

Currently most corporate entities determine taxable income using Indian accounting standards. However, the CBDT provided for adoption of ICDS under the Income Tax Act, 1961 in March 2015.

These are now effective for the current financial year 2016-17. There are in all 10 such standards notified –

ICDS No.	Description
I	Accounting Policies
II	Valuation of Inventories
III	Construction Contracts
IV	Revenue Recognition
V	Tangible Fixed Assets
VI	The Effects of Changes in Foreign Exchange Rates
VII	Government Grants
VIII	Securities
IX	Borrowing Costs
X	Provisions, Contingent Liabilities and Contingent Assets

These standards prescribe principles for recognition and measurement of different items of income, expenditure, assets and liabilities to compute taxable income. These standards are to be applied by specified taxpayers following the mercantile system of accounting for the purpose of Computation of business or professional income or income from other sources.

ICDS are prescribed to compute taxable income and not for maintaining books of accounts. This will lead to maintenance of additional records and will add to the time and cost of compliance for smaller corporate.

The notified ICDS state that in case of conflict between ICDS and provisions of the Income Tax Act, the Act shall prevail. However various court rulings have interpreted provisions of the Act in the absence of clear languages/mandate in legal provisions. ICDS provisions will nullify or dilute the judicial decisions in various Supreme Court and High Court rulings.

The effect of these ICDS has to be given in computation of income and in some of the cases there may be significant change in computation of total income. Thus, the tax payer has to now restart understanding the implication of these ICDS and recalculate estimated total income for the purposes of payment of advance tax, which is due in March 2017.

3. **Country by Country Reporting (CbC)**

Action Plan 13 of BEPS focuses on TP documentation and includes the CbC Report, which applies to multinational enterprises. It is designed to increase transparency by providing tax authorities with sufficient information to allow them to conduct transfer pricing risk assessments.

Finance Act, 2016 has inserted Section 286 to the Act – Furnishing of Report in respect of international group.

A three tiered structure for Transfer pricing documentation as recommended by BEPS Action Plan 13 has been brought in under the Act, the details of which are as under:

Master File:
Containing standardized information relevant for all MNE group members.

Local File:
Specifically refers to material inter-company transactions of the local taxpayer.

Country-by-Country Report:
Information relating to the global allocation of the MNE's income and taxes paid; and

Certain indicators of the location of economic activity within the MNE group.

Master file and Local file is to be filed by the MNE's with local tax authorities. The manner of filing is yet to be declared.

Country - by - Country Report is to be filed by the ultimate parent entity in the country of its Resident.

Under this reporting, the ultimate holding company has to give data of all the network companies to the revenue officer of the country, which is accessible to tax department of all the countries where this subsidiary or network company is located. There are certain rules made for filing, so that the data is easily accessible. For the first time common format across the globe has been prepared for reporting in respect of all the countries.

It requires companies to use a consistent three-tier framework for providing information on global allocation of income, economic activity and inter-company pricing across all of a company's global operations.

CbC Reporting is applicable for the financial year 2016-17 to an international group having consolidated revenue above Euro 750 million (equivalent INR 5395 crores approx) in the financial year 2015-16.

Every Parent entity to whom the applicable Monetary Threshold limit applies will have to file CbC Report in the prescribed manner.

CbC Report is to be filed on or before due date of furnishing of return of income. The first report for the A.Y. 2017-18 needs to be furnished by 30th November, 2017.

For non-complying with the provisions of Section 286 of the Act, penal provisions u/s 271GB of the Act are applicable.

This CbC Report is required to be furnished by the parent company with a revenue officer of its own jurisdiction. The parent company has to compile these information in respect of all the network entities and a consolidated report needs to be submitted. This consolidated report will be accessible to the revenue officers of jurisdictions of each entity under that network. Thus, the revenue officer of each jurisdiction will have access to data of all the entity in that network group.

