FINANCE (No.2) BILL, 2019

PROVISIONS RELATING TO DIRECT TAXES & RELATED LAWS

Introduction

The provisions of Finance (No. 2) Bill, 2019 relating to direct taxes seek to amend the Income-tax Act, 1961 (hereafter referred to as 'the Act'), to continue to provide momentum to the buoyancy in direct taxes through deepening and widening of the tax base, promoting less cash economy, reducing the corporate tax rate for small enterprises, strengthening anti-abuse measures providing tax incentives, removing difficulties of taxpayers and enhancing the effectiveness of the tax administration.

With a view to achieving the above, the various proposals for amendments are organised under the following heads:—

(A) Rates of income-tax

(B) Widening and deepening of tax base

(C) Measures for promoting less cash economy

(D) Tax incentives

(E) Facilitating resolution of distressed companies

(F) Improving effectiveness of tax administration

(G) Strengthening anti-abuse measures

(H) Removing difficulties faced by taxpayers

(I) Rationalisation of provisions

(J) Miscellaneous

DIRECT TAXES

A. RATES OF INCOME-TAX

I. Rates of income-tax in respect of income liable to tax for the assessment year 2019-20.

In respect of income of all categories of assessees liable to tax for the assessment year 2019-20, the rates of income-tax have been specified in Part I of the First Schedule to the Bill. These are the same as those laid down in Part III of the First Schedule to the Finance Act, 2018 for the purposes of computation of "advance tax", deduction of tax at source from "Salaries" and charging of tax payable in certain cases.

(1) Surcharge on income-tax

The amount of income-tax shall be increased by a surcharge for the purposes of the Union,—

(a) in the case of every individual or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act,—

  (i) at the rate of ten per cent. of such tax, where the income or the aggregate of income paid or likely to be paid and subject to deduction exceeds fifty lakh rupees but does not exceed one crore rupees, and

  (ii) at the rate of fifteen per cent. of such tax, where the income or the aggregate of income paid or likely to be paid and subject to deduction exceeds one crore rupees;

  (iii) surcharge will also be levied at the appropriate rates in cases where these persons are liable to tax under section115JC of the Act.

(b) in the case of cooperative societies, firms or local authorities having total income exceeding one crore rupees, surcharge will be levied at the rate of twelve per cent. of income-tax payable on total income. In the case where such persons are having total income chargeable to tax under section 115JC of the Act, and such income exceeds one crore rupees, surcharge at the rate of twelve per cent. shall be levied.

(c) in the case of a domestic company,—

(i) having total income exceeding one crore rupees but not exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of seven per cent. of such income tax;

(ii) having total income exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of twelve per cent. of such income-tax; and

(iii) surcharge will also be levied at the appropriate rates in cases where the company is liable to tax under section 115JB of the Act.

(d) in the case of a company, other than a domestic company,—

(i) having total income exceeding one crore rupees but not exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of two per cent. of such income tax;

(ii) having total income exceeding ten crore rupees, the amount of income-tax computed shall be increased by a surcharge for the purposes of the Union calculated at the rate of five per cent. of such income tax; and

(iii) surcharge will also be levied at the appropriate rates in cases where the company is liable to tax under section 115JB of the Act.

(e) In other cases (including cases where provisions of sections 115-O, 115QA, 115R, 115TA or 115TD are applicable), the surcharge shall be levied at the rate of twelve per cent. Surcharge shall also be levied at the rate of twelve per cent. on additional Income-tax chargeable under newly inserted sub-section (2A) in existing section 92CE.

(2) Marginal Relief—

Marginal relief has also been provided in all cases where surcharge is proposed to be levied.

(3) Health and Education Cess—

For assessment year 2019-20, “Education Cess on income-tax” and “Secondary and Higher Education Cess on income-tax” has been discontinued. However, a new cess, by the name of “Health and Education Cess” has been levied at the rate of four per cent. on the amount of income tax so computed, inclusive of surcharge, wherever applicable, in all cases. No marginal relief is available in respect of such cess.

II. Rates for deduction of income-tax at source during the financial year 2019-20 from certain incomes other than “Salaries”.

The rates for deduction of income-tax at source during the financial year 2019-20 on certain incomes other than “Salaries” have been specified in Part II of the First Schedule to the Bill. The rates for all the categories of persons will remain the same as those specified in Part II of the First Schedule to the Finance Act, 2018, for the purposes of deduction of income-tax at source during the financial year 2018-19. For sections specifying the rate of deduction of tax at source, the tax shall continue to be deducted as per the provisions of these sections. Two new sections 194M and 194N, specifying the rate of deduction in cases covered therein, are proposed to be inserted and the rate of deduction is proposed to be modified for existing section 194DA.

(1) Surcharge—

The amount of tax so deducted, in the case of a non-resident person, shall be increased by a surcharge,—

(a) in case of an individual, Hindu undivided family, association of person, body of individual or artificial juridical person;

(i) at the rate of ten per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds fifty lakh rupees but does not exceed one crore rupees;

(ii) at the rate of fifteen per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceeds two crore rupees;

(iii) at the rate of twenty five per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds two crore rupees but does not exceeds five crore rupees; and

(iv) the rate of thrity seven per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds five crore rupees.

(b) in case of a firm or cooperative society, at the rate of twelve per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees.

The amount of tax so deducted, in the case of a company other than a domestic company, shall be increased by a surcharge,—

(a) at the rate of two per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds one crore rupees but does not exceed ten crore rupees;

(b) at the rate of five per cent. of such tax, where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds ten crore rupees.

No surcharge will be levied on deductions in other cases.

(2) Health and Education Cess—

"Health and Education Cess" shall continue to be levied at the rate of four per cent. of income-tax including surcharge wherever applicable, in the cases of persons not resident in India, including company other than a domestic company.

III. Rates for deduction of income-tax at source from "Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 2019-20.

The rates for deduction of income-tax at source from "Salaries" during the financial year 2019-20 and also for computation of "advance tax" payable during the said year in the case of all categories of assessees have been specified in Part III of the First Schedule to the Bill. These rates are also applicable for charging income-tax during the financial year 2019-20 on current incomes in cases where accelerated assessments have to be made, for instance, provisional assessment of shipping profits arising in India to non-residents, assessment of persons leaving India for good during the financial year, assessment of persons who are likely to transfer property to avoid tax, assessment of bodies formed for a short duration, etc. The salient features of the rates specified in the said Part III are indicated in the following paragraphs-

A. Individual, Hindu undivided family, association of persons, body of individuals, artificial juridical person.

Paragraph A of Part-III of First Schedule to the Bill provides following rates of income-tax:—

(i) The rates of income-tax in the case of every individual (other than those mentioned in (ii) and (iii) below) or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Act (not being a case to which any other Paragraph of Part III applies) are as under:—

Upto Rs. 2,50,000	Nil.
Rs. 2,50,001 to Rs. 5,00,000	5 per cent..
Rs. 5,00,001 to Rs. 10,00,000	20 per cent..
Above Rs 10,00,000	30 per cent..

(ii) In the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Upto Rs.3,00,000	Nil.
Rs. 3,00,001 to Rs. 5,00,000	5 per cent..
Rs. 5,00,001 to Rs. 10,00,000	20 per cent..
Above Rs 10,00,000	30 per cent..

(iii) in the case of every individual, being a resident in India, who is of the age of eighty years or more at any time during the previous year,—

Upto Rs. 5,00,000	Nil.
Rs. 5,00,001 to Rs. 10,00,000	20 per cent..
Above Rs 10,00,000	30 per cent..

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph shall be increased by a surcharge at the rate of,—

(i) ten per cent. of such income-tax in case of a person having a total income exceeding fifty lakh rupees but not exceeding one crore rupees;

(ii) fifteen per cent. of such income-tax in case of a person having a total income exceeding one crore rupees but not exceeding two crore rupees;

(iii) twenty five per cent. of such income-tax in case of a person having a total income exceeding two crore rupees but not exceeding five crore rupees; and

(iv) thirty seven per cent. of such income-tax in case of a person having a total income exceeding five crore rupees.

However, in case of above mentioned person having total income exceeding,-

(i) fifty lakh rupees but not exceeding one crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of fifty lakh rupees by more than the amount of income that exceeds fifty lakh rupees;

(ii) one crore rupees but not exceeding two crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees;

(iii) two crore rupees but not exceeding five crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of two crore rupees by more than the amount of income that exceeds two crore rupees; and

(iv) five crore rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of five crore rupees by more than the amount of income that exceeds five crore rupees.

B. Co-operative Societies

In the case of co-operative societies, the rates of income-tax have been specified in Paragraph B of Part III of the First Schedule to the Bill. These rates continue to be the same as those specified for financial year 2018-19. The amount of income-tax shall be increased by a surcharge at the rate of twelve per cent. of such income-tax in case of a co-operative society having a total income exceeding one crore rupees. However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

C. Firms

In the case of firms, the rate of income-tax has been specified in Paragraph C of Part III of the First Schedule to the Bill. This rate continue to be the same as that specified for financial year 2018-19. The amount of income-tax shall be increased by a surcharge at the rate of twelve per cent. of such income-tax in case of a firm having a total income exceeding one crore rupees. However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

D. Local authorities

The rate of income-tax in the case of every local authority has been specified in Paragraph D of Part III of the First Schedule to the Bill. This rate continue to be the same as that specified for the financial year 2018-19. The amount of income-tax shall be increased by a surcharge at the rate of twelve per cent. of such income-tax in case of a local authority having a total income exceeding one crore rupees. However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

E. Companies

The rates of income-tax in the case of companies have been specified in Paragraph E of Part III of the First Schedule to the Bill. In case of domestic company, the rate of income-tax shall be twenty five per cent. of the total income, if its total turnover or gross receipts in the previous year 2017-18 does not exceed four hundred crore rupees, and in all other cases the rate of Income-tax shall be thirty per cent. of the total income. In the case of company other than domestic company, the rates of tax are the same as those specified for the financial year 2018-19. Surcharge at the rate of seven per cent. shall continue to be levied in case of a domestic company, if the total income of the domestic company exceeds one crore rupees but does not exceed ten crore rupees. Surcharge at the rate of twelve per cent. shall continue to be levied if the total income of the domestic company exceeds ten crore rupees. In case of companies other than domestic companies, the existing surcharge of two per cent. shall continue to be levied, if the total income exceeds one crore rupees but does not exceed ten crore rupees. Surcharge at the rate of five per cent. shall continue to be levied, if the total income of the company other than domestic company exceeds ten crore rupees. However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees but not exceeding ten crore rupees, shall not exceed the total amount payable as income-tax on a total income of one crore rupees, by more than the amount of income that exceeds one crore rupees. Further total amount payable as income-tax and surcharge on total income exceeding ten crore rupees, shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees, by more than the amount of income that exceeds ten crore rupees.

In other cases [including cases where provision of sub-section (2A) of section 92CE, sections 115-O, 115QA, 115R, 115TA or 115TD are applicable], the surcharge shall be levied at the rate of twelve per cent..

For financial year 2019-20, additional surcharge called the "Health and Education Cess on income-tax" shall be levied at the rate of four per cent. on the amount of tax computed, inclusive of surcharge (wherever applicable), in all cases. No marginal relief shall be available in respect of such cess.

[Clause 2 & First Schedule]

B. WIDENING AND DEEPENDING OF TAX BASE

Tax Deduction at Source (TDS) on payment by Individual/HUF to contractors and professionals

At present there is no liability on an individual or Hindu undivided family (HUF) to deduct tax at source on any payment made to a resident contractor or professional when it is for personal use. Further, if the individual or HUF is carrying on business or profession which is not subjected to audit, there is no obligation to deduct tax at source on such payment to a resident, even if the payment is for the purpose of business or profession. Due to this exemption, substantial amount by way of payments made by individuals or HUFs in respect of contractual work or for professional service is escaping the levy of TDS, leaving a loophole for possible tax evasion. To plug this loophole, it is proposed to insert a new section 194M in the Act to provide for levy of TDS at the rate of five per cent. on the sum, or the aggregate of sums, paid or credited in a year on account of contractual work or professional fees by an individual or a Hindu undivided family, not required to deduct tax at source under section 194C and 194J of the Act, if such sum, or aggregate of such sums, exceeds fifty lakh rupees in a year. However, in order to reduce the compliance burden, it is proposed that such individuals or HUFs shall be able to deposit the tax deducted using their Permanent Account Number (PAN) and shall not be required to obtain Tax deduction Account Number (TAN).

This amendment will take effect from 1st September, 2019.

[Clause 46]

TDS at the time of purchase of immovable property

Section 194-IA of the Act relates to payment on transfer of certain immovable property other than agricultural land and provides for levy of TDS at the rate of one per cent. on the amount of consideration paid or credited for transfer of such property. The term 'consideration for immovable property' is presently not defined for the purposes of this section. It is noted that in the transaction involving purchase of immovable property, there are other types of payments made besides the sales consideration and the buyer is contractually bound to make such payments to the builder/seller, either under the same agreement or under a different agreement. Some of such payments are those for rights to amenities like club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee etc. Accordingly, it is proposed to amend the Explanation to said section and provide that the term "consideration for immovable property" shall include all charges of the nature of club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property.

This amendment will take effect from 1st September, 2019.

