



2018



# BUDGET

SIGNIFICANT PROPOSALS IN BRIEF  
GENERAL

**R. C. JAIN & ASSOCIATES LLP**  
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**BUDGET COMMITTEE MEMBERS**

**DIRECT TAX**

1. CA Arti Gupta
2. CA Bijal Gajra
3. CA Devangi Thosani
4. CA Hema Bhanushali
5. CA Hinal Shah
6. CA Romil Gala

**INDIRECT TAX**

1. CA Priyanka Shah

**HIGHLIGHTS OF FINANCE BUDGET 2018-19**

***DIRECT TAX:***

- No change in Income Tax and Surcharge rates for all persons except domestic companies
- Domestic companies having turnover of less than Rs. 250 Crores in the FY 2016-17 to be brought into the 25% tax bracket.
- Replacement of Secondary & Higher Secondary Education cess of 3% by 4% Health & Education cess w.e.f. F.Y. 2018-19
- Non Individual Entities entering into Financial Transactions of an amount aggregating to 2.5 Lakhs or more in a financial year are required to apply for PAN from AY 2018-19.
- For the purpose of deemed dividend, accumulated profits of the amalgamated company will be increased by the profits of the amalgamating company from AY 2018-19.
- Deemed Dividend under section 2(22)(e) will now be taxable in the hands of company by way of Dividend Distribution Tax at the rate of 30% (without grossing up) and the same will not be taxable for shareholder from AY 2018-19.
- Company and Principal Officer of the Company will be held liable in case the Company does not pay DDT on dividend taxable under section 2(22)(e) from AY 2018-19.
- Long Term Capital Gain arising from equity share or unit of an equity oriented fund or a unit of business trust shall be taxed at the rate of 10% on such gains exceeding Rs.1 Lakh from AY 2019-20. Foreign Institutional Investors will also be liable to pay tax on such gains from AY 2018-19.
- Equity Oriented Mutual Funds will need to pay Dividend Distribution Tax at the rate of 10% on income so distributed to unit holders from AY 2018-19.
- Provisions of Section 40(a) (ia) (30% disallowance on non-deduction of TDS), 40A(3) & 40A(3A) (disallowance of cash expenditure in excess of Rs 10,000) will now be applicable to certain exempt entities under section 10(23C) (iv), (v), (vi) or (via) and charitable trust.
- Any compensation received or receivable, whether revenue or capital, in connection with the termination or the modification of the terms and conditions of any contract relating to

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its business shall be taxable as business income and relating to its employment shall be taxable under section 56 of the Act.

- Section 44AE has been amended in case of heavy goods vehicle (more than 12MT gross vehicle weight), the income would be deemed to be an amount equal to one thousand rupees per ton of gross vehicle weight or unladen weight as the case may be, per month or part of a month for each goods vehicle or the amount claimed to be actually earned by the assessee, whichever is higher.
- The definition of Business Connection would not only include a person who habitually concludes contracts on behalf of the non-resident, but also a person who habitually plays a principal role leading to the conclusion of contracts.
- Deduction for Senior Citizens under section 80D (Mediclaim) increased to Rs.50,000 from Rs.30,000 earlier
- Deductions for Senior Citizens with critical illness raised to Rs.1 lakh under section 80DDB.
- Insertion of new section 80TTB to allow deduction up to Rs.50,000 in respect of interest income earned by senior citizens. No TDS on Interest Income of Senior Citizens up to an interest of Rs.50, 000 (increased from existing Rs.10, 000) u/s 194A.
- Standard Deduction of Rs.40000 for salaried taxpayers in lieu of transport and medical expenses.
- Section 80P provides for 100% deduction of profit of cooperative society that provides assistance to members engaged in primary agricultural activities. Similar benefit has been extended to Farmer Producer Companies (FPC) having a turnover upto 100 crore.
- Deduction under Section 80-IAC would also be available to start ups incorporated on or after 1st April 2019 but before 1st April 2021. The Turnover not exceeding Rs. 25 crore would apply to 7 previous years commencing from the date of incorporation and the definition of eligible business has been expanded.
- It is proposed to amend sec 47 to provide that transactions in bond or Global Depository Receipt, rupee denominated bond of an Indian company or derivative by a non-resident on a recognized stock exchange located in any International Financial Service Sector (IFSC) shall not be regarded as transfer if the consideration is paid or payable in foreign currency.

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- Sec 115 JC has been amended to provide that a unit located in IFSC, the alternate minimum tax rate shall be 9%
- The minimum period of employment under section 80 JJAA is relaxed to 150 days in the case of apparel, footwear and leather industry. It is also proposed to extend the benefit of 30% deduction for a new employee who is employed for less than the minimum period during the 1st year but continues to remain employed for the minimum period in subsequent year.
- It is proposed to amend the provisions of Clause(5) of sec 43 to provide that a transaction in respect of trading of agricultural commodity derivatives which is not chargeable to CTT in registered stock exchange or registered association will be treated as non-speculative transaction.
- It is proposed to amend Clause (48B) of section 10 to provide that the benefit of tax exemption in respect of income from leftover stock will be available even if the agreement or arrangement is terminated in accordance with terms mentioned therein and not necessarily as per the conditions notified by the Central Government.
- It is proposed to amend section 10 so as to provide that income arising to non-resident by way of Royalty and Fees from Technical services from National Technical Research Organization (NTRO) to be exempt. Consequently, NTRO will not be required to deduct tax at source on such payments.
- In case of rehabilitating companies seeking insolvency resolution, section 115JB provides that the aggregate amount of unabsorbed depreciation and loss brought forward (excluding unabsorbed depreciation) shall be allowed to be reduced from the book profit, if the companies application for corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 has been admitted by the Adjudicating Authority.
- Relaxation of rigors of section 79 in case of a company seeking insolvency resolution under Insolvency and Bankruptcy Code, 2016, involves change in the beneficial owners of shares beyond the permissible limit under section 79 whose resolution plan has been approved under the Insolvency and Bankruptcy Code, 2016.
- New Schemes for E-Assessment for greater transparency and accountability.
- The order passed by Commissioner (Appeals) under section 271J made appealable.
- Definition of taxable commodities transaction u/s 116(7) to be amended to include options in commodity futures.

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- To amend Sec 117 so as to prescribe the rate at which sale of an option on commodity derivative shall be chargeable to tax & section 118 to include the value of taxable commodities transaction, being option on commodities, chargeable under section 117 in the said section.
- The sub-clause (b) of clause (ii) of proviso to the section 276CC (Prosecution for failure to furnish return) shall not apply in respect of an assessee being a company to prevent abuse of the said proviso by shell companies or by companies holding Benami properties.
- Rationalisation of Section 46 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 by vesting the power to approve an order imposing a penalty with the Joint Director & so as to include reference to the Assistant Director and Deputy Director therein.
- Rationalisation of Section 55 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 by empowering the Principal Director General or the Director General also to issue instructions or directions to the tax authorities under the said section.
- Extension of scope of section 80AC to provide the benefit of Income Linked Deductions in Chapter VIA shall not be allowed unless the return of income is filed by the due date.
- Extension of the benefit of tax-free withdrawal from NPS to non-employee subscribers.
- Conversion of stock-in-trade to a capital asset to be taxable now under Profit and Gains from Business and Profession
- Scope of eligible long term capital asset for availing exemption in respect of investment under section 54EC to be reduced to mean only land and building.
- 8% Savings (Taxable) Bonds, 2003 has been discontinued with the launch of new 7.75% GOI Savings (Taxable) Bonds, 2018. If the interest received on such bonds is in excess of Rs.10,000; TDS will be deducted u/s 193 at the time of making payment of interest.

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***INDIRECT TAX***

- Customs duty on mobile phones increased from 15% to 20%; also on certain parts of TVs to 15%;
- Customs duty on crude edible vegetable oils hiked from 12.5% to 30%; on refined edible vegetable oil from 20% to 35%;
- Customs duty on perfumes, dental hygiene, after-shave, deodorants, room deodorizers, and preparations for use on hair doubled to 20%.
- Levy of Road and Infrastructure Cess on imported motor spirit commonly known as petrol and high speed diesel oil by Rs. 8 per litre.
- Basic excise duty on Unbranded Petrol/ Diesel and branded Petrol/Diesel is being reduced by Rs. 2 per litre.
- Name of Central Board of Excise and Customs is being changed to Central Board of Indirect Taxes and Customs
- Additional duty of Customs and Excise on Motor Spirit commonly known as Petrol and High Speed Diesel oil is being abolished
- Education Cess and Secondary and Higher Education Cess on imported goods is being abolished.

