Key Features of Budget 2017-2018

DIRECT TAX PROPOSALS

A. Rates of Income-tax

Rates of Income-Tax

Basic Rates

- The proposed rates of income-tax have in the case of every individual or hindu undivided family or every association of persons or body of individuals or artificial judicial person during the financial year 2017-18 are as under -

Total Income	Tax Rates (AY 2018-19)
Upto INR 2,50,000	Nil
INR 2,50,001 to INR 5,00,000	5 percent
INR 5,00,001 to INR 10,00,000	20 percent
Above INR 10,00,000	30 percent

Rates of Income-Tax

Basic Rates

- The proposed income-tax rates for every individual, being resident in India who is of the age of 60 years or more but less than 80 years at any time during the financial year 2017-18 are as under -

Total Income	Tax Rates (AY 2018-19)
Upto INR 3,00,000	Nil
INR 3,00,001 to INR 5,00,000	5 percent
INR 5,00,001 to INR 10,00,000	20 percent
Above INR 10,00,000	30 percent

Rates of Income-Tax

Basic Rates

- The proposed income-tax rates for every individual, being resident in India who is of the age of 80 years or more at any time during the financial year 2017-18 are as under -

Total Income	Tax Rates (AY 2018-19)
Upto INR 5,00,000	Nil
INR 5,00,001 to INR 10,00,000	20 percent
Above INR 10,00,000	30 percent

Rates of Income-Tax

Corporate Tax Rates

- The proposed income-tax rate for the **domestic companies** whose total turnover or gross receipts for the previous year 2015-16 **does not exceed INR 50 Crore** shall be **25 percent** of the total income.
- In all other cases the income tax rate of domestic companies shall be 30 percent of 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 2016-17**.

Rates of Income-Tax

Surcharge

Individuals, HUF, AOP, BOI and Artificial Juridical Persons

- In case of Individuals, Hindu Undivided Families, Association of Persons, Body of individuals and Artificial Juridical Persons, the amount of income-tax shall be increased by a surcharge at the rate of :
  - ***10 percent*** of such income-tax in case of a person having a total income exceeding ***INR 50 Lakhs*** but not exceeding ***INR 1 Crore****, and*
  - ***15 percent*** of such income-tax in case of a person having a total income exceeding ***INR 1 Crore****.*

Companies

- In the case of domestic company:-
  - having total income exceeding ***INR 1 Crore*** but does not exceed ***INR 10 Crores****, s*urcharge at the rate of ***7 percent*** of such income tax.

Rates of Income-Tax

Surcharge

- having total income exceeding ***INR 10 Crore,*** surcharge at the rate of ***12 percent*** of such income tax.

- In case of companies other than domestic companies,
  - having total income exceeding **INR 1 Crore** but does not exceed ***INR 10 Crore,*** the existing surcharge of ***2 percent*** of such income tax shall continue to be levied.
  - having total income exceeding **INR 10 Crore**, the surcharge at the rate of ***5 percent*** of such income tax shall continue to be levied.

Rates of Income-Tax

Surcharge

Firms, Co-operative societies, Local authorities

- Amount of income-tax shall be increased by a surcharge at the rate of ***12 percent*** of such income-tax in case of firms, co-operative societies and local authorities having a total income exceeding ***INR 1 Crore***.

  In other cases (including sections 115-O, 115QA, 115R, 115TA or 115TD), the surcharge shall be levied at the rate of 12 percent.

Marginal Relief

- Marginal relief shall be allowed in all these cases to ensure that the additional amount of income tax payable, including surcharge, on the excess of income over INR 50 Lakhs/1 Crore /10 Crores is limited to the amount by which the income is more than INR 50 Lakhs/1 Crore / 10 Crores.

Education Cess

- In the Financial year 2017-18, “Education cess on income-tax” and “Secondary and Higher Education cess on income-tax” shall be continued to be levied at the rate of ***two percent*** and ***one percent*** respectively on the amount of tax computed.

Rationalization of rebate under section 87A

Rebate allowed under section 87A

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*
- Section 87A is proposed to be amended so as to reduce the maximum amount of rebate available under the section to Rs. 2500 as against the existing amount of Rs. 5000.
- The section is proposed to be further amended to provide that the rebate shall be available only to resident individuals whose total income does not exceed Rs. 350,000.

B. Additional Resource Mobilisation

Rationalization of Taxation of Income by way of Dividend

Change in taxation of income by way of dividend

- Under the existing provisions of Section 115BBDA (tax on certain dividends received from domestic companied), income by way of dividend **in excess of Rs 10 Lakh** is chargeable at the rate of **10 percent** in case of a resident Individual, Hindu Undivided Family or Firm.

- ***Amendment*** *(w.e.f .1st April 2018 ie AY 2018-19 onwards)*

- It is proposed to **amend section** 115BBDA to make it applicable to **all resident assessees except domestic company and certain funds, trusts, institutions, etc**

Deduction of Tax at Source in the case of Certain Individuals and Hindu Undivided Family

TDS on Rent to be deducted by Individuals and HUF

- ***Amendment*** *(w.e.f. 1st June 2017 onwards)*

- It is proposed to insert a **new section 194-IB** in the Act to provide that Individuals or HUF (other than those covered under Section 44AB or in other words not liable for tax audit) responsible for paying to a resident **rent exceeding INR 50,000 for a month or part of a month** during the previous year shall deduct **5 percent** as income tax.

- It is further proposed that **tax shall be deducted** at the time of credit of rent, for the **last month of the previous year or the last month of tenancy** if the property is vacated during the year, as the case may be to the account of the payee or at the time of payment in cash or by issue of a cheque or draft or by any other mode, whichever is earlier.

- It is proposed that the deductor shall **not be required to obtain Tax Deduction Number (TAN**) as per section 203A of the Act.

- It is also proposed that the deductor shall be **liable to deduct tax only once in a previous year.**

- It is also proposed that where tax is required to be deducted as per the provisions of **section 206AA** (deduction of tax at a higher rate when the deductee fails to furnish PAN to the deductor), such deduction shall **not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy**, as the case may be.

C. Measures for Promoting Affordable Housing and Real Estate Sector

Incentives for Promoting Investment in Immovable property

Reduction in period of holding to qualify as long term asset

- To qualify for long term asset an assessee is required to hold the asset for more than 36 months subject to certain exceptions.

- ***Amendment*** *(w.e.f.1st April 2018 i.e. AY 2018-19 onwards)*

- It is proposed to amend section 2(42A) of the Act so as to reduce the period of holding from the existing 36 months to **24 months** in case of **immovable property** being land or building or both, to qualify as long term capital asset.

Rationalisation of Provisions of Section 80-IBA to promote Affordable Housing

Relaxations brought under Section 80-IBA

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

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*

- The conditions for claiming hundred per cent deduction of the profits of an assessee developing and building affordable housing projects under section 80-IBA after the amendment are as follows -

  i. the project is approved by the competent authority after the 1st day of June, 2016, but on or before the 31st day of March, 2019

  ii. the project is completed within a period of ***five years*** from the date of approval by the competent authority:

  iii. the ***carpet area*** of the shops and other commercial establishments included in the housing project does not exceed three per cent of the aggregate ***carpet area***;

  iv. the project is on a plot of land measuring not less than—
     - one thousand square metres, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or
     - two thousand square metres, where the project is located in any other place;

Rationalisation of Provisions of Section 80-IBA to promote Affordable Housing

Relaxations brought under Section 80-IBA

v. the project is the only housing project on the plot of land;

vi. the built-up area of the residential unit comprised in the housing project does not exceed—
   - thirty square metres, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai; or
   - sixty square metres, where the project is located in any other place;

vii. where a residential unit in the housing project is allotted to an individual, no other residential unit in the housing project shall be allotted to the individual or the spouse or the minor children of such individual;

viii. the project utilises
   - not less than ninety per cent of the floor area ratio permissible in respect of the plot of land under the rules to be made by the Central Government or the State Government or the local authority, as the case may be, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or
   - not less than eighty per cent of such floor area ratio where such project is located in any place other than the place referred to in the above clause; and

vii. the assessee maintains separate books of account in respect of the housing project.

Tax Incentive for the Development of Capital of Andhra Pradesh

Exemption from tax on transfer of land

- As per section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2014, the specified compensation received by the landowner in lieu of acquisition of land is exempt from income tax. The Land Pooling Scheme is an alternative form of arrangement made by the Government of Andhra Pradesh for formation of new capital city of Amaravati to avoid land-acquisition disputes and lessen the financial burden associated with payment of compensation under that Act.
  In Land pooling scheme, the compensation in the form of reconstituted plot or land is provided to landowners. However, the existing provisions of the Act do not provide for exemption from tax on transfer of land under the land pooling scheme as well as on transfer of Land Pooling Ownership Certificates (LPOCs) or reconstituted plot or land.

- ***Insertion of new clause (37A) to section 10: Amendment*** *(with retrospective effect from 1st April 2015 i.e. AY 2015-16)*

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

  i. Transfer of capital asset being land or building or both, under land pooling scheme.

Tax incentive for the development of capital Andhra Pradesh

Exemption from tax on transfer of land

ii. Sale of LPOCs by the said persons received in lieu of land transferred under the scheme.

iii. Sale of reconstituted plot or land by said persons within two years from the end of the financial year in which the possession of such plot or land was handed over to the said persons.

- ***Amendment*** *(w.e.f. 1st April, 2018 i.e. AY 2018-19 onwards)*

- It is also proposed to make amendment in **section 49** of the Act so as to provide that **transfer of the reconstituted plot or land**, received under land pooling scheme after the **expiry of two years** from **the end of the financial year in which the possession of such plot or land was handed over to the said assessee, the cost of acquisition of such plot or land** shall be **deemed** to be its **stamp duty value on the last day of the second financial year after the end of financial year in which the possession of such asset was handed over to the assessee.**

Special Provisions for Computation of Capital Gains in case of Joint Development Agreement

Amendment to Section 45 of the Act

- Under the existing provisions of section 45, capital gain is chargeable to tax in the year in which transfer takes place except in certain cases.
  In such a scenario, execution of Joint Development Agreement between the owner of immovable property and the developer triggers the capital gains tax liability in the hands of the owner in the year in which the possession of immovable property is handed over to the developer for development of a project.

- ***Amendment*** *(w.e.f. 1st April, 2018 i.e. AY 2018-19 onwards)*

- With a view to minimise the genuine hardship which the owner of land may face in paying capital gains tax in the year of transfer, it is proposed to insert **a new sub-section (5A) in section 45** of the Act.

- As per the proposed amended section an assessee being **Individual or HUF**, who enters into a **specified agreement for development of a project**, the **capital gains** shall be chargeable to income-tax as income of the **previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.**

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

Special Provisions for Computation of Capital Gains in case of Joint Development Agreement

Amendment to Section 45 of the Act

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

- It is also proposed to make consequential amendment in **section 49** so as to provide that the **cost of acquisition of the share in the project** being land or building or both, **in the hands of the land owner** shall be the **amount which is deemed as full value of consideration** under the said proposed provision.

Insertion of New Section 194-IC

- ***Amendment*** *(w.e.f. AY 2018-19 onwards)*

- It is also proposed to insert a **new section 194-IC** in the Act so as to provide that in case any monetary consideration is payable under the specified agreement, tax at the rate of **10 percent** shall be deductible from such payment.

