K C Mehta & Co.
Chartered Accountants

India Budget 2018

Changing Landscape

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The provisions contained in the Finance Bill, 2018 ("the Bill") are proposals and are likely to undergo amendments while passing through Houses of Parliament before being enacted.

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“If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind ”

- John Stuart Mill

Reflections

The time between the last Union Budget and the present one would have been one of the most eventful times in the near history on the economic and political fronts. We had the Government at the best of public adulation along-with "Demonetization" and riding on the same, it swept the Uttar Pradesh Elections. The same was then followed up with the implementation of one of the most courageous tax reforms of Goods and Service Tax (GST) with effect from 1st July 2017, which became a tumbling point of the ever-rising chart of the Government's popularity. This was the last budget of this Government which will have impact before the next critical general elections in early 2019.

The GST implementation had left a bit of dent in the finances, reflected in marginal slipping on the Fiscal Deficit (3.5 % over targeted 3 %) parameter. The Government had no option but to shift focus to the rural public (read agriculture) in the country. This was not only necessary politically, but also a need of the nation. It was high time the natural target was shifted to get the revenues from gains which were hitherto not taxed. **The landscape had to change**.

It is heartening to note that despite these pressures, the Government once again showed its mettle and refused to give a populist budget. It brought about fundamental, need based reforms. One single remarkable scheme which stands out is the National Health Protection Scheme wherein it is proposed that 100 Million Families would be provided upto Rs. 5 lac per annum per family for the secondary and tertiary care in the hospitalization. The implementation of this would be critical in times to come.

On the tax front, long term capital gains on the listed securities and equity oriented mutual funds are re-introduced at 10 % of the gain, without indexation benefits. However, care has been taken to reduce its impact by continuing to exempt the gains accrued till 31st January 2018. Similarly, much needed reliefs have been given to the companies under insolvency proceedings trying to restructure. Continuing with their promise, the tax rate for companies having turnover below Rs. 250 crores (in FY17) will enjoy the concessional rate of tax of 25 % (effective 27.82% / 29.12%) covering about 99 % of the Companies.

The Government has announced a completely rejuvenated tax assessment system which will completely eliminate the bias for the tax assessments and a collective assessment method not requiring face to face meetings between the AOs and the Assessees. This is definitely complex but very much desired.

The Government has already set up a high-level committee for looking at the tax reforms with an aim to simplify the compliance burden. This committee will be shortly presenting their findings and we hope to see further changes in the direct tax laws before the next budget.

However, the major task in hand for the Government presently is to ensure that implementation of GST is stabilized, blockage of funds of the businesses in the refunds is released and the procedure is acceptable to the stake holders. This Government has had the courage to bring such fundamental fiscal reforms where going has been good. While it is certain that it would give excellent long-term results, it is only hoped that its short term and medium-term toll is not very severe.

Milin Mehta

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Contents

State of Economy

A Step Forward

Economic Survey over the past few years' has moved from mere representation of the economic financials and parameters to understanding the complexities of the Indian Economy and analysing how the dynamics affects the multitude of socio-economic factors governing the vast and great country.

The Economic Survey of 2017-18 has kept up with the Big Data theme, introduced in the last Economic Survey, continues to throw light in multitude of areas. The implementation of the GST data garnered from the Employees' Provident Fund Organisation (EPFO) and the Employees' State Insurance Corporation (ESIC) has permitted new perspective on the Indian Economy. Household level data from the Demographic and Health Survey (DHS) and the National Family Health Survey (NFHS) has mined out various gender issues afflicting the core of the Indian eco-system.

The Economic Survey of 2017-18 has tried to address certain macro level issues such as:

- Can the current investment slowdown be reversed at a faster pace based on understanding other countries' experience?
- Why should the country focus on the sex ratio of the last child even in the 21st century?
- Under what conditions and to what extent, and where will the agricultural impact of climate change be felt the most?
- Will there be a pause in India's past four decades long, dynamic process of economic convergence?
- Should there be a number of science and technology missions to thrust India in the ranks of the world's top knowledge societies?

Macro Focus Areas – Looking Ahead

Brief Facts:

Sizeable increase in registered Direct and Indirect Tax Payers

- Fifty percent increase in unique indirect taxpayers under GST
- Additional 1.8 million individual taxpayers post-November 2016

Formal Non-Agricultural Payroll Higher than Expected

- More than 30 percent when formality is defined in terms of social security (EPFO/ESIC) provision.
- More than 50 percent when defined in terms of being in the GST net.

States' Wealth directly correlated with their levels of International and Inter-State Trade

- The correlation is much stronger between prosperity of a State and international trade.
- Gujarat, Maharashtra, Karnataka, Haryana, Telengana & Tamil Nadu show a strong correlation between Exports and Prosperity whereas Inter State trade and prosperity is not that pronounced or direct.

India's Export Structure more widespread than that of other Large Countries

- Top 1 percent of Indian firms' account for 38 percent of exports; For Brazil, Germany, Mexico, and USA it is 72, 68, 67, and 55 percent of exports respectively.

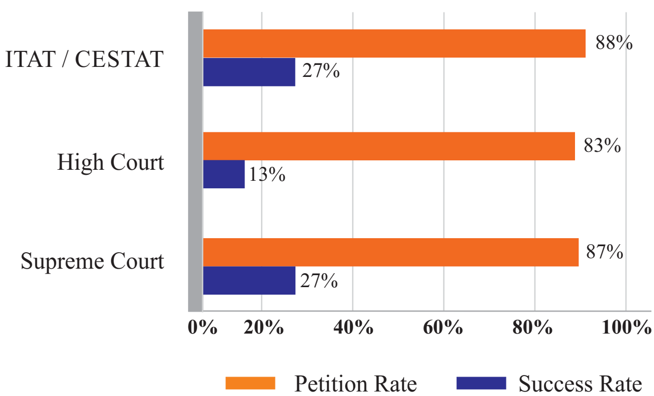
Clothing Incentive Package boosted Exports of Readymade Garments

- Relief from Embedded State Taxes (ROSL) boosted exports of ready-made garments (but not others) by about 16 percent.

Indian Society still shows a strong son "Meta" Preference

- Parents still continue to yearn for a male child. However this preference is more skewed in the northern states of Punjab and Haryana.

Substantial scope exists for reduction in litigations in the taxation directly under Government's influence



- Tax Department's petition rate is high, though success rate in litigation is low (below 30 percent) and declining.

Raising investment is more important than raising saving for spurring Economic Growth

- Worldwide analysis has shown that growth slowdowns are preceded by investment slowdowns but not necessarily by savings slowdowns, implying Investments is the primary driver of economic activity.

Direct Tax Collections by Indian states and local bodies significantly lower than those of its federal counterparts in other countries

- Direct Tax/Total Revenue collection by States is as more than 40 percent in Germany and around 20 percent in Brazil whereas it is below 10 percent in India over the 2010-2016 period.
- Direct Tax/Total Revenue collection by Local Governments (Municipal Bodies) is more than 20 percent in Germany and around 20 percent in Brazil it is below 5 percent in India and dropping over the 2010-2016 period.

Effect of Climate change is quite evident and the extreme weather patterns adversely impact agricultural yields

- Impact is only in cases of extreme temperature increases and rainfall deficiencies.
- Impact in unirrigated areas is twice that in irrigated ones.

Indian Economy 2017-18

Key Takeaways – Cheat Sheet of Past Performance

All this is reflected in India leaping 30 ranks in the World Bank's latest Doing Business Report 2018. Moody's Investors Service raised India's rating from the lowest investment grade of Baa3 to Baa2.

GDP projected to grow in the range of 7 - 7.5 percent in FY 2018-19, thereby regaining the fastest growing major economy tag.

GDP growth to be 6.75 percent in current FY 2017-18. Impact of Demonetization and the introduction of GST have led to a minor blip in the economic activity in the current fiscal.

Benign oil prices over the past year has kept the inflation below estimated levels.

Demonetisation has encouraged financial savings. However it has been observed globally that increase in level of investments fuel economic growth.

Insolvency Code is being actively used to resolve Non Performing Assets (NPA). RBI has already identified 12 large loan defaulters where the Insolvency and Bankruptcy Code (IBC) has been initiated.

Retail inflation averaged 3.3 percent in FY 2017-18, being the lowest in last 6 fiscal years.

Urban migration is leading to feminisation of farm sector, thereby changing the dynamics of the agriculture sector.

Sectoral Economic Performance

Fiscal Development

Sound, measured and prudent public financial management has been the hallmark of the current government over the past three years. With the confidence built up over the past couple of years, the Government embarked on the introduction of GST which required detailed preparation, multi-stage and multi-party consultations and the enormous quantum of changes and required a deft approach and sound management. Most fiscal indicators such as revenue buoyancy, expenditure quality, devolution and deficits have improved considerably in the last three years.

Revenues

Three major patterns emerge on the Revenue side of the Central Government;

- Gross tax collections are on track.
- Non-tax revenues have been below par.
- Non-debt capital receipts, mainly proceeds from disinvestment, are as per target.

INR 46,247 crore was realized last year from 16 transactions of disinvestment against which the budget estimate for 2017-18 was set at INR 72,500 crore. An amount of INR 52,378 crore has already been realized during Apr – November 2017 period.

The share of States in taxes grew by 25.2 percent during April - November 2017, much higher than the growth in net tax revenue (to Centre).

The budgeted growth for indirect taxes for the full year of 2017-18 was 7.6 percent against which the growth so far has been 18.3 percent.

Expenditure and Deficits

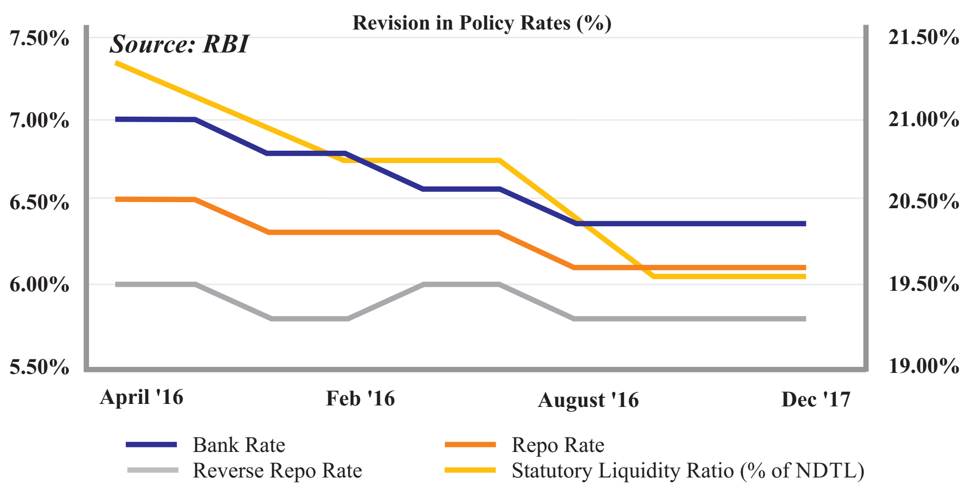
Central Government expenditure grew at a reasonable pace during April - November 2017 period, a result of advancing of the budget cycle and processes by almost a month. This gave leeway to the spending agencies to plan suitably in advance and begin implementation early in the financial year. The same can be seen from the Table below

	Rs. in Lakh Cr.			% of Budget Estimates		
	2015-16	2016-17	2017-18	2015-16	2016-17	2017-18
Total Expenditure	11.42	12.87	14.79	64.30%	65.00%	68.90%
Revenue Expenditure	9.83	11.44	12.95	64.00%	66.10%	70.50%
Capital Expenditure	1.59	1.43	1.84	65.80%	57.70%	59.50%

Source: CGA, Government of India

Monetary Policy

Monetary policy during 2017-18 was conducted under the revised statutory framework, namely the Monetary Policy Committee (MPC), introduced in August 2016, for greater transparency in rate setting, has held five meetings till January



last year.

- Non Food Credit (NFC) grew at 8.85 percent Y-o-Y in November 2017 as compared to 4.75 percent in November 2016.
- The Insolvency and Bankruptcy Code (IBC) and the Corporate Insolvency Resolution Process (CIRP) mechanism have seen considerable progress.
- Secondary Markets saw both the Sensex and Nifty scaling all-time highs in January 2018, with Sensex reaching an all-time high of 36,410 and Nifty touching 11,161.
- Insurance Sector is also seeing visible growth 2.71 percent in 2001 increasing to 3.49 percent in 2016 (Life Insurance at 2.72 percent and General Insurance at 0.77 percent).

External Sector

The global economy is expected to accelerate from 3.2 percent in 2016 to 3.6 percent in 2017 and 3.7 percent in 2018 which reflects an upward revision of the earlier projections by the IMF. India continues to have a solid and strong external sector and the Balance of Payments situation appears to be comfortable with a Current Account Deficit (CAD) of 1.8 percent in the first half of 2017-18. Merchandise exports have shown a reasonable growth of 12.1 percent in the April - December 2017 period and the net services receipts have increased by 14.6 percent during the same period.

- India's CAD increased from US$ 3.8 billion (0.4 percent of GDP) in H1 of 2016 -17 to US$ 22.2 billion (1.8 percent of GDP) in H1 of 2017-18.
- In 2017-18 (April-December) export growth was 12.1 percent, with Petroleum, Oil and Lubricants (POL) and non POL growth at 18.5 percent and 11.2 percent respectively.
- In H1 of 2017-18, merchandise imports grew by 22.1 percent vis-á-vis 11.3 per cent for exports. Higher import growth was primarily on account of Petroleum, Oil & Lubricants and gold & silver.
- Trade Deficit (on custom basis) which had shown a continuous decline since 2014-15, widened to US$ 74.5 billion in H1 of 2017-18 from US$ 43.4 billion in H1 of 2016-17.

Prices and Inflation

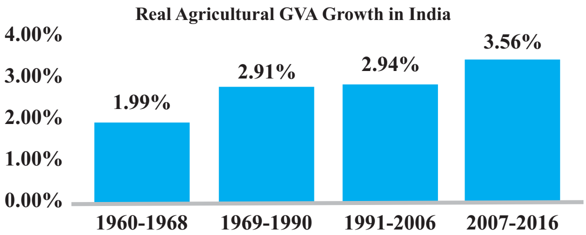
Inflation the bugbear of any developing economy has remained in controlled limits over the past one year. CPI based headline inflation averaged 3.3 percent during the period Apr – Dec 2017 which has been the lowest in the last six fiscal years. This achievement has been possible primarily on account of lower food inflation.