Please review the type of information which the tax department is asking for reporting. The preparation of the same is a project in itself. We therefore request you all to review the threshold limit applicable to the Group to which you are part of and if these provisions are applicable to you then start preparation of the same, if not already started. If you are a parent company then you need to compile these details for your own jurisdiction as well as of all the entities in the network. If you are a network entity then you need to compile these details and send it to parent company to enable the parent company to consolidate and furnish the report to the jurisdictional revenue officer.

4. **General Anti Avoidance Rules (GAAR)**

Chapter X-A was inserted in Income Tax Act, 1961 by Finance Act, 2013 containing new sections 95 to 102. This is popularly known as "GAAR" which seeks to give the tax department powers to scrutinize transactions structured in such a way as to deliberately avoid paying tax in India.

After being postponed twice, it is slated to be implemented from financial year 2017-18. **Thus, GAAR is applicable to transaction entered into on or after 1st April, 2017**.

The provisions of GAAR will be applicable to any tax benefit obtained from an arrangement on or after 1st April 2017.

For an arrangement to be treated as an impermissible avoidance arrangement, the main purpose of it should be to obtain tax benefit.

Factors like time period of the arrangement, payment of taxes (directly or indirectly) and exit route are relevant but not sufficient from commercial substance perspective.

An arrangement deemed to lack commercial substance if it has no significant effect on the business risks or net cash flows of any party to the arrangement other than tax benefit attached.

The Tax Department has very wide powers under these provisions to rewrite the whole transactions/arrangement and/or not to consider a transaction/ arrangement at all.

However, safety belts have been provided to mitigate the abuse of such powers.

In nutshell, one needs to have a relook at the transactions / arrangements to be entered into on or after 1st April, 2017 and check Principle Purpose Test (PPT) of such transaction.

There are no specific penalty provisions in case GAAR provisions are invoked. Accordingly tax authorities are likely to take recourse to two broad categories under normal penalty provisions- “under-reporting” (entailing 50 per cent penalty) and “mis-reporting” (entailing 200 per cent penalty).

Last year, foreign investors had sought clarifications on the implementation of GAAR and the tax department had constituted a working group to look into their concerns.

The CBDT has come out with Clarifications on implementation of General Anti Avoidance Rules (GAAR) provisions under the Income Tax Act, 1961 vide Circular No. 7 of 2017 dated 27th January, 2017.

In an interview post budget Shri Hasmukh Adhia, Revenue Secretary has stated as under:

You came out with clarifications on place of effective management (POEM) and the general anti-avoidance rules (GAAR) quite late. While POEM is already effective, GAAR will be introduced from next financial year. Industry is not ready for such changes……
We have been discussing GAAR for five years. Only frequently asked questions (FAQs) were issued last month. FAQs will keep coming even after GAAR, is introduced. The finance minister had categorically said in the last year’s budget that GAAR is coming from April 1, 2017. With regards to POEM, we have put draft clarifications in the public domain in June itself. Then, the second round of revised draft was put in the public domain.

Isn't there a bit of subjectivity in GAAR clarifications as these say they will not override bilateral tax treaties if limitation of benefit (LoB) clause sufficiently addresses anti-avoidance issue?
There are two clauses. First one is that "is it an impermissible avoidance arrangement". That is a question you have to ask. Second is the principal purpose test. Is the principal purpose a genuine investment or only avoiding tax? Normally, LoB should take care of that.

5. <u>Concept of Base Erosion and Profit Shifting (BEPS)</u>
'Base Erosion and Profit Sharing' (BEPS) Action Plans are tax policy recommendations formulated by Organization for Economic Cooperation and Development (OCED) on initiative directions from the G20 summit to prevent double non taxation and ensure Multinationals Enterprises (MNE's) pay their fair share of taxes. G20 summit is an international forum on economic cooperation and development which has gained prominence since the 2008 global financial crisis and OECD is the think tank and policy making body on taxation policies.