[Clause 45]

Deemed accrual of gift made to a person outside India

Section 9 of the Act relates to Income deemed to accrue or arise in India. Under the Act, non –residents are taxable in India in respect of income that accrues or arises in India or is received in India or is deemed to accrue or arise in India or is deemed to be received in India. Under the existing provisions of the Act, a gift of money or property is taxed in the hands of donee, except for certain exemptions provided in clause (x) of sub-section (2) of section 56. It has been reported that gifts are made by persons being residents in India to persons outside India and are claimed to be non-taxable in India as the income does not accrue or arise in India. To ensure that such gifts made by residents to persons outside India are subject to tax, it is proposed to provide that income of the nature referred to in sub-clause (xviia) of clause (24) of section 2, arising from any sum of money paid, or any property situate in India transferred, on or after 5th July, 2019 by a person resident in India to a person outside India shall be deemed to accrue or arise in India. However, the existing provision for exempting gifts as provided in proviso to clause (x) of sub-section (2) of section 56 will continue to apply for such gifts deemed to accrue or arise in India. In a treaty situation, the relevant article of applicable DTAA shall continue to apply for such gifts as well.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

[Clause 4]

Mandatory furnishing of return of income by certain persons

Currently, a person other than a company or a firm is required to furnish the return of income only if his total income exceeds the maximum amount not chargeable to tax, subject to certain exceptions. Therefore, a person entering into certain high value transactions is not necessarily required to furnish his return of income. In order to ensure that persons who enter into certain high value transactions do furnish their return of income, it is proposed to amend section 139 of the Act so as to provide that a person shall be mandatorily required to file his return of income, if during the previous year, he-

(i) has deposited an amount or aggregate of the amounts exceeding one crore rupees in one or more current account maintained with a banking company or a co-operative bank; or

(ii) has incurred expenditure of an amount or aggregate of the amounts exceeding two lakh rupees for himself or any other person for travel to a foreign country; or

(iii) has incurred expenditure of an amount or aggregate of the amounts exceeding one lakh rupees towards consumption of electricity; or

(iv) fulfils such other prescribed conditions, as may be prescribed.

Further, currently, a person claiming rollover benefit of exemption from capital gains tax on investment in specified assets like house, bonds etc., is not required to furnish a return of income, if after claim of such rollover benefits, his total income is not more than the maximum amount not chargeable to tax . In order to make furnishing of return compulsory for such persons, it is proposed to amend the sixth proviso to section 139 of the Act to provide that a person who is claiming such rollover benefits on investment in a house or a bond or other assets, under sections 54, 54B, 54D, 54EC, 54F, 54G, 54GA and 54GB of the Act, shall necessarily be required to furnish a return, if before claim of the rollover benefits, his total income is more than the maximum amount not chargeable to tax.

These amendments will take effect from 1st April, 2020 and will, accordingly apply in relation to assessment year 2020-2021 and subsequent assessment years.

[Clause 39]

Inter-changeability of PAN & Aadhaar and mandatory quoting in prescribed transactions.

Existing sub-section (1) of section 139A of the Act, *inter alia*, provides that every person specified therein, who has not been allotted a PAN, shall apply to the Assessing Officer for allotment of PAN.

It has been observed that in many cases persons entering into high value transactions, such as purchase of foreign currency or huge withdrawal from the banks, do not possess a PAN. In order to keep an audit trail of such transactions, for widening and deepening of the tax base, it is proposed to insert a new clause (vii) in the aforesaid sub-section so as to provide that every person, who intends to enter into certain prescribed transactions and has not been alloted a PAN, shall also apply for allotment of a PAN.

To ensure ease of compliance, it is also proposed to provide for inter-changeability of PAN with the Aadhaar number. Accordingly the provisions of section 139A are proposed to be amended so as to provide that,-

(i) every person who is required to furnish or intimate or quote his PAN under the Act, and who, has not been allotted a PAN but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of PAN, and such person shall be allotted a PAN in the prescribed manner;

(ii) every person who has been allotted a PAN, and who has linked his Aadhaar number under section 139AA, may furnish or intimate or quote his Aadhaar number in lieu of a PAN.

Section 139A, *inter alia*, provides that every person, receiving a document relating to a transaction for which PAN is required to be quoted shall ensure that the PAN has been duly quoted therein. It is proposed to provide that every person receiving such documents shall also ensure that the PAN or the Aadhaar number, as the case may be, has been duly quoted. A new sub-section (6A) is also proposed to be inserted to ensure quoting of PAN or Aadhaar number for entering into prescribed transactions and authontication thereof in the prescribed manner. Duty is also proposed to be cast upon the person receiving any document relating to such transactions, through newly proposed sub-section (6B), to ensure that PAN or Aadhaar number, as the case may be, is duly quoted, and authenticated.

In order to ensure proper compliance of the provisions relating to quoting and authentication of PAN or Aadhaar, the penalty provision contained in section 272B is proposed to be amended suitably.

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

[Clauses 40 & 64]

Consequence of not linking PAN with Aadhaar

The existing proviso to the sub-section (2) of section 139AA, provides that the PAN allotted to a person shall be deemed to be invalid, in case the person fails to intimate the Aadhaar number, on or before the notified date.

In order to protect validity of transactions previously carried out through such PAN, it is proposed to amend the said proviso so as to provide that if a person fails to intimate the Aadhaar number, the PAN allotted to such person shall be made inoperative in the prescribed manner.

This amendment will take effect from 1st September, 2019.

[Clause 41]

Widening the scope of Statement of Financial Transactions (SFT)

Existing provisions of section 285BA of the Act, inter alia, provide for furnishing of statement of financial transaction (SFT) or reportable account by person specified therein.

In order to enable pre-filling of return of income, it is proposed to obtain information by widening the scope of furnishing of statement of financial transactions by mandating furnishing of statement by certain prescribed persons other than those who are currently furnishing the same. It is also proposed to remove the current threshold of rupees fifty thousand on agragate value of transactions during a financial year, for furnishing of information, with a view to ensure pre-filling of information relating to small amount of transactions as well. In order to ensure proper compliance, it is also proposed to amend the provisions of sub-section (4) of aforesaid section so as provide that if the defect in the statement is not rectified within the time specified therein, the provisions of the Act shall apply as if such person had furnished inaccurate information in the statement.

Consequently, it is also proposed to amend the penalty provisions contained in section 271FAA so as to ensure correct furnishing of information in the SFT and widen the scope of penalty to cover all the reporting entities under section 285BA .

These amendments will take effect from 1st day of September, 2019.

[Clauses 63 & 66]

C. MEASURES FOR PROMOTING LESS CASH ECONOMY

Prescription of electronic mode of payments

There are various provisions in the Act which prohibit cash transactions and allow/encourage payment or receipt only through account payee cheque, account payee draft or electronic clearing system through a bank account.

Section 13A of the Act requires a political party to receive donation exceeding rupees two thousand only through an account payee cheque or an account payee bank draft or using the electronic clearing system through a bank account, for the purpose of exemption of such donation.

Section 35AD of the Act provides that the term 'any expenditure of capital nature' shall not include any expenditure in respect of which the assessee makes payment (or an aggregate of payments) exceeding rupees ten thousand to a person in a day through any mode other than an account payee cheque or an account payee bank draft or using the electronic clearing system through a bank account.

Section 40A of the Act provides for disallowance of any expenditure for which the assessee makes payment (or an aggregate of payments) exceeding rupees ten thousand through any mode other than an account payee cheque or an account payee bank draft or using the electronic clearing system through a bank account.

Sub-section (1) to section 43 of the Act provides the definition of the term "actual cost". The second proviso to the said section specifies that where the assessee incurs any expenditure for the acquisition of an asset or part thereof, and in respect of such acquisition, he makes a payment or aggregate of payments exceeding rupees ten thousand in a day to a person in any mode other than an account payee cheque or an account payee bank draft or using the electronic clearing system through a bank account, then such expenditure shall not be included in the determination of the actual cost.

Section 43CA of the Act provides that where the date of agreement fixing the value of consideration for the transfer of the asset and the date of registration of such transfer of asset are different, then the full value of consideration for transfer of such asset shall be the stamp duty value on the date of the agreement provided the amount of consideration or a part thereof has been received by way of an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account on or before the date of agreement for transfer of the asset. Similar provision is made in the second proviso to sub-section (1) of section 50C and the second proviso to sub-clause (b) of clause (x) of sub-section (2) of section 56.

Section 44AD of the Act relates to presumptive taxation scheme for eligible businesses and provides that in case of an assessee engaged in an eligible business shall be eligible to avail the benefit of the presumptive taxation scheme if the profit from such business is declared at at the rate of eight per cent. or higher of the total turnover or gross receipts in the previous year from such business. The proviso to sub-section (1) of the said section provides that the eligible assessee can opt for the presumptive taxation scheme if he declares profit at the rate of six per cent. or higher of turnover received through an account payee cheque or an account payee bank draft or the use of electronic clearing system through a bank account.

Section 80JJAA of the Act provides for the deduction of an amount equal to at the rate of thirty per cent. of additional employee cost incurred by an assessee in the previous year in the course of a business covered under section 44AB, for three years including the year in which such additional employment is provided. Sub-clause (b) of clause (i) of the Explanation to this section specifies that the additional employee cost in case of an existing business shall be nil if the emoluments are paid otherwise than by an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account.

In order to encourage other electronic modes of payment, it is proposed to amend the above section so as to include such other electronic mode as may be prescribed, in addition to the already existing permissible modes of payment in the form of an account payee cheque or an account payee bank draft or the electronic clearing system through a bank account.

These amendments will take effect from 1st April, 2020 and will, accordingly apply in relation to assessment year 2020-2021 and subsequent assessment years.

[Clauses 8,9,11,12,14,16, 18, 21 & 27]

Similarly section 269SS of the Act prohibits a person from taking or accepting from a depositor any loan or deposit or any specified sum equal to rupees twenty thousand or more otherwise than by an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account.

Section 269ST of the Act prohibits a person from receiving an amount of rupees two lakh or more in aggregate from a person in a day or in respect of a single transaction or in respect of transactions relating to one event or occasion from a person otherwise than by an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account.

Section 269T of the Act prohibits a banking company or a co-operative bank and any other company or co-operative society and any firm or other person from repaying any loan or deposit made with it or any specified advance received by it, in any mode other than by an account payee cheque or an account payee bank draft or by use of electronic clearing system through a bank account, if the amount being repaid is rupees twenty thousand or more.

In order to encourage other electronic modes of payment, it is proposed to amend the above sections so as to include such other electronic mode as may be prescribed, in addition to the already existing permissible modes of payment/receipt in the form of an account payee cheque or an account payee bank draft or the electronic clearing system through a bank account.

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

[Clauses 57, 58 & 60]

TDS on cash withdrawal to discourage cash transactions

In order to further discourage cash transactions and move towards less cash economy, it is proposed to insert a new section 194N in the Act to provide for levy of TDS at the rate of two per cent on cash payments in excess of one crore rupees in aggregate made during the year, by a banking company or cooperative bank or post office, to any person from an account maintained by the recipient.

It is proposed to exempt payment made to certain recipients, such as the Government, banking company, cooperative society engaged in carrying on the business of banking, post office, banking correspondents and white label ATM operators, who are involved in the handling of substantial amounts of cash as a part of their business operation, from the application of this provision. It is proposed to empower the Central Government to exempt other recipients, through a notification in the official Gazette in consultation with the Reserve Bank of India.

This amendment will take effect from 1st September, 2019.

[Clause 46]

Mandating acceptance of payments through prescribed electronic modes

In order to achieve the mission of the Government to move towards a less cash economy to reduce generation and circulation of black money and to promote digital economy, it is proposed to insert a new section 269SU in the Act so as to provide that every person, carrying on business, shall, provide facility for accepting payment through the prescribed electronic modes, in addition to the facility for other electronic modes of payment, if any, being provided by such person, if his total sales, turnover or gross receipts in business exceeds fifty crore rupees during the immediately preceding previous year.

In order to ensure compliance of the aforesaid provisions, it is further proposed to insert a new section 27IDB to provide that the failure to provide facility for electronic modes of payment prescribed under section 269SU shall attract penalty of a sum of five thousand rupees, for every day during which such failure continues. However, the penalty shall not be imposed if the person proves that there were good and sufficient reasons for such failure. Any such penalty shall be imposed by the Joint Commissioner.

This amendment will take effect from 1st November, 2019.

[Clauses 59 & 62]

Further, it is proposed to make a consequential amendment in the Payment and Settlement Systems Act, 2007 so as to provide that no bank or system provider shall impose any charge upon anyone, either directly or indirectly, for using the modes of electronic payment prescribed under section 269SU of the Income-tax Act.

This amendment will take effect from 1st November, 2019.

[Clause 194]

D.TAX INCENTIVES

Incentives to International Financial Services Centre (IFSC):

In order to promote the development of world class financial infrastructure in India, some tax concessions have already been provided in respect of business carried on from an IFSC. To further promote such development and bring these IFSC at par with similar IFSC in other countries, following additional benefits are proposed:

A) Under the existing provisions of the section 47 of the Act, any transfer of a capital asset, being bonds or Global Depository Receipts or rupee denominated bond of an Indian company or derivative, made by a non-resident through a recognised stock exchange located in any IFSC and where the consideration for such transaction is paid or payable in foreign currency shall not be regarded as transfer.