- The average CPI-Combined (CPI-C) inflation has declined to 4.5 percent in 2016-17 from 4.9 percent in 2015-16 and 5.9 percent in 2014-15. Average inflation for FY 2017-18 (Apr - Dec) was 3.3 percent, much below the threshold limit of 4 per cent.
- Food inflation based on WPI has also declined, it averaged 2.3 percent in FY 2017-18 (Apr-Dec) as compared to 6.3 percent in FY 2016-17 (Apr- Dec).
- CPI based Core Inflation has remained above 4 percent during the last four financial years. On the positive side, it has declined from 4.8 percent in FY 2016-17 (Apr-Dec) to 4.5 per cent during the corresponding period of current fiscal.

Agriculture and Allied Activities

Agriculture sector and rural economy has always played a substantive role in a primarily agrarian economy like ours, in providing livelihoods, reducing poverty, ensuring food security and providing impetus to the growth in manufacturing and service sectors. However over the years it is being observed that the dynamics of this sector are changing with increased focus on agricultural sub-sectors which entail reduced risks vis-à-vis crop sector which is still primarily dependent on good monsoons.

- The growth rates of agriculture & allied sectors have seen wide fluctuations with 1.5 percent in 2012-13, 5.6 percent in 2013-14, (-) 0.2 percent in 2014-15, 0.7 percent in 2015-16 and 4.9 percent in 2016-17.
- Kharif food grains production during 2017-18 is estimated at 134.7 million tonnes which is lower by 3.9 million tonnes from the production of 138.5 million tonnes during 2016-17 as per the First Advance Estimates of Sep '17.



Source: Survey calculations

- 617.8 lakh hectares of area has been covered under Rabi crops for 2017-18 which is marginally lower than the 621 lakh hectares under coverage for 2016-17.
- The share of livestock in GVA in agriculture has been rising gradually whereas the share of the crop sector in GVA has been on the decline from 65 percent in 2011-12 to 60 percent in 2015-16.
- Percentage of operational holdings by women have increased from 10.8 percent in 2000-01 to 12.8 percent in 2010-11.

Industry and Infrastructure

The primary focus of the Government over the past few years has been to promote employment intensive industry and setting up the infrastructure which would fuel further growth and development. With this objective in mind, the Government has introduced structural reforms such as Goods and Service Tax, Liberalization of Foreign Direct Investments (FDI), Insolvency and Bankruptcy Code to facilitate the Ease of

Doing Business. Certain sector specific benefits such as Textiles, Steel, Power and Leather have also been undertaken.

- The overall industrial sector growth was significantly higher at 5.8 percent in Q2 as compared to 1.6 percent in Q1 of 2017-18 as per the latest Quarterly Estimates of Gross Domestic Product.
- Index of Industrial Production (IIP) has seen a 25 month high growth of 8.4 percent with manufacturing growing at 10.2 percent in November 2017.
- Total FDI inflow grew by 8 percent i.e. US$ 60.08 billion in 2016-17 vis-à-vis US$ 55.56 billion of the previous year.

Key Sectoral takeaways:

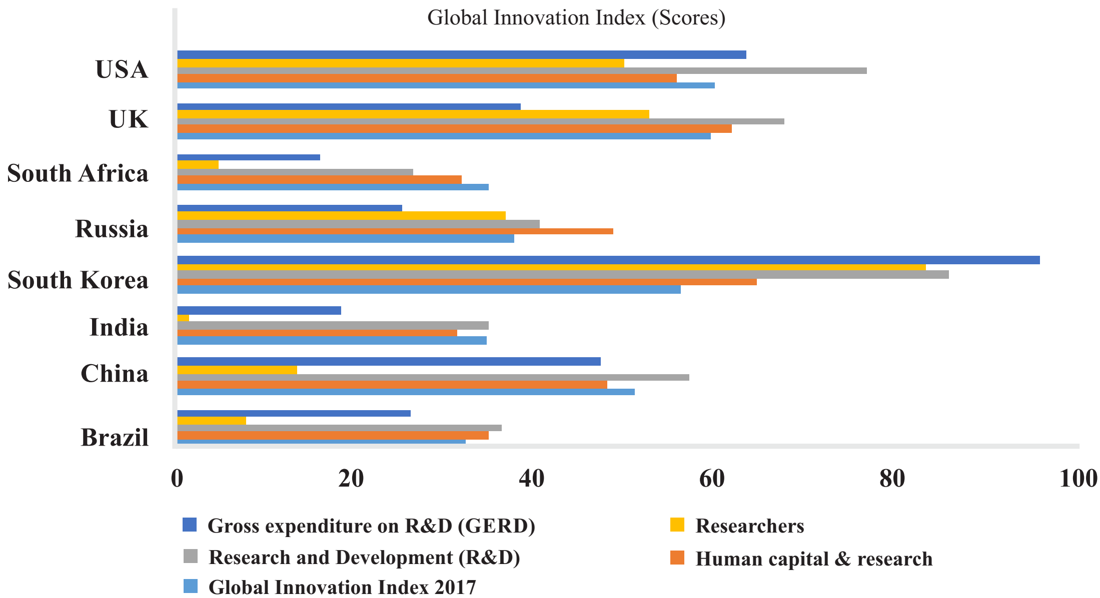
- Railways - Indian Railways carried 558.10 million tonnes during Apr-Sep '17 as against 531.23 million tonnes during same period last year, thereby showing an increase of 5.06 percent during this period.
- Aviation - India is the 3rd largest and the fastest growing domestic aviation market in the world in terms of number of domestic tickets sold. Domestic passenger traffic has grown at a compounded annual growth rate (CAGR) of 9.89 percent during the past ten years.
- Telecom - As on end of September 2017, the total subscribers stood at 1,207.04 million, out of which 501.99 million connections were in the rural areas and 705.05 million in the urban areas.

Services Sector

The services sector has been leading from the forefront over the past two decades in taking the Indian Economy forward. With a contribution of 55.2 per cent in India's Gross Value Added (GVA), it continues to be the key driver of India's economic growth and has contributed to ~ 72.5 percent of gross value added growth in 2017-18.

- Services sector growth (GVA at constant 2011-12 base prices) is expected to be 8.3 percent during 2017-18, being higher than the growth of 7.7 percent in 2016-17, as per the First Advance estimates of national income 2017-18 as per CSO.

- India is the eighth largest exporter of commercial services in the world in 2016 (as per WTO 2017 report) with a share of 3.4 percent. This is twice the share of India's merchandise exports in the world which stands at 1.7 percent.
- India's services exports have grown at a CAGR of 8.3 percent during 2006-07 to 2016-17 period. Services exports have recorded a solid growth of 16.2 percent during April-September 2017-18 period.
- The primary drivers of the service sector exports are Software Services which account for ~45 percent of the total Services Exports and stood at USD 73.7 Billion in 2016-17.
- Tourism sector has been an outperformer with Foreign Tourist Arrivals (FTAs) at 8.8 million and Foreign Exchange Earnings (FEEs) US$ 22.9 billion in 2016. As per Ministry of Tourism, FTAs during 2017 were 10.2 million and FEEs stood at US$ 27.7 billion.



Source: Global Innovation Index 2017 (Higher Scores implies better performance and higher Rank)

Sustainable Development, Energy and Climate Change

Sustainable Development and Energy are two parts of the same coin. For any economy to sustain its economic impetus, the energy demands needs to keep pace to fuel further growth. Along with the economic developments which are changing the dynamics not only our country but across the world are leading to certain fundamental issues on climatic changes on an irreversible basis.

- Many programs have been initiated by the current Government which directly contribute to the Sustainable Development Goals (SDG) agenda such as "Pradhan Mantri Jan Dhan Yojana" (PMJDY), being the world's largest financial inclusion program.
- As per Census 2011, 377.1 million Indians comprising 31.16 percent of the country's population live in urban areas and projected to grow ~600 million by 2031.
- Further measures to improve sustainability of cities include the Smart Cities Mission, National Urban Housing & Habitat Policy (2007), Swachh Bharat Mission (Urban), Municipal Solid Waste (MSW) management etc.

Social Infrastructure, Employment and Human Development

- Investment in human capital is the hallmark for the growth and well-being of any economy. As India is expected to grow into one of the leading economies, education, skill development and health have to remain on the top priorities for the Government. Furthermore, public investment in social infrastructure such as education and health is equally critical in the development progress.
- The expenditure on social services by the Centre and States as a proportion of GDP has continued at ~6 percent during 2012-13 to 2014- 15 period and is expected at 6.6 percent in 2017-18.
- The Right to Education (RTE) Act, 2009 is in the direction of education to all irrespective of the socio economic strata. Certain key parameters such as Student Classroom (SCR) and Pupil Teacher Ratio (PTR) are now being closely followed to improve education on these parameters.
- Gender Parity Index (GPI) is been monitored closely to reduce gender disparities with efforts such as "Beti Padhao, Beti Bachao" have improved the levels of enrolment at primary and secondary levels.
- Rationalization of 38 Central Labour Acts by framing relevant provisions has already been initiated as a part of Labour Reforms.

Budget Highlights

Tax Rates

- Corporate tax rate reduced to 25% for Domestic Companies with turnover or gross receipts up to Rs. 250 Crores in FY 2016-17.
- No change in individual tax rates.
- No change in surcharge for corporates as well as individuals. However, cess increased from 3% to 4%.
- Exemption on Long term capital gain on sale of listed equity shares or unit of equity-oriented fund withdrawn. Gain in excess of Rs. 100,000 to be taxed at 10% without benefit of indexation.

Business Taxation

- Introduction of new sections and amendment in existing sections to bring clarity in compliance with the Income Computation and Disclosure Standards (ICDS). These amendments shall be effective retrospectively from 1 April 2017.
- Compensation for termination or modification in terms and conditions of the any contract relating to business shall be taxable as business income.
- Deemed dividend under section 2(22)(e) to be taxed in the hands of the company giving a loan or advance and not in the hands of the recipient. It is proposed to be taxed at 30% without grossing up.
- Mutual Funds shall be liable to pay Dividend distribution tax of 10% on income distributed by an equity-oriented fund.
- Extension of time limit for incorporation of Start-ups upto March 2021, expansion in definition of eligibility and rationalisation of the turnover requirements for claiming 100% deduction u/s. 80-IAC.
- Rationalization of provisions of Section 80JJAA providing enhanced deduction in respect of emoluments paid to new employees
- Conversion of stock in trade to capital asset now brought under the tax net and fair value shall be chargeable to tax as business income in the year of conversion.
- The provisions of section 79 on carry forward of losses in case of change in shareholding shall not apply to companies for whom insolvency resolution plan has been approved under insolvency and bankruptcy code.
- Companies for whom Corporate insolvency process has been admitted shall be eligible to set-off aggregate

amount of unabsorbed depreciation and brought forward loss for computing book profit under MAT under section 115JB.

International Tax

- Scope of Business Connection with respect to dependent agents of non-resident expanded
- Introduction of concept of 'Significant economic presence' of non-resident constituting business connection to address direct tax challenges in digital businesses or activities with shorter physical presence.
- Delinking of due date of furnishing Country by Country Report (CbCR) from due date of return filing. CbCR to be filed within twelve months from the end of reporting financial year.

Personal Taxation

- Standard deduction upto Rs. 40,000 in computing income from 'Salaries'. Present exemptions with respect to Transport Allowance and Medical Reimbursements to be withdrawn.
- Deduction upto Rs. 50,000 to Senior Citizens in relation to interest income from deposits (including savings deposit) with Banks and/or Post offices.
- Deduction to Senior Citizens for medical treatment of specified diseases under Section 80DDB enhanced to Rs. 1,00,000. The same applicable to senior citizens and very senior citizens.
- Deductions in respect of health insurance premium and medical treatment of senior citizens under Section 80D increased to Rs. 50,000.
- Benefit of tax-free withdrawal (upto 40% of the total amount payable) from the National Pension Scheme ("NPS") extended to non-employee subscribers as well.
- In case of variation between the stamp duty value and sale consideration with respect to transfer of land or building, no adjustment to income shall be made under section 43CA, 50C and 56 where variation does not exceed 5%.
- Benefit of exemption u/s 54EC of the Act restricted to investment of capital gain arising from transfer of land or building instead of any long-term capital asset earlier.

Other Amendments

- Mandatory PAN for non-natural persons with transaction amount aggregating to Rs.2,50,000 in a year.



- A new scheme for e-assessment proposed to be introduced by way of notification in official Gazette.
- Prosecution can be initiated for wilful non-filing of Tax Return by the company within Assessment Year even if no tax is due by it.

Indirect Tax

- No changes in existing rates, rules & regulations under GST
- Excise duty on Petrol and Diesel - Unbranded & Branded is reduced by Rs 2 per litre
- Road cess of Rs. 6 per liter on motor spirit is replaced by levy of Rs. 8 per liter as Road & Infrastructure cess
- Introduced Social Welfare Surcharge at 10% on imported goods from 2 February,18.
- Abolished education cess and Secondary & Higher Education Cess on imported goods
- Scope of Customs expanded to include any offence or contravention committed outside India.
- The time limit for pronouncing advance ruling is reduced from 6 months to 3 months
- Name of Name of Central Board of Excise and Customs to be known as "Central Board of Indirect Taxes and Customs."

Direct Tax

Corporate Tax

Exemption on LTCG on sale of listed shares and equity oriented Mutual Fund abolished

While broadly there is no change in corporate or individual tax rates except increase in cess from 3% to 4% and widening the scope of concessional rate of 25% for companies, the exemption on long term capital gains on sale of listed shares and equity oriented Mutual Funds have been abolished. These gains will be taxed at 10% without indexation benefit. However, no tax shall be levied for gain up to Rs. 100,000. Further, the gains accrued up to January 31, 2018 have been grandfathered. Detailed discussion on the said amendment has been made in the Chapter 'Capital Gains'.

25% Tax Rate for Companies with Turnover up to Rs. 250 crores

Corporate Income Tax of Domestic Companies having turnover not exceeding 250 Crores in Financial Year 2016-17 is proposed to be reduced from 30% to 25%. This is in line with the promise made earlier by the Government to gradually reduce the Corporate Income Tax Rate to 25%. This provision will incentivise non-corporate entities like sole proprietors, firms, etc. to opt for corporate form of entity. Apart from above, there is no change in corporate tax rates except increase in cess from 3% to 4%.

In absence of any relief under Minimum Alternate Tax (MAT), it is important to consider these provisions since the gap between the normal income tax at 25% and MAT at 18.5% on book profits is at the lowest level.

There is no reduction in tax liability of other entities like firms or Limited Liability Partnerships (LLP). This may prompt firms or LLPs to opt for conversion into company, which is exempt from tax. However, it is to be noted that in view of lack of relief for dividend distribution tax and tax on receipt of dividend, companies will effectively suffer a higher tax burden on repatriated income as compared to LLPs, which is provided in the table below:

Particulars	Company	LLP
Earnings before Tax	100.00	100.00
Tax (at 0% surcharge)	-25.75	-30.90
Earnings after Tax	**74.25**	**69.10**
Dividend Dist. Tax	-12.85	0.00
Dividend	**61.40**	**69.10**
Tax on Receipt*	-6.32	0 .00
Net Dividend	**55.08**	**69.10**

On a separate note, this will significantly reduce the scope of Section 115BA introduced earlier providing an incentive income tax rate of 25% to newly incorporated manufacturing companies not claiming certain exemptions.