Shifting Base Year from 1981 to 2001 for Computation of Capital Gains

Shifting the Base Year from 1981 to 2001

- As per the existing provisions of section 55, indexation benefit is available on cost of acquisition and cost of improvement for assets classified as long term while computing capital gains. Further for assets purchased before 1st April,1981, the cost of acquisition is either the fair market value of the asset as on 1st April,1981 or the actual cost of the asset, at the option of the assessee.

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*

- It is proposed to amend section 55 of the Act so as to provide that the cost of acquisition of an asset acquired before 1st April, 2001 shall be allowed to be taken as fair market value as on 1st April, 2001 and the cost of improvement shall include only those capital expenses which are incurred after 01.04.2001.

- It is also proposed to amend section 48 to align the provisions relating to the Cost Inflation Index to the proposed base year.

Expanding the Scope of Long Term Bonds under 54EC

Section 54EC

- The existing provisions of section 54EC provides that capital gain to the extent of Rs. 50 lakhs arising from the transfer of a long-term capital asset is exempt if the assessee invests the whole or any part of capital gains in certain specified bonds, within the specified time.

- Currently, investment in bond issued by the National Highways Authority of India or by the Rural Electrification Corporation Limited is eligible for exemption under this section.

- ***Amendment*** *(w.e.f 1st April 2018 i.e. AY 2018-19 onwards)*

- Section 54EC is amended to provide that **investment in any bond redeemable after three years** which has been notified by the Central Government in this behalf shall also be **eligible for exemption.**

No Notional Income for House Property held as Stock in Trade

Determination of Annual Value of House Property held as Stock in Trade

- ***Amendment*** *(w.e.f 1st April 2018 i.e. AY 2018-19 onwards)*

- Section 23 of the Act provides for the manner of determination of annual value of house property.

- This section is amended to provide that where the house property consisting of any building and land appurtenant thereto is **held as stock-in-trade** and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period **upto 1 year** from the **end of the financial year in which the certificate of completion of construction of the property is obtained** from the competent authority, shall be taken to be **nil**.

D. Measures for Stimulating Growth

Extension of Eligible Period of Concessional Tax Rate on Interest in case of External Commercial Borrowing and Extension of benefit to Rupee Denominated Bonds

Amendment to Section 194LC of the Act

- The existing provisions of section 194-LC of the Act provide that the interest 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 shall be eligible for concessional TDS of 5 per cent in respect of borrowings made before 1st July, 2017.

- ***Amendment*** *(w.e.f .1st April 2018 i.e. AY 2018-19 onwards)*

- It is proposed to amend 194LC to provide that the concessional rate of 5 percent TDS on interest payment will now be available in respect of borrowings made before the 1st July, 2020.

- ***Amendment*** *(with retrospective effect from 1st April 2016 i.e. AY 2016-17 onwards)*

- The concessional rate of 5percent TDS on interest payment is also proposed to be extended to Rupee Denominated Bonds issued outside India before 1st July 2020.

Extension of Eligible Period of Concessional Tax Rate under Section 194LD

Amendment to Section 194-LD of the Act

- The existing provisions of section 194LD of the Act, provides for lower TDS at the rate of 5 percent in the case of interest payable at any time on or after 1st June, 2013 but before the 1st July, 2017 to FIIs and QFIs on their investments in Government securities and rupee denominated corporate bonds provided that the rate of interest does not exceed the rate notified by the Central Government in this behalf.

- ***Amendment*** *(w.e.f .1st April, 2018 i.e. AY 2018-19 onwards)*

- The said section is amended to provide that the concessional rate of 5 percent TDS on interest will now be available on interest payable before the 1st July, 2020.

Carry Forward and Set off of Loss in case of Certain Companies

Amendment to section 79 of the Act

- Presently, as per section 79, a company (in which the public is not substantially interested) can carry forward losses incurred in any prior year and set it off against income of the previous year, ***only if more than 51% the shareholders of such company beneficially holding shares carrying voting power on the last day of the prior year in which the loss was incurred, continue to beneficially hold these shares on the last day of the previous year in which set off is claimed***.

- ***Amendment*** *(w.e.f .1st April 2018 i.e. AY 2018-19 onwards)*
- In order to facilitate ease of doing business and to promote start up India, It is now proposed to amend section 79 to provide that in case of eligible start-up companies referred to in section 80IAC, such carry forward of losses and set off against income of the previous year shall be allowed ***only if all the shareholders*** holding shares in the prior year in which loss was incurred, continue to hold those shares in the year of set off as well.
- Further, only the losses incurred during the ***period of seven years*** beginning from the year in which such company was incorporated would be allowed to be carried forward.
- The exceptions provided under section 79 in relation to changes in shareholding due to death of a shareholder, or gifting of shares to relatives of the shareholders or change in the shareholding of an Indian company that is a subsidiary of a foreign company on account of amalgamation or demerger of a foreign company shall continue as per existing provisions of section 79

Extending the Period for Claiming Deduction by Start-ups

Amendment to section 80-IAC of the Act

- The existing provisions of section 80-IAC, inter alia, provide that an eligible start-up shall be allowed a deduction of an amount equal to 100 percent of the profits and gains derived from eligible business for 3 consecutive assessment years out of 5 years beginning from the year in which such eligible start-up is incorporated.

- ***Amendment*** *(w.e.f .1st April 2018 i.e. AY 2018-19 onwards)*

  In view the fact that start-ups may take time to derive profit out of their business, 80-IAC has been amended to provide that deduction can be claimed by an eligible start-up for any **3 consecutive assessment years out of 7 years** beginning from the year in which such eligible start-up is incorporated. The section proposed to amended has been sumarised as follows –

- A deduction is provided of one hundred percent of the profits and gains derived by an eligible start-up from a business involving innovation development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.

- The deduction can be claimed at the option of the assessee for any **3 consecutive assessment years out of 7 years** beginning from the year in which the eligible start-up is incorporated.

Extending the Period for Claiming Deduction by Start-ups

Amendment to section 80-IAC of the Act

- This option is not applicable to:
  - ✓ To an establishment formed by splitting up, or the reconstruction, of a business already in existence.
  - ✓ To an establishment not formed by the transfer to a new business of machinery or plant previously used for any purpose.
- Machinery or plant which was used outside India by any person other than the assessee shall not be regarded as machinery or plant previously used for any purpose, if all the following conditions are fulfilled, namely:—
  - ✓ Such machinery or plant was not, at any time previous to the date of the installation by the assessee, used in India;
  - ✓ Such machinery or plant is imported into India;
  - ✓ No deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of the machinery or plant by the assessee.

Extending the Period for Claiming Deduction by Start-ups

Amendment to section 80-IAC of the Act

- Eligible start-up" means a company engaged in eligible business which fulfils the following conditions, namely:—

  - ✓ It is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, 2019;
  - ✓ The total turnover of its business does not exceed twenty-five crore rupees in any of the previous years beginning on or after the 1st day of April, 2016 and ending on the 31st day of March, 2021; and
  - ✓ It holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government.

Rationalisation of Provisions relating to Tax Credit for Minimum Alternate Tax and Alternate Minimum Tax

Extension of period of carry forward of tax credit u/s 115JAA and 115JD

- Under the existing provisions the MAT credit can be carried forward upto 10 assessment years.

- ***Amendment*** *(w.e.f .1st April 2018 i.e. AY 2018-19 onwards)*

- Section **115JAA** is proposed to be amended to provide that the MAT credit can be carried forward up to **15 assessment years** immediately succeeding the assessment years in which such tax credit becomes allowable.

- Further, similar amendment is proposed to be made in section **115JD** so as to allow carry forward of Alternate Minimum Tax (AMT) paid under section 115JC upto **15 assessment years** in case of non corporate assessee.

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

Extension of scope of section 43D to Co-operative Banks

Amendment to section 43D and 43B of the Act

- ***Amendment*** *(w.e.f .1st April 2018 i.e. AY 2018-19 onwards)*

- It is proposed to amend section 43D of the Act so as to include co-operative banks other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

- Further, it is also 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 co-operative bank **other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank** shall be allowed as deduction if it is **actually paid on or before the due date of furnishing the return of income** of the relevant previous year.

Increase in deduction limit in respect of provision for bad and doubtful debts

Increase in limit of deduction

- ***Amendment*** *(w.e.f .1st April 2018 i.e. AY 2018-19 onwards)*

- It is proposed to amend the said sub-clause (a) of section 36(1) (viia) of the Act to enhance the present limit from 7.5 percent to **8.5 percent** of the amount of the total income (computed before making any deduction under that clause and Chapter VIA).

E. Promoting Digital Economy

Restricting cash donations

Reduction in the amount of cash donation from INR 10,000 to INR 2000 to qualify for deduction u/s 80G

- ***Amendment*** *(w.e.f .1st April 2018 i.e. AY 2018-19 onwards)*

- It is proposed to amend section 80G so as to provide that no deduction shall be allowed in respect of donation of any sum exceeding **INR 2,000** (INR 10,000 under existing provisions) unless such sum is paid by any mode other than cash.

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

Disallowance of Capital Expenditure incurred in Cash

- ***Amendment*** *(w.e.f .1st April 2018 i.e. AY 2018-19 onwards)*

- In order to discourage cash transactions for capital expenditure, it is proposed to amend the provisions of **section 43** of the Act to provide that where an assessee incurs any expenditure for acquisition of any asset in respect of which a payment or aggregate of payments made to a person **in a day**, otherwise than by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account, **exceeds INR 10,000**, **such expenditure shall be ignored for the purposes of determination of actual cost of such asset.**

- It is further proposed to amend **section 35AD** of the Act to provide that any expenditure in respect of which payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account, **exceeds INR 10,000**, **no deduction shall be allowed in respect of such expenditure.**

Measures to Discourage Cash Transactions

Measures to discourage cash transactions

- ***Amendment*** *(w.e.f .1st April 2018 i.e. AY 2018-19 onwards)*

- It is proposed to amend the provision of section 40A of the Act to provide the following:

  i. To **reduce** the **existing threshold of cash payment** to a person from **INR 20,000 to INR 10,000** in **a single day**; i.e any payment in cash above INR 10,000 to a person in a day, shall not be allowed as deduction in computation of Income from "Profits and gains of business or profession";

  ii. Deeming a payment as profits and gains of business or profession if the expenditure is incurred in a particular year but the cash payment is made in any subsequent year of a sum exceeding INR 10,000 to a person in a single day;

  iii. Inclusion of electronic clearing system through a bank account as a specified mode of payment u/s 40A(3).

Measures for Promoting digital payments in case of small unorganised businesses

Presumptive income tax rate reduced to 6 percent subject to conditions

- Under the existing provisions of section 44AD of the Act, an eligible assessee engaged in eligible business having total turnover or gross receipts not exceeding INR 2 crore in a previous year, shall declare a sum equal to 8 percent of the total turnover or gross receipts, or, as the case may be, a sum higher than the aforesaid sum, as deemed profits and gains of such business chargeable to tax under the head "profits and gains of business or profession".

- ***Amendment*** *(w.e.f. AY 2018-19 onwards)*

- It is proposed to amend the said section to reduce the existing rate of deemed total income of 8 percent to **6 percent** in respect of the amount of such total turnover or gross receipts received by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account (i.e.6 percent of turnover which is received by digital or banking means) during the previous year or before the due date specified in section 139(1) in respect of that previous year.

