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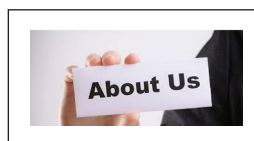
BUDGET 2017-2018



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S B Gabhawalla & Co. is a professional services firm practicing in the entire field of taxation with a specialization in Indirect Taxes. The firm has a distinct research orientation towards Service Tax & VAT related matters and is a front-runner in the field of GST advisory and implementation aspects.



The basic philosophy of the firm revolves around the principles of integrity, knowledge & speed. Over the last two decades, the firm has created a niche for itself in the field of consultancy and evolved new paradigms in quality service to clients.

The firm serves a wide arena of clientele ranging across the spectrum of various industries like logistics, entertainment & media, hospitality, construction and infrastructure, financial services, software, manufacturing, retail, etc.



The firm is headed by Sunil Gabhawalla who is a chartered accountant in practice with 3rd rank at the All-India Level. He also obtained the 9th position at All India Level in CA Intermediate and the 7th position at All India Level at ICWA Intermediate Examinations. Even during

graduation, he had an excellent academic record with ranks throughout the career. He is also a cost accountant.

Sunil regularly speaks at various forums including trade and industry associations and B-Schools and professional forums. He talks on diverse areas of interest including indirect taxes, international tax structuring, etc. His treatise on service tax is a popular book containing detailed commentary on the provisions of service tax law and runs in its' 21st edition.

Sunil is currently Hon. Secretary of the Bombay Chartered Accountants Society. He is also a member of the Study Group constituted by the Maharashtra State Government for implementing GST.



Ever since GST was conceptualised, the firm has understood the importance of the landmark reform and has been active in the said domain. Sunil is regularly invited by the policy makers to present his thoughts on the policy formation parameters of the GST Law. Immediately after the draft GST law was in public domain, the firm was one of the first to start detailed GST Awareness Sessions and such sessions are recorded in a series of more than 75 videos and are available on Youtube.

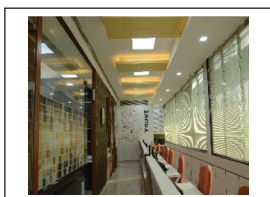
Further, the firm is active in customised GST Awareness and acclimatisation sessions with corporates. It also has started various GST Implementation assignments and believes that technology holds the key to successful GST Implementation.

The firm is assisted by a team of 28 young and energetic human resources.

Prakash Dave, being the senior-most in the team, brings to the organization more than 30 years of experience in sales tax at the field level. He ably guides the entire organization towards increasing service levels.



Being qualified chartered accountants, Yash Parmar, Khyati Kalavadia, Parth Shah, Darshan Ranavat, Aman Haria, Himanshu Kakkad, Shalin Shah and Ronak Gandhi are all equipped with appropriate knowledge to handle client queries on a day to day basis. Other resources assist these senior managers & managers in administrative and procedural compliance.



The firm is headquartered at a prime business area in Andheri, Mumbai and has adequate infrastructure in terms of library resources, office ambience, research software, internet connectivity, web and e-mail support, collaborative task management and monitoring tools, etc. The office is less than 10 minutes drive from the domestic/ international airports. Further, recognizing the need

to provide PAN-India solutions to client requirements, the firm is supported by a community of indirect tax professionals across the country by the name "GST-World". Collectively, the community consists of more than 200 tax professionals in more than 20 locations in 12 States.

The firm is geared to render diverse nature of services which include consultancy, retainership, compliance, litigation, training, audit, etc. It also undertakes detailed audit/ investigation services to identify transaction inefficiencies and suggest due diligence.



The firm believes in an optimum mix of theory and practice and finds both of them complimentary to each other. Indeed, each practical advice further strengthens the theory related thereto. The firm encapsulates these practical advises into case studies and builds up a progressive knowledge base which helps in providing speedy solutions to future clients.

Contents

SERVICE TAX

1.	Introduction	1
2.	Changes in Negative List & Mega Exemption (w.e.f. President's assent)	1
3.	Changes in Mega Exemption (w.e.f. 02.02.2017)	1
4.	Retrospective Exemptions and Consequential Refund Claims.....	2
5.	Changes in Valuation Rules (w.e.f. President's assent)	2
6.	Changes in Advance Ruling (w.e.f. President's assent)	5
7.	Repeal of Research and Development Cess Act, 1986	6

EXCISE

1.	Changes in Procedures of Advance Ruling	6
2.	Remission of Duty.....	6
3.	Clarifications for EOU	6
4.	Changes in Tariff Duty	6

CENVAT Credit

1.	Rule 6 – Reversal of Credits	8
2.	Rule 10- Transfer of credit	8

CUSTOMS

1.	Amendments in the law	9
2.	Changes in Rates of Duty:	10

INCOME TAX

1.	Rates of Income-Tax.....	12
2.	Tax deducted at source	15
3.	Income from House Property.....	20
4.	Business Income	20
5.	Capital Gains.....	22
6.	Income from Other Sources	26
7.	Exemptions & Deductions.....	27
8.	Losses	29
9.	Corporate & International Taxation	29
10.	Procedural	33

SERVICE TAX

1. Introduction

- 1.1 In view of the impending GST, the Finance Minister has refrained from making many changes in the indirect tax laws. To the relief of many, the service tax rate has remained unchanged and none of the exemptions have been axed. No changes in the rules relating to reverse charge mechanism or Point of Taxation have been carried out. The Place of Provision of Service Rules, 2012 also have been left unamended. Is this an harbinger of times to come or is it merely a lull before a storm? Time will tell.

2. Changes in Negative List & Mega Exemption (w.e.f. President's assent)

- 2.1 Currently "services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption" are excluded from the purview of service tax vide Section 66D(f). The said exclusion is now removed from the negative and converted into an exemption entry vide amendment to Entry 30 of Notification 25/2012-ST dated 20.06.2012. Effectively, job work amounting to manufacture continues to remain exempted from service tax.

3. Changes in Mega Exemption (w.e.f. 02.02.2017)

- 3.1 The following additional exemptions are provided:

Entry of Notification 25/2012-ST	Description of Exemption
Entry No 23A	Services provided to the Government by way of transport of passengers, with or without accompanied belongings, by air, embarking from or terminating at a Regional Connectivity Scheme Airport, against consideration in the form of Viability Gap Funding (VGF)
Entry No. 26D	Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government
Entry 9B(a)	Exemption to full time residential courses of IIM extended to non-residential courses as well

4. Retrospective Exemptions and Consequential Refund Claims

4.1 The following retrospective exemptions have been granted:

Section	Pertains to	Period of Retrospective Exemption
104	service tax, leviable on one time upfront amount (premium, salami, cost, price, development charge or by whatever name called) in respect of taxable service provided or agreed to be provided by a State Government industrial development corporation or undertaking to industrial units by way of grant of long term lease of thirty years or more of industrial plots	01.06.2007 to 21.09.2016
105	Services provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force	10.09.2004 to 01.02.2017

4.2 It is also provided that the assessee can file a refund claim of any tax paid within a period of 6 months from the date of assent of the Finance Bill, 2017

5. Changes in Valuation Rules (w.e.f. President's assent)

5.1 The Delhi High Court in the case of Suresh Kumar Bansal [2016-TIOL-1077-HC-DEL-ST] had held that the levy of service tax on builders for sale of under construction flats was invalid since there were no valuation provisions to enable the removal of the land value from the gross amount charged. Despite various notifications prescribing the abatement in such cases, the Court held that mere having an abatement notification is not enough, the Valuation Rules have to incorporate a method to determine the value of land.

5.2 In order to overcome the said decision, a retrospective amendment is proposed in Rule 2A of the Service Tax (Determination of Value) Rules (STVR), 2006 which deals with determination of value of service portion in the execution of a work contract.

5.3 The proposed amendment shall be deemed to be and deemed always to have been, for all purposes as validly and effectively

taken or done, to include the “value in goods and land or undivided share of land, as the case may be”.