Tax on income of New Manufacturing Companies

Finance Act 2016 had inserted a new section 115BA, under which the manufacturing companies incorporated on or after March 1, 2016 would be eligible to opt for an income tax rate of 25%. However, such companies would have to forego certain other benefits under the Act, like additional depreciations, deduction u/s 10AA (SEZ), Chapter VI-A deduction, etc.

As per the current provisions, companies opting to be taxed u/s 115BA, are chargeable to tax at 25% on all income, only excluding capital gains chargeable to tax under Section 112 or Section 111A. The Bill proposes to tax incomes subject to special tax rates specified in all the Section under Chapter XII (and not just Section 112 and Section 111A) at applicable special rates and only remaining income to be taxed at 25%.

Although, the relevance of this provision is less now due to blanket rate of 25% applicable to all companies having turnover of less than Rs 250 crores.

Personal Tax

No Change in Tax Rates

No changes have been proposed in slab rates as well as the rate of surcharge for personal taxation. However, cess has been increased from 3% to 4%.

Tax Rate Table as applicable for FY 2018-19 is provided in Appendix.

Business Taxation

Income Computation & Disclosure Standards (ICDS)

Background

Section 145 of the Act was amended *vide* Finance (No.2) Act 2014, pursuant to which Income Computation and Disclosure Standards ('ICDS') were notified *vide* notification dated 31 March 2015 effective from AY 2016-17. However, there were representations made by stakeholders and amendments were carried out. The amended ICDS were notified with effect from AY 2017-18 followed by Frequently Asked Questions (FAQs) on ICDS issued by CBDT *vide* Circular dated 23 March 2017. There are total 10 ICDS issued by CBDT dealing with accounting policies, valuation of inventories, construction contracts, revenue recognition, tangible fixed assets, effect of change in foreign exchange, government grants, securities, borrowing costs and ICDS relating to provisions, contingent liabilities and contingent assets. Institute of Chartered Accountants of India (ICAI) also released a Technical Guide on ICDS in July 2017 to provide professional guidance on various ICDS and positions to be adopted pursuant thereto.

Each ICDS as mentioned above in its preamble provides that in case of conflict between the provision under the Act and ICDS, the provision of the Act shall prevail. Interestingly, certain provisions of ICDS contain recognition of income and manner of computation of income including non-recognition of loss for computing taxable income which are not

consistent with the settled judicial pronouncements or not specifically provided under the Act. Since ICDS provisions cannot override the provisions of the Act, it is contended that the settled position of the Apex Court on such aspect shall also not be overruled by ICDS. It is also contended that power available to CBDT under section 145(2) for issuing ICDS does not give them a power to issue ICDS which creates a provision for taxability of income which otherwise requires amendment in the legislation. However, CBDT while giving answer to Q.No. 2 of its Circular dated 31 March 2017, notified that provision of ICDS shall prevail over the judicial pronouncements as the ICDS have been issued after due deliberation and after examining judicial views.

In this regard, Chamber of Tax Consultants challenged the constitutional validity of ICDS and filed a Writ Petition to the Delhi High Court. The Delhi High Court [(2017) 87 *taxmann*.com 92 (*Delhi*)] vide its order dated 08 November 2017 struck down certain provisions of the ICDS and held that the power to enact a law was an essential legislative power that could be exercised only by the Parliament and not by the executive. Recently, Agra Bench of ITAT also relied upon the judgment delivered by Delhi High Court in the case of Chamber of Tax Consultants *(supra)* while deciding upon the issue of allowability of MTM Losses. It has held that Instruction No. 3/2010 for disallowing MTM losses is not valid.

Considering the scepticism around validity of ICDS and the recent judicial pronouncements, clarity was expected in the Finance Bill 2018 on legal sanctity and applicability of ICDS. It was also anticipated that amendments would be brought into the Act itself to maintain the constitutional validity of ICDS. With a view to bring a clarity on this aspect, various amendments have been proposed under the

Bill to make certain provisions of ICDS, as part of the Act itself. The proposed amendments are discussed below:

MTM Losses (corresponding to ICDS I and ICDS VI)

Marked to market (MTM) primarily refers to the accounting methodology for reporting assets at their fair value having regard to the market price on the date of balance sheet.

The current Act does not contain any specific section on treatment of MTM losses. As a result, such treatment has been a matter of litigation in the past. Further, CBDT also issued an Instruction on treatment of MTM losses on derivative transactions. This resulted in further litigation wherein taxpayers relied upon certain judgments (including Apex Court ruling in the case of Woodward Governor) to claim MTM losses as tax deductible and department denied such claims relying heavily upon the CBDT instruction. Recently as mentioned above, Delhi High Court held that CBDT Instruction No. 3/2010 for disallowing MTM losses is not valid.

As per ICDS I – Accounting Policies, MTM loss or other expected loss shall not be recognised unless such recognition is governed by other ICDS. However, there is no specific ICDS dealing with MTM loss except for ICDS VI which deals with MTM loss on forward exchange / option / currency swap contracts. As per ICDS-VI MTM loss relating to forward exchange contracts shall be allowable as deduction provided such contracts are not (i) intended for trading or speculation purposes; or (ii) contracts entered for firm commitment or highly probable forecast transaction etc.

In order to bring the aforesaid provision of ICDS under the Act, the Bill proposes to insert section 36(1)(xviii) to provide that deduction of MTM loss / other expected loss will be allowable to the taxpayer if such losses are computed as per the provisions of ICDS.

However, if such MTM loss is not dealt with in ICDS [e.g. MTM loss on interest rate swaps, commodity forward contract, Forex Derivative contract (other than forward contacts)], the Bill, by inserting section 40A (13), provides that no deduction of such MTM loss shall be allowed if it is not covered within the provision of section 36(1)(xviii).

Therefore, the taxpayers who were earlier claiming deduction of MTM loss on such forward contracts based upon certain judicial case laws, shall now not be able to claim such deduction as per amended provisions of section 40A of the Act.

Valuation of Inventories and Securities (corresponding to ICDS II & VIII)

As per existing provisions of section 145A of the Act, while computing the business income, a tax payer is required to follow inclusive method for valuation of inventories, purchase and sales. Further such provision is applicable in respect of goods and not in respect of services.

ICDS II provides specific treatment for valuation of inventories to be valued either at cost or net realisable value whichever is lower. Further ICDS VIII provides treatment for computing gain on securities and its valuation.

Finance Bill 2018 has proposed to substitute existing section 145A so as to incorporate the existing provision of aforesaid ICDS under the Act. The proposed provision of section 145A provides that:

- Valuation of inventory - To be made at lower of cost or net realisable value computed as per the provisions of ICDS II – Valuation of Inventories.
- Valuation of purchase or sale of goods or services and of inventory should be inclusive of tax, duty, cess or fees paid or incurred by the taxpayer to bring the goods or services to the place of its location and condition on the date of valuation even if the credit of in respect of such taxes is available to the assessee under any law for the time being in force.
- Securities not listed or listed but not quoted on recognised stock exchange – To be valued at actual cost initially recognised in accordance with the provisions of ICDS VIII.
- Listed securities - To be valued category-wise at actual cost or net realisable value whichever is low as per provision of ICDS VIII.

Income arising from construction contracts (corresponding to ICDS III)

Till date, there were no specific provisions in the Act governing taxability of income arising from construction contracts and taxability of the same was governed by accounting principles (either Completed Contract Method or Percentage of Completion method (PoCM)) and also judicial precedents. Further, taxability (including timing) of "retention money" has been a matter of significant debate in the past.

ICDS III requires the taxpayer to follow PoCM. Further, for the purpose of ICDS III, Contract revenue has been defined to include retention money. It also provides that Contract Costs shall be reduced by incidental income, not being in the nature of interest, dividends or capital gains.

A new section (Section 43CB) has now been proposed to provide for computation of income from construction contracts which mandates use of PoCM to be applied as per ICDS III. Further, the proposed section also categorically includes retention money within the purview of "Contract Revenue" thereby putting at rest the long-drawn controversy around taxability of retention money. This amendment in effect overrides certain judicial precedents wherein it was held that retention money does not accrue to the taxpayer unless and until the defect liability period is over and the Engineer in Charge certifies that no liability is attached to the taxpayer.

It is interesting to note that no consequential amendment has been proposed to the definition of "income" to bring retention money within the tax net.

Income arising from service contracts (corresponding to ICDS IV)

ICDS IV(dealing with revenue recognition) provides for applicability of PoCM for recognising income from service contracts.

It further provides two exceptions:

- Contract for providing services with duration of not more than ninety days shall be determined on the basis of project completion method;
- Service transactions wherein services are provided by an indeterminate number of acts over a specified period of time for which revenue could be recognised on a Straight-Line basis.

However, there were certain judicial precedents wherein it was held that PoCM or Completed Contract Method could be applied to recognise income from service transactions, irrespective of the duration of the contract. In view of the same, there were doubts on applicability of ICDS and its overriding power over judicial precedents.

The Bill proposes an amendment by bringing in the aforementioned provisions of ICDS IV providing for manner of taxability of service transactions within the Act (within Section 43CB). This would mean that the earlier judicial precedents shall stand overridden and provisions of the Act read with ICDS shall prevail.

Claim for escalation of price in a contract or export incentives (corresponding to ICDS IV)

The current law does not provide for time of taxability of income in the nature of price escalation or export incentives or income

arising on account of escalation of price in contract. There have been judicial precedents including Supreme Court decision in the case of Excel Industries 358 ITR 295 wherein it was held that export incentive income is taxable in the year in which the claim is accepted by the Government and the right to receive the payment accrues in favour of the taxpayer.

Further as per ICDS IV, claim for escalation of price and export incentives shall be recognised at the time when there is reasonable certainty of its ultimate collection. In order to incorporate such provision under the Act, the Bill proposes to insert new provision 145B (2) to provide that any claim for escalation of price or export incentive is taxable in the year in which reasonable certainty of its realisation is achieved.

The term "reasonable certainty" has not been defined.

Government Grants (corresponding to ICDS VII)

ICDS VII provides for recognition of government grants. As per the said provisions, recognition of the government grant shall not be postponed beyond the date of actual receipt. In absence of any specific provision in the Act, Delhi High Court in the case of Chamber of Tax Consultants held that provisions of ICDS VII conflict with the accrual system of accounting and are accordingly *ultra vires* the Act.

In order to bring certainty to the issue, Finance Bill 2018 has proposed a new section 145B(3). As per the proposed amendment, any income such as subsidy, grant, cash incentive, duty drawback or other income of similar nature received from central or state government or any other authority in cash or kind shall be charged to tax in the year in which it is received if it is not charged to tax in earlier years. On a plain reading of the provisions of the proposed amendment, there seems to be a difference in the way the provisions are worded as compared to ICDS VII which require grants to be recognised on reasonable assurance of conditions being satisfied and grant being received. ICDS VII further provides that grants shall not be postponed beyond the date of actual receipt.

Foreign exchange fluctuation (corresponding to ICDS VI)

The current Act does not contain any specific provision for treatment of foreign exchange fluctuation except for section 43A which deals with realised foreign exchange fluctuation on transactions in respect of acquisition of assets from outside India or borrowings related thereto.

In absence of detailed provisions dealing with treatment of foreign exchange fluctuation, there have been different schools of thought, especially in case of foreign exchange fluctuation on loans utilised for procuring assets from within India. One possible view is that such foreign exchange fluctuation is purely capital in nature and neither taxable nor tax deductible. Another view is that any foreign exchange loss or gain other than the one specified under section 43A should either be allowed as a tax-deductible expenditure / loss or offered to gain, as the case may be. A possible argument could be whether such fluctuation could be adjusted in the cost of assets under section 43 of the Act.

While Supreme Court in the case of Tata

Iron and Steel Company [1998] (231 ITR 285) (SC) mentioned that cost of asset cannot be adjusted to factor foreign exchange fluctuation, Supreme Court in the case of Woodward Governor (2009) (312 ITR 254) (SC) held that in absence of applicability of section 43A of the Act, taxpayer is governed by generally acceptable accounting principles. Further, it is possible to be claimed as a revenue expenditure. In the case of Cooper Corporation (P.) Ltd. [2016] 69 taxmann.com 244 (Pune - Trib.), the ITAT had upheld the taxpayer's reliance on ICDS for taking a position that foreign exchange loss on transactions not governed by 43A of the Act is revenue in nature.

As mentioned above, taxability or otherwise of foreign exchange fluctuation has been a matter of long drawn litigation in the past, also in case of allowability of foreign exchange fluctuation on forward exchange contracts, derivatives, allowability of unrealised foreign exchange loss, etc.

As per ICDS VI any exchange difference arsing on the settlement or restatement of monetary items shall be recognised as income or expenses during the year subject to provision contained in section 43A of the Act. As loan represent monetary items the exchange gain/loss on foreign currency loan (unless covered by section 43A) shall be taxable/deductible in view of ICDS VI.

The Bill proposes to enact the above provision under the Act by inserting new section 43AA by providing that subject to section 43A any gain or loss arising on account of any change in foreign exchange rates shall be treated as income or loss and shall be computed in accordance with applicable ICDS. In order to bring further clarify under the Act, the section provides that such foreign exchange loss/gain shall include the same arising on transaction of financial statement of foreign operations, forward contracts and foreign currency translation reserves. ICDS VI already dealt with treatment of exchange gain/loss arising in respect of such transactions.

Considering the above, the taxability of foreign exchange fluctuation (not covered by section 43A) as per the proposed amendment read with ICDS VI is summarised as under:

Nature of fluctuation	At the year-end (unrealised or MTM)	On settlement (realisation)
Monetary items (including pertaining to foreign operatiaons)	Gains taxable / Losses tax deductible	Gains taxable /Losses tax deductible
Non-monetary items (including pertaining to foreign operations)	Gains not taxable / Loss not tax deductible	Full gains taxable / full losses tax deductible
Forward exchange contracts (other than for trading / speculative purposes / highly probable transactions)	Gains taxable / Losses tax deductible	Gains taxable / Losses tax deductible
Forward exchange contracts for trading / speculative purposes / highly probable transactions	Gains not taxable / Loss not tax deductible	Full gains taxable / full losses tax deductible

These provisions should put to rest the longstanding controversy on treatment of foreign exchange fluctuation.

All the above amendment is proposed to apply retrospectively with effect from AY 2017-18.