India, being part of G20 nations, is an active member in BEPS project.

The BEPS action plan identifies 15 Actions to address BEPS in a comprehensive manner and sets a deadline to implement those actions.

The Action Plans were structured around three fundamental pillars viz:

a) Reinfrocing of 'substance' requirements in existing international standards;

b) Alignment of taxation with location of value creation and economic, activity; and

c) Improving transparency and tax certainty.

BEPS will ensure that any income earned anywhere in the world, must be taxed once in one of the jurisdiction having nexus.

In India, following steps have been taken for its implementation:

A) In Finance Act, 2016, three Action Plans have been implemented (in parts) with effect from 1st April, 2017:

1) Equalization Levy under chapter VIII of Finance Act, 2016 – based on Action Plan 1 'Addressing Tax challenges of Digital economy.

2) Patent Tax u/s 115BBF of the Act– based on Action Plan 5 'Countering Harmful Tax practices more effectively, taking into account transparency and substance'.

3) Country by Country Reporting (CbC Reporting) u/s 286 of the Act– based on Action Plan 13 'Re-examine Transfer Pricing Documentation'.

B) In January, 2017, the CBDT has come out with guiding principles for determination of Place of Effective Management which is partly in line with Action Plan 3 which talks about Controlled Foreign Company (CFC).

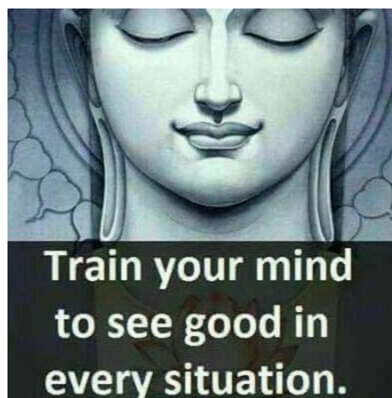
C) Now, in the Finance Bill, 2017, it is proposed to insert a new section 94B in the Act, in line with the recommendations of OECD BEPS Action Plan 4, to provide that interest expenses claimed by an entity to its associated enterprises shall be restricted to 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to associated enterprise, whichever is less.

D) Also, amendment has been proposed in this Bill for making secondary adjustment in Transfer Pricing Proceedings in line with OECD Transfer Pricing guidelines.

The purpose of this note is to alert and remind all of us to relook these provisions and start working on it. There is nothing to panic about.

*The underlying fundamental principle under these concepts is "**Substance over form**". So long as, we have justified commercial / business purpose to a transaction / arrangement, it is perfectly all right. The transaction / arrangement should not be solely driven by tax consideration. One more thing, we should also keep supporting / trail to substantiate compliance with this commercial / business purpose test.*

If that be so, there is nothing to worry about …………



The best preparation for tomorrow is doing the best today

An Alert

Extensive powers to Taxman:

The Bill has proposed sweeping powers for taxman to attach property, conduct searches, call for documents and determine fair market value of assets. This goes against the tenet of a non-adversarial tax regime, leading to uncertainty for individuals and businesses. Empowering tax officers to provisionally attach properties in search cases could coerce people into making declarations, before taking legal recourse. And that is unfair. Similarly, empowering junior officers to conduct inquiries and expanding the scope of searches to cover any activity done for a charitable purpose could mean roving inquiries. Tax officers will not be obliged either to disclose reasons for a search to an appellate tribunal, to maintain confidentiality. Also the Bill has provision to issue centralized notices.

The provisions have been discussed in the notes at appropriate places.

