Highlights of the Finance Bill 2016 - Provisions relating to Direct Taxes & Service Tax

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Proposals in Brief *with Index*

All amendments proposed from Assessment Year 2017-2018 i.e. financial year 01.04.2016 to 31.03.2017; unless specified otherwise.

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1.	<u>**Rates of tax**</u> **No change in the rate of personal income-tax** in respect of income earned in the financial year 2016-17, assessable in the assessment year 2017-18. To levy a **surcharge @15%** on individuals, HUFs, AOPs, BOIs, artificial juridical persons, firms, cooperative societies and local authorities having income exceeding Rs. 1 crore. For <u>**domestic companies**</u>: @ 29% if the total turnover or gross receipts of the company in the previous year 2014-15 does not exceed five crore rupees and in all other cases the rate of Income-tax shall be 30% of the total income. **Surcharge in the case of domestic companies** having income exceeding Rs. 1 crore and upto Rs. 10 crore is proposed to be levied @ 7% and surcharge @ 12% is proposed to be levied on domestic companies having income exceeding Rs. 10 crore. In the case of **foreign companies the surcharge** will continue to be levied @2% if the income exceeds Rs. 1 crore and is upto Rs. 10 crore, and @5% if the income exceeds Rs. 10 crore. The **education cess** on income-tax @ 2% for fulfilment of the commitment of the Government to provide and finance universalised quality based education and 1% of additional surcharge called 'Secondary and Higher Education Cess' on tax and surcharge is proposed **to be continued** for the financial year 2015-16 for all taxpayers.	7
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3.	**Tax Collection at Source (TCS) @ 1% on sale of vehicles of the value exceeding ten lakh rupees; and sale in cash of any goods (other than bullion and jewellery), or providing of any services (other than payments on which tax is deducted at source under Chapter XVII-B) exceeding two lakh rupees** **Take effect from 1st June, 2016**	10
4.	**Incentives for Promoting Housing for All - hundred per cent deduction of the profits of an assessee developing and building affordable housing projects if the housing project is approved by the competent authority before the 31st March, 2019; and additional deduction in respect of interest on loan taken for residential house property from any financial institution up to Rs. 50,000. This incentive is proposed to be extended to a house property of a value less than fifty lakhs rupees in respect of which a loan of an amount not exceeding thirty five lakh rupees has been sanctioned during the period from the 1st day of April, 2016 to the 31st day of March, 2017.**	11
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	Pension Scheme - in respect of the contributions made on or after the 1st day of April, 2016 by an employee participating in a recognised provident fund and superannuation fund, up to 40 % of the accumulated balance attributable to such contributions on withdrawal shall be exempt from tax; any payment in commutation of an annuity purchased out of contributions made on or after the 1st day of April, 2016, which exceeds forty per cent of the annuity, shall be chargeable to tax; any payment from National Pension System Trust to an employee on account of closure or his opting out of the pension scheme referred to in Section 80CCD, to the extent it does not exceed forty percent of the total amount payable to him at the time of closure or his opting out of the scheme, shall be exempt from tax. However, the whole amount received by the nominee, on death of the assessee shall be exempt from tax.	
13.	**Legislative framework to enable and expand the scope of electronic processing of information – remove the mismatch between the return and the information available with the Department, it is proposed to expand the scope of adjustments that can be made at the time of processing of returns under sub-section (1) of section 143. It is proposed that such adjustments can be made based on the data available with the Department in the form of audit report filed by the assessee, returns of earlier years of the assessee, 26AS statement, Form 16, and Form 16A.** **Will take effect from the 1st day of June, 2016**	**17**
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19.	**Rationalisation of advance tax payment schedule under section 211 and charging of interest under section 234C - prescribe the same advance tax schedule for all assesses i.e. fifteen per cent, forty-five per cent, seventy-five per cent and hundred per cent of tax payable on the current income to be paid by 15th June, 15th September, 15th December and 15th March respectively** **Will take effect from 1st day of June, 2016**	**20**
20.	**Equalisation Levy @ 6% of the amount of consideration for specified services received or receivable by a non-resident not having permanent establishment ('PE') in India, from a resident in India who carries out business or profession, or from a non-resident having permanent establishment in India. 'Specified service' means online advertisement, any provision for digital advertising space or any other facility or service for the purpose of online advertisement and includes any other service as may be notified by the Central Government in this behalf.** **From date appointed in the notification to be issued by the Central Government**	**21**
21.	**Tax on distributed income to shareholder - to any buy back of unlisted share undertaken by the company in accordance with the provisions of the law relating to the Companies and not necessarily restricted to section 77A of the Companies Act, 1956. The rules would be framed to provide for manner of determination of the amount in various circumstances including shares being issued under tax neutral reorganisations and in different tranches.** **Take effect from 1st June, 2016**	**22**
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25.	**Tax incentive for employment generation - available in respect of cost incurred on any employee whose total emoluments are less than or equal to twenty five thousand rupees per month; to relax the norms for minimum number of days of employment in a financial year from 300 days to 240 days; in the first year of a new business, thirty percent of all emoluments paid or payable to the employees employed during the previous year shall be**	**27**

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27.	**Enabling provision for implementation of various provisions of the Act in case of a foreign company held to be resident in India. - POEM was defined to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are in substance made.** **To defer the applicability of POEM based residence test by one year and the determination of residence based on POEM shall be applicable from 01/04/17.**	**28**
28.	**Exemption from requirement of furnishing PAN under section 206AA to certain non-resident – shall also not apply to a non-resident, not being a company, or to a foreign company, in respect of any other payment, other than interest on bonds, subject to such conditions as may be prescribed** **Will take effect from 1st June, 2016.**	**29**
29.	**Providing legal framework for automation of various processes and paperless assessment - term "hearing" to include communication of data and documents through electronic mode.** **Will take effect from the 1st day of June, 2016**	**29**
30.	**BEPS action plan - Country-By-Country Report and Master file –** (i) **a master file containing standardised information relevant for all multinational enterprises (MNE) group members;** (ii) **a local file referring specifically to material transactions of the local taxpayer; and** (iii) **a country-by-country report containing certain information relating to the global allocation of the MNE's income and taxes paid together with certain indicators of the location of economic activity within the MNE group.** **The current international consensus is for a threshold of € 750 million equivalent in local currency. This threshold in Indian currency would be equivalent to Rs. 5395 crores (at current rates). Therefore, CbC reporting for an international group having Indian parent, for the previous year 2016-17, shall apply only if the consolidated revenue of the international group in previous year 2015-16 exceeds Rs. 5395 crore**	**30**
31.	**Extension of scope of section 43B to include certain payments made to Railways - to ensure the prompt payment of dues to Railways for use of the Railway assets, it is proposed to amend section 43B so as to expand its scope to include payments made to Indian Railways for use of Railway assets within its ambit.**	**33**
32.	**Clarification regarding set off losses against deemed undisclosed income - to expressly provide that no set off of any loss shall be allowable in respect of income under the sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D.**	**33**
33.	**Clarification regarding the definition of the term 'unlisted securities' for the purpose of Section 112 (1) (c)**	**34**
34.	**Amortisation of spectrum fee for purchase of spectrum - any capital expenditure incurred and actually paid by an assessee on the acquisition of any right to use spectrum for telecommunication services by paying spectrum fee will be allowed as a deduction in equal instalments over the period for which the right to use spectrum remains in force;**	**34**
35.	**Filing of return of Income –** **if a person during the previous year earns income which is exempt under clause (38) of section 10 and income of such person without giving effect to the said clause of section 10 exceeds the maximum amount which is not chargeable to tax, shall also be liable to file return of income for the previous year within the due date;** **To provide that any person who has not furnished a return within the time allowed to him under sub-section (1), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier;** **A return which is otherwise valid would not be treated defective merely because self-assessment tax and interest payable in accordance with the provisions of section 140A has not been paid on or before the date of furnishing of the return;** **A return which is otherwise valid would not be treated defective merely because self-assessment tax and interest payable in accordance with the provisions of section 140A has not been paid on or before the date of furnishing of the return.**	**35**
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	changed from existing one year to nine months from the end of the financial year in which the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, or the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner **Will take effect from 1st day of June, 2016**	
38.	**Payment of interest on refund –** **the period for which the interest is paid on such excess payment of tax begins from the 1st April of the assessment year and ends on the date on which refund is granted;** **an assessee shall be eligible to interest on refund of self-assessment tax for the period beginning from the date of payment of tax or filing of return, whichever is later, to the date on which the refund is granted.** **Will take effect from 1st day of June, 2016**	**38**
39.	**Levy of tax where the charitable institution ceases to exist or converts into a non-charitable organization - for imposing a levy in the nature of an exit tax which is attracted when the organization is converted into a non-charitable organization or gets merged with a non-charitable organization or does not transfer the assets to another charitable organisation.** ***A* trust or an institution shall be deemed to have been converted into any form not eligible for registration under section 12AA in a previous year, if,— (*i*) the registration granted to it under section 12AA has been cancelled; or (*ii*) it has adopted or undertaken modification of its objects which do not conform to the conditions of registration and it,— (*a*) has not applied for fresh registration under section 12AA in the said previous year; or (*b*) has filed application for fresh registration under section 12AA but the said application has been rejected.** **Take effect from 1st June, 2016**	**38**
40.	**Exemption of income of Foreign Company from storage and sale of crude oil stored as part of strategic reserves - any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India shall not be included in the total income.** **Take effect retrospectively from 1st April, 2016 and will accordingly apply in relation to assessment year 2016-17 and subsequent assessment years**	**40**
41.	**Exemption in respect of certain activity related to diamond trading in "Special Notified Zone" - no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to display of uncut and unassorted diamonds** **Take effect retrospectively from 1st April, 2016 and will accordingly apply in relation to assessment year 2016-17 and subsequent assessment years.**	**40**
42.	**Extending the benefit of initial additional depreciation under section 32(1)(iia) for power sector - business of transmission of power**	**41**
43.	**Provision for Tax benefits to Sovereign Gold Bond Scheme, 2015 and Rupee Denominated Bonds** **43.1 Sovereign Gold Bond Scheme, 2015 - any redemption of Sovereign Gold Bond under the Scheme, by an individual shall not be treated as transfer and therefore shall be exempt from tax on capital gains; to provide indexation benefits to long terms capital gains arising on transfer of Sovereign Gold Bond to all cases of assesses** **43.2 Rupee Denominated Bond - capital gains, arising in case of appreciation of rupee between the date of issue and the date of redemption against the foreign currency in which the investment is made shall be exempt from tax on capital gains.**	**41**
44.	**Tax Treatment of Gold Monetization Scheme, 2015 - interest on Deposit Certificates issued under the Scheme, shall be exempt from income-tax.** **Effective retrospectively from the 1st day of April, 2016 and shall accordingly apply in relation to assessment year 2016-17 and subsequent years.**	**42**
45.	**Rationalization of section 56 of the Income-tax Act - any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not attract the provisions of clause (vii) of sub-section (2) of section 56.**	**42**
46.	**Rationalization of limit of rebate in income-tax allowable under Section 87A - to resident individuals in the lower income slab, it is proposed to amend section 87A so as to increase the maximum amount of rebate available under this provision from existing Rs.2,000 to Rs. 5,000**	**42**
47.	**Exemption from Dividend Distribution Tax (DDT) on distribution made by an SPV to Business Trust - taxation of business trusts comprising of Real Estate Investment Trust (REITs) and Infrastructure Investment Trust (Invits) regulated by SEBI.** **Take effect from 1st June, 2016**	**43**
48.	**Modification in conditions of special taxation regime for off shore funds Section 9A. - the eligible investment fund for purposes of section 9A, shall also mean a fund established or incorporated or registered outside India in a country or a specified territory notified by the Central Government in this behalf. It is also proposed to provide that the condition of fund not controlling and managing any business in India or from India shall be restricted only in the context of activities in India.**	**44**
49.	**Deduction in respect of provision for bad and doubtful debt in the case of Non-Banking Financial companies - to provide deduction from total income (computed before making any deduction under this clause and Chapter-VIA) on account of provision for bad and doubtful debts to the extent of five per cent of the total income in the case of NBFCs**	**44**
50.	**Rationalisation of scope of tax incentive under section 32AC – where the installation of the**	**45**

All amendments proposed from Assessment Year 2017-2018
i.e. financial year 01.04.2016 to 31.03.2017; unless specified otherwise.

INCOME TAX

1. Rates of income-tax in respect of income liable to tax

1.i. Individuals, Hindu undivided families, or every association of persons or body of individuals**, whether incorporated or not, or every artificial juridical person etc.**

I. For persons other than those specified in items II and III below, the rates of income tax on total income shall be as follows:

For **financial year 2015-16 & 2016-17 – No change**:

Upto ₹ 2,50,000	Nil
₹ 2,50,001 to ₹ 5,00,000	10 per cent. of the amount by which the total income exceeds ₹ 2,50,000
₹ 5,00,001 to ₹ 10,00,000	₹ 25,000 plus 20 per cent of the amount by which the total income exceeds Rs. 5,00,000
Above ₹ 10,00,000	₹ 1,25,000 plus 30 per cent. of the amount by which the total income exceeds ₹10,00,000

II. In the case of every **individual**, being a resident in India, who is of the **age of sixty years or more but less than eighty years** at any time during the previous year, the rates of income tax on total income shall be as follows:

For **financial year 2015-16 & 2016-17 – No change**:

Upto ₹ 3,00,000	Nil
₹ 3,00,001 to ₹ 5,00,000	10 per cent. of the amount by which the total income exceeds ₹ 3,00,000
₹ 5,00,001 to ₹ 10,00,000	₹ 20,000 plus 20 per cent. of the amount by which the total income exceeds ₹ 5,00,000
Above ₹ 10,00,000	₹ 1,20,000 plus 30 per cent. of the amount by which the total income exceeds ₹ 10,00,000

III. In the case of every **individual,** being a resident in India, who is of the **age of eighty years or more** at anytime during the previous year, -

For **financial year 2015-16 & 2016-17 – No change:**

Upto ₹ 5,00,000	Nil
₹ 5,00,001 to ₹ 10,00,000	20 per cent. of the amount by which the total income exceeds ₹ 5,00,000
Above ₹ 10,00,000	₹ 1,00,000 plus 30 per cent. of the amount by which the total income exceeds ₹ 10,00,000

Surcharge shall be levied @ 15% (increased from 12%) where total income exceed one crore rupees. 'Education Cess' at the rate of 2%, and 'Secondary and Higher Education Cess' on income tax at the rate of 1%.

Firms
(In case of every firm including Limited Liability Partnerships)

No change in rate of income tax on total income: @ 30%

Surcharge will be levied @ **12%** where total income exceed one crore rupees. 'Education Cess' at the rate of 2%, and 'Secondary and Higher Education Cess' on income tax at the rate of one per cent.

Companies

For **domestic companies**: @ 29% if the total turnover or gross receipts of the company in the previous year 2014-15 does not exceed five crore rupees and in all other cases the rate of Income-tax shall be 30% of the total income.

For **domestic companies** having total income chargeable to tax under section 115JB (Minimum Alternate Tax): 18.50%.

In order to provide relief to newly setup domestic companies engaged solely in the business of manufacture or production of article or thing, it is proposed to amend the Act by way of insertion of new section 115BA, to provide that the income-tax payable in respect of the total income of a domestic company for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2017 shall be computed @ 25% at the option of the company, if, -

(i) the company has been setup and registered on or after 1st day of March, 2016;
(ii) the company is engaged in the business of manufacture or production of any article or thing and is not engaged in any other business;
(iii) the company while computing its total income has not claimed any benefit under section 10AA, benefit of accelerated depreciation, benefit of additional depreciation, investment allowance, expenditure on scientific research and any deduction in respect of certain income under Part-C of Chapter-VI-A other than the provisions of section 80JJAA; and
(iv) the option is furnished in the prescribed manner before the due date of furnishing of income.

Surcharge @ **7%** on tax payable shall be levied where total income exceeds one crore rupees but does not exceed ten crore rupees. For income exceeding ten crore rupees, surcharge shall be **12%**.

'Education Cess' at the rate of 2%, and 'Secondary and Higher Education Cess' on income tax at the rate of one per cent, on income tax inclusive of surcharge.

No change in rate for **foreign companies**: 40%.

For **foreign companies** having total income chargeable to tax under section 115JB (Minimum Alternate Tax): 18.50%.

Surcharge @ 2% on tax payable shall be levied where total income exceeds one crore rupees but does not exceed ten crore rupees. For income exceeding ten crore rupees, surcharge shall be 5%.

'Education Cess' at the rate of 2%, and 'Secondary and Higher Education Cess' on income tax at the rate of one per cent, on income tax inclusive of surcharge.

The surcharge of **12%** in all other cases (including sections 115-O, 115QA, 115R or 115TA) shall be levied.

1.ii. Rates for deduction of tax at source (TDS) for financial year 2016-17

A. Payment of Salary to a resident/ a non-resident
At the rates mentioned in the preceding paragraph.

B. Payment other than salary to a resident/ a non-resident

Status of Payee	*To a Resident*			*To a Non-Resident*				
Nature of Payment	**Individual, HUF**	**Firm, Co-operative Society or local authority**	**Domestic Company**	**Non Resident being non-corporate**		**Non domestic Company**		
				Lower of following rate or as specified in DTAA				
	%	%	%	%	%# See note below	%	%* See note below	%** See note below
Interest on Debentures or Security	10	10	10	30.90	35.535	41.20	42.024	43.26
Interest other than interest on security	10	10	10	20.60	23.69	20.60	21.012	21.63
Payment to:								
- Contractor	1	2	2	30.90	35.535	41.20	42.024	43.26
- Sub-contractor	1	2	2	30.90	35.535	41.20	42.024	43.26
-Advertising Contractor	1	2	2	30.90	35.535	41.20	42.024	43.26
Rent:								
- For use of plant, machinery or equipment	2	2	2	30.90	35.535	41.20	42.024	43.26
- For use of land or building or furniture or fittings	10	10	10	30.90	35.535	41.20	42.024	43.26
Fees for Professional or Technical Services or royalty including remuneration / commission/ fees to director of a company	10	10	10	10.30 *** See note below	11.845 *** See note below	10.30*** See note below	10.506 *** See note below	10.815 *** See note below
Commission or Brokerage	5	5	5	30.90	35.535	41.20	42.024	43.26
Winning from Lotteries/Puzzle/Games	30	30	30	30.90	35.535	30.90	31.518	32.445
Winning from Horse Race	30	30	30	30.90	35.535	30.90	31.518	32.445
Commission on Sale of Lottery Tickets	5	5	5					
* If PAN is not furnished by the Payee (both a resident and a non-resident), then tax will be deducted @ 20% or as applicable, whichever is higher, from April 01, 2010 onwards.								

Where gross payment(s) subject to TDS exceeds 1 crore Rupees.
* Where gross payment(s) subject to TDS exceeds 1 crore Rupees but less than 10 crore Rupees.
** Where gross payment(s) subject to TDS exceeds 10 crore Rupees.
*** On any income by way of royalty and fees for technical services received by a non-resident where agreement is made after 31.03.1976.

1.iii. Threshold limit for payments are as under:

Sl. No.	Section	Nature of payment	Threshold limit of payment p.a. ₹
1.	194A	Interest on Bank Deposits & Deposits with Post Office	10,000
		Other Interest	5,000
2.	194B	Winnings from lottery or crossword puzzle	10,000
3.	194BB	Winnings from horse race	10,000
4.	194C	Payment to contractors/Sub-Contractor/ Advertising:	
		- For a single transaction	30,000
		- For aggregate of transactions during a financial year	100,000
5.	194D	Insurance commission	15,000
6.	194H	Commission or Brokerage	15,000
7.	194-I	Rent - For use of plant, machinery or equipment, & For use of land or building or furniture or fittings	1,80,000
8.	194-IA	Transfer of immovable property other than agricultural land	50,00,000
9.	194J	Fees for professional or technical services or royalty including remuneration / commission/ fees to director of a company	30,000
10.	193	Interest on Debentures or Security	5,000

11.	194DA	Non-exempt payments made under life insurance policy including the sum allocated by way of bonus (TDS @2%)	100,000

1.iv. <u>Dividend distribution tax under section 115-O</u>: 20.3576% of dividend amount.

<u>1.v. Dividend distribution tax under section 115-R</u>:

- Income distribution to a unit-holder of equity oriented funds: Nil
- Income distributed by Mutual Fund to an Individual/ HUF: 38.4533%
- Income distributed by Mutual Fund to any other person: 49.44%
- Income distributed by Mutual Fund under an Infrastructure debt fund scheme to a non-resident/ foreign company: 6.0716%

<u>1.vi. Tax on distributed income for buy-back of unlisted shares Dividend distribution tax under section 115-QA</u>: 23.072%

2. Rationalization of taxation of income by way of dividend in excess of Rs. 10 lakh shall be chargeable to tax in the case of an individual, Hindu undivided family (HUF) or a firm who is resident in India, at the rate of ten percent. On gross basis

Under the existing provisions of clause (34) of section 10 of the Act, dividend which suffer dividend distribution tax (DDT) under section 115-O is exempt in the hands of the shareholder. Under section 115-O dividends are taxed only at the rate of fifteen percent at the time of distribution in the hands of company declaring dividends. This creates vertical inequity amongst the tax payers as those who have high dividend income are subjected to tax only at the rate of 15% whereas such income in their hands would have been chargeable to tax at the rate of 30%.