***REAL ESTATE***

If sale consideration is less than or equal to stamp duty value by 5% of the sale consideration, sale consideration shall be considered while calculating taxable income under head Capital Gains / Income from Business & Profession / Income from Other Sources.



## Depth Analysis of Direct Taxes

### A. RATES OF INCOME TAX

The Tax rates for all persons remain the same as the Finance Act, 2017, except for domestic companies as specified below. The rates are given as follows:-

- ***Individual Tax Rates (includes HUF, AOP, BOI, Artificial Juridical Person)***

Income (Rs.)	Tax Rates (%)
0 - 2,50,000	NIL
250,000 - 500,000	05.00
500,001 - 10,00,000	20.00
Above 10,00,000	30.00

- Basic Exemption is Rs 300,000 for Senior Citizens (being 60 years or above but less than 80 years)
- Basic Exemption is Rs 500,000 for Senior Citizens (being 80 years or more)
- Rebate u/s 87A of Rs. 2,500 shall continue to be given to every resident individual who has total income up to Rs. 3.5 lakh.
- Health & Education Cess @ 4% of the Tax Amount is leviable in each case
- Surcharge of 10% for taxable incomes (Including income chargeable U/s 115JC) exceeding Rs. 50 lakh but not exceeding Rs. 1 crore.
- Surcharge of 15% for taxable incomes (Including income chargeable U/s 115JC) exceeding Rs. 1 crore.

- **Co-operative Societies**

Income (Rs.)	Tax Rates (%)
Upto Rs. 10,000	10.00
Rs. 10,000 – Rs. 20,000	20.00
Over Rs. 20,000	30.00

- Health & Education Cess @ 4% of the Tax Amount is leviable in each case.

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- Surcharge of 12% for taxable incomes (Including income chargeable U/s 115JC) exceeding Rs. 1 crore.

- **Partnership Firm Tax Rates (including LLP)**

- Tax Rate: 30 %
- Health & Education Cess @ 4% of the Tax Amount is leviable in each case
- Surcharge of 12% for taxable income exceeding Rs. 1 crore.

- **Companies**

- i.* **Tax Rates for Domestic Company**

<b>Total Turnover or Gross Receipts</b>	<b>Tax Rates (%)</b>
Upto Rs. 250 crore in the financial year 2016-17	25.00
Other cases	30.00

- Surcharge at 7% if income (including income as per sec 115JB) exceeds Rs. 1 crore but does not exceed Rs. 10 Crore.
- Surcharge of 12% if income (including income as per sec 115JB) exceeds Rs. 10 Crores.
- Health & Education Cess of 4%

- ii.* **Tax Rates for Foreign Company**

- Tax Rate 40%.
- Surcharge at 2% if incomes (including income as per sec 115JB) exceed Rs. 1 crore but does not exceed Rs. 10 Crore.
- Surcharge of 5% if Incomes (including income as per sec 115JB) exceed Rs. 10 Crore.
- Health & Education Cess of 4%.

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- **Local Authority Tax Rates**

- Tax Rate: 30 %
- Education Cess @ 4% of the Tax Amount is leviable in each case
- Surcharge of 12% for taxable income exceeding Rs. 1 crore.

Tax shall continue to be deducted at source at the same rates as in Financial Year 2017-18 for all the categories of persons. However, tax shall be liable to be deducted at source on long term capital gains under section 112A at 10%.

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**B. WIDENING AND DEEPENING OF TAX BASE**

- *Entities to apply for Permanent Account Number in certain cases*

Section	Existing Provision	Proposed Provision
139A	<p>For Every person,—</p> <p>(i) if his total income or the total income of any other person in respect of which he is assessable under this Act during any previous year exceeded the maximum amount which is not chargeable to income-tax; or</p> <p>(ii) carrying on any business or profession whose total sales, turnover or gross receipts are or is likely to exceed five lakh rupees in any previous year; or</p> <p>(iii) who is required to furnish a return of income under sub-section (4A) of <u>section 139</u>; or</p> <p>(iv) being an employer, who is required to furnish a return of fringe benefits under <u>section 115WD</u>,</p> <p>and who has not been allotted a permanent account number shall, within such time, as may be prescribed, apply to the Assessing Officer for the allotment of a permanent account number.</p>	<p>In addition to the existing provisions, in order to use PAN as Unique Entity Number (UEN) for non-individual entities, following is proposed:</p> <p>For Every person, other than Individual:</p> <p>(i) which enters into a financial transaction of an amount aggregating to two lakh and fifty thousand rupees or more in a financial year, and</p> <p>(ii) In order to link the financial transactions with the natural persons, it is also proposed that the managing director, director, partner, trustee, author, founder, karta, chief executive officer, principal officer or office bearer or any person competent to act on behalf of such entities,</p> <p>shall be required to apply to the Assessing Officer for allotment of PAN.</p>

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- ***Application of Dividend Distribution tax to Deemed Dividend***

Section	Existing Provision	Proposed Provision
2 (22)(e)	Deemed Dividend is taxed in the hands of the Recipient at the applicable marginal rate.	Deemed Dividend will be taxed in the hands of the company at the rate of 30% (without grossing up)
115-O	Section 2(22)(e) was specifically excluded from the purview of Section 115-O.	Section 2(22)(e) has now been included in Section 115-O
115-Q	<p>If any principal officer of a domestic company and the company does not pay tax on distributed profits in accordance with the provisions of <u>section 115-Q</u>, then, he or it shall be deemed to be an assessee in default in respect of the amount of tax payable by him or it and all the provisions of this Act for the collection and recovery of income-tax shall apply.</p> <p><b><i>Explanation.—For the purposes of this Chapter, the expression "dividends" shall have the same meaning as is given to "dividend" in clause (22) of section 2 but shall not include sub-clause (e) thereof.</i></b></p>	The explanation to this section has been deleted and therefore the company and the principal officer will be held liable in case of non-payment of tax on deemed dividend u/s 2(22)(e).

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

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- *New regime for taxation of long-term capital gains on sale of STT paid equity shares, equity oriented funds, etc.*

Section	Existing Provision	Proposed Provision
10(38)	Long term capital gains arising from the transfer of a long-term capital asset, being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust, where such transaction is chargeable to securities transaction tax, is exempt.	The existing exemption is withdrawn. The said long term capital gains will be taxed as per new section 112A.
112A	-	Long term capital gains arising from transfer of a long term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust shall be <b>taxed at 10 percent</b> of such capital gains exceeding <b>one lakh rupees</b> .

**Conditions specified under section 112A:**

- a) Concessional rate of 10% is applicable only if Securities transaction tax has been paid on both acquisition and transfer of such capital asset.
- b) The long term capital gains will be computed without giving effect to inflation indexation benefit in respect of cost of acquisitions and cost of improvement, if any, and the benefit of computation of capital gains in foreign currency in the case of a non-resident, will not be allowed.
- c) The cost of acquisitions in respect of the long term capital asset acquired by the assessee **before the 1st day of February, 2018**, shall be deemed to be the higher of –
  - a) the actual cost of acquisition of such asset; and
  - b) the lower of –
    - (I) the fair market value of such asset; and
    - (II) the full value of consideration received or accruing as a result of the transfer of the capital asset.
- d) Fair market value has been defined to mean –
  - i. in a case where the capital asset is listed on any recognized stock exchange, the highest price of the capital asset quoted on such exchange on the 31st day of January, 2018. However, where there is no trading in such asset on such exchange on the 31st day of January, 2018, the highest price of such asset on such exchange on a date immediately preceding the

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31st day of January, 2018 when such asset was traded on such exchange shall be the fair market value; and

- ii. in a case where the capital asset is a unit and is not listed on recognized stock exchange, the net asset value of such asset as on the 31st day of January, 2018.
- e) The benefit of deduction under chapter VIA shall be allowed from the gross total income as reduced by such capital gains.
- f) Similarly, the rebate under section 87A shall be allowed from the income tax on the total income as reduced by tax payable on such capital gains.