With a view to provide tax-neutral transfer of certain securities by Category III Alternative Investment Fund (AIF) in IFSC, it is proposed to amend the said section so as to provide that any transfer of a capital asset, specified in the said clause by such AIF, of which all the unit holders are non-resident, are not regarded as transfer subject to fulfillment of specified conditions.

It is also proposed to widen the types of securities listed in said clause by empowering the Central Government to notify other securities for the purposes of this clause.

These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

[Clause 17]

B) With a view to facilitate external borrowing by the units located in IFSC, it is proposed to amend the section 10 of the Act so as to provide that any income by way of interest payable to a non-resident by a unit located in IFSC in respect of monies borrowed by it on or after 1st day of September, 2019, shall be exempt.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

[Clause 6]

C) The existing provisions of the section 115-O of the Act, provide that no tax on distributed profits shall be chargeable in respect of the total income of a company, being a unit of an IFSC, deriving income solely in convertible foreign exchange, for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2017, out of its current income, either in the hands of the company or the person receiving such dividend.

To facilitate distribution of dividend by companies operating in IFSC, it is proposed to amend the provision of the said section to provide that any dividend paid out of accumulated income derived from operations in IFSC, after 1st April 2017 shall also not be liable for tax on distributed profits.

This amendment will take effect from 1st September, 2019.

[Clause 35]

D) The existing provisions of the section 115R of the Act, provide that any amount of income distributed by the specified company or a Mutual Fund to its unit holders shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income-tax on such distributed income.

In order to incentivize relocation of Mutual Fund in IFSC, it is proposed to amend the said section so as to provide that no additional income-tax shall be chargeable in respect of any amount of income distributed, on or after the 1st day of September, 2019, by a Mutual Fund of which all the unit holders are non-residents and which fulfills certain other specified conditions.

This amendment will take effect, from 1st September, 2019.

[Clause 37]

E) The existing provisions of the section 80LA of the Act, inter alia, provide profit linked deduction of an amount equal to one hundred per cent of income for the first five consecutive assessment years and fifty per cent of income for the next five consecutive assessment years, to units of an IFSC.

With a view to further incentivize operation of units in IFSC, it is proposed to amend the said section so as to provide that the deduction shall be increased to one hundred per cent for any ten consecutive years. The assessee, at his option, may claim the said deduction for any ten consecutive assessment years out of fifteen years beginning with the year in which the necessary permission was obtained.

This amendment will take effect, from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

[Clause 28]

F) Section 115A of the Act provides the method of calculation of income-tax payable by a non-resident (not being a company) or by a foreign company where the total income includes any income by way of dividend (other than referred in section 115-O), interest, royalty and fees for technical services; etc. Section 80LA, provides for deduction in respect of certain incomes to a unit located in an IFSC. However, sub-section (4) of section 115A prohibits any deduction under chapter VIA which includes section 80LA.

In order to ensure that units located in IFSC claim full deduction, it is proposed to amend section 115A of the Act so as to provide that the conditions contained in sub-section (4) of section 115A shall not apply to a unit of an IFSC for under section 80LA is allowed.

This amendment will take effect from the 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent years.

[Clause 33]

Incentives to Non-Banking Finance Companies (NBFCs)

The existing provisions of section 43D of the Act, *inter-alia* provides that interest income in relation to certain categories of bad or doubtful debts received by certain institutions or banks or corporations or companies, shall be chargeable to tax in the previous year in which it is credited to its profit and loss account actually received, whichever is earlier. This provision is an exception to the accrual system of accounting which is regularly followed by such assessees for computation of total income. The benefit of this provision is presently available to public financial institutions, scheduled banks, cooperative banks, State financial corporations, State industrial investment corporations and public companies like housing finance companies. With a view to provide a level playing field to certain categories of NBFCs who are adequately regulated, it is proposed to amend section 43D of the Act so as to include deposit-taking NBFCs and systemically important non deposit-taking NBFCs within the scope of this section. Consequentially, as per matching principle in taxation, it is proposed to amend section 43B of the Act to provide that any sum payable by the assessee as interest on any loan or advances from a deposit-taking NBFCs and systemically important non deposit-taking NBFCs 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.

These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent years.

[Clauses 13 & 15]

Relaxation in conditions of special taxation regime for offshore funds

Section 9A of the Act provides for a safe harbour in respect of offshore funds. It provides that in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager located in India and acting on behalf of such fund shall by itself not constitute business connection in India of the said fund. Further, an eligible investment fund shall not be said to be resident in India merely because the eligible fund manager undertaking fund management activities on its behalf is located in India. The benefit under section 9A is available subject to the conditions provided in sub-sections (3), (4) and (5) of the said section.

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

Representations have been received for relaxing certain conditions in the implementation of regime of fund managers. To give an impetus to fund management activities in India, certain constraints are proposed to be removed by suitably amending section 9A of the Act, so as to provide that,-

i) the corpus of the fund shall not be less than one hundred crore rupees at the end of a period of six months from the end of the month of its establishment or incorporation or at the end of such previous year, whichever is later; and

ii) the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than the amount calculated in such manner as may be prescribed.

These amendments will take effect retrospectively from 1st April, 2019 and shall apply to the assessment year 2019-20 and subsequent assessment years.

[Clause 5]

Tax incentive for electric vehicles

With a view to improve environment and to reduce vehicular pollution, it is proposed to insert a new section 80EEB in the Act so as to provide for a deduction in respect of interest on loan taken for purchase of an electric vehicle from any financial institution up to one lakh fifty thousand rupees subject to the following conditions:

(i) the loan has been sanctioned by a financial institution including a non-banking financial company during the period beginning on the 1st April, 2019 to 31st March, 2023;

(ii) the assessee does not own any other electric vehicle on the date of sanction of loan.

It is also proposed that where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to assessment year 2020-2021 and subsequent assessment years.

[Clause 25]

Exemption of interest income of a non-resident arising from borrowings by way of issue of Rupee Denominated Bonds referred to under section 194LC

The existing provisions of section 194LC of the Act provide that the interest income payable to a non-resident by a specified company on borrowings made by it in foreign currency from sources outside India under a loan agreement or by way of issue of any long-term bond including long-term infrastructure bond, or rupee denominated bond shall be eligible for TDS at a concessional rate of five per cent.

In order to incentivise low cost foreign borrowings through Off-shore Rupee Denominated Bond, the press release dated 17th September, 2018, inter alia, announced that interest payable by an Indian company or a business trust to a non-resident, including a foreign company, in respect of rupee denominated bond issued outside India during the period from September 17, 2018 to March 31, 2019 shall be exempt from tax. Consequently, no tax was required to be deducted on the payment of interest in respect of the said bond. The exemption announced through the said press release is proposed to be incorporated in the law by amending section 10 of the Act so as to provide exemption to income payable by way of interest to a non-resident by the specified company in respect of monies borrowed from a source outside India by way of issue of rupee denominated bond, as referred to in section 194LC, during the period begining from the 17th day of September, 2018 and ending on the 31st day of March, 2019.

This amendment will take effect from 1st April, 2019 and will, accordingly, apply in relation to the assessment year 2019-20 and subsequent assessment years.

[Clause 6]

Tax incentive for affordable housing

In order to provide an impetus to the ‘Housing for all’ objective of the Government and to enable the home buyer to have low-cost funds at his disposal, it is proposed to insert a new section 80EEA in the Act so as to provide a deduction in respect of interest up to one lakh fifty thousand rupees on loan taken for residential house property from any financial institution subject to the following conditions:

(i) loan has been sanctioned by a financial institution during the period beginning on the 1st April, 2019 to 31st March 2020.

(ii) the stamp duty value of house property does not exceed forty-five lakh rupees;

(iii) assessee does not own any residential house property on the date of sanction of loan.

It is also proposed that where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year.

This amendment will take effect from 1st April, 2020 and will accordingly apply in relation to assessment year 2020-21 and subsequent assessment years.

The existing provisions of the section 80-IBA of the Act, *inter alia*, provide that where the gross total income of an assessee includes any profits and gains derived from the business of developing and building housing projects, there shall, subject to certain conditions, be allowed, a deduction of an amount equal to hundred per cent of the profits and gains derived from such business.

With a view to align the definition of "affordable housing" under section 80-IBA with the definition under GST Act, it is proposed to amend the said section so as to modify certain conditions regarding the housing project approved on or after 1st day of September, 2019. The modified conditions are as under:

(i) the assessee shall be eligible for deduction under the section, in respect of a housing project if a residential unit in the housing project have carpet area not exceeding 60 square meter in metropolitan cities or 90 square meter in cities or towns other than metropolitan cities of Bengaluru, Chennai, Delhi National Capital Region (limited to Delhi, Noida,

Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan Region); and

(ii) the stamp duty value of such residential unit in the housing project shall not exceed forty five lakh rupees;

These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to assessment year 2020-21 and subsequent assessment years.

[Clauses 25 & 26]

Incentives to National Pension System (NPS) subscribers

(i) Under the existing provisions of section 10 of the Act, any payment from the NPS Trust to an assessee on closure of his account or on his opting out of the pension scheme, to the extent it does not exceed forty per cent of the total amount payable to him at the time of such closure or on his opting out of the scheme, is exempt from tax. With a view to enable the pensioner to have more disposable funds, it is proposed to amend the said section so as to increase the said exemption from forty per cent. to sixty per cent of the total amount payable to the person at the time of closure or his opting out of the scheme.

(ii) Under the existing provisions of section 80CCD of the Income-tax Act, in respect of any contribution by the Central Government or any other employer to the account of the employee referred to in the section, the assessee shall be allowed a deduction in the computation of his total income, of the whole of the amount contributed by the Central Government or any other employer, as does not exceed ten per cent of his salary in the previous year. In order to ensure that the Central Government employees get full deduction of the enhanced contribution, it is proposed to increase the limit from ten to fourteen per cent. of contribution made by the Central Government to the account of its employee.

(iii) To enable the Central Government employees to have more options of tax saving investments under National Pension System, it is proposed to amend the section 80C so as to provide that any amount paid or deposited by a Central Government employee as a contribution to his Tier-II account of the pension scheme shall be eligible for deduction under the said section.

These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to assessment year 2020-21 and subsequent assessment years.

[Clauses 6, 23, & 24]

Incentives for start-ups

(1) Section 79 of the Income Tax Act provides conditions for carry forward and set off of losses in case of a company not being a company in which the public are substantially interested. Clause (a) of this section applies to all such companies, except an eligible start-up as referred to in section 80-IAC, while clause (b) applies only to such eligible start-up.

Under clause (a), no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, unless on the last day of the previous year, the shares of the company carrying not less than fifty-one per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year or years in which the loss was incurred.

Under clause (b), the loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, if, all the shareholders of such company who held shares carrying voting power on the last day of the year or years in which the loss was incurred, continue to hold those shares on the last day of such previous year and such loss has been incurred during the period of seven years beginning from the year in which such company is incorporated. The said clause was inserted vide Finance Act, 2017 in order to facilitate ease of doing business and to promote start-up India.

To further facilitate ease of doing business in the case of an eligible start-up, it is proposed to amend section 79 so as to provide that loss incurred in any year prior to the previous year, in the case of closely held eligible start-up, shall be allowed to be carried forward and set off against the income of the previous year on satisfaction of either of the two conditions stipulated currently at clause (a) or clause (b). For other closely held companies, there would be no change, and loss incurred in any year prior to the previous year shall be carried forward and set off only on satisfaction of condition currently provided at clause (a).

(2) The existing provisions of the section 54GB of the Income-tax Act, *inter alia*, provide for roll over benefit in respect of capital gain arising from the transfer of a long-term capital asset, being a residential property owned by the eligible assessee. To be able to get benefit of this provision, the assessee is required to utilise the net consideration for subscription in the equity shares of an eligible company before the due date of filing of the return of income. The assessee is required to have more than fifty per cent share capital or more than fifty per cent voting rights after the subscription in shares in the eligible company. The said section,

inter alia, puts restriction on transfer of assets acquired by the company for five years from the date of acquisition. Currently the benefit of this section was only available for investment in the equity shares of eligible start-ups and that period also got over on 31st March 2019. Thus, at present no benefit is available for residential property transferred after 31st March 2019.

In order to incentivise investment in eligible start-ups, it is proposed to amend the said section so as to-

(i) extend the sun set date of transfer of residential property for investment in eligible start-ups from 31st March 2019 to 31st March 2021;

(ii) relax the condition of minimum shareholding of fifty per cent of share capital or voting rights to twenty five per cent.

(iii) relax the condition restricting transfer of new asset being computer or computer software from the current five years to three years.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

[Clauses 20 & 22]

Incentives for Category II Alternative Investment Fund (AIF)

The existing provisions of the said section 56 of the Income-tax Act, *inter alia*, provide that where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be charged to tax. However, exemption from this provision has been provided for the consideration for issue of shares received by a venture capital undertaking from a venture capital company or a venture capital fund or by a company from a class or classes of persons as may be notified by the Central Government in this behalf. Currently the benefit of exemption is available to Category I AIF. With a view to facilitate venture capital undertakings to receive funds from Category II AIF, it is proposed to amend the said section to extend this exemption to fund received by venture capital undertakings from Category II AIF as well.