Conclusion

It is extremely important to note that the amendments have been proposed retrospectively and are applicable from AY 2017-18. In view of the retrospective amendment, judgment delivered by Delhi High Court in the case of Chamber of Tax Consultants stands nullified. Unless the proposed amendments test the principle of constitutional validity for applying to AY 2017-18, a taxpayer is required to re-assessee its tax position shown in tax return for AY 2017-18 if it has not followed aforesaid provision of ICDS on the basis of contention that present provisions of ICDS are *ultra vires* the Act.

Considering that the ICDS provisions have now been brought within the Act itself, the controversy of applicability of judicial precedents on tax positions on the items, has been put to rest to the extent amendment proposed under the Bill.

Business Income

Taxation of Conversion of Stock in trade into capital asset

Under the Act, income arising from transfer of capital asset is chargeable to tax under the head Capital Gain whereas any income arising from business asset is taxable under the head Profit and Gain of Business and Profession. Considering the need / usage of asset, a person may convert its capital asset into stock-in-trade for its business purpose as well as he may convert its stock-in-trade into a capital asset once he decides not to use it for business purpose.

The Act contains specific provisions [section 2(47) (iv) & section 45(2)] to deal with a situation of conversion of capital asset into stock in trade. Conversion of capital asset into stock in trade is regarded as transfer of capital asset and any gain computed on fair value of such asset on such conversion is taxable as capital gain when such asset has been sold.

However, there is no specific provision for taxability of conversion of stock in trade into capital asset. In such a situation, taxpayers have been taking a position that no real business income arises to him on account of mere conversion of stock-in-trade into capital asset. The asset remains with him in form of capital asset and there is only a change in usage of such asset. Accordingly, in absence of any specific charging provision under the Act followed with real income theory, such transaction is not subject to tax under the Act. Such argument is upheld by various Tribunals & Courts including the Hon'ble Gujrat High Court in the case of Aditya Medisales v. Deputy Commissioner of Income Tax [SCA 10217 of 2011] read with decision of Apex Court in the case of Sir Kikabhai Premchand [(1953) 24 ITR 506].

In order to bring the aforesaid transaction to tax in line with provision contained for conversion of capital asset into stock in trade, the Bill proposes to insert clause (xiia) in section 2(24) of the Act to treat the fair market value of inventory on its conversion as income under the Act.

Further clause (via) is proposed to be inserted in section 28 of the Act so as to provide that the fair market value of inventory on the date of its conversion into a capital asset shall be chargeable to tax under section 28 of the Act as business income. Fair market value of stock in trade shall be determined in the manner to be prescribed by CBDT.

Consequential amendment is also proposed in section 49 of the Act to treat such fair market value as cost of acquisition for the purpose of computing capital gain at the time of transfer of such asset. Section 2(42A) is also proposed to be amended to provide that for the purpose of computing period of holding of such asset, it shall be reckoned from the date of conversion of stock in trade.

Deemed Consideration in case of Transfer, Sale and Gift of immovable property

Finance Act, 2013 had inserted section 43CA effective from 1-4-2014, which is a special provision for full value of consideration for transfer of assets being land or building (other than capital asset) in certain cases. As per the existing provision, it is provided that where the consideration received or accruing as a result of the transfer of asset being land, building or both being stock in trade of the Assessee is less than the value adopted or assessed or assessable by any specified authority for the purpose of payment of stamp duty in respect of such transfer, the value so adopted or assessed or assessable shall be deemed to be the full value of the consideration received or accruing as a result of such transfer. In view of the deeming fiction created in the provision, unless the Assessee has objected the said valuation and demanded for the valuation thereof by the DVO, the AO used to proceed to carry out the addition based on the *prima facie* valuation difference.

There are instances wherein some of the Courts while adjudicating the issue of applicability of section 50C had held that when the margin between the value as given by the Assessee and the Departmental valuer is not more than reasonable percentage (usually not more than 10 per cent), the said difference can be ignored, and the transaction value declared by the Assessee shall be considered as full value of consideration. (**M/s John Fowler (India) P. Ltd**. -ITA No.7545/Mum/2014).

Following the above rationale, the Bill proposes to amend the provision of section 43CA to provide that where the value adopted, assessed or assessable by the authority for the purpose of Stamp Duty does not **exceed one hundred and five percent (105%)** of the consideration received, such variation shall be ignored, and the consideration received shall be regarded as full value of consideration. The proposed amendment in section 43CA is illustrated as under:

Particulars	Position of law (As existing) (Rs.)	Position (Post amendment) (Rs.)
Transaction value	1,00,000	1,00,000
Value assessed/assessable for the purpose of Stamp Duty	1,05,000	1,05,000
Deeded Value (Full Value of Consideration)	1,05,000	1,00,000
Addition u/s 43CA of the Act	5,000	Nil

As per the existing provision, it is also provided that when the agreement fixing the value of consideration for transfer of asset and date of registration of such transfer are not the same, the value assessable/adopted on the date of entering into agreement may be adopted as full value of consideration provided that either whole of the consideration or part of the consideration had not been received in cash.

It is proposed in the Finance Bill that the consideration or part thereof should have been received by either account payee cheque or account payee bank draft or by use of electronic clearing system through bank account so as to avail the benefit of adopting stamp duty value as deemed sales consideration as existing on the date of agreement to sale.

Similar amendments are proposed in section 50C dealing with transfer of capital asset and section 56(2) dealing with gifts of immovable property exceeding Rs. 50,000. It is proposed that if the difference between the Stamp Duty Value and transaction value is not more than 5% of the transaction value, such difference shall be ignored.

Deeming Gift provision not apply to certain tax-free transfers

As per section 56(2)(x) of the Act where any person receives in any previous year from any person any specified property including immovable property held as capital asset, the receiver of the same is taxable in accordance with the provision of the said section. However, the proviso to the said section *inter alia* provides that such provision is not applicable in respect of certain transactions not regarded as transfer under section 47 of the Act.

Presently the transfer of capital asset by a company to its subsidiary company and transfer by a subsidiary company to the holding company had not been included within such exemption category so as to keep it out of the purview of section 56(2)(x).

An amendment is proposed to exclude the applicability of section 56 to transfers of capital asset by a company to its wholly owned subsidiary company and vice versa.

Taxing of receipt arising on account of termination/modification of business / employment contract

Under section 2(24) of the Act, any compensation or other payment referred in section 28(ii) of the Act shall be deemed to be regarded as income under the Act. Section 28(ii) covers specific situation wherein compensation arising on

termination or modification of the terms and conditions of contract with certain managerial person or agent etc. is treated as business income and taxed accordingly.

Taxpayer in many cases took a position that if his case is not covered by any specific provision as mentioned above, the receipt arising to him in connection with termination or modification of the terms and conditions of any business contract is regarded as "capital receipt" as the same is in lieu of source of income. Accordingly, the same is not chargeable to tax. There are various judicial pronouncements in this regard wherein such position has been upheld.

In order to bring the aforesaid transaction to tax, the Bill proposes to insert new sub-clause (e) wherein it has been provided that any compensation or other payment due to or received by any person in connection with termination or modification of terms and condition of any contract relating to his business shall be taxable as business income. Necessary amendment is also proposed in section 2(24) of the Act to treat the said receipt as income under the Act.

The Bill also proposes to make similar amendment in section 56 of the Act to provide that if such compensation is received by an employee for termination or modification of his contract of employment, the same shall be chargeable to tax under the head "Income from other sources". At this juncture it is important to mention that Section 17(3)(i) very explicitly provides that any compensation received by an assessee from his employer or former employer in connection with the termination of his employment or the modification of the terms and conditions relating thereto shall be treated as profits in lieu of salary and would accordingly be liable to tax as Salaries. Since that item of income was otherwise taxable u/s. 15, prima facie there does not appear to be any cogent reason to include the same item once again u/s. 56. It appears to be an anomaly and should get resolved before the Bill is passed by the Parliament.

An alternative view is that this amendment seeks to cover situations wherein the compensation is received from a person other than employer or former employer (though in connection with termination of employment).

Agricultural Commodity transactions not to be regarded as speculative

Section 43(5) defines speculative transaction. The proviso to the said section, however, stipulates certain transactions to be non-speculative in nature despite the contracts being settled otherwise than by the actual delivery or transfer of the commodity

or scraps. The clause (e) to the said proviso provides that trading in commodity derivatives carried out in a recognised stock exchange, which is chargeable to commodity transaction tax is a non-speculative transaction.

Commodity transaction tax (CTT) was introduced vide Finance Act 2013 to bring transactions relating to non-agricultural commodity derivatives under the tax net while keeping the agricultural commodity derivatives exempt from CTT. Since no CTT is paid, the benefit of clause (e) of the proviso to clause (5) of the section 43 is not available to transaction in respect of trading of agricultural commodity derivatives and accordingly, such transactions are held to be speculative transactions.

In order to encourage participation in trading of agricultural commodity derivatives, it is proposed to amend the provisions of clause (5) of section 43 to provide that a transaction in respect of trading of agricultural commodity derivatives, which is not chargeable to CTT, in a registered stock exchange or registered association, will be treated as non-speculative transaction.

Rationalization of the provisions relating to cash credit, unexplained investment etc.

Section 115BBE provides for tax on income referred to in section 68 or section 69 or section 69A or section 69B or section 69C or section 69D at a higher rate of sixty percent in situations wherein income under said sections have been declared suo-moto by the Assessee in the return of income furnished u/s 139 or such income has been assessed by the Assessing Officer (AO).

As per sub-section (2) of the existing provisions in case the income under the given sections is suo-moto declared by the Assessee in the return of income, no deduction in respect of any expenditure or allowance or set-off of any loss shall be allowed to the Assessee under any provision of the Act. Meaning thereby, that deduction / set – off of loss can be claimed if the AO had made an adjustment under the given sections.

In order to rationalize the provisions of section 115BBE and to restrict the adjustment of deductions / set off of loss, it has been proposed that no adjustment would be allowed even in case where the adjustment is made by the AO under the said sections.

This amendment is with retrospective effect and will apply in relation to the Assessment Year 2017-18 and subsequent years.

Presumptive income under section 44AE in case of goods carriage

The legislative intent of introducing presumptive taxation scheme under section 44AE is to give benefit to small transporters in order to reduce their compliance burden. However, currently the transporters who owns less than 10 goods carriages but with large capacity / size are also availing the benefit of section 44AE. Therefore, even though the profit margins of large capacity goods carriages are higher than small capacity goods carriages, the tax consequences are similar which is against the principle of tax equity.

In order to remove such inequalities, it has been proposed to specify different deemed income for different types of goods carriage.

Accordingly, the goods carriages have been classified into two categories i.e. goods carriage with large capacity / size (gross weight exceeding 12000 kilograms i.e. 12MT) and goods carriage other than large capacity / size.

<table>
<tr><th>Eligible Assessee for Sec. 44AE</th><th colspan="3">Any Assessee who owns not more than 10 goods carriages and engaged in the business of plying, hiring or leasing such goods carriage</th></tr>
<tr><th colspan="2">Existing Provisions</th><th colspan="2">Amended Provisions</th></tr>
<tr><th>Category</th><th>Deemed Income</th><th>Category</th><th>Deemed Income</th></tr>
<tr><td rowspan="2">Goods carriage of any size</td><td rowspan="2">Rs. 7,500 per month or part of a month for each goods carriage or the amount claimed to be actually earned by the Assessee, whichever is higher</td><td>Goods carriage with large capacity / size (Gross weight exceeding 12000 kilograms i.e. 12 MT)</td><td>Rs. 1,000 per ton of gross vehicle weight or unladen weight, per month or part of a month for each goods carriage or the amount claimed to be actually earned by the Assessee, whichever is higher</td></tr>
<tr><td>Goods carriage other than large capacity / size</td><td>Rs. 7,500 per month or part of a month for each goods carriage or the amount claimed to be actually earned by the Assessee, whichever is higher</td></tr>
</table>

Business Deduction

Start Ups - Change in definition of Eligible Business

The provisions of Section 80IAC were introduced in Finance Act 2016, wherein eligible Start Up engaged in eligible businesses is allowed tax holiday of profits from eligible businesses for a period of 3 continuous years out of 5 years beginning from the year in which the company is incorporated.

An amendment has been proposed to modify the definition of “eligible business”. Under the existing definition of eligible business, a business is termed as eligible business when it involves innovation, development, *deployment or commercialization of new products, processes or services driven by technology or intellectual property*. Hence, as per the existing definition, the business should be technology oriented or must be supported by some kind of intellectual property. Though this definition of eligible business promotes new ideas, creativity and technological development, it lacks the incentive to boost up the employment in the country. Here, the emphasis solely lies in the promotion of technology and creativity and not on generation of employment.

Accordingly, in order to generate large scale employment along with promotion of technology and new ideas, it has been proposed to amend the definition of eligible business so as to include within its scope only those businesses which are capable of generating high employment and wealth. Unlike the existing definition, the proposed definition of the eligible business would not be restricted to the field of technology and intellectual property but would include every scalable business model which has the potential of generating large scale employment as well as wealth.

It is pertinent to note that the amendment does not define “high potential” or “scalable business model”.

Start Ups - Change in definition of Eligible Start Up

The existing provisions of Section 80IAC defined "eligible start up" as a company or Limited Liability Partnership incorporated on or after 1st April 2016 but before 1st April 2019 where the annual turnover of such start up is Rs. 25 Crore or less for each year in the period from 1st April 2016 to 31st March 2021.

The amendment proposes to extend the last date for incorporation of Start Up from 1st April 2019 to 1st April 2021.

Further, the Bill proposes to modify the period for reckoning the limit of Rs. 25 crores or less which is currently, upto 31st March 2021 (irrespective of the date of incorporation) to 7 years from date of incorporation of the said Start Up. Accordingly, a Start Up will be eligible for deduction u/s 80IAC only if the annual turnover is less than Rs. 25 Crores in each of 7 years beginning from the date of incorporation of the Start Up as against the existing pre-defined period till 31st March 2021. While the intent is to promote start-ups, the criteria of limiting turnover upto Rs. 25 crores for first seven years could act as a dampener.

Allowability of loss in case of companies under Bankruptcy Code, 2016

The provisions of Section 79, as amended by Finance Act 2017, provide that when there is change in the shareholding of a closely held company, the losses of earlier years would not be allowed to be carried forward and set off against the income of such closely held company. However, no disallowance will be made if at the end of the relevant year, shares carrying 51% of the voting power are held by the same persons who beneficially held shares carrying 51% of the voting power at the end of the year in which the losses were incurred.

The amendment proposes that the provision of section 79 would not apply in case of companies where there is a change in shareholding during the previous year due to the resolution plan approved under the Insolvency & Bankruptcy Code, 2016 (IBC). The provision seeks to keep intact the losses of sick companies under the IBC and allow smooth transition of ownership. Further, it has been provided that such a beneficial provision would be applicable only if reasonable opportunity of being heard has been afforded to the jurisdictional Principal Commissioner or Commissioner to verify the facts. This is to ensure that no undue advantage is being passed on to the taxpayer.

