



G S T
GOODS SERVICES TAX



**ANALYSIS OF
INCOME TAX PROVISIONS IN
BUDGET
2018**

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Foreword

The mould for things to take shape through economic reforms was cast during the elections of the States, held a few months back, when rural discontent, unchecked unemployment and rising food prices formed the agenda of the opposition, united against the government in power. Demonetisation and the problems caused by introduction of Goods and Services Tax were the main focal points blamed for the economic slowdown leading to growth rate touching the lowest in the decade. It was to be an indication for the framers of the budget for restoring macroeconomic stability through measures to accelerate the economic growth, boost employment and reign in the mounting inflation without compromising financial prudence.

2. Being the last full budget of the present government, the expectations of the public in general was for a soft budget. The Finance Minister, however, had a challenging task of balancing the budget and adhering to the proclaimed fiscal deficit of 3.2% particularly in the face of the increased allocations necessitated by boosting of rural economy, increased spending on infrastructure projects, on social welfare schemes and by the need for reviving overall economic growth. Rising oil prices, which have the potentiality of further widening the fiscal deficit, is another area of major concern. The Economic Survey projected the growth rate for coming financial year at 7.5% against 6.75 % in the current fiscal. The forecast made by IMF is no different. This will mean effective measures to encourage private investments and significantly higher allocation of resources on public spending especially on infrastructure projects. For this, resources are to be generated which could be by expanding the tax base and redirecting subsidies which apparently conflicts with the expectation of populist soft budget.

3. The budget is out. The same will be analysed and appraised by people in different walks of life according to their expectations from the budget and the assessment of the impact of its various proposals and allocations. One thing is clear. As expected, the primary focus appears to be on improving the rural sector of the economy by raising the farmer's income and by substantially heavy planned expenditure on rural infrastructure. The government has promised doubling the farmers income by 2022 and the present announcement in the budget assuring 50% profit on the cost of the produce by fixation of Minimum Support Price (MSP) on that basis, is an important step in the direction likely to take care of the prevailing distress among farmers caused by unremunerative prices. Spending on the growth of rural sector including organic farming, processing sector and others for creation of livelihood and infrastructure in rural areas amounting to Rs. 14.34 lakh crores by all the ministries will go a long way in boosting rural economy. The attention bestowed on the rural sector is unprecedented and phenomenal which was indeed the need of the hour.

4. Employment creation is closely connected with the growth of economy which depends on the incentives for people- domestic and foreign to make investment in the country, more particularly in small and medium size industries. For this purpose, steps have been taken to facilitate doing business in India which have resulted in improving India's ranking in ease of doing business from 130 to 100 within a year. Insolvency and Bankruptcy code, introduction of Goods and Services tax, Bank recapitalization programme and easing procedural hassles in doing business like the delay involved in incorporating a company, are some of the steps taken in the direction. Taxation plays an important part in such incentives. The Government is committed to reduce the Corporate tax rate from existing 30% to 25% in phased manner over a period of four years from 2015. In keeping with such commitment, the Corporate tax rate was reduced to 25% in respect of companies with turnover upto Rs. 50 crore. By raising this turnover limit to Rs. 250 crores, the Finance Minister has provided this relief to almost 99% of the companies in micro, small and medium enterprises filing their tax return. The Corporate tax rate reduction will indeed go a long way in providing competitive advantage globally even though it still compares unfavourably with the tax rates now prevailing in China and USA. Further, incentive by way of additional tax deduction is provided under section 115JJA in respect of salary of employees who join in previous year and work for 240 days. This is reduced to 150 days in respect of apparel manufacturing concerns. By an amendment the period of 150 days has been made applicable to leather and footwear industries also.

5. Housing has been one area of attention for the last several years. Besides providing 100% deduction in respect of profit from development of affordable housing projects, granting it the status of infrastructure and incentivising it through the Pradhan Mantri Awaaz Yojna alongwith the interest subsidy scheme referred to as Credit Linked Subsidy Scheme (CLSS), serious efforts are being made to make the mission '**Housing for all by 2022**' successful. Taxation provisions were liberalised by the Finance Act, 2017 by way of reduction of holding period for Long Term Asset from 36 months to 24 months, advancing the base year from 1981 to 2001 and exempting unsold stock from taxation for one year. The linking of sale consideration with the Stamp Duty Value is another area of concern for the seller as well as the buyer. The Seller has to compute capital gains on the basis of Stamp Duty Value, and the buyer is taxed under the head Income from other sources on the difference between the Stamp Duty Value and the actual consideration. The concept has been extended to Computation of business income. The provision has been a great irritant as the circle rate fails to take into the consideration various factors influencing the market value. The irritant is sought to be removed to some extent by providing that no adjustment based on circle rate shall be made if the circle rate value does not exceed 5% of the consideration. Another provision relating to real estate is increase in the investment limit from Rs.7.5 lakhs to Rs.15 lakhs for senior citizens under the Pradhan Mantri Vaya Vandana Yojana for construction of house.

6. Contrary to the general expectations, the Finance Minister has desisted from making any change in the personal taxation except for salaried class and senior citizens. The salaried class which contributes the maximum in personal taxation was feeling hard hit as a result of abolition of standard

deduction in comparison to those engaged in other activities. Their grievance has been taken care of by providing for standard deduction of Rs.40,000/- in lieu of present exemption in respect of transport allowance and reimbursement of medical expenses. Senior citizens have been granted exemption in respect of income on deposits with banks of Rs. 50,000/- as against Rs.10,000/- allowed to others. Further the limit of deduction for health insurance premium for senior citizens has been raised from Rs.30,000/- to Rs.50,000/-. The limit of deduction for medical expenditure in respect of certain critical illness has been raised to Rs.1,00,000/- as against the existing limit of Rs. 60,000/- for senior citizens and Rs.80,000/- for very senior citizens.