**Example for calculation of Long term capital gains in case of shares purchased before 31<sup>st</sup> January, 2018:**

Equity Share	Scene 1	Scene 2	Scene 3	Scene 4
Bought long ago at (A)	100	100	100	100
Price on Jan 31, 2018 (B)	500	120	80	80
Price on sale (C)	600	110	90	60
Lower of (B) and (C) – (D)	500	110	80	60
Presumed Purchase Price (Higher of (A) or (D)) – (E)	500	110	100	100
Capital Gain (C - E)	100	-	(10)	(40)
Notes	Price on Jan 31 is higher than buy price.	Selling price lower than Jan 31 price but greater than buy price, so selling price is purchase price	Buy price higher than Jan 31 price, it remains the buy price	Buy price higher than Jan 31 price, it remains the buy price.

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

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- *Dividend distribution tax on dividend payouts to unit holders in an equity oriented fund*

Section	Existing Provision	Proposed Provision
115R	Any amount of income distributed by the specified company or a Mutual Fund to its unit holders shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income-tax on such distributed income at the rate specified in the section. <b>However, any income distributed to a unit holder of equity oriented funds is not chargeable to Income tax.</b>	Income distributed by a Mutual Fund being, an equity oriented fund, shall be liable to pay additional income tax at the rate of ten per cent on income so distributed

This amendment will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent years.

- *Taxation of long-term capital gains in the case of Foreign Institutional Investor*

Section	Existing Provision	Proposed Provision
115AD	Where the total income of a Foreign Institutional Investor (FII) includes income by way of long-term capital gains arising from the transfer of certain securities, such capital gains shall be chargeable to tax at the rate of ten per cent <b>except capital gain on transfer of long-term capital asset being Equity shares of a company or unit of Equity oriented fund or a unit of Business Trust which is treated as Exempt.</b>	The Exemption has been withdrawn for Equity Oriented Fund and hence the same will be taxable if the gains exceeds Rs. 1,00,000 for Foreign Institutional Investor (FII)

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



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- ***Tax deduction at source and manner of payment in respect of certain exempt entities***

Section	Existing Provision	Proposed Provision
11	Exemption under certain provisions relating to income from property held for charitable or religious purposes At present, there are no restrictions on payments made in cash by charitable or religious trusts or institutions. There are also no checks on whether such trusts or institutions follow the provisions of deduction of tax at source under Chapter XVII-B of the Act.	Provisions of Section <b>40(a)(ia)</b> (30% disallowance on non-deduction of TDS), <b>40A(3)</b> & <b>40A(3A)</b> (disallowance of cash expenditure in excess of Rs.10,000) will now be applicable to income from property held for charitable or religious purposes.
10(23C)	Exemption to the entities referred under given section (sub clause (iv), (v), (vi) or (via)) when income is applied or accumulated during the previous year for certain purposes	Provisions of Section <b>40(a)(ia)</b> (30% disallowance on non-deduction of TDS), <b>40A(3)</b> & <b>40A(3A)</b> (disallowance of cash expenditure in excess of Rs.10,000) will now be applicable to certain exempt entities under section 10(23C) (iv), (v), (vi) or (via)

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

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- ***Aligning the scope of “business connection” with modified PE Rule as per Multilateral Instrument (MLI)***

Section	Existing Provision	Proposed Provision
9	<p>"Business connection" shall include any business activity carried out through a person who, acting on behalf of the non-resident,—</p> <p>1) has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident, unless his activities are limited to the purchase of goods or merchandise for the non-resident; or</p> <p>2) has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or</p> <p>3) habitually secures orders in India, mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident.</p>	<p>“Business connection” shall also include any business activities carried through a person who, acting on behalf of the non-resident, habitually concludes contracts or habitually plays the principal role leading to conclusion of contracts by the non-resident.</p> <p>It is further proposed that the contracts should be-</p> <p>(i) in the name of the non-resident; or</p> <p>(ii) for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that the non-resident has the right to use; or</p> <p>(iii) for the provision of services by that non-resident.</p>

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

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- ***“Business connection” to include “Significant Economic presence”***

Section	Existing Provision	Proposed Provision
9	The scope of existing provisions of section 9 is restrictive as it essentially provides for physical presence based nexus rule for taxation of business income of the non-resident in India. Explanation 2 to the said section which defines ‘business connection’ is also narrow in its scope since it limits the taxability of certain activities or transactions of non-resident to those carried out through a dependent agent. Therefore, emerging business models such as digitized businesses, which do not require physical presence of itself or any agent in India, is not covered within the scope section 9.	Significant economic presence' in India shall also constitute 'business connection'. Further, “significant economic presence” for this purpose shall mean- (i) any transaction in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India if the aggregate of payments arising from such transaction or transactions during the previous year exceeds the amount as may be prescribed; or (ii) systematic and continuous soliciting of its business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means.

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

- ***Presumptive income under section 44AE in case of goods carriage***

Section	Existing Provision	Proposed Provision
44AE	The profits and gains shall be deemed to be an amount equal to Rs. 7,500 per month or part of a month for each goods carriage or the amount claimed to be actually earned by the assessee, whichever is higher. The current presumptive income scheme is applicable uniformly to all classes of goods carriages irrespective of their	It is proposed that in the case of heavy goods vehicle (more than 12MT gross vehicle weight), the income would deemed to be an amount equal to one thousand rupees per ton of gross vehicle weight or unladen weight, as the case may be, per month or part of a month for each goods vehicle or the amount claimed to be actually

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	tonnage capacity. The only condition which needs to be fulfilled is that the assessee should not have owned more than 10 goods carriages at any time during the previous year.	earned by the assessee, whichever is higher. Hence, a bifurcation has done between heavy and light weight vehicles, so that the benefit is available only to small traders.
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This amendment will take effect from 1st April, 2019 and will, accordingly, apply in relation to the assessment year 2019-20 and subsequent years.

- ***Taxability of compensation in connection to business or employment***

Section	Existing Provision	Proposed Provision
28	<p>The following income shall be chargeable to income-tax under the head "Profits and gains of business or profession"-</p> <p>(ii) any compensation or other payment due to or received by,—</p> <p>a) any person, by whatever name called, managing the whole or substantially the whole of the affairs of an Indian company, at or in connection with the termination of his management or the modification of the terms and conditions relating thereto;</p> <p>b) any person, by whatever name called, managing the whole or substantially the whole of the affairs in India of any other company, at or in connection with the termination of his office or the modification of the terms and conditions relating thereto;</p> <p>c) any person, by whatever name called, holding an agency in India for any part of the activities relating to the business of any other person, at or in connection with the termination of the agency or the modification of the terms and conditions relating thereto;</p> <p>d) any person, for or in connection</p>	<p>Any compensation received or receivable, whether revenue or capital, in connection with the termination or the modification of the terms and conditions of any contract relating to its business shall be taxable as business income.</p> <p>It is further proposed that any compensation received or receivable, whether in the nature of revenue or capital, in connection with the termination or the modification of the terms and conditions of any contract <b>relating to its employment</b> shall be taxable under the Head of Income from Other Sources (Section 56)</p>

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	with the vesting in the Government, or in any corporation owned or controlled by the Government, under any law for the time being in force, of the management of any property or business;	
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This amendment will take effect from 1st April, 2019 and will, accordingly, apply in relation to the assessment year 2019-20 and subsequent years.

- ***Widening of scope of Accumulated profits for the purposes of Dividend***

Section	Existing Provision	Proposed Provision
2	<p>Section 2(22) of the said section defines “dividend” to include distribution of accumulated profits (whether capitalized or not) to its shareholders by a company, whether it is in the nature of—</p> <p>(a) release of all or any of its assets,</p> <p>(b) issue of debentures in any form (with or without interest) or distribution of bonus to its preference shareholders,</p> <p>(c) distribution of proceeds on liquidation,</p> <p><b>(d) on the reduction of capital,</b> or</p> <p>(e) in the case of an unlisted company, any loan or advance given to a shareholder having shareholding of 10% or above, or to a concern in which such shareholder holds substantial interest (exceeding 20% of shareholding or interest) or any payment by such company on behalf of or for the individual benefit of such shareholder.</p>	<p>An explanation 2A has been inserted in clause 2(22) wherein accumulated profits of the amalgamated company whether capitalized or not, shall be increased by the accumulated profits of the amalgamating company, whether capitalized or not, on the date of amalgamation.</p>

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

**C. MEASURES FOR PROMOTING EQUITY**

- *Deductions available to senior citizens in respect of health insurance premium and medical treatment*

Section	Existing Provision	Proposed Provision
80D	In case of Senior citizens, deduction upto Rs. 30,000/- shall be allowed in respect of payments towards annual premium on health insurance policy, or preventive health check-up, of a senior citizen, or medical expenditure.	It is proposed to raise this monetary limit of deduction from Rs 30,000/- to <b>Rs 50,000/-</b> .