With a view to rationalise the tax treatment provided to income by way of dividend, it is proposed to amend the Income-tax Act so as to provide that **any income by way of dividend in excess of Rs. 10 lakh shall be chargeable to tax in the case of an individual, Hindu undivided family (HUF) or a firm who is resident in India, at the rate of ten percent.** The taxation of dividend income in excess of ten lakh rupees shall be **on gross basis**. **No deduction in respect of any expenditure or allowance or set off of loss shall be allowed in computing the income by way of dividend.**

3. Tax Collection at Source (TCS) @ 1% on sale of vehicles of the value exceeding ten lakh rupees; and sale in cash of any goods (other than bullion and jewellery), or providing of any services (other than payments on which tax is deducted at source under Chapter XVII-B) exceeding two lakh rupees
Take effect from 1st June, 2016

The existing provision of section 206C of the Act, inter alia, provides that the seller shall collect tax at source at specified rate from the buyer at the time of sale of specified items such as alcoholic liquor for human consumption, tendu leaves, scrap, mineral being coal or lignite or iron ore, bullion etc. in cash exceeding two lakh rupees.

In order to reduce the quantum of cash transaction in sale of any goods and services and for curbing the flow of unaccounted money in the trading system and to bring high value transactions within the tax net, it is proposed to amend the aforesaid section to provide that the seller shall collect the tax at the rate of one per cent from the purchaser on sale of motor vehicle of the value exceeding ten lakh rupees and sale in cash of any goods (other than bullion and jewellery), or providing of any services (other than payments on which tax is deducted at source under Chapter XVII-B) exceeding two lakh rupees.

It is also proposed to provide that the sub-section (1D) relating to TCS in relation to sale of any goods (other than bullion and jewellery) or services shall not apply to certain class of buyers who fulfil such conditions as may be prescribed."

4. Incentives for Promoting Housing for All - hundred per cent deduction of the profits of an assessee developing and building affordable housing projects if the housing project is approved by the competent authority before the 31st March, 2019; and additional deduction in respect of interest on loan taken for residential house property from any financial institution up to Rs. 50,000. This incentive is proposed to be extended to a house property of a value less than fifty lakhs rupees in respect of which a loan of an amount not exceeding thirty five lakh rupees has been sanctioned during the period from the 1st day of April, 2016 to the 31st day of March, 2017.

With a view to incentivise affordable housing sector as a part of larger objective of 'Housing for All', it is proposed to amend the Income-tax Act so as to provide for hundred per cent deduction of the profits of an assessee developing and building affordable housing projects if the housing project is approved by the competent authority **before the 31st March, 2019** subject to certain conditions which inter alia, include:-

(i) **The project is completed within a period of three years from the date of approval,**
(ii) **The project is on a plot of land measuring not less than 1000 sq. metres where the project is within 25 km from the municipal limits of four metros namely Delhi, Mumbai, Chennai & Kolkata and in any other area, it is measuring not less than 2000 sq. metres where the size of the residential unit in the said areas is not more than thirty sq. metres and sixty sq. metres, respectively,**
(iii) **where residential unit is allotted to an individual, no such unit shall be allotted to him or any member of his family, etc**

The existing provisions of section **80EE** provide a deduction of up to 1 lakh rupees in respect of interest paid on loan by an individual for acquisition of a residential house property. This benefit is available for the two assessment years beginning on the 1st day of April 2014 and on the 1st day of April 2015.

In furtherance of the goal of the Government of providing 'housing for all', it is proposed to incentivise first-home buyers availing home loans, **by providing additional deduction in respect of interest on loan taken for residential house property from any financial institution up to Rs. 50,000. This incentive is proposed to be extended to a house property of a value less than fifty lakhs rupees in respect of which a loan of an amount not exceeding thirty five lakh rupees has been sanctioned during the period from the 1st day of April, 2016 to the 31st day of March, 2017. It is also proposed to extend the benefit of deduction till the repayment of loan continues.**

The deduction under the proposed section is **over and above the limit of Rs 2,00,000 provided for a self-occupied property under section 24 of the Act**.

5. Rationalization of limit of deduction allowable in respect of rents paid under Section 80GG - to increase the maximum limit of deduction from existing Rs. 2000 per month to Rs. 5000 per month.

The existing provisions of Section 80GG provide for a deduction of any expenditure incurred by an individual in excess of ten per cent of his total income towards payment of rent in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence if he is not granted house rent allowance by his employer, to the extent such excess expenditure does not exceed two thousand rupees per month or twenty-five per cent of his total income for the year, whichever is less, subject to other conditions as prescribed therein.

In order to provide relief to the individual tax payers, it is proposed to amend section 80GG so as **to increase the maximum limit of deduction from existing Rs. 2000 per month to Rs. 5000 per month.**

6. Increase in time period for acquisition or construction of self-occupied house property for claiming deduction of interest - the deduction under the said proviso on account of interest paid on capital borrowed for acquisition or construction of a self-occupied house property shall be available if the acquisition or construction is completed within five years from the end of the financial year in which capital was borrowed.

The existing provision of Clause (b) of section 24 provides that interest payable on capital borrowed for acquisition or construction of a house property shall be deducted while computing income from house property. The second proviso to the said clause provides that a deduction of an amount of two lakh rupees shall be allowed where a house property referred to in sub-section (2) of section 23 (self-occupied house property) has been acquired or constructed with capital borrowed on or after the 1st day of April, 1999 and such acquisition or construction is completed within three years from the end of the financial year in which capital was borrowed.

In view of the fact that housing projects often take longer time for completion, it is proposed that second proviso of clause (b) of section 24 be amended to provide that **the deduction under the said proviso on account of interest paid on capital borrowed for acquisition or construction of a self-occupied house property shall be available if the acquisition or construction is completed within five years from the end of the financial year in which capital was borrowed.**

7. **Simplification and rationalisation of provisions relating to taxation of unrealised rent and arrears of rent - the amount of rent received in arrears or the amount of unrealised rent realised subsequently by an assessee shall be charged to income-tax in the financial year in which such rent is received or realised, whether the assessee is the owner of the property or not in that financial year; thirty per cent of the arrears of rent or the unrealised rent realised subsequently by the assessee shall be allowed as deduction.**

Existing provisions of sections 25A, 25AA and 25B relate to special provisions on taxation of unrealised rent allowed as deduction when realised subsequently, unrealised rent received subsequently and arrears of rent received respectively. Certain deductions are available thereon.

It is proposed to simplify these provisions and merge them under a single new section 25A and bring uniformity in tax treatment of arrears of rent and unrealised rent. It is proposed to provide that **the amount of rent received in arrears or the amount of unrealised rent realised subsequently by an assessee shall be charged to income-tax in the financial year in which such rent is received or realised, whether the assessee is the owner of the property or not in that financial year.** It is also proposed that **thirty per cent of the arrears of rent or the unrealised rent realised subsequently by the assessee shall be allowed as deduction.**

8. Introduction of Presumptive taxation scheme for persons having income from profession -

The existing scheme of taxation provides for a simplified presumptive taxation scheme for certain eligible persons engaged in certain eligible business only and not for persons earning professional income. In order to rationalize the presumptive taxation scheme and to reduce the compliance burden of the small tax payers having income from profession and to facilitate the ease of doing business, it is proposed to provide for presumptive taxation regime for professionals.

In this regard, new section 44ADA is proposed to be inserted in the Act to provide for estimating the income of an assessee who is engaged in any profession referred to in sub-section (1) of section 44AA such as 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 and **whose total gross receipts does not exceed fifty lakh rupees in a previous year, at a sum equal to fifty per cent. of the total gross receipts**, or, as the case may be , a sum higher than the aforesaid sum earned by the assessee. The scheme will **apply to such resident assessee who is an individual, Hindu undivided family or partnership firm but not Limited Liability partnership firm.**

Under the scheme, the assessee will be deemed to have been allowed the deductions under section 30 to 38. Accordingly, the written down value of any asset used for the purpose of the profession of the assessee will be deemed to have been calculated as if the assessee had claimed and had actually been allowed the deduction in respect of depreciation for the relevant assessment years.

It is also proposed that the assessee will **not be required to maintain books of account under sub-section (1) of section 44AA** and **get the accounts audited under section 44AB** in respect of such income unless the assessee claims that the profits and gains from the aforesaid profession are lower than the profits and gains deemed to be his income under sub-section (1) of section 44ADA and his income exceeds the maximum amount which is not chargeable to income-tax.

9. Increase in threshold limit for audit for persons having income from profession - from twenty five lakh rupees to fifty lakh

Under the existing provisions of section 44AB of the Act **every person carrying on a profession is required to get his accounts audited if the total gross receipts in a previous year exceed twenty five lakh rupees.**

In order to reduce the compliance burden, it is proposed to increase the threshold limit of total gross receipts, specified under section 44AB for getting accounts audited, **from twenty five lakh rupees to fifty lakh rupees in the case of persons carrying on profession.**

10. Increase in threshold limit for presumptive taxation scheme for persons having income from business - to increase the threshold limit of one crore rupees specified in the definition of "eligible business" to two crore rupees; to pay advance tax by 15th March of the financial year

The existing provisions of **section 44AD** provide for a presumptive taxation scheme for an eligible business. Where in case of an eligible assessee engaged in eligible business having **total turnover or gross receipts not exceeding rupees one crore**, a **sum equal to eight per cent. of the total turnover or gross receipts**, or as the case may be, a sum higher than the aforesaid sum shall be deemed to be profits and gains of such business chargeable to tax under the head "Profits and gains of business or profession". Under the scheme, the assessee will be deemed to have been allowed the deduction under sections 30 to 38 of the Act. Further, the eligible assessee can report income less than the deemed income of eight per cent. of the total turnover or gross receipts not exceeding rupees one crore provided he maintains books of accounts as per section 44AB. Further in the case of an eligible assessee, so far as the eligible business is concerned, the provisions of Chapter XVII-C shall not apply.

In order to reduce the compliance burden of the small tax payers and facilitate the ease of doing business, it is proposed **to increase the threshold limit of one crore rupees specified in the definition of "eligible business" to two crore rupees**.

It is also proposed that the expenditure in the nature of salary, remuneration, interest etc. paid to the partner as per clause (b) of section 40 shall not be deductible while computing the income under section 44AD as the said section 40 does not mandate for allowance of any expenditure but puts restriction on deduction of amounts, otherwise allowable under section 30 to 38.

It is also proposed that where an eligible assessee declares profit for any previous year in accordance with the provisions of this section and he declares profit for any of the five consecutive assessment years relevant to the previous year succeeding such previous year not in accordance with the provisions of sub-section (1), he shall not be eligible to claim the benefit of the provisions of this section for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of sub-section (1). For example, an eligible assessee claims to be taxed on presumptive basis under section 44AD for Assessment Year 2017-18 and offers income of Rs. 8 lakh on the turnover of Rs. 1 crore. For Assessment Year 2018-19 and Assessment Year 2019-20 also he offers income in accordance with the provisions of section 44AD. However, for Assessment Year 2020-21, he offers income of Rs.4 lakh on turnover of Rs. 1 crore. In this case since he has not offered income in accordance with the provisions of section 44AD for five consecutive assessment years, after Assessment Year 2017-18, he will not be eligible to claim the benefit of section 44AD for next five assessment years i.e. from Assessment Year 2021-22 to 2025-26.

Further as the turnover limit of presumptive taxation scheme has been enhanced to rupees two crore, it is proposed to provide that eligible assessee shall be require to pay advance tax. However, in order to keep the compliance minimum in his case**, it is proposed that he may pay advance tax by 15th March of the financial year.**

11. The Income Declaration Scheme, 2016 - who have not paid full taxes in the past to come forward and declare the undisclosed income and pay tax, surcharge and penalty totalling in all to forty-five per cent of such undisclosed income declared - in respect of undisclosed income of any financial year upto 2015-16

An opportunity is proposed to be provided to persons **who have not paid full taxes in the past to come forward and declare the undisclosed income and pay tax, surcharge and penalty totalling in all to forty-five per cent of such undisclosed income declared**.

The scheme is proposed to be brought into effect from 1st June 2016 and will remain open up to the date to be notified by the Central Government in the official gazette. The scheme is proposed to be made applicable **in respect of undisclosed income of any financial year upto 2015-16.**

Tax is proposed to be charged at the rate of thirty per cent on the declared income as increased by surcharge at the rate of twenty five per cent of tax payable (to be called the Krishi Kalyan cess). A penalty at the rate of twenty five per cent of tax payable is also proposed to be levied on undisclosed income declared under the scheme.

It is proposed that following cases shall **not be eligible for the scheme**:

- where notices have been issued under section 142(1) or 143(2) or 148 or 153A or 153C, or
- where a search or survey has been conducted and the time for issuance of notice under the relevant provisions of the Act has not expired, or
- where information is received under an agreement with foreign countries regarding such income,
- cases covered under the Black Money Act, 2015, or
- persons notified under Special Court Act, 1992, or
- cases covered under Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988.

It is proposed that payment of tax, surcharge and penalty may be made on or before a date to be notified by the Central Government in the Official Gazette and non-payment up to the date so notified shall render the declaration made under the scheme void.

It is proposed to provide that **declarations made under the scheme shall be exempt from wealth-tax in respect of assets specified in declaration**. It is also proposed that no scrutiny and enquiry under the Income-tax Act and Wealth-tax Act be undertaken in respect of such declarations and immunity from prosecution under such Acts be provided. Immunity from the Benami Transactions (Prohibition) Act, 1988 is also proposed for such declarations subject to certain conditions.

It is proposed to provide that where a declaration under the scheme has been made by misrepresentation or suppression of facts, such declaration shall be treated as void.

It is also proposed that nothing contained in the Scheme shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Scheme. In cases where any declaration has been made but no tax and penalty referred to the scheme has been paid within the time specified, the undisclosed income shall be chargeable to tax under the Income-tax Act in the previous year in which such declaration is made.

In cases where any income has accrued, arisen or received or any asset has been acquired out of such income prior to commencement of this Scheme, and no declaration in respect of such income is made under the Scheme such income shall be deemed to have accrued, arisen or received, or the value of the asset acquired out of such income shall be deemed to have been acquired or made, in the year in which a notice under section 142, section 143(2) or section 148 or section 153A or section 153C of the Income-tax Act is issued by the Assessing Officer and the provisions of the Income-tax Act shall apply accordingly.

It is further proposed that if any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty by an order not after the expiry of a period of two years from the date on which the provisions of this Scheme come into force and such order be laid before each House of Parliament.

It is proposed that the Central Board of Direct Taxes under the control of Central Government be provided the power to make rules, by notification in the Official Gazette, for carrying out the provisions of this Scheme and such rules made be laid before each House of Parliament in the manner provided in the scheme.

12. Rationalisation of tax treatment of Recognised Provident Funds, Pension Funds and National Pension Scheme - in respect of the contributions made on or after the 1st day of April, 2016 by an employee participating in a recognised provident fund and superannuation fund, up to 40 % of the accumulated balance attributable to such contributions on withdrawal shall be exempt from tax; any payment in commutation of an annuity purchased out of contributions made on or after the 1st day of April, 2016, which exceeds forty per cent of the annuity, shall be chargeable to tax; any payment from National Pension System Trust to an employee on account of closure or his opting out of the pension scheme referred to in Section 80CCD, to the extent it does not exceed forty percent of the total amount payable to him at the time of closure or his opting out of the scheme, shall be exempt from tax. However, the whole amount received by the nominee, on death of the assessee shall be exempt from tax.

Under the existing provisions of the Income-tax Act, tax treatment for the National Pension System (NPS) referred to in section 80CCD is Exempt, Exempt and Tax (EET) i.e., the monthly/periodic contributions during the pension accumulation phase are allowed as deduction from income for tax purposes; the returns generated on these contributions during the accumulation phase are also exempt from tax; however, the terminal benefits on exit or superannuation, in the form of lump sum withdrawals, are taxable in the hands of the individual subscriber or his nominee in the year of receipt of such amounts.

However, commutation of Government Pension and superannuation fund is exempt from taxation. The monthly contribution, annual accrued income, advances/ withdrawals for specific purposes and final withdrawal from the Recognised Provident Funds (RPFs) on superannuation are also accorded EEE status i.e. Exempt, Exempt, Exempt.

In order to bring greater parity in tax treatment of different types of pension plans, **it is proposed to amend section 10 so as to provide that in respect of the contributions made on or after the 1st day of April, 2016 by an employee participating in a recognised provident fund and superannuation fund, up to 40 % of the accumulated balance attributable to such contributions on withdrawal shall be exempt from tax.**

Under the existing provisions, any payment from an approved superannuation fund made to an employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement is exempt from tax.

It is proposed to amend the said provisions so as to provide that any payment in commutation of an annuity purchased out of contributions made on or after the 1st day of April, 2016, which exceeds forty per cent of the annuity, shall be chargeable to tax.

Under the existing provisions of section 80CCD, any payment from National Pension System Trust to an employee on account of closure or his opting out of the pension scheme is chargeable to tax.

It is proposed to provide **that any payment from National Pension System Trust to an employee on account of closure or his opting out of the pension scheme referred to in Section 80CCD, to the extent it does not exceed forty percent of the total amount payable to him at the time of closure or his opting out of the scheme, shall be exempt from tax. However, the whole amount received by the nominee, on death of the assessee shall be exempt from tax.**

Under section 17, perquisite includes the amount of any contribution exceeding one lakh rupees to an approved superannuation fund by the employer in the hands of the assessee.

Under the Part A of Fourth Schedule to the Income-tax Act contributions made by employer to the credit of an employee participating in a recognised provident fund, which are in excess of twelve percent of the salary of the employee, are liable to tax in the hands of the employee. However, there is no monetary limit for the contribution made by the employer though there is a monetary ceiling for employee's contribution.

The limit of contribution by the employee eligible under section 80C of the Act has been increased from one lakh rupees to one lakh and fifty thousand rupees vide Finance Act(No.2), 2014. Therefore, in order to bring parity in the monetary limit for contribution by the employer and the employee, it is proposed to amend the said section and said schedule so as to provide the limit of employer's contribution to one lakh and fifty thousand rupees, without attracting tax.

Further with a view to bring all the pension plans under one umberalla, it is also proposed to amend:-

(i) the said schedule so as to provide exemption to one-time portability from a recognised provident fund to National Pension System;

(ii) clause (13) of section 10 so as to provide that any payment from an approved superannuation fund by way of transfer to the account of the employee under NPS referred to in section 80CCD and notified by the Central Government shall be exempt from tax.

13. Legislative framework to enable and expand the scope of electronic processing of information – remove the mismatch between the return and the information available with the Department, it is proposed to expand the scope of adjustments that can be made at the time of processing of returns under sub-section (1) of section 143. It is proposed that such adjustments can be made based on the data available with the Department in the form of audit report filed by the assessee, returns of earlier years of the assessee, 26AS statement, Form 16, and Form 16A.

Will take effect from the 1st day of June, 2016

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

In order to expedite verification and analysis of the information and documents so received, it is proposed to amend section 133C **to provide adequate legislative backing for processing of information and documents so obtained and making the outcome thereof available to the Assessing Officer for necessary action, if any**.

It is also proposed to amend Explanation 2 to section 147 to provide for reopening of cases by the AO on the basis of the information so received.

Clause (a) of sub-section (1) of section 143 provides that, a return filed is to be processed and total income or loss is to be computed after making the adjustments on account of any arithmetical error in the return or on account of an incorrect claim, if such incorrect claim is apparent from any information in the return.

In order to expeditiously **remove the mismatch between the return and the information available with the Department, it is proposed to expand the scope of adjustments that can be made at the time of processing of returns under sub-section (1) of section 143**. It is proposed that **such adjustments can be made based on the data available with the Department in the form of audit report filed by the assessee, returns of earlier years of the assessee, 26AS statement, Form 16, and Form 16A**. However, before making any such adjustments, in the interest of natural justice, an intimation shall be given to the assessee either in writing or through electronic mode requiring him to respond to such adjustments. The response received, if any, will be duly considered before making any adjustment. However, if no response is received within thirty days of issue of such intimation, the processing shall be carried out incorporating the adjustments.

14. Taxation of Non-compete fees and exclusivity rights in case of Profession - to bring the non-compete fee received/receivable(which are recurring in nature) in relation to not carrying out any profession, within the scope of section 28 of the Act i.e. the charging section of profits and gains of business or profession.

The existing provision of clause (va) of section 28 of the Act includes within the scope of "profit and gains of business or profession" any sum received or receivable in cash or in kind under an agreement for not carrying out activity in relation to any business; or not to share any know how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature or information or technique likely to assist in the manufacture or processing of goods or provision for services and is chargeable to tax as business income. Further, the provisions clarify that receipts for transfer of right to manufacture, produce or process any article or thing or right to carry on any business, which are chargeable to tax under the head "Capital gains", would not be taxable as profits and gains of business or profession. Under section 45 of the Act, any capital receipt arising out of transfer of any business or commercial rights is taxable under the head "Capital gains". The amount of "Capital gains" is computed according to section 48 of the Act. For this purpose, 'cost of acquisition' and 'cost of improvement' are defined under section 55. However, non-compete fee received/receivable in relation to carrying out of profession are not covered under these provisions.