This amendment will take effect, from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

[Clause 21]

E. FACILITATING RESOLUTION OF DISTRESSED COMPANIES

Measures for resolution of distressed companies

The existing provisions of section 79 are not applicable to a company where any change in shareholding takes place in a previous year pursuant to a resolution plan approved under the Insolvency and Bankruptcy Code, 2016 (IBC) subject to the condition that jurisdictional Principal Commissioner or Commissioner is provided a reasonable opportunity of being heard. Thus, loss in such cases can be carried forward and set off even if there is change in voting power or shareholding. This benefit is proposed to be extended to certain companies. Thus it has been provided in newly substituted section 79 that the provision of this section shall not apply to those companies, and their subsidiary and the subsidiary of such subsidiary, where-

(i) the National Company Law Tribunal (NCLT) on a petition moved by the Central Government under section 241 of the Companies Act, 2013 has suspended the Board of Directors of such company and has appointed new directors, who are nominated by the Central Government, under section 242 of the Companies Act, 2013: and

(ii) a change in shareholding of such company, and its subsidiaries and the subsidiary of such subsidiary, has taken place in a previous year pursuant to a resolution plan approved by NCLT under section 242 of the Companies Act, 2013, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner.

Further, it is also proposed that under section 115JB of the Act for calculating book profit, the aggregate amount of unabsorbed depreciation and loss (excluding depreciation) brought forward shall also be allowed to be reduced in cases of the above mentioned companies.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

[Clauses 22 & 34]

Prescription of exemption from deeming of fair market value of shares for certain transactions:

The existing provisions of the section 56(2)(x) of the Income-tax Act, *inter alia*, provide for chargeability of income in case of receipt of money or specified property for no or inadequate consideration. For determining the amount of income for receipt of certain shares, the fair market value of the shares is taken into account. Similarly, section 50CA provides for deeming of fair market value of unquoted shares for computing the capital gains from the transfer of such shares. For both these provisions, the fair market value is determined based on the prescribed method. Currently, the provisions of section 56(2)(x) are not applicable to certain specified transactions. However, no such exemption is available under section 50CA.

Determination of fair market value based on the prescribed rules may result into genuine hardship in certain cases where the consideration for transfer of shares is approved by certain authorities and the person transferring the share has no control over such determination. In order to provide relief to such types of transactions from the applicability of sections 56(2)(x) and 50CA, it is proposed to amend these sections to empower the Board to prescribe transactions undertaken by certain class of persons to which the provisions of section 56(2)(x) and 50CA shall not be applicable.

These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

[Clauses 19 & 21]

F. IMPROVING EFFECTIVENESS OF TAX ADMINISTRATION

Online filing of application seeking determination of tax to be deducted at source on payment to non-residents

Under sub-section (2) of section 195 of the Act, if a person who is responsible for paying any sum to a non-resident which is chargeable to tax under the Act (other than salary) considers that the whole of such sum would not be income chargeable in the case of the recipient, he can make an application to the Assessing Officer to determine the appropriate proportion of such sum chargeable. This provision is used by a person making payment to a non-resident to obtain certificate/order from the Assessing Officer for lower or nil withholding-tax. However, the process is currently manual. In order to use technology to streamline the process, which will not only reduce the time for processing of such applications, but shall also help tax administration in monitoring such payments, it is proposed to amend the provisions of this section to allow for prescribing the form and manner of application to the Assessing Officer and also for the manner of determination of appropriate portion of sum chargable to tax by the Assessing Officer.

Similar amendment is also proposed to be made in sub-section (7) of section 195 which are applicable to specified class of persons or cases.

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

[Clause 47]

Electronic filing of statement of transactions on which tax has not been deducted

Section 206A of the Act relates to furnishing of statement in respect of payment of certain income by way of interest to residents where no tax has been deducted at source.

At present, the section provides for filing of such statements on a floppy, diskette, magnetic tape, CD-ROM, or any other computer readable media. To enable online filing of such statements, it is proposed to substitute this section so as to provide for filing of statement (where tax has not been deducted on payment of interest to residents) in prescribed form in the prescribed manner.

It is also proposed to provide for correction of such statements for rectification of any mistake or to add, delete or update the information furnished.

It is also proposed to make a consequential amendment arising out of amendment carried out by Finance Act, 2019 whereby threshold for TDS on payment of interest by a banking company or cooperative society or public company was raised to forty thousand rupees.

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

[Clause 50]

G. STRENGTHENING ANTI-ABUSE MEASURES

Tax on income distributed to shareholder in case of listed companies

Section 115QA of the Act provides for the levy of additional Income-tax at the rate of twenty per cent. of the distributed income on account of buy-back of unlisted shares by the company. As additional income-tax has been levied at the level of company, the consequential income arising in the hands of shareholders has been exempted from tax under clause (34A) of section 10 of the Act.

This section was introduced as an anti-abuse provision to check the practice of unlisted companies resorting to buy-back of shares instead of payment of dividends. This practice of widespread abuse was noted, in the past, amongst unlisted companies where the taxpayers preferred it for tax avoidance, as tax rate for capitals gains was lower than the rate of Dividend Distribution Tax (DDT). However, instances of similar tax arbitrage have now come to notice in case of listed shares as well, whereby the listed companies are also indulging in such practice of resorting to buy-back of shares, instead of payment of dividends.

In order to curb such tax avoidance practice adopted by the listed companies, the existing anti abuse provision under Section 115QA of the Act, pertaining to buy-back of shares from shareholders by companies not listed on a recognised stock exchange, is proposed to be extended to all companies including companies listed on recognised stock exchange. Thus, any buy back of shares from a shareholder by a company listed on recognised stock exchange, on or after 5th July 2019, shall also be covered

by the provision of section 115QA of the Act. Accordingly, it is also proposed to extend exemption under clause (34A) of section 10 of the Act to shareholders of the listed company on account of buy-back of shares on which additional income -tax has been paid by the company.

These amendments will take effect from 5th July, 2019.

[Clauses 61 & 36]

Cancellation of registration of the Trust or Institution

Section 12AA of the Act prescribes for manner of grating registration in case of trust or institution for the purpose of availing exemption in respect of its income under section 11 of the Act, subject to conditions contained under sections 11, 12, 12AA and 13. Section 12AA also provides for manner of cancellation of said registration. This section provides that cancellation of registration can be on two grounds:-

(a) the Principal Commissioner or the Commissioner is satisfied that activities of the exempt entity are not genuine or are not being carried out in accordance with its objects; and

(b) it is noticed that the activities of the exempt entity are being carried out in a manner that either whole or any part of its income would cease to be exempt .

In order to ensure that the trust or institution do not deviate from their objects, it is proposed to amend section 12AA of the Income-tax Act, so as to provide that,-

(i) at the time of granting the registration to a trust or institution, the Principal Commissioner or the Commissioner shall, *inter alia*, also satisfy himself about the compliance of the trust or institution to requirements of any other law which is material for the purpose of achieving its objects;

(ii) where a trust or an institution has been granted registration under clause (b) of sub-section (1) or has obtained registration at any time under section 12A and subsequently it is noticed that the trust or institution has violated requirements of any other law which was material for the purpose of achieving its objects, and the order, direction or decree, by whatever name called, holding that such violation has occurred, has either not been disputed or has attained finality, the Principal Commissioner or Commissioner may, by an order in writing, cancel the registration of such trust or institution after affording a reasonable opportunity of being heard.

These amendments shall be effective from 1st September, 2019.

[Clause 7]

H. REMOVING DIFFICULTIES FACED BY TAX PAYERS

Facilitating demerger of Ind-AS compliant companies

One of the existing conditions for tax-neutral demergers is that the resulting company should record the property and the liabilities of the undertaking at the value appearing in the books of accounts of the demerged company. It has been represented that Indian Accounting Standards (Ind-AS) compliant companies are required to record the property and the liabilities of the undertaking at a value different from the book value of the demerged company. In order to facilitate, it is proposed to amend section 2 of the Act to provide that the requirement of recording property and liabilities at book value by the resulting company shall not be applicable in a case where the property and liabilities of the undertakings received by it are recorded at a value different from the value appearing in the books of account of the demerged company immediately before the demerger in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015.

This amendment will take effect, from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

[Clause 3]

Relaxing the provisions of sections 201 and 40 of the Act in case of payments to non-residents

Section 201 of the Act provides that where any person, including the principal officer of a company or an employer (hereinafter called 'the deductor'), who is required to deduct tax at source on any sum in accordance with the provisions of the Act, does not deduct or does not pay such tax or fails to pay such tax after making the deduction, then such person shall be deemed to be an assessee in default in respect of such tax.

The first proviso to sub-section (1) of section 201 specifies that the deductor shall not be deemed to be an assessee in default if he fails to deduct tax on a payment made to a resident, if such resident has furnished his return of income under section 139, disclosed such payment for computing his income in his return of income, paid the tax due on the income declared by him in his return of income and furnished an accountant's certificate to this effect.

This relief in section 201 is available to the deductor, only in respect of payments made to a resident. In case of similar failure on payments made to a non-resident, such relief is not available to the deductor. To remove this anomaly, it is proposed to amend

the proviso to sub-section (1) of section 201 to extend the benefit of this proviso to a deductor, even in respect of failure to deduct tax on payment to non-resident.

Consequent to this amendment, it is also proposed to amend the proviso to sub-section (1A) of section 201 to provide for levy of interest till the date of filing of return by the non-resident payee (as is the case at present with resident payee).

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

[Clause 49]

For the same reason, it is also proposed to amend clause (a) of section 40 to provide that where an assessee fails to deduct tax in accordance with the provisions of Chapter XVII-B on any sum paid to a non-resident, but is not deemed to be an assessee in default under the first proviso to sub-section (1) of section 201, then it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of the return of income by the payee referred to in that proviso. Thus, there will be no disallowance under section 40 in respect of such payments.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

[Clause 10]

Clarification with regard to power of the Assessing Officer in respect of modified return of income filed in pursuance to signing of the Advance Pricing Agreement (APA)

Section 92CC of the Act empowers the Central Board of Direct Taxes (CBDT) to enter into an APA, with the approval of the Central Government, with any person for determining the Arm's Length Price (ALP) or specifying the manner in which ALP is to be determined in relation to an international transaction which is to be entered into by that person. The APA is valid for a period, not exceeding five previous years, as may be specified therein. This section also provides for rollback of the APA for four years. Thus, once the APA is entered into, the ALP of the international transaction, which is subject matter of the APA, would be determined in accordance with such APA.

In order to give effect to the APA, section 92CD also provides for mechanism, including filing of modified return of income by the taxpayer and manner of completion of assessments by the Assessing Officer having regard to terms of the APA.

Sub-section (3) of this section deals with a situation where assessment or re-assessment has already been completed, before expiry of the time allowed for filing of modified return. Apprehensions have been expressed stating that due to the use of words "assess or reassess or recompute", the Assessing Officer may start fresh assessment or reassessment in respect of completed assessments or reassessments of the assessees who have modified their returns of income in accordance with the APA entered into by them, while the intention of the legislature is for Assessing Officer to merely modify the total income consequent to modification of return of income in pursuance to APA.

It is, therefore, proposed to amend sub-section (3) of section 92CD to clarify that in cases where assessment or reassessment has already been completed and modified return of income has been filed by the tax payer under sub-section (1) of said section, the Assessing Officers shall pass an order modifying the total income of the relevant assessment year determined in such assessment or reassessment, having regard to and in accordance with the APA.

This amendment will take effect from 1st September, 2019.

[Clause 29]

Clarification with regard to provisions of secondary adjustment and giving an option to assessee to make one-time payment

In order to align the transfer pricing provisions with international best practices, section 92CE of the Act provides for secondary adjustments in certain cases.

It, *inter alia*, provides that the assessee shall be required to carry out secondary adjustment where the primary adjustment to transfer price, has been made suo motu, or made by the Assessing Officer and accepted by him; or is determined by an advance pricing agreement entered into by him under section 92CC of the Act; or is made as per safe harbour rules prescribed under section 92CB of the Act; or is arising as a result of resolution of an assessment through mutual agreement procedure under an agreement entered into under section 90 or 90A of the Act.

The proviso to said sub-section provides exemption in cases where the amount of primary adjustment made in any previous year does not exceed one crore rupees; and the primary adjustment is made in respect of an assessment year commencing on or before 1st April, 2016.

Several concerns have been expressed regarding effective implementation of secondary adjustments regime and seeking clarity in law.

In order to address such concerns and to make the secondary adjustment regime more effective and easy to comply with, it is proposed to amend section 92CE of the Act so as to provide that:-

(i) the condition of threshold of one crore rupees and of the primary adjustment made upto assessment year 2016-17 are alternate conditions;

(ii) the assessee shall be required to calculate interest on the excess money or part thereof;

(iii) the provision of this section shall apply to the agreements which have been signed on or after 1st April, 2017; however, no refund of the taxes already paid till date under the pre amended section would be allowed;

(iv) the excess money may be repatriated from any of the associated enterprises of the assessee which is not resident in India;

(v) in a case where the excess money or part thereof has not been repatriated in time, the assessee will have the option to pay additional income-tax at the rate of eighteen per cent on such excess money or part thereof in addition to the existing requirement of calculation of interest till the date of payment of this additional tax. The additional tax is proposed to be increased by a surcharge of twelve per cent;

(vi) the tax so paid shall be the final payment of tax and no credit shall be allowed in respect of the amount of tax so paid;

(vii) the deduction in respect of the amount on which such tax has been paid , shall not be allowed under any other provision of this Act; and

(viii) if the assessee pays the additional income-tax, he will not be required to make secondary adjustment or compute interest from the date of payment of such tax.

