

## Major direct tax proposals in Finance Bill, 2017

### **I. RATES OF TAXATION**

#### **• Rates of Income Tax for AY 2017-18**

1. In order to make MSME companies more viable, income tax for companies with annual turnover up to Rs. 50 crore is reduced to 25%
2. Rate of taxation for individual assesses for income slab of Rs. 2.5 lakhs to Rs. 5 lakhs reduced to 5% from the present rate of 10%
3. Surcharge of 10% of tax payable on categories of individuals whose annual taxable income is between Rs. 50 lakhs and Rs. 1 crore

#### **• Sec 87A Rebate amended; Quantum and Threshold revised**

It is proposed to amend Sec 87A to reduce the rebate from Rs. 5000/- to Rs. 2500/-.The rebate shall apply to resident individuals whose **total Income does not exceed Rs. 3,50,000/-**. Earlier the limit was Rs.5 lakhs.

This amendment will take effect from 1st April, 2018

#### **• Sec. 115BBDA providing taxation of dividend exceeding Rs. 10 lakhs to apply all resident assessee**

It is proposed to amend Sec. 115BBDA regarding taxation of dividend exceeding Rs. 10 lakhs to make it applicable to all resident assessee except domestic company and certain funds, trusts, institutions.

### **II. INDIRECT TRANSFER PROVISIONS**

#### **• Clarifications relating to Indirect transfer provisions**

In order to address concerns raised by stakeholders seeking clarification on the scope of indirect transfer provisions, it is proposed to amend Sec. 9(1)(i) so as to clarify that the Explanation 5 shall not apply to any asset or capital asset mentioned therein being investment held by non-resident, directly or indirectly, in a Foreign Institutional Investor ('FII'), as referred to in clause (a) of the Explanation to Sec.115AD, and registered as Category-I or Category II Foreign Portfolio Investor under the SEBI (Foreign Portfolio Investors) Regulations, 2014 made under the SEBI Act, 1992, as these entities are regulated and broad based. The proposed amendment is clarificatory in nature. Amendment will take effect retrospectively from April 1, 2012.

### **III. SPECIAL TAXATION REGIME FOR OFFSHORE FUNDS**

#### **• Modification in conditions of special taxation regime for off shore funds u/s 9A**

In order to rationalize the regime and to address the concerns of the stakeholders, it is proposed to provide that in the previous year in which the fund is being wound up, the condition that the monthly average of the corpus of the fund shall not be less than Rs. 1000 crore, shall not apply. Amendment will take effect retrospectively from April 1, 2016.

#### IV. HOUSE PROPERTY TAXATION

- **Restriction on set-off of loss from House property**

It is proposed to restrict Inter-head Set-off of Loss from house property (Set-off of loss from HP against other heads of income) to Rs. 200,000/-. Carry forward of unabsorbed loss to continue.

This amendment will take effect from 1st April, 2018.

- **No notional income for house property held as stock-in-trade**

It is proposed to amend the Sec. 23 (dealing with determination of ALV) to provide exemption to property held as stock in trade from provisions requiring the treatment of second house as “deemed to be let out property”. The benefit would be available for the period up to 1 year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority. Amendment will take effect from April 1, 2018.

#### V. BUSINESS INCOME TAXATION

- **Disallowance of depreciation u/s 32 and capital expenditure u/s 35AD on cash payment**

1. It is proposed to amend the provisions of Sec. 43 to provide that where an assessee incurs any expenditure for acquisition of any asset in respect which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque/ bank draft or use of electronic clearing system through a bank account, exceeds Rs. 10,000, such expenditure shall be ignored for the purposes of determination of actual cost of such asset.
2. It is further proposed to amend Sec. 35AD to provide that any expenditure in respect of which payment or aggregate of payments made in cash in excess of Rs. 10,000, no deduction shall be allowed in respect of such expenditure. Amendment will take effect from April 1, 2018.

- **Amendment to Sec.40A(3) to reduce cash expenditure limit to Rs. 10,000**

It is proposed to amend the provision of Sec. 40A to provide the following:

1. To reduce the existing threshold of cash payment to a person from Rs. 20,000 to Rs. 10,000 in a single day; i.e. payment in cash above Rs. 10,000 to a person in a day, shall not be allowed as deduction in computing business income;
2. Deeming a payment as profits and gains of business of profession if the expenditure is incurred in a particular year but cash payment is made in any subsequent year of a sum exceeding Rs. 10,000 to a person in a single day; and
3. Expand the specified mode of payment under sub-section of Sec. 40A to payment by using electronic clearing system through a bank account.

Amendment will take effect from April 1, 2018.

- **Amendment to Sec. 44AD for 6% tax rate on turnover received otherwise than cash**

It is proposed to amend Sec. 44AD to reduce the existing rate of deemed total income of 8% to 6% in respect of the amount of such total turnover or gross receipts received by an account payee cheque / bank draft / use of electronic clearing system through a bank account during the previous year or before the due date specified in Sec. 139(1) in respect of that previous year. However, the existing rate of deemed profit of 8% referred to in Sec. 44AD, shall continue to apply in respect of total turnover or gross receipts received in any other mode. Amendment will take effect from April 1, 2017.

- **Actual cost of asset in case of withdrawal of deduction u/s 35AD (expenditure on specified business)**

In light of the recommendations of Income-tax simplification committee and to bring clarity, it is proposed to amend Sec 43 (definition of actual cost for charging depreciation) , to provide that, where the asset in respect of which Sec 35AD deduction is deemed to be the income of the assessee, for the reason that the asset has been used for a purpose other than for the specified business, **then the actual cost of the asset to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purposes of business since the date of its acquisition.**

This amendment will take effect from 1st April, 2018.