Restriction on Cash Transactions

New Sections 269-ST and 271-DA inserted

- ***Amendment*** *(w.e.f. AY 2018-19 onwards)*

- In order to reduce the generation and circulation of black money as well as move towards a less cash economy, it is proposed to insert section 269ST in the Act to provide that no person shall receive an amount of INR 3 Lakhs or more:

  a) in aggregate from a person in a day,

  b) in respect of a single transaction or

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

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

- The above restriction shall not apply to Government, any banking company, post office savings bank or co-operative bank.

- Further, it is proposed that such other persons or class of persons or receipts may be notified by the Central Government, for reasons to be recorded in writing, on whom the proposed restriction on cash transactions shall not apply.

Restriction on Cash Transactions

New Sections 269-ST and 271-DA inserted

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

Amendment to Section 206C

- It is also proposed to consequentially amend the provisions of section 206C to omit the provision relating to tax collection at source (TCS) at the rate of 1percent of sale consideration on cash sale of jewellery exceeding INR 5 Lakh.

F. Transparency in Electoral Funding

Transparency in Electoral Funding

Income of Political Parties

- Political parties that are registered with the Election Commission of India, are exempt from paying income-tax in accordance with section 13A of the Act. To avail the exemption, the political parties are required to submit a report to the Election Commission of India furnishing the details of contributions received by a political party in excess of Rs.20,000 from any person.

- Under existing provisions of the Act, there is no restriction of receipt of any amount of donation in cash by a political party.

- ***Amendment*** *(w.e.f .1st April, 2018 i.e. AY 2018-19 onwards)*

- It is proposed to amend section 13A to provide for below additional conditions for availing the benefit:

  - No donations of ***Rs. 2,000*** or more is received otherwise than by an **account payee cheque** / **account payee bank draft** / **use of electronic clearing system through a bank account** / **through electoral bonds.**

  - Political party furnishes a return of income for the previous year in accordance with the provisions of section 139(4B) on or before the due date under section 139.

G. Ease of Doing Business

Clarity relating to Indirect transfer provisions

Section 9(1) - Income deemed to accrue or arise in India through transfer of capital asset situated in India

- Section 9(1)(i) of the Act provides that all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India, or through the transfer of a capital asset situate in India shall be deemed to accrue or arise in India.
- **Explanation 5** to sction 9(1)(i) of the Act clarifies that an asset or capital asset, being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be situated in India, ***if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.***

- ***Amendment*** *(retrospectively w.e.f .1st April 2012 – i.e. AY 2012-13 onwards)*
- It is proposed to amend the said section so as to clarify that the Explanation 5 shall not apply to any asset or capital asset mentioned therein being investment held by non-resident, directly or indirectly, in a ***Foreign Institutional Investor*** (such investor as the Central Government may specify by notification in the Official Gazette) and registered as ***Category-I*** or ***Category II Foreign Portfolio Investor*** under the ***Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014*** made under the Securities and Exchange Board of India Act, 1992, as these entities are regulated and broad based.
- The proposed amendment is clarificatory in nature.

Modification in conditions of special taxation regime for off shore funds under section 9A

Special taxation regime for offshore funds

- Currently, section 9A provides for a special regime in respect of offshore funds, whereby the fund management activity carried out through a fund manager in India shall not constitute a business connection nor trigger residency for such an offshore fund in India. Said section is subject to various conditions, one of which provides that monthly average of the corpus of the fund should not be less than Rs. 100 crore.

- ***Amendment*** (w.e.f .1st April, 2016 i.e. AY 2016-17 onwards)

- It is proposed to provide that this condition shall not apply in the previous year in which ***the fund is being wound up***.

Income of Foreign Company from sale of leftover stock of crude oil

Exemption of income from storage and sale of crude oil stored as part of strategic reserves

- Section 10(48A) of the Act provides for exemption of income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India, if the said storage and sale is pursuant to an agreement or an arrangement entered into by the Central Government and having regard to the national interest, said foreign company and the said agreement or arrangement are notified by the Central Government in that behalf.

- The benefit of exemption presently is not available to ***sale out of the leftover stock of crude*** after the expiry of said agreement or the arrangement

- ***Amendment*** *(w.e.f .1st April, 2018 i.e. AY 2018-19 onwards)*

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

Enabling of Filing of Form 15G/15H for insurance commission

No deduction of tax on insurance commission

- Section 194D of the Act provides for tax deduction at source (TDS) at the rate of 5 percent for payments in the nature of insurance commission beyond a threshold limit of Rs. 15,000 per financial year.

- Section 197A of the Act provides for non deduction of tax on certain payments if the payee furnishes self declaration in Form 15G/15H declaring that the tax on his estimated total income of the relevant previous year would be nil. Presently, insurance commission under section 194D is not covered by provisions of section 197A.

- ***Amendment*** *(w.e.f .1st June 2017 onwards)*

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

Maintenance of books of accounts in case of Individuals and HUF

Increase in threshold limit

- ***Amendment*** *(w.e.f .1st April 2018 i.e. AY 2018-19 onwards)*

- Threshold limit for maintenance of books of accounts by individuals and HUFs carrying on business or profession under section 44AA of the Act, has been proposed to be increased as follows (other than those carrying on legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette)

Particulars	Existing (Rs.)	Proposed (Rs.)
Income from Business/Profession	120,000	250,000
Total sales/turnover/gross receipts	1,000,000	2,500,000

Exclusion of certain persons from audit of accounts under section 44AB

Presumptive taxation assesses under section 44AD

- Currently every person carrying on the business is required to get his accounts audited if the total sales, turnover or gross receipts in the previous year exceeds one crore rupees under section 44AB

- The threshold limit for applicability of presumptive taxation in case of eligible business carried on by eligible person under section 44AD was increased to two crore rupees from one crore rupees with effect from 1st April, 2017.

- Further vide press release dated 20th June, 2016, it was clarified that if an eligible person opts for presumptive taxation scheme as per section 44AD(1) of the Act, he shall not be required to get his accounts audited if the total turnover or gross receipts of the relevant previous year does not exceed **two crore rupees.**

- ***Amendment*** *(w.e.f .1st April 2017 i.e. AY 2017-18 onwards)*

- It is now proposed incorporate the above press release in law through amendment to section 44AB of the Act by providing exclusion from requirement of audit of books of accounts under section 44AB to eligible person, who declares profits for the previous year in accordance with section 44AD(1) and his total sales, total turnover or gross receipts, as the case may be, in business does not exceed two crore rupees,

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

Section 194LA – TDS on compensation on compulsory acquisition of immovable property

- The Central Government has enacted a new law namely Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, ('RFCTLARR Act') on 26th September, 2013 which came into force on 1st January, 2014.

- Section 96 of RFCTLARR Act provides for exemption from levy of income-tax on award or agreement for compulsory acquisition of land under the RFCTLARR Act (except those made under section 46 of RFTCLARR Act).

- ***Amendment*** *(w.e.f .1st April 2017 i.e. AY 2017-18 onwards)*

- Thus in order to rationalise the provisions of the Act, it is proposed to amend the section 194LA to provide that no TDS shall be deducted under section 194LA on any award or agreement which has been exempted from levy of income-tax under section 96 (except those made under section 46) of RFCTLARR Act.

Exemption from tax collection at source in case of certain specified buyers

Sale of motor vehicles exceeding 10 lakh rupees to specified buyers

- Section 206C(1F) of the Act, provides that the seller who receives consideration for sale of a motor vehicle exceeding ***Rs. 10 lakhs***, shall collect TCS at the rate of ***1 per cent*** of the sale consideration from the buyer.

- ***Amendment*** *(w.e.f .1st April 2017 i.e. AY 2017-18 onwards)*

- It is proposed to amend section 206C, to exempt the following class of buyers from the applicability of the provision of section 206C(1F) of the Act.

  - ✓ the Central Government,
  - ✓ a State Government,
  - ✓ an embassy,
  - ✓ a High Commission,
  - ✓ legation,
  - ✓ commission,
  - ✓ consulate and the trade representation of a foreign State;
  - ✓ local authority as defined in explanation to clause (20) of Section 10;
  - ✓ a public sector company which is engaged in the business of carrying passengers,

Simplification of the provisions of TDS under section 194J

TDS u/s 194J at the rate of 2 percent - payee engaged in the business of operation of call center

- ***Amendment*** *(w.e.f .1st June 2017 onwards)*

- It is proposed to amend section 194J of the Act to reduce the rate of TDS to ***2 per cent*** from ***10 per cent*** in case of payments received or credited to a payee, being a person engaged only in the ***business of operation of call center.***

Scope of section 92BA relating to Specified Domestic Transactions

Specified Domestic Transactions

- The existing provisions of section 92BA of the Act, provide that any expenditure in respect of which payment has been made by the assessee to certain **"specified persons"** under **section 40A(2)(b)** are covered within the ambit of **specified domestic transactions**

- Further the assessee is also required to obtain Chartered Accountant's certificate in **Form 3CEB** providing the details such as list of related parties, nature and value of specified domestic transactions (SDTs), method used to determine the arm's length price for SDTs, positions taken with regard to certain transactions not considered as SDTs etc.

- ***Amendment*** *(w.e.f .1st April 2017 i.e. AY 2017-18 onwards)*

- In order to reduce the compliance burden of taxpayers it is proposed to exclude from the scope of section 92BA of the Act – specified domestic transactions - the ***expenditure in respect of which payment has been made by the assessee to a person referred to in under section 40A(2)(b) of the Act.***

- A consequential amendment has been made in section 40A whereby for all the assessment year commencing on or after 1st day of April 2017 the proviso to section 40A(2)(a) shall not be applicable and therefore any expenditure made in respect of which payment has been made by the assessee to certain “specified persons” covered under section 40A(2)(b) may be disallowed by the assessing officer if he is of the opinion that such expenditure is excessive or unreasonable having regard to the fair value of such transaction.

Transactions not regarded as transfer and cost of acquisition of shares

Tax neutral conversion of preference shares to equity shares

- Currently conversion of security from one form to another is regarded as transfer for the purpose of levy of capital gains tax. However tax neutrality to the conversion of preference share of a company into its equity share is not provided
- ***Amendment*** *(w.e.f .1st April 2018 i.e. AY 2018-19 onwards)*
- It is proposed to amend section 47 of the Act to provide that the conversion of preference share of a company into its equity share shall not be regarded as transfer.

Cost of acquisition in Tax neutral demerger of a foreign company

- Under the existing provision of section 47(vic), the transfer of shares of an Indian company by a demerged foreign company to a resulting foreign company is not regarded as transfer
- ***Amendment*** *(w.e.f .1st April 2018 i.e. AY 2018-19 onwards)*
- It is proposed to amend section 49 so as to provide that cost of acquisition of the shares of Indian company referred to in section 47(vic) in the hands of the resulting foreign company shall be the same as it was in the hands of demerged foreign company.

Income from transfer of carbon credits

Concessional rate of tax

- The Carbon credits is an incentive given to an industrial undertaking for reduction of the emission of GHGs (Green House gases), including carbon dioxide which is done through several ways such as by switching over to wind and solar energy, forest regeneration, installation of energy-efficient machinery, landfill methane capture, etc.