The amendments proposed in para (i) to (iv) above will take effect retrospectively from the 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent assessment years.

Further, the amendments proposed in para (v) to (viii) will be effective from 1st September, 2019.

[Clause 30]

Concessional rate of Short-term Capital Gains (STCG) tax to certain equity-oriented fund of funds.

In order to incentivise fund of funds set up for disinvestment of Central Public Sector Enterprises (CPSEs), Finance Act, 2018 has provided concessional rate of long-term capital gains tax under section 112A of the Act for the transfer of units of such fund of funds.

In order to further incentivise these funds of funds, it is proposed to amend section 111A so as to extend the concessional rate of tax for short-term capital gains in respect of transfer of units of such fund of funds.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to assessment year 2020-21 and subsequent assessment years.

[Clause 32]

Provide for pass through of losses in cases of Category I and Category II Alternative Investment Fund (AIF)

Section 115UB of the Act, *inter alia*, provides for pass through of income earned by the Category I and II AIF, except for business income which is taxed at AIF level. Pass through of profits (other than profit & gains from business) has been allowed to individual investors so as to give them benefit of lower rate of tax, if applicable. Pass through of losses are not provided under the existing regime and are retained at AIF level to be carried forward and set off in accordance with Chapter VI.

In order to remove the genuine difficulty faced by Category I and II AIFs , it is proposed to amend section 115UB to provide that

(i) the business loss of the investment fund, if any, shall be allowed to be carried forward and it shall be set-off by it in accordance with the provisions of Chapter VI and it shall not be passed onto the unit holder;

(ii) the loss other than business loss, if any, shall also be ignored for the purposes of pass through to its unit holders, if such loss has arisen in respect of a unit which has not been held by the unit holder for a period of atleast twelve months;

(iii) the loss other than business loss, if any, accumulated at the level of investment fund as on 31st March, 2019, shall be deemed to be the loss of a unit holder who held the unit on 31st March, 2019 in respect of the investments made by him

in the investment fund and allowed to be carried forward by him for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year and it shall be set-off by him in accordance with the provisions of Chapter VI;

(iv) the loss so deemed in the hands of unit holders shall not be available to the investment fund for the purposes of chapter VI.

These amendments will take effect from the 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

[Clause 38]

Provision of credit of relief provided under section 89

Section 89 of the Income-tax Act contains provisions for providing tax relief where salary, etc. is paid in arrears or in advance.

The existing provisions of section 140A, section 143, section 234A, section 234B and section 234C contain provisions relating to computation of tax liability after allowing credit for prepaid taxes and certain admissible reliefs, credits etc. However, the relief under section 89 is not specifically mentioned in these sections, which is resulting into genuine hardship in the case of taxpayers who are eligible for this relief.

In view of the above, it is proposed to amend section 140A, section 143, section 234A, section 234B and section 234C so as to provide that computation of tax liability shall be made after allowing relief under section 89.

These amendments will take effect retrospectively from 1st April, 2007 and will, accordingly, apply in relation to the assessment year 2007-08 and subsequent assessment years.

[Clauses 42, 43, 52, 53, & 54]

TDS on non exempt portion of life insurance pay-out on net basis.

Under section 194DA of the Act, a person is obliged to deduct tax at source, if it pays any sum to a resident under a life insurance policy, which is not exempt under sub-section (10D) of section 10. The present requirement is to deduct tax at the rate of one per cent. of such sum at the time of payment. Several concerns have been expressed that deducting tax on gross amount creates difficulties to an assesse who otherwise has to pay tax on net income (i.e after deducting the amount of insurance premium paid by him from the total sum received). From the point of views of tax administration as well, it is preferable to deduct tax on net income so that the income as per TDS return of the deductor can be matched automatically with the return of income filed by the assessee. The person who is paying a sum to a resident under a life insurance policy is aware of the amount of insurance premium paid by the assessee. Hence, it is proposed to provide for tax deduction at source at the rate of five per cent. on income component of the sum paid by the person.

This amendment shall be effective from 1st September, 2019.

[Clause 44]

Clarification regarding definition of the "accounting year" in section 286 of the Act

Section 286 of the Act contains provisions relating to specific reporting regime in the form of Country-by-Country Report (CbCR) in respect of an international group. It provides that every parent entity or the alternate reporting entity, resident in India, shall, for every reporting accounting year, in respect of the international group of which it is a constituent, furnish a report, to the prescribed authority within a period of twelve months from the end of the said reporting accounting year, in the form and manner as may be prescribed.

Several concerns have been expressed that in case of an alternate reporting entity (ARE) resident in India whose ultimate parent entity is not resident in India, the accounting year would always be the accounting year applicable in the country where such ultimate parent entity is resident and cannot be the previous year of the entity resident in India. Accordingly, it has been requested that this unintended anomaly as regards the interpretation of accounting year in case of ARE, resident in India may be removed.

In order to address such concerns and to bring clarity in law, it is proposed to suitably amend section 286 so as to provide that the accounting year in case of the ARE of an international group, the parent entity of which is not resident in India, the reporting accounting year shall be the one applicable to such parent entity.

This amendment is clarificatory in nature.

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

[Clause 67]

I: RATIONALISATION OF PROVISIONS

Rationalisations of provisions relating to maintenance, keeping and furnishing of information and documents by certain persons

Section 92D of the Act *inter alia*, provides for maintenance and keeping of information and document by persons entering into an international transaction or specified domestic transaction in the prescribed manner.

Sub-section (1) of section 92D provides that every person who has entered into an international transaction or specified domestic transaction shall keep and maintain the prescribed information and document in respect thereof.

Proviso to said section inserted through the Finance Act, 2016 provides that the person, being a constituent entity of an international group, shall also keep and maintain such information and document in respect of an international group as may be prescribed. Accordingly, Rule 10DA, prescribed for this purpose, provides the requisite information to be furnished in prescribed form, subject to the thresholds of the consolidated group revenue and the international transaction.

It is proposed to substitute section 92D of the Act, in order to provide that the information and document to be kept and maintained by a constituent entity of an international group, and filing of required form, shall be applicable even when there is no international transaction undertaken by such constituent entity.

It is also proposed to provide that information shall be furnished by the constituent entity of an international group to the prescribed authority.

This amendment will take effect from the 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

[Clause 31]

Compliance with the notification of exemption issued under section 56(2)(viib)

The provisions of section 56(2)(viib) of the Act provides for charging of the consideration received for issue of shares by certain companies, where such consideration exceeds the fair market value of such shares. However, the Central Government is empowered to notify that the provisions of this section shall not be applicable to consideration received by a notified company. Certain notifications issued under this sub-clause by the Central Government provide for exemption, subject to the fulfilment of certain conditions. With a view to ensure compliance to the conditions specified in the notification, it is proposed to provide that in case of failure to comply with the conditions, the consideration received for issue of shares which exceeds the face value of such shares shall be deemed to be the income of the company chargeable to income-tax for the previous year in which the failure to comply with any of the said conditions has taken place.

These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

[Clause 21]

Consequential amendment to section 56

The existing provisions of the section 56 of the Income-tax Act, *inter alia*, provide that income by way of interest received on compensation or on enhanced compensation referred to in section 145A(b) shall be chargeable to tax. The Finance Act, 2018 substituted the provisions of section 145A with sections 145A and section 145B. However, no consequential amendment is made in section 56. It is proposed to amend section 56 of the Act to provide the correct reference of section 145B(1) in section 56, in place of the existing reference of section 145A(b).

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

[Clause 21]

Rationalisation of penalty provisions relating to under-reported income

Section 270A contains provisions relating to penalty for under-reporting and misreporting of income. The existing provisions provide for various situations for the purposes of levy of penalty under this section. However, these provisions do not contain the mechanism for determining under-reporting of income and quantum of penalty to be levied in the case where the person has under-reported income and furnished the return of income for the first time under section 148 of the Act.

In order to provide for manner of computing the quantum of penalty in a case where the person has under-reported income and furnished his return for the first time under section 148, it is proposed to suitably amend the provisions of section 270A.

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

[Clause 61]

Rationalisation of the provisions of section 276CC

The existing provisions of section 276CC of the Act, *inter alia*, provide that prosecution proceedings for failure to furnish returns of income against a person shall not proceeded against, for failure to furnish the return of income in due time, if the tax payable by such person, not being a company, on the total income determined on regular assessment does not exceed three thousand rupees. The existing provisions do not provide for taking into account tax collected at source and self-assessment tax for the purposes of determining the tax liability.

Since the intent of said provision has always been to take into account pre-paid taxes, while determining the tax payable, it is proposed to amend the said section so as to make the legislative intention clear and to include the self-assessment tax, if any, paid before the expiry of the assessment year, and tax collected at source for the purpose of determining tax liability.

Further, in order to rationalise the existing threshold limit of tax payable under said section, it is further proposed to amend the said section so as to increase the threshold of tax payable from the existing rupees three thousand to rupees ten thousand.

These amendments will take effect from 1st April, 2020 and will, accordingly, apply in relation to assessment year 2020-21 and subsequent assessment years.

[Clause 65]

Rationalisation of provision relating recovery of tax in pursuance of agreements with foreign countries

The existing provisions of section 228A of the Act provide *inter alia* that where an agreement is entered into by the Central Government with the Government of any foreign country for recovery of income-tax under the Income-tax Act and the corresponding law in force in that country and where such foreign country sends a certificate for the recovery of any tax due under such corresponding law from a person having any property in India, the Board, on receipt of such certificate may, forward it to the Tax Recovery Officer within whose jurisdiction such property is situated for the recovery of tax in pursuance of agreement with such foreign country.

In order to provide assistance in recovery of tax as per treaty obligation with the other country, it is proposed to amend the said section so as to provide for tax recovery where details of property of the persons are not available but the said person is a resident in India.

It is also proposed to amend the said section so as to provide for tax recovery, where details of property of an assessee in default under the Act are not available but the said assessee is a resident in a foreign country.

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

[Clause 51]

Rationalisation of provisions relating to claim of refund.

The existing provisions of section 239 of the Act provide inter alia that every claim of refund under Chapter XIX of the Act shall be made in the prescribed form and verified in the prescribed manner.

In order to simplify the procedure for claim of refund, it is proposed to amend the said section so as to provide that every claim for refund under Chapter XIX of the Act shall be made by furnishing return in accordance with the provisions of section 139 of the Act.

This amendment will take effect from 1st September, 2019.

[Clause 55]

Enhancing time limitation for sale of attached property under rule 68B of the Second Schedule of the Act

The existing provisions of rule 68B of the Second Schedule of the Act provide that no sale of immovable property attached towards the recovery of tax, penalty etc. shall be made after the expiry of three years from the end of the financial year in which the order in consequence of which any tax, penalty etc. becomes final.

In order to protect the interest of the revenue, especially in those cases where demand has been crystallised on conclusion of the proceedings, it is proposed to amend the aforesaid sub-rule so as to extend the period of limitation from three years to seven years

In order to ensure that the limitation of time period for sale of attached property may not be an impediment in recovery of tax dues and may not lead to permanent loss of revenue to the exchequer, it is further proposed to insert a new proviso in the said sub-rule so as to provide that the Board may, for reasons to be recorded in writing, extend the aforesaid period of limitation by a further period of three years.

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

[Clause 68]

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

The existing provisions of section 2 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 (the BM Act) provide inter alia that the "assessee" means a person who is resident in India within the meaning of section 6 of the Income-tax Act.

In order to clarify the legislative intent behind enacting the BM Act, which was to tax such foreign income and assets, which were not charged to tax under the Income-tax Act, it is proposed to amend the said section so as to provide that the "assessee" shall mean a person being a resident in India within the meaning of section 6 of the Income-tax Act, in the previous year, or a person being a non-resident or not ordinarily resident in India within the meaning of clause (6) of section 6 of the Income-tax Act, in the previous year, who was resident in India either in the previous year to which the income referred to in section 4 relates, or in the previous year in which the undisclosed asset located outside India was acquired. It is also proposed to provide that the previous year of acquisition of the undisclosed asset located outside India shall be determined without giving effect to the provisions of section 72(c) of the BM Act.

Further, a clarificatory amendment is also proposed to be made to section 10 of the BM Act so as to include the expressions "re-assess" and "reassessment" in sub-section (3) and (4) of the said section.

These amendments will take effect retrospectively from 1st July, 2015.

[Clauses 195 & 196]

The existing provisions of the section 84 of the BM Act provide, *inter alia,* for application of certain provisions of the Income-tax Act to the BM Act with necessary modifications.

Considering the significance of cases assessed under the BM Act, it is proposed to amend the said section so as to provide that the provisions of section 144A of the Income-tax Act shall be applicable to the BM Act with necessary modifications.

[Clause 198]

Further, a clarificatory amendment is also proposed to be made in section 17 of the BM Act to clarify that the Commissioner (Appeals) may also vary the penalty order so as to enhance or reduce the penalty.

This amendment will take effect from 1st September, 2019.

[Clause 197]

Rationalisation of the Income Declaration Scheme, 2016

The existing provisions of section 187 of the Finance Act, 2016 provide, *inter alia,* that the tax, surcharge and penalty in respect of the undisclosed income, declared under the Income Declaration Scheme, 2016 (the Scheme) shall be paid on or before a notified due date.