- **Extension of scope of Sec. 43D to co-operative banks**

It is proposed to amend Sec. 43D so as to include co-operative banks other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank. This is with a view to provide a level playing field to co-operative banks vis-à-vis scheduled banks and to rationalize the scope of the Sec. 43D. Further amendment is made to sec 43B of the Act to provide that any sum payable by the assessee as interest on any loan or advances from a co-operative bank other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank shall be allowed as deduction if it is actually paid on or before the due date of furnishing the return of income of the relevant previous year. Amendment proposed shall take effect from April 1, 2018.

- **Deduction limit in respect of provision for bad and doubtful debts available to banks increased from 7.5% to 8.5%**

In order to strengthen the financial position of the entities specified in the sub-clause (a) of sect 36(1) (viiia), it is proposed to amend the said sub-clause to enhance the present limit from 7.5% to 8.5 % of the amount of the total income (computed before making any deduction under that clause and Chapter VIA). Amendment proposed shall take effect from April 1, 2018.

- **MAT credit carry forward extended up to 15 years**

With a view to provide relief to the assesseees paying MAT, it is proposed to amend sec. 115JAA to provide that MAT credit determined under this sec can be carried forward up to 15AYs immediately succeeding the AYs in which such tax credit becomes allowable. Similar amendment is proposed in Sec 115JD so as to allow carry forward of Alternate Minimum Tax

(AMT) paid u/s 115JC up to 15 AYs in case of non-corporate assessee. It is further proposed to amend sec 115JAA and 115JD so as to provide that the amount of tax credit in respect of MAT/ AMT shall not be allowed to be carried forward to subsequent year to the extent such credit relates to the difference between the amount of foreign tax credit (FTC) allowed against MAT/ AMT and FTC allowable against the tax computed under regular provisions of Act other than the provisions relating to MAT/AMT. Amendment proposed shall take effect from April 1, 2018.

- **Clarifying MAT applicability on companies preparing financials under IND-AS**

It is proposed to amend Sec 115JB so as to provide the framework for computation of book profit for Ind AS compliant companies in the year of adoption and thereafter. The main features of this proposed framework are divided under 3 broad categories as under:

1. MAT on Ind AS compliant financial statement
2. MAT on first time adoption
  - a. Property, Plant or Equipment (PPE) and intangible assets at fair value as deemed cost
  - b. Investments in subsidiaries, joint ventures and associates at fair value as deemed cost
  - c. Cumulative translation differences
3. Reference year for first time adoption adjustments

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

- **Increasing threshold limit for maintenance of books of accounts in case of Individuals/HUF**

It is proposed to amend the provisions of Sec. 44AA to increase monetary limits of income and total sales or turn over or gross receipts, etc. for maintenance of books of accounts from Rs.1,20,000 to Rs. 2,50,000 and from Rs. 10 lakhs to Rs. 25 lakhs, respectively in the case of Individuals and HUF carrying on business or profession. Amendment will take effect from April 1, 2018.

- **Exclusion of certain specified person from requirement of audit of accounts u/s 44AB**

In order to reduce compliance burden of the small tax payers and facilitate the ease of doing business, it is proposed to amend Sec. 44AB to exclude the eligible person, who declares profits for the previous year in accordance with the provisions of Sec. 44AD(1) and his total sales, total turnover or gross receipts, as the case may be, in business does not exceed Rs. 2 crore in such previous year, from requirement of audit of books of accounts u/s 44AB. Amendment will take effect from April 1, 2017.

- **Income from transfer of Carbon credits**

It is proposed to insert a new Sec. 115BBG to provide that where the total income of the assessee includes any income from transfer of carbon credit, such income shall be taxable at the concessional rate of 10% (plus applicable surcharge and cess) on the gross amount of such income. No expenditure or allowance in respect of such income shall be allowed under the Act. Amendment will take effect from April 1, 2018.

## VI. CAPITAL GAINS

- **LTCG u/s 10(38) exemption available only if share purchase suffered STT**

With a view to prevent abuse on account of declaring unaccounted income as exempt long-term capital gains by entering into sham transactions, it is proposed to amend Sec 10(38) to provide that exemption under this section for income arising on transfer of equity share acquired or on after 1st day of October, 2004 shall be available only if the acquisition of share is chargeable to STT. However, to protect the exemption for genuine cases where the STT could not have been paid like acquisition of share in IPO, FPO, bonus or right issue by a listed company acquisition by non-resident in accordance with FDI policy of the Government etc., it is also proposed to notify transfers for which the condition of chargeability to STT on acquisition shall not be applicable.

This amendment will take effect from 1st April, 2018.

- **Substitution of prescribed FMV on share transfer, to be full value of consideration**

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

This amendment will take effect from 1st April, 2018

- **Holding period for long term capital gains for immovable property reduced to 24 months**

It is proposed to amend Sec. 2(42A) in order to reduce the period of holding of immovable property from 36 months to 24 months for to qualify as long term capital gain.

- **Special provisions for computation of capital gains in case of joint development agreement ('JDA')**

1. It is proposed to insert a new sub-section (5A) in Sec. 45 so as to provide that in case of an assessee being individual / HUF, who enters into a JDA/ specified agreement , capital gains shall be chargeable as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.
2. Stamp duty value of his share, being land or building or both, in the project on the date of issuing of said certificate of completion as increased by any monetary consideration received, if any, shall be deemed to be the full value of the consideration
3. Proposed regime shall not apply to an assessee who transfers his share in the project to any other person on or before the date of issue of said certificate of completion. In such a situation, capital gains as determined under general provisions of the Act. These provisions would be effective from April 1, 2018
4. It is also proposed to insert a new Sec. 194IC so as to provide that in case any monetary consideration is payable under the specified agreement, tax at the rate of

10% shall be deductible from such payment. This amendment will take effect from April 1, 2017.