5.4 The amended Rule reflects a mirror image of the provisions of the relevant abatement notifications at varying points of time. The same is summarized in the table below:

Provisions related to STVR, 2006	Amendment	Rate of tax	Period of effect of amendment	Conditions
Rule 2A as inserted by Not. No. 29/2007-ST dated 22.05.2007	If the Gross amount charged includes Value of goods as well as land or undivided share of land	25%	01.07.2010 to 30.06.2012	1. No Cenvat credit on input, capital goods or input services. 2. Service Provider should not have availed benefit under Notification 12/2003-ST dated 20.06.2003
Rule 2A as substituted by Not. No. 24/2012-ST dated 06.06.2012	If the Gross amount charged includes Value of goods as well as land or undivided share of land	25%	01.07.2012 to 28.02.2013	No Cenvat Credit on inputs has been availed
	If the Gross amount charged includes Value of goods as well as land or undivided share of land	30%	01.03.2013 to 07.05.2013	No Cenvat Credit on inputs has been availed

Provisions related to STVR, 2006	Amendment	Rate of tax	Period of effect of amendment	Conditions
	However, in case of residential units having carpet area upto 2000 sq. ft. or amount charged per units is less than 1 crore	25%	01.03.2013 to 07.05.2013	No Cenvat Credit on inputs has been availed
	If the Gross amount charged includes Value of goods as well as land or undivided share of land	30%	08.05.2013 to 31.03.2016	No Cenvat Credit on inputs has been availed
	However, in case of residential units having carpet area upto 2000 sq. ft. or amount charged per units is less than 1 crore	25%	08.05.2013 to 31.03.2016	No Cenvat Credit on inputs has been availed

Provisions related to STVR, 2006	Amendment	Rate of tax	Period of effect of amendment	Conditions
	If the Gross amount charged includes Value of goods as well as land or undivided share of land	30%	01.04.2016 onwards	No Cenvat Credit on inputs has been availed

6. Changes in Advance Ruling (w.e.f. President's assent)

- 6.1 The Authority for Advance Rulings for Direct Taxes and Indirect Taxes is proposed to be merged. Many amendments are proposed to effectuate this change. Further, Section 96HA provides for transferring the pending applications before the new authority
- 6.2 Further the application fees for seeking advance ruling has been increased from ₹ 2,000/- to ₹ 10,000/-, by amending section 96C(3). The proposed Budget has also extended the time limit for pronouncing its ruling from 90 days to 6 months.

7. Repeal of Research and Development Cess Act, 1986

- 7.1 The Research and Development Cess Act, 1986 is proposed to be repealed w.e.f. 01.04.2017.
- 7.2 Notification No. 14/2012-ST dated 17-03-2012 exempts the taxable service involving import of technology from so much of the service tax leviable thereon as is equivalent to the amount of cess payable on the said import of technology under the Research and Development Cess Act, 1986.
- 7.3 Consequently, w.e.f. the enactment of the Finance Bill, 2017, the exemption from service tax under notification No. 14/2012-ST would be not available and full service tax along with cesses (Swachh Bharat Cess and Krishi Kalyan Cess) would be payable to such taxable service.



EXCISE

1. Changes in Procedures of Advance Ruling

- 1.1 The Authority for Advance Rulings for Direct Taxes and Indirect Taxes is proposed to be merged. Many amendments are proposed to effectuate this change. Further the application fees for seeking advance ruling has been increased from ₹ 2,000/- to ₹ 10,000/- and the time limit for pronouncing the ruling has been extended from 90 days to 6 months.

2. Remission of Duty

- 2.1. Rule 21(2) provides for a time limit of three months (extendable by six months) for granting remission of duty in case of goods lost or destroyed by natural causes or by unavoidable accident or claimed by manufacturer as unfit for consumption.

3. Clarifications for EOU

- 3.1. An EOU manufacturing excisable goods and clearing into DTA is required to pay excise duty. Further, through Section 5A(2), any general exemption for the goods is not available unless the enabling notification specifically provides for an exemption for such DTA Clearances as well.
- 3.2. It is clarified that the said provision only deals with clearance of finished goods and does not debar an EOU from importing or domestically procuring raw materials and inputs at concessional/ NIL rates.

4. Changes in Tariff Duty

Nature of Goods	Current Rate	Proposed Rate
Catalyst and Resin	12.5%	Exempted (up to 30.06.2017)
Membrane Sheet and Tricot for use in RO for Household	12.5%	6%
Solar Tempered glass	Exempted	6% subject to actual user (valid up to 30.06.2017)

Nature of Goods	Current Rate	Proposed Rate
Parts/Raw material for Solar Tempered Glass	12.5%	6% (up to 30.06.2017)
Micro ATMs/ Fingerprint reader/ Scanner and parts and components for manufacture of these devises	12.5%	Exempted (up to 30.06.2017)
Miniaturized POS card reader (other than Mobile Phone or Tablet computer	12.5%	Exempted (up to 30.06.2017)
Motor Vehicles for transport of more than 13 persons	27%	12.5% (w.e.f 01.01.2017)
Machinery for fuel cell based power generating systems	12.5%	6%
Waste and scrap of precious metals or other metals clad with precious metals arising in course of manufacture/Strips, wires. Sheets, plates and foils of silver	NIL	NIL (subject to No credit of duty paid on Inputs or Input Services or Capital Goods)

■ ■ ■

CENVAT Credit

1. Rule 6 – Reversal of Credits

- 1.1. Clause (e) of sub-rule 3D of Rule 6 of the CENVAT Credit Rules, 2004 provides for exclusion of value of services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount for the purpose of calculation of value under sub rule 3 or 3A. The said clause is amended so as to exclude the applicability of clause to a banking company and a financial institution including NBFC engaged in providing services by way of extending deposits, loans or advances.
- 1.2. The amendment will have an impact on all banking and financial institutions. The value of services represented by way of interest or discount will have be added as a part of their exempt service income and according reversal of input tax credit on inputs or input services will increase to that extent.
- 1.3. This amendment shall be effective from 02.02.2017. It may also be noted that banking and financial institutions have an option to reverse an ad-hoc amount of 50% of the credit claimed. Institutions following the said option are not impacted by this amendment. However, those institutions which opted out of the said presumptive reversal will be impacted because the value of exempted services would now include the interest earned by them. Since the amendment is effective from 02.02.2017, the provisional ratio calculated at the start of financial year remains unimpacted. However, the final ratio to be calculated before 30.06.2017 will be impacted to the extent of interest income after 02.02.2017.

2. Rule 10- Transfer of credit

- 2.1. The new sub-rule 4 is being inserted in Rule 10 of the CENVAT Credit Rules, so as to provide that the transfer of CENVAT Credit by the jurisdictional officer, shall be allowed within 3 months from the date of receipt of application from the manufacturer or service provider. However, it is subject to the fulfilment of the conditions prescribed under Rule 10 (3).



CUSTOMS

1. Amendments in the law

- 1.1. The term “importer” and “exporter” is proposed to be amended to include ‘beneficial owner’ being any person on whose behalf goods are imported or exported or who exercises effective control over the goods being exported or imported.
- 1.2. Section 17 which deals with self-assessment of duty is proposed to be amended to simplify the requirement of documents for verification of self-assessment.
- 1.3. Section 27 of the Act is amended so as to grant refund of duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made. However, such excess payment should be evident from the bill of entry in the case of self-assessed bill of entry or duty actually payable is reflected in the reassessed bill of entry in the case of reassessment. Thus, the concept of unjust enrichment will not apply to those cases.
- 1.4. The Advance Ruling Authority under the Direct and Indirect taxes are consolidated. Consequential amendments are carried out under the Customs Act.
- 1.5. Section 30A and 41A are being inserted to make person-in-charge of conveyance to provide the proper officer passenger and crew arrival manifest and passenger name record information in such form, containing such particulars and time as may be prescribed. The section also provides for imposition of a penalty not exceeding fifty thousand rupees. Accordingly, Section 157 is also being amended so as to empower the board to make regulations.
- 1.6. The time limit for filling bill of entry for home consumption or warehousing in the prescribed form as provided under section 46(3) is proposed to be amended. Below is the time limit:

Current Law	Proposed Amendment
A bill entry may be presented at any time after the delivery of import manifest or import report as the case may be	A bill of entry shall be filed before the end of the next day following the day (excluding holidays) on which vessel or air
	craft or vehicle carrying the goods arrives at a customs station

- 1.7. Section 47(2) of the Act is proposed to be amended so as to provide the manner of payment of duty and interest in case of clearance of goods for home consumption. Below is the amendment:

Importer to pay import duty	a) On the date of presentation of bill of entry in case of self- assessment
	b) Within one day (excluding holidays) from the date on which bill of entry is returned to importer for payment of duty in case of assessment, reassessment or provisional assessment
	c) Due date as may be specified by rules in case of deferred payment
Interest	If the importer fails to pay the duty within the time limit he shall pay interest on the duty not paid or short paid at such rate not less than 10% but not exceeding 36% per annum.