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

- *Enhanced deduction to senior citizens for medical treatment of specified diseases*

Section	Existing Provision	Proposed Provision
80DDB	In case of very senior citizens, deduction upto Rs. 80,000/- and in case of senior citizen deduction of Rs.60,000/- shall be allowed in respect of amount paid for medical treatment of specified diseases.	It is proposed to raise this monetary limit of deduction to Rs. 1,00,000/- for both senior citizens and very senior citizens.

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

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- Deduction in respect of interest income to senior citizen***

<b>Section</b>	<b>Existing Provision</b>	<b>Proposed Provision</b>
80TTA	Deduction of Rs. 10,000/- is allowed to an assessee in respect of interest income from savings account.	It is proposed that this deduction shall not be allowed in case of senior citizens who claim deduction under section 80TTB.
80TTB	-	Deduction of Rs. 50,000/- is allowed to an assessee, being a senior citizen, in respect of interest income from deposits. However, no deduction u/s 80TTA shall be allowed in these cases.
194A	Threshold limit for deduction of tax at source on interest income for senior citizens is Rs. 10000/-	It is also proposed to raise the threshold for deduction of tax at source on interest income for senior citizens from Rs 10,000/- to Rs 50,000/-.

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

- Standard deduction on salary income.***

<b>Section</b>	<b>Existing Provision</b>	<b>Proposed Provision</b>
16	The income chargeable under the head "Salaries" shall be computed after making below deductions: (ii) entertainment allowance specifically granted by an employer to the assessee who is in receipt of a salary from the Government, a sum equal to one-fifth of his salary (exclusive of any allowance, benefit or other perquisite) or five thousand rupees, whichever is less; (iii) a deduction of a tax on employment.	It is proposed to allow a standard deduction upto Rs 40,000/- or the amount of salary received, whichever is less.  Consequently the present exemption in respect of Transport Allowance (except in case of differently abled persons) and reimbursement of medical expenses is proposed to be withdrawn.

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

**D. TAX INCENTIVES**

- ***Deduction in respect of Income from Producer Companies***

<b>Section</b>	<b>Existing Provision</b>	<b>Proposed Provision</b>
80P	100% deduction in respect of Profit of cooperative society which provides assistance to its members engaged in Primary agriculture activity.	It is proposed to extend similar benefit to Farm Producer Companies (FPC), having a total turnover up to Rs 100 Crore, whose gross total income includes any income from- (i) the marketing of agricultural produce grown by its members, or (ii) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture for the purpose of supplying them to its members, or (iii) the processing of the agricultural produce of its members  The benefit shall be available for a period of five years from the financial year 2018-19.

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



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• ***Measures to Promote Start-ups***

Section	Existing Provision	Proposed Provision
80IAC	<p>Deduction under this section shall be available to an eligible start-up for three consecutive assessment years out of seven years at the option of the assessee, if-</p> <p>(i) it is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, 2019;</p> <p>(ii) the total turnover of its business does not exceed twenty-five crore rupees in any of the previous years beginning on or after the 1st day of April, 2016 and ending on the 31st day of March, 2021; and</p> <p>(iii) it is engaged in the eligible business which involves innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.</p>	<p>(i) The benefit would also be available to start ups incorporated on or after the 1st day of April 2019 but before the 1st day of April, 2021;</p> <p>(ii) The requirement of the turnover not exceeding Rs 25 Crore would apply to seven previous years commencing from the date of incorporation;</p> <p>(iii) The definition of eligible business has been expanded to provide that the benefit would be available if it is engaged in innovation, development or improvement of products or processes or services, or a scalable business model with a high potential of employment generation or wealth creation.</p>

This amendment will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent years.

• ***Amendment of Sec 47 of the Act- Transactions not regarded as transfer.***

Transactions in the following assets, by a non-resident on a recognized stock exchange located in any International Financial Services Centre shall not be regarded as transfer, if the consideration is paid or payable in foreign currency:—

- (i) Bond or Global Depository Receipt, as referred to in sub-section (1) of section 115AC; or
- (ii) Rupee denominated bond of an Indian company; or
- (iii) Derivative

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

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- ***Reduction in tax rate of Minimum Alternate Tax for unit located in International Financial Service Center***

<b>Section</b>	<b>Existing Provision</b>	<b>Proposed Provision</b>
115JC	Alternate minimum tax at the rate of 18.50 % of adjusted total income in the case of a non-corporate person.	It is proposed to amend to provide that in case of a unit located in an International Financial Service Center, the alternate minimum tax under section 115JC shall be charged at the rate of 9%.  Consequential amendment in section 115JF is also proposed to be made.

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

- ***Relaxation of minimum period of employment u/s 80JJAA of the Act.***

The existing provisions of section 80JJAA of the Act, inter-alia, provides that a deduction of 30% is allowed in addition to normal deduction of 100% in respect of emoluments paid to eligible new employees who have been employed for a minimum period of 240 days during the year.

However, the minimum period of employment is relaxed to 150 days in the case of apparel industry. In order to encourage creation of new employment, it is proposed to extend this relaxation to footwear and leather industry.

Further, it is also proposed to rationalize this deduction of 30% by allowing the benefit for a new employee who is employed for less than the minimum period during the first year but continues to remain employed for the minimum period in subsequent year.

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

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- ***Tax treatment of transactions in respect of trading in agricultural commodity derivatives.***

Section	Current Provision	Proposed Amendment
43(C) - speculative transaction.	The proviso to the said clause, however, stipulates that since no Commodity transaction tax (CTT) is paid in respect of trading of agricultural commodity derivatives and accordingly, such transactions are held to be speculative transactions.	In order to encourage participation in trading of agricultural commodity derivatives, it is proposed to amend the provisions of clause (5) of section 43 to provide that a transaction in respect of trading of agricultural commodity derivatives, which is not chargeable to CTT, in a registered stock exchange or registered association, will be treated as non-speculative transaction.

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

- ***Exemption of income of Foreign Company from sale of leftover stock of crude oil on termination of agreement or arrangement.***

- As per Section 10(48B) of the Income-tax Act, provides that any income accruing or arising to a foreign company on account of sale of Leftover stock of crude oil after the expiry of the agreement or arrangement shall be exempt subject to such conditions as may be notified by the Central Government.
- The benefit of exemption is presently not available on sale out of the leftover stock of crude in case of termination of the said agreement or the arrangement.
- It is proposed to amend clause (48B) of section 10 to provide that the benefit of tax exemption in respect of income from left over stock will be available even if the agreement or the arrangement is terminated in accordance with the terms mentioned therein.

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

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- ***Royalty and FTS payment by NTRO to a non-resident to be tax-exempt***
  - Sec 195 requires a person to deduct tax at the time of payment or credit to a non-resident.
  - It is proposed to amend section 10 so as to provide that the income arising to non-resident, not being a company, or a foreign company, by way of royalty from, or fees for technical services rendered in or outside India to, the NTRO will be exempt from income tax.

This amendment will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent years.

**E. Facilitating Insolvency Resolution**

Section	Existing Provision	Proposed Provision
115JB	In computing the book profit, for levy of a minimum alternate tax (MAT), it provides for a deduction in respect of the amount of loss brought forward or unabsorbed depreciation, whichever is less as per books of account. Consequently, where the loss brought forward or unabsorbed depreciation is Nil, no deduction is allowed.	To amend the section to provide that a company whose application has been admitted for corporate insolvency resolution process by the Adjudicating Authority would be entitled to reduce the loss brought forward (excluding unabsorbed depreciation) and unabsorbed depreciation for the purposes of computing book profit

This amendment will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent years.