- **Shifting base year from 1981 to 2001 for computation of capital gains**

It is proposed to amend Sec. 55 so as to provide that the cost of acquisition of an asset acquired before April 1, 2001 shall be allowed to be taken as FMV as on April 1, 2001 and the cost of improvement shall include only those capital expenses which are incurred after April 1, 2001. Consequential amendment also proposed in Sec. 48 so as to align the provisions relating to cost inflation index to the proposed base year. Amendments will take effect from April 1, 2018.

- **Expanding the scope of long term bonds u/s 54EC**

Sec. 54EC benefit would also be available to investment in any bond redeemable after 3 years which has been notified by the Central Government in this behalf. Amendment will take effect from April 1, 2018.

- **Cost of Acquisition of capital assets of entities in case of levy of tax on accreted income under section 115TD, Amendment in sec 49**

It is proposed to amend sec 49 (computation of cost for capital gain calculation) to provide that in case of an asset held by a trust, in respect of which accreted income has been computed, **the Cost of Acquisition of such an asset shall be deemed to be the fair market value of the asset** which has been taken into account for computation of accreted income as on the specified date referred to in sub-section (2) of section 115TD.

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

- **Cost of Acquisition for units in Consolidating scheme of mutual fund**

Sec 2(42A) and Sec 49 is proposed to be amended to provide that cost of acquisition of the units in the consolidated plan of mutual fund scheme shall be the cost of units in consolidating plan of mutual fund scheme and period of holding of the units of consolidated plan of mutual fund scheme shall include the period for which the units in consolidating plan of mutual fund scheme were held by the assessee.

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

- **Retrospective applicability of concessional LTCG rate of 10% on private company's shares**

It is proposed to amend Sec 50 of the Finance Act, 2016 so as to provide that the effective date of amendment made to Sec 112(1)(c)(iii) vide Finance Act, 2016 shall be April 1, 2013 instead of April 1, 2017. Finance Act, 2016 had amended Sec 112(1)(c) to clarify that the share of company in which public are not substantially interested shall also be chargeable to tax at the concessional rate of 10% with effect from 1st April, 2017.

This amendment will take effect, retrospectively from 1st April, 2013

- **Providing tax neutrality for conversion of preference shares to equity shares**

In order to provide tax neutrality to the conversion of preference share of a company into equity share of that company, it is proposed to amend Sec. 47 to provide that the conversion of preference share of a company into its equity share shall not be regarded as transfer. Consequential amendments are also proposed in Sec. 49 and Sec. 2(42A) in respect of cost of acquisition and period of holding. Amendment will take effect from April 1, 2018.

- **Cost of acquisition in Tax neutral demerger of a foreign company**

It is proposed to amend Sec.49 so as to provide that cost of acquisition of the shares of Indian company referred to in Sec. 47(vic) in the hands of the resulting foreign company shall be the same as it was in the hands of demerged foreign company. Amendment will take effect from April 1, 2018.

- **Extension of capital gain exemption to Rupee Denominated Bonds**

1. In order further provide relief in respect of gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company to secondary holders as well, it is proposed to amend Sec. 48 providing that the said appreciation of rupee shall be ignored for the purposes of computation of full value of consideration.
2. Further, with a view to facilitate transfer of Rupee Denominated Bonds from non-resident to non-resident, it is proposed to amend Sec. 47 so as to provide that any transfer of capital asset, being rupee denominated bond of Indian company issued outside India, by a non- resident to another non- resident shall not be regarded as transfer. Amendment will take effect from April 1, 2018.

## VII. **INCOME FROM OTHER SOURCES**

- **Scope of taxation of gifts as income from other sources expanded for all taxpayers**

In order to prevent the practice of receiving the sum of money or the property without consideration or for inadequate consideration, it is proposed to insert a new clause (x) in sub-section (2) of section 56 so as to provide that receipt of the sum of money or the property by any person without consideration or for inadequate consideration in excess of Rs. 50,000 shall be chargeable to tax in the hands of the recipient under the head "Income from other sources". It is also proposed to widen the scope of existing exceptions by including the receipt by certain trusts or institutions and receipt by way of certain transfers not regarded as transfer under section 47. Consequential amendment is also proposed in section 49 for determination of cost of acquisition.

These amendments will take effect from 1st April, 2017 and the said receipt of sum of money or property on or after 1st April, 2017 shall be chargeable to tax in accordance with the provisions of proposed Sec 56(2)(x).

- **Extends expense disallowance u/s 40(a)(ia) due to TDS failure to 'income from other sources' computation**

It is proposed to amend Sec 58 (which provides for amounts which are not deductible in computing the income under the head "Income from other sources") so as to provide that provisions of section 40(a)(ia) shall, so far as they may be, apply in computing income



chargeable under the head "income from other sources" as they apply in computing income chargeable under the head "Profit and gains of business or Profession".

This amendment will take effect from 1st April, 2018.

## VIII. EXEMPTIONS/DEDUCTIONS

- **Amendments to bring transparency in political funding**

It is proposed to amend Sec. 13A to provide for additional conditions for availing the benefit of exemption by political parties, namely, (i) no donations of Rs.2000 or more is received in cash (i.e. otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through electoral bonds) , (ii) political party furnishes return in accordance with Sec. 139(4B) on or before the due date specified therein.