- 1.8. Section 49 of the Act deals with storage of imported goods which are entered for home consumption. The said facility of storage is proposed to be extended to imported goods entered for warehousing before their removal.
- 1.9. Section 82 relating to label or declaration accompanying goods in case of goods imported or exported by post to be treated as entry for import or export is proposed to be omitted.
- 1.10. Section 127B is proposed to be amended so as to enable any person other than applicant as referred in the said section to make an application to the Settlement Commission.

2. Changes in Rates of Duty:

- 2.1. The following table highlights the changes in the rate of Custom Duty in case of various goods:

Item	Old rate	New Rate
Cashew nuts, roasted, salted or roasted and salted	30%	45%
Liquefied Natural Gas	5%	2.5%
O-Xylene	2.5%	NIL

Item	Old rate	New Rate
2-Ethyl Anthraquinone for use in manufacture of hydrogen peroxide	7.5%	2.5%
Wallet Extract	7.5%	2.5%
Co-polymers coated MS tapes/Stainless Steel tapes for manufacture of telecommunication grade optical fibres	NIL	10%
Nickel	2.5%	NIL
Solar tempered glass for use in the manufacture of solar cell/panels/modules	5%	NIL
Silver medallion, silver coins having silver content not below 99.9%, semi manufactured form of silver and articles of silver	NIL (CVD)	12.5% (CVD)



INCOME TAX

1. Rates of Income-Tax

1.1. Personal Taxation

- 1.1.1. The buoyancy of revenues on account of demonetisation presented a wonderful opportunity to liberalize the slab rates for personal taxation. However, it appears to be more of a myopic tinkering with increase in variables determining the calculation. Just to summarize, currently the personal tax has a threshold limit and three slabs of taxation. The tax calculation is topped up with education cess and secondary higher education cess. If you earn more (more than ₹ 1 crore), be ready to shell out an icing on the cake by way of a surcharge.
- 1.1.2. The Budget attempts to provide a relief by reducing the tax rate at the lowest slab by 5%. However, one hand gives so that the other hand can take it back (by way of reduction in rebate u/s 87A).
- 1.1.3. The tax slabs continue to be same, but the rate of tax for Individuals/ HUF/ AOP/ BOI/ AJP in the slab of ₹ 2,50,000/- to ₹ 5,00,000/- has been reduced from 10% to 5%.
- 1.1.4. Further, surcharge has been introduced for Individuals/ HUF/ AOP/ BOI/ AJP having income more than ₹ 50,00,000/- but below ₹ 1,00,00,000/- @ 10% of such income tax.
- 1.1.5. Surcharge @ 15% for Individuals/ HUF/ AOP/ BOI/ AJP having total income over ₹ 1,00,00,000/- continues. The following table gives comparative analysis of the income liable for tax for AY. 2018-19 vis-à-vis AY. 2017-18

Income (₹)	Tax Rate (in %)					
	Individual/ HUF/ AOP/ BOI/ AJP		Senior Citizen (Age 60 years but below 80 years)		Very Senior Citizen (Age 80 years & above)	
AY	2018-19	2017-18	2018-19	2017-18	2018-19	2017-18
0-2,50,000	-	-	-	-	-	-
2,50,001-3,00,000	5.15*	10.30	-	-		
3,00,001-5,00,000	5.15*	10.30	5.15*	10.30	-	-
5,00,001-10,00,000	20.60	20.60	20.60	20.60	20.60	20.60
10,00,001-50,00,000	30.90	30.90	30.90	30.90	30.90	30.90

AY	2018-19	2017-18	2018-19	2017-18	2018-19	2017-18
50,00,001-1,00,00,000	33.99	30.90	33.99	30.90	33.99	30.90
Above 1,00,00,000	35.535	35.535	35.535	35.535	35.535	35.535
*Rebate u/s 87A effect not considered						

- 1.1.6. The existing rebate under Section 87A (currently given to people with income up to ₹ 5 lakh) is proposed to be reduced to ₹ 2,500/- from the existing ₹ 5,000/- for individuals earning between ₹ 2,50,000/- to ₹ 3,50,000/- only. As a result of the combined effect of the new Section 87A rebate and the reduction in the lowest slab tax rate to 5% the tax burden for those with income up to ₹ 3,00,000/- would be 'zero' and tax burden those in the ₹ 3,00,000/- to ₹ 3,50,000/- bracket would be ₹ 2,500/- at tops.
- 1.1.7. Those falling in higher income tax slabs will also be eligible for this lower tax rate of 5% on income between ₹ 2,50,000/- to ₹ 5,00,000/-. Therefore, those in higher tax slabs will pay lower tax by ₹ 12,500/- per person.
- 1.1.8. The above amendment shall take effect from AY 2018-19
- 1.2. Co-operative societies, Firms and Local authorities.**
- 1.2.1. The rate of income tax for co-operative societies, partnership firms and local authorities will continue to be the same for AY 2018-19 as existing during AY 2017-18, respectively.
- 1.3. Corporate Taxation**
- 1.3.1. The corporate tax rate has been reduced to 25% for domestic companies having total turnover or the gross receipts below ₹ 50 crore. For other domestic companies having turnover of above ₹ 50 crores, the rate of tax remains 30%. Consequently, the benefit of 29% income tax rate for domestic companies having turnover up to ₹ 5 crore/- is applicable only for AY 2017-18 and done away with for AY 2018-19.
- 1.3.2. Income tax rates for a company other than a domestic company, continue to remain same for AY 2018-19.
- 1.3.3. The surcharge on domestic and foreign companies continues to be the same for AY 2018-19 as existing during AY 2017-18, with benefit of marginal relief.
- 1.3.4. The above amendment shall take effect from AY. 2018-19.

1.3.5. The rates of corporate tax as per income slabs is as under:

Income Levels (₹)	Tax Rate (in %) for Domestic companies having Gross Turnover / Gross Receipts less than 5 crores	
	AY 2018-19	AY 2017-18
0 - 1 crore	25.75	29.87
1 crore -10 crores	27.5525	31.9609
Above 10 crores	28.84	33.4544
Income Levels (₹)	Tax Rate (in %) for Domestic companies having Gross Turnover / Gross Receipts more than 5 crores but less than 50 crores	
	AY 2018-19	AY 2017-18
0 - 1 crore	25.75	30.90
1 crore -10 crores	27.5525	33.063
Above 10 crores	28.84	34.608
Income Levels (₹)	Tax Rate (in %) for Domestic companies having Gross Turnover / Gross Receipts more than 50 crores	
	AY 2018-19	AY 2017-18
0 - 1 crore	30.90	30.90
1 crore -10 crores	33.063	33.063
Above 10 crores	34.608	34.608
Income Levels (₹)	Tax Rate (in %) for companies other than domestic companies (irrespective of any amount of turnover)	
	AY 2018-19	AY 2017-18
0 - 1 crore	41.20	41.20
1 crore -10 crores	42.024	42.024
Above 10 crores	43.26	43.26

2. Tax deducted at source

2.1. Rates of TDS

2.1.1. The rates for deduction of income-tax at source during the FY 2017-18 (AY 2018-19) for most of the categories of persons will remain the same. Amendments made in a few sections. The same is reproduced as under for quick reference:

Section	Nature of Payment in brief		Upto 31ST May			From 1st June		
			Cut off limit	Rate	If No / In-valid PAN	Cut off limit	Rate	If No / Invalid PAN
192	Salary		Taxable income	Avg Rate	20	Taxable income	Avg Rate	20
192A	Premature Withdrawal from EPF A/c		50,000	10	34.608	50,000	10	34.608
193	Interest on Securities		5,000 (Ind & HUF)	10	20	5,000 (Ind & HUF)	10	20
194	Deemed Dividend		2,500 (Ind)	10	20	2,500 (Ind)	10	20
194A	Interest other than Interest on Securities by	10,000	10	20	20	10,000	10	20
		5,000	10	20	20	5,000	10	20
194B	Lottery/Crossword Puzzle/Card Game/Any other Game		10,000	30	30	10,000	30	30
194BB	Winings from Horse Race		10,000	30	30	10,000	30	30