- **Clarificatory amendment w.r.t. section - 115JB**

It is also proposed that the provision of Section 115JB of the Act shall not be applicable and shall be deemed never to have been applicable to a foreign company, if its total income comprises solely of profits and gains from business referred to in section 44B or section 44BB or section 44BBA or section 44BBB and such income has been offered to tax at the rates specified in the said sections.

This amendment will take effect, retrospectively from 1st April, 2001 and will, accordingly, apply in relation to the assessment year 2001-02 and subsequent assessment years.

Section	Existing Provision	Proposed Provision
79	Carry forward and set off of losses in a closely held company shall be allowed only if there is a continuity in the beneficial owner of the shares carrying not less than 51 percent of the voting power, on the last day of the year or years in which the loss was incurred.	To amend the section to provide relaxation for such companies whose insolvency resolution has been approved under the Insolvency and Bankruptcy Code, 2016.

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140	-	It is further proposed to provide that during the resolution process under the Insolvency and Bankruptcy Code, 2016, the return shall be verified by an insolvency professional appointed by the Adjudicating Authority.
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This amendment will take effect from 1st April, 2018 and will, accordingly apply to return filed on or after the said date.

## **F. Improving Effectiveness of Tax Administration**

- ***New Scheme for Scrutiny Assessment***

- In order to bring greater transparency and efficiency by eliminating person to person contact, Section 143 is proposed to be amended by inserting new sub-section (3A), (3B) and (3C) after sub-section (3) for E- assessment.
- The Central Government by way of notification shall prescribe new scheme for scrutiny assessments.
- E-assessment across the country will transform the age-old assessment procedure of the income tax department and the manner in which they interact with taxpayers.

## **G. RATIONALISATION MEASURES**

- ***Rationalisation of the provisions relating to Commodity Transaction Tax***

- The existing clause (7) of section 116 of the Finance Act, 2013 provides the definition of “taxable commodities transaction” which means a transaction of sale of commodity derivatives in respect of commodities, other than agricultural commodities, traded in recognised association.
- To align the definition of “taxable commodities transaction” with instruments allowed for transaction in commodity derivatives, it is proposed to amend the clause (7) of section 116 so as to include “options in commodity futures” in the definition of “taxable commodities transactions”.
- The existing section 117 of the Finance Act, 2013 provides the rate at which a commodities transaction tax in respect of every commodities transaction, being sale of commodity derivative shall be chargeable and such tax shall be payable by the seller.
- In order to propose rates for option on commodity derivative, it is proposed to amend the provisions of section 117 so as to prescribe the rate at which sale of an option on commodity derivative shall be chargeable and such tax shall be payable by the seller & where option is exercised, shall be chargeable and such tax shall be payable by the purchaser.
- The existing section 118 of the Finance Act, 2013 provides the value of taxable commodities transactions, being commodity derivative and chargeable under section 117 of the Finance Act, 2013.
- It is proposed to amend the provisions of section 118 so as to include the value of taxable commodities transaction, being option on commodities, chargeable under section 117 of the Finance Act, 2013, in the said section.
- These amendments will take effect from 1st April, 2018, and will, accordingly, apply in relation to the assessment year 2018-2019 and subsequent years.

- ***Rationalisation of section 276CC relating to prosecution for failure to furnish return.***

- Existing Provisions of Section 276CC of the Act provides that if a person willfully fails to furnish in due time the return of income which he is required to furnish, he shall be punishable with imprisonment for a term, as specified therein, with fine.

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- The sub-clause (b) of clause (ii) of proviso to the section 276CC further provides that a person shall not be proceeded against under the said section for failure to furnish return for any assessment year commencing on or after the 1st day of April, 1975, if the tax payable by him on the total income determined on regular assessment as reduced by the advance tax, if any, paid and any tax deducted at source, does not exceed three thousand rupees.
  - In order to prevent abuse of the said proviso by shell companies or by companies holding Benami properties, it is proposed to amend the provisions of the said sub-clause so as to provide that the said sub-clause shall not apply in respect of a company.
  - This amendment will take effect from 1st April, 2018.
- ***Rationalisation of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.***

Section	Existing Provision	Proposed Provision
Section 46 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015	This Section provides for the procedure for imposing penalty which shall be made with the approval of the Joint Commissioner, in the circumstances specified therein.  The Assistant Director or the Deputy Director shall require approval of the superior officers of the rank of Joint Director or Additional Director for imposition of penalty.	Accordingly, it is proposed to amend the said section so as to provide that the Joint Director shall also be vested with the power to approve an order imposing a penalty.  It is also proposed to amend the section so as to include reference to the Assistant Director and Deputy Director therein.
Section 55 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015	Section 55 provides for institution of proceedings for an offence under that Act.  Sub-section (1) of the said section provides that a person shall not be proceeded against for an offence under section 49 to section 53 except with the sanction of the Principal Commissioner or Commissioner or the Commissioner (Appeals).	It is proposed to amend the said sub-section so as to empower the Principal Director General or the Director General also to issue instructions or directions to the tax authorities under the said sub-section.  It is also proposed to amend the marginal heading of the said section accordingly so as to



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	<p>Sub-section (2) of the said section provides that the Principal Chief Commissioner or the Chief Commissioner may issue such instructions, or directions, to the tax authorities referred to in sub-section (1), as he may think fit for the institution of proceedings.</p>	<p>include the reference of Principal Director General or Director General.</p> <p>These amendments will take effect from 1st April, 2018.</p>
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- ***Rationalisation of prima-facie adjustments during processing of return of income.***
  - Existing Provision of Sub-section (1) of the section 143 provides for processing of return of income made under section 139, or in response to a notice under sub-section (1) of section 142.
  - Clause (a) of the said sub-section provides that at the time of processing of return, the total income or loss shall be computed after making the adjustments specified in sub-clauses (i) to (vi) thereof. Sub-clause (vi) of the said clause provides for adjustment in respect of addition of income appearing in Form 26AS or Form 16A or Form 16 which has not been included in computing the total income in the return.
  - It is proposed to insert a new proviso to the said clause to provide that no adjustment under sub-clause (vi) of the said clause shall be made in respect of any return furnished on or after the assessment year commencing on the first day of April, 2018 with a view to restrict the scope of adjustments.
  - This amendment will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment years 2018-2019 and subsequent years.
  
- ***Deductions in respect of certain incomes not to be allowed unless return is filed by the due date.***
  - The existing provisions contained in the section 80AC of the Act provide that no deduction would be admissible under section 80-IA or section 80-IAB or section 80-IB or section 80-IC or section 80-ID or section 80-IE, unless the return of income by the assessee is furnished on or before the due date specified under sub-

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section (1) of section 139 of the Act. This burden is not cast upon assesses claiming deductions under several other similar provisions.

- It is proposed to extend the scope of section 80AC to provide that the benefit of deduction under the entire class of deductions under the heading “C.—Deductions in respect of certain incomes” in Chapter VIA shall not be allowed unless the return of income is filed by the due date.
- This amendment will take effect, from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent assessment years.
- ***Extension of the benefit of tax-free withdrawal from NPS to non-employee subscribers.***
  - The existing provisions of the clause (12A) of section 10 of the Act allows an employee contributing to the NPS an exemption in respect of 40% of the total amount payable to him on closure of his account or on his opting out. This exemption is not available to non-employee subscribers.
  - In order to provide a level playing field, it is proposed to amend clause (12A) of section 10 of the Act to extend the said benefit to all subscribers.
  - This amendment will take effect, from 1st April, 2019 and will, accordingly, apply in relation to the assessment year 2019-20 and subsequent assessment years.
- ***Rationalisation of provision of section 115BA relating to certain domestic companies. (Clarification Provision)***
  - Section 115BA of the Act provides that the total income of a newly set up domestic company engaged in business of manufacture or production of any article or thing and research in relation thereto, or distribution of such article or thing manufactured or produced by it, shall, at its option, be taxed at the rate of 25 percent subject to conditions specified therein. This benefit is available from assessment year 2017-18.
  - It is proposed to amend section 115BA so as to clarify that the provisions of section 115BA is restricted to the income from the business of manufacturing, production, research or distribution referred to therein; and income which are at present taxed at a scheduler rate will continue to be so taxed.
  - The amendment will take effect retrospectively from the 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent years.