Thus, now receiving a call from Taxman is not a surprise. On receipt of a call, we need to furnish the required particulars. However, we hereinbelow give some suggestions as to what documents an assessee / taxpayer / citizen of India should keep handy in case we get a call from Taxman (at leaset this will help in replying to centralized notices):

- Copy of acknowledgement of return of income filed.
- Form 16 and Form 12BA (annual withholding tax certificate) issued by the employer.
- Monthly salary slips and proof of all expenses reimbursed by your employer.
- Proof of all deductions / exemptions claimed in your tax return.
- Copy of statement of bank accounts with explanation to all major debit and credit items.
- Copy of credit card statements. Please establish a link with the source of income used for payment of your credit card bills. The taxman is more interested in whether you have shown that income in your tax return.
- Details of foreign trips and assets held outside India.
- Supporting documents relating to the assets and investments – including purchase of immovable property.
- Copies of rent agreement / lease deed if one has rental income and receipt of municipal tax.
- Interest certificate issued by the lending institution for home loan.
- Details of loans/gifts taken or received.

This is just an illustrative list........

A modern tax administration should minimise the interface between the tax department and the taxpayer. Enforcement will entail some discretion, but safeguards must be in place to ensure that it is not used arbitrarily. This requires intensive training of tax officers, something that was recommended by the Parthasarathi Shome committee. The tax department should use big data analytics by either hiring such firms or using their techniques to mine information.

SERVICE TAX

No change in rate of Service tax, Krishi Kalyan Cess and Swachchh Bharat Cess.

A.	Legislative changes	Existing	Proposed
1.	The Negative List entry in respect of "services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption", is proposed to be omitted. However, the same entry is being placed in exemption notification No. 25/2012-Service Tax dated 20th June, 2012. Consequently, the definition of '*process amounting to manufacture*' [clause (40) section 65B] is also proposed to be omitted from the Finance Act, 1994 and is being incorporated in the general exemption notification. *(Clauses 120 & 121 of the Bill refers)*	Nil	Nil
2	Service tax exemption to taxable services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force under the Group Insurance Schemes of the Central Government, is being made effective from 10th day of September, 2004, the date when services of life insurance became taxable (*Clause 127 of the Bill refers*).	14%	Nil
3.	Benefit of the exemption notification No. 41/2016-ST dated 22.09.2016 is being extended with effect from 1.6.2007, the date when the services of renting of immovable property became taxable. Notification No.41/2016-ST dated 22.09.2016, exempts one time upfront amount (called as premium, salami, cost, price, development charges or by whatever name) payable for grant of long-term lease of industrial plots (30 years or more) by State Government industrial development corporations/undertakings to industrial units from Service Tax (*Clause 127 of the Bill refers*).	14%	Nil
4.	Rule 2 A of Service Tax (Determination of Value) Rules, 2006 is being amended with effect from 01.07.2010 so as to make it clear that value of service portion in execution of works contract involving transfer of goods and land or undivided share of land, as the case may be, shall not include value of property in such land or undivided share of land (*Clause 128 of the Bill refers*).	4.2%	4.2%

B.	**Other Legislative Changes regarding Authority for Advance Ruling**	**Clause of Finance Bill, 2017**	
5.	Clause (d) of section 96A is being amended so as to substitute the definition of "Authority" to mean the Authority for Advance Ruling as constituted under section 28E of the Customs Act, 1962.	[122]	
6.	Section 96B relating to vacancies not to invalidate proceedings is being omitted.	[123]	
7.	Sub-section (3) of section 96C is being amended so as to increase the application fee for seeking advance ruling from rupees two thousand five hundred to rupees ten thousand on the lines of the Central Excise Act.	[124]	
8.	Sub-section (6) of section 96D is being amended so as to provide time limit of six months by which Authority shall pronounce its ruling on the lines of the Central Excise Act.	[125]	
9.	A new section 96HA is being inserted so as to provide for transferring the pending applications before the Authority for Advance Rulings (Central Excise, Customs and Service Tax) to the Authority constituted under section 245-O of the Income-tax Act from the stage at which such proceedings stood as on the date on which the Finance Bill, 2017 receives the assent of the President.	[126]	
C.	**New Exemptions**		
1.	Services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force under the Group Insurance Schemes of the Central Government is being exempted from service tax from 2nd February, 2017.	14%	Nil
2.	The exemption vide S. No. 9B of notification No. 25/2012-ST dated 20.06.2012, is being amended so as to omit the word "residential" appearing in the notification. The exemption remains the same in all other respects. S. No. 9B of notification No. 25/2012-ST exempts services provided by Indian Institutes of Management (IIMs) by way of two year full time residential Post Graduate Programmes (PGP) in Management for the Post Graduate Diploma in Management (PGDM), to which admissions are made on the basis of the Common Admission Test (CAT), conducted by IIM.	14%	Nil
3.	Under the Regional Connectivity Scheme (RCS), exemption from service tax is being provided in respect of the amount of viability gap funding (VGF) payable to the selected airline operator for the services of transport of passengers, with or without accompanied belongings, by air, embarking from or terminating in a	14%	Nil