Deduction to Employers in case of new Employees

The provisions of Section 80JJAA, as amended by Finance Act 2016, provides for deduction of 30% of cost of additional employee, for 3 years, to all the assessees to whom tax audit is applicable.

Further, as per the existing provisions, an Additional Employee has been defined as an employee who

- is employed during the previous year and
- to whom the salary paid in lieu of the services is less than Rs. 25,000 per month and
- the employee is engaged in the employment for a period of at least 240 days during the previous year.

In case of a taxpayer engaged in the business of manufacturing of Apparel, the additional employee should be in employment for at least 150 days during the previous year.

The amendment proposes to extend the benefit of the deduction to taxpayers engaged in the business of Footwear and Leather Products where the employee is engaged in employment for a period of at least 150 days instead of 240 days during the previous year.

The Bill further proposes that in case where the additional employee, who is employed for less than 240 days (or 150 days where applicable) in the first year, but is employed for a period of more than 240 days (or 150 days where applicable) in the second year, the benefit of the provision shall be allowed from the second year by treating the said employee as new employee in the second year.

100% deduction to Producer Companies

Under the existing provisions of section 80P, 100% deduction is available to all the Co-operative Societies in respect of income from specified businesses.

The amendment proposes to introduce Section 80PA which allows Producer Companies as per the amendment proposes to introduce Section - 80PA which allows producer companies as per section 581A of the Companies Act 1956, to claim 100% deduction of profits from eligible businesses. The benefit of the said deduction would be allowable in case the turnover of the Producer Company is less than Rs.100 Crores in any previous year from period beginning from 1st April 2018 and ending on 31st March 2024.

Further in case where the Producer Company is claiming deduction under any other section of the Chapter VIA, the 100% deduction u/s 80PA would be allowed in respect of the balance gross total income from eligible business after reducing the deduction claimed under the any other provision of Chapter VI A.

For the purpose of the section 80PA, eligible business means –

(i) Marketing of Agricultural Produce grown by the Members

(ii) Purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to the members.

(iii) Processing of agricultural produce of the members.

Return to be filed on or before due date to claim Profit Linked Deductions

The existing provisions of Section 80AC state that in order to claim profit linked deduction under Section 80IA, 80IAB, 80IB, 80IC, 80ID and 80IE of the Act, the return should be filed within due date as specified u/s. 139(1).

In order to provide consistency, it is proposed to extend the applicability of the provision to all the sections covered under the Heading "C- Deduction in respect of certain incomes" i.e. from Section 80H to 80TTA. Therefore, in order to claim any profit linked deduction under Section 80H to 80TTA (e.g. 80-IAC, 80JJAA, 80P, 80PA, etc.), the return of income is required to be filed within the time specified u/s. 139(1) of the Act.

Dividend Taxation

Accumulated profits to be increased in case of Amalgamation

Distributions to shareholders as per Section 2(22) of the Act are considered as dividends only to the extent of accumulated profits of the distributing company. In case of amalgamation, the Finance Bill proposes to add accumulated profits of amalgamating company (whether capitalised or not) as on the date of amalgamation to the accumulated profits of amalgamated company as on the date of distribution for arriving at accumulated profits of amalgamated company for determining amounts distributed as 'dividends'.

The proposed amendment is introduced with a view to discourage tax neutral amalgamations carried out by profit-rich companies with loss making companies, for avoidance or reduction of taxes on dividends.

Dividend Distribution Tax on Deemed Dividend

Distributions by closely held companies by way of loans or advances to shareholders or other concerns held by shareholders is deemed as 'dividends' in certain cases as per the provisions of Section 2(22)(e) of the Act. Currently, deemed dividends as per Section 2(22)(e), are taxed ideally in the hands of the recipient and are not subject to Dividend Distribution Tax (DDT) under Section 115-O in the hands of the Company. Other dividends declared by the companies suffer DDT and the shareholders were also required to pay tax at 10% if the amount of dividends exceed Rs. 10,00,000. Whereas deemed dividend u/s. 2(22)(e) were taxable in the hands of individual shareholders and were eligible for slab rate benefit. Point of taxation of deemed dividend u/s 2(22)(e) has been a matter of debate in the past and there has been long drawn litigation to determine the person in whose hands the loan or advance should be taxed.

In order to plug the anomaly created by introduction of the 10% tax on dividends in the hands of shareholders and to bring a certainty in taxation of deemed dividends , amendments are proposed under Section 115-O to shift the taxability of deemed dividends referred to in Section 2(22)(e) from shareholders to the distributing company. Companies are proposed to be subjected to dividend distribution tax at a higher rate of 30% (plus applicable surcharge & cess) on distribution or payment of deemed dividends referred to in Section 2(22)(e) of the Act. Consequentially, shareholders would be exempt from tax on such dividends under Section 10(34) of the Act. Further, as DDT is proposed to be charged at 30%, deemed dividends are not proposed to be subjected 10% tax in the hands of shareholders unlike other dividends. It is also proposed that DDT on deemed dividends would not be subject to grossing up provisions.

Consequential amendment is proposed under Section 115Q to expand scope of Section 115-O to deemed dividends.

Distribution Tax on Equity Oriented Mutual Funds

Currently, dividends paid by equity -oriented mutual funds are not subject to distribution tax under Section 115R of the Act. As detailed in other paragraphs of this booklet, the Finance Bill proposes to bring to tax net long-term capital gains on transfer of units of equity-oriented mutual funds by way of introduction of Section 112A. With a view to bring parity between dividend funds and growth funds, the Bill also proposes to tax dividend distributions by equity-oriented mutual funds under Section 115R at the rate of 10% (plus applicable surcharge & cess). The distributions would be subject to tax in the hands of the mutual funds and would continue to be exempt in the hands of unit-holders under Section 10(35) of Act.

Consequential amendments are proposed to Section 115T to expand the definition of equity-oriented mutual funds, in line with Section 112A, to include (i) funds investing 65% or more of the total proceeds of the fund into equity shares of domestic companies listed on recognised stock exchange and (ii) funds investing 90% or more of the total proceeds into other funds which in-turn invest at least 90% of their proceeds into listed equity shares of domestic companies.

Minimum Alternate Tax

Relief in MAT for Companies under Insolvency Proceedings

As per the existing provisions of section 115JB, in computation of book profits, a company is allowed a deduction of brought forward losses or the unabsorbed depreciation, whichever is less, as per the books of account. Further, if the unabsorbed depreciation or the brought forward loss is Nil, no deduction in this respect is available in computing the book profits u/s 115JB.

The amendment proposes to give relief to the companies in whose case application for Insolvency Proceedings under the IBC have been admitted. From AY 2018-19, vide clause (iih) of Explanation 1 to section 115JB, such companies will be allowed a deduction of the *aggregate* of the brought forward loss and unabsorbed depreciation, instead of lesser of the two. This amendment is in line with the Press Release dated 6th January 2018 issued by the CBDT.

The above amendment shall mean that deduction of both brought forward loss as well as unabsorbed depreciation will be available to a company, in whose case application for Insolvency Proceedings have been admitted under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016. Further, even if such company has no unabsorbed depreciation but has brought forward losses or *vice versa*, the deduction of such brought forward losses or unabsorbed depreciation will still be available in computing book profits u/s 115JB.

Further, from the amendment, it is not clear as to whether the amount of unabsorbed depreciation and the brought forward loss is to be taken as per the books of account or as per the Act. However, since the amendment is an extension of the existing provisions of clause (iii) to Explanation 1 to Section 115JB, it would be appropriate to take the amount of unabsorbed depreciation and the brought forward loss as per the books of account.

Another amendment, by way of Explanation 4A to section 115JB, proposes to exclude from scope of MAT, all the foreign companies which have profits and gains from business referred to in section 44B or 44BB or 44BBA or 44BBB. Section 115JB will not be applicable to such foreign companies subject to following conditions:

a) The foreign company does not have any income other than profits and gains from business referred to in section 44B or 44BB or 44BBA or 44BBB.

b) The profits and gains from business referred to in section 44B or 44BB or 44BBA or 44BBB have been offered to tax at the rates specified in respective sections.

This amendment seeks to clarify that MAT provisions do not apply to foreign companies being taxed on presumptive basis. Being clarificatory in nature, this amendment will be applicable retrospectively from assessment year 2001-02. A combined reading of the amendments made *vide* Finance Acts 2015 and 2016 along with Finance Bill 2018 would mean that effectively, MAT provisions are applicable only to foreign companies having a permanent establishment in India which are not taxed on presumptive basis.

Rationalization of provisions relating to AMT for IFSC Unit

The Finance Act, 2016, inserted Section 115JB(7) which provides for a reduced rate of MAT of 9% in case of a company having its unit in the International Financial Service Centre ("IFSC") and derives its income solely in convertible foreign exchange.

The Amendment proposes to now provide the above benefit of the reduced rate of 9% in case of Alternate Minimum Tax ("AMT") charged u/s 115JC. Accordingly, any person, other than a company, having its unit in the IFSC and which derives its income solely in convertible foreign exchange, shall be eligible for a reduced rate of AMT at 9% instead of the existing 18.5%.

Capital Gains

Removal of LTCG exemption on Listed Securities

In India, listed securities / companies have been granted preferential tax regime vis-à-vis unlisted securities. Some of these benefits are as follows:

Listed Companies	Unlisted Companies
Long Term (LT) Capital Gains is exempted	Long Term capital gains is taxed at 10% to 20%.
Short Term Capital Gains is taxed at 15%	Short Term Capital Gains is taxed at the slab rate, i.e. generally 0-30%.
No tax on buyback	Tax of 20% on distributed profits on buyback.
Inapplicability of certain provisions, which are applicable only to closely held companies like Section 79, 56(2)(viib), etc.	These provisions are applicable to closely-held companies, i.e. generally, unlisted or non-government companies.

The Bill proposes to remove an important exemption on LT capital gains generated on sale of listed securities through a recognised stock exchange, for which Section 10(38) is proposed to be amended. This will help bridge the gap between tax treatment of listed and unlisted securities.

Amendment is proposed u/s 10(38) to provide that such exemption won't be applicable if the **transfer** takes place after April 1, 2018. Hence, gains on sale of listed securities are no longer exempted. Note that since this amendment talks about 'transfer' and not 'acquisition', it applies even to securities purchased before April 1, 2018.

Section 112A has been proposed to be inserted to levy tax at the rate of 10% on such LT capital gains. Such LTCG is taxable only on an amount of such capital gains in excess of Rs 1 lakh per financial year.

The section has a very welcoming grandfathering provision, which is applicable to shares acquired before February 1, 2018. The cost of acquisition for computing capital gains can be higher than the amount actually paid to acquire the shares if Fair market value (FMV) of such shares as on January 31, 2018 is higher than actual cost. This would, however, not permit claim of loss if full value of consideration is less than FMV (in a situation where both, full value of consideration and FMV are higher than cost of acquisition) because full value of consideration shall be deemed to be cost of acquisition in such a case.

FMV has been defined as the highest price of the listed share on January 31, 2018, or the preceding day if the share isn't traded on the former day. In case the asset is an unlisted unit, its Net Asset Value on January 31, 2018 will be considered as its FMV.

To put it simply, entire gains accrued on listed shares and equity oriented mutual funds upto January 31, 2018 continues to

remain exempted. Further, the exemption continues to be applicable upto March 31, 2018. The impact is summarised as follows:

Particulars	1	2	3	4
Original COA	100	100	100	100
FMV on 31/01/2018	120	120	80	110
Sale price post 31/03/2018	150	110	110	80
Revised COA	120	110	100	100
Taxable Capital Gains	30	0	10	-20
		Even loss will not allowed		
Sale price between 01/02/2018 to 31/03/2018	150	110	110	80
Taxable Capital Gains	0	0	0	0

The definition of equity oriented fund has been expanded to include the specified mutual fund that invests in units of another fund which is traded on a recognised stock exchange. However, such funds should invest a minimum of 90% in other funds that in-turn should invest a minimum of 90% in the equity shares of domestic listed companies.

There are certain conditions for triggering Section 112A, one of which is that STT should have been paid on acquisition and sale of such shares. Similar provision is present u/s 10(38), however, with certain exceptions. Such exceptions are likely to be provided for this provision too. Illustration of such exceptions are, where promoter or QIB sells its stake – in these cases, STT won't be paid on acquisition. Despite such non-payment, Section 10(38) allows exemption from LT capital gains. The requirement of payment of STT on acquisition is not applicable when a transaction is undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is received or receivable in foreign currency.

It may be noteworthy to mention that if the condition relating to payment of STT at the time of acquisition or transfer is not fulfilled, as per proviso to Section 112, the assessee would have option to pay tax at 10% of gains (without considering indexation) or at 20% of the indexed gain, whichever is lower. However, under the proposed section, with conditions of payment of STT, it mandates payment of tax at 10% of gains (without considering indexation). Thus, even if the condition is not fulfilled, the assessee does not stand to lose except in case of transfer of unit of Mutual Fund.

Tax u/s 112A won't be applicable to resident individuals or HUF having income lower than the exemption limit. However, in case of Non-Resident, this provision seems to be attracted even when the gain is below the exemption limit and above Rs 1 lakh.

Securities included under Section 10(38) and Section 112A are equity shares in a company, unit of an equity oriented fund or unit of a business trust.

Capital Gain not be charged on investment in certain bonds

Existing provision of section 54EC provides exemption of capital gain which arises from transfer of long-term capital asset if the amount of capital gain is invested in long-term specified assets being any bond issued by specified authorities.

In order to limit the scope of this section, the Bill proposes that such exemption shall be available only when the long-term capital asset transfer by the assessee is land or building or both. Thus, exemption u/s. 54EC would not be available for long term capital gain arising after March 31, 2018 on assets other than immovable property. Capital gains arising on sale of shares (listed or unlisted) will not be eligible for exemption u/s. 54EC.

Currently, bonds issued by NHAI or REC or other notified bonds with tenure of more than 3 years were eligible for 54EC benefit, however, now bonds issued by the above agencies with tenure of more than 5 years only will be eligible for exemption u/s. 54EC. Investing for minimum 5 years for saving of 20% tax on long term capital gains would effectively mean only 4% incremental return on the said bonds.

Exemption on transfer of certain capital assets

The Bill proposes a new clause (viiab) under Section 47, where capital gains on transfer of certain assets are exempt from tax. These assets are as follows:

- Specified Bonds or Global Depository Receipt (GDR)
- Rupee Denominated Bonds of an Indian Company (known as Masala Bond)
- Derivative

Conditions for claiming exemption are as follows:

- Transferor should be a non-resident
- Transfer should be on a recognised stock exchange located in any International Financial Services Centre.
- Consideration is payable in foreign currency

Under this method, gains from transactions involving both, equity and debt can be exempted. Through GDR, non-residents can invest in the equity shares of the company. If these are listed on the specified exchange, the entire gains will be exempted in India. Even existing GDRs, bonds, etc. may be listed on such exchanges to ultimately take benefit of such provision.