In order to address genuine concern of the declarants, it is proposed to amend the said section so as to provide that where the amount of tax, surcharge and penalty, has not been paid within the due date, the Central Government may notify the class of persons who may make the payment of such amount on or before a notified date, along with the interest on such amount, at the rate of one per cent of every month or part of a month, comprised in the period, commencing on the date immediately following the due date and ending on the date of such payment.

Further, the existing section 191 of the Finance Act, 2016 provides, *inter alia,* that any amount of tax, surcharge or penalty paid in pursuance of a declaration made under the Scheme shall not be refundable.

In order to address genuine concern of the declarants, it is proposed to amend the said section so as to provide that the Central Government may notify the class of persons to whom the amount of tax, surcharge and penalty, paid in excess of the amount payable under the Scheme shall be refundable.

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

[Clauses 199 & 200]

Rationalisation of provisions relating to STT

As per the existing provisions section 99 of the Finance (No.2) Act, 2004, the value of taxable securities transaction in respect of sale of an option in securities, where option is exercised, shall be, the settlement price.

In order to rationalise the levy of STT where the option is exercised, it is proposed to amend the said section so as to provide that value of taxable securities transaction in respect of sale of an option in securities, where option is exercised, shall be the difference between the strike price and the settlement price.

This amendment will take effect from 1st September, 2019.

[Clause 193]

Rationalizing the provisions of the Prohibition of Benami Property Transactions Act

The existing provisions of section 23 of the Prohibition of Benami Property Transactions Act ('the PBPT Act') provide that the Initiating Officer, with the prior approval of the Approving Authority, shall conduct any inquiry or investigation. This power is exercised by the Initiating Officer where no case is pending before him. However, it is not expressly provided in the PBPT Act that the prior approval of Approving Authority shall not be required where the Initiating Officer has already initiated proceedings by issuing notice under section 24(1).

In order to clarify that no prior approval of the Approving Authority would be required in cases where notice under section 24(1) has been issued, it is proposed to suitably amend the provisions of section 23 of the PBPT Act.

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

[Clause 172]

Further, section 24(3) of the PBPT Act provides for attachment of property for a period of ninety days from the date of issue of notice under section 24(1) of the PBPT Act. Section 24(4) provides for passing of order within ninety days from the date of issuing notice under section 24(1).

In order to rationalize the aforesaid provisions, it is proposed to amend the section 24 so as to provide that the period of ninety days in respect of provisional attachment of the property under section 24(3) and passing of order under section 24(4) shall be reckoned from the end of the month in which the notice under section 24(1) is issued.

This amendment will take effect from 1st day of September, 2019.

[Clause 173]

The existing provisions of section 24(4) of the PBPT Act provide for passing of order by the Initiating Officer, of section 24(5) provide for making of reference by the Initiating Officer and of section 26(7) provide for passing of order by the Adjudicating Authority. However, no exclusion is provided for the period during which the proceedings are stayed by the Court. In order to provide for the exclusion and adequate time to pass the order or make the reference, it is proposed to suitably amend the provisions of sections 24 and 26.

This amendment will take effect from 1st September, 2019.

[Clauses 173 & 174]

With a view to ensure compliance with the summons issued and information required to be furnished under the PBPT Act, it is proposed to insert a new section 54A in the PBPT Act so as to provide for levy of penalty of rupees twenty five thousand for failure to comply with the summons issued or to furnish information under section 19 or section 21 respectively of the PBPT Act.

This amendment will take effect from 1st September, 2019.

[Clause 175]

With a view to enable admissibility of certified copies of records or other documents in the custody of the authority as evidence in any proceeding under the PBPT Act, it is proposed to insert a new section 54B in the said Act so as to provide that entries in the records or other documents in the custody of an authority shall be admitted in evidence in any proceedings for the prosecution of any person for an offence under the PBPT Act.

This amendment will take effect from 1st September, 2019.

[Clause 175]

The existing provisions of the section 55 of the PBPT Act provide that no prosecution shall be instituted against any person in respect of any offence under the said Act without the previous sanction of the Board. With a view to rationalise the provisions, it is proposed to amend the said section so as to provide that no prosecution shall be instituted against any person in respect of any offence under the said Act without the previous sanction of the competent authority.

This amendment will take effect from 1st September, 2019.

[Clause 176]

Extension of tax concession to The Special Undertaking of the Unit Trust of India (SUUTI)

The Special Undertaking of the Unit Trust of India (SUUTI) was created vide the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002. SUUTI is the successor of UTI. The mandate of SUUTI is to liquidate Government liabilities on account of the erstwhile UTI. SUUTI is exempt from income-tax or any other tax or any income, profits or gains derived, or any amount received in relation to the specified undertaking uptil 31st March, 2019. It is proposed to extend the exemption for a further period of two years till 31st March 2021.

This amendment will take effect retrospectively from 1st April 2019.

[Clause 186]

CUSTOMS

Note: (a) "Basic Customs Duty" means the customs duty levied under the Customs Act, 1962.

(b) "Export duty" means duty of Customs leviable on goods specified in the Second Schedule to the Customs Tariff Act, 1975.

(c) "Road and Infrastructure Cess" means the additional duty of customs levied under section 111 of the Finance Act, 2018.

(d) Clause nos. in square brackets [ ] indicate the relevant clause of the Finance (No. 2) Bill, 2019.

(e) Amendments carried out through the Finance (No. 2) Bill, 2019 will come into effect on the date of its enactment, unless otherwise specified.

I. AMENDMENTS IN THE CUSTOMS ACT, 1962:

S. No.	Amendment	Clause of the Finance (No.2) Bill, 2019
1	Section 41 is being amended so as to provide a facility, that the departure manifest can also be furnished to a person notified by the Central Government, in addition to the person-in-charge of the conveyance.	[69]
2	A new chapter XIIB titled "Verification of Identity and Compliance" is being inserted. New section 99B introduced under this chapter empowers proper officer of Customs to carry out verification of a person for ascertaining compliance with the provision of the Customs Act or any other law for the time being in force, for protecting the interests of revenue or to prevent smuggling in the manner as may be prescribed. It is proposed to do the verification of the person through the Aadhaar number or through such other alternative and viable means of identification as may be prescribed through the regulations. It also empowers the Board inter-alia to make regulations to exempt such persons or class of persons who may not be required to undergo the said verification. Failure to comply with the specified provisions of this section may result in suspension or denial of certain benefits.	[70]
3	Section 103 is being amended so as to- (a) substitute sub-section (1) in order to enable the proper officer to scan or screen, with the prior approval of Deputy Commissioner of Customs or Assistant Commissioner of Customs, any person referred to in sub-section (2) of section 100 who has any goods liable to confiscation secreted inside his body. The proper officer can directly furnish the report of the said screening or scanning to the nearest magistrate if such goods are found secreted inside the body of the said person. (b) so as to enable the magistrate to take action upon the report of scanning or screening by the proper officer under sub-section (6).	[71]
4	Section 104 is being amended so as to- (a) empower an officer of customs to arrest a person who has committed an offence outside India or Indian Customs waters also under sub-section (1). (b) insert two new clauses (c) and (d) in sub-section (4) so as to specify two particular offences which shall be cognizable. (c) insert a new clause (e) in sub-section (6) so as to specify a particular offence which shall be non-bailable. (d) insert an Explanation so as to define the term instrument.	[72]

5	Section 110 is being amended so as to- (a) substitute the existing proviso in sub-section (1) with two provisos so as to specify the conditions under which the custody of seized goods could be given to certain person. The amendment also seeks to specify the conditions, under which the custody of such goods, where it is not practicable to seize such goods, could be given to certain persons. (b) insert a new sub-section (5) so as to empower the proper officer to provisionally attach any bank account for safeguarding the government revenue and prevention of smuggling, for a period not exceeding six months. It is also being provided that a Principal Commissioner of Customs or Commissioner of Customs may further extend the period of attachment up to six months.	[73]
6	Section 110A is being amended so as to empower an adjudicating authority to release bank account provisionally attached under section 110 to the accountholder on fulfilment of certain conditions.	[74]
7	A new section 114AB is being inserted so as to provide that any person who has obtained any instrument by fraud, collusion, wilful misstatement or suppression of facts and such instrument has been utilized by such person or any other person for discharging duty, such person to whom the instrument was issued shall be liable for penalty not exceeding the face value of such instrument. An Explanation to define the term instrument is also being inserted.	[75]
8	Section 117 is being amended so as to increase the maximum limit of penalty from one lakh rupees to four lakh rupees.	[76]
9	First proviso to section 125 is being amended so as to provide that in respect of cases of covered under deemed closure proceedings under section 28, no fine in lieu of confiscation shall be imposed on the infringing goods.	[77]
10	Sub-section (1) of section 135 is being amended so as to- (a) to insert a new clause (e) therein to make obtaining of an instrument from any authority by fraud, collusion, wilful misstatement or suppression of facts, where such instrument has been utilized by any person a punishable offence. (b) insert a new sub-item (E) under item (i) to make obtaining an instrument from any authority by fraud, collusion, wilful misstatement or suppression of facts, where such instrument has been utilized by any person a punishable offence if the duty relatable to utilization of the instrument exceeds fifty lakhs of rupees. (c) insert an Explanation to define the term instrument.	[78]
11	Section 149 is being amended so as to empower Board to make regulations specifying time, form, manner, restrictions and conditions for amendment of any document.	[79]
12	Section 157 is being amended so as to empower the Board to make regulations for purposes of sections 99B and 149 respectively.	[80]
13	Sub-section (2) of section 158 is being amended so as to increase the maximum limit of penalty for violation of any provision of rules or regulations from fifty thousand rupees to two lakh rupees.	[81]

II. AMENDMENTS IN THE CUSTOMS TARIFF ACT, 1975

S. No	Amendment	Clause of the Finance (No. 2) Bill, 2019
1	Section 9 is being amended so as to insert sub-section (1A) to provide for anti-circumvention measure in respect of countervailing duty.	[85]
2	Section 9C is being amended so as to provide that appeal against an order of determination or review regarding the existence, degree and effect of increased volume of imports of any article requiring imposition of safeguard duty, shall lie with Customs Excise and Service Tax Appellate Tribunal.	[86]

III. AMENDMENTS IN THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975

	AMENDMENTS			
A.	**Tariff rate changes for Basic Customs Duty [to be effective from 06.07.2019]* [Clause [87(a)] of the Finance (No. 2) Bill, 2019]**		**Rate of Duty**	
S. No	**Heading, sub-heading tariff item**	**Commodity**	**From**	**To**
		Construction Materials		
1	3918	Floor covering of plastics, Wall or ceiling coverings of plastics	10%	15%
2	6905, 6907	Ceramic roofing tiles and ceramic flags and pavings, hearth or wall tiles	10%	15%
3	8302	Base metal fittings, mountings and similar articles suitable for furniture, doors, staircases, windows, blinds, hinge for auto mobiles	10%	15%
		Precious Metals		
4	7106	Silver (including silver plated with gold or platinum) unwrought or in semi-manufactured forms, or in powdered form	10%	12.5%
5	7107 00 00	Base metals clad with silver, not further worked than semi-manufactured	10%	12.5%
6	7108	Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form	10%	12.5%
7	7109 00 00	Base metals or silver, clad with gold, not further worked than semi-manufactured	10%	12.5%
8	7110	Platinum, unwrought or in semi-manufactured form, or in powder form	10%	12.5%
9	7111 00 00	Base metals, silver or gold, clad with platinum, not further worked than semi-manufactured	10%	12.5%
10	7112	Waste and scrap of precious metals or of metal clad with precious metals; other waste and scrap containing precious metal compounds, of a kind used principally for the recovery of precious metal	10%	12.5%
		Automobile parts		
11	6813	Friction material and articles thereof (for example, sheets, rolls, strips, segments, discs, washers, pads), not mounted, for brakes, for clutches or the like, with a basis of asbestos, of other mineral substances or of cellulose, whether or not combined with textile or other materials.	10%	15%
12	7009	Glass mirrors, whether or not framed, including rear-view mirrors	10%	15%
13	8301 20 00	Locks of a kind used in motor vehicles	10%	15%
14	8421 23 00	Oil or petrol filters for internal combustion engines	7.5%	10%
15	8421 31 00	Intake air-filters for internal combustion engines	7.5%	10%
16	8421 39 20, 8421 39 90	Air purifiers or cleaners and other filtering or purifying machinery and apparatus for gases	7.5%	10%
17	8512 10 00, 8512 20 10, 8512 20 20	Lighting or visual signaling equipment of a kind used in bicycles or motor vehicles	10%	15%
18	8512 20 90, 8512 30 90	Other visual or sound signalling equipment for bicycles or motor vehicles	7.5%	15%
19	8512 30 10	Horns for vehicles	10%	15%
20	8512 90 00	Parts of visual or sound signalling equipment for bicycles or motor vehicles	7.5%	10%

21	8512 40 00, 8539 10 00, 8539 21 20, 8539 29 40	Windscreen wipers, defrosters and demisters, Sealed beam lamp units and other lamps for automobiles	10%	15%
22	8706	Chassis fitted with engines, for the motor vehicles of headings 8701 to 8705.	10%	15%
23	8707	Bodies (including cabs), for the motor vehicles of headings 8701 to 8705	10%	15%
		Electronics and Electrical equipments		
24	8415 90 00	Indoor and outdoor unit of split –system air conditioner	10%	20%
25	8518 21 00, 8518 22 00	Loudspeaker	10%	15%
26	8521 90 90	Digital Video Recorder (DVR) and Network Video Recorder (NVR)	15%	20%
27	8525 80	CCTV camera and IP camera	15%	20%
28	9001 10 00	Optical Fibres, optical fibre bundles and cables	10%	15%
	Miscellaneous changes in Tariff Schedule			
29	9804	Chapter Note 7 to be inserted in Chapter 98 so as to exclude printed books imported for personal use from the purview of heading 9804. This heading covers all dutiable articles imported for personal use and attracts 28% IGST. This amendment would exclude printed books from this heading and they would be subject to the applicable merit rate.		
B.	**Amendments not affecting rates of duty [Clause 87(b) of the Finance (No. 2) Bill, 2019]**			
30	First Schedule to the Customs Tariff Act, 1975 is amended to: (i) Create specific tariff lines for specific products, presently classified as others; (ii) Rectify the errors to align it with HSN. These changes would come into effect from a date to be notified by the Central Government in the official gazette.			