194C	Contracts (Including Sub-Contract & Advertisements)		30,000 - Single 1,00,000 - Aggregate	1 (Ind & HUF) 2 (Others)		30,000 - Single 1,00,000- Aggregate	1 (Ind & HUF) 2 (Others)	
	194C- Contract – Transporter having no. of vehicles	10 or < 10	-	-	20			20
		>10	30,000- Single 1,00,000- Aggregate	1 (Ind & HUF) 2 (Others)			30,000- Single 1,00,000- Aggregate	1 (Ind & HUF) 2(Others)
194D	Insurance Commission		15,000	5	20	15,000	5	20
194DA	Payment of Life Insurance Maturity not exempt u/s 10(10D)		1,00,000	1	20	1,00,000	1	20
194E	Payment to NR Sportsmen/ Sports Association/ Entertainer		NIL	20	20	NIL	20	20
194EE	Payments out of deposits under NSS		2,500	10	20	2,500	10	20
194F	Repurchase of units by MF/UTI		NIL	20	20	NIL	20	20
194G	Commission on sale of lottery tickets		15,000	5	20	15,000	5	20
194H	Commission or Brokerage		15,000	5	20	15,000	5	20
194I (subject to 194IB)	Rent	Land & Building	1,80,000	10	20	1,80,000	10	20
		Machinery, Plant and Furniture		2			2	
194IA	Purchase of Immovable Property		50,00,000	1	20		1	20

194IB	Rent for immoveable property (other than 194I) payable by individual, HUF	-	-	-	50,000 per month	5	20	
194IC	Consideration (not in kind) for payment under agreement							
194J	Fees for Professional & Technical Services (+Royalty)	Other than call centers	30,000	10	20	30,000	10	20
		Call centers	30,000	10		30,000	2	
194J (1) (ba)	Remuneration to Directors (Other than Salary)	NIL	10	20	NIL	10	20	
194LA	Compulsory Acquisition of Immovable Property	2,50,000	10	20	2,50,000	10	20	
194LB	Interest Payment to NR for Infrastructure Debt Fund	NIL	5	20	NIL	5	20	
194LBA (1)	Income from units of a Business Trust /REIT to Resident	NIL	10	20	NIL	10	20	
194LBA (2)	Income from units of a Business Trust to NR	NIL	5	20	NIL	5	20	
194LBA (3)	Income from units of a REIT to NR	NIL	Rates in Force	20	NIL	Rates in Force	20	
194LBB	Income from units of Investment Fund [other than 10(23FBB)]	NIL	10	20	NIL	10	20	
		NIL	Rates in Force	20	NIL	Rates in Force	20	
194LC	Interest Payment by Indian companies to NR**	NIL	5	20	NIL	5	20	
194LD	Interest on Rupee Denominated Bonds to NR	NIL	5	20	NIL	5	20	

2.2. Tax deduction at Source in case of certain Individuals and HUF not liable for tax audit on payment of Rent

- 2.2.1. The Finance Bill proposes to introduce Section 194IB which imposes a liability on individuals/ HUF other than those covered under 44AB of the Act to deduct tax at 5% on rental payments if the same exceed ₹ 50,000 for a month or part of month during the previous year
- 2.2.2. To avoid increased compliance burden on such assessee's, they shall be required to deduct tax only once in a previous year (either at the time of payment of rent for the last month of the previous year or last month of tenancy, whichever is earlier), no requirement to obtain TAN, etc.
- 2.2.3. However, in case where the PAN of the landlord is not available, the rate of tax shall be as per Section 206AA or the amount of rent payable for last month of previous year or tenancy, whichever is lower.
- 2.2.4. This amendment shall be effective from 01.06.2017.

2.3. Specified Interest Income received by non-residents

- 2.3.1. The concessional rate of TDS @ 5% on interest payments to non-residents in respect of specified foreign currency borrowings u/s 194LC before 1st July, 2017 has been extended to 1st July 2020. Similar extension is provided for payments to FII/QFI on investments in rupee denominated bonds of Indian company or Government Security
- 2.3.2. Further, the Finance Bill also proposes to extend the benefit of reduced rate of 5% u/s 194LC for money borrowed in rupee denominated bonds from a source outside India before 1st July 2020. The said amendment is proposed to be effective retrospectively from 1st April 2016 in line with Press Release dated 29th October 2015.

2.4. TDS Exemption for Insurance Commission

- 2.4.1. Section 194D currently provides for deduction of tax at source on payment of commission at the rate of 5% where payment to a person exceeds ₹ 15000.
- 2.4.2. The Finance Bill proposes to amend Section 197A to provide an option to the receiver of the said income to issue form 15G/H to the payer and obtain exemption from deduction of tax at source on the income earned.

2.4.3. This amendment shall be effective from 1st June 2017.

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

2.5.1. In the existing provision of Section 194LA in relation to TDS on compensation of certain immovable property provide for deduction of 10% on compensation received and enhanced compensation received from compulsory acquisition of land (except agriculture land). This section is amended to exempt payment made under section 96 (except those made under section 46) of RFCTLARR Act from deduction of TDS.

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

2.6. Exemption from tax collection at source under sub-section (1F) of section 206C in case of certain specified buyers.

2.6.1. The existing provision of sub-section (1F) of section 206C of the Act, inter-alia provides that the seller who receives consideration for sale of a motor vehicle exceeding ten lakh rupees, shall collect one per cent of the sale consideration as tax from the buyer. This section is amended to exempt the following class of buyers such as the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; local authority as defined in explanation to clause (20) of Section 10; a public-sector company which is engaged in the business of carrying passengers, from the applicability of the provision of subsection (1F) of section 206C of the Act.

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

2.7. Simplification of the provisions of tax deduction at source in case Fees for professional or technical services under section 194J

2.7.1. Section 194J has been amended to reduce the rate of deduction of tax at source to 2% from 10% in case of payments received or credited to a payee, being a person engaged only in the business of operation of call centre.

2.7.2. This amendment will take effect from the 1st day of June, 2017.

2.8. Enabling claim of credit for foreign tax paid in cases of dispute

2.8.1. The existing provision of section 155 of the Act provides for the procedure for amendment of assessment order in certain cases.

Rule 128 of the Income Tax Rules, 1962 provides a mechanism for claiming foreign tax credit. A new sub section (14A) is inserted under section 155 to provide that if the foreign taxes paid is in dispute the assessing officer can amend the order within 6 month from the end of the month in which dispute is settle on furnishing the proof of settlement of dispute.

3. Income from House Property

3.1. Notional income for property held as stock-in-trade

- 3.1.1. In case of real estate developers, most of the developers have unsold stock which also includes a chunk of finished flats, apartments and units etc. The finished units remain unsold either due to indifferent market conditions or due to some legal complications etc. Thus, the real estate developer may continue to hold such constructed flats as its stock in trade at the end of the year for the purpose of business.
- 3.1.2. Section 23 of the Act provides to consider annual lettable value of such unsold stock under the head "Income from House Property".
- 3.1.3. However, considering the hardship faced by the real estate developers it is proposed to amend the said section so as to provide that where the house property consisting of any building and land appurtenant thereto is held as stock-in-trade and the property is not let out during the whole or any part of the previous year, the annual value of such property, for the period upto one year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be nil.
- 3.1.4. This amendment will take effect from 01.04.2018.

4. Business Income

4.1. Benefits of Section 43D extended to Co-operative Banks

- 4.1.1. Section 43D provides that in case of Public Financial Institutions, Public companies, etc., interest income in relation to prescribed categories of bad or doubtful debts shall be chargeable to tax in the previous year in which it is credited in the Profit & Loss Account or the previous year, in which the income is received, whichever is earlier.
- 4.1.2. The said benefits were not available to Co-operative banks (not being primary agricultural credit society or a primary co-operative agricultural and rural development bank). The Finance Bill

proposes to amend the provisions of Section 43D to extend the said benefits to such co-operative banks also.

4.1.3. Consequential amendments to include interest payable to Co-operative banks within the provisions of Section 43B have also been proposed.