It is proposed to amend clause (va) of section 28 of the Act **to bring the non-compete fee received/receivable(which are recurring in nature) in relation to not carrying out any profession, within the scope of section 28 of the Act i.e. the charging section of profits and gains of business or profession.** Further, it is also proposed to amend the proviso to clarify that **receipts for transfer of right to carry on any profession, which are chargeable to tax under the head "Capital gains", would not be taxable as profits and gains of business or profession.** It is also proposed to amend section 55 so as to provide that the 'cost of acquisition' and 'cost of improvement' for working out "Capital gains" on capital receipts arising out of transfer of right to carry on any profession shall also be taken as 'nil'

15. Enabling of Filing of Form 15G/15H for rental payments - recipients of payments referred to in section 194-I also eligible for filing self-declaration in Form no 15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A
Will take effect from 1st June, 2016

The provision of sub-section 194-I of the Act, inter alia, provides for tax deduction at source (TDS) for payments in the nature of rent beyond a threshold limit. The existing provisions provide threshold of Rs. 1,80,000 per financial year for deduction of tax under this section. In spite of providing higher threshold for deduction tax under this section, there may be cases where the tax payable on recipient's total income, including rental payments, will be nil. The existing provisions of section 197A of the Income-tax Act, inter alia provide that tax shall not be deducted, if the recipient of certain payments on which tax is deductible furnishes to the payer a self- declaration in prescribed Form No. 15G/15H declaring that the tax on his estimated total income of the relevant previous year would be nil. In order to reduce compliance burden in such cases, it is proposed to amend the provisions of section 197A for making the recipients of payments referred to in section 194-I also eligible for filing self-declaration in Form no 15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A.

16. Rationalization of tax deduction at Source (TDS) provisions – Increase in threshold limit of deduction of tax at source on various payments; Revision in rates of deduction of tax at source on various payments
Will take effect from 1st June, 2016

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

In order to rationalise the rates and base for TDS provisions, the existing threshold limit for deduction of tax at source and the **rates of deduction** of tax at source are proposed to be revised as mentioned in table 3 and table 4 respectively.

Table 3: Increase in threshold limit of deduction of tax at source on various payments mentioned in the relevant sections of the Act

Present Section	**Heads**	**Existing Threshold Limit (Rs.)**	**Proposed** Threshold Limit (Rs.)
192A	Payment of accumulated balance due to an employee	30,000	50,000
194BB	Winnings from Horse Race	5,000	10,000
194C	Payments to Contractors	Aggregate annual limit of 75,000	Aggregate annual limit of 1,00,000
194LA	Payment of Compensation on	2,00,000	2,50,000

	acquisition of certain Immovable Property		
194D	Insurance commission	20,000	15,000
194G	Commission on sale of lottery tickets	1,000	15,000
194H	Commission or brokerage	5,000	15,000

Table-4: Revision in rates of deduction of tax at source on various payments mentioned in the relevant sections of the Act:

Present Section	**Heads**	**Existing Rate of TDS (%)**	**Proposed Rate of TDS (%)**
194DA	Payment in respect of Life Insurance Policy	2%	1%
194EE	Payments in respect of NSS Deposits	20%	10%
194D	Insurance commission	Rate in force (10%)	5%
194G	Commission on sale of lottery tickets	10%	5%
194H	Commission or brokerage	10%	5%

The following provisions which are not in operation are proposed to be omitted as detailed in Table 5.

Table 5: Certain non-operational provisions to be omitted

Present Section	**Heads**	**Proposal**
194K	Income in respect of Units	To be omitted w.e.f 01.06.2016
194L	Payment of Compensation on acquisition of Capital Asset	To be omitted w.e.f 01.06.2016

17. Rationalization of Section 50C in case sale consideration is fixed under agreement executed prior to the date of registration of immovable property - where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of computing the full value of consideration.

Under the existing provisions contained in Section 50C, in case of transfer of a capital asset being land or building on both, the value adopted or assessed by the stamp valuation authority for the purpose of payment of stamp duty shall be taken as the full value of consideration for the purposes of computation of capital gains. The Income Tax Simplification Committee (Easwar Committee) has in its first report, pointed out that this provision does not provide any relief where the seller has entered into an agreement to sell the property much before the actual date of transfer of the immovable property and the sale consideration is fixed in such agreement, whereas similar provision exists in section 43CA of the Act i.e. when an immovable property is sold as a stock-in-trade.

It is proposed to amend the provisions of section 50C so as to provide that **where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of computing the full value of consideration.**

It is further proposed to provide that this provision shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, on or before the date of the agreement for the transfer of such immovable property.

18. Rationalization of conversion of a company into Limited Liability Partnership (LLP) – for availing tax-neutral conversion, in addition to the existing conditions, the value of the total assets in the books of accounts of the company in any of the three previous years preceding the previous year in which the conversion takes place, should not exceed five crore rupees.

Existing provisions of clause (xiiib) of Section 47 provides that conversion of a private limited or unlisted public company into Limited Liability Partnership (LLP) shall not be regarded as transfer, if certain conditions are fulfilled, which, inter alia, **include a condition that the company's gross receipts, turnover or total sales in any of the preceding three years did not exceed Rs.60 lakh.**

It is proposed to amend the said section so as to provide that, **for availing tax-neutral conversion, in addition to the existing conditions, the value of the total assets in the books of accounts of the company in any of the three previous years preceding the previous year in which the conversion takes place, should not exceed five crore rupees.**

19. Rationalisation of advance tax payment schedule under section 211 and charging of interest under section 234C - prescribe the same advance tax schedule for all assesses i.e. fifteen per cent, forty-five per cent, seventy-five per cent and hundred per cent of tax payable on the current income to be paid by 15th June, 15th September, 15th December and 15th March respectively

Will take effect from 1st day of June, 2016

As per the existing provisions of sub-section (1) of section 211, the advance tax payment schedule for a company is fifteen per cent, forty-five per cent, seventy-five per cent and hundred per cent of tax payable on the current income to be paid by 15th June, 15th September, 15th December and 15th March respectively. For other assessees, the advance tax payment schedule is thirty per cent, sixty per cent and hundred per cent of tax payable on current income to be paid by 15th September, 15th December and 15th March respectively.

Based on the recommendations of Expenditure Management Commission clubbed with the fact that most of the advance tax is now paid electronically it is proposed to rationalise schedule for advance tax payment and **prescribe the same advance tax schedule for all assessees** other than an eligible assessee in respect of eligible business as referred to in section 44AD. The modification in payment schedule will facilitate forecasting of revenue collections during a financial year with greater accuracy.

It is further proposed that an eligible assessee in respect of eligible business referred to in section 44AD opting for computation of profits or gains of business on presumptive basis, shall be required to pay advance tax of the whole amount in one instalment on or before the 15th March of the financial year.

Consequential amendments are also proposed to be made to section 234C which provides for chargeability of interest for deferment of advance tax to bring it in sync with the amendments proposed in section 211.

It is also proposed that interest under section 234C shall not be chargeable in case of an assessee having income under the head "Profits and gains of business or profession" for the first time, subject to fulfillment of conditions specified therein.

20. Equalisation Levy @ 6% of the amount of consideration for <u>specified services</u> received or receivable by a non-resident not having permanent establishment ('PE') in India, from a resident in India who carries out business or profession, or from a non-resident having permanent establishment in India. 'Specified service' means online advertisement, any provision for digital advertising space or any other facility or service for the purpose of online advertisement and includes any other service as may be notified by the Central Government in this behalf.
From date appointed in the notification to be issued by the Central Government

With the expansion of information and communication technology, the supply and procurement of digital goods and services have undergone exponential expansion everywhere, including India. The digital economy is growing at ten per cent per year, significantly faster than the global economy as a whole.

Currently in the digital domain, business may be conducted without regard to national boundaries and may dissolve the link between an income-producing activity and a specific location. From a certain perspective, business in digital domain doesn't seem to occur in any physical location but instead takes place in the nebulous world of "cyberspace." Persons carrying business in digital domain could be located anywhere in the world. Entrepreneurs across the world have been quick to evolve their business to take advantage of these changes. It has also made it possible for the businesses to conduct themselves in ways that did not exist earlier, and given rise to new business models that rely more on digital and telecommunication network, do not require physical presence, and derives substantial value from data collected and transmitted from such networks.

These new business models have created new tax challenges. The typical direct tax issues relating to e-commerce are the difficulties of characterizing the nature of payment and establishing a nexus or link between a taxable transaction, activity and a taxing jurisdiction, the difficulty of locating the transaction, activity and identifying the taxpayer for income tax purposes. The digital business fundamentally challenges physical presence-based permanent establishment rules. If permanent establishment (PE) principles are to remain effective in the new economy, the fundamental PE components developed for the old economy i.e. place of business, location, and permanency must be reconciled with the new digital reality.

The Organization for Economic Cooperation and Development (**OECD**) has recommended, in Base Erosion and Profit Shifting (**BEPS**) project under Action Plan 1, several options to tackle the direct tax challenges which include modifying the existing Permanent Establishment (PE) rule to include that where an enterprise engaged in fully de-materialized digital activities would constitute a PE if it maintained a significant digital presence in another country's economy. It further recommended a virtual fixed place of business PE in the concept of PE i,e. creation of a PE when the enterprise maintains a website on a server of another enterprise located in a jurisdiction and carries on business through that website. It also recommended to impose of a final withholding tax on certain payments for digital goods or services provided by a foreign e-commerce provider or imposition of a equalisation levy on consideration for certain digital transactions received by a non-resident from a resident or from a non-resident having permanent establishment in other contracting state.

Considering the potential of new digital economy and the rapidly evolving nature of business operations it is found essential to address the challenges in terms of taxation of such digital transactions as mentioned above. In order to address these challenges, it is proposed to insert a **new Chapter** titled "Equalisation Levy" in the Finance Bill, to provide for **an equalisation levy of 6% of the amount of consideration for specified services received or receivable by a non-resident not having permanent establishment ('PE') in India, from a resident in India who carries out business or profession, or from a non-resident having permanent establishment in India. Specified service means online advertisement, any provision for digital advertising space or any other facility**

or service for the purpose of online advertisement and includes any other service as may be notified by the Central Government in this behalf.

Further, in order to reduce burden of small players in the digital domain, it is also provided that **no such levy shall be made if the aggregate amount of consideration for specified services received** or receivable by a non-resident from a person resident in India or from a non-resident having a permanent establishment in India **does not exceed one lakh rupees in any previous year.**

To provide certainty and to avoid interpretational issues, it is also proposed to define certain terms and expressions used therein. Further it also proposes to provide for the procedure to be adopted for collection and recovery of equalisation levy.

In order to provide for the administrative mechanism of the equalisation levy, it also proposes to provide for statutory authorities and also prescribes the duties and powers of the authorities to administer the equalisation levy. In order to ensure effective compliance, it also proposes to provide for interest; penalty and prosecution in case of defaults with sufficient safeguards.

Further, it also proposes to confer the **power on the Central Government to make rules** for the purposes of carrying out the provisions of this Chapter and further provides that every rule made under this Chapter shall be laid before each House of Parliament.

In order to **avoid double taxation**, it is proposed to provide exemption under section 10 of the Act for any income arising from providing specified services on which equalisation levy is chargeable.

In order to ensure compliance with the provisions this Chapter, it is further proposed to provide that the expenses incurred by the assessee towards specified services chargeable under this Chapter shall **not be allowed as deduction in case of failure of the asseseee to deduct and deposit the equalisation levy to the credit of Central government**.

This Chapter will take effect from the **date appointed in the notification to be issued by the Central Government**.

21. Tax on distributed income to shareholder - to any buy back of unlisted share undertaken by the company in accordance with the provisions of the law relating to the Companies and not necessarily restricted to section 77A of the Companies Act, 1956. The rules would be framed to provide for manner of determination of the amount in various circumstances including shares being issued under tax neutral reorganisations and in different tranches.
Take effect from 1st June, 2016

The existing provisions of section 115QA of the Act provide for the levy of additional Income-tax @ 20% of the distributed income on account of buy back of unlisted shares by a company. The distributed income has been defined in the section to mean the consideration paid by the company on buy back of shares as reduced by the amount which was received by the company for issue of such shares. Buyback has been defined to mean the purchase of a company of its own shares in accordance with the provisions of section 77A of the Companies Act, 1956.

Recently doubts have been raised regarding the effect of buybacks undertaken by the company under different provisions of the Companies Act, 1956 or the Companies Act, 2013 and applicability of provisions of section 115QA to such transactions. An issue has also been raised regarding lack of clarity in determination of consideration received by the company at the time of issue of shares being bought back by the company. There are situations where shares may have been issued by the company in tranches, for different considerations, at different point of time or may have been issued in lieu of existing shares of another company under amalgamation, merger or demerger.

For the purposes of section 115QA, it is the effect of buyback being in the nature of distribution of income which is relevant rather than particular provision of the law relating to companies under which it has been undertaken. Further, lack of clarity in the manner of determination of consideration received by the company would lead to avoidable disputes and also presents a tax arbitrage opportunity of scaling up of consideration particularly under a tax neutral business reorganisation followed by buyback of shares.

In order to provide clarity and remove any ambiguity on the above issues, it is proposed to amend section 115QA to provide that the provisions of this section **shall apply to any buy back of unlisted share undertaken by the company in accordance with the provisions of the law relating to the Companies and not necessarily restricted to section 77A of the Companies Act, 1956**. It is further proposed to provide that for the purpose of computing distributed income, the amount received by the Company in respect of the shares being bought back shall be determined **in the prescribed manner**. **The rules would thereafter be framed to provide for manner of determination of the amount in various circumstances including shares being issued under tax neutral reorganisations and in different tranches.**

22. Phasing out of deductions and exemptions

(a) Profit linked, investment linked and area based deductions will be phased out for both corporate and non-corporate tax payers.
(b) The provisions having a sunset date will not be modified to advance the sunset date. Similarly the sunset dates provided in the Act will not be extended.
(c) In case of tax incentives with no terminal date, a sunset date of 31.3.2017 will be provided either for commencement of the activity or for claim of benefit depending upon the structure of the relevant provisions of the Act.
(d) There will be no weighted deduction with effect from 01. 04.2017.

The Finance Minister in his Budget Speech, 2015 has indicated that the rate of corporate tax will be reduced from 30% to 25% over the next four years along with corresponding phasing out of exemptions and deductions. The Government proposed to implement this decision in a phased manner. In this regard, broad guiding principles had been put in the public domain for receiving comments from the stakeholders. These guiding principles are listed below for reference.

(a) Profit linked, investment linked and area based deductions will be phased out for both corporate and non-corporate tax payers.
(b) The provisions having a sunset date will not be modified to advance the sunset date. Similarly the sunset dates provided in the Act will not be extended.
(c) In case of tax incentives with no terminal date, a sunset date of 31.3.2017 will be provided either for commencement of the activity or for claim of benefit depending upon the structure of the relevant provisions of the Act.
(d) There will be no weighted deduction with effect from 01. 04.2017.

Based on the above guiding principles and taking into account the response of the stakeholders on the proposed phasing out plan, the following incentives under the Act are proposed to be phased out in the manner as tabulated below in Table 1 and Table 2:

Table 1: Proposed Phase out plan of incentives (Profit linked Deductions/weighted deduction) available under the Act.

Sl. No	Section/	Incentive currently available in the Act	Proposed phase out measures/ Amendment
1	10AA- Special provision in respect of newly established units in Special	Profit linked deductions for units in SEZ for profit derived from export of articles or things or services	No deduction shall be available to units commencing manufacture or production of article or

	economic zones (SEZ).		thing or start providing services on or after 1st day April, 2020. (from previous year 2020-21 onwards).
2	35AC-Expenditure on eligible projects or schemes.	Deduction for expenditure incurred by way of payment of any sum to a public sector company or a local authority or to an approved association or institution, etc. on certain eligible social development project or a scheme.	No deduction shall be available with effect from 1.4.2017 (i.e from previous year 2017-18 and subsequent years).
3	35CCD-Expenditure on skill development project.	Weighted deduction of 150 per cent on any expenditure incurred (not being expenditure in the nature of cost of any land or building) on any notified skill development project by a company.	Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
4	Section 80IA; 80IAB, and 80IB - Deduction in respect of profits derive from a) development, operation and maintenance of an insfrastructure facility (80-IA) b) development of special economic zone (80-IAB) c) production of mineral oil and natural gas [80-IB(9)]	100 per cent profit linked deductions for specified period on eligible business carried on by industrial undertakings or enterprises referred in section 80IA; 80IAB, and 80IB.	No deduction shall be available if the specified activity commences on or after 1st day April, 2017. (i.e from previous year 2017-18 and subsequent years).

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

Table 2: Proposed Phase out plan of incentives (Accelerated Depreciation/Weighted Deduction) available under the Act.

Sl. No	Section/	Incentive currently available in the Act	Proposed phase out measures/ Amendment
1	32 read with rule 5 of Income-tax Rules, 1962- Accelerated Depreciation.	Accelerated depreciation is provided to certain Industrial sectors in order to give impetus for investment. The depreciation under the Income-tax Act is available up to 100% in respect of certain block of assets.	To amend the new Appendix IA read with rule 5 of Income-tax Rules, 1962 to provide that highest rate of depreciation under the Income-tax Act shall be restricted to 40% w.e.f 01.4.2017. (i.e from previous year 2017-18 and subsequent years). The new rate is proposed to be made applicable to all the assets (whether old or new) falling in the relevant

			block of assets.
2	35(1)(ii)- Expenditure on scientific research.	Weighted deduction from the business income to the extent of 175 per cent of any sum paid to an approved scientific research association which has the object of undertaking scientific research. Similar deduction is also available if a sum is paid to an approved university, college or other institution and if such sum is used for scientific research.	Weighted deduction shall be restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20) and deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
3	35(1)(iia)- Expenditure on scientific research.	Weighted deduction from the business income to the extent of 125 per cent of any sum paid as contribution to an approved scientific research company.	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).
4	35(1)(iii)- Expenditure on scientific research.	Weighted deduction from the business income to the extent of 125 per cent of contribution to an approved research association or university or college or other institution to be used for research in social science or statistical research.	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).
5	35(2AA)- Expenditure on scientific research.	Weighted deduction from the business income to the extent of 200 per cent of any sum paid to a National Laboratory or a university or an Indian Institute of Technology or a specified person for the purpose of approved scientific research programme.	Weighted deduction shall be restricted to 150 per cent with effect from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20). Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
6	35(2AB)- Expenditure on scientific research.	Weighted deduction of 200 per cent of the expenditure (not being expenditure in the nature of cost of any land or building) incurred by a company, engaged in the business of bio-technology or in the business of manufacture or production of any article or thing except some items appearing in the negative list specified in Schedule-XI, on scientific research on approved in-house research and development facility.	Weighted deduction shall be restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20). Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
7.	35AD- Deduction in respect of specified business.	In case of a cold chain facility, warehousing facility for storage of agricultural produce, an affordable housing	In case of a cold chain facility, warehousing facility for storage of agricultural produce,

		project, production of fertiliser and hospital weighted deduction of 150 per cent of capital expenditure (other than expenditure on land, goodwill and financial assets) is allowed.	hospital, an affordable housing project, production of fertilizer, deduction shall be restricted to 100 per cent of capital expenditure w.e.f. 01.4.2017 (i.e. from previous year 2017-18 onwards).
8	35CCC- Expenditure on notified agricultural extension project.	Weighted deduction of 150 per cent of expenditure incurred on notified agricultural extension project.	Deduction shall be restricted to 100 per cent from 1.4.2017 (i.e from previous year 2017-18 onwards).

These amendments mentioned in table 2 will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent years.

23. Tax incentives @100% for start-ups - 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.

With a view to providing an impetus to start-ups and facilitate their growth in the initial phase of their business, it is proposed to provide a **deduction 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 benefit of hundred percent deduction of the profits derived from such business shall be available to an eligible start-up which is **setup before 01.04.2019**.

Further, in order to promote the start-up ecosystem in the country, it is envisaged in 'start-up India Action Plan' to establish a Fund of Funds which intends to raise Rs 2500 crores annually for four years to finance the start-ups.

Keeping this objective in view, it is proposed to insert a new Section 54EE to provide exemption from capital gains tax if the long term capital gains proceeds are invested by an assessee in units of such specified fund, as may be notified by the Central Government in this behalf, subject to the condition that the amount remains invested for three years failing which the exemption shall be withdrawn. The investment in the units of the specified fund shall be allowed up to Rs. 50 lakh

The existing provisions of section 54GB provide exemption from tax on long term capital gains in respect of the gains arising on account of transfer of a residential property, if such capital gains are invested in subscription of shares of a company which qualifies to be a small or medium enterprise under the Micro, Small and Medium Enterprises Act, 2006 subject to other conditions specified therein.

With an objective to provide relief to **an individual or HUF willing to setup a start-up company by selling a residential property to invest in the shares of such company, it is proposed to amend section 54GB so as to provide that long term capital gains arising on account of transfer of a residential property shall not be charged to tax if such capital gains are invested in subscription of shares of a company which qualifies to be an eligible start-up subject to the condition that the individual or HUF holds more than fifty per cent shares of the company and such company utilises the amount invested in shares to purchase new asset before due date of filing of return by the investor.**

The existing provision of section 54GB requires that the company should invest the proceeds in the purchase of new asset being new plant and machinery but does not include, inter-alia, computers or computer software.

With a view to avoid the incidence of the aforesaid condition on start-ups where computers or computer software form the core asset base owing to nature of business activity, it is proposed to amend section 54GB so as to provide that the **expression "new asset" includes computers or computer software in case of technology driven start-ups so certified by the Inter-Ministerial Board of Certification notified by the Central Government** in the official Gazette.

24. Taxation of Income from 'Patents' - where the total income of the eligible assessee income includes any income by way of royalty in respect of a patent developed and registered in India, then such royalty shall be taxable at the rate of ten per cent (plus applicable surcharge and cess) on the gross amount of royalty. No expenditure or allowance in respect of such royalty income shall be allowed under the Act.