Further, in order to address the concern of anonymity of the donors, it is proposed to amend the said section to provide that the political parties shall not be required to furnish the name and address of the donors who contribute by way of electoral bond. Amendment will take effect from April 1, 2018.

- **Sec 10AA deduction to be allowed from total income of the assessee**

It is proposed to insert a clarification in Sec 10AA to provide that the **deduction is to be allowed from Total Income of the assessee**. This brings to rest contrary view taken by some courts that that the deduction is to be allowed from the total income of the assessee's undertaking and not from the total income of the assessee.

This amendment will take effect from 1st April, 2018

- **Start-up tax holiday available for 3 years out of 7 years as against earlier period of 5 years**

In view the fact that start-ups may take time to derive profit out of their business, it is proposed to provide that deduction u/s 80IAC can be claimed by an eligible start-up for any 3 consecutive AYs out of 7 years beginning from the year in which such eligible start-up is incorporated. Amendment proposed shall take effect from April 1, 2018.

- **Exemption of income of Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund**

It is proposed to provide the benefit of exemption in Sec 10(23C) to the Chief Minister's Relief Fund and the Lieutenant Governor's Relief Fund also.

Amendment takes effect retrospectively from April 1, 1998.

- **Tax-exemption to partial withdrawal from National Pension System (NPS) up to 25%**

Sec 10(12A) amended to provide that tax exemption for NPS withdrawal extended to cover partial withdrawal not exceeding 25% of the contribution made by an employee in accordance with the terms and conditions specified under Pension Fund Regulatory and Development Authority Act, 2013.

This amendment will take effect from 1st April, 2018.



- **Deduction u/s 80CCD for self-employed individual for contribution to NPS increased to 20%**

It is proposed to amend section 80CCD so as to increase the upper limit of 10% of gross total income to 20% in case of individual other than employee.

This amendment will take effect from April 1, 2018.

- **Rationalization of deduction u/s 80CCG (deduction to individuals for investment in listed shares)**

This section has been phased out. No deduction shall be allowed under this Sec from AY 2018-19. However, an assessee who has already availed this deduction in earlier AY shall continue to avail the deduction provided he fulfills the prescribed conditions. The amendment comes in light of the fact that the Sec was not used by many tax payers.

This amendment will take effect from the 1st April, 2018.

- **Exemption of foreign company's income from sale of leftover stock of crude oil from strategic reserves at the expiry of agreement or arrangement**

It is proposed to insert a new clause (48B) in Sec. 10 so as to provide that any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil, if any, from a facility in India after the expiry of an agreement or an arrangement referred to in clause (48A) of Sec. 10 shall also be exempt subject to such conditions as may be notified by the Central Government in this behalf. Amendment will take effect from April 1, 2018.

- **Amendment o Sec. 80G to disallow cash donation exceeding Rs. 2000**

It is proposed to amend Sec. 80G so as to provide that no deduction shall be allowed in respect of donation of any sum exceeding Rs. 2,000 unless such sum is paid by any mode other than cash. Amendment will take effect from April 1, 2018.

- **Rationalization of provisions of Sec. 80-IBA to promote affordable housing**

Sec. 80IBA provides for 100% deduction in respect of the profits and gains derived from developing and building certain housing projects subject to specified conditions. The conditions specified, *inter alia*, include the limit of 30 sq.mt for the built-up area of residential unit in respect of project located in 4 metros or within 25 kms from the municipal limits of the 4 metros. Further, in order to be eligible to claim deductions, the project shall be completed within a period of 3 years. It is proposed to amend the section to relax certain conditions as below:

1. size of residential unit shall be measured by taking into account the "carpet area" and not the "built-up area";
2. The restriction of 30 sq. mt on the size of residential units shall not apply to the place located within a distance of 25 kms from the municipal limits of 4 metros.
3. The condition of period of completion of project for claiming deduction to be increased to 5 years.

- **Tax incentive for development of capital of Andhra Pradesh**

With a view to provide relief to an individual / HUF who was the owner of such land as on June 2, 2014, and has transferred such land under the land pooling scheme notified under the provisions of Andhra Pradesh Capital Region Development Authority Act, 2014, it is proposed to insert a new clause (37A) in Sec. 10 to provide that in respect of said persons, capital gains arising from following transfer shall be exempt –

1. capital asset being land or building or both, under land pooling scheme
2. Sale of LPOCs by the said persons received in lieu of land transferred under the scheme.
3. Sale of reconstituted plot or land by said persons within 2 years from the end of the financial year in which the possession of such plot or land was handed over to the said persons.

Amendment will take effect retrospectively, from April 1, 2015.

Further amendment to Sec. 49 so as to provide that where reconstituted plot or land, received under land pooling scheme is transferred after the expiry of 2 years from the end of the financial year in which the possession of such plot or land was handed over to the said assessee, the cost of acquisition of such plot or land shall be deemed to be its stamp duty value on the last day of the second financial year after the end of financial year in which the possession of such asset was handed over to the assessee is proposed.

#### **IX. TDS/TCS**

- **TDS on rent payment by individual/HUF (other than those covered u/s 44AB)**

It is proposed to insert a new Sec. 194IB to extend requirement of deducting tax at source from rent payments to Individuals or HUF (other than those covered u/s 44AB) where such rent exceeds Rs. 50,000 for a month or part of month. TDS is to be deducted at @ 5%. Amendment will take effect from June 1, 2017.

- **Strengthening of PAN quoting mechanism in the TCS regime**

It is proposed to insert a new section to make furnishing of PAN compulsory in context of Section 206A for tax collected at source. In light of the new Section, PAN has been made compulsory for both the collectee and the collector in respect of all compliances required to be made under Sec 206A as also in all correspondence, bills and vouchers exchanged between the collector and the collectee. A penalty clause has been inserted to provide that, where no PAN is quoted by the collectee, tax shall be collected at twice the rate or 5% whichever is higher.