* Will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

IV. OTHER PROPOSALS INVOLVING CHANGES IN BASIC CUSTOMS DUTY RATES AND CLARIFICATORY AMENDMENTS IN RESPECTIVE NOTIFICATIONS

S. No	Heading, sub-heading tariff item	Commodity	From	To
		Defence		
1	Any Chapter	Specified Defence equipment and their parts imported by the Ministry of Defence or the Armed Forces	Applicable rate	Nil
		Medical Devices		
2	Any Chapter	Raw material, parts or accessories for use manufacture of artificial kidneys, disposable sterilized dialyzer and micro-barrier of artificial kidney	Applicable rate	Nil
		Food processing		
3	0801 32 10	Cashew kernel broken	Rs 60/ Kg or 45%, whichever is higher	70%
4	0801 32 20, 0801 32 90	Cashew kernel whole, Cashew nuts shelled, others	Rs 75/ Kg or 45%, whichever is higher	70%

		Nuclear Fuels and Nuclear Energy projects		
5	2612 10 00	All forms of Uranium ores and Concentrates for generation of nuclear power (Uranium concentrate U_3O_8 already exempt)	2.5%	Nil
6	2844 20 00	All goods for use in generation of Nuclear power (Certain goods such as sintered natural uranium dioxide already exempt)	7.5%	Nil
7	9801	All goods required for setting up of the following power projects under project imports: - a) Mahi Banswara Atomic Power project- 1 to 4, Mahi Banswara site Rajasthan b) Kaiga Atomic Power project – 5 & 6, Kaiga site, Karnataka c) Gorakhpur Atomic Power project- 3 & 4, GHAVP, Haryana d) Chutka Atomic Power project- 1 & 2, Chutka site, Madhya Pradesh	Applicable rate	Nil
		Oils and associated chemicals		
8	Chapter 15, 2915 70, 3823 11 00, 3823 12 00, 3823 13 00, 3823 19 00	Palm stearin and other oils, having 20% or more free fatty acid, Palm Fatty Acid Distillate and other industrial monocarboxylic fatty acids, acid oils from refining, for use in manufacture of soap and oleochemicals.	Nil	7.5%
		Petroleum and Petrochemicals		
9	2709 00 00	Petroleum Crude	Nil	Re. 1 per tonne
10	2710	Naphtha	5%	4 %
11	2903 15 00	Ethylene dichloride (EDC)	2%	Nil
12	2910 20 00	Methyloxirane (Propylene Oxide)	7.5%	5%
13		**Plastic and Rubber**		
14	3904	Poly Vinyl Chloride	7.5%	10%
15	3926 90 91, 3926 90 99	Articles of plastics	10%	15%
16	4002 31 00	All goods i.e. Butyl Rubber	5%	10%
17	4002 39 00	Chlorobutyl rubber or bromobutyl rubber	5%	10%
		Paper and Paper products		
18	48	a. Newsprint b. Uncoated paper used for printing of newspapers c. Lightweight coated paper used for printing of magazines	Nil	10%
19	4901 10 10, 4901 91 00, 4901 99 00	Printed books (including covers for printed books) and printed manuals, in bound form or in loose-leaf form with binder, executed on paper or any other material including transparencies.	Nil	5%
		Textiles		
20	5101	Wool Fibre	5%	2.5%
21	5105	Wool Tops	5%	2.5%

		Flooring materials		
22	2515 12 20, 6802 10 00, 6802 21 10, 6802 21 20, 6802 21 90, 6802 91 00, 6802 92 00	Marble Slabs	20%	40%
		Inputs for Optical Fibres		
23	28 or 70	Raw materials used in manufacture of Preform of Silica:- (i) Refrigerated Helium Liquid (2804 29 10) (ii) Silicon Tetra Chloride and Germanium Tetra Chloride (2812 19 20, 2812) (iii) Silica Rods (7002 20 90) (iv) Silica Tube (7002 31 00)	Applicable Rate	Nil
24	5603 94 00	Water blocking tapes for manufacture of optical fiber cable	Nil	20%
		Precious Metals		
25	7106	Silver dore bar, having silver content not exceeding 95%	8.5%	11%
26	7108	Gold dore bar, having gold content not exceeding 95%	9.35%	11.85%
27	71 or 98	(a) Gold (excluding ornaments studded with stones or pearls) imported by an eligible passenger as baggage (b) Silver (excluding ornaments studded with stones or pearls) imported by an eligible passenger as baggage	10%	12.5%
		Iron and Steel, Other base metals		
28	7218	Stainless steel in ingots or other primary forms; semi-finished products of stainless less	5%	7.5%
29	7224	Other alloy steel in ingots or other primary forms; semi-finished products of other alloy steel	5%	7.5%
30	7225, 7225 19 90	Inputs for the manufacture of CRGO steel:- a) MgO coated cold rolled steel coils b) Hot rolled coils c) Cold-rolled MgO coated and annealed steel d) Hot rolled annealed and pickled coils e) Cold rolled full hard	5%	2.5%
31	7226 99 30	Amorphous alloy ribbon	10%	5%
32	7229	Wire of other alloy steel (other than INVAR)	5%	7.5%
33	8105 20 10	Cobalt mattes and other intermediate products of cobalt metallurgy	5%	2.5%
		Capital goods		
34	8474 20 10	Stone crushing (cone type) plants for the construction of roads	Nil	7.5%
35	82, 84, 85 or 90	Capital goods used for manufacturing of following electronic items, namely- (i) Populated PCBA (ii) Camera module of cellular mobile phones (iii) Charger/Adapter of cellular mobile phone (iv) Lithium Ion Cell (v) Display Module (vi) Set Top Box (vii) Compact Camera Module	Applicable rate	Nil

36	84, 85 or 90	Capital goods used for manufacturing of specified electronic items, namely- (i) Cathode Ray tubes; (ii) CD/CD-R/DVD/DVD-R; (iii) Deflection components, CRT monitors/CTVs; (iv) Plasma Display Panel	Nil	Applicable
		Electronics		
37	8504 40	Charger/Power adapter for CCTV camera/IP camera/DVR/NVR	Nil	15%
38	85	Specified electronic items like plugs, sockets, switches, connectors, relays.	Nil	Applicable rate
		Automobile and automobile parts		
39	8421 39 20, 8421 39 90	Catalytic convertor (All goods under these tariff items other than catalytic converters will continue at 7.5%)	5%	10%
40	8702, 8704	Completely Built Unit (CBU) of vehicles falling under heading 8702, 8704	25%	30%
41	Any Chapter	Following parts of electric vehicles: - (i) E-Drive assembly, (ii) On board charger, (iii) E-compressor and (iv) Charging Gun	Applicable rate	Nil
42	87	Prescribing actual user condition in respect of existing exemption from BCD to parts of Hybrid vehicles	-	-
		Oil rigs and other goods used for oil exploration		
43	84 or any other chapter	Providing option to pay BCD at transaction value on the disposal of goods, imported without payment of customs duty for petroleum operations / coal bed Methane operations where such disposal is made in unserviceable and mutilated condition	Applicable rate on depreciated value	7.5% on transaction value
		Export Promotion for Sports goods		
44	39 , 4407	Foam/EVA foam (39) and Pine Wood (4407) are being included in the list of items allowed duty free import upto 3% of FOB value of sports goods exported in the preceding financial year subject to specified conditions	Applicable rate	Nil
	Clarifications and Miscellaneous changes regarding Basic Customs Duty			
		Fisheries		
45	2309	Clarification is being issue that prawn feed and shrimp larvae feed, other than in pellet form will also attract 5% customs duty applicable on other fish feed in pellet form.		

V. PROPOSALS INVOLVING CHANGES IN EXPORT DUTY RATES

S. No.		Export duty changes	From	To
1	41	EI tanned Leather	15%	Nil
2	41	Hides, skins and leathers, tanned and untanned, all sorts	60%	40%

VI. AMENDMENT IN THE SIXTH SCHEDULE TO THE FINANCE ACT, 2018:

S. No.	Amendments in scheduled rate of Road and Infrastructure Cess levied as additional duty of customs, on Petrol and Diesel [to be effective from 06.07.2019]* [Clause [201] of the Finance (No. 2) Bill, 2019] [effective rate is prescribed by notification as detailed in VII below]	Rate of Duty	
		From	To
1	Motor spirit commonly known as petrol	Rs. 8 per litre	Rs 10 per litre
2	High speed diesel oil	Rs. 8 per litre	Rs 10 per litre

* Will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

VII. Effective change in rate of Road and Infrastructure Cess on Petrol and Diesel

S. No.	Description	Rate of Duty	
	Change in effective rate of Road and Infrastructure Cess, levied as additional duty of customs, on Petrol and Diesel	From	To
1	Motor spirit commonly known as petrol	Rs. 8 per litre	Rs 9 per litre
2	High speed diesel oil	Rs. 8 per litre	Rs 9 per litre

VIII. RETROSPECTIVE AMENDMENTS OF RATE NOTIFICATIONS

S. No.	Amendment	Clause of the Finance (No. 2) Bill, 2019
1	(i) Notification Nos. 46/2011-Customs, dated 01.06.2011, 53/2011-Customs, dated 01.07.2011, 12/2012-Customs dated 17.03.2012 are proposed to be amended retrospectively to insert correct CTH of Stearic Acid in the notifications with effect from 31.03.2017. (ii) Notification No. 50/2017-Customs dated 30.06.2017 is also proposed to be amended retrospectively to insert correct CTH of Stearic Acid in the notifications with effect from 01.07.2017.	[82] [83]
2	Notification No. 86/2018-Customs dated 31st December, 2018 amending notification No. 296/76-Customs dated 2nd August, 1976 is proposed to be given retrospective effect so as to exempt IGST and compensation cess leviable under section 3(7) and section 3(9) of the Customs Tariff Act, 1975 respectively, on the temporary importation of vehicles under the Customs Convention on the Temporary Importation of Private Road Vehicles (carnet de passages-en-douane) for the period 1st July, 2017 to 31st December, 2018.	[84]
3	Retrospective effect, for the period 21st October, 2015 to 22nd February, 2016 to notification No. 5/2016-Customs (ADD) dated 22nd February, 2016 to insert correct classification of product under consideration for ADD namely All Fully Drawn or Fully Oriented Yarn/Spin Draw Yarn/Flat Yarn of Polyester (non-textured and non - POY) (from 5402 to 5402 47). This notification amended the notification No. 51/2015-Customs (ADD) dated 21st October, 2015.	[88]
4	Retrospective effect, for the period 8th March, 2016 to 4th July, 2016 to notification No. 29/2016-Customs (ADD) dated 5th July, 2016 to exclude ter polymer from the ambit of product under consideration for ADD on Polypropylene. This notification amended notification No. 7/2016-Customs dated 8th March, 2016.	[89]

IX Other Miscellaneous changes

1	To rephrase the existing entry to make the intention explicitly clear that prawn feed, shrimp larvae feed in any form are entitled to concessional rate of 5% whereas fish feed in pellet form only attracts 5%
2	To include HS 8486 in the notification No. 25/1998-Customs so as to explicitly exempt from BCD all the machines used for the manufacture of semi-conductors as included in the notification
3	To include “Headphones, earphones and combined microphone/speaker sets of Line Telephone handsets” in notification No. 25/2005-Customs dated 1st March 2005 as these items were included in the ITA agreement, by changing the description of goods against tariff sub heading 8518 30 00
4	To amend entry at S. No. 6A of the notification No. 57/2017-Customs so as to explicitly exclude microphones, receivers, speaker, connectors and SIM socket from the said entry

EXCISE

Note: (a) "Basic Excise Duty" means the excise duty set forth in the Fourth Schedule to the Central Excise Act, 1944.

(b) "Road and Infrastructure Cess" means the additional duty of central excise levied under section 112 of the Finance Act, 2018.

(c) "Special Additional Excise Duty" means a duty of excise levied under section 147 of the Finance Act, 2002.

(d) Clause Nos. in square brackets [ ] indicate the relevant clause of the Finance (No. 2) Bill, 2019.

(e) Amendments carried out through the Finance (No. 2) Bill, 2019 come into effect on the date of its enactment, unless otherwise specified.