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- ***Rationalisation of provisions relating to Country-by-Country Report. (Clarification Provision)***

➤ Section 286 of the Act contains provisions relating to specific reporting regime in the form of Country-by-Country Report (CbCR) in respect of an international group. Based on model legislation of Action Plan 13 of Base Erosion and Profit Shifting (BEPS) of the Organisation for Economic Co-operation and Development (OECD) and others, following amendments are proposed to be made so as to improve the effectiveness and reduce the compliance burden of such reporting:—

(i) the time allowed for furnishing the Country-by-Country Report (CbCR), in the case of parent entity or Alternative Reporting Entity (ARE), resident in India, is proposed to be extended to twelve months from the end of reporting accounting year;

(ii) constituent entity resident in India, having a non-resident parent, shall also furnish CbCR in case its parent entity outside India has no obligation to file the report of the nature referred to in sub-section (2) in the latter's country or territory;

(iii) the time allowed for furnishing the CbCR, in the case of constituent entity resident in India, having a non-resident parent, shall be twelve months from the end of reporting accounting year;

(iv) the due date for furnishing of CbCR by the ARE of an international group, the parent entity of which is outside India, with the tax authority of the country or territory of which it is resident, will be the due date specified by that country or territory;

(v) Agreement would mean an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A, and also an agreement for exchange of the report referred to in sub-section (2) and sub-section (4) as may be notified by the Central Government;

(vi) "reporting accounting year" has been defined to mean the accounting year in respect of which the financial and operational results are required to be reflected in the report referred to in sub-section (2) and sub-section (4).

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

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- ***Taxation of Conversion of Stock-in-Trade to Capital Asset***

As per the Income Tax Act, 1961, conversion of a capital asset into stock-in-trade was taxable as capital gains. However the reverse did not attract a tax liability. As a result there was deferment of tax by converting stock-in-trade into a capital asset. In order to avoid such a situation it has been proposed to bring to tax conversion of stock to capital asset by amending the Act as follows:-

<b>Section</b>	<b>Current Provision</b>	<b>Proposed Amendment</b>
28	The section had a list of incomes which would be treated as Profit from Business and Profession. It did not contain income from conversion of stock-in-trade to a capital asset as an income.	To this list of incomes, it has been proposed to add conversion of stock-in-trade to capital asset. Therefore making such conversion taxable.
49	This section talks about the cost of acquisition for capital asset, becoming the property of an assessee by means other than purchase, such as by way of partition of an HUF, by inheritance, etc.	This section shall be amended so as to include cost of acquisition of a capital asset acquired by way of conversion of stock-in-trade. The cost of acquisition of this capital asset will be the FMV as on the date of its conversion.

For the purposes of the proposed amendments

1. Section 2(24) shall be amended to include Fair Market value in the definition of income.
2. Section 2(42A) shall be amended to consider the period of holding, of a converted capital asset, from the date of such conversion.

Note :- This amendment shall be applicable from AY 2019-20.

- ***Non-Chargeability of Tax Neutral Transfers to Income from Other Source***

When a capital asset is transferred from a holding company to a 100% subsidiary (being an Indian Company) or by a wholly owned subsidiary to its Holding Company (being an Indian Company), tax in the form of capital gains is not attracted. However the company which makes this transfer was liable to pay tax on Income from Other Sources on such sale. It has been proposed to exclude such transfer from the ambit of Income from Other Sources.

Section 56 shall be amended to exclude from its definition transfer of a capital asset:-

1. By a Company to its wholly owned subsidiary being an Indian company.
2. By a wholly owned subsidiary to its parent company, being an Indian company.

Note: This amendment shall apply to any such transfer made from 1<sup>st</sup> April, 2019 onwards.

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- ***Rationalisation of the Provisions of Section 54EC***

It has been decided to restrict the scope of Section 54EC to long term capital gain arising from sale of land or building or both as gain eligible for deduction if invested in long term specified assets. The change can be explained as follows:-

<b>Section</b>	<b>Current Provision</b>	<b>Proposed Amendment</b>
54EC	Where the capital gain arising from a long term capital asset is invested in a long term specified asset (being 54EC bonds, etc.), within 6 months from transfer, such gains shall be exempted as per the conditions specified in this section.	The long term capital asset mentioned in this section shall be amended to reduce its scope to only land, building or both.  Therefore only the gain arising from long term capital asset being land or building shall be eligible for exemption on investment of such gain in the specified long term asset.

Long term specified assets means bonds redeemable after 3 years issued by the NHAI and Rural Electrification Corporation Limited. With effect from 1<sup>st</sup> April, 2018 the bonds redeemable after 5 years will be treated as long term specified asset for this section.

Note:- This amendment shall be applicable from AY 2019-20

- ***Amendments in relation to notified Income Computation and Disclosure Standards***

Section 145 of the Income Tax Act, 1961, empowered the government to notify Income Computation and Disclosure Standards (ICDS). The government had notified 10 ICDSs. However there were certain discrepancies between ICDS and the Accounting Standards, giving rise to various judicial controversies. As a result it was sought to make the ICDSs more in line with the Accounting Standards.

- Section 36 shall be amended to allow deduction marked to market loss or any other expected loss which was not allowed earlier, by insertion of new clause (xviii) under sub-section 1.
- Section 40A to be amended to provide that no deduction or allowance in respect of marked to market loss or other expected loss shall be allowed except as allowable under newly inserted clause (xviii) of sub-section(1) of section 36.

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- New section:-
  - 43AA shall be inserted, allowing gain or loss arising on account of changes in foreign exchange rates.
  - 43CB to be inserted saying that profits from construction contract shall be recognised on percentage of completion method, except certain service contracts, where the revenue shall include retention money and the contract cost shall not be reduced by incidental interest, dividends and capital gains.
- Other miscellaneous amendments in Section 145A for the purpose of determining the income chargeable under the head “Profits and gains of business or profession”, include:-
  - Valuation of inventory to be lower of cost or net realizable value
  - Value of purchase and sale of goods shall be at a value after adjustment of any tax, duty and cess incurred to effect such sale to purchase
  - Inventory being unlisted securities or listed but not quoted on a recognised stock exchange shall be valued at actual acquisition cost
  - Inventory comprising listed securities to be valued at lower of cost or net realizable value and for this purpose the comparison of actual cost and net realisable value shall be done category-wise.
- Insertion of a new section 145B that says that:-
  - Interest received by an assessee on compensation or on enhanced compensation shall be deemed to be income of the year in which it is received.
  - Claim for escalation of price in a contract or export incentives to be regarded as deemed income of the previous year in which reasonable certainty of its realisation is received.
  - Subsidies, grants, cash incentives, duty drawback referred to in sub-clause (xviii) of clause (24) of section 2 received by an assessee from the Government shall be deemed to be income of the previous year in which it is received.

Note:- The above amendments shall be brought with a retrospective effect from 1<sup>st</sup> April, 2017 i.e. the date on which ICDS was made effective and will apply in relation to AY 2017-18 and subsequent assessment years.

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- ***Rationalisation of the provisions of Section 115BBE***

Section 115BBE provides for tax on certain unexplained cash credit, investment, expenditures, etc. which are deemed to be income under Section 68, 69, 69A, 69B, 69C, 69D at the higher rate of 60%.

Section	Existing Provision	Proposed Provision
115BBE(2)	Where the total income of the assessee offered in the return of income includes the income as per the above mentioned sections, no deduction in respect of any expenditure or allowance (or set off of any loss) shall be allowed.	A stricter proposition is made whereby the total income of the assessee offered in the return of income includes the income as per the above mentioned sections along with the income determined by the assessing officer over and above the income offered in return, no deduction in respect of any expenditure or allowance (or set off of any loss) shall be allowed.

This amendment will take effect **retrospectively** from 1<sup>st</sup> April, 2017 and will accordingly apply in relation to A.Y. 2017-18 and subsequent years.

- ***Tax deduction at source on 7.75% GOI Savings (Taxable) Bonds, 2018***

8% Savings (Taxable) Bonds, 2003 introduced by Government of India in 2003 has now been discontinued and new 7.75% GOI Savings (Taxable) Bonds, 2018 has been launched. The interest received on these new bonds will continue to be taxed as in the case of earlier bonds. There has been an amendment in the provisions of Section 193.