- Currently the income on transfer of carbon credits is treated as business income which is subject to tax at the rate of 30 percent

- ***Amendment*** *(w.e.f. 1 April 2018 i.e. AY 2018-19 onwards)*

- It is proposed to insert a new section 115BBG to provide that where the total income of the assessee includes any income from transfer of carbon credit, ***such income shall be taxable at the concessional rate of ten per cent (plus applicable surcharge and cess)*** on the gross amount of such income.

- No expenditure or allowance in respect of such income shall be allowed under the Act.

Processing of return within the prescribed time and enable withholding of refund in certain cases

Section 143(1D) and insertion of new section – 241A

- Currently section 143(1D) of the Act provides that with effect from AY 2017-18 onwards processing of return of income under section 143(1) of the Act is to be done before passing of assessment order.

- ***Amendment*** *(w.e.f. 1 April 2017 i.e. AY 2017-18 onwards)*

- In order to address the grievance of delay in issuance of refund in genuine cases which are routinely selected for scrutiny assessment, it is proposed that ***provisions of section 143(1D) shall cease to apply*** in respect of returns furnished for assessment year 2017-18 and onwards.

- Further new ***section 241A*** has been inserted for returns filed for AY 2017-18 onwards to provide that where the tax officer is of the opinion that grant of refund may adversely affect the recovery of revenue, he can withhold the refunds upto the date of assessment by recording reasons to do so and obtaining necessary internal approvals.

Rationalisation of advance tax provisions

Presumptive taxation in case of professionals

- In the Finance Act, 2016, the benefit of presumptive basis taxation was extended to professionals by introducing the provisions of section 44ADA.
- ***Amendment*** *(w.e.f. 1 April 2017 i.e. AY 2017-18 onwards)*
- It is now proposed that such professionals would be required to pay advance tax in single instalments on or before 15 March of every financial year. Such relaxation in payment of advance tax is already available to the eligible assessee opting for presumptive taxation under section 44AD.
- Consequential amendment is also proposed in section 234C.

Rationalisation of provisions of section 234C

Tax on Dividend income – Section 115BBDA

- In the Finance Act, 2016, tax on certain dividends received from domestic companies is to be levied under section 115BBDA of the Act, if such income exceeds ten lakh rupees.

- However, in view of the uncertain nature of declaration and receipt of dividend incomes, an assessee liable to pay advance tax may not be able to correctly determine such liability within the payment schedule.

- ***Amendment*** *(w.e.f. 1 April 2017 i.e. AY 2017-18 onwards)*

- It is now proposed that if shortfall in payment of advance tax is on account of under-estimation or failure in estimation of income of the nature referred to in section 115BBDA, the interest under section 234C shall not be levied subject to fulfillment of conditions specified therein.

Interest on refund due to deductor

Interest on refund due to deductor

- The existing section 244A of the Act provides that an assessee is entitled to receive interest on refund arising out of excess payment of advance tax, tax deducted or collected at source, etc.

- ***Amendment*** *(w.e.f. AY 2018-19)*

- It is proposed to insert a ***new sub-section (1B)*** in section 244A to provide that where refund of any amount becomes due to the deductor, such person shall be entitled to receive, in addition to the refund, simple interest on such refund, calculated at the rate of one-half per cent for every month or part of a month comprised in the period. Such interest shall be determined from the date on which claim for refund is made in the prescribed form or in case of an order passed in appeal, from the date on which the tax is paid, to the date on which refund is granted.

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

Capital Gain Exemption to Rupee Denominated Bonds

Extension of Capital Gain Exemption to Rupee Denominated Bonds

- Section 48 of the Act was amended by the Finance Act, 2016 so as to provide that the gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company subscribed by non resident investor, shall be ignored for the purpose of computation of full value of consideration.

- ***Amendment*** *(w.e.f .1st April 2018 i.e. AY 2018-19 onwards)*

- It is proposed to amend **section 48** providing that the said appreciation of rupee denominated bond of an Indian company **to secondary holders** shall be ignored for the purposes of computation of full value of consideration.

- Further, with a view to facilitate transfer of Rupee Denominated Bonds from non-resident to non-resident, it is proposed to amend **section 47** so as to provide that any transfer of capital asset, being rupee denominated bond of Indian company issued outside India, by a **non- resident to another non- resident shall not be regarded as transfer.**

Enabling Claim of Credit for Foreign Tax Paid in Cases of Dispute

Amendment to Section 155 of the Act

- ***Amendment*** *(w.e.f .1st April 2018 i.e. AY 2018-19 onwards)*

- It is proposed to insert sub-section (14A) in section 155 to provide that where credit for foreign taxes paid is not given for the relevant assessment year on the grounds that the payment of such foreign tax was in dispute, the Assessing Officer shall rectify the assessment order or an intimation under sub-section (1) of section 143, if the assessee, within six months from the end of the month in which the dispute is settled, furnishes proof of settlement of such dispute, submits evidence before the Assessing Officer that the foreign tax liability has been discharged and furnishes an undertaking that credit of such amount of foreign tax paid has not been directly or indirectly claimed or shall not be claimed for any other assessment year.

Authority for Advance Rulings

Amendments to the Structure of Authority for Advance Rulings

- ***Amendment*** *(w.e.f. AY 2018-19 onwards)*

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

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

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

- In order to improve the efficiency and efficacy of the AAR, and to increase the available pool for appointment as Chairman, AAR, it is proposed to amend the qualifications for appointment as Chairman as provided in section 245-O and provide that a former Chief Justice of a High Court, or a

Authority for Advance Rulings

Amendments to the Structure of Authority for Advance Rulings

person who has been a High Court Judge for at least seven years shall also be eligible to be Chairman of the AAR.

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

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

Amendment of Section 253

Amendment of Section 253

- ***Amendment*** *(w.e.f. AY 2018-19 onwards)*

- It is proposed to expand the scope of the said section to provide that the orders passed by the prescribed authority under sub-clauses (iv) and (v) of sub-section (23C) of section 10 shall also be appealable before the Appellate Tribunal.

Empowering Board to Issue Directions in respect of Penalty for Failure to Deduct or Collect Tax at Source

Insertion of reference of sections 271C and 271CA in section 119(2)(a)

- ***Amendment*** *(w.e.f. AY 2018-19 onwards)*

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

Rationalisation of time limits for completion of assessment, reassessment and re-computation and reducing the time for filing revised return

Amendments to section 153 of the Act

- ***Amendment*** *(w.e.f. AY 2018-19 onwards)*

- It is proposed to rationalise the timelines to complete the assessment, reassessment, and recomputation by amending the provisions of section 153. The proposed time-limits are tabulated below –

Particulars	Time-limit
Assessment or best judgment assessment	Under existing provisions, the time-limit is 21 months from the end of the assessment year. It is now proposed to reduce the above limit as follows – Assessment Year **Assessment Year** — **Time limit (to start from end of the AY)** 2018-19 — 18 months 2019-20 onwards — 12 months

Rationalisation of time limits for completion of assessment, reassessment and re-computation and reducing the time for filing revised return

Amendments to section 153 of the Act

- ***Amendment*** *(w.e.f. AY 2018-19 onwards)*

Particulars	Time-limit
Reassessment	• Under the existing provisions, the time-limit provided is 9 months from end of the financial year in which the notice for reassessment was served. It is now proposed to increase the above time-limit to 12 months. • *This proposed amendment shall be applicable on notice issued on or after 01 April, 2019*
Fresh assessment pursuant to orders passed by the ITAT or revisionary order passed by the Principal Commissioner/ Commissioner	• Under the existing provisions, the time-limit provided is 9 months from end of the financial year the order of ITAT is received or revisionary order is passed by the specified authorities. • It is now proposed to increase the above time limit to 12 months. • *This proposed amendment shall be applicable on orders passed or received on or after 01 April, 2019*

Rationalisation of time limits for completion of assessment, reassessment and re-computation and reducing the time for filing revised return

Amendments to section 153 of the Act

- ***Amendment*** *(w.e.f. AY 2018-19 onwards)*

Particulars	Time-limit
Order giving effect to the order of appellate authorities requiring further verification	• Time limit for passing the order shall be same as applicable for passing fresh assessment in pursuant to directions of appellate authorities. • *The proposed amendment shall be applicable from 01 June, 2016 onwards.*
Time limit for filing of revised return	• Time limit for furnishing of revised return under section 139(5) shall be upto the end of the relevant assessment year or before the completion of assessment, whichever is earlier. • *The proposed amendment shall be applicable from 01 April 2018 i.e. AY 2018-19 onwards.*

Time limit for completion of assessment u/s 153A

Rationalisation of the provisions in respect of time limits for completion of search assessment

- ***Amendment*** *(w.e.f . AY 2018-19)*

- Provisions of section 153B of the Act are amended to provide that the time limit for completion of assessment of FY in which search or requisition is conducted shall be as per section 153B. For the FY 2018-19, the time limit for completion of assessment u/s. 153A shall be reduced from existing ***twenty one months*** to ***eighteen months*** from the end of the FY in which the last of the authorizations for search u/s 132 or for requisition u/s 132A was executed.

- Further, search and seizure cases conducted in the FY 2019-20 and onwards, the said time limit shall be further reduced to twelve months from the end of the financial year.

- It is also provided that period of limitation for making the assessment or reassessment in case of other person referred to in section 153C, shall be the period available to make assessment or reassessment in case of person on whom search is conducted or twelve months from the end of the FY in which books of account or documents or assets seized or requisitioned are handed over u/s 153C to the Assessing Officer having jurisdiction over such other persons, whichever is later.

Time limit for completion of assessment u/s 153A

Rationalisation of the provisions in respect of time limits for completion of search assessment

- ***Amendment*** *(w.e.f . AY 2018-19)*

- However, if the reference under section 92CA of Income tax Act is made, the above time limit shall be extended by twelve months. Further, new proviso has been inserted under Explanation to section 153B providing that in cases where a proceeding before the Settlement Commission abates under section 245HA, the period of limitation available under this section for assessment or reassessment shall after the exclusion of the period under sub-section (4) of section 245HA shall not be less than one year; and where such period of limitation is less than one year, it shall be deemed to have been extended to one year.

- The above provisions will not apply to the cases where a notice under section 153A or section 153C has been issued prior to 1st June, 2016 and the assessment has not been completed by such date due to exclusion of time referred to in the Explanation then such cases will be governed by the provisions of this section as it stood immediately before its substitution by the Finance Act, 2016. This amendment will take effect retrospectively from 1st June, 2016.

H. Anti- Abuse Measures

Capital Gains

Exemption of long term capital gains tax under section 10(38)

- Under the existing provisions of the Section 10(38), the income arising from a transfer of long term capital asset, being equity share of a company or a unit of an equity oriented fund, is exempt from tax if the transaction of sale is undertaken on or after 1st October, 2004 and is chargeable to Securities Transaction Tax.

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*

- Section 10(38) is proposed to be amended to provide that exemption under this section for income arising on ***transfer of equity share*** acquired or on after 1st day of October, 2004 shall be available ***only if*** the acquisition of share is chargeable to Securities Transactions Tax.

- Further, it is also proposed to notify transfers for which the condition of chargeability to Securities Transactions Tax on acquisition shall not be applicable.