I. AMENDMENTS IN THE FOURTH SCHEDULE TO THE CENTRAL EXCISE ACT, 1944

S. No.	Amendments affecting rate of Basic Excise Duty [to be effective from 06.07.2019]* [Clause [90] of the Finance (No. 2) Bill, 2019]		Rate of Duty	
S. No.	Heading, sub-heading tariff item	Commodity	From	To
1	2709 20 00	Petroleum Crude	Nil	Re. 1 per tonne

* Will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

II. PROPOSALS INVOLVING CHANGE IN EXCISE DUTY RATES THROUGH NOTIFICATIONS:

S. No.	Heading, sub-heading tariff item	Commodity	From	To
1	2402 20 10	Other than filter cigarettes, of length not exceeding 65 millimeters	Nil	Rs 5 per thousand
2	2402 20 20	Other than filter cigarettes, of length exceeding 65 millimeters but not exceeding 70 millimeters	Nil	Rs. 5 per thousand
3	2402 20 30	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimeters or its actual length, whichever is more) not exceeding 65 millimeters	Nil	Rs. 5 per thousand
4	2402 20 40	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimeters or its actual length, whichever is more) exceeding 65 millimeters but not exceeding 70 millimeters	Nil	Rs. 5 per thousand
5	2402 20 50	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimeters or its actual length, whichever is more) exceeding 70 millimeters but not exceeding 75 millimeters	Nil	Rs. 5 per thousand
6	2402 20 90	Other (*Cigarettes containing tobacco*)	Nil	Rs. 10 per thousand
7	2402 90 10	Cigarettes of tobacco substitutes	Nil	Rs. 5 per thousand
8	2403 11 10	Hookah or gudaku tobacco	Nil	0.5%
9	2403 19 10	Smoking mixtures for pipes and cigarettes	Nil	1%
10	2403 19 21	Other than paper rolled biris, manufactured without the aid of machine	Nil	5 paisa per thousand

11	2403 19 29	Other *(Biris)*	Nil	10 paisa per thousand
12	2403 19 90	Other *smoking tobacco*	Nil	0.5%
13	2403 91 00	"Homogenised" or "reconstituted" tobacco	Nil	0.5%
14	2403 99 10	Chewing tobacco	Nil	0.5%
15	2403 99 20	Preparations containing chewing tobacco	Nil	0.5%
16	2403 99 30	Jarda scented tobacco	Nil	0.5%
17	2403 99 40	Snuff	Nil	0.5%
18	2403 99 50	Preparations containing snuff	Nil	0.5%
19	2403 99 60	Tobacco extracts and essence	Nil	0.5%
20	2403 99 90	Other *(manufactured tobacco and substitutes)*	Nil	0.5%
21	2709 20 00	Crude Petroleum oil produced in specified oil fields under production sharing contracts or in the exploration blocks offered under the New Exploration Licensing Policy (NELP) through international competitive bidding	Re. 1 per tonne	Nil

III. AMENDMENT IN THE EIGHTH SCHEDULE TO THE FINANCE ACT, 2002:

S. No.	**Amendments in scheduled rate of Special Additional Excise Duty on Petrol and Diesel [to be effective from 06.07.2019]* [Clause [185] of the Finance (No. 2) Bill, 2019][effective rate is prescribed by notification as detailed in V-A below]**	**Rate of Duty**	
		From	**To**
1	Motor spirit commonly known as petrol	Rs. 7 per litre	Rs 10 per litre
2	High speed diesel oil	Rs. 1 per litre	Rs 4 per litre

* Will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

IV. AMENDMENT IN THE SIXTH SCHEDULE TO THE FINANCE ACT, 2018:

S. No.	**Amendments in scheduled rate of Road and Infrastructure cess levied as additional duty of excise, on Petrol and Diesel [to be effective from 06.07.2019]* [Clause [201] of the Finance (No. 2) Bill, 2019] [effective rate is prescribed by notification as detailed in V-B below]**	**Rate of Duty**	
		From	**To**
1	Motor spirit commonly known as petrol	Rs. 8 per litre	Rs. 10 per litre
2	High speed diesel oil	Rs. 8 per litre	Rs. 10 per litre

*Will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

V. Effective change in rate of Special Additional Excise Duty and Road and Infrastructure Cess on Petrol and Diesel

S. No.	**Description**	**Rate of Duty**	
A	**Increase in effective rate of Special Additional Excise Duty on Petrol and Diesel**	**From**	**To**
1	Motor spirit commonly known as petrol	Rs. 7 per litre	Rs. 8 per litre
2	High speed diesel oil	Rs. 1 per litre	Rs. 2 per litre
B	**Increase in effective rate of Road and Infrastructure Cess, levied as additional duty of excise, on Petrol and Diesel**	**From**	**To**
1	Motor spirit commonly known as petrol	Rs. 8 per litre	Rs. 9 per litre
2	High speed diesel oil	Rs. 8 per litre	Rs. 9 per litre

SERVICE TAX

Note: (a) "Service Tax" means the service tax levied under section 66B of the Finance Act, 1994

(b) Amendments carried out through the Finance (No. 2) Bill, 2019 come into effect on the date of its enactment, unless otherwise specified.

S. No.	Retrospective exemptions	Clause of Finance (No.2) Bill, 2019
1	Services provided or agreed to be provided by the State Government by way of grant of liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called, are proposed to be exempted from service tax for during the period commencing from 1st April, 2016 and ending with the 30th June, 2017.	[116]
2	Services provided or agreed to be provided by the Indian Institutes of Management, as per the guidelines of the Central Government, to their students, by way of the following educational programmes, except Executive Development Programme, - (a) two-year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT), conducted by Indian Institute of Management; (b) fellow programme in Management; (c) five year integrated programme in Management. are proposed to be exempted from service tax for during the period commencing from the 1st day of July, 2003 and ending with the 31st day of March, 2016.	[117]
3	Consideration paid in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service, by way of granting of long term lease of thirty years, or more of plots for development of infrastructure for financial business, provided or agreed to be provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 50% or more ownership of Central Government, State Government, Union Territory to the developers in any industrial or financial business area, is proposed to be exempted from Service Tax for the period commencing from the 1st October, 2013 and ending with the 30th June, 2017.	[118]

Sabka Vishwas Legacy Dispute Resolution Scheme

S. No.	Details of the proposal	Clause of Finance (No.2) Bill, 2019
1	A dispute resolution cum amnesty scheme called the Sabka Vishwas Legacy Dispute Resolution Scheme is being introduced for resolution and settlement of legacy cases of Central Excise and Service Tax	[119-134]

Goods and Services Tax

Note: (a) CGST Act means Central Goods and Services Tax Act, 2017

(b) IGST Act means Integrated Goods and Services Tax Act, 2017

(c) UTGST Act means Union Territory Goods and Services Tax Act, 2017

(d) Amendments carried out through the Finance (No. 2) Bill, 2019 come into effect on the date of its enactment, unless otherwise specified.

Amendments carried out in the Finance Bill, 2019 will come into effect from the date when the same will be notified, concurrently with the corresponding amendments to the Acts passed earlier by the States & Union territories with legislature.

I. AMENDMENTS IN THE CGST ACT, 2017:

S. No.	Amendment	Clause of the Finance (No.2) Bill, 2019
1	The definition of "adjudicating authority" in clause (4) of section 2 of the CGST Act is being amended so as to exclude "the National Appellate Authority for Advance Ruling" (which is being created by various amendments in Chapter XVII of the CGST Act) from the definition of "adjudicating authority".	[91]
2	A new sub-section is being inserted in section 10 of the CGST Act to bring in an alternative composition scheme for supplier of services or mixed suppliers (not eligible for the earlier composition scheme) having an annual turnover in preceding financial year upto Rs 50 lakhs. Further, explanation is being added to section 10 to clarify that: i. for computing the aggregate turnover to determine eligibility for the composition scheme, value of exempt supplies services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account; and ii. for determining the value of turnover in a State or Union territory to calculate tax payable, value of exempt supplies of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount; and value of the first supplies from 1st of April till the date when the taxpayer becomes liable for registration shall not be taken into account.	[92]
3	A proviso and an explanation is being inserted in section 22 of the CGST Act so as to provide for higher threshold exemption limit from Rs. 20 lakhs to such amount not exceeding Rs. 40 lakhs in case of supplier who is engaged in exclusive supply of goods.	[93]
4	New sub-sections are being inserted in section 25 of the CGST Act to make Aadhaar authentication mandatory for specified class of new taxpayers and to prescribe the manner in which certain class of registered taxpayers are required to undergo Aadhaar authentication.	[94]
5	A new section 31A is being inserted in the CGST Act so that specified suppliers shall have to mandatorily give the option of specified modes of electronic payment to their recipients.	[95]
6	Section 39 of the CGST Act is being amended so as to allow the composition taxpayers to furnish annual return along with quarterly payment of taxes; and other specified taxpayers may be given the option for quarterly or monthly furnishing of returns and payment of taxes under the proposed new return system.	[96]
7	New provisos are being inserted in sub-section (1) of section 44 of the CGST Act so as to empower the Commissioner to extend the due date for furnishing Annual return (prescribed **FORM GSTR-9/9A**) and reconciliation statement (prescribed **FORM GSTR-9C**).	[97]

8	New sub-sections are being inserted in section 49 of the CGST Act to provide a facility to the registered person to transfer an amount from one (major or minor) head to another (major or minor) head in the electronic cash ledger.	[98]
9	New proviso in sub-sections (1) is being inserted in section 50 of the CGST Act so as to provide for charging interest only on the net cash tax liability, except in those cases where returns are filed subsequent to initiation of any proceedings under section 73 or 74 of the CGST Act.	[99]
10	New provisos are being inserted in sub-sections (4) and (5) of section 52 of the CGST Act so as to empower the Commissioner to extend the due date for furnishing of monthly and annual statement by the person collecting tax at source.	[100]
11	A new section 53A is being inserted in the CGST Act so as to provide for transfer of amount between Centre and States consequential to amendment in section 49 of the CGST Act allowing transfer of an amount from one head to another head in the electronic cash ledger of the registered person .	[101]
12	New sub-section (8A) is being inserted in section 54 of the CGST Act so as to provide that the Central Government may disburse refund amount to the taxpayers in respect of refund of State taxes as well.	[102]
13	New clause (f) is being inserted in section 95 of the CGST Act to define the “National Appellate Authority for Advance Ruling”.	[103]
14	New sections 101A, 101B and 101C are being inserted in the CGST Act so as to provide for constitution, qualification, appointment, tenure, conditions of services of the National Appellate Authority for Advance Ruling; to provide for procedures to be followed for hearing appeals against conflicting advance rulings pronounced on the same question by the Appellate Authorities of two or more States or Union territories in case of distinct persons; and to provide that the National Appellate Authority shall pass order within a period of ninety days from the date of filing of the appeal respectively.	[104]
15	Section 102 of the CGST Act is being amended so as to allow the National Appellate Authority to amend any order passed by it so as to rectify any error apparent on the face of the record, within a period of six months from the date of the order, except under certain specified circumstances.	[105]
16	Section 103 of the CGST Act is being amended so as to provide that the advance ruling pronounced by the National Appellate Authority shall be binding, unless there is a change in law or facts, on the applicants, being distinct person and all registered persons having the same Permanent Account Number and on the concerned officers or the jurisdictional officers in respect of the said applicants and the registered persons having the same Permanent Account Number.	[106]
17	Section 104 of the CGST Act is being amended so as to provide that advance ruling pronounced by the National Appellate Authority shall be void where the ruling has been obtained by fraud or suppression of material facts or misrepresentation of facts.	[107]
18	Section 105 of the CGST Act is being amended so as to provide that the National Appellate Authority shall have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of exercising its powers under the Act.	[108]
19	Section 106 of the CGST Act is being amended so as to provide that the National Appellate Authority shall have power to regulate its own procedure.	[109]
20	Consequent to the amendments in section 44 and section 52 of the CGST Act, section 168 is being amended so as to specify that in respect of sub-section (1) of section 44 and sub-sections (4) and (5) of section 52, Commissioner or Joint Secretary shall exercise the powers specified in the said sections with the approval of the Board.	[110]
21	Section 171 of the CGST Act is being amended so as to empower the National Anti-profiteering Authority (under sub-section (2) of section 171 of the Act) to impose penalty equivalent to 10% of the profiteered amount.	[111]

II. AMENDMENTS IN THE IGST ACT, 2017:

S. No.	Amendment	Clause of the Finance (No. 2) Bill, 2019
1	A new section 17A is being inserted in the IGST Act so as to bring into the Act, provisions for transfer of amount between Centre and States consequential to amendment in section 49 of the CGST Act allowing transfer of an amount from one head to another head in the electronic cash ledger of the registered person.	[113]

III. Retrospective Amendments of GST rate notifications

S. No.	Amendment	Clause of the Finance (No. 2) Bill, 2019
1	Notification No. 2/2017-Central Tax (Rate) dated the 28th June, 2017, issued under sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017, is being amended retrospectively so as to exempt “Uranium Ore Concentrate” from the levy of Central Tax from 1st July, 2017 to 14th November, 2017.	[112]
2	Notification No. 2/2017-Integrated Tax (Rate) dated the 28th June, 2017, issued under sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017, is being amended retrospectively so as to exempt “Uranium Ore Concentrate” from the levy of Integrated Tax from 1st July, 2017 to 14th November, 2017.	[114]
3	Notification No. 2/2017-Union Territory Tax (Rate) dated the 28th June, 2017, issued under sub-section (1) of section 8 of the Union Territory Goods and Services Tax Act, 2017, is being amended retrospectively so as to exempt “Uranium Ore Concentrate” from the levy of Union Territory Tax from 1st July, 2017 to 14th November, 2017.	[115]