It is important to note that such exemption is only in India and may trigger taxation in foreign countries.

Meaning of Business Connection

Dependent Agents – Scope widened in lines with BEPS Action Plan 7 and MLI

Source rules for taxation of business income arising to non-residents in India as per Section 9(1)(i) of the Act deems business income arising through or from business connection in India to accrue or arise in India.

As per Explanation 2 to the said section, business connection includes business activities carried out by dependent agents of such non-resident who (i) has or habitually exercises authority to conclude contracts on behalf of the non-resident or (ii) habitually maintains stock of goods or merchandise in India, from where he regularly delivers goods or merchandise on behalf of the non-resident or (iii) habitually secures orders in India, mainly or wholly for the non-resident or its related companies. The above definition is in lines with provisions relating to Dependant Agent Permanent Establishment (DAPE) as per Article 5 of various Indian tax treaties.

However, the above definition of DAPE does not explicitly cover agents who negotiate the contracts on behalf of non-resident, but do not conclude or execute the contract for artificial avoidance of Permanent Establishment (PE) / business connection. Recognising the same, Action Plan 7 of the Base Erosion and Profit Shifting Project (BEPS) of the Organisation for Economic Co-operation and Development (OECD) had recommended various measures to address cases of Artificial Avoidance of PE.

In light of the recommendations of the OECD under BEPS Action Plan 7, which have also been adopted in the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (commonly referred to as Multilateral Instrument or MLI) signed by 78 countries (including India) as on January 24, 2018, the Finance Bill proposes to make amendments to Section 9(1)(i) of the Act.

In light of the above, definition of business connection is expanded to also include persons (agents) who habitually play principle role leading to conclusion of contracts by non-residents. It is also proposed to include contracts for transfer of ownership or right to use of property owned / leased by non-residents or contracts for provision of services by non-residents.

It may be relevant to note that the Memorandum to Finance Bill also refers to anti-fragmentation rules recommended under Action Plan 7, but no amendment has been proposed in this regard.

The amendment is proposed to be effective from Assessment Year 2019-20.

Business Connection to include "Significant Economic Presence"

The Bill proposes that "significant economic presence" of non-resident in India be construed as "business connection" of the non-resident in India as per Section 9(1)(i) of the Act.

Significant economic presence is proposed to be defined as –

- Transaction in respect of goods, services or property carried out by a non-resident in India, including provision of download of data or software in India
- Systematic and continuous activities for soliciting of business or engaged in interactions with prescribed number of users in India through digital means.

Accordingly, non-residents will be deemed to have significant economic presence in India if it carries significant transactions or business activities in India, either through physical presence or through digital economy. Revenue and number of user based thresholds are proposed to be prescribed for determining whether or not the non-resident has significant economic presence in India. It is however proposed that the significant economic presence tests shall be applied irrespective of whether or not the non-resident has a place of residence or place of business in India or renders services in India.

The intent of the proposal is to bring to tax net business income arising to non-residents which has significant economic nexus with India. It may be relevant to note that the tests do not propose conventional thresholds with respect to number of days of presence, etc. Here it may be relevant to note the decision of Honourable Supreme Court in the case of Formula One World Championship Limited (FOWC) [TS-161-SC-2017], wherein, FOWC was considered to have fixed place PE in India considering the economic nexus it had with the Budh International Circuit in India, wherein the racing event was held, irrespective of the number of days for which the event was held. Proposed amendment would give legislative powers for taxing non-residents with significant economic presence in India such as in case of FOWC under the provisions of the Act.

As per the Memorandum to the Finance Bill, the amendment is proposed based on OECD Report on Action Plan 1 of BEPS on Digital economy. It therefore intends to bring to tax net non-residents who have significant economic presence in India through digital means but are untaxed due to lack of physical presence. Finance Act 2016 has also introduced Equalisation Levy for taxing digital economy transactions, which are exempted from income tax by virtue of Section 10(50) of the Act. However, equalisation levy is applicable in case of payments relating to online advertisement, provision of digital advertising space, or other facility or services for online advertisement. Accordingly, other activities carried by non-residents through digital means are not covered by Equalisation levy and could be subjected to income-tax by virtue of the proposed amendment. At the same time, the applicability of the proposed provisions will also be subject to the provisions of tax treaties and definition of permanent establishment therein.

Exemption to non-resident from income arising from NTRO

The National Technical Research Organisation (NTRO) is an Indian technical intelligence agency formed in 2004. The NTRO acts as the primary advisor on security issues to the Prime Minister and the Union Council of Ministers of India. It also

provides technical intelligence to other Indian agencies. NTRO's activities include satellite and terrestrial monitoring. NTRO is also charged with developing technology relevant to Indian national security and intelligence. These technologies include cryptology, cybersecurity and data management.

In order to incentivise a non-resident for providing technical knowledge, the Bill proposed to insert clause (6D) in section 10 to provide that income arising to a non – resident in the form of Royalty or fees for technical services rendered in or outside India to NTRO would be exempt from tax. A new clause (6D) in section 10 is proposed to be inserted for giving effect to the proposed amendment.

Exemption of income of Foreign Company from sale of left over stock of crude oil

Section 10(48A) was introduced by the Finance Act, 2016 to provide for exemption of 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, if the said storage and sale is pursuant to an agreement or an arrangement entered into by the Central Government; and having regard to the national interest, said foreign company and the said agreement or arrangement are notified by the Central Government in that behalf.

Section 10(48B) provides that any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil after the expiry of the agreement or arrangement shall be exempt subject to such conditions as may be notified by the Central Government.

Since such project is benefitting India to develop its strategic petroleum reserves, the provision is proposed to amend to provide that the benefit of tax exemption in respect of income from left over stock will be available even if the agreement or the arrangement is terminated in accordance with the terms mentioned therein.

Country-by-Country reporting

In 2015, OECD had released a template for country-by-country reporting of income, taxes paid, and certain measures of economic activity vide Action plan 13 – Transfer Pricing Documentation and Country by Country Reporting (CbCR).

India had endorsed the said Action Plan in 2015 and pursuant to the same, Section 286 was inserted in the Act and final Rules in this regard were notified in October 2017. BEPS recommendations are at various stages of implementation in various countries and CbCR being dependent upon filing requirements in various countries, certain curative amendments have been made in Section 286 to align with global reporting requirements with a retrospective effect from April 1, 2017 (being the first year of its implementation), which are summarised as under:

1. While the current Section 286 provides for furnishing of country by country report on or before the due date of filing of return, the Finance Bill 2018 proposes to delink the due date of CbCR from the due date of filing of return and is proposed as twelve months from the end of reporting accounting year. Consequently,
   - For Parent companies or Alternate Reporting Entities (ARE) resident in India, the due date for Form 3CEAD shall be March 31, 2018 for AY 2017-18;
   - For constituent entities resident in India (having non-resident Parent) and which are required to file CbCR u/s. 286(4) [on account of the same not being filed in the country with which India has agreement for exchange of information], the Indian constituent entity shall be required to furnish Form 3CEAD within 12 months from the end of reporting accounting year followed for preparing Consolidated Financial Statements by the parent entity.
2. It has been clarified that every constituent entity resident in India shall be required to furnish CbCR to the tax authorities in India in case its parent entity outside India has no obligation to file CbCR in its country.
3. It has also been clarified with respect to filing of CbCR under Section 286(4) that if the ARE has furnished CbCR in its jurisdiction within the due date specified by its country (instead of due date in India), the constituent entity in India shall not have a reporting requirement. However, it may be mentioned here that if the due date for furnishing CbCR in the jurisdiction of ARE is after the due date of filing the said Report in India u/s. 286(4) (and ARE has not yet furnished the said Report), the Indian constituent entity will be required to file the said Report u/s. 286(4).

The Finance Bill also proposes few other clarificatory amendments in Section 286 to avoid misinterpretation of the Section.

Standard Deduction for Salaried Employees

Hon'ble Finance Minister claimed that in order to provide relief to salaried employees, the Bill proposes to amend section 16 to allow a standard deduction of Rs. 40,000 or the amount of salary, whichever is lower.

However, while giving the above deduction, the Bill proposes to take away the benefit of deduction in respect of medical reimbursement of Rs. 15,000 and fixed transportation allowance of Rs.1,600 p.m. is presently available under the Act. Thus, effectively it takes away the permissible deductions to the extent of Rs. 34,200 and has granted deduction of Rs. 40,000 in place thereof. Thus, effectively the said standard deduction may not provide any significant relief to the employees who are already availing medical reimbursement and fixed transportation allowance.

Deduction in respect of interest on deposits for senior citizens

Interest income is one of the important source of living for senior citizens. With the dip in interest rates, the net of tax disposable income available with the senior citizen further reduces. Currently, interest income on savings bank account to the extent of Rs. 10,000 is available as deduction in computing taxable income. In order to provide some relief to senior citizens in respect of falling interest rates, the Bill proposes to exclude interest income to the tune of Rs. 50,000 (in place of Rs. 10,000) from the tax net. Further, interest on all deposits (including savings deposit) with banks, post offices or co-operative societies in the business of banking shall be eligible for such deduction.

Consequently, the threshold for deduction of tax at source u/s. 194A in case of payment of interest to senior citizen is also proposed to be increased to Rs. 50,000.

Tax exemption to partial withdrawal from National Pension Scheme

As per existing provision of section 10(12A), payment received by an employee from National Pension System (NPS) trust on closure of his account or opting out shall be exempt up to 40% of total amount payable to him.

This exemption was not available to non – employee subscribers. It is proposed to amend section 10(12A) and extend the said benefit to all subscribers including employees. The scope is now enlarged to include employees as well as other subscribers.

Increase in amount of deduction for medical expenses

Bill proposes to amend provisions of section 80D to increase the amount of deduction available towards medical expenditure paid in respect of senior citizen (age 60 years or above) from Rs.30,000 to Rs.50,000:

- **for individual assessee**- senior citizen being the assessee or spouse of the assessee; or any parent or parents of the assessee
- **for HUF assessee**- senior citizen being any member of the HUF

Further, it has also been proposed to increase the aggregate amount of deduction available towards health insurance premium or medical expenditure paid in respect of senior citizen from Rs.30,000 to Rs.50,000. It is also proposed to eliminate the difference between senior citizen and very senior citizen, and therefore there remains two age group i.e. below 60 years and above 60 years to claim deduction u/s 80D.

The summarise position of deduction u/s 80D post amendment will be as follows:

Age Group	Coverage	Eligible Deduction Limit	
		Assessee and Family	Parents
Below 60 years	Insurance Premium	25,000	25,000
60 years or above	Either (i) Insurance Premium or (ii) Medical Expenditure	50,000	50,000

Further, it is proposed that where the amount of health insurance premium is paid in lump sum in respect of period covering more than one year, than deduction shall be allowed on a proportionate basis over the years during which the insurance shall have effect or be in force subject to the limit provided under section 80D.

Increase in amount of deduction for medical treatment of specified disease

For the purpose of enhancing and also aligning the benefit of deduction provided to the senior citizens (60 years or above) and very senior citizens (80 years or above), the monetary limit for deduction allowable under section 80DDB for amount actually spent towards treatment of specified diseases in case of individual or member of HUF has been proposed to be increased to Rs.1,00,000 for all types senior citizens. The existing monetary limits are Rs.60,000 for senior citizens and Rs.80,000 for very senior citizens.

Other Amendments

Returns & Assessment

Enlarged scope of mandatory requirement for applying PAN under section 139A

The Finance Bill seeks to amend the existing section 139A to widen the scope of persons who are mandatorily required to obtain PAN under Income Tax Act. It is proposed to insert of clause (v) and (vi) in sub-section (1) of section 139A which to provide that every person not being an individual who enters into financial transaction of Rs 2.5 lakhs or more in financial year is mandatorily required to obtain PAN. It is also further proposed that managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or other office bearer of such entity is also mandatorily required to obtain PAN. The same is mandated with an intention to link each and every entity with natural persons.

The amendment proposed is with an intention to widen the tax base in India and to use PAN mechanism as Unique Entity Number (UEN) for non-individual entities which are entering into financial transaction of 2.5 lakhs or more. It may, however, be noted that in case of companies with foreign directors (even non-executive directors), even foreign directors would be required to obtain PAN despite having no income or tax liability in India.

Return by whom to be verified

The existing provisions of section 140 prescribes person who is responsible for verification and filing of Income Tax Return. Post enactment of the "Insolvency and Bankruptcy Code, 2016", once the insolvency professional is appointed as liquidator of the company for the insolvency resolution process, he shall assume all the powers and duties as defined under section 35 of the said Code.

In view of the same, to streamline the provisions of the Act with the provisions of "Insolvency and Bankruptcy Code, 2016", the Bill has proposed to amend section 140 of the Act to provide that in case of a company seeking insolvency, the return shall be required to be verified by the "insolvency professional" appointed by such Adjudicating Authority (National Company Law Tribunal).

Restrictions on prima-facie adjustments while processing the return of income

The existing provisions of Section143(1)(a) of the Act provides for the processing of the return of income filed u/s 139 or in response to notice u/s 142(1) of the Act, after making certain adjustments specified in sub-clauses (i) to (vi) thereof to the total income or loss declared in the return of income filed. Sub-clause (vi) of the said clause provides for adjustment in respect of addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return. Recently the CBDT has issued the instruction giving detailed procedure for making such adjustment.

The Bill proposes to amend section 143(1) of the Act whereby it is provided that now no such adjustment representing prima-facie difference on account of addition of income appearing in Form 26AS or Form 16A or Form 16 shall be made while processing return of income relating to AY 2018-19 onwards.

New scheme for scrutiny assessment [e-Assessment]

The Bill proposes to enable the Central Government to enact a new scheme for assessment(E-Assessment) of total income or loss of the Assessee so as to impart greater efficiency, transparency and accountability, by eliminating the interface between the Assessing Officer and the Assessee during the course of assessment proceedings, optimal utilization of the resources and introduction of team-based assessment with dynamic jurisdiction. The above direction is to be issued latest by 31st March 2020.

The proposed amendment shall reduce the manual interruption in the Assessment proceedings. It shall also ensure transparent dealings between Assessee and the departmental authorities. This proposal is in line with the digitalisation of government procedures which shall encourage the paperless compliances. It is proposed that efficiency, transparency and accountability would be increased by introduction of technology, functional specialisation and by introducing a team-based assessment with dynamic jurisdiction.