Section	Existing Provision	Proposed Provision
193	TDS at the rate of 10% is required to deducted on the interest payable on 8% Savings (Taxable) Bonds, 2003 in excess of Rs.10,000 at the time of <b>credit</b> of such income to the account of the resident payee <b>or</b> at the time of <b>payment</b> , whichever is <b>earlier</b> .	TDS at the rate of 10% is required to deducted on the interest payable on 7.75% GOI Savings (Taxable) Bonds, 2018 in excess of Rs.10,000 at the <b>time of payment</b> to the resident payee.

## H. Miscellaneous

- ***Exemption to specified income of class of body, authority, Board, Trust or Commission in certain cases.***
  - Clause 46 of section 10 empowers Central Government to exempt by notification specified income arising to a body or authority or Board or Trust or Commission if:-
    - They are not engaged in any commercial activity
    - They are established or constituted by or under Central/State/ Provincial Act or constituted by Central Government or State Government with object of administering any activity for benefit of general public.
    - Notified by Central Government in Official Gazette.
  - The Central Government is required to notify each case separately even if they belong to the same class of cases making the process time consuming.
  - Thus the said clause is proposed to be amended to enable the Central Government to also exempt a class of such body or authority or Board or Trust or Commission.
  
- ***Penalty for failure to furnish statement of financial transaction or reportable account.***
  - As per section 285BA of the Income Tax Act, 1961 specified entities are required to furnish a statement of financial transaction or reportable account in respect of specified financial transaction or any reportable account maintained by them during the financial year.
  - Non-furnishing of statement of financial transaction or reportable account will attract penalty under section 271FA.
  - It is now proposed to amend section 271FA Penalty as under :

Sr.No.	Section	Existing Provision	Proposed Provision
1.	271F	Non-furnishing of Statement will attract penalty of Rs.100 per day of default.	Non-furnishing of Statement will attract penalty of <b>Rs.500 per day of default.</b>



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2	271F	Failure of such person to furnish the respective statement within period specified in notice issued under section 285BA will attract penalty of Rs. 500 per day.	Failure of such person to furnish the respective statement within period specified in notice issued under section 285BA will now attract penalty of <b>Rs.1000 per day of default.</b>
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- ***Appeal against penalty imposed by Commissioner (Appeals) under section 271J***
  - Section 253 provides that any assessee who is aggrieved by any of the orders mentioned in 253(1) may appeal to Appellate Tribunal against such order.
  - Under existing provisions, penalty imposed by Assessing Officer or Commissioner (Appeals) for furnishing incorrect information in reports or certificate by an accountant or merchant banker or registered valuer was not an appealable order.
  - It is proposed to amend clause (a) of Section 253(1) to also make order passed by Commissioner (Appeals) under section 271J appealable.

## A. CUSTOMS

- ***Rationalization Measures:***

- **Chapter XI**

Chapter XI having Special provisions regarding baggage, goods imported or exported by post, and stores baggage is being amended to include reference to courier. Further Section 74 and 75 also amended to give effect to such amendment, so as to include a reference to goods imported or exported by Post and to empower the Board to make regulations in this regard.

- **Sec 54**

Section 54 is being amended so as to empower the Board to make regulations providing manner of presenting a bill of transshipment and declaration for transshipment

- Bill seeks to amend the Customs Act with a view to **substitute** reference to the expression "import manifest" with the expression "**arrival manifest or import manifest**" and the expression "export manifest" with the expression "**departure manifest or export manifest**", throughout the Act, so as to expand the scope of manifest, to include all goods carried by the conveyance, required to be delivered before its arrival and departure

- **Sec 1**

The scope of the Customs Act, 1962 is expanded by amending Section 1 by making it applicable to a **person who commits any offence or makes any contravention thereunder outside India.**

- **Sec 2**

Amendment in Section 2 of the Customs Act, 1962 is being proposed to amend the definition of Assessment and in subsection (28) the extension of limit of 'Indian Customs Waters' to 'Exclusive Economic Zone (EEZ)'

- **Sec 11**

Section 11 is being amended so as to insert sub-section (3) providing that prohibition or restriction or obligation relating to import or export of any goods or class of goods or clearance thereof provided in any other law for the time being in force, or any rule or regulation made or any order or notification thereunder shall be executed only if such prohibition or restriction or obligation is notified under the provisions of Customs Act subject to such exceptions, modifications or adaptations as the Central Government may deem fit.

**[This change would come into force from a date to be notified]**

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➤ **Section 17**

Section 17 is amended to expand the scope of verification by the proper officer to include all aspects of declarations made in the bill of entry or shipping bill in addition to self-assessment, re-assessment and is further proposed to provide for the risk based selection of self-assessment.

➤ **Section 18**

Section 18 relating to “provisional assessment of duty” of the Customs Act is amended so as to:

- widen the scope of provisional assessment to cover export consignments
- It is further proposed to specify by regulations the time and manner of finalization of provisional assessment

It is also proposed to substitute the reference to section "28AB- Interest on delayed payment of duty in special cases" with section "28AA- Interest on delayed payment of duty" retrospectively, with effect from the 8th day of April, 2011.

➤ **Section 25A and 25B**

New Sections 25A and 25B is being inserted so as to empower Central Government to exempt ‘Inward Processing of Goods’ and ‘Outward Processing of Goods’ from payment of whole or any part of duty of customs, leviable thereon subject to certain conditions.

➤ **Section 28E, 28EA, 28H, 28K, 28L**

Section 28 is amended to omit, include, substitute and define various terms ‘Activity’, ‘Appellate Authority’, ‘Advance ruling’, ‘Applicant’ and ‘Authority’

➤ **Section 28I**

Sub-section (6) is being amended to reduce the time from six months to three months within which the authority shall pronounce its advance ruling

➤ **Section 30 and 41**

The sections have been amended to include exported and imported goods respectively.

➤ **Section 50 and 46**

The sections have been amended to insert a reference to Customs Automated System and the manner of presentation of shipping bill or bill of export.

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➤ **Section 110**

- Section 110 substitute proviso to sub-section (2) by inserting the line that the Principal Commissioner of Customs or Commissioner of Customs may extend the time limit of Six Month only by “**Reasons to be recorded in writing,**”.
- Section has also insert second proviso to sub-section (2) providing that where any order for provisional release of the seized goods has been passed under Section 110A, the aforesaid period of six months, mentioned in sub-section (2), shall not apply.

➤ **Section 122- Adjudication of confiscations and penalties.**

- Section 122 is being amended so as to substitute the existing clauses (b) and (c) which prescribes a monetary limit for goods liable to confiscation and empower the Board to fix monetary limits for adjudication of cases by officers below the rank of Joint Commissioner by way of notification.

➤ **Section 124- Issue of show cause notice before confiscation of goods**

- Second proviso to Section 124 is being inserted so as to provide for issuance of Supplementary show cause notice under such circumstances and in such manner as may be prescribed through regulations.

➤ **Section 125- Option to pay fine in lieu of confiscation**

- Proviso to sub-section (1) of section 125 is being inserted which provides that if any demand proceedings against a noticee / co-noticees have been closed on grounds of having paid the dues mentioned in section 28, then the provisions of section 125 shall not be applicable if the goods are not prohibited or restricted.
- Sub-section (3) to section 125 is being inserted to provide that where redemption fine has not been paid **within a period of one hundred and twenty days from the date of option** given to pay fine in lieu of confiscation, then such option shall become void, except in cases where any appeal against such order is pending.
- insert an explanation that for an order passed under sub-section (1) before the date on which the Finance Bill, 2018 receives the assent of the President, and no appeal against such order is pending, such option may be exercised within one

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hundred and twenty days from the date on which such assent is received.;

➤ **Section 153-Service of order, decision**

- Section 153 is being substituted so as to align it with the provisions of the section 169 of the CGST Act to include Speed Post, Courier, and registered email as valid modes of delivery.
- In case of non-service by such means, by affixing it at some conspicuous place at the last known place of business or residence.

➤ **Section 157**

- Section 157 is being amended to broaden the scope of General power of the Board to issue Regulations.