	Regional Connectivity Scheme (RCS) airport, for a period of one year from the date of commencement of operations of the Regional Connectivity Scheme (RCS) airport as notified by Ministry of Civil Aviation.		
D.	**Rationalisation measure**		
1.	Explanation-I (e) for the purpose of sub-rule (3) and (3A) of Rule 6 of Cenvat Credit Rules, 2004 is being amended so as to exclude banks and financial institutions including non-banking financial companies engaged in providing services by way of extending deposits, loans or advances from its ambit. It has been provided in the Cenvat Credit Rules, 2004 that value for the purpose of reversal of common input tax credit on inputs and input services used in providing taxable services and exempted services, shall not include the value of service by way of extending deposits, loans or advances against consideration in the form of interest or discount.		
E.	**AMENDMENTS IN THE CENVAT CREDIT RULES, 2004**		
Sr. No.	**Amendments**		
1.	Sub-rule (4) is being inserted in rule 10 of CENVAT Credit Rules, 2004 so as to provide for a time limit of three months [further extendable by 6 months] for approval of requests regarding transfer of CENVAT credit on shifting, sale, merger, etc. of the factory.		

Memorandum explaining Provisions of MAT in line with Ind AS

Rationalisation of provisions of section 115JB in line with Indian Accounting Standard (Ind-AS)

Central Government notified the Indian Accounting Standards (Ind AS) which are converged with International Financial Reporting Standards(IFRS) and prescribed the Companies(Indian Accounting Standards) Rules, 2015 which laid down a roadmap for implementation of these Ind AS.

Globally, different approaches have been adopted to deal with the tax issues arising from adoption of IFRS. For ensuring horizontal equity across the companies irrespective of the fact that whether they follow Ind AS or the existing Indian GAAP, the Central Government has issued Income Computation and Disclosure Standards (ICDS) for computation of taxable income for specified heads of income.

As the book profit based on Ind AS compliant financial statement is likely to be different from the book profit based on existing Indian GAAP, the Central Board of Direct Taxes (CBDT) constituted a committee in June, 2015 for suggesting the framework for computation of minimum alternate tax (MAT) liability under section 115JB for Ind AS compliant companies in the year of adoption and thereafter.

The Committee submitted first interim report on 18th March, 2016 which was placed in public domain by the CBDT for wider public consultations. The Committee submitted the second interim report on 5th August, 2016 which was also placed in public domain. The comments/ suggestions received in respect of the first and second interim report were examined by the Committee. After taking into account all the suggestions/ comments received, the Committee submitted its final report on 22nd December, 2016.

In view of the above, it is proposed to amend section 115JB so as to provide the framework for computation of book profit for Ind AS compliant companies in the year of adoption and thereafter. The main features of this proposed framework are as under:

A. MAT on Ind AS compliant financial statement

(i) No further adjustments to the net profits before other comprehensive income of Ind AS compliant companies, other than those already specified under section 115JB of the Act shall be made.