The E-Assessment shall enable the

procedural compliances related to Assessment proceedings to be much more accurate. Further, it shall reduce the effective time to complete the Assessment proceedings which is in consonance with the previous amendment made by the Finance Act, 2017, in section 153 of the Act, reducing the time limit for completion of the Assessment. The proposal shall also be effective in a way to promote the preservation of Assessment records in digital form.

Penalty and Prosecution

Penalty for default in furnishing a statement of Specified Financial Transaction

The existing provisions of section 271FA r.w.s 285BA deal with the levy of penalty for failure to report Specified Financial Transaction (SFT) or non-compliance with notice issued by any specified authority requiring reporting SFT. The Bill proposes to increase the amount of penalty as under:

Nature of Default	Existing Penalty	Proposed Penalty
For failure to furnish report in prescribed form relating to SFT	Rs.100 per day till the failure continue	Rs.500 per day till the failure continue
Failure to comply with the notice issued by the Income Tax Authority	Rs.500 per day till the failure continue	Rs.1000 per day till the failure continue

Prosecution for failure to Furnish the return of income

Section 276CC of the Act provides that if a person wilfully fails to furnish in due time the return of income which he is required to furnish, he shall be punishable with imprisonment for a term, as specified therein, with fine.

The sub-clause (b) of clause (ii) of proviso to the section 276CC further provides that a person shall not be proceeded against under the said section for failure to furnish return for any assessment year commencing on or after the 1st day of April, 1975, if the tax payable by him on the total income determined on regular assessment as reduced by the advance tax, if any, paid and any tax deducted at source, does not exceed three thousand rupees.

In order to prevent abuse of the said proviso by shell companies or by companies holding Benami properties, it is proposed to amend the provisions of the said sub-clause so as to provide that the said sub-clause shall not apply in respect of a company.

Appeal against penalty u/s 271J

Section 271J of the Act was inserted with effect from 1-4-2017. Under the said section where an Assessing Officer or Commissioner (Appeals) during the course of any proceedings finds that an accountant or merchant banker or a registered valuer has furnished incorrect information in any report or certificate the concerned authority has the power to direct such accountant or merchant banker or a registered valuer to pay by way of penalty a sum of ten thousand rupees.

Appeal to the Commissioner (Appeals) was allowed to filed u/s. 246A against the order levying penalty u/s. 271J. However, the same was not incorporated in section 253 dealing with appeals with Income Tax Appellate Tribunal.

An amendment is proposed so as to provide for filing appeal with the Income Tax Appellate Tribunal against the order passed u/s 271J.

Taxation of Charitable Trust

Disallowance of Cash Payments by Trust

Section 40(a)(ia) deals with disallowance of an expenditure in case of non – deduction of tax source. Section 40A(3) and 40A(3A) deal with disallowance of expenditure in respect of which payment is made otherwise than by way an account payee cheque or an account payee bank draft or electronic banking exceeding Rs. 10,000. All these sections applied to computation of total income under the head "Profits and Gains of business or profession".

Since the charitable Trusts are not engaged into any business activity, it was argued that these sections would not apply while computing the income of charitable trusts. It is proposed that these sections would now apply to charitable trusts also and if there is non-compliance of section 40(a)(ia) dealing with TDS provisions or sections 40A(3)/(3A) dealing with expenditure in cash appropriate adjustment would be made to the application of income while computing the total income of Trusts.

Section 11 and section 10(23C) are proposed to be amended for giving effect to the above provisions.

The proposed amendment will have following impact on computation of income of the trust:

- If trust fails to deduct TDS or after deduction of TDS fails to remit it to the Government, 30% of the said claim shall not be considered as application of income. However, if the TDS is remitted on or before the due date of filing the Income Tax Return (ITR), the same would be eligible for computing application in the year when TDS is deducted or if it has been paid in subsequent year, the said amount would be eligible for computing application in the year of payment.
- It is to be noted that as per the provision of section 40(a)(ia), it is explicitly provided that where the Assessee furnishes Form No.26A (Rule 31ACB) regarding payment of tax by the payee , the Assessee for the purpose of the Act shall not be regarded as Assessee in default and in view of second proviso to section 40(a)(ia) he can still claim the deduction of the said payment. The

the time of transfer of the said asset, one can take deduction of actual cost including the amount paid in cash for calculating income as per 11(1A).

Authority for Advance Rulings

Under Chapter XIX-B, Section 245O of the Act gives power to the Central Government to constitute an Authority for giving Advance Rulings and this authority shall determine issues on matters prescribed under section 245N. Further, section 245N has also prescribed the list of applicants who can approach the Authority for Advance Ruling (AAR). The AAR constituted under the Act was also taking care of matters pertaining to Excise, Customs & Service Tax.

In view of the proposed constitution of new Customs Authority for Advance Ruling under section 28EA of the Customs Act, the Bill proposes to insert a proviso to sub-section (1) of Section 245O stating that the Authority shall cease to act as "Authority for Advance Rulings" in respect of applicants making application under the Customs Act, 1962 from the date of appointment of "Customs Authority for Advance Rulings" constituted under relevant provisions of the Customs Act.

Tax deduction at source on new government bond

As per existing provision of section 193, tax will be required to deducted on interest, exceeding of Rs.10,000 payable on 8% GOI Saving (Taxable) Bond 2003, at time of payment or credit in account whichever is earlier. The Government has now decided to discontinue such bonds by issuing new 7.75% GOI Saving (Taxable) Bond, 2018. The interest received under new bond will continue to be taxed as in case of the earlier provision.

Considering the above the provision of section 193 propose to be amended to allow deduction at source on interest, exceeding of Rs.10,000, on 7.75% GOI Saving (Taxable) Bond, 2018 to resident.

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

As per the existing provisions of section 10(46), the Central Government is empowered to exempt, by notification, specified income arising to a body or authority or Board or Trust or Commission, if-

- they are established or constituted by or under a Central, State or Provincial Act or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public.
- they are not engaged in any commercial activity;

Under the existing provisions, the Central Government is required to notify each case separately even if they belong to the same class of cases. Consequently, the whole process of approval is considerably delayed. Accordingly, it is proposed to amend the said clause so as to enable the Central Government to also exempt, by notification, a class of such body or authority or Board or Trust or Commission (by whatever name called).

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Indirect Tax

Goods and Service Tax

Major Announcement

No changes in existing rates, rules & regulations.

Name of Central Board of Excise and Customs to be known as "Central Board of Indirect Taxes and Customs."

Service Tax

Exemption - Retrospective Amendment

- Life insurance services provided by Naval Group Insurance to Coast Guard from 10 September 04 to 30 June 17
- Services provided by Goods & Services Tax Network (GSTN) to Central, State & Union territory from 28 March 13 to 30 June 17
- Services of giving license or lease to explore or mine petroleum products is proposed to be exempt from service tax from 1 April 17 to 30 June 17

Excise

Major Announcement

- Excise duty on Petrol and Diesel - Unbranded & Branded is reduced by Rs 2 per litre
- Road cess of Rs. 6 per liter on motor spirit is replaced by levy of Rs. 8 per liter as Road & Infrastructure cess on Motor Spirit for financing infrastructural projects.
- Exemption of 50% on basic Excise, Road & Infrastructure Cess & Additional excise on Petrol & Diesel manufactured & cleared from four specified refineries situated in north East India.

Customs Act

Major Announcement

- Introduced Social Welfare Surcharge at 10% on imported goods from 2 February,18. (except goods covered in Customs notification No.11/2018). This surcharge is applicable on the basic customs duty plus cess/duty under Customs Act except on IGST and Goods & Services Compassion cess.
- Abolished education cess and Secondary & Higher Education Cess on imported goods
- The scope of the Customs Act is expanded to include any offence or contravention committed by any person outside India. (Section 1)

Amendments

Prohibition or restriction or obligation relating to import or export in any other law shall be executed only if the same is notified under the provisions of Customs Act. (Section 11(3)(a)). It is proposed that the prohibition must be notified under Customs Act before it can be executed by Customs authorities even if such prohibition is made by any other law.

Self-Assessment – increase in scope

- Scope of verification is extended beyond the self-assessment for import of goods to all the entries made under section 46 or section 50 (Section 17 (1))
- To provide legal backing for the risk-based selection of self- assessed Bill of Entry or Shipping Bill through appropriate selection criteria; (Section 17 (2))
- Reference to valuation, classification and exemption or concessions of duty availed under any notification issued under this Act (Section 17 (5)). Proposed amendment will allow the authorities to reassess any self-assessment submitted by importer without reference to valuation / classification and exemption.

Provisional Assessment of Duty

- Includes export- consignments (Section 18 (a))
- Board will have power to prescribe time-limit for submitting the documents and information for finalization of provisional Assessment (Section 18 (b))

Power is proposed to be given to the Central Government to exempt goods imported for repair, further processing or manufacture from whole or any part of Duty. Under present law such transactions attract duty which is refunded on export. (Section 25 A inserted)

Power is proposed to be given to the Central Government to exempt goods re-imported after export for repair, further processing or manufacture from whole or any part of custom Duty. Under present law such transactions attract duty which is refunded on re-export. (Section 25 B inserted). Under Section 25 A the items imported for repairs etc. will not necessarily have been exported from India. Under Section 25 B the items are exported from India and have to be reimported for repairs etc.

The process of recovery of duties not levied or not paid or short levied or short paid or erroneously refunded is proposed to allow pre-notice consultation where no will full mis-statement is made, issuance of supplementary show cause notice and provide additional time limit. If the demand notice is not adjudicated even within the extended period, it would be deemed as if no demand had been issued. (Section 28)

The time limit for pronouncing advance ruling is reduced from 6 months to 3 months. (Section 28I)

Chapter VIIA inserted to provide payments through electronic cash ledger including advance deposit.

Option to pay fine in lieu of confiscation (Section 125). If the redemption fine is not paid within 120 days of exercising this option then the option shall become void.

Customs Tariff

Increase in Basic Custom Duty

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
1	1508, 1509, 1510, 1512, 1513, 1514, or 1515	All goods, crude and edible grade	12.5%	30%
2	1508, 1509, 1510, 1512, 1513, 1514 or 1515	All goods, refined and edible grade	20%	35%
3	1516 20	All goods of edible grade	20%	35%
4	1517 10 21, 1517 90 10, 1518 00 11, 1518 00 21 or 1518 00 31	All goods of edible grade	20%	35%

Increase in Basic Custom Duty

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
5	2106 90	All goods (excluding compound alcoholic preparations of a kind used for the manufacture of beverages, of an alcoholic strength by volume exceeding 0.5% by volume, determined at a temperature of 20 degrees centigrade)	30%	50%
6	71	Cut and polished coloured gemstones	2.5%	5%
7	71	Diamonds including lab grown diamonds-semi processed, half-cut or broken	2.5%	5%
8	71	Non-industrial diamonds including lab-grown diamonds(other than rough diamonds)	2.5%	5%
9	8702 or 8704	Motor vehicles: (a) If imported as a Completely Knocked Down (CKD) kit containing all the necessary components, parts or sub assemblies, for assembling a complete vehicle with engine, gearbox and transmission mechanism not in a pre-assembled condition; (b) in a form other than (a) above	10% 20%	15% 25%

Increase in Basic Custom Duty

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
10	8703	Motor cars and other motor vehicles principally designed for the transport of persons (other than those of heading 87.02), including station wagons and racing cars, new, which have not been registered anywhere prior to importation, If imported,- (1) As a Completely Knocked Down (CKD) kit containing all the necessary components, parts or sub-assemblies, for assembling a complete vehicle, with,- (a) engine, gearbox and transmission mechanism not in a pre-assembled condition;	10%	15%
11	8711	Motor cycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side cars, and side cars, new, which have not been registered anywhere prior to importation, - (1) as a completely knocked down (CKD) kit containing all the necessary components, parts or sub -assemblies, for assembling a complete vehicle, with, - (a) engine, gearbox and transmission mechanism not in a pre -assembled condition;	10%	15%
12	4016 99 90	The following goods for use in manufacture of cellular mobile phones namely:- (Imicrophone Rubber Case (ii) Sensor Rubber Case / Sealing Gasket including sealing gaskets / cases from Rubbers like SBR, EPDM, CR, CS, Silicone and all other individual rubbers or combination / combination of rubbers	10%	15%

Decrease in Basic Custom Duty

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
1	0801 31 00	Cashew nuts in shell	5%	2.5%
2	70	Solar tempered glass or solar tempered (antireflective coated) glass for use in manufacture of solar cells/panels/modules	5%	Nil
3	70	Preform of silica for use in the manufacture of telecommunication grade optical fibres or optical fibre cables.	Nil	5%

Following entries shall be omitted

Sr. No.	Chapter	Commodity	Rate of Duty
1	2009 81 00, 2009 90 00	Cranberry products	10%
2	2009 1100, 2009 1200, 2009 1900	Orange juice	30%
3	8529	LCD (Liquid Crystal Display), LED (Light Emitting Diode) or OLED (Organic LED) panels for manufacture of Television	Nil
4	7318 15 00	Screw for use in manufacture of cellular mobile Phone	10%

Following entries shall be omitted

Sr. No.	Chapter	Commodity	Rate of Duty
5	7326 90 99	SIM socket / Other Mechanical items (Metal) for use in manufacture of cellular mobile phones	10%
6	5007	All goods	10%
7	Any Chapter	Inputs or raw material for use in manufacture of following parts of Cellular Mobile Phones; (i)Charger or adapter	Nil

Following entries shall be inserted

Entry No.	Chapter	Commodity	Rate of Duty
297A	4823 90 90	All goods other than kites	10%
448A	8407	All goods other than engines of- (Imotor vehicles falling under heading 8702 or 8704; (ii) motor cars falling under heading 8703, or (iii) motor cycles falling under heading 8711.	7.5%
448B	8407 21 00	Outboard Motors	5%
448C	8408	All goods other than engines of- (Imotor vehicles falling under heading 8702 or 8704; (ii) motor cars falling under heading 8703; or (iii) motor cycles falling under heading 8711.	7.5%

Following entries shall be inserted

Entry No.	Chapter	Commodity	Rate of Duty
448D	8409	All goods other than parts suitable for use solely or principally with the engines, of heading 8407 or 8408, of a kind used in- (i) motor vehicles falling under heading 8702 or 8704; (ii) motor cars falling under heading 8703; or (iii) motor cycles falling under heading 8711.	7.5%
448E	8483 10 91	All goods other than Crank shaft for engines falling under heading 8407 of- (i) motor vehicles falling under heading 8702 or 8704; (ii) motor cars falling under heading 8703; or (iii) motor cycles falling under heading 8711.	7.5%
448F	8483 10 92	All goods other than Crank shaft for engines falling under heading 8408 of- (i) motor vehicles falling under heading 8702 or 8704; (ii) motor cars falling under heading 8703; or (iii) motor cycles falling under heading 8711.	7.5%
489A	8511	All goods other than of a kind used in conjunction with engines of:- (i)motor vehicles falling under heading 8702 or 8704; (ii) motor cars falling under heading 8703; or (iii) motor cycles falling under heading 8711.	7.5%
530A	8708	All goods other than parts and accessories of the motor vehicles of heading 8702 to 8704	10%
578A	Any Chapter	Any Chapter	Nil
594A	9506 91	All goods	10%
2A	5007	All goods	20%
62A	8545 11 00	Electrodes of a kind used for furnaces	Nil