Capital Gains

Fair Market Value to be full value of consideration in certain cases

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*

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

Income from Other Sources

Widening of scope of income from other sources

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

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

- ***Amendment*** *(w.e.f. AY 2018-19)*

- It is proposed to insert a new clause (x) in sub-section (2) of section 56 so as to provide that receipt of the sum of money or the property ***by any person*** without consideration or for inadequate consideration in excess of Rs. 50,000 shall be chargeable to tax in the hands of the recipient under the head "Income from other sources".

- It is also proposed to widen the scope of existing exceptions by including the receipt by certain trusts or institutions and receipt by way of certain transfers not regarded as transfer under section 47.

- Consequential amendment is also proposed in section 49 for determination of cost of acquisition.

Disallowance for non-deduction of tax from payment to resident

Widening of scope of Section 58

- Under the existing provisions of section 58 of the Act, certain amounts are not deductible in computing the income under the head "income from other sources." These disallowances include disallowances such as disallowance of cash expenditure, ***disallowance for non-deduction of tax from payment to non-resident***, etc.

- A disallowance of 30% of the expenditure is made for non-deduction of tax from payment to resident under section 40(a)(ia) of the Act while computing income under the head "profits and gains of business and profession."

- ***Amendment*** *(w.e.f. 1 April 2018 i.e. AY 2018-19 onwards)*

- In order to improve the tax deduction compliance, it is proposed to extend the aforesaid disallowance (30% of the expenditure) for non-deduction of tax on payment to resident under section 40(a)(ia) of the Act to the computation of income under the head "income from other sources."

Interest deduction

Limitation of interest deduction in certain cases

- Under the existing provisions, interest paid by an Indian company to any non-resident associated enterprise is allowable as a deduction without any limit, as long as the interest fulfils the arm's length test as per the Indian transfer pricing regulations. There are no thin capitalisation provisions in the existing law.

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19)*

- In order to incorporate the recommendations of the OECD G-20 Committee in its report on Base Erosion and Profit Shifting (BEPS) Action Plan 4, a new section 94B is proposed to be introduced to provide that

  - *Where an Indian company or a permanent establishment of a foreign company pays interest or similar consideration exceeding INR 10 million, in respect of any debt from a non-resident associated enterprise of, any excess interest as defined shall not be deductible in computation of income from business.*

  - *Excess interest is defined as the total interest in excess of* ***30% of the earnings before interest, taxes, depreciation and amortisation (EBITDA****) or interest paid to associated enterprises, whichever is lower.*

Interest deduction (Contd)

Limitation of interest deduction in certain cases

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19)*

  - *In case the debt is issued by a lender that is not an associated enterprise but the associated enterprise provides an explicit or implicit guarantee to such lender or deposits a corresponding and matching amount of funds with the lender, such debt shall be deemed to have been issued by the associated enterprise.*

  - *This section does not apply to an Indian company or a permanent establishment of a foreign company, which is engaged in the business of banking or insurance.*

  - *The excess interest, which is disallowed can be carried forward to the following assessment year and allowed as a deduction against profits of the subsequent years, subject to the maximum allowable interest expenditure stated above.*

  - *The excess interest can be carried forward only for eight assessment years immediately succeeding the assessment year in which excess interest is computed.*

Transfer Pricing

Secondary adjustments in certain cases

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19)*

- **"Secondary adjustment"** means an adjustment in the books of accounts of the assessee and its associated enterprise to reflect that the actual allocation of profits between the assessee and its associated enterprise are consistent with the transfer price determined as a result of primary adjustment, thereby removing the imbalance between cash account and actual profit of the assessee.

- Secondary adjustments seek to give an economic effect to the primary transfer pricing adjustment as if the underlying transaction had actually taken place at arm's length.

- Insertion of new **section 92CE** - "Secondary adjustments will be required in case of the following primary adjustments:

  - ✓ Suo-moto adjustment offered by the taxpayer
  - ✓ Adjustment made by the Assessing Officer and accepted by the taxpayer
  - ✓ Adjustment determined by an Advance Pricing Agreement (APA)
  - ✓ Adjustment made as per safe harbor rules
  - ✓ Adjustment arising as a result of a Mutual Agreement Procedures (MAP) resolution

Transfer Pricing (Contd.)

Secondary adjustments in certain cases

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19)*

- The provisions indicate that secondary adjustments would not apply for the Financial Year 2015–16 or prior years, but only if the primary adjustment does not exceed ***Rs. 1 crore*** . In all other cases, it would appear to apply.

- Further there is a requirement to repatriate the excess money available with the associated enterprise to India. If such excess money is not repatriated within the prescribed time limit, the same will be considered as ***an advance made by the taxpayer to the associated enterprise, and interest will be computed on the same***. The manner of computation of interest, that is the rates, duration, etc., will be prescribed in due course.

Corpus Donation

Restriction on exemption in case of corpus donation by exempt entities to other exempt entities

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

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*

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

- It is also proposed to insert a proviso in clause (23C) of section 10 so as to provide similar restriction as above on the entities exempt under sub-clauses (iv), (v), (vi) or (via) of said clause in respect of any amount credited or paid out of their income.

Return of Income

Mandatory furnishing of return by certain exempt entities

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

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*

- It is proposed to provide that any person as referred to in clause (23AAA), Investor Protection Fund referred to in clause (23EC) or clause (23ED), Core Settlement Guarantee Fund referred to in clause (23EE) and any Board or Authority referred to in clause (29A) of section 10 shall also be mandatorily required to furnish a return of income.

Return of Income

Fee for delayed filing of return

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*

- In order to ensure that return is filed within due date, it is proposed to insert a ***new section 234F*** in the Act to provide that a fee for delay in furnishing of return shall be levied for assessment year 2018-19 and onwards in a case where the return is not filed within the due dates specified for filing of return under section 139(1). The proposed fee structure is as follows:

Sl. No.	Particulars	Delay fee
1.	Return filed after the due date but on or before the 31st December of the assessment year	Rs. 5,000
2.	Any other case i.e. after 31st December of the assessment year	Rs. 10,000
3.	Where total income does not exceed Rs. 5 lakhs	Rs. 1,000

- It is proposed to make consequential amendment in section 140A to include that in case of delay in furnishing of return of income, along with the tax and interest payable, fee for delay in furnishing of return of income shall also be payable.

Return of Income

Fee for delayed filing of return

- It is also proposed to make consequential amendment in section 143(1) to provide that fee payable under section 234F shall also be taken into account in computing the amount payable or refund due on account of processing the return under section 143(1).

- It is also proposed that the provisions of section 271F in respect of penalty for failure to furnish return of income shall not apply in respect of assessment year 2018-19 and onwards.

Penalty on professionals

Furnishing incorrect information in statutory report or certificate

- ***Amendment*** *(w.e.f. AY 2018-19)*

- In order to ensure that the person furnishing report or certificate undertakes due diligence before making such certification, it is proposed to insert a ***new section 271J*** so as to provide that if an accountant or a merchant banker or a registered valuer, furnishes incorrect information in a report or certificate under any provisions of the Act or the rules made thereunder, the Assessing Officer or the Commissioner (Appeals) may direct him to pay a sum of Rs. 10,000 for each such report or certificate by way of penalty.

- It has also been proposed to define the expressions "accountant", "merchant banker" and "registered valuer“.

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

I . Rationalization Measures

Section 115JB and Indian Accounting Standard (Ind-AS)

Computation of MAT on Ind-AS compliant financial statement

- ***Amendment*** *(w.e.f. 1st April 2017 i.e. AY 2017-18 onwards)*

- A new sub-section (2A) has been inserted in section 115JB to provide the framework for computation of book profit for Ind-AS compliant companies in the year of adoption and thereafter.

- In case on Ind-AS compliant companies, no further adjustments to the net profits before other comprehensive income (referred to as "OCI") is required, other than those already specified under section 115JB of the Act.

- In case of non Ind-AS compliant companies which are getting aligned to Ind-AS, the OCI would include certain items that will permanently be recorded in reserves and hence, never be reclassified to the statement of profit and loss included in the computation of book profits.

- These items shall be included in book profits for MAT purposes at the point of time as specified below:

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

Section 115JB and Indian Accounting Standard (Ind-AS)

Computation of MAT on Ind AS compliant financial statement

Sl. No.	Items	Point of time at which to be included in book profits
2.	Gains and losses from investments in equity instruments designated at fair value through other comprehensive income (Ind AS 109)	At the time of realisation / disposal / retirement or otherwise transferred
3.	Re-measurements of defined benefit plans (Ind AS 19)	Every year as the re-measurements gains and losses arise
4.	Any other item	Every year as the re-measurements gains and losses arise

- Appendix A of Ind AS 10 provides that any distributions of non-cash assets to shareholders (for example, in a demerger) shall be accounted at fair value. The difference between carrying value of the assets and fair value is recorded in statement of profit and loss. Correspondingly, the reserves are debited at fair value to record distribution as a 'deemed dividend' to the shareholders. As there is a corresponding adjustment in retained earnings, clause (d) of Section 115JB(2A) specifies that this difference arising on demerger shall be excluded from the book profits.

Section 115JB and Indian Accounting Standard (Ind-AS)

- It also states that in the case of a resulting company, where the property and the liabilities of the undertaking(s) being received by it are recorded at values different from values appearing in the books of account of demerged company immediately before demerger, any change in such value shall be ignored for the purpose of computing book profit of the resulting company.

Computation of MAT on first time adoption

- The adjustments (referred to as “transition amount”) arising on account of transition to Ind-AS from existing Indian GAAP is required to be recorded directly in ‘other equity’ at the date of transition to Ind-AS in terms of Ind AS 101. Several of these items would subsequently never be reclassified to the statement of profit and loss / included in the computation of book profits.

- Accordingly, it is provided that the following treatment is to be adhered to in computation of MAT:
  - Those adjustments recorded in other comprehensive income and which would subsequently be reclassified to the profit and loss, shall be included in book profits in the year in which these are reclassified to the profit and loss;
  - Those adjustments recorded in other comprehensive income and which would never be subsequently reclassified to the profit and loss shall be included in book profits as specified hereunder-

Section 115JB and Indian Accounting Standard (Ind-AS)

Sl. No.	Items	Point of time at which to be included in book profits
1.	Changes in revaluation surplus of PPE and Intangible assets (Ind AS 16 and Ind AS 38)	At the time of realisation / disposal / retirement or otherwise transferred
2.	Gains and losses from investments in equity instruments designated at fair value through other comprehensive income (Ind AS 109)	At the time of realisation / disposal / retirement or otherwise transferred
3.	Re-measurements of defined benefit plans (Ind AS 19)	Equally over a period of five years starting from the year of first time adoption of Ind AS
4.	Any other item	Equally over a period of five years starting from the year of first time adoption of Ind AS

Section 115JB and Indian Accounting Standard (Ind-AS)

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

- For this purpose, the term 'transition amount' has been defined to mean the amount or aggregate of the amounts adjusted in the other equity (excluding equity component of compound financial instruments, capital reserve, and securities premium reserve) on the convergence date, but not including the following:
  - amount or the aggregate of the amounts adjusted in other comprehensive income on the convergence date which shall be subsequently re-classified to the statement of profit or loss.
  - revaluation surplus for assets in accordance with the Ind AS 16 and Ind AS 38 adjusted on the convergence date.
  - gains or losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with Ind AS 109 adjusted on the convergence date.
  - adjustment relating to items of property, plant and equipment and intangible assets recorded at fair value as deemed cost in accordance with paragraph D5 and D7 of Ind AS 101 on convergence date.