In order to encourage indigenous research & development activities and to make India a global R & D hub, the Government has decided to put in place a concessional taxation regime for income from patents. The aim of the concessional taxation regime is to provide an additional incentive for companies to retain and commercialise existing patents and to develop new innovative patented products. This will encourage companies to locate the high-value jobs associated with the development, manufacture and exploitation of patents in India. The Organization for Economic Cooperation and Development (OECD) has recommended, in Base Erosion and Profit Shifting (BEPS) project under Action Plan 5, the nexus approach which prescribes that income arising from exploitation of Intellectual property (IP) should be attributed and taxed in the jurisdiction where substantial research & development (R&D) activities are undertaken rather than the jurisdiction of legal ownership only.

Accordingly, it is proposed to insert new section 115BBF to provide that **where the total income of the eligible assessee income includes any income by way of royalty in respect of a patent developed and registered in India, then such royalty shall be taxable at the rate of ten per cent (plus applicable surcharge and cess) on the gross amount of royalty. No expenditure or allowance in respect of such royalty income shall be allowed under the Act.**

For the purpose of this concessional tax regime an eligible assessee means a person resident in India, who is the true and first inventor of the invention and whose name is entered on the patent register as the patentee in accordance with Patents Act, 1970 and includes evey such person, being the true and the first inventor of the invention, where more than one person is registered as pententee under Patents Act, 1970 in respect of that patent.

25. Tax incentive for employment generation - available in respect of cost incurred on any employee whose total emoluments are less than or equal to twenty five thousand rupees per month; **to relax the norms for minimum number of days of employment in a financial year from 300 days to 240 days; in the first year of a new business, thirty percent of all emoluments paid or payable to the employees employed during the previous year shall be allowed as deduction.**

The existing provisions of Section 80JJAA provide for a deduction of thirty percent of additional wages paid to new regular workmen in a factory for three years. The provisions apply to the business of manufacture of goods in a factory where 'workmen' are employed for not less than three hundred days in a previous year. Further, benefits are allowed only if there is an increase of at least ten percent in total number of workmen employed on the last day of the preceding year.

With a view to extend this employment generation incentive to all sectors, it is proposed to provide that the deduction under the said **provisions shall be available in respect of cost incurred on any employee whose total emoluments are less than or equal to twenty**

five thousand rupees per month. No deduction, however, shall be allowed in respect of cost incurred on those employees, for whom the entire contribution under Employees' Pension Scheme notified in accordance with Employees' Provident Fund and Miscellaneous Provisions Act, 1952, is paid by the Government.

It is further proposed **to relax the norms for minimum number of days of employment in a financial year from 300 days to 240 days** and also the condition of ten per cent increase in number of employees every year is proposed to be done away with so that any increase in the number of employees will be eligible for deduction under the provision.

It is also proposed to provide that **in the first year of a new business, thirty percent of all emoluments paid or payable to the employees employed during the previous year shall be allowed as deduction.**

26. Consolidation of 'plans' within a 'scheme' of mutual fund - not be considered transfer for capital gain tax purposes and thereby shall not be chargeable to tax.

Under the existing provisions of section 47(xviii), any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated scheme of the mutual fund is not chargeable to tax.

Security Exchange Board of India (**SEBI) has issued guidelines for consolidation of mutual fund plans within a scheme**. In view of this, it is proposed to extend the tax exemption, available on merger or consolidation of mutual fund schemes, to the merger or consolidation of different plans in a mutual fund scheme. For this purpose, it is proposed to amend Section 47 so as to provide that any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund shall **not be considered transfer for capital gain tax purposes and thereby shall not be chargeable to tax.**

27. Enabling provision for implementation of various provisions of the Act in case of a foreign company held to be resident in India. - POEM was defined to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are in substance made.

To defer the applicability of POEM based residence test by one year and the determination of residence based on POEM shall be applicable from 01/04/17.

The provisions of section 6 of the Act provide for conditions in which residence in India is determined in case of different category of persons. Section 6(3) deals with conditions to be satisfied for a company to be treated as resident in India in any previous year. Prior to amendment of section 6(3) by the Finance Act 2015, a company was said to be resident in India in any previous year if it was an Indian company or during that year the control and management of its affairs was situated wholly in India. The Finance Act, 2015 amended the above provision so as to provide that a company would be resident in India in any previous year if it is an Indian company or its Place of Effective Management (POEM) in that year is in India. **The POEM was defined to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are in substance made.**

In the context of implementation of POEM based residence rule, certain issues, relating to the applicability of current provisions of the Act to a company which is incorporated outside India and has not earlier been assessed to tax in India, have arisen. In particular, the **issues relate to applicability of specific provisions of the Act relating to Advance tax payment, applicability of TDS provisions, computation of total income, set off of losses and manner of application of transfer pricing regime**. These provisions have compliance requirements which would not have been undertaken by the company at relevant time due to absence of any such requirement under tax laws of country of incorporation of such company. Similarly, issues of computation of depreciation also arise when in earlier years it has not been subject to computation under the Act.

Problems highlighted also arise due to the fact that a company may be claiming to be a foreign company not resident in India but in the course of assessment, it is held to be resident based on POEM being in fact in India. **This determination would be well after closure of the previous year and it may not be possible for company to undertake many of procedural requirements.** Representations have also been made by stakeholders that the **implementation of POEM be deferred by a year, by which time clarity regarding guidelines and applicability of other provisions of the Act would be in place.**

In order to provide clarity in respect of implementation of POEM based rule of residence and also to address concerns of the stakeholders, it is proposed to: -

(a) defer the applicability of POEM based residence test by one year and the determination of residence based on POEM shall be applicable from 01/04/17.

(b) provide a transition mechanism for a company which is incorporated outside India and has not earlier been assessed to tax in India. The Central Government is proposed to be empowered to notify exception, modification and adaptation subject to which, the provisions of the Act relating to computation of income, treatment of unabsorbed depreciation, setoff or carry forward and setoff of losses, special provision relating to avoidance of tax and the collection and recovery of taxes shall apply in a case where a foreign company is said to be resident in India due to its POEM being in India for the first time and the said company has never been resident in India before.

(c) provide that these transition provisions would also cover any subsequent previous year upto the date of determination of POEM in an assessment proceedings. However, once the transition is complete, then normal provision of the Act would apply.

(d) provide that in the notification, certain conditions including procedural conditions subject to which these adaptations shall apply can be provided for and in case of failure to comply with the conditions, the benefit of such notification would not be available to the foreign company.

(e) provide that every notification issued in exercise of this power by the Central Government shall be laid before each house of the Parliament.

28. Exemption from requirement of furnishing PAN under section 206AA to certain non-resident – shall also not apply to a non-resident, not being a company, or to a foreign company, in respect of any other payment, other than interest on bonds, subject to such conditions as may be prescribed
Will take effect from 1st June, 2016.

The existing provision of section 206AA, inter alia, provides that any person who is entitled to receive any sum or income or amount on which tax is deductible under Chapter XVIIB of the Act shall furnish his Permanent Account Number to the person responsible for deducting such tax, failing which tax shall be deducted at the rate mentioned in the relevant provisions of the Act or at the rate in force or at the rate of twenty per cent., whichever is higher. The provisions of section 206AA also apply to non-residents with an exception in respect of payment of interest on long-term bonds as referred to in section 194LC.

In order to reduce compliance burden, it is proposed to amend the said section 206AA so as to provide that the provisions of this section **shall also not apply to a non-resident, not being a company, or to a foreign company, in respect of any other payment, other than interest on bonds, subject to such conditions as may be prescribed.**

29. Providing legal framework for automation of various processes and paperless assessment - term "hearing" to include communication of data and documents through electronic mode.
Will take effect from the 1st day of June, 2016

It is proposed to amend the relevant provisions of the Act so as to provide adequate legal framework for paperless assessment in order to enhance efficiency and reduce the burden of compliance. A series of changes are proposed to achieve this end.

Sub-section (1) of section 282A provides that where a notice or other document is required to be issued by any income-tax authority under the Act, such notice or document should be signed by that authority in manuscript.

It is proposed to amend sub-section (1) of section 282A so as to provide that notices and documents required to be issued by income-tax authority under the Act shall be issued by such authority either in paper form or in electronic form in accordance with such procedure as may be prescribed.

Sub-section (2) of section 143 provides that, if the Assessing Officer considers it necessary and expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not under-paid the tax in any manner, he shall serve on the assessee a notice requiring him to produce, or cause to be produced on a specified date, any evidence on which the assessee may rely in support of the return.

In order to ensure timely service of notice issued under sub-section (2) of section 143, it is proposed to amend sub-section (2) of section 143 to provide that notice under the said sub-section may be served on the assessee by the Assessing Officer or the prescribed income-tax authority, either to attend the office of the Assessing Officer or to produce, or cause to be produced before the Assessing Officer any evidence on which the assessee may rely in support of the return.

It is also proposed to amend the existing provision of section 2 by inserting new clause (23C) to define the term "hearing" to include communication of data and documents through electronic mode.

30. BEPS action plan - Country-By-Country Report and Master file –

(iv) a master file containing standardised information relevant for all multinational enterprises (MNE) group members;

(v) a local file referring specifically to material transactions of the local taxpayer; and

(vi) a country-by-country report containing certain information relating to the global allocation of the MNE's income and taxes paid together with certain indicators of the location of economic activity within the MNE group.

The current international consensus is for a threshold of € 750 million equivalent in local currency. This threshold in Indian currency would be equivalent to Rs. 5395 crores (at current rates). Therefore, CbC reporting for an international group having Indian parent, for the previous year 2016-17, shall apply only if the consolidated revenue of the international group in previous year 2015-16 exceeds Rs. 5395 crore

Sections 92 to 92F of the Act contain provisions relating to transfer pricing regime. Under provision of section 92D, there is requirement for maintenance of prescribed information and document relating to the international transaction and specified domestic transaction.

The **OECD report on Action 13 of BEPS Action plan provides for revised standards for transfer pricing documentation and a template for country-by-country reporting of income, earnings, taxes paid and certain measure of economic activity.** India has been one of the active members of BEPS initiative and part of international consensus. It is recommended in the BEPS report that the countries should adopt a standardised approach to transfer pricing documentation. A three-tiered structure has been mandated consisting of:-

(i) a master file containing standardised information relevant for all

multinational enterprises (MNE) group members;

(ii) a local file referring specifically to material transactions of the local taxpayer; and

(iii) a country-by-country report containing certain information relating to the global allocation of the MNE's income and taxes paid together with certain indicators of the location of economic activity within the MNE group.

The report mentions that taken together, these three documents (country-by-country report, master file and local file) will require taxpayers to articulate consistent transfer pricing positions and will provide tax administrations with useful information to assess transfer pricing risks. It will facilitate tax administrations to make determinations about where their resources can most effectively be deployed, and, in the event audits are called for, provide information to commence and target audit enquiries.

The country-by-country report requires multinational enterprises (MNEs) to report annually and for each tax jurisdiction in which they do business; the amount of revenue, profit before income tax and income tax paid and accrued. It also requires MNEs to report their total employment, capital, accumulated earnings and tangible assets in each tax jurisdiction. Finally, it requires MNEs to identify each entity within the group doing business in a particular tax jurisdiction and to provide an indication of the business activities each entity engages in. The Country-by-Country (CbC) report has to be submitted by parent entity of an international group to the prescribed authority in its country of residence. This report is to be based on consolidated financial statement of the group.

The master file is intended to provide an overview of the MNE groups business, including the nature of its global business operations, its overall transfer pricing policies, and its global allocation of income and economic activity in order to assist tax administrations in evaluating the presence of significant transfer pricing risk. In general, the master file is intended to provide a high-level overview in order to place the MNE group's transfer pricing practices in their global economic, legal, financial and tax context. The master file shall contain information which may not be restricted to transaction undertaken by a particular entity situated in particular country. In that aspect, information in master file would be more comprehensive than the existing regular transfer pricing documentation. The master file shall be furnished by each entity to the tax authority of the country in which it operates.

In order to implement the international consensus, it is proposed to provide a specific reporting regime in respect of CbC reporting and also the master file. It is proposed to include essential elements in the Act while remaining aspects can be detailed in rules. The elements relating to CbC reporting requirement and matters related to it proposed to be included through amendment of the Act are:—

(i) the reporting provision shall apply in respect of an international group having consolidated revenue above a threshold to be prescribed.

(ii) the parent entity of an international group, if it is resident in India shall be required to furnish the report in respect of the group to the prescribed authority on or before the due date of furnishing of return of income for the Assessment Year relevant to the Financial Year (previous year) for which the report is being furnished;

(iii) the parent entity shall be an entity which is required to prepare consolidated financial statement under the applicable laws or would have been required to prepare such a statement, had equity share of any entity of the group been listed on a recognized stock exchange in India;

(iv) every constituent entity in India, of an international group having parent entity that is not resident in India, shall provide information regarding the country or territory of residence of the parent of the international group to which it belongs. This information shall be furnished to the prescribed authority on or before the prescribed date;

(v) the report shall be furnished in prescribed manner and in the prescribed form and would contain aggregate information in respect of revenue, profit & loss before Income-tax, amount of Income-tax paid and accrued, details of capital, accumulated earnings, number of employees, tangible assets other than cash or cash equivalent in respect of each country or territory along with details of each constituent's residential status, nature and detail of main business activity and any other information as may be prescribed. This shall be based on the template provided in the OECD BEPS report on Action Plan 13;

(vi) an entity in India belonging to an international group shall be required to furnish CbC report to the prescribed authority if the parent entity of the group is resident ;-

(a) in a country with which India does not have an arrangement for exchange of the CbC report; or

(b) such country is not exchanging information with India even though there is an agreement; and

(c) this fact has been intimated to the entity by the prescribed authority;

(vii) If there are more than one entities of the same group in India, then the group can nominate (under intimation in writing to the prescribed authority) the entity that shall furnish the report on behalf of the group. This entity would then furnish the report;

(viii) If an international group, having parent entity which is not resident in India, had designated an alternate entity for filing its report with the tax jurisdiction in which the alternate entity is resident, then the entities of such group operating in India would not be obliged to furnish report if the report can be obtained under the agreement of exchange of such reports by Indian tax authorities;

(ix) The prescribed authority may call for such document and information from the entity furnishing the report for the purpose of verifying the accuracy as it may specify in notice. The entity shall be required to make submission within thirty days of receipt of notice or further period if extended by the prescribed authority, but extension shall not be beyond 30 days;

(x) For non-furnishing of the report by an entity which is obligated to furnish it, a graded penalty structure would apply:-

(a) if default is not more than a month, penalty of Rs. 5000/- per day applies;

(b) if default is beyond one month, penalty of Rs 15000/- per day for the period exceeding one month applies;

(c) for any default that continues even after service of order levying penalty either under (a) or under (b), then the penalty for any continuing default beyond the date of service of order shall be @ Rs 50,000/- per day;

(xi) In case of timely non-submission of information before prescribed authority when called for, a penalty of Rs5000/- per day applies. Similar to the above, if default continues even after service of penalty order, then penalty of Rs.50,000/- per day applies for default beyond date of service of penalty order;

(xii) If the entity has provided any inaccurate information in the report and,-

(a) the entity knows of the inaccuracy at the time of furnishing the report but does not inform the prescribed authority; or

(b) the entity discovers the inaccuracy after the report is furnished and fails to inform the prescribed authority and furnish correct report within a period of fifteen days of such discovery; or

(c) the entity furnishes inaccurate information or document in response to notice of the prescribed authority, then penalty of Rs.500,000/- applies;

(xiii) The entity can offer reasonable cause defence for non-levy of penalties mentioned above.

The proposed amendment in the Act in respect of maintenance of master file and furnishing it are: -

(i) the entities being constituent of an international group shall, in addition to the information related to the international transactions, also maintain such information and document as is prescribed in the rules. The rules shall thereafter prescribe the information and document as mandated for master file under OECD BEPS Action 13 report;

(ii) the information and document shall also be furnished to the prescribed authority within such period as may be prescribed and the manner of furnishing may also be provided for in the rules;

(iii) for non-furnishing of the information and document to the prescribed authority, a penalty of Rs. 5 lakh shall be leviable. However, reasonable cause defence against levy of penalty shall be available to the entity.

As indicated above, the CbC reporting requirement for a reporting year does not apply unless the consolidated revenues of the preceding year of the group, based on consolidated financial statement, **exceeds a threshold to be prescribed**. **The current international consensus is for a threshold of € 750 million equivalent in local currency. This threshold in Indian currency would be equivalent to Rs. 5395 crores (at current rates). Therefore, CbC reporting for an international group having Indian parent, for the previous year 2016-17, shall apply only if the consolidated revenue of the international group in previous year 2015-16 exceeds Rs. 5395 crore (the equivalent would be determinable based on exchange rate as on the last day of previous year 2015-16).**

31. Extension of scope of section 43B to include certain payments made to Railways - to ensure the prompt payment of dues to Railways for use of the Railway assets, it is proposed to amend section 43B so as to expand its scope to include payments made to Indian Railways for use of Railway assets within its ambit.

The existing provisions of section 43B of the Act, inter alia, provide that any sum payable by the assessee by way of tax, cess, duty or fee, employer contribution to Provident Fund, etc., is allowable as deduction of the previous year in which the liability to pay such sum was incurred (relevant previous year) if the same is actually paid on or before the due date of furnishing of the return of income irrespective of method of accounting followed by a person.

With a view **to ensure the prompt payment of dues to Railways for use of the Railway assets, it is proposed to amend section 43B so as to expand its scope to include payments made to Indian Railways for use of Railway assets within its ambit.**

32. Clarification regarding set off losses against deemed undisclosed income - to expressly provide that no set off of any loss shall be allowable in respect of income under the sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D.

Section 115 BBE of the Act, inter-alia provides that the **income relating to section 68 or section 69 or section 69A or section 69B or section 69C or section 69D is taxable at the rate of thirty per cent and further provides that no deduction in respect of any expenditure or allowances in relation to income referred to in the said sections shall be allowable**.

Currently, there is uncertainty on the issue of set-off of losses against income referred in section 115BBE of the Act. The matter has been carried to judicial forums and courts in some cases has taken a view that losses shall not be allowed to be set-off against income referred to in section 115BBE. However, the current language of section 115BBE of the Act does not convey the desired intention and as a result the matter is litigated. In order to avoid unnecessary litigation, it is proposed to amend the provisions of the sub-section (2) of section 115BBE **to expressly provide that no set off of any loss shall be allowable in respect of income under the sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D.**

33. Clarification regarding the definition of the term 'unlisted securities' for the purpose of Section 112 (1) (c) -

Existing provisions of clause (c) of sub-section (1) of section 112 provide tax rate of ten per cent for long-term capital gain arising from transfer of securities, whether listed or unlisted. The expression "securities" for the purpose of the said provision has the same meaning as in clause (h) of section 2 of the Securities Contracts (Regulations) Act, 1956 (32 of 1956)('SCRA'). A view has been taken by the courts that shares of a private company are not "securities".

With a view to clarify the position so far as taxability is concerned, it is proposed to amend the provisions of clause (c) of sub-section (1) of section 112 of the Income- tax Act, so as to provide **that long-term capital gains arising from the transfer of a capital asset being shares of a company not being a company in which the public are substantially interested, shall be chargeable to tax at the rate of 10 per cent.**

34. Amortisation of spectrum fee for purchase of spectrum - any capital expenditure incurred and actually paid by an assessee on the acquisition of any right to use spectrum for telecommunication services by paying spectrum fee will be allowed as a deduction in equal instalments over the period for which the right to use spectrum remains in force;

Under section 32 of the Act, depreciation is allowed in respect of assets including certain intangible assets. **Under section 35ABB of the Act, amortisation of license fee in case of telecommunication service is provided.**

Government has newly introduced spectrum fee for auction of airwaves. There is uncertainty in tax treatment of payments in respect of Spectrum i.e. whether spectrum is an intangible asset and the spectrum fees paid is eligible for depreciation under section 32 of the Act or whether it is in the nature of a 'license to operate telecommunication business' and eligible for deduction under section 35ABB of the Act.

In order to provide clarity and avoid any future litigation and controversy, it is proposed to insert a new section 35ABA in the Act **to provide for tax treatment of spectrum fee**. The section seeks to provide,-

- **(i)** **any capital expenditure incurred and actually paid by an assessee on the acquisition of any right to use spectrum for telecommunication services by paying spectrum fee will be allowed as a deduction in equal instalments over the period for which the right to use spectrum remains in force.**
- (ii) where the spectrum is transferred and **proceeds of the transfer are less than the expenditure remaining unallowed**, a deduction equal to the expenditure remaining unallowed as reduced by the proceeds of transfer, shall be allowed in the previous year in which the spectrum has been transferred.
- (iii) if the spectrum is transferred and **proceeds of the transfer exceed the amount of expenditure remaining unallowed,** the excess amount shall be chargeable to tax as profits and gains of business in the previous year in which the spectrum has been transferred.
- (iv) unallowed expenses in a case where a part of the spectrum is transferred would be amortised.

(v) under the **scheme of amalgamation**, if the amalgamating company sells or transfer the spectrum to an amalgamated company, being an Indian company, then the provisions of this section will apply to amalgamated company as they would have applied to amalgamating company if later has not transferred the spectrum.