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

- **Non-deduction of tax in case of exempt compensation under RFCTLAAR Act, 2013**

It is proposed to amend Sec. 194LA to provide that no deduction shall be made under this section where such payment is made in respect of any award or agreement which has been exempted from levy of income-tax u/s 96 (except those made u/s 46) of the Right to Fair

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Amendment will take effect from April 1, 2017.

- **Exemption from TCS u/s 206C(1F) in case of certain specified buyers**

Sec. 206C (1F), *inter-alia* provides that the seller who receives consideration for sale of a motor vehicle exceeding Rs. 10 lakhs, shall collect 1% of the sale consideration as tax from the buyer. In order to reduce compliance burden in certain cases, it is proposed to amend Sec. 206C, to exempt the following class of buyers such as - the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; local authority as defined in explanation to clause (20) of Sec.10; a public sector company which is engaged in the business of carrying passengers, from the applicability of Sec.206C(1F). Amendment will take effect from April 1, 2017.

- **Simplification of TDS provisions in case Fees for professional or technical services u/s 194J**

It is proposed to amend Sec.194J to reduce the rate of TDS to 2% from existing 10% in case of payments received or credited to a payee, being a person engaged only in the business of operation of call center. . Amendment will take effect from June1, 2017.

- **Enabling of filing of Form 15G/15H for commission payments specified u/s 194D**

In order to reduce compliance burden in the case of Individuals and HUFs, it is proposed to amend Sec. 197A so as to make them eligible for filing self-declaration in Form.No.15G/15H for non-deduction of TDS in respect insurance commission referred to in Sec. 194D. Amendment will take effect from June 1, 2017.

- **Extension of eligible period of concessional rate of TDS u/s 194LC from 2017 to 2020**

It is proposed to amend Sec. 194LC to provide that the concessional TDS rate of 5%on interest payment will now be available in respect of borrowings made before the July 1, 2020. Amendment proposed shall take effect from April 1, 2018.

It is further proposed to extend the benefit of Sec. 194LC to rupee denominated bond issued outside India for the period before the July 1, 2020. Amendment proposed shall take effect from April 1, 2016.

- **Empowers CBDT to issue directions in respect of TDS/TCS default penalty**

In order to reduce the genuine hardship which may be faced by a person responsible for deduction and collection of tax at source due to levy of penalty under section 271C or 271CA, it is proposed to insert reference of sections 271C and 271CA in Sec 119(2)(a), so as to empower the Board to issue directions or instructions in respect of the said sections also.

The amendment will take effect from 1st April, 2017.

- **Extension of eligible period of concessional tax rate u/s 194LD from 2017 to 2020**

Similar proposal is made to amend Sec. 194LD to provide that the concessional rate of 5% TDS on interest will now be available on interest payable before July 1, 2020. Amendment proposed shall take effect from April 1, 2018.

## X. RETURNS / ASSESSMENTS / REFUNDS

- **Assessments/Re-assessments time-limit reduced**

It is proposed to amend Sec 153(1) to provide that for AY 2018-19, the time limit for making an assessment order u/s 143 or 144 shall be reduced from existing **twenty-one months** to **eighteen months** from the end of the AY, and for AY 2019-20 and onwards, the said time limit shall be **twelve months** from the end of the AY in which the income was first assessable.

It is further proposed to amend Sec 153(2) to provide that the time limit for making an order of assessment, reassessment or re-computation u/s 147, in respect of notices served u/s 148 on or after the 1st day of April, 2019 shall be twelve months (instead of one year as per existing provision) from the end of the financial year in which notice u/s 148 is served.

Similarly, it is proposed to amend Sec 153(3) to provide that the time limit for making an order of fresh assessment in pursuance of an order passed or received in the financial year 2019-20 and onwards under sections 254 or 263 or 264 shall be twelve months from the end of the financial year in which order u/s 254 is received or order u/s 263 or 264 is passed by the authority referred therein. It is to be noted that similar amendments have been proposed u/s 153B relating to time limits for completion of search assessment and Sec 153C (relating to assessment on 'other person').

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

Likewise, it is proposed to amend Sec 153(5) to provide that where an order under section 250 or 254 or 260 or 262 or 263 or 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee, the time limit relating to fresh assessment provided in sub-section (3) shall apply to the order giving effect to such order. Further, it is proposed to amend Sec 153(9) to provide that where a notice u/s 142(1)/143(2)/148 has been issued prior to the 1st day of June, 2016 and the assessment or reassessment has not been completed by such date due to exclusion of time referred to in Explanation 1, such assessment or reassessment shall be completed in accordance with the provisions of section 153 as it stood immediately before its substitution by the Finance Act, 2016. These amendments will take effect retrospectively from 1st June, 2016.

- **Time limit for filing revised return reduced by one year**

It is also proposed to amend Sec 139(5) to provide that the time for furnishing of revised return is up to the end of the relevant assessment year or before the completion of assessment, whichever is earlier. This amendment will take effect from 1st April, 2018 and will, accordingly apply in relation to assessment year 2018-19 and subsequent years.

- **Rs 5000 /- Rs 10,000 Fee for delayed filing of return**

In order to ensure that return is filed within due date, it is proposed to insert a new section 234F levying mandatory fee for delay in furnishing of return beyond prescribed due-date u/s 139(1). The proposed fee structure is as follows:—

1. Rs. 5000 where return is furnished after due date but on or before the 31st day of December of the assessment year;
2. Rs. 10,000 in any other case.