Section 115JB and Indian Accounting Standard (Ind-AS)

- adjustments relating to investments ins subsidiaries, joint ventures and associates recorded at fair value as deemed cost in accordance with paragraph D15 of Ind AS 101 on convergence date.
- adjustment relating to cumulative translation differences of a foreign operation in accordance with paragraph D13 of Ind AS 101 on convergence date.

Reference year for first time adoption adjustments

- In the first year of adoption of Ind AS, the companies would prepare Ind AS financial statement for reporting year with a comparative financial statement for immediately preceding year. As per Ind AS 101, a company would make all Ind AS adjustments on the opening date of the comparative financial year. The entity is also required to present equity reconciliation between previous Indian GAAP and Ind AS amounts, both on the opening date of preceding year as well as on the closing date of the preceding year.

- It is provided that for the purposes of computation of book profits under section 115JB of the year of adoption and the proposed adjustments, the amounts adjusted as of the opening date of the first year of adoption shall be considered.

Section 115JB and Indian Accounting Standard (Ind-AS)

- For example, companies which adopt Ind AS with effect from 1st April 2016 are required to prepare their financial statements for the year 2016-17 as per requirements of Ind AS. Such companies are also required to prepare an opening balance sheet as of 1st April 2015 and restate the financial statements for the comparative period 2015-16. In such a case, the first time adoption adjustments as of 31st March 2016 shall be considered for computation of MAT liability for previous year 2016-17 (Assessment year 2017-18) and thereafter. Further, in this case, the period of five years above shall be previous years 2016-17, 2017-18, 2018-19, 2019-20 and 2020-21.

Clarification regarding applicability of section 112

Long term capital gains from transfer of unlisted securities in case of non resident

- Finance Act, 2012 with effect from 1st April, 2013 amended the provisions of section 112(1)(c) to provide concessional rate of taxation of ten per cent for long-term capital gains arising from the transfer of unlisted securities in case of non-resident. However, there was an uncertainty as to whether the provision of section 112(1)(c)(iii) is applicable to the transfer of share of a private company.

- Finance Act, 2016 amended section 112(1)(c) to clarify that the share of company in which public are not substantially interested shall also be chargeable to tax at the rate of ten per cent with effect from 1st April, 2017. As the concessional rate was provided with effect from 1st April, 2013, there was uncertainty about the applicability of the amendment to the intervening period.

- ***Amendment*** *(with retrospective effect from 1st April 2013 i.e. AY 2013-14 onwards)*

- With a view to clarify the amendment made by Finance Act, 2016, section 50 of the Finance Act, 2016 will be amended to provide that the effective date of amendment made to section 112(1)(c)(iii) vide Finance Act, 2016 shall be 01/04/2013 instead of 01/04/2017.

Rationalization Measures

Section 10AA – Deduction for units in SEZ

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*

- It has been proposed to clarify that the amount of deduction referred to in section 10AA i.e., deduction allowed from the total income of the assessee in respect of profits and gains from his unit operating in Special Economic Zone (SEZ), shall be allowed from the total income of the assessee computed in accordance with the provisions of the Act before giving effect to the provisions of the section 10AA and the deduction under section 10AA shall in no case exceed the said total income.

Consolidation of plans within a scheme of mutual fund

- ***Amendment*** *(w.e.f. 1st April 2017 i.e. AY 2017-18 onwards)*

- It has been proposed to amend section 2(42A) and section 49 to provide that cost of acquisition of the units in the consolidated plan of mutual fund scheme referred to in section 47(xix) shall be the cost of units in consolidating plan of mutual fund scheme and period of holding of the units of consolidated plan of mutual fund scheme shall include the period for which the units in consolidating plan of mutual fund scheme were held by the assessee.

Clarification regarding terms used in the Act

Definition of 'person responsible for paying' in case of payments covered under sub-section (6) of section 195

- ***Amendment*** *(w.e.f. AY 2018-19)*

- In order to bring clarity to the meaning of 'person responsible for paying' in case of payment by a resident to a non-resident in accordance with section 195(6) of the Act, it is proposed to amend the said section of the Act to provide that in the case of furnishing of information relating to payment to a non-resident, not being a company, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act, 'person responsible for paying' shall be the payer himself, or, if the payer is a company, the company itself including the principal officer thereof.

Clarification with regard to interpretation of 'terms' used in an agreement entered into under section 90 and 90A.

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*

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

Actual cost of asset in case of withdrawal of deduction in terms of section 35AD(7B)

Actual cost of asset in terms of section 35AD(7B)

- Section 35AD(7B) provides that where any asset on which benefit of section 35AD is claimed and allowed, is used for a purpose other than specified business, the benefit of deduction already granted under section 35AD shall be deemed to be the income of the assessee. However, it further provides that the deemed income shall be net of normal depreciation as would be entitled had the deduction under section 35AD not been claimed.

- Clause (1) of section 43 defines "actual cost" for the purposes of claiming depreciation under section 32 of the Act in certain situations.

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*

- It is proposed to amend the provisions of the section 43 of the Act, to provide that where any capital asset in respect of which deduction allowed under section 35AD is deemed to be the income of the assessee in accordance with section 35AD(7B), the actual cost to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purposes of business since the date of its acquisition.

Clarifications in case of entities exempt under sections 11 and 12

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*

Clarity of procedure in respect of change or modifications of object

- Section 12A of the Act is proposed to be amended so as to provide that where a trust or an institution has been granted / obtained registration and, subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, it shall be required to obtain fresh registration by making an application within a period of ***thirty days*** from the date of such adoption or modifications of the objects in the prescribed form and manner.

Filing of return of income

- It has further been proposed to amend section 12A to provide that the person in receipt of the income chargeable to income-tax shall furnish the return of income within the time allowed under section 139 of the Act.

Levy of tax on accreted income under section 115TD

Cost of acquisition of capital assets of entities

- ***Amendment*** *(with retrospective effect from 1st June 2016 i.e. AY 2016-17 onwards)*

- In respect of assets held by trust or an institution in respect of which accreted income has been computed, and the tax has been paid thereon in accordance with the provisions of Chapter XII-EB, cost of acquisition for the purpose of computation of capital gain arising from the transfer of the asset shall be deemed to be the fair market value of the asset which has been taken into account for computation of accreted income as on the specified date referred to in section 115TD(2).

Strengthening of PAN quoting mechanism in the TCS regime

Insertion of new section 206CC

- ***Amendment*** *(w.e.f. AY 2018-19)*

- In order to strengthen the PAN mechanism, it is proposed to insert new section 206CC to provide the following:

  - Any person paying any sum or amount, on which tax is collectable at source under Chapter XVII BB (hereafter referred to as collectee) shall furnish his PAN to the person responsible for collecting such tax (hereafter referred to as collector), failing which tax shall be collected at the twice the rate mentioned in the relevant section under Chapter XVII BB or at the rate of five per cent whichever is higher;

  - The declaration filed under section 206C(1A) shall not be valid unless the person filing the declaration furnishes his PAN in such declaration;

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

  - No certificate under section 206C(9) shall be granted unless it contains the PAN of the applicant.

Strengthening of PAN quoting mechanism in the TCS regime

Insertion of new section 206CC

- It is also proposed to provide for mandatory quoting of PAN of the collectee by both the collector and the collectee in all correspondence, bills and vouchers exchanged between them;
- The collectee shall furnish his PAN to the collector who shall indicate the same in all its correspondence, bills, vouchers and other documents which are sent to collectee;
- Where the PAN provided by the collectee is invalid or it does not belong to the collectee, then it shall be deemed that PAN has not been furnished to the collector;
- A non-resident who does not have permanent establishment in India shall be exempted from the provisions of this proposed section 206CC of the Act.

Rationalization of deduction under section 80CCG

Phasing out of deduction under section 80CCG

- Under section 80CCG, deduction is allowed for three consecutive assessment years up to Rs 25,000 to a resident individual for investment made in listed equity shares or listed units of an equity oriented fund subject to fulfillment of certain conditions.

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*

- It is proposed to phase out this deduction by providing that no deduction under section 80CCG shall be allowed from AY 2018-19.

Restriction on Set off of Loss from House Property

Insertion of new sub-section (3A) in section 71

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*
- It is proposed to insert sub-section (3A) under section 71 to provide that set-off of loss under the head "Income from house property" against any other head of income shall be restricted to Rs. 2 lakhs for any assessment year.
- However, the unabsorbed loss shall be allowed to be carried forward for set-off in subsequent years in accordance with the existing provisions of the Act i.e. 8 assessment years.

Search and Seizure

"Reasons to believe" to conduct a search etc. not to be disclosed

- Sub-section (1) and (1A) to section 132 provides that where a specified authority, based on the information in his possession, has 'reason to believe' or 'reason to suspect' of circumstances referred to in the said sub-sections, he may authorize an authority specified therein to carry out search & seizure.

- Similarly, section 132A(1) provides that specified income-tax authority based on 'reason to believe' can authorise other specified income-tax authority to requisition from some other officer or authority to deliver books of account, documents or assets of the assessee to the income-tax authority so authorised.

- ***Amendments to take effect retrospectively from the date of enactment of the said provisions (i.e. from 1st April,1962 to section 132(1) and from 1st October, 1975 to sections 132(1A) and 132A(1))***

- It is proposed to insert an Explanation to sub-section (1) and to sub-section (1A) of section 132 and to sub-section (1) of section 132A to declare that the 'reason to believe' or 'reason to suspect', as the case may be, shall not be disclosed to any person or any authority or the Appellate Tribunal.

Search and Seizure

- ***Amendment*** *(w.e.f. AY 2018-19)*

Power of Provisional Attachment

- It has been proposed to insert sub-section (9B) and (9C) in the section 132 which gives power to the authorised officer to provisionally attach any property belonging to the assessee, if he considers it necessary to do so in order to protect the interest of the revenue, after obtaining prior approval of Principal Director General or Director General or Principal Director or Director. Such provisional attachment may be done during the course of search and seizure or within a period of 60 days from the date on which the last of the authorisation for search was executed.

- It has also been proposed that such provisional attachment shall cease to have effect after the expiry of six months from the date of order of such attachment.

Reference to Valuation Officer

- It is also proposed to insert a new sub-section (9D) in section 132 to provide that ***in a case of search***, the authorised officer may, for the purpose of estimation of fair market value of a property, make a reference to a Valuation Officer, for valuation in the manner provided under that sub-section. It also provides that the Valuation Officer shall furnish the valuation report within 60 days of receipt of such reference.

- Further, Explanation 1 has been proposed to be inserted under section 132 to provide that for the purposes of sub-sections (9B), (9C) and (9D) with respect to "execution of an authorisation for search“ the provisions of sub-section (2) of section 153B shall apply.

Power to Call for Information

Rationalization of provisions in respect of power to call for information

- At present, section 133 empowers certain income-tax authorities to call for information for the purpose of any inquiry or proceeding under the Act.

- ***Amendment*** *(w.e.f. AY 2018-19)*

- First proviso of section 133 has been proposed to be amended to empower even the Joint Director, the Deputy Director and the Assistant Director with respect to inquiry or proceeding as referred to in section 133(6) of the Act.