35. Filing of return of Income –

if a person during the previous year earns income which is exempt under clause (38) of section 10 and income of such person without giving effect to the said clause of section 10 exceeds the maximum amount which is not chargeable to tax, shall also be liable to file return of income for the previous year within the due date;
To provide that any person who has not furnished a return within the time allowed to him under sub-section (1), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier;
A return which is otherwise valid would not be treated defective merely because self-assessment tax and interest payable in accordance with the provisions of section 140A has not been paid on or before the date of furnishing of the return;
A return which is otherwise valid would not be treated defective merely because self-assessment tax and interest payable in accordance with the provisions of section 140A has not been paid on or before the date of furnishing of the return.

Existing provisions of sub-section (1) of section 139 provide that every person referred to therein shall file a return of income on or before the due date. The sixth proviso to the said section provides that every person, being an individual or Hindu undivided family or an association of person or a body of individual, whether incorporated or not or any artificial juridical person, if his total income or of any other person in respect of which he is assessable under this Act during the previous year, without giving effect to provisions of section 10A or section 10B or section 10BA or Chapter VI-A, exceeds the maximum amount which is not chargeable to income tax shall be liable to furnish return on or before the due date.

Existing provision of sub-section (4) of section 139 provides that a person who has not furnished a return within the time allowed to him under sub-section (1), or within the time allowed under a notice issued under sub-section (1) of section 142, may furnish the return for any previous year at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

Sub-section (5) of the section 139 provides that if any person, having furnished the return under sub-section (1), or in pursuance of a notice issued under sub-section (1) of section 142 discovers any omission or any wrong statement therein, he may furnish a revised return at any time before one year from the end of the relevant assessment year or completion of assessment, whichever is earlier.

Clause (aa) of Explanation to sub-section (9) of the section 139 provides that a return of income shall be regarded as defective unless the self-assessment tax together with interest, if any, payable in accordance with the provisions of section 140A, has been paid on or before the date of furnishing of return.

In order to rationalise the time allowed for filing of returns, completion of proceedings, and realization of revenue without undue compliance burden on the taxpayer, and to promote the culture of compliance, it is proposed to amend the above provisions of the Act.

It is proposed to amend the sixth proviso to sub-section (1) of the section 139 to include that **if a person during the previous year earns income which is exempt under clause (38) of section 10 and income of such person without giving effect to the said clause of section 10 exceeds the maximum amount which is not chargeable to tax, shall also be liable to file return of income for the previous year within the due date.**

It is also proposed to substitute sub-section (4) of the aforesaid section **to provide that any person who has not furnished a return within the time allowed to him under sub-section (1), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.**

It is also proposed to substitute sub-section (5) of the aforesaid section so as to provide that if any person, having furnished a return under sub-section (1) or under sub-section (4), or in a return furnished in response to notice issued under sub-section (1) of section 142, **discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.**

It is also proposed to omit clause (aa) of the Explanation to sub-section (9) of aforesaid section to provide that **a return which is otherwise valid would not be treated defective merely because self-assessment tax and interest payable in accordance with the provisions of section 140A has not been paid on or before the date of furnishing of the return.**

36. Processing under section 143(1) be mandated before assessment – before making an assessment under sub-section (3) of section 143, a return shall be processed under sub-section (1) of section 143

Under the existing provision of sub-section (1D) of section 143, processing of a return is not necessary where a notice has been issued to the assessee under sub-section (2) of the said section.

It is proposed to amend sub-section (1D) of the aforesaid section to provide that before making an assessment under sub-section (3) of section 143, a return shall be processed under sub-section (1) of section 143.

The amendment will take effect from the 1st day of April, 2017 and will, accordingly apply in relation to assessment year 2017-2018 and subsequent years.

37. Rationalisation of time limit for assessment, reassessment and recomputation –

- (iv) **the period, for completion of assessment under section 143 or section 144 be changed from existing two years to twenty-one months from the end of the assessment year in which the income was first assessable;**
- (v) **the period for completion of assessment under section 147 be changed from existing one year to nine months from the end of the financial year in which the notice under section 148 was served;**
- (vi) **the period for completion of fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment be changed from existing one year to nine months from the end of the financial year in which the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, or the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner**

Will take effect from 1st day of June, 2016

The existing statutory time limit for completion of assessment proceedings is two years from the end of the assessment year in which the income was first assessable. It is desirable that proceedings under the Act are finalised more expeditiously as digitisation of processes within the Department has enhanced its efficiency in handling workload. In order to simplify the provisions of existing section 153 by retaining only those provisions that are relevant to the current provisions of the Act, section 153 is proposed to be substituted with the following changes in time limit from the existing time limits:

(i) **the period, for completion of assessment under section 143 or section 144 be changed from existing two years to twenty-one months from the end of the assessment year in which the income was first assessable;**

(ii) **the period for completion of assessment under section 147 be changed from existing one year to nine months from the end of the financial year in which the notice under section 148 was served;**

(iii) **the period for completion of fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment be changed from existing one year to nine months from the end of the financial year in which the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, or the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner**

It is further proposed to provide that the period for giving effect to an order, under sections 250 or 254 or 260 or 262 or 263 or 264 or an order of the Settlement Commission under sub-section (4) of section 245D, where effect can be given wholly or partly otherwise than by making a fresh assessment or reassessment shall be three months from the end of the month in which order is received or passed, as the case may be, by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner. It is also proposed that in a case where it is not possible for the Assessing Officer to give effect to such order within the aforesaid period, for reasons beyond his control, the Principal Commissioner or Commissioner on receipt of such reasons in writing from the Assessing Officer, if satisfied, may allow additional time of six months to give effect to the said order. However, in respect of cases pending as on 1st June 2016, the time limit for passing such order is proposed to be extended to 31.3.2017.

It is also proposed that where the assessment, reassessment or recomputation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, 254, 260, 262, 263, or section 264 or in an order of any court in a proceeding otherwise than by way of appeal or reference under the Income-tax Act, then such assessment, reassessment or recomputation shall be made on or before the expiry of twelve months from the end of the month in which such order is received by the Principal Commissioner or Commissioner. However, for cases pending as on 1.6.2016, the time limit for taking requisite action is proposed to be 31.3.2017 or twelve months from the end of the month in which such order is received, whichever is later.

It is also proposed that where an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147, such assessment be made on or before the expiry of twelve months from the end of the month in which the assessment order in the case of the firm is passed. However, for cases pending as on 1.6.2016, the time limit for taking requisite action is proposed to be 31.3.2017 or twelve months from the end of the end of the month in which order in case of firm is passed, whichever is later.

It is also proposed to make **consequential changes in time limit for completion of assessment or reassessment by the Assessing Officer in accordance with the extension of time limit provided to the Transfer Pricing Officer in certain cases by amendment in sub-section (3A) to section 92CA.**

The provisions of section 153 as they stood immediately before their amendment by the Finance Act, 2016, shall apply to and in relation to any order of assessment, reassessment or recomputation made before the 1st day of June, 2016.

38. Payment of interest on refund –
the period for which the interest is paid on such excess payment of tax begins from the 1st April of the assessment year and ends on the date on which refund is granted;
an assessee shall be eligible to interest on refund of self-assessment tax for the period beginning from the date of payment of tax or filing of return, whichever is later, to the date on which the refund is granted.

Will take effect from 1st day of June, 2016

Section 244A inter alia provides that an assessee is entitled to interest on refund arising out of excess payment of advance tax, tax deducted or collected at source. **It also provides that the period for which the interest is paid on such excess payment of tax begins from the 1st April of the assessment year and ends on the date on which refund is granted.**

In order to ensure filing of return within the due date it is proposed to amend section 244A to provide that **in cases where the return is filed after the due date, the period for grant of interest on refund may begin from the date of filing of return.**

In the interest of fairness and equity, it is further proposed **to provide that an assessee shall be eligible to interest on refund of self-assessment tax for the period beginning from the date of payment of tax or filing of return, whichever is later, to the date on which the refund is granted.** For the purpose of determining the order of adjustment of payments received against the taxes due, the prepaid taxes i.e. the TDS, TCS and advance tax shall be adjusted first.

It is also proposed to provide that where a refund arises out of appeal effect being delayed beyond the time prescribed under sub-section (5) of section 153, the assessee shall be entitled to receive, in addition to the interest payable under sub-section (1) of section 244A, an additional interest on such refund amount calculated at the rate of three per cent per annum, for the period beginning from the date following the date of expiry of the time allowed under sub-section (5) of section 153 to the date on which the refund is granted. It is clarified that in cases where extension is granted by the Principal Commissioner or Commissioner by invoking proviso to sub-section (5) of section 153, the period of additional interest, if any, shall begin from the expiry of such extended period.

39. Levy of tax where the charitable institution ceases to exist or converts into a non-charitable organization - for imposing a levy in the nature of an exit tax which is attracted when the organization is converted into a non-charitable organization or gets merged with a non-charitable organization or does not transfer the assets to another charitable organisation.
***A* trust or an institution shall be deemed to have been converted into any form not eligible for registration under section 12AA in a previous year, if,— (*i*) the registration granted to it under section 12AA has been cancelled; or (*ii*) it has adopted or undertaken modification of its objects which do not conform to the conditions of registration and it,— (*a*) has not applied for fresh registration under section 12AA in the said previous year; or (*b*) has filed application for fresh registration under section 12AA but the said application has been rejected.**
Take effect from 1st June, 2016

The existing provisions of section 2(24) of the Act define "Income" in an inclusive manner. Any voluntary contribution received by a charitable trust or institution or a fund is included in the definition of income. Sections 11 and 12 of the Act provide for exemption to trusts or institutions in respect of income derived from property held under trust and voluntary contributions, subject to various conditions contained in the said sections. The primary condition for grant of exemption is that the income derived from property held under trust should be applied for the charitable purposes, and where such income cannot be applied during the previous year, it has to be accumulated and invested in the modes prescribed and applied for such purposes in accordance with various conditions provided in the section. If the accumulated income is not applied in accordance with the conditions provided in the said section within a specified time, then such income is deemed to be taxable income of the trust or the institution. Section 12AA provides for registration of the trust or institution which entitles them to be able to get the benefit of sections 11 and 12. It also provides the circumstances under which the registration can be cancelled. Section 13 of the Act provides for the circumstances under which exemption under section 11 or 12 in respect of whole or part of income would not be available to a trust or institution.

A society or a company or a trust or an institution carrying on charitable activity may voluntarily wind up its activities and dissolve or may also merge with any other charitable or non-charitable institution, or it may convert into a non-charitable organization. In such a situation, the existing law does not provide any clarity as to how the assets of such a charitable institution shall be dealt with. Under provisions of section 11 certain amount of income of prior period can be brought to tax on failure of certain conditions. However, there is no provision in the Act which ensure that the corpus and asset base of the trust accreted over period of time, with promise of it being used for charitable purpose, continues to be utilised for charitable purposes and is not used for any other purpose. In the absence of a clear provision, it is always possible for charitable institutions to transfer assets to a non-charitable institution. There is a need to ensure that the benefit conferred over the years by way of exemption is not misused and to plug the gap in law that allows the charitable trusts having built up corpus/wealth through exemptions being converted into non-charitable organisation with no tax consequences.

In order to ensure that the intended purpose of exemption availed by trust or institution is achieved, a specific provision in the Act is required **for imposing a levy in the nature of an exit tax which is attracted when the organization is converted into a non-charitable organization or gets merged with a non-charitable organization or does not transfer the assets to another charitable organisation.**

Accordingly, it is proposed to amend the provisions of the Act and introduce a **new Chapter** to provide for levy of additional income-tax in case of conversion into, or merger with, any non-charitable form or on transfer of assets of a charitable organisation on its dissolution to a non-charitable institution. The elements of the regime are: -

(i) The accretion in income (accreted income) of the trust or institution shall be taxable on conversion of trust or institution into a form not eligible for registration u/s 12 AA or on merger into an entity not having similar objects and registered under section 12AA or on non-distribution of assets on dissolution to any charitable institution registered u/s 12AA or approved under section 10(23C) within a period twelve months from dissolution.

(ii) Accreted income shall be amount of aggregate of total assets as reduced by the liability as on the specified date. The method of valuation is proposed to be prescribed in rules. The asset and the liability of the charitable organisation which have been transferred to another charitable organisation within specified time will be excluded while calculating accreted income.

(iii) The taxation of accreted income shall be at the maximum marginal rate.

(iv) This levy shall be in addition to any income chargeable to tax in the hands of the entity.

(v) This tax shall be final tax for which no credit can be taken by the trust or institution or any other person, and like any other additional tax, it shall be leviable even if the trust or institution does not have any other income chargeable to tax in the relevant previous year.

(vi) In case of failure of payment of tax within the prescribed time a simple interest @ 1% per month or part of it shall be applicable for the period of non-payment.

(vii) For the purpose of recovery of tax and interest, the principal officer or the trustee and the trust or the institution shall be deemed to be assessee in default and all provisions related to the recovery of taxes shall apply. Further, the recipient of assets of the trust, which is not a charitable organisation, shall also be liable to be held as assessee in default in case of non-payment of tax and interest. However, the recipient's liability shall be limited to the extent of the assets received.

40. Exemption of income of Foreign Company from storage and sale of crude oil stored as part of strategic reserves - any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India shall not be included in the total income.
Take effect retrospectively from 1st April, 2016 and will accordingly apply in relation to assessment year 2016-17 and subsequent assessment years

The existing provisions of section 5 of the Act provides for the scope of total income. In the case of a non-resident, the taxation of income takes place only if the income accrues or arises in India or is deemed to accrue or arise in India or is received in India. Section 9 of the Act provides for circumstances in which the income is deemed to accrue or arise in India. One of the circumstances providing for income to be deemed to accrue or arise in India is if any income is directly or indirectly derived through or from a business connection in India.

The Indian Strategic Petroleum Reserves Limited (ISPRL) is in the process of setting up underground storage facility for storage of crude oil as part of strategic reserves. The maintenance of strategic reserves is in India's national interest and ensures price stability for Indian oil companies. The filling cost of such facility entails huge financial burden. The Government has explored the possibility of meeting a substantial part of the financial burden through participation of private players including foreign national oil companies (NOCs) and multinational companies (MNCs) storing and selling crude oil from outside India. However, the storage of crude oil by NOCs/MNCs and its sale in India would create tax liability for these entities.

In order to achieve neutrality in terms of taxation to encourage the NOCs & MNCs to store their crude oil in India and to build up strategic oil reserves, it is proposed to amend the provisions of section 10 of the Act **to provide that any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India shall not be included in the total income, if, -**

I. **such storage and sale by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; and**
II. **having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf.**

Since the storage of oil is expected to begin in the current financial year, this exemption would be available from the previous year 2015-16, i.e. assessment year 2016-17.

41. Exemption in respect of certain activity related to diamond trading in "Special Notified Zone" - no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to display of uncut and unassorted diamonds
Take effect retrospectively from 1st April, 2016 and will accordingly apply in relation to assessment year 2016-17 and subsequent assessment years.

The existing provisions of Section 5 of the Act provides for the scope of total income. In case of non-resident person, the taxation of income in India happens only if the income accrues or arises in India or is deemed to accrue or arise in India or is received in India. Section 9 of the Act provides circumstances under which income is deemed to accrue or arise in India. One of the circumstances providing for income to be deemed to accrue or arise in India is if any income is directly or indirectly derived through or from a business connection in India.

A "Special Notified Zone" (SNZ) had been created to facilitate shifting of operations by foreign mining companies (FMC) to India and to permit the trading of rough diamonds in India by the leading diamond mining companies of the world. The activity of FMC of mere display of rough diamonds even with no actual sale taking place in India may lead to creation of business connection in India of the FMC. This potential tax exposure has been an area of concern for the mining companies willing to undertake these activities in India.

In order to facilitate the FMCs **to undertake activity of display of uncut diamond (without any sorting or sale) in the special notified zone**, it is proposed to amend section 9 of the Act to provide that in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to display of uncut and unassorted diamonds in a Special Zone notified by the Central Government in the Official Gazette in this behalf.

42. Extending the benefit of initial additional depreciation under section 32(1)(iia) for power sector - business of transmission of power

Under the existing provisions of section 32(1)(iia) of the Act, additional depreciation of 20% is allowed in respect of the cost of new plant or machinery acquired and installed by certain assessees engaged in the business of generation and distribution of power . This depreciation allowance is over and above the deduction allowed for general depreciation under section 32(1)(ii) of the Act.

Under the existing provisions, the benefit of additional depreciation is not available on the new machinery or plant installed by an assessee engaged in the business of transmission of power.

In order to rationalise the incentive of power sector, it is proposed to amend this section so as to provide that **an assessee engaged in the business of transmission of power shall also be allowed additional depreciation at the rate of 20% of actual cost of new machinery or plant acquired and installed in a previous year.**

43. Provision for Tax benefits to Sovereign Gold Bond Scheme, 2015 and Rupee Denominated Bonds

43.1 Sovereign Gold Bond Scheme, 2015 - any redemption of Sovereign Gold Bond under the Scheme, by an individual shall not be treated as transfer and therefore shall be exempt from tax on capital gains; to provide indexation benefits to long terms capital gains arising on transfer of Sovereign Gold Bond to all cases of assessees

The Government of India has introduced the Sovereign Gold Bond Scheme with the aim of reducing the demand for physical gold so as to reduce the outflow of foreign exchange on account of import of gold. The Gold Bond is a mode for substitution of physical gold and also provides security to the individual investor who invests in Gold for meeting their social obligation.

Accordingly, with a view to providing parity in tax treatment between physical gold and Sovereign Gold Bond, it is proposed to amend Section 47 of the Income-tax Act, so as to provide that **any redemption of Sovereign Gold Bond under the Scheme, by an individual shall not be treated as transfer and therefore shall be exempt from tax on capital gains**.

It is also proposed to amend section 48 of the Income-tax Act, so as **to provide indexation benefits to long terms capital gains arising on transfer of Sovereign Gold Bond to all cases of assessees**.

43.2 Rupee Denominated Bond - capital gains, arising in case of appreciation of rupee between the date of issue and the date of redemption against the foreign currency in which the investment is made shall be exempt from tax on capital gains.

The Reserve Bank of India has recently permitted Indian corporates to issue rupee denominated bonds outside India as a measure to enable the Indian corporates to raise funds from outside India.

Accordingly, with a view to provide relief to non-resident investor who bears the risk of currency fluctuation, it is proposed to amend section 48 of the Act so as to provide that the **capital gains, arising in case of appreciation of rupee between the date of issue and the date of redemption against the foreign currency in which the investment is made shall be exempt from tax on capital gains.**

44. Tax Treatment of Gold Monetization Scheme, 2015 - interest on Deposit Certificates issued under the Scheme, shall be exempt from income-tax.
Effective retrospectively from the 1st day of April, 2016 and shall accordingly apply in relation to assessment year 2016-17 and subsequent years.

Under the existing provisions of section 10, interest on Gold Deposit Bonds issued under Gold Deposit Scheme, 1999 is exempt. Further, these bonds are excluded from the definition of capital asset and therefore exempt from tax on capital gains.

The Gold Monetization Scheme, 2015 has since been introduced by the Government of India. With a view to extend the same tax benefits to the scheme as were available to the Gold Deposit Scheme, 1999 it is proposed to amend Clause (14) of section 2, so as to exclude Deposit Certificates issued under Gold Monetisation Scheme, 2015 notified by the Central Government, from the definition of capital asset and thereby to exempt it from capital gains tax.

It is also proposed to amend clause (15) of section 10 so as to provide that the **interest on Deposit Certificates issued under the Scheme, shall be exempt from income-tax.**

45. Rationalization of section 56 of the Income-tax Act - any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not attract the provisions of clause (vii) of sub-section (2) of section 56.

The existing provisions of clause(vii) of sub-section 2 of section 56 of the Act provide for chargeability of income from other sources in case any money, immovable property or other property with or without consideration in excess of Rs 50,000 is received by an assessee being an individual or an Hindu undivided family (HUF). The provisions also apply where shares of a company are received as a consequence of demerger or amalgamation of a company. Such a transaction is not regarded as transfer where the recipient is a firm or a company.

With a view to bring uniformity in tax treatment, it is proposed to amend the Act so as to provide that **any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not attract the provisions of clause (vii) of sub-section (2) of section 56.**

46. Rationalization of limit of rebate in income-tax allowable under Section 87A - to resident individuals in the lower income slab, it is proposed to amend section 87A so as to increase the maximum amount of rebate available under this provision from existing Rs.2,000 to Rs. 5,000

The existing provisions of section 87A of Income-tax Act, provide for a rebate of an amount equal to hundred per cent of such income-tax or an amount of two thousand rupees, whichever is less, from the amount of income-tax to an individual resident in India whose total income does not exceed five hundred thousand rupees.

With the objective to provide relief **to resident individuals in the lower income slab, it is proposed to amend section 87A so as to increase the maximum amount of rebate available under this provision from existing Rs.2,000 to Rs.5,000**.