These amendments will take effect from 1st April, 2018

- **Penalty of Rs 10,000 on professionals for furnishing incorrect information in statutory report or certificate**

It is proposed to insert a new Sec 271J so as to provide that if an accountant or a merchant banker or a registered valuer, furnishes incorrect information in a report or certificate under any provisions of the Act or the rules made thereunder, the AO or the CIT (Appeals) may direct him to pay a sum of Rs. 10,000 for each such report or certificate by way of penalty. However, immunity from penalty shall be available u/s 273B, if the person proves that there was reasonable cause for the failure.

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

- **Insertion of new Sec.241A for withholding of refund where recovery of tax adversely affected**

It is proposed to insert a new Sec.241A to provide that, for the returns furnished for AY commencing on or after April 1, 2017, where refund of any amount becomes due to the assessee u/s 143(1) and the AO is of the opinion that grant of refund may adversely affect the recovery of revenue, he may, for the reasons recorded in writing and with the previous approval of the Pr. CIT / CIT, withhold the refund up to the date on which the assessment is made. Amendment will take effect from April 1, 2017.

- **Amendment to Sec. 211 & 234C relating to advance tax**

1. It is thus proposed to amend the said clause 211(1)(b) to provide that the assessee who declares profits and gains in accordance with presumptive taxation regime provided u/s 44ADA shall also be liable to pay advance tax in one installment on or before March 15.
2. It is also proposed to make consequential amendments in sub-section (1) of Sec. 234C to provide that in respect of an assessee referred to in Sec. 44ADA, interest under the said section shall be levied, if the advance tax paid on or before March 15, is less than the tax due on the returned income.
3. It is proposed to provide that that if shortfall in payment of advance tax is on account of under-estimation or failure in estimation of income of the nature referred to in Sec. 115BBDA, interest u/s 234C shall not be levied subject to fulfillment of conditions specified therein. Amendment will take effect from April 1, 2017.

- **Interest on refund u/s 244A to deductor**

It is proposed to insert a new sub-section (1B) to Sec. 244A to provide that where refund of any amount becomes due to the deductor, such person shall be entitled to receive, in addition to the refund, simple interest on such refund, calculated @ 0.5% for every month or part of a month comprised in the period, from the date on which claim for refund is made in the prescribed form or in case of an order passed in appeal, from the date on which the tax is paid, to the date on which refund is granted. It is also proposed to provide that the interest shall not be allowed for the period for which the delay in the proceedings resulting in the refund is attributable to the deductor. Amendment will take effect from April 1, 2017.

- **Amendment to Sec. 155 for enabling allowance of FTC claim in cases of dispute**

It is proposed to insert sub-section (14A) in Sec. 155 (which deals with provide for procedure for amendment of assessment order in case of certain specified errors) to provide that where credit for foreign taxes paid is not given for the relevant AY on the grounds that the payment of such foreign tax was in dispute, the AO shall rectify the assessment order or an intimation u/s 143(1), if the assessee, within 6 months from the end of the month in which the dispute is settled, furnishes proof of settlement of such dispute, submits evidence before the AO that the foreign tax liability has been discharged and furnishes an undertaking that credit of such amount of foreign tax paid has not been directly or indirectly claimed or shall not be claimed for any other assessment year. Amendment will take effect from April 1, 2018.

## **XI. IDS/SEARCH AND SEIZURE**

- **Rationalization of provisions of the Income Declaration Scheme, 2016 and consequential amendment to section 153A and 153C**

The existing provisions of clause (c) of the section 197 of the Finance Act, 2016 provide that where any income has accrued, arisen or been received or any asset has been acquired out of such income prior to commencement of the Income Declaration Scheme, 2016 (the Scheme), and deemed to have accrued, arisen or received, as the case may be, in the year in which a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act is issued by the Assessing Officer. It is proposed to delete Sec 197 (c) to avoid hardship to assessee. This amendment will take effect retrospectively from June 1, 2016

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

1. The AO has in his possession books of accounts or other documents or evidence which reveal that the income which has escaped assessment amounts to or is likely to amount to fifty lakh rupees or more in one year or in aggregate in the relevant four assessment years(falling beyond the sixth year);
2. Such income escaping assessment is represented in the form of asset;
3. The income escaping assessment or part thereof relates to such year or years.

It is however proposed that the amended provisions of section 153A shall apply where search under section 132 is initiated or requisition under section 132A is made on or after the 1st day of April, 2017.

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

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

- **Reason to believe to conduct a search, etc. not to be disclosed**

It is proposed to provide clarity that “*reason to believe*”, which is the basis of initiation of search and seizure operations or proceedings u/s 132A, shall not be disclosed to any person or to any taxing authority.

The amendment is to take effect retrospectively from the date of enactment of Section 132/132A i.e. April 1 1962 or October 1, 1975 as the case may be.

- **Power of provisional attachment and to make reference to Valuation Officer to authorized officer**

It is proposed to insert a new sub-section(9A) and (9B) to Sec. 132 for search and seizure operations, where the AO, on being satisfied that the same is necessary in the interest of revenue, would be authorized to “*provisionally*” attach assessee’s property with prior approval of Principal Director General or Director General or Principal Director or Director.

Another new sub-section (9D) has been proposed to be inserted for valuation of the property disclosed in a search and seizure operation. The authorized officer could make a reference to Valuation officer to provide a valuation in respect of the said property.

The above amendments would take effect from April 1, 2017.

- **Power to call for information u/s 133 extended to Joint /Deputy/Assistant Director**

The power to call for information u/s 133 has been extended to Joint Director, the Deputy Director and the Assistant Director. The amendment has been made in view of the work load on existing officers.