4.1.4. The above amendments shall be effective from 01.04.2018.

4.2. Increased deduction for provision for bad and doubtful debts

4.2.1. Section 36 (1) (viiia) provides for a deduction upto 7.5% of the total income on account of provision for bad and doubtful debts. The Finance Bill to increase the same to 8.5%.

4.2.2. This amendment shall be effective from 01.04.2018.

4.3. Disallowance of depreciation under section 32 and capital expenditure under section 35AD on cash payment:

4.3.1. In order to discourage cash transaction in relation to capital expenditure, section 43 for determination of actual cost of capital asset has been amended to provide that any payments made to a person in a day exceeding ₹ 10,000/- for acquisition of capital asset by any mode other than cash, shall be ignored for the determination of actual cost of capital asset.

4.3.2. Further, section 35AD in relation to deduction in respect of expenditure incurred on setting up of specified business has been amended to provide that any payments made to a person in a day exceeding ₹ 10,000/- then no deduction shall be allowed for such expenditure.

4.3.3. This amendment shall be effective from 01.04.2018

4.4. Measures for promoting digital payment in case of small unorganized business.

4.4.1. Under the existing provision of section 44AD provide for presumptive tax on the total turnover or gross receipt not exceeds ₹ 2 crore. Under this scheme a sum of 8% or higher rate declared by the assessee is deemed to be the profit and gain for the computation of Income under the head "Income from business and profession".

4.4.2. In order to promote digital payments, the above rate is reduced from 8% to 6% for all the payment received by an account payee cheque or account payee bank draft or use of electronic clearing system through bank account during the previous year or before

filing the return as specified under section 139(1) of the act. The existing amendment will not be applicable if the payment is received in any other mode than above.

4.4.3. This amendment shall be effective from 1st April 2017

4.5. Increasing the threshold limit for maintenance of books of accounts in case of Individuals and Hindu undivided family

4.5.1. The existing provision of section 44AA (2) obligate person on business and profession to maintain books of account if the total income is more than ₹ 1,20,000/- or the total sales, turnover or gross receipt is more than ₹ 10,00,000/-. From A.Y. 2018-19 and onwards the limit has been increased from ₹ 1,20,000/- to ₹ 2,50,000/- and ₹ 10,00,000/- to ₹ 25,00,000/- respectively.

4.5.2. This amendment is applicable from A.Y. 2018-19 and onwards

4.6. Exclusion of certain specified person from requirement of audit of accounts under section 44AB

4.6.1. In the existing provision audit is applicable if the total sales, turnover or gross receipt is more than ₹ 1 crores or ₹ 2 Crores for presumptive taxation or profit declared is lower than as specified in section 44AD. The above limit has been standardized for all the assessee to ₹ 2 crores.

4.6.2. This amendment is applicable from A.Y. 2017-18 and onwards.

5. Capital Gains

5.1. Long Term Capital Gains holding period for immovable property

5.1.1. In order to qualify as long term capital asset, the period of holding for an immovable property being land or building or both has been reduced to 24 months from 36 months.

5.1.2. This amendment shall be effective from 01.04.2018.

5.2. Shifting of base year from 1981 to 2001 for computation of capital gains

5.2.1. The existing provisions of section 55 provide that for computation of capital gains, an assessee shall be allowed deduction for cost of acquisition of the asset and also cost of improvement, if any. However, for computing capital gains in respect of an asset acquired before 01.04.1981, the assessee has been allowed an option of either to take the fair market value of the asset as on

01.04.1981 or the actual cost of the asset as cost of acquisition. The assessee is also allowed to claim deduction for cost of improvement incurred after 01.04.1981, if any.

- 5.2.2. As the base year for computation of capital gains has become more than three decades old, assesseees were facing genuine difficulties in computing the capital gains in respect of a capital asset, especially immovable property acquired before 01.04.1981 due to non-availability of relevant information for computation of fair market value of such asset as on 01.04.1981.
- 5.2.3. To ease this complexity, it is being proposed to shift the base year from 1981 to 2001.
- 5.2.4. The amendment shall be effective from 01.04.2018.

5.3. Tax Incentive for the development of capital of Andhra Pradesh

- 5.3.1. The Government of Andhra Pradesh, for formation of new capital city of Amravati has adopted an arrangement of Land Pooling Scheme to avoid land-acquisition disputes and lessen the financial burden associated with payment of compensation under that Act
- 5.3.2. In Land pooling scheme, the compensation in the form of reconstituted plot or land is provided to landowners. However, the existing provisions of the Act do not provide for exemption from tax on transfer of land under the land pooling scheme as well as on transfer of Land Pooling Ownership Certificates (LPOCs) or reconstituted plot or land.
- 5.3.3. An amendment is proposed with retrospective effect from 01.04.2015, with a view to provide relief to an individual or Hindu undivided family who was the owner of such land as on 2nd June, 2014 and has transferred such land under the land pooling scheme notified under the provisions of Andhra Pradesh Capital Region Development Authority Act, 2014.
- 5.3.4. The capital gains arising from the following transfers shall be exempted:
 - 5.3.4.1. Transfer of capital asset being land or building or both, under land pooling scheme.
 - 5.3.4.2. Sale of LPOCs by the said persons received in lieu of land transferred under the scheme.

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

5.4. Computation of capital gains in case of Joint Development Agreement

- 5.4.1. In the current scenario, execution of Joint Development Agreement between the owner of immovable property and the developer triggers the capital gains tax liability in the hands of the owner in the year in which the possession of immovable property is handed over to the developer for development of a project.
- 5.4.2. It is proposed to insert a new sub-section (5A) in section 45 so as to provide that in case of an assessee being individual or Hindu undivided family, who enters into a specified agreement for development of a project, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.
- 5.4.3. Further, it is also proposed that in case any monetary consideration is payable under the specified agreement, tax at the rate of ten per cent shall be deductible from such payment.

5.5. Exemptions under Section 54EC

- 5.5.1. Section 54EC provides that capital gain to the extent of ₹ 50 lakhs arising from the transfer of a long-term capital asset shall be exempt if the assessee invests the whole or any part of capital gains in certain specified bonds, within the specified time.
- 5.5.2. Currently, investment in bond issued by the National Highways Authority of India or by the Rural Electrification Corporation Limited is eligible for exemption under this section.
- 5.6. In order to widen the scope of the section for sectors which may raise fund by issue of bonds eligible for exemption under section 54EC, it is proposed to amend section 54EC so as to provide that investment in any bond redeemable after three years which has been notified by the Central Government in this behalf shall also be eligible for exemption.

5.7. Tax neutral conversion of preference shares to equity shares.

- 5.7.1. Under the existing provisions of the Act, conversion of bond or debenture of a company to share or debenture of that company is not regarded as transfer under the section 47. Similar provision

has been inserted under section 47 for conversion of preference share of a company into its equity share.

5.7.2. This amendment is applicable from assessment year 2018-19 and onwards.

5.8. Cost of acquisition in Tax neutral demerger of a foreign company

5.8.1. Under the existing provision of section 47 (vic), the transfer of shares of an Indian company by a demerged foreign company to a resulting foreign company is not regarded as transfer.

5.8.2. Section 49 has been amended to provide that cost of acquisition of the shares of Indian company referred to in section 47(vic) in the hands of the resulting foreign company shall be the same as it was in the hands of demerged foreign company.

5.8.3. This amendment is applicable from A.Y. 2018-19 and onwards

5.9. Extension of capital gain exemption to Rupee Denominated Bonds

5.9.1. Section 48 has been amended to provide that gains arising due to appreciation of rupees against a foreign currency at the time of redemption of rupee denomination bond of an Indian companies shall be ignored to second holder also

5.9.2. Section 47 has been amended to exempt transfer of Rupee Denominated Bonds of Indian Companies from non-resident to non-resident, outside India shall not be regarded as transfer.

5.9.3. This amendment is applicable from A.Y. 2018-19 and onwards.

5.10. Exemption of long term capital gains tax u/s 10(38)

5.10.1. The Finance Bill proposes to introduce a proviso to Section 10 (38) to restrict the exemption only in cases where acquisition of equity shares on or after 1st October 2004 was subjected to Securities Transaction Tax.