Following entries shall be inserted

Entry No.	Chapter	Commodity	Rate of Duty
7A	Any Chapter	Inputs or raw material [other than Printed Circuit Board Assembly (PCBA) (falling under tariff item 8504 90 90) and Moulded Plastics (falling under tariff items 3926 90 99 or 8504 90 90)] for use in the manufacture of charger or adapter of cellular mobile phones	Nil
7B	3926 90 99 8504 90 90	Moulded Plastics of charger or adapter of cellular mobile phones	10%
7C	Any Chapter	Inputs or parts for use in the manufacture of following parts of charger or adapter of cellular mobile phones, namely:- (Iprinted Circuit Board Assembly (PCBA) (falling under tariff item 8504 90 90) (ii) Moulded Plastics (falling under tariff items 3926 90 99 or 8504 90 90)	Nil
9	3919 90 90	All goods other than the following parts or sub-parts or accessories of cellular mobile phones, namely:- (Iheat Dissipation Sticker Battery Cover (ii) Sticker-Battery Slot (iii) Protective Film for main Lens (iv) Mylar for LCD FPC (v) Film-Front Flash	10%
10	3920 99 99	All goods other than the following parts or sub-parts or accessories of cellular mobile phones, namely:- (Ibattery cover (ii) Front cover (iii) Front cover (with Zinc Casting) (iv) Middle cover (v) Back Cover (vi) Main Lens (vii) Camera Lens	10%
11	3926 90 91	All goods other than PU case, Sealing Gasket of cellular mobile phones	10%

Following entries shall be inserted

Entry No.	Chapter	Commodity	Rate of Duty
12	3926 90 99	All goods other than the following parts or sub-parts or accessories of cellular mobile phones, namely:- (i) Sealing Gaskets / Cases from PE, PP, EPS, PC and all other individual polymers or combination / combination of polymers (ii) SIM Socket / Other Mechanical items (Plastic) (iii) Conductive Cloth (iv) LCD Conductive Foam (v) LCD Foam (vi) BT Foam	10%
13	8504 40	All goods other than charger or adapter of cellular mobile phones	10%
14	8506	All goods other than cell or battery of cellular mobile phones	10%
15	8507 (except 8507 60 00 and 8507 90)	All goods other than battery pack of cellular mobile phones	10%
16	8507 60 00	All goods other than Lithium-ion battery of cellular mobile phones	10%
17	8507 60 00	Lithium-ion battery of cellular mobile phones	15%
18	8518	All goods other than the following parts of cellular mobile phones, namely:- (I) microphone (ii) Wired Headset (iii) Receiver	10%
19	8538 90 00	All goods other than Side Key of cellular mobile phones	7.5%
20	8517 62 90	All goods other than wrist wearable devices (commonly known as smart watches)	10%

Reduction in Social Welfare Surcharge

Sr. No.	Chapter or heading or sub-heading or tariff item of the First Schedule	Description of goods	Rate of Duty	
			Proposed	Reduced to
1	2710	Motor spirit commonly known as petrol	10%	3%
2	2710	High speed diesel (HSD)	10%	3%
3	7106	Silver (including silver plated with gold or platinum), unwrought or in semi-manufactured forms, or in powder form	10%	3%
4	7108	Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form	10%	3%

Decrease in Additional Duty of Customs leviable(CVD)

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
1	2710	Imported motor spirit commonly known as petrol and high speed diesel oil	Rs. 8 per Litre	Exempt

Decrease in Additional Duty of Customs(Road Cess)

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
1	2710	Imported motor spirit commonly known as petrol and high speed diesel oil	Rs. 6 per Litre	Exempt

Excise Tariff

Decrease in Rate of Excise Duty

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
1	27	Petrol Unbranded Petrol Branded Diesel Unbranded Diesel Branded	6.48/liter 7.66/liter 8.33/liter 10.69/liter	4.48/liter 5.66/liter 6.33/liter 8.69/liter
2	27	Additional Duty of Excise (Road Cess) leviable on diesel and petrol	6/liter	Nil

Increase in Additional Duty of Excise

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
1	27	A road and infrastructure Cess on Petrol and Diesel.	Nil	8/liter

Exemption from Road and Infrastructure cess

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
1	27	Ethanol Blended Petrol Diesel blended with Bio-diesel	Taxable	Exempt

Decrease in Road and Infrastructure cess

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
1	27	Petrol and Diesel manufactured in and cleared from four specified oil refineries in North East Region.	100% of R&I cess	50% of R & I cess

Decrease in Basic Duty of Excise

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
1	27	Petrol and Diesel manufactured in and cleared from four specified oil refineries in North East Region.	100% of BED	50% of BED

Decrease in Special Additional Excise Duty

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
1	27	Petrol and Diesel manufactured in and cleared from four specified oil refineries in North East Region.	100% of special duty	50% of special duty

References

Tax Rates* for AY 2019-20

***[To be increased by applicable surcharge and health & education cess (see Notes)]**

Individual, HUF, AOP & BOI

Taxable Income	All Individual, HUF, AOP & BOI	Resident Individual of 60 years or more age	Resident Individual of 80 years or more age
Upto Rs. 2,50,000	Nil	Nil	Nil
Rs. 2,50,001 to Rs. 3,00,000	5%	Nil	Nil
Rs. 3,00,001 to Rs. 5,00,000	5%	5%	Nil
Rs. 5,00,001 to Rs. 10,00,000	20%	20%	20%
Rs. 10,00,000 and above	30%	30%	30%

Partnership Firm, LLP & Companies

Particulars	General Tax Rate
Partnership Firm & LLP	30%
New Domestic Company [Section 115BA] [Irrespective of value of Turnover / Gross Receipts] [Subject to fulfilment of certain conditions]	25%
Domestic Company with Turnover / Gross Receipts up to Rs. 250 Crores in FY 2016-17	25%
Other Domestic Company	30%
Foreign Company	40%

Co-operative Society

Total Income	General Tax Rate
Upto Rs. 10,000	10%
Rs. 10,001 to 20,000	20%
Rs. 20,001 and above	30%

Special Rates of Tax (applicable to all assessees)

Nature of Income	Rate of Tax
Minimum Alternate Tax (Section 115JB) / Alternate Minimum Tax (Section 115JC)	18.5%
STCG on listed securities (Section 111A)	15%
LTCG on listed equity share, units equity oriented mutual funds or business trust exceeding Rs. 1,00,000 (Section 112A)	10%
LTCG on unlisted securities or shares of a company in which the public are not substantially interested derived by **Non Resident** (Section 112)	10%
LTCG on assets other than listed securities and zero coupon bonds (Section 112)	20%
Royalty & Fees for Technical Services derived by **Non Resident** (Section 115A)	10%
Dividend Distribution Tax payable by Domestic Company (Section 115-O)	15%
Dividend Distribution Tax payable on deemed dividend covered by Section - 2(22)(e) (Section 115-O)	30%
Tax payable by Domestic Company on Buy-back of Shares (Section 115QA)	20%
Tax payable by **Resident** assessees (except domestic company and certain funds, trust institutions) on receipt of Dividend from all Domestic Company together exceeding Rs. 10 Lacs (Section 115BBDA)	10%
Income by way of Royalty in respect of a patent developed and registered in India derived by **Resident** (Section 115BBF)	10%
Dividend Income received from Certain Specified Foreign Companies (Section 115BBD)	15%

Note 1: Surcharge on Income Tax

Total Income	Up to Rs. 50 Lacs	Rs. 50 Lacs to Rs. 1 Crore	Rs. 1 Crore to Rs. 10 Crore	Above Rs. 10 Crore
Individual / HUF	Nil	10%	15%	15%
AOP / BOI	Nil	10%	15%	15%
Co-operative Society / Local Authority	Nil	Nil	12%	12%
Partnership Firm / LLP	Nil	Nil	12%	12%
Domestic Company	Nil	Nil	7%	12%
Foreign Company	Nil	Nil	2%	5%

Note 2: Health & Education Cess: 4% of Income Tax & Surcharge [Applicable to all assessees]

TDS Rates for FY 2018-19

Rates of Tax Deducted at Source (See Notes)

Section	Nature of Payment	Threshold Limit	Rate
192	Salary	As per Slab	As per Slab
192A	Premature Withdrawal of Provident Fund	50,000	10%
193	Interest on Securities		
	(1) Interest on Debentures or Securities (Listed/Unlisted)	5,000**	10%
	(2) Interest on 7.75% Savings (Taxable) Bonds, 2018	10,000	10%
	(3) Any Other Interest on Securities (Unlisted)	0	10%
194	Dividend other than dividend covered by Section 115-O	2,500*	10%
194A	(1) Interest paid by Banking Company, Co-operative Society/Banks engaged in banking business, Post Office under a deposit scheme framed by Central Government	10,000***	10%
	(2) Interest other than Interest on Securities (Other than above)	5,000	10%
194B	Winning from Lotteries	10,000	30%
194BB	Winnings from Horse Races	10,000	30%
194C	Payments to Contractors		
	(1) Payment to Transporter covered by Section 44AE [2]	NA	NIL[2]
	(2) Payment to Individual / HUF (other than above)	30,000[2a]	1%
	(3) Payment to Others (other than above)	30,000[2a]	2%
194D	Insurance Commission	15,000	5%
194DA	LIC payment which are not covered u/s 10(10D)	1,00,000	1%
194E	Non-Resident Sportsman /Sports Association / Entertainer	0	20%[1]
194EE	Deposits under NSS to Resident / Non-Resident	2,500	10% [1]
194F	Repurchase of units of Mutual Fund /UTI from Resident / Non-Resident	0	20%[1]
194G	Commission on Sale of lottery tickets to Resident / Non-Resident	15,000	5%[1]

Rates of Tax Deducted at Source (See Notes)

Section	Nature of Payment	Threshold Limit	Rate
194H	Commission or Brokerage to Resident	15,000	5%
194I	Rent to Resident		
	(a) Rent for machinery / plant / equipment	1,80,000	2%
	(b) Rent for other than in (a)	1,80,000	10%
194-IA	Payment on transfer or certain immovable properties (Other than agricultural land)	50,00,000	1%
194-IB	Payment of Rent by certain Individuals or HUF (other than those who are covered u/s 194I) to a resident	50,000 p.m.	5%
194-IC	Payment under specified agreement (in case of joint development agreement excluding payment in kind)	0	10%
194J	Fees payable to a resident assessee for professional / technical services (other than assessee engaged in the business of call centre)	30,000	10%
	Fees payable to a resident assessee engaged in the business of call centre for professional / technical services	30,000	2%
	Remuneration, fees, commission paid to Director which is not in the nature of Salary	0	10%
194LA	Compensation to a resident on acquisition of immovable property (excluding compensation received under RFCTLAAR Act, 2013)	2,50,000	10%
194LB	Interest paid to a Non-Resident by the Notified Infrastructure Debt	0	5%[1]
194LBA	Payment to a resident Unit Holder specified in Section 115UA	0	10%
	Payment to a non- resident Unit Holder specified in Section 115UA	0	5%[1]
194LBB	Income in respect of units of investment fund under Section 115UB		
	(1) In case of Payee being Resident	0	10%
	(2) In case of Payee being Non-Resident	0	Rate in Force [1]

Rates of Tax Deducted at Source (See Notes)

Section	Nature of Payment	Threshold Limit	Rate
194LBC	Income distribution to an investor by Securitisation Trust in respect of Section 115TCA		
	(1) In case of Payee being Resident Ind/HUF	NA	25%
	(2) In case of Payee being Resident any other person	NA	30%
	(3) In case of Payee being Non-Resident	NA	Rate in Force[1]
194LC	Interest paid by Specified Company to a Non-Resident on ECB	0	5%[1]
	Interest paid by Specified Company to a Non-Resident on Rupee Denominated Bonds	0	5%[1]
195	Payment of other sums to Non-Resident (Other than those specified in Section 194LB)	Rates specified under Part II of First Schedule of Bill, including applicable surcharge and education cess subject to rate specified under applicable DTAA	
196B	Income from units (including long term capital gain on transfer of such units) to an offshore fund	0	10%[1]
196C	Income from foreign currency bonds or GDR of Indian Company	0	10%[1]
196D	Income of FII from securities not being dividend, long term and short term capital gain	0	20%[1]
Equilisation Levy	Equalisation Levy in respect of online advertisement payment made to Non-Resident (not having PE in India)	0	6%

(* in case of Resident Individual only)
(** in case of Resident Individual / HUF only)
(*** Rs. 50,000 in case of Resident Senior Citizen)

[1] All rates of TDS for Non-Resident Assessee shall be increased by applicable Surcharge, Health & Education Cess.

[2] Transporter means persons engaged in plying, hiring and leasing of Goods Carriages having Income u/s. 44AE and not owning more than 10 goods carriage. Nil rates will be applicable if the transporter quotes his PAN and furnishes prescribed declaration.

[2a] This limit is for individual transaction. However, if aggregate payment to contractors during the year exceeds Rs.1,00,000 then tax will have required to be deducted even where individual transaction is less than the threshold limit of Rs. 30,000.

Note:

- In order to strengthen the PAN Mechanism, any person whose receipts are subject to deduction of tax at source i.e. the deductee, shall mandatorily furnish his PAN to the deductor failing which the deductor shall deduct tax at source at higher of the following rates:
  - (i) prescribed in the Act;
  - (ii) at the rate in force i.e. the rate mentioned in the Finance Act; Or
  - (iii)20%

TCS Rates

Rates of Tax Collected at Source

Section	Nature of Payment	Threshold Limit	Rate
206C	Alcoholic Liquor for human consumption & Indian made foreign Liquor	0	1%
206C	Timber obtained by any mode and any other forest produce	0	2.5%
206C	Scrap	0	1%
206C	Parking Lot/ Toll plaza/Mining and Quarrying	0	2%
206C	Tendu Leaves	0	5%
206C	Minerals, being coal or lignite or iron ore	0	1%
206C(1F)	Sale of Motor Car	10,00,000	1%

*No TCS will be applicable in case where the buyer already deducts TDS.

Note

- In order to strengthen the PAN Mechanism, any person who makes above payment are subject to collection of tax at source with information of PAN of collectee i.e. the collectee, shall mandatorily furnish his PAN to the collector failing which the collector shall collect tax at source at higher of the following rates:
  - (i) at twice the rate specified in the section, or
  - (ii) at the rate of 5%

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