The above amendments would take effect from April 1, 2017.

- **Power to survey extended to include any place, at which an activity for charitable purpose is carried on.**

Sec 133A (for authority to enter into any premises at which business and profession is carried out) has been extended to include any place, at which an activity for charitable purpose is carried on.

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

- **Sec 133C amended to enable centralized issuance of notice and processing of information**

Sec 133C (power to call for information) has been amended to empower the CBDT to make a scheme for centralized issuance of notice calling for information and documents for the purpose of verification of information in its possession, processing of such documents and making the outcome thereof available to the Assessing Officer for necessary action, if any.

Amendment will take effect from 1st April, 2017



## XII. TRANSFER PRICING

### • Specified Domestic Transactions

As per clause (i) of Sec 92BA, any expenditure in respect of which payment has been made by the assessee to certain "specified persons" u/s 40A(2)(b) are covered within the ambit of specified domestic transactions (SDT). As a matter of compliance and reporting, taxpayers need to obtain CA's certificate in Form 3CEB providing various details such as list of related parties, nature and value of SDTs, method used to determine ALP, etc., which considerably increased the compliance burden of the taxpayers.

In order to reduce taxpayers' compliance burden, it is proposed to omit clause (i) of Sec 92BA. Accordingly, Sec 92BA will only when one of the related entities of the assessee enjoys a profit linked deductions.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to AY 2017- 18 and onwards.

### • Secondary adjustments

Budget 2017 has proposed to insert a new section 92CE to provide for secondary adjustments in certain cases, in order to align TP provisions to OECD TP Guidelines and international best practices. Under new provisions, "secondary adjustment" is defined as *an adjustment in the books of accounts of the assessee and its associated enterprise (AE) to reflect that the actual allocation of profits between the assessee and its AE are consistent with transfer price determined as a result of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee.*

The key elements of the amendment are as follows:

1. Assessee shall be required to carry out secondary adjustment in cases where a primary adjustment to transfer price:
  - has been made suo motu by the assessee in his return of income; or
  - has been made by AO and accepted by assessee; or
  - is determined by advance pricing agreement (APA) entered into by assessee u/s 92CC; or
  - is made as per the safe harbour rules framed u/s 92CB
  - is arising as a result of resolution of an assessment by way of mutual agreement procedure (MAP) under agreement entered into u/s 90 / 90A
2. It is proposed to provide that where, as a result of primary adjustment to the transfer price, there is an increase in total income or reduction in loss of assessee, the excess money which is available with its AE, if not repatriated to India within the prescribed time, shall be deemed to be an advance made by assessee to such AE and the interest on such advance shall be computed as income of assessee, in the prescribed manner.
3. It is also proposed to provide that such secondary adjustment shall not be carried out if, the amount of primary adjustment made in the case of an assessee in any previous year does not exceed Rs. 1 Cr and primary adjustment is made in respect of an AY commencing on or before 1st April, 2016 i.e. period prior to AY 2017-18.
4. This amendment will take effect from 1st April, 2018 and will apply to AY 2018-19 onwards.

- **Transfer pricing assessments**

Time limit for passing order by TPO and completion of assessment when a reference made to TPO (w.e.f. June 1, 2016)

1. It is proposed to amend the time limit for making an assessment order u/s 143 or 144 from existing 21 months to 18 months from end of relevant AY for AY 2018-19 and to 12 months for AY 2019-20. Accordingly, time limit for completion of assessments (where reference to TPO is made) will be reduced from 33 months to 30 months for AY 2018-19 and 24 months from AY 2019-20 onwards.
2. It is further proposed to revise time limit for making an order of assessment, reassessment or re-computation u/s 147, in respect of notices served u/s 148 on or after the 1st day of April, 2019, to 12 months from end of relevant financial year.

### **XIII. BEPS Action Plan 4**

Finance Bill proposes to insert Sec. 94B in line with recommendation of BEPS Action Plan 4 restricting deduction towards interest paid to non-resident AE to 30% of EBITDA (earnings before interest, taxes, depreciation and amortization). Provisions would trigger only when interest expenditure exceeds Rs. 1 Cr and excludes banks and insurance companies from its ambit and would apply to Indian company and Indian PE of foreign entity. Debt shall be deemed to be treated as issued by AE if it provides an implicit or explicit guarantee to the lender or the AE deposits a corresponding and matching amount of funds with the lender.

### **XIV. OTHERS**

- **Insertion of Sec. 269ST & 271DA providing for restriction on cash transactions-**

It is proposed to insert Sec. 269ST to provide that no person shall receive an amount of Rs. 3 lakhs or more, (i) in aggregate from a person in a day, (ii) in respect of a single transaction and (iii) in respect of transactions relating to one event or occasion from a person; in cash. This restriction shall not apply to Government, any banking company, post office savings bank or co-operative bank. Further, such other persons or class of persons or receipts may be notified by the Central Government, for reasons to be recorded in writing, on which the proposed restriction on cash transactions shall not apply. Transactions of the nature referred to in Sec. 269SS are proposed to be excluded from the scope of the said section. It is also proposed to insert new Sec. 271DA to provide for levy of penalty on a person who receives a sum in contravention of Sec.269ST. Penalty is proposed to be a sum equal to the amount of such receipt. The said penalty shall however not be levied if the person proves that there were good and sufficient reasons for such contravention. It is also proposed that any such penalty shall be levied by the JCIT.

It is also proposed to consequentially amend the provisions of Sec. 206C to omit the provision relating to TCS @ 1% of sale consideration on cash sale of jewellery exceeding Rs. 5 lakhs. Amendment will take effect from April 1, 2017.