5.10.2. This amendment shall be effective from 01.04.2018.

5.11. Fair Market Value to be Full Value of Consideration for transfer of share of a company (Other than Quoted Share)

5.11.1. The Finance Bill proposes to introduce section 50CA which provides for deeming the fair market value as full value of consideration for transfer of share of a company (other than quoted share) where the actual sales consideration is less

than fair market value (FMV) of such share as determined in accordance with prescribed manner

5.11.2. This amendment shall be effective from 01.04.2018

5.12. Clarification regarding applicability of section 112

5.12.1. Finance Act, 2016 amended section 112(1)(c) to clarify that the transfer of securities of a company in which public are not substantially interested shall be chargeable to tax at the rate of 10 per cent with effect from 01.04.2017.

5.12.2. There was uncertainty about the applicability of the amendment for the period from 01.04.2013 to 31.03.2017, since the concessional rate was provided from 01.04.2013.

5.12.3. It is proposed to amend section 50 of the Finance Act, 2016 so as to clarify that the amendment made shall also apply to the period from 01.04.2013 to 31.03.2017.

5.13. Consolidation of plans within a scheme of mutual fund

5.13.1. The cost of acquisition of the units in the consolidated plan of mutual fund scheme referred to in section 47(xix) shall be the cost of units in consolidating plan of the mutual fund scheme.

5.13.2. Further, period of holding of the consolidated plan of mutual fund scheme shall be the holding period of the units in the consolidating fund scheme.

6. Income from Other Sources

6.1. Provisions of Section 56 (2) (vii) and (viiia) rationalized

6.1.1. Section 56 (2) (vii) and (viiia) are proposed to be terminated with effect from 1st April 2017 and a new clause (x) has been inserted. The said clause is a combination of the existing clause (vii) and (viiia).

6.1.2. This amendment shall be effective from 1st April 2017.

6.2. Disallowance of non-deduction of tax at source from payment to resident under Income from Other Sources

6.2.1. The Finance Bill proposes to make applicable the provision of Section 40 (a) (ia) in computing the income under the head "Income from Other Sources" for deductions claimed thereof.

6.2.2. This amendment shall be effective from 01.04.2018

7. Exemptions & Deductions

7.1. Deductions in respect of profit and gains from housing projects

7.1.1. In the Finance Budget 2016, a new section 80-IBA was introduced to allow deduction to an assessee engaged in the business of developing and building housing projects. Deduction to an extent of 100% of the profits and gains derived from such business was available, subject to certain conditions as prescribed within the section. This deduction was made available from 01.04.2017.

7.1.2. However, in the Finance Budget, 2017, certain amendments are proposed in the conditions mentioned within the section to claim the deduction. The proposed changes are tabulated below:

Sr. No.	Conditions prescribed in Finance Budget 2016	Proposed changes in the conditions prescribed in Finance Budget 2017
1	The size of the residential unit was measured considering "built-up area"	The size of residential unit shall be measured by taking into account the "carpet area" as defined in Real Estate (Regulation and Development) Act, 2016
2	The built-up area of the residential unit comprised in the housing project does not exceed thirty square metres, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the distance, measured aerially, of twenty-five kilometres from the municipal limits of these cities	No restriction of 30 square meters on the size of residential units located within a distance of 25 kms from the municipal limits of the Chennai, Delhi, Kolkata or Mumbai.
3	The project is completed within the period of 3 years from the date of approval by competent authority	The project is completed within the period of 5 years from the date of approval by competent authority

7.2. Restricting Cash Donation:

7.2.1. Under the existing provision any donation made exceeding ₹ 10,000/- paid by any mode other than cash was not eligible for section 80G Deduction. Now onward, from A.Y. 2018-19 the limit of ₹ 10,000/- is reduced to ₹ 2,000/-.

7.3. Corpus donation by exempt entities to other exempt entities not to be treated as Application of Income

7.3.1. The Finance Bill proposes to insert an Explanation to Section 11 which restricts treatment of voluntary contribution made with a specific direction by an exempt entity such as any fund or institution or trust or hospital or university referred to in sub clause (iv), (v), (vi) or (via) to any trust or institution registered under section 12AA and the same shall not be treated as application of income.

7.3.2. This amendment shall be effective from 01.04.2018.

7.4. Clarifications for provisions pertaining to SEZ units

7.4.1. While deciding, the matter pertaining to Section 10A, various courts have taken a view that the deduction is to be allowed from the total income of the undertaking and not from the total income of the assessee.

7.4.2. It is proposed to clarify that the amount of deduction shall be allowed from the total income of the assessee and in no case the amount of deduction can exceed the amount of total income.

7.5. Phase out of deduction under section 80CCG

7.5.1. The Government had introduced the Rajiv Gandhi Equity Saving Scheme (RGESS) which allows a deduction under section 80CCG for investment in specified equity shares and mutual funds.

7.5.2. The deduction under section 80CCG is over and above the deduction of ₹ 1,50,000/- allowable under section 80C.

7.5.3. However, this deduction is proposed to be phased out from 01.04.2018.

7.6. Exemption of income of CM Relief Fund/ LG Relief Fund

7.6.1. The Finance Bill proposes to amend Section 10 (23C) to include within its' scope the Chief Minister as well as Lieutenant Governor Relief fund.

7.6.2. This amendment shall be effective retrospectively from 1st April 1988.

7.7. Exemptions on withdrawal from NPS

7.7.1. The Finance Bill proposes to introduce Section 10 (12B) which provides for an exemption on withdrawal from the NPS Trust by an employee to the extent of 25% of the amount contributed by him.

7.7.2. This amendment shall be effective from 01.04.2018.

8. Losses

8.1. Additional benefits for start-ups

8.1.1. Section 79 currently restricts carry forward of loss by a company (other than a company in which public are substantially interest) in cases where the persons beneficially holding 51% of the voting power on the last day of the previous year in which the loss was incurred and on the last day of the previous year in which the company wants to set off the brought forward loss are different.

8.1.2. The Finance Bill proposes to exempt companies covered under Section 80IAC, i.e., eligible start-ups from the provisions of Section 79, subject to the condition that all shareholders of company, who held shares carrying voting power as on the last day of the previous year/ years in which the loss was incurred, continue to hold those shares on the last date of such previous year and the loss was incurred during the period of seven years beginning from the year in which the company was incorporated.

8.1.3. The Finance Bill also proposes to allow the claim of deduction u/s 80IAC in any three consecutive assessment years out of the seven years instead of the existing five years from the year in which the startup was incorporated.

8.1.4. This amendment shall be effective from 01.04.2018.

8.2. Interest on House Properties

8.2.1. The Finance Bill proposes to introduce sub-section (3A) to Section 71 which provides that if the net result under the head "Income from House Property" is loss, the same shall be adjusted against other Income Heads only to the extent of ₹ 200,000.00. The loss in excess of ₹ 200,000.00 will be allowed to be carried forward as per Section 71B for upto 8 years.

8.2.2. This amendment shall be effective from 01.04.2018

9. Corporate & International Taxation

9.1. Minimum Alternate Tax

9.1.1. Calculation of Book Profits for Financial Statements prepared as per IND AS

9.1.1.1. Considering the fact that many companies have now started preparing their financial statements with reporting framework

of IND AS, the Finance Bill proposes to introduce various sub-sections to Section 115JB to ensure that the book profits calculated for determining MAT Liability are at par at what would have been determined had the Statement of Profit & Loss be determined as per the Indian GAAP.

- 9.1.1.2. The Finance Bill proposes to introduce sub-section (2A) which provides for following adjustments to the Book Profit in addition to adjustments prescribed in sub-section 2, Explanation 1:

Items	Point of Time
Changes in revaluation surplus of Property, Plant or Equipment (PPE) and Intangible Assets (IND AS 16 and IND AS 38)	To be included in book profits at the time of realization/ disposal/ retirement or otherwise transferred
Gains and losses from investments in equity instruments designated at fair value through other comprehensive income (IND AS 109)	To be included in book profits at the time of realization/ disposal/ retirement or otherwise transferred
Re-measurement of defined benefit plans (IND AS 19)	To be included in book profits every year as the re-measurement gains and losses arise
Any other item	To be included in book profits every year as the gains and losses arise

- 9.1.1.3. The Finance Bill also proposes to introduce sub-section (2C) which deals with adjustments to book profits during the previous year in which convergence to IND AS took place. The said sub-section provides for adjustments of the transition amount to the book profits during the five years from the previous year, being the first year of convergence. In addition, it is further provided that the transition amount relating to any asset/ investment/ foreign operations, if retired, disposed, realized or transferred post convergence, shall be adjusted to the book profits of the said previous year in which the said asset/ investment/ foreign operations is retired, disposed, realized or transferred.