(ii) The other comprehensive income includes certain items that will permanently be recorded in reserves and hence never be reclassified to the statement of profit and loss included in the computation of book profits. These items shall be included in book profits for MAT purposes at the point of time as specified below—

Sl. No.	Items	Point of time
1	Changes in revaluation surplus of Property, Plant or Equipment (PPE) and Intangible assets (Ind AS 16 and Ind AS 38)	To be included in book profits at the time of realization / disposal / retirement or otherwise transferred

2	Gains and losses from investments in equity instruments designated at fair value through other comprehensive income (Ind AS 109)	To be included in book profits at the time of realization / disposal / retirement or otherwise transferred
3	Remeasurements of defined benefit plans (Ind AS 19)	To be included in book profits every year as the remeasurements gains and losses arise
4	Any other item	To be included in book profits every year as the gains and losses arise

(iii) Appendix A of Ind AS 10 provides that any distributions of non-cash assets to shareholders (for example, in a demerger) shall be accounted for at fair value. The difference between the carrying value of the assets and the fair value is recorded in the profit and loss account. Correspondingly, the reserves are debited at fair value to record the distribution as a 'deemed dividend' to the shareholders. As there is a corresponding adjustment in retained earnings, this difference arising on demerger shall be excluded from the book profits. However, in the case of a resulting company, where the property and the liabilities of the undertaking or undertakings being received by it are recorded at values different from values appearing in the books of account of the demerged company immediately before the demerger, any change in such value shall be ignored for the purpose of computing of book profit of the resulting company.

B. MAT on first time adoption

(i) The adjustments arising on account of transition to Ind AS from existing Indian GAAP is required to be recorded directly in Other Equity at the date of transition to Ind AS. Several of these items would subsequently never be reclassified to the statement of profit and loss / included in the computation of book profits. Accordingly, the following treatment is proposed:

(I) Those adjustments recorded in other comprehensive income and which would subsequently be reclassified to the profit and loss, shall be included in book profits in the year in which these are reclassified to the profit and loss;

(II) Those adjustments recorded in other comprehensive income and which would never be subsequently reclassified to the profit and loss shall be included in book profits as specified hereunder-

Sl. No.	Items	Point of time
1	Changes in revaluation surplus of PPE and Intangible assets (Ind AS 16 and Ind AS 38)	To be included in book profits at the time of realization / disposal / retirement or otherwise transferred

2	Gains and losses from investments in equity instruments designated at fair value through other comprehensive income (Ind AS 109)	To be included in book profits at the time of realization / disposal / retirement or otherwise transferred
3	Remeasurements of defined benefit plans (Ind AS 19)	To be included in book profits equally over a period of five years starting from the year of first time adoption of Ind AS
4	Any other item	To be included in book profits equally over a period of five years starting from the year of first time adoption of Ind AS

(III) All other adjustments recorded in Reserves and Surplus (excluding Capital Reserve and Securities Premium Reserve) as referred to in Division II of Schedule III of Companies Act, 2013 and which would otherwise never subsequently be reclassified to the profit and loss account, shall be included in the book profits, equally over a period of five years starting from the year of first time adoption of Ind AS subject to the following—

a) PPE and intangible assets at fair value as *deemed cost*

An entity may use fair value in its opening Ind AS Balance Sheet as deemed cost for an item of PPE or an intangible asset as mentioned in paragraphs D5 and D7 of Ind AS 101. In such cases the treatment shall be as under—

- The existing provisions for computation of book profits under section 115JB of the Act provide that in case of revaluation of assets, any impact on account of such revaluation shall be ignored for the purposes of computation of book profits. Further, the adjustments in retained earnings on first time adoption with respect to items of PPE and Intangible assets shall be ignored for the purposes of computation of book profits.

- Depreciation shall be computed ignoring the amount of aforesaid retained earnings adjustment.