- Further, the second proviso to section 133 is proposed to be amended to provide that the Joint Director, the Deputy Director or the Assistant Director may exercise the powers in respect of such inquiry without seeking prior approval of higher authorities.

Survey

Extension of the power to survey

- The existing provisions of section 133A empowers an income-tax authority to enter any place, at which a business or profession is carried on, or at which any books of account or other documents or any part of cash or stock or other valuable article or thing relating to the business or profession are kept, for the purposes of conducting a survey.

- ***Amendment*** *(w.e.f. AY 2018-19)*

- It is proposed to widen the scope of the said section by amending sub-section (1) to include any place at which an ***activity for charitable purpose*** is carried on.

Power to Call for Information by Specified Income Tax Authority

Centralised issuance of notice and processing of information

- The existing provisions of section 133C of the Act empowers the prescribed income-tax authority to issue notice calling for information and documents for the purpose of verification of information in its possession

- ***Amendment*** *(w.e.f. AY 2018-19)*

- Section 133C is proposed to be amended in order to empower the Central Board of Direct Taxes (CBDT) to make a scheme for centralised issuance of notice calling for information and documents for the purpose of verification of information in its possession, processing of such documents and making the outcome available to the Assessing Officer for necessary action, if any.

Income Declaration Scheme, 2016

Omission of clause (c) of section 197 of the Finance Act, 2016

- The existing provisions of clause (c) of the section 197 of the Finance Act, 2016 provide that where any income has accrued, arisen or been received or any asset has been acquired out of such income prior to commencement of the Income Declaration Scheme, 2016 (the Scheme), and no declaration in respect of such income is made under the Scheme, then, such income shall be deemed to have accrued, arisen or received, as the case may be, in the year in which a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act is issued by the Assessing Officer, and provisions of the said Act shall apply accordingly.

- ***Amendment*** *(with retrospective effect from 1st June 2016)*

- It is proposed to omit clause (c) of section 197 of the Finance Act, 2016.

Income Declaration Scheme, 2016

Consequential amendment to sections 153A and 153C

- ***Amendment*** *(w.e.f. AY 2017-18)*

- It is proposed that section 153A relating to search assessments be amended to provide that notice under the said section can be issued for an assessment year(s) up to the tenth assessment year (i.e., beyond the current limitation period of sixth assessment year) if—

  i. The Assessing Officer has in his possession books of accounts or other documents or evidence which reveal that the income which has escaped assessment amounts to or is likely to amount to Rs. 50 lakhs or more in one year or in aggregate in the relevant four assessment years (falling beyond the sixth year);

  ii. Such income escaping assessment is represented in the form of asset;

  iii. the income escaping assessment or part thereof relates to such year or years.

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

- It is also proposed to consequentially amend section 153C to provide a reference to the relevant assessment year(s) as referred to in section 153A.

Exemption under section 10

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

- The existing provisions of section 10(23C) of the Act provides exemption to incomes earned by certain funds which includes the Prime Minister's National Relief Fund.

- In the absence of such exemption, the funds are required to obtain registration under section 12A in order to avail exemption of its income under section 11 and 12 and are also required to fulfil certain conditions.

- ***Amendment*** *(with retrospective effect from 1st April 1998 i.e. AY 1998-99 onwards)*

- It is proposed to amend clause 23C of section 10 to provide that the benefit of exemption of income will also be available in case of Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund, considering that such funds are of the same nature at the level of state or the Union Territory as is the Prime Minister's National Relief Fund at the national level.

Correct reference to FEMA instead of FERA

Amendment of incorrect reference to FERA

- The existing provisions of section 10(4)(ii) refers to any income of an individual by way of interest on moneys standing to his credit in a Non-Resident (External) Account in any bank in India in accordance with the Foreign Exchange Management Act, 1999 and the rules made thereunder.

- The proviso to the said sub-clause states *"individual is a person resident outside India as defined in clause (q) of section 2 of the said Act…"*

- Clause (q) of section 2 corresponds to Foreign Exchange Regulation Act, 1973 (FERA), which stands repealed and re-enacted as the Foreign Exchange Management Act, 1999 (FEMA).

- ***Amendment*** *(with retrospective effect from 1st April 2013 i.e. AY 2013-14 onwards)*

- The definition of person outside India is occurring in clause (w) of FEMA.

- With a view to reflect the correct definition of the expression "person resident outside India", it is proposed to amend the said proviso.

J. Benefit for NPS Subscribers

National Pension System (NPS)

Tax exemption to partial withdrawal from NPS

- The existing provision of section 10(12A) provides that payment from NPS trust to an employee on closure of his account or opting out shall be exempt up to 40 per cent of total amount payable to him.

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*

- It is proposed to amend section 10 so as to provide that partial withdrawal not exceeding 25 per cent of the contribution made by an employee in accordance with the terms and conditions specified under Pension Fund Regulatory and Development Authority Act, 2013 and regulations made there under ***shall also be exempted***.

National Pension System (NPS)

Tax exemption to partial withdrawal from NPS

- Under the existing provisions, deduction under section 80CCD(1) for amount deposited in NPS cannot exceed 10 per cent of gross total income in case of self-employed individuals i.e. other than salaried employees.

- ***Amendment*** *(w.e.f. 1st April 2018 i.e. AY 2018-19 onwards)*

- It is proposed to amend section 80CCD so as to increase the upper limit to 20 per cent of total income in case of self-employed individuals.

INDIRECT TAX PROPOSALS

SERVICE TAX

Amendments to the Negative List

- The following are the proposed changes in the Negative List in Section 66D of the Act:
  - Services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption are proposed to be omitted from the Negative List but service tax exemption on the said services is being continued by including them in the mega exemption notification. This amendment shall come into effect from the enactment of Finance Bill 2017. Consequently, the definition of process amounting to manufacture as defined under section 65B(40) is proposed to be omitted from the Finance Act and is being incorporated in the general exemption notification.

SERVICE TAX

Amendments to Advance Ruling Provisions

- Section 96C(3) of the Finance Act is being amended so as to increase the application fee for seeking advance ruling from INR 2500 to INR10000.
- Section 96D of the Finance Act is being amended so as to extent the existing time limit of 90 days to six months by which time the Authority shall pronounce its ruling

SERVICE TAX

Amendments to provisions relating to Valuation of taxable services

- Rule 2A of the Service Tax (Determination of Value) Rules, 2006 is being amended with effect from 01.07.2010 so as to make it clear that value of service portion in execution of works contract involving transfer of goods and land or undivided share of land, as the case may be shall not include the value of property in such land or undivided share of land. Period –wise changes have been mentioned herein below:
  - From 01 July 2010 to 30 June 2012
    - New sub-rule has been inserted providing that Where the value has not been determined under sub-rule (1) and the gross amount charged includes the value of goods as well as land or undivided share of land, the service tax shall be payable on twenty-five per cent of the gross amount charged for the works contract, subject to the condition that the Cenvat Credit of duty paid on inputs or capital goods or the Cenvat Credit of service tax on input services, used for providing such taxable service, has not been taken under the provisions of the Cenvat Credit Rules, 2004. Further, the service is provider is also deprived of the benefit of Notification 12/2003 dated 20.06.2003

SERVICE TAX

Amendments to provisions relating to Valuation of taxable services

- From 01 July 2012 to 28 February 2013
  - A new proviso has been inserted under Rule 2A (ii)(A) providing that that where the amount charged for works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on twenty-five per cent. of the total amount charged for the works contract."

- From 01 March 2013 to 07 May 2013
  - The proviso to Rule 2A (ii)(A) has been substituted below:
    - Provided that where the amount charged for works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on thirty per cent. of the total amount charged for the works contract:
    - Provided further that in case of works contract for construction of residential units having carpet area up to 2000 square feet or where the amount charged per residential unit from service recipient is less than rupees one crore and the amount charged for the works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on twenty-five per cent. of the total amount charged for the works contract

SERVICE TAX

Amendments to provisions relating to Valuation of taxable services

- From 08 May 2013 to 31 March 2013
  - The proviso to Rule 2A (ii)(A) has been substituted below:
    - Provided that where the amount charged for works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on thirty per cent. of the total amount charged for the works contract:
    - Provided further that in case of works contract for construction of residential units having carpet area up to 2000 square feet and where the amount charged per residential unit from service recipient is less than rupees one crore and the amount charged for the works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on twenty-five per cent. of the total amount charged for the works contract

- From 01 April 2016 onwards
  - The proviso to Rule 2A (ii)(A) has been substituted below:
    - Provided that where the amount charged for works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on thirty per cent. of the total amount charged for the works contract.”.

CENVAT CREDIT

Amendment to Cenvat Credit Rules, 2004

- Explanation-I (e) in rule 6(3D) of Cenvat Credit Rules, 2004 which determines value for the purpose of sub-rule (3) and (3A) of Rule 6 of Cenvat Credit Rules, 2004 has been amended by Notification No 4/2017-Central Excise (N.T) dated 02.02.2017, so as to exclude banks and financial institutions including non-banking financial companies engaged in providing services by way of extending deposits, loans or advances from its ambit. It has been provided in said Explanation that value for the purpose of reversal of common input tax credit on inputs and input services used in providing taxable services and exempted services, shall not include the value of service by way of extending deposits, loans or advances against consideration in the form of interest or discount.
- Accordingly by means of above amendment in case of banks and financial institutions including non-banking financial companies, the value for the purpose of reversal of common input tax credit on inputs and input services used in providing taxable services and exempted services, shall now include the value of service by way of extending deposits, loans or advances against consideration in the form of interest or discount. This would adversely impact the banking and financial sector as they would be required to reverse more credit under Rule 6(3) or (3A) as the interest on loans or advances comprise of major income for such entities.

Customs

The Customs Act, 1962

Major Amendments

- A new clause (3A) has been inserted in section 2 which defines beneficial owner as any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported.

- The words customs airport has been substituted by the words customs airport, international courier terminal, foreign post office in clause (13) of Section 2.

- Section 7 of the Customs Act has been amended so as to appoint the following as customs port, airports, etc
  (e) the post offices which alone shall be foreign post offices for the clearance of imported goods or export goods or any class of such goods;
  (f) the places which alone shall be international courier terminals for the clearance of imported goods or export goods or any class of such goods.

The Customs Act, 1962

Major Amendments

- Sub-section (3) of Section 17 is being substituted whereby for verification of self-assessment of goods under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.

- Clause (e) of Section 28E is being substituted whereby Authority means Authority for Advance Rulings constituted under section 245-O of the Income Tax Act, 1961.

- Section 28F is being substituted whereby the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961 shall be the Authority for giving advance rulings for the purposes of this Act and the said Authority shall exercise the jurisdiction, powers and authority conferred on it by or under this Act, provided that the Member from the Indian Revenue Service (Customs and Central Excise), who is qualified to be a Member of the Board, shall be the revenue Member of the Authority for the purposes of this Act.

- On and from the date on which the Finance Bill, 2017 receives the assent of the President, every application and proceeding pending before the erstwhile Authority for Advance Rulings (Central Excise, Customs and Service Tax) shall stand transferred to the Authority from the stage at which such application or proceeding stood as on the date of such assent.

The Customs Act, 1962

Major Amendments

- Section 28H is being amended so as to increase the application fees for advance ruling to ten thousand rupees.