9.1.2. **Foreign Tax Credits adjusted against MAT Liability**

- 9.1.3. The Finance Bill proposes to insert a proviso to Section 115JAA (2A) whereby the credit of tax paid in other countries, which is claimed u/s 90/90A/91 exceeds the liability u/s 115JB, the amount of credit in excess of 115JB shall be ignored for the purpose of

carry forward. Further, the Finance Bill also proposes to allow the carry forward of MAT Credit for 15 years instead of 10 years.

9.1.4. The above amendments are also proposed to be made applicable for Alternate Minimum Tax provisions applicable for non-corporate assessees.

9.1.5. The above amendments shall be effective from 01.04.2018.

9.2. Eligible Investment Funds

9.2.1. Section 9A provides that in the case of an eligible investment fund, the fund management activity carried through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund and such fund shall not be treated as a resident.

9.2.2. Various conditions have been prescribed under the said section which need to be satisfied for being classified as an Eligible Investment Fund, one of which was the requirement of a monthly average corpus fund of not less than ₹ 100 crores.

9.2.3. The Finance Bill, vide insertion of a new proviso, has exempted those funds which have wound up during the previous year from the requirement to maintain the monthly average corpus fund.

9.2.4. This amendment shall be effective retrospectively from 1st April 2016.

9.3. Post arrangement/ agreement expiry of exemption to foreign companies' u/s 10 (48A) extended

9.3.1. Currently, Section 10 (48A) provides that any foreign company, earning income on account of storage and sale of crude oil in a facility in India pursuant to an agreement/ arrangement entered into with/ approved by the Central Government to any person resident in India shall be exempted from tax.

9.3.2. The Finance Bill proposes to introduce sub-section 48B to provide exemption for income earned on sale of left over stock of crude oil subsequent to expiry of the agreement/ arrangement with the Central Government subject to conditions to be notified.

9.3.3. This amendment shall be effective from 01.04.2018.

9.4. Scope of section 92BA of the Income-tax Act relating to Specified Domestic Transactions

9.4.1. Under the existing provisions of section 92BA of the Act, inter-alia provides that any expenditure in respect of which payment made

by the assessee to certain “specified persons” under section 40A(2)(b) are covered within the ambit of specified domestic transactions. This section is amended to provide that expenditure in respect of which payment has been made by the assessee to a person referred to in under section 40A(2)(b) are to be excluded from the scope of section 92BA of the Act.

9.4.2. This amendment is applicable from A.Y. 2017-18 and onwards

9.5. Income from transfer of Carbon credits

9.5.1. The Income-tax Department has been treating the income on transfer of carbon credits as business income which is subject to tax at the rate of 30%.

9.5.2. A new section 115BBG has been inserted to provide that where the total income of the assessee includes any income from transfer of carbon credit, such income shall be taxable at the concessional rate of ten per cent (plus applicable surcharge and cess) on the gross amount of such income. No expenditure or allowance in respect of such income shall be allowed.

9.5.3. This amendment is applicable from A.Y. 2018-19 and onwards.

9.6. Limitation of Interest deduction in certain cases

9.6.1. The Finance Bill has proposed to insert section 94B in line with recommendations of OECD BEPS Action Plan to restrict interest expenses claimed by an entity to its associated enterprises to 30% of its Earnings before Interest, Taxes, Depreciation and Amortization (EBITDA) or interest paid or payable to associated enterprise whichever is less. This provision is proposed to be applicable only to large interest payments, i.e. interest payment made in excess of ₹ 1 crore and excludes banking and insurance companies from its' ambit.

9.6.2. This provision shall be applicable to an Indian company, or a permanent establishment of a foreign company being the borrower who pays interest in respect of any form of debt issued to a non-resident or to a permanent establishment of a non-resident and who is an ‘associated enterprise’ of the borrower.

9.6.3. This provision also allows for carry forward of disallowed interest expense to eight assessment years immediately succeeding the assessment year for which the disallowance was first made and deduction against the income computed under the head Profits and gains of business or profession to the extent of maximum allowable interest expenditure.

9.6.4. This amendment shall be effective from 01.04.2018.

9.7. Secondary adjustment in books of accounts under Transfer Pricing

9.7.1. The Finance Bill proposes to insert Section 92CE wherein assessee is required to carry out a secondary adjustment in books of accounts of assessee and its associated enterprise where in primary adjustment to transfer price results in increase in total income or reduction in loss in excess of ₹ 1 crore. However, such secondary adjustment is required to be made only in respect of primary adjustments made on or after 1st April, 2016.

9.7.2. The section also requires its associated enterprise to repatriate excess money to India within time as maybe prescribed failing which such amount shall be deemed to be an advance made by the assessee to such associated enterprise and interest on such advance shall be computed as income of the assessee

9.7.3. This amendment shall be effective from 01.04.2018.

9.8. Indirect Transfers of investment in a Foreign Institutional Investor

9.8.1. Explanation 5 to Section 9 (1) (i) provides that any transfer of asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to have been situated in India, if such share or interest derives value substantially from assets located in India.

9.8.2. Since the above explanation is general, the Finance Bill proposes to introduce Explanation 5A which provides for non-applicability of Explanation 5 to an asset/ capital asset held by a non-resident by way of investment in a Foreign Institutional Investor referred to in Section 115AD and registered as category I/ II foreign portfolio investor under the SEBI Regulations, 2014.

9.8.3. This amendment shall be effective retrospectively from 1st April 2012.

10. Procedural

10.1. Measures to discourage cash transaction:

10.1.1. Under the existing provision of section 40A(3) and (3A) in relation payments made to a person in single day and deemed payment made as profit and gains from business and profession if the expenditure is incurred in current year and payment is made in subsequent year respectively, otherwise than by an account

payee cheque drawn on bank or account payee bank draft exceeding ₹ 20,000/- shall not be allowed as deduction. Now onward, from A.Y. 2018-19 the limit of ₹ 20,000/- is reduce to ₹ 10,000/-.

- 10.1.2. Further, the mode of payment in respect of section 40A(3) and (3A) has been expanded as “by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account”.

10.2. Restriction on cash transaction

- 10.2.1. A new section 269ST has been inserted in the Act to provide that that no person shall receive an amount of three lakh rupees or more:
- 10.2.2. (a) in aggregate from a person in a day;
- 10.2.3. (b) in respect of a single transaction; or
- 10.2.4. (c) in respect of transactions relating to one event or occasion from a person,
- 10.2.5. otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account.
- 10.2.6. Further this section will not be applicable to Government, any banking company, post office saving bank, co-operative bank and any other persons or class of person as may be notified by the Central Government. Transaction of the nature referred in section 269 SS in relation to mode of taking or accepting certain loans and deposits is excluded from scope of above section
- 10.2.7. A new section 271DA has been inserted in the Act for levy of penalty on the person who received a sum in contravention of the above provision to a sum equal to the amount of the sum received. The penalty can be waived if good and sufficient reasons for such contravention is showed.
- 10.2.8. There is an amendment in provision of Section 206C to omit the provision relating to tax collection at source at the rate of one percent of sales consideration on cash sales of jewellery exceeding ₹ 5 Lakh.
- 10.2.9. This amendment shall be effective from 1st April 2017

10.3. Transparency in Electoral Funding

- 10.3.1. In order to bring transparency in electoral funding, following conditions are proposed to be introduced in Section 13A to avail exemption by the political parties:
- 10.3.2. Donation of ₹ 2,000/- or more has to be received by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through electoral bonds
- 10.3.3. Political party furnishes a return of income for the previous year in accordance with the provisions of sub-section (4B) of section 139 on or before the due date under section 139.
- 10.3.4. Further in order to address the concern of anonymity of the donors, the political parties shall not be required to furnish the name and address of the donors who contribute by way of electoral bond.