47. Exemption from Dividend Distribution Tax (DDT) on distribution made by an SPV to Business Trust - taxation of business trusts comprising of Real Estate Investment Trust (REITs) and Infrastructure Investment Trust (Invits) regulated by SEBI.
Take effect from 1st June, 2016

In respect of **taxation of business trusts comprising of Real Estate Investment Trust (REITs) and Infrastructure Investment Trust (Invits) regulated by SEBI** a specific taxation regime has been incorporated in the Act. Under this regime, the multiple taxation due to interposition of business trust is avoided. Under the SEBI regulation, these business trusts can hold the income generating asset either directly or through a Special Purpose Vehicle (SPV). The SPV can be a company or an LLP. Under SEBI Regulation, SPV is defined to mean any company or LLP in which REIT holds or proposes to hold controlling interest which is not less than fifty percent of the equity share capital or interest. The SPV should hold at least 80% of the assets in properties and not invest in other SPV. The existing tax regime provides that in case of REITs, the income by way of interest paid by SPV being a company to REIT is given pass through i.e. it is not taxed at the level of REIT but in the hands of respective investors of REIT. The rental income from directly held assets by REIT is also allowed a pass through. In respect of assets held through an SPV, if SPV is a company then the company pays normal corporate tax and thereafter when the income is distributed to the REIT being a shareholder, it suffers DDT which is paid by the SPV and thereafter the income is exempt both in the hands of REIT and also its investors. In case of Invits, there is a similar regime with only exception being that there is no pass through for Invits holding income generating assets directly as normally such large infrastructure projects are not held directly in the trust but are held through an SPV. As an incentive in the case of sponsor (the person setting up trust), capital gain arising at time of swap of its shareholding in SPV for units of business trust is deferred both under normal provisions and from applicability of MAT. Such gains get taxed only after actual sale of units.

It has been represented by the stakeholders that **levy of dividend distribution tax at the level of SPV when it distributes its current income to the business trust makes the business trust structure tax inefficient and adversely impacts the rate of return for the investor**. This is more so, as under SEBI regulations both the SPV and business trust are obligated to distribute 90% of their operating income to the investors, whereas in case of normal real estate company, there is no requirement of such annual distribution of dividends. It has been represented that because of the additional levy of DDT and associated tax inefficiency, these initiatives have not yet taken off.

In order to further rationalize the taxation regime for business trusts (REITs and Invits) and their investors, it is proposed **to provide a special dispensation and exemption from levy of dividend distribution tax**. The salient features of the proposed dispensation are: —

(a) **exemption from levy of DDT in respect of distributions made by SPV to the business trust;**

(b) **such dividend received by the business trust and its investor shall not be taxable in the hands of trust or investors;**

(c) **the exemption from levy of DDT would only be in the cases where the business trust either holds 100% of the share capital of the SPV or holds all of the share capital other than that which is required to be held by any other entity as part of any direction of any Government or specific requirement of any law to this effect or which is held by Government or Government bodies; and**

(d) **the exemption from the levy of DDT would only be in respect of dividends paid out of current income after the date when the business trust acquires the shareholding referred in (c) above in the SPV. The dividends paid out of accumulated and current profits upto this date shall be liable for levy of DDT as and when any dividend out of these profits is distributed by the company either to the business trust or any other shareholder.**

48. Modification in conditions of special taxation regime for off shore funds Section

9A. - the eligible investment fund for purposes of section 9A, shall also mean a fund established or incorporated or registered outside India in a country or a specified territory notified by the Central Government in this behalf. It is also proposed to provide that the condition of fund not controlling and managing any business in India or from India shall be restricted only in the context of activities in India.

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

The sub-section (3) of section 9A provides for the conditions for the eligibility of the fund. These conditions, inter-alia, are related to residence of fund, corpus size, investor base, investment diversification and payment of remuneration to fund manager at arm's length. In respect of residence of the fund, the condition is that the fund has to be resident of a country or territory with which India has entered into a Double Taxation Avoidance Agreement (DTAA) or Tax Information Exchange Agreement (TIEA). In respect of activities of fund, there is a restriction that the fund shall not carry on or control and manage, directly or indirectly, any business in India or from India and shall neither engage in any activity which constitutes a business connection in India nor have any person acting on its behalf whose activities constitute a business connection in India other than the activities undertaken by the eligible fund manager on its behalf.

Representations had been received stating that there are many instances where a fund may not qualify as a tax resident of a country on account of domestic tax laws or legal framework of the country. The global structure of these funds had been based on applicable legal and regulatory framework of their country of incorporation and cannot be modified in respect of any investment made in a particular country. Examples of large pension funds or mutual funds from USA or SICAVs (open ended collective investment schemes) from Luxembourg had been cited. It has been stated that India would still be able to collect information regarding fund under the applicable DTAA or TIEA as under the agreements with many of the countries, information can be exchanged in respect of persons who may not be resident of the country. It had been further represented that the conditions relating to restriction on fund carrying on business or controlling fund managing business in India or from India restricts the flexibility of operation for funds and focus should be on nature of activities undertaken in India.

In order to rationalize the regime and to address the concerns of the industry, it is proposed to modify these conditions to provide that **the eligible investment fund for purposes of section 9A, shall also mean a fund established or incorporated or registered outside India in a country or a specified territory notified by the Central Government in this behalf. It is also proposed to provide that the condition of fund not controlling and managing any business in India or from India shall be restricted only in the context of activities in India.**

49. Deduction in respect of provision for bad and doubtful debt in the case of Non-Banking Financial companies - to provide deduction from total income (computed before making any deduction under this clause and Chapter-VIA) on account of provision for bad and doubtful debts to the extent of five per cent of the total income in the case of NBFCs

Under the existing provisions of sub-clause (c) of clause (viia) of sub-section (1) of section 36 of the Act, in computing the profits of a public financial institutions, State financial corporations and State industrial investment corporations a deduction, limited to an amount not exceeding five per cent of the gross total income, computed, before making any deduction under the aforesaid clause and Chapter VI-A, is allowed in respect of any provision for bad and doubtful debt.

Considering the fact that Non-Banking Financial companies (NBFCs) are also engaged in financial lending to different sectors of society, it is proposed to amend the provision of clause (viia) of sub-section (1) of section 36 so as **to provide deduction from total income (computed before making any deduction under this clause and Chapter-VIA) on account of provision for bad and doubtful debts to the extent of five per cent of the total income in the case of NBFCs**.

50. Rationalisation of scope of tax incentive under section 32AC – where the installation of the new asset is in a year other than the year of acquisition, the deduction under this sub-section shall be allowed in the year in which the new asset is installed.
Take effect retrospectively from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and 2017-18.

The existing provision of sub-section (1A) in section 32AC of the Act provides for investment allowance at the rate of 15% on investment made in new assets (plant and machinery) exceeding Rs.25 crore in a previous year by a company engaged in manufacturing or production of any article or thing subject to the condition that the acquisition and installation has to be done in the same previous year. This tax incentive is available up to 31.03.2017.

The dual condition of acquisition and installation causes genuine hardship in cases in which assets having been acquired could not be installed in same previous year.

It is proposed to amend the sub-section (1A) of section 32AC so as to provide that the acquisition of the plant & machinery of the specified value has to be made in the previous year. However, installation may be made by 31.03.2017 in order to avail the benefit of investment allowance of 15%. It is further proposed to provide **that where the installation of the new asset is in a year other than the year of acquisition, the deduction under this sub-section shall be allowed in the year in which the new asset is installed.**

51. Applicability of Minimum Alternate Tax (MAT) on foreign companies for the period prior to 01.04.2015 – with effect from 01.04.2001, the provisions of section 115JB shall not be applicable to a foreign company if -

- (iii) **the assessee is a resident of a country or a specified territory with which India has an agreement referred to in sub-section (1) of section 90 or the Central Government has adopted any agreement under sub-section (1) of section 90A and the assese does not have a permanent establishment in India in accordance with the provisions of such Agreement; or**
- (iv) **the assessee is a resident of a country with which India does not have an agreement of the nature referred to in clause (i) above and the assessee is not required to seek registration under any law for the time being in force relating to companies.**

Made effective retrospectively from the 1st day of April, 2001 and shall accordingly apply in relation to assessment year 2001-02 and subsequent years.

Under the existing provisions contained in sub-section (1) of the 115JB in case of a company, if the tax payable on the total income as computed under the Income-tax Act, is less than eighteen and one-half per cent of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable by the assessee for the relevant previous year shall be eighteen and one-half per cent of its book profit. Issues were raised regarding the applicability of this provision to Foreign Institutional Investors (FIIs) who do not have a permanent establishment (PE) in India. Vide Finance Act, 2015 of the provisions of section 115JB were amended to provide that in case of a foreign company any income chargeable at a rate lower than the rate specified in section 115JB shall be reduced from the book profits and the corresponding expenditure will be added back.

However, since this amendment was prospective w.e.f. assessment year 2016-17, the issue for assessment year prior to 2016-17 remained to be addressed.

A Committee on Direct Tax matters headed by Justice A.P. Shah, set up by the Government to look into the matter, recommended for an amendment of section 115JB to clarify the applicability of Minimum Alternate Tax (MAT) provisions to Foreign Institutional Investors/ Foreign Portfolio Investors (FIIs/FPIs) in view of the fact that FIIs and FPIs normally do not have a place of business in India.

In view of the recommendations of the committee and with a view to provide certainty in taxation of foreign companies, it is proposed to amend the Income-tax Act so **as to provide that with effect from 01.04.2001, the provisions of section 115JB shall not be applicable to a foreign company if -**

(v) **the assessee is a resident of a country or a specified territory with which India has an agreement referred to in sub-section (1) of section 90 or the Central Government has adopted any agreement under sub-section (1) of section 90A and the assesse does not have a permanent establishment in India in accordance with the provisions of such Agreement; or**

(vi) **the assessee is a resident of a country with which India does not have an agreement of the nature referred to in clause (i) above and the assessee is not required to seek registration under any law for the time being in force relating to companies.**

52. Tax Incentives to International Financial Services Centre -

Under the existing provisions of clause (38) of section 10, income by way of long term capital gains arising from equity shares or units of an equity oriented fund or business trust is exempt where securities transaction tax is paid.

With a view to incentivise the growth of International Financial Services Centres into a world class financial services hub, it is proposed to amend the section 10 so as **to provide for exemption from tax on capital gains to the income arising from transaction undertaken in foreign currency on a recognised stock exchange located in an International Financial Services Centre even when securities transaction tax is not paid in respect of such transactions.**

Under the existing provisions of the 115JB in case of a company, if the tax payable on the total income as computed under the Income-tax Act, is less than eighteen and one-half per cent of its book profit, such book profit shall be deemed to be the total income of the assessee and the Minimum Alternate Tax (MAT) payable by the assessee for the relevant previous year shall be eighteen and one-half per cent of such book profit.

With a view to provide a competitive tax regime to International Financial Services Centre, it is proposed to amend section 115JB so as **to provide that in case of a company, being a unit located in International Financial Services Centre and deriving its income solely in convertible foreign exchange, the Minimum Alternate Tax shall be chargeable at the rate of nine per cent.**

Further, it is proposed to amend section 115-O so as to provide that no tax on distributed profits shall be chargeable in respect of the total income of a company being a unit located in International Financial Services Centre, deriving income solely in convertible foreign exchange, for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2017 out of its current income, either in the hands of the company or the person receiving such dividend.

The existing provisions relating to securities transaction tax and commodities transaction tax provide for levy of tax on transactions in taxable securities and commodities respectively.

It is proposed to amend section 113A of the Finance (No.2) Act, 2004 so as to provide that the provisions of Chapter VII shall **not apply to taxable securities transactions entered into by any person on a recognized stock exchange located in International Financial Services Centre where the consideration for such transaction is paid or payable in foreign currency, thereby exempting such transaction from securities transaction tax**.

Further, it is proposed to insert section 132A in Chapter VII of the Finance Act, 2013 so as to provide that the provisions of chapter VII shall also not apply to taxable commodities transactions entered into by any person on a recognized association located in unit of International Financial Services Centre where the consideration for such transaction is paid or payable in foreign currency, thereby exempting such transaction from commodities transaction tax.

The above two amendments will take effect from 1st June, 2016.

53. The Direct Tax Dispute Resolution Scheme, 2016 - to pay tax at the applicable rate plus interest upto the date of assessment. However, in case of disputed tax exceeding rupees ten lakh, twenty-five percent of the minimum penalty leviable shall also be required to be paid.

Litigation has been a major area of concern in direct taxes. In order to reduce the huge backlog of cases and to enable the Government to realise its dues expeditiously, it is proposed to bring the Direct Tax Dispute Resolution Scheme, 2016 in relation to tax arrear and specified tax. The salient features of the proposed scheme are as under:

- The scheme be applicable to "**tax arrear**" which is defined as the amount of tax, interest or penalty determined under the Income-tax Act or the Wealth-tax Act, 1957 in respect of which appeal is pending before the Commissioner of Income-tax (Appeals) or the Commissioner of Wealth-tax (Appeals) as on the 29th day of February, 2016.
- The pending appeal could be against an assessment order or a penalty order.
- The declarant under the scheme be required **to pay tax at the applicable rate plus interest upto the date of assessment**. However, **in case of disputed tax exceeding rupees ten lakh, twenty-five percent of the minimum penalty leviable shall also be required to be paid.**
- In case of pending appeal against a penalty order, **twenty-five percent of minimum penalty leviable shall be payable alongwith the tax and interest payable on account of assessment or reassessment.**
- Consequent to such declaration, appeal in respect of the disputed income and disputed wealth pending before the Commissioner (Appeals) shall be deemed to be withdrawn.

In addition to the above, the scheme proposes that person may also make a declaration in respect of any tax determined in consequence of or is validated by an amendment made with retrospective effect in the Income-tax Act or Wealth-tax Act, as the case may be, for a period prior to the date of enactment of such amendment and a dispute in respect of which is pending as on 29.02.2016 (referred to as specified tax). For availing the benefit of the Scheme, such declarant shall be required to withdraw any writ petition or any appeal filed against such specified tax before the Commissioner (Appeals) or the Tribunal or High Court or Supreme Court, before making the declaration and shall also be required to furnish a proof of such withdrawal. Further if any proceeding for arbitration conciliation or mediation has been initiated by the declarant or he has given any notice under any law or agreement entered into by India, whether for protection of investment or otherwise, he shall be required to withdraw such notice or claim for availing benefit under this Scheme.

It is proposed that person making declaration in respect of specified tax shall be required to furnish an undertaking in the prescribed form and verified in the prescribed manner, waiving the right, whether direct or indirect, to seek or pursue any remedy or claim in relation to the specified tax which otherwise be available to them under any law, in equity, by statute or under an agreement, whether for protection of investment or otherwise, entered into by India with a country or territory outside India. It is proposed that no appellate authority or Arbitrator or Conciliator or Mediator shall proceed to decide an issue relating to the specified tax in the declaration in respect of which an order is made by the designated authority or in respect of the payment of the sum determined to be payable.

It is proposed that where the declarant violates any of the conditions referred to in the scheme or any material particular furnished in the declaration is found to be false at any stage, it shall be presumed as if the declaration was never made under this Scheme and all the consequences under the Income-tax Act or Wealth-tax Act under which the proceedings against declarant were or are pending, shall be deemed to have been revived.

The declarant under the scheme shall get immunity from institution of any proceeding for prosecution for any offence under the Income-tax Act or the Wealth-tax Act. In case of specified tax the declarant shall also get immunity from imposition of penalty under the Income-tax Act or the Wealth-tax Act. However, in case of tax arrears immunity from penalty is proposed to be of the amount that exceeds the penalty payable as per the scheme. **The scheme provides waiver of interest under the Income-tax Act or the Wealth-tax Act in respect of specified tax.** However, waiver of interest in respect of tax arrears is to the extent the interest exceeds the amount of interest referred in the scheme.

In the following cases a person shall not be eligible for the scheme:-

(i) Cases where prosecution has been initiated before 29.02.2016.
(ii) Search or survey cases where the declaration is in respect of tax arrears.
(iii) Cases relating to undisclosed foreign income and assets.
(iv) Cases based on information received under Double Taxation Avoidance Agreement under section 90 or 90A of the Income-tax Act where the declaration is in respect of tax arrears.
(iv) Person notified under Special Courts Act, 1992.
(v) Cases covered under Narcotic Drugs and Psychotropic Substances Act, Indian Penal Code, Prevention of Corruption Act or Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

A declaration under the scheme may be made to the designated authority not below the rank of Commissioner in such form and verified in such manner as may be prescribed. The designated authority shall within sixty days from the date of receipt of the declaration, determine the amount payable by the declarant. The declarant shall pay such sum within thirty days of the passing such order and furnish proof of payment of such sum. Any amount paid in pursuance of a declaration shall not be refundable under any circumstances.

No matter covered by order of designated authority shall be reopened in any other proceeding under the Income-tax Act, 1961 or Wealth-tax Act, 1957. The designated authority shall subject to the conditions provided in the scheme grant immunity from instituting any proceeding for prosecution for any offence under the two Acts in respect of matters covered in the declaration.

Nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant in any proceedings other than those in relation to which the declaration has been made.

It is proposed that the Central Government may be given the power to issue such orders, instructions and directions for the proper administration of this Scheme to persons employed in the execution of this Scheme shall observe and follow such orders, instructions and directions of the Central Government. In case any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may by order not inconsistent with the provisions of this Scheme remove the difficulty. However, no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme come into force. Every such order, as soon as may be after it is made, be laid before each House of Parliament.

It is proposed that the Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme. Every rule made under this Scheme be laid, as soon as may be after it is made, before each House of Parliament in the manner specified in the scheme.

54. Providing Time limit for disposing applications made by assessee under section 273A, 273AA or 220(2A) – within a period of twelve months from the end of the month in which such application is received
Will take effect from 1st June, 2016

Sub-section (2) of section 220 provides for levy of interest at the rate of 1 per cent for every month or part of month for the period during which the default continues. Sub-section (2A) of said section inter-alia, empowers the Principal Chief Commissioner, Chief Commissioner, Principal Commissioner or Commissioner to reduce or waive the amount of interest paid or payable under sub-section (2) of the said section.

Sub-section (4) of section 273A, inter alia, provides that the Principal Commissioner or the Commissioner may, on an application made by an assessee, reduce or waive the amount of any penalty payable by the assessee or stay or compound any proceeding for recovery of the penalty amount in certain circumstances.

Section 273AA inter alia, provides that the Principal Commissioner or the Commissioner may grant immunity from penalty, if penalty proceedings have been initiated in case of a person who has made application for settlement before the settlement commission and the proceedings for settlement had abated under the circumstances contained in section 245HA of the Act

Under the existing **provisions no time limit has been provided regarding the passing of orders either under section 220 or sections 273A or 273AA**. Further, these provisions do not specifically mandate that assessee be given an opportunity of being heard in case such application is rejected by an authority. Therefore, in order to rationalise the provisions and provide for specific time-line, amendment to the existing provisions have been proposed.

It is proposed to amend section 220 to provide that an order accepting or rejecting application of an assessee shall be passed by the concerned Principal Chief Commissioner, Chief Commissioner, Principal Commissioner or Commissioner **within a period of twelve months from the end of the month in which such application is received**.

It is further proposed to amend section 273A and section 273AA to provide that an order accepting or rejecting the application of an assessee shall be passed by the Principal Commissioner or Commissioner **within a period of twelve months from the end of the month in which such application is received.**

It is also proposed to provide that no order rejecting the application of the assessee under section 220 or 273A, 273AA shall be passed without giving the assessee an opportunity of being heard. However, in respect of applications pending as on 1st day of June, 2016, the order under said sections shall be passed on or before 31st May, 2017.

These amendments will take effect from 1st June, 2016.

55. Rationalization of tax deduction at source provisions relating to payments by Category-I and Category-II Alternate Investment Funds to its investors. Will take effect from 1st June, 2016.

The Finance Act, 2015 had inserted a special taxation regime in respect of Category-I and II Alternative Investment Funds (investment fund) registered with SEBI. The special taxation regime is intended **to ensure tax pass through status** in respect of these investment funds which are collective investment vehicles. The special regime is contained in sections 10(23FBA), 10 (23FBB), 115UB and 194LBB of the Act. Under this regime, the income of the investment fund (not being in the nature of business income) is exempt in the hands of investment fund but income received by the investor from the investment fund (other than income which is taxed at the level of investment fund) is taxable in the hands of investor. The taxation in the hands of investors is in the same manner and in the same proportion as it would have been, had the investor received such income directly and not through the investment fund. The existing provisions of section 194LBB provides that in respect of any income credited or paid by the investment fund to its investor, a tax deduction at source (TDS) shall be made by the investment fund @ 10% of the income. Under section 197 of the Act, facility for certificate for deduction of tax at lower rate or no deduction is available in respect of sections enumerated therein, if the Assessing Officer is satisfied that total income of the recipient justifies issue of such certificate, section 194LBB is currently not included in this provision.

It has been represented that the existing TDS regime has created certain difficulties. **The non-resident investor is not able to claim benefit of lower or NIL rate of taxation which is available to him under the relevant Double Taxation Avoidance Agreement (DTAA), and deduction of tax @10% is to be undertaken mandatorily even if under DTAA, the income is not taxable in India.** There is no facility for any investor to approach the Assessing Officer for seeking certificate for TDS at a lower or NIL rate in respect of deductions made under section 194LBB.

In order to rationalise the TDS regime in respect of payments made by the investment funds to its investors, it is proposed to amend section 194LBB to provide that the person responsible for making the payment to the investor shall deduct income-tax under section 194LBB at the rate of ten per cent where the payee is a resident and at the rates in force where the payee is a non-resident (not being a company) or a foreign company. Further, it is proposed **to amend section 197 to include section 194LBB in the list of sections for which a certificate for deduction of tax at lower rate or no deduction of tax can be obtained. Consequential changes are also proposed to be made to the definition of "rates in force" so as to include section 194LBB in it.**

56. Exemption of Central Government subsidy or grant or cash assistance, etc. towards corpus of fund established for specific purposes from the definition of Income

The Finance Act, 2015 had amended the definition of income under clause (24) of section 2 of the Act so as to provide that the income shall include assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement (by whatever name called) by the Central Government or a State Government or any authority or body or agency in cash or kind to the assessee other than the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of Explanation 10 to clause (1) of section 43 of the Income-tax Act.