- Section 28I is being amended and the authority is to pronounce its advance ruling within six months of the receipt of application.

- A new section 30A has been inserted whereby
  (1) Person-in-charge of a conveyance that enters India from any place outside India or any other person as may be specified by the Central Government by notification in the Official Gazette, shall deliver to the proper officer—
  (i) the passenger and crew arrival manifest before arrival in the case of an aircraft or a vessel and upon arrival in the case of a vehicle; and
  (ii) the passenger name record information of arriving passengers, in such form, containing such particulars, in such manner and within such time, as may be prescribed.

  (2) Where the passenger and crew arrival manifest or the passenger name record information or any part thereof is not delivered to the proper officer within the prescribed time and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or the other person referred to in sub-section (1) shall be liable to such penalty, not exceeding fifty thousand rupees, as may be prescribed.

The Customs Act, 1962

Major Amendments

- Central Government vide Notification No.5/2017-Cus dated 02.02.2017 seeks to reduce basic customs duty to 5 percent on all items of machinery, including instruments, apparatus and appliances, transmission equipment and auxiliary equipment (including those required for testing and quality control) and components, required for
  (a) initial setting up of fuel of fuel cell based system for generation of power or for demonstration purposes; or
  (b) balance of systems operating on bio-gas or bio-methane or by-product hydrogen.

- Central Government seeks to levy countervailing duty at the rate of 12.5% on silver medallion, silver coins, having silver content not below 99.9%, semi-manufactured form of silver and articles of silver

The Customs Act, 1962

Major Amendments

- Section 30A has been inserted wherein the person-in-charge of a conveyance that enters India from any place outside India or any other person shall deliver to the proper officer, passenger and crew arrival manifest and passenger name record information

- Likewise also there is an insertion of section 41A wherein person-in-charge of a conveyance that departs from India to a place outside India or any other person shall deliver to the proper office relating to Passenger and crew departure manifest and passenger name record information.

- A new amendment has been brought in section 46 in which the time period for presenting the bill of entry shall be the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing. Provided that a bill of entry may be presented within thirty days of the expected arrival. The importer shall pay such charges for late presentation of the bill of entry as may be prescribed.

- Provisions relating to payment of import duty has been amended via section 47 i.e. it shall be paid on the date of presentation of the bill of entry in the case of self-assessment within one day (excluding holidays) from the date on which the bill of entry is returned to him in the case of assessment, reassessment or provisional assessment. If he fails to pay the duty within the time so specified, he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not less than ten per cent. but not exceeding thirty-six per cent per annum

The Customs Act, 1962

Major Amendments

- Provisions relating to Storage of imported goods in warehouse pending clearance or removal has been substituted for section 49 wherein the goods pending clearance or removal, as the case may be, be permitted to be stored in a public warehouse for a period not exceeding thirty days.

- Amendment in the regulations by the board about the form and manner in which an entry may be made in respect of goods imported or to be exported by post under section 84.

- Provision of section 82 for label or declaration accompanying goods to be treated as entry which contains description, quantity and value, has been omitted.

- Provision of section 127B with respect to application for settlement of cases in which at present any person, other than an applicant can make an application to the Settlement Commission in respect of a show cause notice issued to him relating to the applicant which has been settled or is pending before the Settlement Commission and such notice is pending before an adjudicating authority.

- With regard to the procedure on receipt of an application under section 127C the Settlement Commission may, at any time within three months from the date of passing of the order under sub-section (5), may amend such order to rectify any error apparent on the face of record, either suo motu or when such error is brought to its notice

Central Excise

The Central Excise Act, 1944

Major Amendments

- Section 23A(e) of the Central Excise Act, 1944 (“Excise Act”) defining the term “Authority” has been amended to mean the Authority for Advance Rulings as defined in clause (e) of section 28E of the Customs Act, 1962.

- Section 23B of the Excise Act has been omitted, whereby now proceeding before, or pronouncement of advance ruling by, the authority under Chapter IIIA of the Excise Act may be questioned or be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the said authority.

- Section 23C(3) has been amended to increase the fee for making an application for advance ruling under the Excise Act, from Rs. 2,500/- to Rs. 10,000/-.

- Section 23D(6) has been amended to increase the time within which the authority is required to pronounce the advance ruling, from 90 days to 6 months from the receipt of application.

The Central Excise Act, 1944

Major Amendments

- New Section 23-I being a transitional provision has been inserted stating that on and from the date on which the Finance Bill, 2017 receives the assent of the President, every application and proceeding pending before the erstwhile Authority for Advance Rulings (Central Excise, Customs and Service Tax) shall stand transferred to the Authority from the stage at which such application or proceeding stood as on the date of such assent.

- New sub-section (5) has been inserted to Section 32E containing provisions relating to Application for settlement of cases. Pursuant to the newly inserted sub-section (5) any person other than an assessee, may also make an application to the Settlement Commission in respect of a show cause notice issued to him in a case relating to the assessee which has been settled or is pending before the Settlement Commission and such notice is pending before an adjudicating authority, in such manner and subject to such conditions, as may be prescribed.

- New sub-section 5A has been inserted to Section 32F of the Excise Act giving the Settlement Commission the authority to, at any time within three months from the date of passing of the order under sub-section (5), amend such order to rectify any error apparent on the face of record, either *suo motu* or when such error is brought to its notice by the jurisdictional authority as specified therein

The Central Excise Act, 1944

Major Amendments

or the applicant.

The proviso to the sub-section however states that such amendment having the effect of enhancing the liability of the applicant shall not be made, unless the Settlement Commission has given notice of such intention to the applicant and the concerned authority, as the case may be, and has given them a reasonable opportunity of being heard.

- The Central Government has vide Notification No. 5 / 2017- Central Excise, dated 2nd February, 2017 exempted all items of machinery, including instruments, apparatus and appliances, transmission equipment and auxiliary equipment and components, required for,-

  (a) initial setting up of fuel cell based system for generation of power or for demonstration purposes; or

  (b) balance of systems operating on bio-gas or bio-methane or by-product hydrogen,

  so much of the duty of excise leviable thereon which is specified in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), as is in excess of 6% ad valorem, subject to the following conditions:-

The Central Excise Act, 1944

Major Amendments

(1) before the clearance of the items from the factory, the manufacturer produces to the Deputy Commissioner of Excise or the Assistant Commissioner of Central Excise, as the case may be, a certificate from an officer not below the rank of a Deputy Secretary to the Government of India in the Ministry of New and Renewable Energy recommending the grant of this exemption and the said officer certifies that the items are required for,-

(a) initial setting up of fuel cell based system for generation of power or for demonstration purposes; or

(b) balance of systems operating on bio-gas or bio-methane or by-product hydrogen;

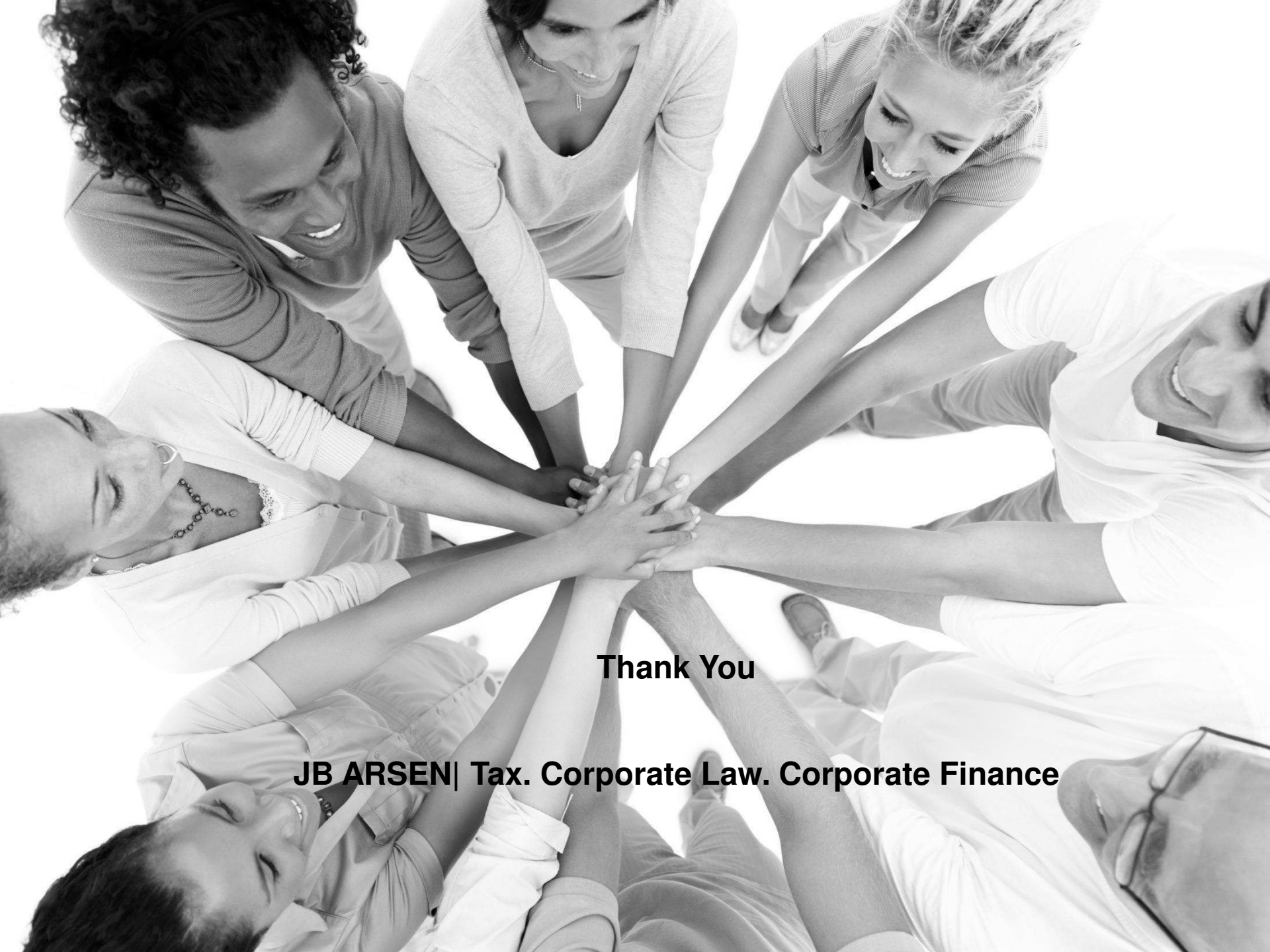
(2) the manufacturer furnishes an undertaking to the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise, as the case may be, having jurisdiction to the effect that the said items shall be used for the purposes as specified above and, if the manufacturer fails to fulfil this condition, he shall pay the duty which would have been leviable at the time of clearance of items, but for this exemption.

This notification shall not apply to said items after 30 June 2017.

The Central Excise Act, 1944

Major Amendments

- The Central Government has vide Notification No.6/2017- Central Excise dated 02 February 2017 amended the rate of excise duty applicable on Dust and Powder of natural precious or semi precious stones to be 'Nil'.
- The rate of excise duty applicable on waste and scrap of precious metals or metals clad with precious metals, arising in the course of manufacture of goods falling in Chapter 71 shall be 'Nil' , provided no input credit on duty paid on input goods , input services or capital goods is availed by the manufacturer of such commodity.



Thank You

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