➤ **Additional Automation System of clearance by the proper officer introduced**

Section 47, 51, 60, 68 and 69 are being amended so as to have a provision for clearance of goods by Customs Automated System in addition to existing clearance by the proper officer

• ***Newly inserted Provisions***

Chapter VIIA inserted with governing provisions in Section 51A to have a provision for advance deposit which would enable payment of duties, taxes, fee, interest, and penalty through electronic cash ledger. It is also proposed to issue regulations in this regard.

A new section 28EA relating to ‘Customs Authority for Advance Rulings’ is being inserted, which empowers the Board to appoint officers of the rank of Principal Commissioner of Customs or Commissioner of Customs as Customs Authority for Advance Rulings by way of notification. Till such appointment by the Board, existing Authority shall continue to pronounce Advance Rulings.

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➤ **Section 28**

1. New provisions inserted to provide pre-notice consultation and the issuance of supplementary show cause notice in circumstances and in such manner as may be prescribed through regulations within the existing time period,
2. Time limit for adjudicating Demand notices and the extension thereof has been defined
3. New provisions inserted to provide process for the recovery of excess refund along with interest as applicable.
4. New provisions inserted to provide a safeguard to Revenue for proceeds pertaining to normal period of two years in case of non-sustainable Demand Notice issued by invoking grounds of collusion, etc.,
5. Explanation inserted that a notice issued for non-levy, non-payment, short-levy or short payment of duty or erroneous refund after 14th May, 2015 but before the date on which the Finance Bill, 2018 receives the assent of the President, shall continue to be governed by the provisions of section 28 as it stood immediately before the date on which such assent is received.

- **Section 99A.** A new Chapter XIIA and section 99A inserted relating to audit of assessment of imported goods or export goods or of an auditee under Custom Act either in his office or in the premises of the auditee in such manner as may be prescribed.

➤ **Section 109A.**

A new section 109A relating to 'Controlled Delivery' is being inserted to authorize the proper officer or any other officer authorized by him to undertake Controlled Delivery of any consignment of goods to any destination in India or a foreign country to identify the persons involved in the commission of an offence or contravention under this Act.

➤ **Section 151B.**

A new section 151B on reciprocal arrangement between Central Government and with the Government of any country or with such competent authorities of that country for exchange of information.

➤ **Section 128A.**

Section 128A is being amended to allow Commissioner (Appeals) to remand back the matters to original adjudicating authority in specified categories of cases.

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• *Amendments in the First Schedule to the Customs Tariff Act, 1975*

S. No.	Chapter	Commodity	Existing Rate	Amended Rate
1.	20	<b>Food Processing:</b> Fruit juices and vegetable juices	30%	50%
2.	33	<b>Perfumes and toiletry preparations:</b> Perfumes, Beauty or make-up preparations Pre-shave, shaving or after-shave preparations, personal deodorants, etc.	10%	20%
3.		<b>Automobile parts:</b>		
	40	Truck and Bus radial tyres	10%	15%
	84	Specified parts/accessories of motor vehicles	7.5%/10%	15%
4.		<b>Footwear</b>		
	64	Footwear	10%	20%
		Parts of Footwear	10%	15%
5.		<b>Electronics/Hardware</b>		
	85	Cellular mobile phones	15%	20%
		Smart watches/ wearable devices	20%	20%
6.	94	Furniture	10%	20%
7.	91	<b>Watches and Clocks:</b> Wrist watches, pocket watches and other watches, including stopwatches	10%	20%
8.	95	<b>Toys and Games:</b> Tricycles, scooters, pedal cars and similar wheeled toys, puzzles of all kinds, Video game consoles and machines	10%	20%
9.		<b>Miscellaneous items</b>		
	34	Candles, tapers	10%	20%
	71	Imitation Jewellery	15%	20%
	48	Kites	10%	20%
	90	Sunglasses	10%	20%
	96	Date, sealing or numbering stamps, Cigarette lighters and other lighters, etc.	10%	20%

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- *Other proposals involving changes in basic customs duty rates:*

Sr No.	Heading, sub-heading tariff item	Commodity	From	To
1		<b>Food Processing</b>		
	0801	Cashew nuts in shell [Raw cashew]	5%	2.5%
	2009	Orange fruit juice	30%	35%
	2009	Cranberry juice	10%	50%
	2106	Miscellaneous food preparation	30%	50%
2		<b>Textiles</b>		
	5007	Silk Fabrics	10%	20%
3		<b>Automobile and automobile parts</b>		
	8702, 8703	CKD imports of motor vehicles, motor cars	10%	15%
	8702, 8704	CBU imports of motor vehicles	20%	25%
4		<b>Diamonds and Precious stones</b>		
	71	Cut and polished coloured gemstones; Diamonds including lab grown diamonds-semi processed	2.5%	5%
5		<b>Medical Devices</b>		
	Any Chapter	Raw materials, parts or accessories for the manufacture of Cochlear Implants	2.5%	Nil
		<b>Rationalization in Customs duty rates</b>		
6		<b>Edible oils of vegetable origin</b>		
	1508, 1509, 1510,1512	Crude edible vegetable oils like Ground nut oil, Olive oil, Cotton seed oil, Safflower seed oil	12.5%	30%
	1508, 1509, 1510,1512	Refined edible vegetable oils, like Ground nut oil, Olive oil, Cotton seed oil, Safflower seed oil,Coconut oil	20%	35%

For detailed Schedule on Changes in Custom Tariff Act, 1975, kindly refer <http://www.indiabudget.gov.in/ub2018-19/memo/memo.pdf>



**B. Excise**

- ***Proposals Involving Change in Excise Duty Rates on Motor Spirit Commonly Known As Petrol and High Speed Diesel Oil:***
  - Additional Duty of Excise [Road Cess] is abolished and there is new Levy of Road and Infrastructure Cess of Rs.8/litre on motor spirit commonly known as petrol and high speed diesel oil and in case it is manufactured and cleared from 4 specified refineries located in the North-East the rate shall be Rs.4/litre.
  - Basic Excise Duty on Unbranded Petrol, Branded petrol, Unbranded diesel and Branded diesel is reduced by Rs. 2/litre
  - Rate of Road and Infrastructure Cess on
    - 5% ethanol blended petrol,
    - 10% ethanol blended petrol and
    - bio-diesel, up to 20% by volume,Shall be NIL subject to the condition that appropriate excise duties have been paid on petrol or diesel and appropriate GST has been paid on ethanol or bio-diesel used for making such blends

## **C. SERVICE TAX**

- ***Retrospective exemptions***
  - Services provided or agreed to be provided by the Naval Group Insurance Fund by way of life insurance to personnel of Coast Guard, under the Group Insurance Schemes of the Central Government, are proposed to be exempted from service tax for the period commencing from the 10th September, 2004 and ending with the 30th June, 2017
  - Services provided or agreed to be provided by the Goods and Services Tax Network (GSTN) to the Central Government or State Governments or Union territories administration, are proposed to be exempted from service tax for the period commencing from 28th March, 2013 and ending with the 30th June, 2017
  - Consideration paid to the Government in the form of Government's share of profit petroleum in respect of services provided or agreed to be provided by the Government by way of grant of license or lease to explore or mine petroleum crude or natural gas or both, is proposed to be exempted from service tax for the period commencing from 1st April, 2016 and ending with the 30th June, 2017.
  
- ***Repeal of certain enactments***
  - Additional duty of Customs on Petrol is being abolished.
  - Additional duty of Excise on Petrol is being abolished.
  - Additional duty of Customs on High Speed Diesel oil is being abolished
  - Additional duty of Excise on High Speed Diesel oil is being
  - Education Cess on imported goods is beingSecondary and Higher Education Cess on imported goods is being

## **REAL ESTATE**

### **Rationalization of section 43CA, section 50C and section 56:**

#### **Existing Provision:**

While taxing Income from Capital Gains (section 50C), Business Profits (section 43CA) and Other Sources (section 56) arising out of transactions in Immovable Property, the sale consideration or stamp duty value, whichever is higher is adopted.

The difference is taxed as income both in the hands of the purchaser and the seller.

#### **Relief:**

No adjustments shall be made in a case where the variation between stamp duty value and the sale consideration is not more than five percent of the sale consideration.

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

**Briefly it can be concluded that if sale consideration  $\leq$  stamp duty value by upto 5% of the sale consideration, sale consideration shall be considered while calculating taxable income under head Capital Gains / Income from Business & Profession / Income from Other Sources.**

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