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

- 10.4.1. The provisions of section 143(1D) provide that the processing of a return shall not be necessary, where a notice has been issued to the assessee under sub-section (2) of the said section. Amendment to the said sub-section brought by Finance Act, 2016 provides that with effect from assessment year 2017-18, processing under section 143(1) is to be done before passing of assessment order.
- 10.4.2. In order to address the grievance of delay in issuance of refund in genuine cases which are routinely selected for scrutiny assessment, provisions of section 143(1D) cease to apply in respect of returns furnished for assessment year 2017-18 and onwards.
- 10.4.3. A new section 241A is inserted to provide that, for the returns furnished for assessment year commencing on or after 1st April, 2017, where refund of any amount becomes due to the assessee under section 143(1) and the Assessing Officer is of the opinion that grant of refund may adversely affect the recovery of revenue, he may, for the reasons recorded in writing and with the previous approval of the Principal Commissioner or Commissioner, withhold the refund up to the date on which the assessment is made.
- 10.4.4. This amendment is applicable from A.Y. 2017-18 and onwards.

10.5. Rationalisation of section 211 and section 234C relating to advance tax

- 10.5.1. Section 44ADA vide Finance Act 2016, has been inserted to extended presumptive tax regime to professional also. Section 211 of the Act provides for instalment of advance tax and due dates for depositing the same as per clause (b) of sub section (1) of the said section assessee eligible for section 44AD pay advance tax in a single instalment on or before 15th March every financial year. Clause (b) of sub section (1) of the section is amended to inserted section 44ADA for the benefit of single instalment payment facility. Corresponding amendment is done u/s 234C of the Act.
- 10.5.2. Section 115BBDA vide Finance Act 2016, has been inserted to tax dividend received from domestic companies if the income is more than ₹ 10 lakh at flat rate of 10%. It was difficult to declare such income due to uncertainty of the nature thus leading to payment of interest u/s 234C of the Act. Thus, section 234C is amended to provide that if shortfall in payment of advance tax is on account of under-estimation or failure in estimation of income of the nature referred to in section 115BBDA, the interest under section 234C shall not be levied subject to fulfilment of conditions specified therein.
- 10.5.3. This amendment is applicable from A.Y. 2017-18 and onwards.

10.6. Interest on refund due to Deductor

- 10.6.1. A new sub section (1B) is insert under section 244A of the said act to provide that where refund of any amount becomes due to the Deductor, such person shall be entitled to receive, in addition to the refund, simple interest on such refund, calculated the rate of one-half per cent for every month or part of a month, from the date on which claim for refund is made in the prescribed form or in case of an order passed in appeal, from the date on which the tax is paid, to the date on which refund is granted. Interest shall not be allowed for the period for which the delay in the proceedings resulting in the refund is attributable to the Deductor.
- 10.6.2. This amendment will take effect from 1st April, 2017.

10.7. Amendments to the structure of Authority for Advance Rulings

- 10.7.1. Chapter XIX-B of the act is amended to merge the Authority for Advance ruling for income tax, central excise, custom duty and service tax.

10.8. Rationalization of Time limits for completion of assessment, reassessment and re-computation.

10.8.1. Changes in time limit for completion of assessment:

Assessment under	Existing time limit	Proposed time limit For A.Y. 2018-19	Proposed time limit For A.Y. 2019-20 and onwards
Section 143 or 144	21 months	18 months	12 month
	From the end of the assessment year in which the income was first assessable		
Section 147	9 months	9 months	12 months (FY 19-20)
	From the end of the financial year in which the notice under section 148 was served		
Fresh assessment in pursuance to order under sections 254, 263 or 264.	9 months	9 months	12 months (F.Y. 19-20)
	from the end of the financial year in which the order under section 254 or section 263 or section 264 is received		

10.8.2. Section 139(5) of the act is proposed to be amended to change the time limit of furnished the revised return to end of the relevant assessment year or completion of assessment whichever is earlier

10.9. Rationalization of Time limits for filing revise return

10.9.1. The amendment for rationalizing time limit of revise return is provided as under in the following table and will be applicable for AY 2018-19 onwards:

Revise Return	Existing time limit	Proposed time limit
Section 139 (5)	Before expiry of 1 year from the end of relevant assessment year or before the completion of assessment, whichever is earlier.	Before the end of relevant assessment year or before the completion of assessment, whichever is earlier.

10.10. Rationalization of Time limits for completion of assessments in search cases

10.10.1. Changes in time limit provided under section 153B for completion of assessment in search cases:

Assessment under	Existing time limit	Proposed time limit for A.Y. 2018-19	Proposed time limit for A.Y. 2019-20
153A	21 months	18 months	12 month
	From the end of the financial year in which the last of the authorizations for search was executed.		
153C	9 months	12 months	12 months
	From the end of the financial year in which the books of account or documents or assets seized or requisition are handed over.		

10.10.2. If the assessment in the cases where the notice is issued prior to 1st day of June 2016 and the assessment is not completed within the time limit specified then such assessment shall be completed within the time limit specified immediately before Finance Act, 2016.

10.10.3. Where the proceedings in the above cases is abated before the settlement commission under sec 245HA and the period for assessment or reassessment is less than 1year than it should be extended to 1 years.

10.11. Certain Entities mandatorily required to furnish Return of Income

10.11.1. The Finance bill proposes insertion of a new clause (ca), (eba), (ebb) and (fa) requiring person referred to in clause (23AAA) of section 10, Investor Protection Fund referred to in clause (23EC) or clause (23ED) of section 10, Core Settlement Guarantee Fund referred to in clause (23EE) of section 10 and Board or Authority referred to in clause (29A) of section 10 respectively to furnish return of income mandatorily.

10.11.2. This amendment shall be effective from 01.04.2018.

10.12. Fees for delay in furnishing return of Income

10.12.1. The Finance Bill proposes to insert a new Section 234F whereby a late fee is to be paid for delay in furnishing return of income not filed within due dates specified as per Section 139(1).

10.12.2. A fee of ₹ 5,000 shall be payable if return is filed on or before 31st December of relevant Assessment Year and ₹ 10,000 in any other cases. However, if total income does not exceed ₹ 5,00,000, such late fee shall be reduced to ₹ 1,000.

10.12.3. This amendment shall be effective from 01.04.2018.

10.13. Penalty on professionals for furnishing incorrect information in Statutory Report or Certificate

10.13.1. The Finance Bill proposes to insert a new section 271J wherein penalty of ₹ 10,000 for each certificate or report is laid on an accountant, merchant banker or a registered valuer, if an assessing officer or Commissioner(Appeals) finds out any incorrect information in the course of any proceedings under the Act being furnished by them.

10.13.2. This amendment shall be effective from 1st April 2017.

10.14. Quoting PAN in case of TCS transaction as well

10.14.1. Currently, TDS is deducted at the higher rate of 20% if PAN of deductee is not available. However, there are no such provisions in TCS transactions.

10.14.2. In order to strengthen PAN based mechanism, it is proposed to introduce similar provisions, wherein if PAN of collectee is not available, TCS has to be collected at double the rate mentioned in relevant section or at the rate of 5%, whichever is higher.

10.15. Provisions relating to search, seizure, provisional attachment, calling for information and power of survey

10.15.1. The Finance Bill proposes to amend Section 132 and Section 132A retrospectively providing that the reasons to believe the need for conducting a search need not be disclosed to any person, Authority or Appellate Tribunal. This amendment shall be effective from the date on which the said sections have been introduced.

10.15.2. The Finance Bill further proposes to introduce provisions to authorize, either during the search or within 60 days of the execution of last search, the provisional attachment of property belonging to the assessee for a period of six months. Further provisions to make reference to Valuation Officer for estimation of fair market value have also been proposed. This amendment shall be effective from 1st April 2017.

- 10.15.3. The Finance Bill proposes to amend the provisions of Section 133 to extend the authority to call for information to Joint Director, Deputy Director or Assistant Director. This amendment shall be effective from 1st April 2017.
- 10.15.4. The Finance Bill proposes to amend the provisions of Section 133A to widen the scope of place where a survey may be undertaken to include places where activity of charitable purposes is carried on. This amendment shall be effective from 1st April 2017.
- 10.15.5. The Finance Bill proposes to introduce sub-section (3) to Section 139C which provides for making of a scheme for centralized issuance of notice and processing of information of documents and making available the outcome of the processing to the Assessing Officer.



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