- Similarly, gain/loss on realisation/ disposal/ retirement of such assets shall be computed ignoring the aforesaid retained earnings adjustment.

b) Investments in subsidiaries, joint ventures and associates at fair value as deemed cost

An entity may use fair value in its opening Ind AS Balance Sheet as deemed cost for investment in a subsidiary, joint venture or associate in its separate financial statements as mentioned in paragraph D15 of Ind AS 101. In such cases retained earnings adjustment shall be included in the book profit at the time of realisation of such investment.

c) Cumulative translation differences

- An entity may elect a choice whereby the cumulative translation differences for all foreign operations are deemed to be zero at the date of transition to Ind AS. Further, the gain or loss on a subsequent disposal of any foreign operation shall exclude translation differences that arose before the date of transition to Ind AS and shall include only the translation differences after the date of transition.

- In such cases, to ensure that such Cumulative translation differences on the date of transition which have been transferred to retained earnings, are taken into account, these shall be included in the book profits at the time of disposal of foreign operations as mentioned in paragraph 48 of Ind AS 21.

(ii) All other adjustments to retained earnings at the time of transition (including for example, Decommissioning Liability, Asset retirement obligations, Foreign exchange capitalisation/ decapitalization, Borrowing costs adjustments etc.) shall be included in book profits, equally over a period of five years starting from the year of first time adoption of Ind AS.

(iii) Section 115JB of the Act already provides for adjustments on account of deferred tax and its provision. Any deferred tax adjustments recorded in Reserves and Surplus on account of transition to Ind AS shall also be ignored.

C. Reference year for first time adoption adjustments

In the first year of adoption of Ind AS, the companies would prepare Ind AS financial statement for reporting year with a comparative financial statement for immediately preceding year. As per Ind AS 101, a company would make all Ind AS adjustments on the opening date of the comparative financial year. The entity is also required to present an equity reconciliation between previous Indian GAAP and Ind AS amounts, both on the opening date of preceding year as well as on the closing date of the preceding year. It is proposed that for the purposes of computation of book profits of the year of adoption and the proposed adjustments, the amounts adjusted as of the opening date of the first year of adoption shall be considered. For example, companies which adopt Ind AS with effect from 1 April 2016 are required prepare their financial statements for the year 2016-17 as per requirements of Ind AS. Such companies are also required to prepare an opening balance sheet as of 1 April 2015 and restate the financial statements for the comparative period 2015-16. In such a case, the first time adoption adjustments as of 31 March 2016 shall be considered for computation of

MAT liability for previous year 2016-17 (Assessment year 2017-18) and thereafter. Further, in this case, the period of five years proposed above shall be previous years 2016-17, 2017-18, 2018-19, 2019-20 and 2020-21.

As the Ind-AS is required to be adopted by certain companies for financial year 2016-17 mandatorily, these amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent assessment years.

Teacher:	How much is 2+2
Student:	9.50_
Teacher:	How on the earth is that possible?
Student:	2+2 = 4 + Vat + Service tax + Higher Education Cess + Swacch Bharat Cess + Krishi Kalyan cess; it comes to 9.50 Mam!.

Don't worry about being perfect; just be honest.

Salute to our JAWANS

अपनी आज़ादी को हम हरगिज़ मिटा सकते नहीं

सर कटा सकते हैं लेकिन सर झुका सकते नहीं

We owe our lives to them
Are we taking care of them and their families...

मित्रों, Whats your take on this Budget.

Khush	If you are RAEES - you land up paying more tax.
Rasgulla	If you are KAABIL - in digital technology, you get tax incentive.
Barbie	And if you try to evade tax, you have DANGAL with Taxman.
Taniji	And in this DANGAL, there is no gender bias.
U, me & Hum	So what do we do as Aam Admi.
Khush	Be KAABIL and become RAEES.
Rasgulla	Pay tax honestly and comply with tax Laws.
Barbie	So, no DANGAL of U, me and Hum with Taxamn irrespective of whether we are KAABIL or RAEES.
Taniji	JAI HO !

SIDE EFFECT OF TOO MUCH USE OF TECHNOLOGY