As a result grant or cash assistance or subsidy etc. provided by the Central Government for budgetary support of a trust or any other entity formed specifically for operationalizing certain government schemes will be taxed in the hands of trust or any other entity. Therefore, it is proposed to amend section 2(24) to provide that **subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or State government shall not form part of income.**

57. Time limit for carry forward and set off of such loss under section 73A of the Income-tax Act -

The existing provisions of section 73A of the Act provide that any loss, computed in respect of any specified business referred to in section 35AD shall not be set off except against profits and gains, if any, of any other specified business. Further, section 80 of the Act inter-alia provides that a loss which has not been determined in pursance of return filed in accordance with the provisions of sub-section (3) of section 130, shall not be carried forward and set-off under sub-section (1) of section 72 or sub-section (2) of section 73 or sub-section (1) or sub-section (3) or section 74 or sub-section 74A.

In accordance with the scheme of the Act, this loss is to be allowed if the return is filed within the specified time i.e. by the due date of filing of the return of the income as provided in section 80 for other losses determined under the Act.

Accordingly, it is proposed to amend section 80 so as **to provide that the loss determined as per section 73A of the Act shall not be allowed to be carried forward and set off if such loss has not been determined in pursuance of a return filed in accordance with the provisions of sub-section (3) of section 139.**

It is also proposed to amend the said sub-section (3) of section 139 so as to give reference of sub-section (2) of section 73A in the said sub-section.

58. Rationalisation of time limit for assessment in search cases –

Will take effect from 1st day of June, 2016.

It is proposed to amend the time limit for completion of assessments made under section 153A or section 153C cases to bring it in sync with the new time limits provided for other cases. In order to simplify the provisions of existing section 153B by retaining only those provisions that are relevant to the current provisions of the Act, section 153B is proposed to be substituted with the following changes in time limit from the existing time limits as under:

(i) **The limitation for completion of assessment under section 153A, in respect of each assessment year falling within six assessment years referred to in clause (b) of sub-section (1) of section 153A and in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A be changed from existing two years to twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed.**

(ii) **The limitation for completion of assessment in case of other person referred to in section 153C shall be changed from existing two years to twenty-one months from the end of the financial year in which the last of the authorisation for search under Section 132 or requisition under section 132A was executed or nine months (changed from the existing one year) from the end of the financial year in which the books of account or documents or assets seized or requisition are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later.**

The provisions of section 153B as they stood immediately before their amendment by the Finance Act, 2016, shall apply to and in relation to any order of assessment, reassessment or recomputation made before the 1st day of June, 2016.

59. Rationalisation of the provisions relating to Appellate Tribunal –
to omit the reference of "Senior Vice-President";
the Appellate Tribunal may rectify any mistake apparent from the record in its order at any time within six months from the end of the month in which the order was passed;
that a single member bench may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifty lakh rupees

Existing clause (b) of sub-section (3), sub-section (4A) and sub-section (5) of section 252 provide for the appointment and powers of Senior Vice- President of the Appellate Tribunal.

In view of the fact that there are no extra-judicial or administrative duties or difference in the pay scale attached with the post of Senior Vice-president in the Tribunal, **it is proposed to omit the reference of "Senior Vice-President".**

Sub-section (2A) of section 253 provides that the Principal Commissioner or Commissioner may, if he objects to any direction issued by the Dispute Resolution Panel (DRP) under sub-section (5) of section 144C in pursuance of which the Assessing Officer has passed an order completing the assessment or reassessment, direct the Assessing Officer to appeal to the Appellate Tribunal against such order.

Further, sub-section (3A) of section 253 provides that every appeal under sub-section (2A) shall be filed within sixty days of the date on which the order sought to be appealed against is passed by the Assessing Officer in pursuance of the directions of the DRP under sub-section (5) of section 144C.

In line with the decision of the Government to minimise litigation, it is proposed to omit the said sub-sections (2A) and (3A) of section 253 to do away with the filing of appeal by the Assessing Officer against the order of the DRP. Consequent amendments are proposed to be made to sub-section (3A) and (4) of the said provision also.

These amendments will take effect from 1st day of June, 2016.

It is also proposed to provide that in cases where Department is already in appeal against the directions of DRP under sub-section (2A) of the section 253 (as it stood before the amendment of the Finance Act, 2016), no fee shall be payable.

This amendment will take effect retrospectively from 1st July, 2012.

The existing provisions sub-section (2) of the section 254 of the Act, provide that the Appellate Tribunal may rectify any mistake apparent from the record in its order at any time within four years from the date of the order.

In order to bring certainty to the order of ITAT, **it is proposed to amend sub-section (2) of section 254 to provide that the Appellate Tribunal may rectify any mistake apparent from the record in its order at any time within six months from the end of the month in which the order was passed.**

The existing provision of sub-section (3) of section 255, inter alia, provides that a single member bench may dispose of any case which pertains to an assessee whose total income as computed by the Assessing Officer does not exceed fifteen lakh rupees.

In view of the recent increase in monetary limit for filing appeal before ITAT and to expedite the process of dispute resolution at the level of ITAT, **it is proposed to amend the said sub-section (3) so as to provide that a single member bench may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifty lakh rupees**.

These amendments will take effect from 1st day of June, 2016.

60. Rationalisation of penalty provisions -

Under the existing provisions, penalty on account of concealment of particulars of income or furnishing inaccurate particulars of income is leviable under section 271(1)(c) of the Income-tax Act. In order to rationalize and bring objectivity, certainty and clarity in the penalty provisions, it is proposed that section 271 shall not apply to and in relation to any assessment for the assessment year commencing on or after the 1st day of April, 2017 and subsequent assessment years and penalty be levied under the newly inserted section 270A with effect from 1st April, 2017. The new section 270A provides for levy of penalty in cases of under reporting and misreporting of income.

Sub-section (1) of the proposed new section 270A seeks to provide that the Assessing Officer, Commissioner (Appeals) or the Principal Commissioner or Commissioner may levy penalty if a person has under reported his income.

It is proposed that a person shall be considered to have under reported his income if,-

(a) the income assessed is greater than the income determined in the return processed under clause (a) of sub-section (1) of section 143;
(b) the income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished;
(c) the income reassessed is greater than the income assessed or reassessed immediately before such re-assessment;
(d) the amount of deemed total income assessed or reassessed as per the provisions of section 115JB or 115JC, as the case may be, is greater than the deemed total income determined in the return processed under clause (a) of sub-section (1) of section 143;
(e) the amount of deemed total income assessed as per the provisions of section 115JB or 115JC is greater than the maximum amount not chargeable to tax, where no return of income has been filed;
(f) the income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

The amount of under-reported income is proposed to be calculated in different scenarios as discussed herein. In a case where return is furnished and assessment is made for the first time the amount of under reported income in case of all persons shall be the difference between the assessed income and the income determined under section 143(1)(a). In a case where no return has been furnished and the return is furnished for the first time, the amount of under-reported income is proposed to be:

(i) for a company, firm or local authority, the assessed income;
(ii) for a person other than company, firm or local authority, the difference between the assessed income and the maximum amount not chargeable to tax.

In case of any person, where income is not assessed for the first time, the amount of under reported income shall be the difference between the income assessed or determined in such order and the income assessed or determined in the order immediately preceding such order.

It is further proposed that in a case where under reported income arises out of determination of deemed total income in accordance with the provisions of section 115JB or section 115JC, the amount of total under reported income shall be determined in accordance with the following formula-

(A - B) + (C - D)

where,

A = the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (herein called general provisions);

B = the total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of under reported income;

C = the total income assessed as per the provisions contained in section 115JB or section 115JC;

D = the total income that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC been reduced by the amount of under reported income.

However, where the amount of under reported income on any issue is considered both under the provisions contained in section 115JB or section 115JC and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under item D.

It is clarified that in a case where an assessment or reassessment has the effect of reducing the loss declared in the return or converting that loss into income, the amount of under reported income shall be the difference between the loss claimed and the income or loss, as the case may be, assessed or reassessed.

Calculation of under-reported income in a case where the source of any receipt, deposit or investment is linked to earlier year is proposed to be provided based on the existing Explanation 2 to sub-section (l) of section 271 (1).

It is also proposed that the under-reported income under this section shall not include the following cases:

- (i) where the assessee offers an explanation and the income-tax authority is satisfied that the explanation is bona fide and all the material facts have been disclosed;
- (ii) where such under-reported income is determined on the basis of an estimate, if the accounts are correct and complete but the method employed is such that the income cannot properly be deducted therefrom;
- (iii) where the assessee has, on his own, estimated a lower amount of addition or disallowance on the issue and has included such amount in the computation of his income and disclosed all the facts material to the addition or disallowance;
- (iv) where the assessee had maintained information and documents as prescribed under section 92D, declared the international transaction under Chapter X and disclosed all the material facts relating to the transaction;
- (v) where the undisclosed income is on account of a search operation and penalty is leviable under section 271AAB.

It is proposed that the rate of penalty shall be fifty per cent of the tax payable on under-reported income. However in a case where under reporting of income results from misreporting of income by the assessee, the person shall be liable for penalty at the rate of two hundred per cent of the tax payable on such misreported income. The cases of misreporting of income have been specified as under:

- (i) misrepresentation or suppression of facts;
- (ii) non-recording of investments in books of account;
- (iii) claiming of expenditure not substantiated by evidence;
- (iv) recording of false entry in books of account;
- (v) failure to record any receipt in books of account having a bearing on total income;
- (vi) failure to report any international transaction or deemed international transaction under Chapter X.

It is also proposed that in case of company, firm or local authority, the tax payable on under reported income shall be calculated as if the under-reported income is the total income. In any other case the tax payable shall be thirty per cent of the under-reported income.

It is also proposed that no addition or disallowance of an amount shall form the basis for imposition of penalty, if such addition or disallowance has formed the basis of imposition of penalty in the case of the person for the same or any other assessment year.

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

Consequential amendments have been proposed in sections 119, 253, 271A, 271AA, 271AAB, 273A and 279 to provide reference to newly inserted section 270A.

The provisions of section 270A are illustrated through examples as below:

Example 1. Case is of a firm liable to tax at the rate of 30 per cent.:

	(Figures in Rs lakh)
Returned total Income	100
Total Income determined under section 143(1)(a)	110
Total Income assessed under section 143(3)	150
Total Income reassessed under section 147	180

Considering that none of the additions or disallowances made in assessment or reassessment as above qualifies under sub-section (6) of section 270A, the penalty would be calculated as under:

	Assessment under section 143 (3)	Re-assessment under section 147
Under-reported Income	(150-110) = 40	(180-150) = 30
Tax Payable on under-reported Income	30 % of 40 = 12	30 % of 30 = 9
Penalty Leviable*	50 % of 12 = 6	50 % of 9 = 4.5

* Considering under-reported income is not on account of misreporting

Example 2. Case is of an individual below 60 years of age and no return of income has been furnished:

	(Figures in Rs)
Total Income assessed under section 143(3)	10,00,000
Under-reported Income	10,00,000-2,50,000* =7,50,000
Tax Payable on under-reported Income	30 % of 7,50,000 = 2,25,000
Penalty Leviable**	50 % of 2,25,000 = 1,12,500

* Being maximum amount not chargeable to tax
** Considering under-reported income is not on account of misreporting
Example 3. Case is of a company liable to tax at the rate of 30 per cent.:

	(Figures in Rs lakh)
Returned total Income (loss)	(-)100
Total Income (loss) determined under section 143(1)(a)	(-)90
Total Income (loss) assessed under section 143(3)	(-)40
Total Income reassessed under section 147	20

Considering that none of the additions or disallowances made in assessment or reassessment as above qualifies under sub-section (6) of section 270A, the penalty would be calculated as under:

	Assessment under section 143 (3)	Re-assessment under section 147
Under-reported Income	(-)40 minus (-)90 = 50	20 minus (-)40 = 60
Tax Payable on under-	30 % of 50 = 15	30 % of 60 = 18

reported Income		
Penalty Leviable*	50 % of 15 = 7.5	50 % of 18 = 9

** Considering under-reported income is not on account of misreporting*

61. Amendment of section 271AAB - to provide for levy of penalty on such undisclosed income at a flat rate of sixty per cent of such income

Existing provision of clause (c) of sub-section (1) of section 271AAB provides that in a case not covered under the provisions of clauses (a) and (b) of the said sub-section of section 271 AAB, a penalty of a sum which shall not be less than thirty per cent but which shall not exceed ninety per cent of the undisclosed income of the specified previous year shall be levied in case where search has been initiated under section 132 on or after the 1st day of July, 2012.

In order to rationalise the rate of penalty and to reduce discretion it is proposed to amend that clause (c) of sub-section (1) of section **271AAB to provide for levy of penalty on such undisclosed income at a flat rate of sixty per cent of such income**.

62. Amendment of Section 272A – to further include levy of penalty of ten thousand rupees for each default or failure to comply with a notice issued under sub-section (1) of section 142 or sub-section (2) of section 143 or failure to comply with a direction issued under sub-section (2A) of section 142.

Existing provision of Sub-section (1) **provides for levy of penalty of ten thousand rupees for each failure or default to answer the questions raised by an income-tax authority under the Income-tax Act, refusal to sign any statement legally required during the proceedings under the Income-tax Act or failure to attend to give evidence or produce books or documents** as required under sub-section (1) of section 131 of the Income-tax Act.

It is proposed to amend sub-section (1) of section 272A **to further include levy of penalty of ten thousand rupees for each default or failure to comply with a notice issued under sub-section (1) of section 142 or sub-section (2) of section 143 or failure to comply with a direction issued under sub-section (2A) of section 142.**

It is further proposed to amend sub-section (3) of section 272A to provide that penalty in case of failure referred above shall be levied by the income tax authority issuing such notice or direction.

It is also proposed to make consequential amendment to section 288 by insertion of a new clause (d) in sub- section (1) of section 272A in the Income-tax Act relating to penalty for failure to comply with the notices and directions specified therein.

63. Provision for bank guarantee under section 281B – provisional attachment of property could be substituted by a bank guarantee subject to fulfilment of certain conditions

Will take effect from 1st day of June, 2016.

Under the existing provisions of section 281B the Assessing Officer may provisionally attach any property of the assessee during the pendency of assessment or reassessment proceedings, for a period of six months with the prior approval of the income- tax authorities specified therein, if he is of the opinion that it is necessary to do so for the purpose of protecting the interests of the revenue. Such attachment of property is extendable to a maximum period of two years or sixty days after the date of assessment order, whichever is later.

The Income Tax Simplification Committee (**Easwar Committee) has recommended that provisional attachment of property could be substituted by a bank guarantee subject to fulfilment of certain conditions**. Having considered this recommendation, it is proposed that the Assessing Officer shall revoke provisional attachment of property made under sub-section (1) of the aforesaid section in a case where the assessee furnishes a bank guarantee from a scheduled bank, for an amount not less than the fair market value of such provisionally attached property or for an amount which is sufficient to protect the interests of the revenue.

In order to help the Assessing Officer to determine the fair market value of the property, the Assessing Officer may, make a reference to the Valuation Officer, who may be required to submit the report of the estimate of the property to the Assessing Officer within a period of thirty days from the date of receipt of such reference.

In order to ensure the revocation of attachment of property in lieu of bank guarantee in a time bound manner, it is proposed to provide that an order revoking the attachment be made by the Assessing Officer within fifteen days of receipt of such guarantee, and in a case where a reference is made to the Valuation Officer, within forty-five days from the date of receipt of such guarantee.

It is further proposed that where a notice of demand specifying a sum payable is served upon the assessee and the assessee fails to pay such sum within the time specified in the notice, the Assessing Officer may invoke the bank guarantee, wholly or partly, to recover the said amount.

In a case where the assessee fails to renew the bank guarantee or fails to furnish a new guarantee from a scheduled bank for an equal amount fifteen days before the expiry of such guarantee, the Assessing Officer may in the interests of the revenue, invoke the bank guarantee. The amount realised by invoking the bank guarantee shall be adjusted against the existing demand which is payable and the balance amount, if any, be deposited in the Personal Deposit Account of the Principal Commissioner or Commissioner in the branch of Reserve Bank of India or the State Bank of India or of its subsidiaries or any bank as may be appointed by the Reserve Bank of India as its agent under the provisions of sub-section (1) of section 45 of the Reserve Bank of India Act, 1934 at the place where the office of the Principal Commissioner or Commissioner is situated.

It is proposed that in a case where the Assessing Officer is satisfied that the bank guarantee is not required anymore to protect the interests of the revenue, he shall release that guarantee forthwith.

These amendments will take effect from 1st day of June, 2016.

Rationalisation of the provisions relating to Appellate Tribunal Existing clause (b) of sub-section (3), sub-section (4A) and sub-section (5) of section 252 provide for the appointment and powers of Senior Vice- President of the Appellate Tribunal.

In view of the fact that there are no extra-judicial or administrative duties or difference in the pay scale attached with the post of Senior Vice-president in the Tribunal, it is proposed to **omit the reference of "Senior Vice-President**".

Sub-section (2A) of section 253 provides that the Principal Commissioner or Commissioner may, if he objects to any direction issued by the Dispute Resolution Panel (DRP) under sub-section (5) of section 144C in pursuance of which the Assessing Officer has passed an order completing the assessment or reassessment, direct the Assessing Officer to appeal to the Appellate Tribunal against such order.

Further, sub-section (3A) of section 253 provides that every appeal under sub-section (2A) shall be filed within sixty days of the date on which the order sought to be appealed against is passed by the Assessing Officer in pursuance of the directions of the DRP under sub-section (5) of section 144C.

In line with the decision of the Government to minimise litigation, it is proposed to omit the said sub-sections (2A) and (3A) of section 253 to do away with the filing of appeal by the Assessing Officer against the order of the DRP. Consequent amendments are proposed to be made to sub-section (3A) and (4) of the said provision also.

These amendments will take effect from 1st day of June, 2016.

In respect of departmental appeals already pending against the orders of the DRP, in order to ensure that the same are not dismissed for non-payment of fee, it is proposed to provide that in cases where Department is already in appeal against the directions of DRP under sub-section (2A) of the section 253 (as it stood before the amendment of the Finance Act, 2016), no fee shall be payable.

This amendment will take effect retrospectively from 1st July, 2012.

The existing provisions sub-section (2) of the section 254 of the Act, provide that the Appellate Tribunal may rectify any mistake apparent from the record in its order at any time within four years from the date of the order.

In order to bring certainty to the order of ITAT, it is proposed to amend sub-section (2) of section 254 to provide that the Appellate Tribunal may rectify any mistake apparent from the record in its order at any time within six months from the end of the month in which the order was passed.

The existing provision of sub-section (3) of section 255, inter alia, provides that a single member bench may dispose of any case which pertains to an assessee whose total income as computed by the Assessing Officer does not exceed fifteen lakh rupees.

In view of the recent increase in monetary limit for filing appeal before ITAT and to expedite the process of dispute resolution at the level of ITAT, it is proposed to amend the said sub-section (3) so as to provide that a single member bench may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifty lakh rupees.

These amendments will take effect from 1st day of June, 2016.

64. Extension of time limit to Transfer Pricing Officer in certain cases – where assessment proceedings are stayed by any court or where a reference for exchange of information has been made by the competent authority

Will take effect from 1st day of June, 2016

As per the existing provisions, the Transfer Pricing Officer (TPO) has to pass his order sixty days prior to the date on which the limitation for making assessment expires. It is noted that **at times seeking information from foreign jurisdictions becomes necessary for determination of arm's length price by the TPO and at times proceedings before the TPO may also be stayed by a court order**.

It is proposed to amend sub-section (3A) of section 92CA to provide that where assessment proceedings are stayed by any court or where a reference for exchange of information has been made by the competent authority, the time available to the Transfer Pricing Officer for making an order after excluding the time for which assessment proceedings were stayed or the time taken for receipt of information, as the case may be, is less than sixty days, then such remaining period shall be extended to sixty days.

65. Assumption of jurisdiction of Assessing Officer - where search is initiated under section 132 or books of accounts, other documents or any assets are requisitioned under section 132A, no person shall be entitled to call into question the jurisdiction of an Assessing Officer after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 153A or sub-section (2) of section 153C or after the completion of the assessment, whichever is earlier

Will take effect from the 1st day of June, 2016

The existing sub-section (3) of the section 124, inter-alia, provides that no person shall be entitled to call in question the jurisdiction of an Assessing Officer in a case where return is filed under section 139, after the expiry of one month from the date on which he was served with a notice issued under sub-section (1) of section 142 or sub-section (2) of section 143 or after the completion of the assessment, whichever is earlier. Currently, this provision does not specifically refer to notices issued under section 153A or section 153C which relate to assessment in cases where a search and seizure action has been taken or cases connected to such cases.

Instances have come to notice wherein the jurisdiction of an Assessing Officer in such cases have been called into question at the appellate stages, despite the fact that order passed under section 153A or 153C is read with section 143(3) of the Act. In order to remove any ambiguity in such cases it is proposed to amend sub-section (3) of section 124 to specifically provide that cases **where search is initiated under section 132 or books of accounts, other documents or any assets are requisitioned under section 132A, no person shall be entitled to call into question the jurisdiction of an Assessing Officer after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 153A or sub-section (2) of section 153C or after the completion of the assessment, whichever is earlier**.