- **Clarity of procedure in respect of change or modifications of object in case of entities exempt under sections 11 and 12**

It has been proposed that the registration of trust will have to be done afresh if the objects of the trust are modified by the assessee and where the objects which do not conform to the conditions of registration. The application for fresh registration needs to be made within a period of thirty days from the date of such adoption or modifications of the objects. The proposal has been made in light of lack of clarity in respect of fresh registration where existing

registration has been cancelled. It is also proposed to clarify that the trust's return needs to be filed within time limits specified in Sec 139.

These amendments will take effect from 1st April, 2018.

- **Charitable trusts: Corpus donations not be treated as 'application of income'**

It is proposed to insert a new Explanation to section 11 of the Act to provide that any amount credited or paid out of contributions [which is considered as Trust's income u/s Sec 11(1)(a)/(b)], being with specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income. It is also proposed to insert a proviso in Sec 10(23C) so as to provide similar restriction as above on the entities exempt under sub-clauses (iv), (v), (vi) or (via) of said clause in respect of any amount credited or paid out of their income.

These amendments will take effect from 1st April, 2018.

- **Mandatory furnishing of return by certain exempt entities**

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

This amendment will take effect from 1st April, 2018

- **Definition u/s 204 for "person responsible for paying" amended**

It is proposed to amend Sec 204 to provide that in the case of furnishing of information relating to payment to a non-resident, not being a company, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act, '*person responsible for paying*' shall be the payer himself, or, if the payer is a company, the company itself including the principal officer thereof.

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

- **Clarification with regard to interpretation of DTAA 'terms'**

With a view to reduce litigation and provide clarity, it is proposed to amend sec 90 and 90A of the Act, to provide that where any 'term' used in a DTAA, is defined under the DTAA, the said term shall be assigned the meaning as provided in the said DTAA. In an instance where the term is not defined in the DTAA, but is defined in the Act, it shall be assigned the meaning as per the definition in the Act or any explanation issued by the Central Government.

Amendment will take effect from 1st April, 2018.

- **Merging AAR for income-tax, central excise, customs & service**

With a view to promote ease of doing business, it has been decided by the Government to merge the Authority for Advance Ruling (AAR) for income-tax, central excise, customs duty and service tax.

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

- **Widens ambit for orders appealable before ITAT**

It is proposed to expand the scope of the section to provide that the orders passed by the prescribed authority u/s 10(23C)(iv)/(v) (relating to Trusts/institutions/funds established for religious/charitable purposes) shall also be appealable before the Appellate Tribunal.

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

- **Loss carry forward restriction u/s 79 due to shareholding change rationalized for start-ups**

It is proposed to amend Sec. 79 to provide that where a change in shareholding has taken place in a previous year in the case of a company, not being a company in which the public are substantially interested and being an eligible start-up as referred to in Sec 80IAC, loss shall be carried forward and set off against the income of the previous year, if all the shareholders of such company which held shares carrying voting power on the last day of the year or years in which the loss was incurred, being the loss incurred during the period of seven years beginning from the year in which such company is incorporated, continue to hold those shares on the last day of such previous year. Amendment proposed shall take effect from April 1, 2018.

Launched in 2011, India-based B2B portal [www.taxsutra.com](http://www.taxsutra.com) is a trusted online resource for corporate tax directors, policymakers and practitioners. With instant news alerts and incisive analysis on both domestic and international tax, coupled with unique features (such as Tax Ring, Taxsutra Insight, Litigation Tracker, Taxsutra TV and blogs), Taxsutra is a must-have for every tax professional. Given the increasing focus of tax administrations on transfer pricing, India's first exclusive portal dedicated to TP ([www.tp.taxsutra.com](http://www.tp.taxsutra.com)) was also launched in October 2011.

Taxsutra has demonstrated its thought leadership through special coverage of the \$2 billion Vodafone tax case, BEPS and even some light banter with a microsite on tax and the Soccer World Cup. The editorial team comprises of experienced professionals with a media and consulting background. In addition to championing various niche events like the annual Taxsutra Conclave, annual ALP Summit as also content specific events and workshops, Taxsutra also runs popular websites on indirect taxes, corporate law and accounting. A recently launched product to aid Indian tax professionals in their case law search, Orange, is sure to be a game-changer in the tax world.

The Dutch publisher and independent centre of expertise on cross-border taxation IBFD (the International Bureau of Fiscal Documentation) and the Indian online publisher of domestic and international income tax rulings Taxsutra have signed a mutual collaboration and promotional agreement, covering both parties' products, services, expert opinions and news.

#### Tax Based portals:

1. Real time tax news & analysis for Corporate Tax ([www.taxsutra.com](http://www.taxsutra.com))
2. Transfer Pricing Portal ([www.tp.taxsutra.com](http://www.tp.taxsutra.com))
3. Central Indirect Taxes Portal ([www.idt.taxsutra.com](http://www.idt.taxsutra.com))
4. "Orange" - Powerful Online Direct Tax Reference and Search Tool ([www.orange.taxsutra.com](http://www.orange.taxsutra.com))

#### Corporate Laws and Accounting Standards portals:

5. LawStreetIndia (LSI) ([www.lawstreetindia.com](http://www.lawstreetindia.com)) contains sub-modules on Company law, Securities law (SEBI/SAT), FEMA, IP laws & Competition Law
6. Taxsutra Accounting portal ([www.greentick.taxsutra.com](http://www.greentick.taxsutra.com))  
& a more recent

Taxsutra's Android based App on GST available as GSTsutra