66. Immunity from penalty and prosecution in certain cases by inserting new section 270AA

It is proposed to provide that an assessee may make an application to the Assessing Officer for grant of immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C, provided he pays the tax and interest payable as per the order of assessment or reassessment within the period specified in such notice of demand and does not prefer an appeal against such assessment order. The assessee can make such application within one month from the end of the month in which the order of assessment or reassessment is received in the form and manner, as may be prescribed.

It is proposed that the Assessing Officer shall, on fulfilment of the above conditions and after the expiry of period of filing appeal as specified in sub-section (2) of section 249, **grant immunity from initiation of penalty and proceeding under section 276C** if the penalty proceedings under section 270A has not been initiated on account of the following, namely:—

(a) misrepresentation or suppression of facts;
(b) failure to record investments in the books of account;
(c) claim of expenditure not substantiated by any evidence;
(d) recording of any false entry in the books of account;
(e) failure to record any receipt in books of account having a bearing on total income; or
(f) failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction to which the provisions of Chapter X apply.

It is proposed that the Assessing Officer shall pass an order accepting or rejecting such application within a period of one month from the end of the month in which such application is received. However, in the interest of natural justice, no order rejecting the application shall be passed by the Assessing Officer unless the assessee has been given an opportunity of being heard. It is proposed that order of Assessing Officer under the said section shall be final.

It is proposed that no appeal under section 246A or an application for revision under section 264 shall be admissible against the order of assessment or reassessment referred to in clause (a) of sub-section (1), in a case where an order under section 270AA has been made accepting the application.

Clause (b) of sub-section (2) of section 249 provides that an appeal before the Commissioner (Appeals) is to be made within thirty days of the receipt of the notice of demand relating to an assessment order.

It is proposed to provide that in a case where the assessee makes an application under section 270AA of the Income-tax Act seeking immunity from penalty and prosecution, then, the period beginning from the date on which such application is made to the date on which the order rejecting the application is served on the assessee shall be excluded for calculation of the aforesaid thirty days period. The proposed amendment is consequential to the insertion of section 270AA.

67. New Taxation Regime for securitisation trust and its investors – Will take effect from 1st June, 2016.

Under the existing provisions of Chapter-XII-EA of the Act consisting of sections 115TA, 115TB and 115TC, special taxation regime in respect of income of the securitisation trusts and the investors of such trusts has been provided. The regime provides that income distributed by the securitisation trust to its investors shall be subject to a levy of additional tax to be paid by the securitisation trust within 14 days of distribution of income. The distribution tax shall be paid @ 25% if the distribution is made to an individual or a Hindu undivided family (HUF) and @ 30% if the distribution is to others. Further, no distribution tax is to be levied if the distribution is made to an exempt entity. Consequent to the levy of distribution tax, the income of the investor, received from the securitisation trust, is exempt under section 10(35A) of the Act and the income of securitisation trust itself is exempt under section 10(23DA) of the Act.

It has been represented that under the current regime, the trusts set up by reconstruction companies or the securitisation companies are not covered although such trusts are also engaged in securitisation activity. These companies are established for the purposes of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) and their activities are regulated by the Reserve Bank of India (RBI). It has been represented that the existing regime providing for final levy in the form of distribution tax is tax inefficient for the investors specially the banks and financial institutions. Disallowance of expenditure in respect of income received from securitisation trust increases the effective rate of taxation. Further, the non-resident and resident investors are unable to take benefits of their specific tax status.

In order to rationalise the tax regime for securitisation trust and its investors, and to provide tax pass through treatment, it is proposed to amend the provisions of the Act to substitute the existing special regime for securitisation trusts by a new regime having the following elements: -

(i) **The new regime shall apply to securitisation trust being an SPV defined under SEBI (Public Offer and Listing of Securitised Debt Instrument) Regulations, 2008 or SPV as defined in the guidelines on securitisation of standard assets issued by RBI or being setup by a securitisation company or a reconstruction company in accordance with the SARFAESI Act;**

(ii) **The income of securitisation trust shall continue to be exempt. However, exemption in respect of income of investor from securitisation trust**

would not be available and any income from securitisation trust would be taxable in the hands of investors;

(iii) **The income accrued or received from the securitisation trust shall be taxable in the hands of investor in the same manner and to the same extent as it would have happened had investor made investment directly in the underlying assets and not through the trust;**

(iv) **Tax deduction at source shall be effected by the securitisation trust at the rate of 25% in case of payment to resident investors which are individual or HUF and @ 30% in case of others. In case of payments to non-resident investors, the deduction shall be at rates in force;**

(v) **The facility for the investors to obtain low or nil deduction of tax certificate would be available; and**

(vi) **The trust shall provide breakup regarding nature and proportion of its income to the investors and also to the prescribed income-tax authority.**

Further, it is proposed to provide that the current regime of distribution tax shall cease to apply in case of distribution made by securitisation trusts with effect from 01.06.2016.

68. Change in rate of Securities Transaction tax in case where option is not exercised - take effect from 1st June, 2016

Section 98 of the Finance (No.2) Act, 2004 provides that the **securities transaction tax** on **sale of an option in securities** where option is not exercised is 0.017 per cent of the option premium. It is proposed to increase the rate **from 0.017 per cent to 0.05 per cent**.

SERVICE TAX

I	Krishi Kalyan Cess	Existing	Proposed
1.	An enabling provision is being made to levy **Krishi Kalyan Cess** on all taxable services with effect from 1st June, 2016, to finance and promote initiatives to improve agriculture. Credit of Krishi Kalyan Cess paid on input services shall be allowed to be used for payment of the proposed Cess on the service provided by a service provider.	-	0.5%
II	**Broadening of Tax base**	**Existing**	**Proposed**
1.	Exemption on services provided by,- (i) **a senior advocate to an advocate or partnership firm of advocates providing legal service**; and (ii) a person represented on an arbitral tribunal to an arbitral tribunal, is being **withdrawn with effect from 1st April, 2016** and Service Tax is being levied under forward charge.	Nil	14%
2.	Exemption on construction, erection, commissioning or installation of original works pertaining to **monorail or metro**, in respect of contracts entered into on or after 1st March 2016, is being withdrawn with effect from 1st March, 2016.	Nil	5.6%
3.	Exemption on the services of **transport of passengers**, with or without accompanied belongings, **by ropeway, cable car or aerial tramway** is being withdrawn with effect from 1st April, 2016.	Nil	14%
4.	The Negative List entry that covers '**service of transportation of passengers**, with or without accompanied belongings, **by a stage carriage'** is being omitted with effect from 1st June, 2016. Service Tax is being levied on transportation of passengers by air conditioned stage carriage with effect from 1st June, 2016, at the same level of abatement as applicable to the transportation of passengers by a contract carriage, that is, 60% without credit of inputs, input services and capital goods.	Nil	5.6%
III	**New Exemptions**		
1.	Services by way of construction etc. in respect of- (i) **housing projects under Housing For All** (HFA) (Urban) **Mission/Pradhan Mantri Awas Yojana** (PMAY); (ii) **low cost houses** up to a carpet area of 60 square metres in a housing project under "Affordable housing in Partnership" component of PMAY, (iii) **low cost houses** up to a carpet area of 60 square metres in a housing project under any housing scheme of the State Government, are being exempted from Service Tax with effect from 1st March, 2016.	5.6%	Nil
2.	The service of **life insurance business** provided by way of annuity under the National Pension System regulated **by Pension Fund Regulatory and Development Authority** (PFRDA) of India is being exempted from Service Tax with	3.5%	Nil

	effect from 1st April, 2016.		
3.	Services provided **by Employees' Provident Fund Organisation** (EPFO) to employees are being exempted from Service Tax with effect from 1st April, 2016	14%	Nil
4.	Services provided **by Insurance Regulatory and Development Authority** (IRDA) of India are being exempted from Service Tax with effect from 1st April, 2016.	14%	Nil
5.	The regulatory services provided **by Securities and Exchange Board of India** (SEBI) are being exempted from Service Tax with effect from 1st April, 2016.	14%	NIL
6.	The rate of Service Tax on **single premium annuity (insurance) policies is being reduced from 3.5% to 1.4%** of the premium, in cases where the amount allocated for investment, or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service, with effect from 1st April, 2016.	3.5%	1.4%
7.	The services of **general insurance business provided under 'Niramaya' Health Insurance scheme** launched by National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability in collaboration with private/public insurance companies are being exempted from Service Tax with effect from 1st April, 2016.	14%	Nil
8.	Services provided **by National Centre for Cold Chain Development** under Department of Agriculture, Cooperation and Farmer's Welfare, Government of India, by way of knowledge dissemination are being exempted from Service Tax with effect from 1st April, 2016.	14%	Nil
9.	Services provided **by Biotechnology Industry Research Assistance Council** (BIRAC) approved biotechnology incubators to incubatees are being exempted from Service Tax with effect from 1st April, 2016.	14%	Nil
10.	Services provided **by way of skill/vocational training by training partners under Deen Dayal Upadhyay Grameen Kaushalya Yojana** are being exempted from Service Tax with effect from 1st April, 2016.	14%	NIL
11.	Services of assessing bodies empanelled centrally **by Directorate General of Training, Ministry of Skill Development & Entrepreneurship** are being exempted from Service Tax with effect from 1st April, 2016.	14%	NIL
12.	The threshold exemption to services provided **by a performing artist in folk or classical art forms of music, dance or theatre** is being **enhanced from Rs 1 lakh to Rs 1.5 lakh** charged per event with effect from 1st April, 2016.	14%	Nil
IV	**Relief Measures**		
1	To provide level playing field **to Indian Shipping lines vis-a-vis foreign shipping lines**, it is being proposed to: a) zero rate the services provided by Indian Shipping lines by way of transportation of goods by a vessel to outside India with effect from 1st March, 2016, and b) impose Service Tax on services provided by them by way of transportation of goods by a vessel from outside India up to the customs station in India with effect from 1st June, 2016 so as to complete the credit chain and enable Indian	No credit Nil	Inputs, input services & capital goods credit 14%

	Shipping Lines to avail and utilize input tax credits.		
2	Notification No. 41/2012- ST, dated the 29th June, 2012 was amended by notification No. 1/2016-ST dated 3rd February, 2016 so as to, inter alia, allow refund of Service Tax on services used beyond the factory or any other place or premises of production or manufacture of the said goods for the export of the said goods. This amendment is being made effective from the date of application of the parent notification (i.e. 1st July 2012).		
3	The benefit of **quarterly payment of Service Tax** is being extended to 'One Person Company' (**OPC**) and HUF with effect from 1st April, 2016.		
4	The facility of **payment of Service Tax on receipt basis** is being extended to 'One Person Company' (**OPC**) with effect from 1st April, 2016.		
5	Exemptions on services of: a) construction provided to the Government, a local authority or a governmental authority, in respect of construction of govt. schools, hospitals etc. b) construction of ports, airports, [which were withdrawn with effect from 01.04.2015], are being restored in respect of services provided under contracts which had been entered into prior to 01.03.2015 on payment of applicable stamp duty, with retrospective effect from 01.04.2015.	5.6% of total amount	Nil
6	Services provided by way of construction, maintenance etc. of **canal, dam or other irrigation works provided to bodies set up by Government** but not necessarily by an Act of Parliament or a State Legislature, during the period from the 1st July, 2012 to 29th January, 2014, are being exempted from Service Tax with consequential refunds, subject to the principle of unjust enrichment.	5.6% of total amount	Nil
7	Services provided by the **Indian Institutes of Management (IIM**) by way of **2 year full time Post Graduate Programme in Management** (PGPM) (other than executive development programme), Integrated Programme in Management and Fellowship Programme in Management (FPM) are being exempted from Service Tax with effect from 1st March, 2016.	14%	NIL
8	The services provided **by mutual fund agent/distributor to a mutual fund or asset management company**, are being made taxable under forward charge with effect from 1st April, 2016, so as to enable the small sub-agents down the distribution chain **to avail small scale exemption having threshold turnover of Rs 10 lakh per year**, subject to fulfillment of other conditions prescribed.	14%	14%
V	**Interest Rate**		
1.	Interest rates on **delayed payment** of duty/tax across all indirect taxes are being rationalized and made uniform at 15%, except in case of Service Tax collected but not deposited to the exchequer, in which case the rate of interest will be 24% from the date on which the Service Tax payment became due. In case of assessees, whose value of taxable services in the preceding year/years covered by the notice is less than Rs. 60 Lakh, the rate of interest on delayed payment of Service Tax will be 12%.	Customs 18% Excise 18% Service Tax 18% 24%	Customs, Excise & Service Tax 15%; 24% in case of Service Tax collected but not

	[The above changes will come into effect on the day the Finance Bill receives the assent of the President.]	30%	deposited to the exchequer
VI	**Rationalization of Abatements**	**Existing**	**Proposed**
1	Credit of input services is being allowed on **transport of passengers by rail** at the existing rate of abatement of 70%.	4.2% Without credit	4.2% **With input service credit**
2	Credit of input services is being allowed on **transport of goods**, other than in containers, by rail at the existing rate of abatement of 70%.	4.2% Without credit	4.2% **With input service credit**
3	Credit of input services is being allowed on **transport of goods in containers by rail** at a reduced abatement rate of 60%.	4.2% Without credit	5.6% **With input service credit**
4	Credit of input services is being allowed on **transport of goods by vessel** at the existing rate of abatement of 70%.	4.2% Without credit	4.2% **With input service credit**
5	The abatement rate in respect of services **by way of construction of residential complex, building, civil structure, or a part thereof**, is being rationalized at 70% by merging the two existing rates (70% for high end flats and 75% for low end flats).	3.5%/ 4.2%	4.2%
6	The abatement rate in respect of services **by a tour operator in relation to packaged tour (**defined where tour operator provides to the service recipient transportation, accommodation, food etc) and other than packaged tour is being rationalized at 70%.	3.5%/ 5.6% of amount charged	4.2% of amount charged
7	The abatement on **shifting of used household goods by a Goods Transport Agency** (GTA) is being rationalized at the rate of 60%, without CENVAT credit on inputs, input services and capital goods. (The existing rate of abatement of 70% allowed on transport of other goods by GTA continues unchanged).	4.2%	5.6%
8	The abatement rate on **services of a foreman to a chit fund** is being rationalised at the rate of 30%, without CENVAT credit on inputs, input services and capital goods.	14%	9.8%
	[The above changes will come into effect from 1st April, 2016.]		
VII	**Reduce litigation and providing certainty in taxation**		
1	**Indirect tax Dispute Resolution Scheme**, 2016, wherein a scheme in respect of cases pending before Commissioner (Appeals), the assessee, after paying the duty, interest and penalty equivalent to 25% of duty, can file a declaration, is being introduced. In such cases the proceedings against the assessee will be closed and he will also get immunity from prosecution. However, this scheme will not apply in cases: a) where prosecution has already been launched b) involving narcotics & psychotropic substances		

	c) involving detention under COFEPOSA.		
2	Section 67A is being amended to obtain rule making powers in respect of the **Point of Taxation Rules, 2011,** so as to provide that the point in time when service has been provided or agreed to be provided **shall be determined by rules** made in this regard. Point of Taxation Rules, 2011 is being amended accordingly.		
3	Section 93A of the Finance Act, 1994 is being amended so as to allow rebate by way of notification as well as rules.		
4	Explanation 2 in section 65B (44) of the Finance Act, 1994 is being amended so as to clarify that any activity carried out by a **lottery** distributor or selling agent in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing lottery of any kind, in any other manner, of the State Government as per the provisions of the Lotteries (Regulation) Act, 1998 (17 of 1998), is **leviable to Service Tax**.		
5	Notification No. 27/2012 – C.E. (N.T.) dated 18.06.2012 is being amended with effect from 1st March, 2016 so as to provide that time limit for **filing application for refund of CENVAT Credit under Rule 5 of the CENVAT Credit Rules, 2004, in case of export of services**, is 1 year from the date of : (a) receipt of payment in convertible foreign exchange, where provision of service has been completed prior to receipt of such payment; or (b) issue of invoice, where payment, for the service has been received in advance prior to the date of issue of the invoice.		
6	**Assignment by the Government of the right to use the radio-frequency spectrum** and subsequent transfers thereof is being declared as a service under section 66E of the Finance Act, 1994 so as to make it clear that **assignment of right to use the spectrum is a service leviable to Service Tax and not sale of intangible goods.**	14%	14%
7	A condition mandating inclusion of **cost of fuel in the consideration for availing abatement on the services by way of renting of motor-cab** is being prescribed with effect from 1st April, 2016.		
8	Service tax on the **services of Information Technology Software on media bearing RSP** is being exempted from Service Tax with effect from 1st March, 2016 provided **Central Excise duty is paid on RSP** in accordance with Section 4A of the Central Excise Act.	Nil	Nil
9	**Mutual exclusiveness of levy of excise duty and Service Tax on Information Technology Software** in respect of software recorded on media "NOT FOR RETAIL SALE" is being ensured by exempting from excise duty only that portion of the transaction value on which Service Tax is paid.	14%	14%
VIII	**Service Tax Rules**		
1	To reduce compliance cost, the number of returns to be filed by a central excise assessee, above a certain threshold, is being drastically reduced, from 27 to 13, one annual and 12 monthly returns. Monthly returns are already being e-filed. CBEC will provide for e-filing of annual return also. **The annual return will also have to be filed by Service Tax assessees, above a certain threshold, taking total number of returns to three in a year for them**. This change shall come into effect from 1st April, 2016.		
IX	**CENVAT Credit Rules**		
1	The rules are being amended so as to allow banks and other financial institutions to reverse credit in respect of exempted services on actual basis in addition to the option of 50% reversal.		
2	The rules are being amended to improve credit flow, reduce the compliance burden and associated litigation, particularly those relating to apportionment of credit		

	between exempted and non-exempted final products / services. Changes are also being made in the provisions relating to input service distributor, including extension of this facility to transfer input services credit to outsourced manufacturers, under certain circumstances. The amendments in these rules will also enable manufacturers with multiple manufacturing units to maintain a common warehouse for inputs and distribute inputs with credits to the individual manufacturing units.
3	The rules are being amended to provide for reversal of CENVAT Credit of inputs/input services which have been commonly used in providing taxable output service and an activity which is not a 'service' under the Finance Act, 1994.
4	The CENVAT credit rules are being amended so as to allow CENVAT credit of Service Tax paid on amount charged for assignment by Government or any other person of a natural resource, over such period of time as the period for which the rights have been assigned.
	[The above amendment shall come into effect from 1st April, 2016.]
X	**Miscellaneous**
	Period for issuing demand notices
1	Section 73 of the Finance Act, 1994 is being amended so as to increase the limitation period **from 18 months to 30 months** for short levy/non levy/short payment/non-payment/erroneous refund of Service Tax.
	Other changes in the Finance Act, 1994
2	The Negative List entry covering '**educational services** by way of (a) pre-school education and education up to higher and secondary school or equivalent, (b) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force and (c) education as a part of an approved vocational education course [Section 66D (l)] and the definition of 'approved vocational education course' [section 65B (11)] are being omitted. However, the exemption shall continue by way of exemption notification No. 25/2012 – ST.
3	In the last Budget, the Customs, Central Excise and Service Tax laws were amended to provide for closure of proceedings where the assessee pays duty/tax due, interest and specified penalty. Further amendments are being made to Service Tax law so as to provide for closure of proceedings against conoticees, once the proceedings against the main noticee have been closed.
4	The **power to arrest** in Service Tax is being restricted only to situations **where the tax payer has collected the tax but not deposited it to the exchequer, and that too above a threshold of Rs 2 crore**. The **monetary limit for launching prosecution is being increased from Rs. 1 crore to Rs. 2 crore of Service Tax evasion**.

From Speech of FM

Non-residents without PAN are currently subjected to a higher rate of TDS. It is proposed to amend the relevant provision to provide that on furnishing of alternative documents, the higher rate will not apply.

PROPOSED CHANGES/REFORMS IN FDI AND RELATED POLICIES

(i) Foreign investment will be allowed in the insurance and pension sectors in the automatic route up to 49% subject to the extant guidelines on Indian management and control to be verified by the Regulators.
(ii) 100% FDI in Asset Reconstruction Companies (ARCs) will be permitted through automatic route. Foreign Portfolio Investors (FPIs) will be allowed up to 100% of each tranche in securities receipts issued by ARCs subject to sectoral caps.
(iii) Investment limit for foreign entities in Indian stock exchanges will be enhanced from 5 to 15% on par with domestic institutions. This will enhance global competitiveness of Indian stock exchanges and accelerate adoption of best-in-class technology and global market practices.
(iv) The existing 24% limit for investment by FPIs in Central Public Sector Enterprises, other than Banks, listed in stock exchanges, will be increased to 49% to obviate the need for prior approval of Government for increasing the FPI investment.
(v) The basket of eligible FDI instruments will be expanded to include hybrid instruments subject to certain conditions.
(vi) FDI will be allowed beyond the 18 specified NBFC activities in the automatic route in other activities which are regulated by financial sector regulators.
(vii) With a view to promote Make in India and following the practices in advanced countries, foreign investors will be accorded Residency Status subject to certain conditions. Currently, these investors are granted business visa only up to 5 years at a time.
(viii) In order to ensure effective implementation of Bilateral Investment Treaties signed by India with other countries, I propose to introduce a Centre State Investment Agreement. This will ensure fulfilment of the obligations of the State Governments under these Treaties. States which opt to sign these Agreements will be seen as more attractive destinations by foreign investors.
(ix) 100% FDI will be allowed through FIPB route in marketing of food products produced and manufactured in India.