7. By providing for the target of Rs. 80,000 crore in respect of disinvestment and other changes in indirect taxation, it is a matter of great satisfaction that the Finance Minister has been able to contain the fiscal deficit at 3.4% inspite of heavy allocations and rising oil prices. In the area of direct taxation there has been no significant additional taxation except the cess which is now 4% (including the new health cess) in place of existing 3% education cess. On the other hand, instead of expanding the tax base by changes in the limit or tax slabs, Finance Minister has been able to reduce the Corporate tax rate, provide standard deduction to salaried employees and other relief to senior citizens.

8. One noticeable change in the area of direct taxation is the abolition of exemption in respect of long-term gain arising from Shares, units of equity-oriented funds and units of business trusts. The abolition cannot be termed unfair if viewed in the light of taxation of other financial instruments and the abusive practices it has given rise to. Fairness is ensured by grandfathering the provision so as to exempt taxation of gains arising upto 31st January 2018 from securities purchased before this date.

9. On the whole, the budget gives the impression of a development budget reconciling the need of the time with the available resources without compromising the fiscal prudence. It is in keeping with the slogan :

‘सबका साथ सबका विकास’

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1st February, 2018

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BUDGET AT A GLANCE
(Figures in Crore of Rupees)

	2016- 2017 Actuals	2017- 2018 Budget Estimates	2017- 2018 Revised Estimates	2018- 2019 Budget Estimates
1. Revenue Receipts	1374203	1515771	1505428	1725738
2. Tax Revenue (Net to Centre)	1101372	1227014	1269454	1480649
3. Non-tax Revenue	272831	288757	235974	245089
4. Capital Receipts	600991	630964	712322	716475
5. Recoveries of Loans	17630	11933	17473	12199
6. Other Receipts	47743	72500	100000	80000
7. Borrowings and other Liabilities*	535618	546531	594849	624276
8. Total Receipts (1+4)	1975194	2146735	2217750	2442213
9. Total Expenditure (10+13)	1975194	2146735	2217750	2442213
10. On Revenue Account of which	1690584	1836934	1944305	2141772
11. Interest Payments	480714	523078	530843	575795
12. Grants in Aid for creation of capital assets	165733	195350	189245	195345
13. On Capital Account	284610	309801	273445	300441
14. Revenue Deficit (10-1)	316381	321163	438877	416034
	(2.1)	(1.9)	(2.6)	(2.2)
15. Effective Revenue Deficit (14-12)	150648	125813	249632	220689
	(1.0)	(0.7)	(1.5)	(1.2)
16. Fiscal Deficit {9-(1+5+6)}	535618	546531	594849	624276
	(3.5)	(3.2)	(3.5)	(3.3)
17. Primary Deficit (16-11)	54904	23453	64006	48481
	(0.4)	(0.1)	(0.4)	(0.3)

Note :

1. GDP for BE 2018-19 has been projected at Rs. 18722302 crore assuming 11.5% growth over the estimated GDP of Rs. 16784679 crore for 2017-18 (RE).
2. Individual items in this document may not sum up to the totals due to rounding off.
3. Figures in parenthesis are as a percentage of GDP.

RECEIPTS

(Figures In Crore of Rupees)

	2016- 2017 Actuals	2017- 2018 Budget Estimates	2017- 2018 Revised Estimates	2018- 2019 Budget Estimates
Revenue Receipts				
1. Tax Revenue				
Gross Tax Revenue	1715822	1911579	1946119	2271242
a. Corporation Tax	484924	538745	563745	621000
b. Taxes on Income	364604	441255	441255	529000
c. Wealth Tax	185	---	---	---
d. Customs	225370	245000	135242	112500
e. Union Excise Duties	382094	406900	276995	259600
f. Service Tax	254499	275000	79507	---
g. GST	---	---	444631	743900
- CGST	---	---	221400	603900
- IGST	---	---	161900	50000
- GST Compensation Cess	---	---	61331	90000
h. Taxes on Union Territories	4146	4679	4744	5242
Less – NCCD Transferred to the National Calamity Contingency Fund / National Disaster Response Fund	6450	10000	3660	2500
Less – States Share	608000	674565	673005	788093
1 (a) Centre's Net Tax Revenue	1101372	1227014	1269454	1480649
2. Non Tax Revenue	272831	288757	235974	245089
Interest Receipts	16229	19021	13551	15162
Dividend and Profits	123017	142430	106433	107312
External Grants	1300	3060	3681	2667
Other Non-Tax Revenue	130481	122728	110433	117886
Receipt of Union Territories	1804	1518	1876	2062
Total Revenue Receipts (1a+2)	1374203	1515771	1505428	1725738
3. Capital Receipts				
A. Non-debt Receipts	65372	84433	117473	92199
i. Recoveries of Loans and Advances@	17630	11933	17473	12199
ii. Disinvestment Receipts	47742	72500	100000	80000
B. Debt Receipts*	544514	533687	634229	581210
Total Capital Receipts (A+B)	609886	618120	751702	673409
4. DRAW-DOWN OF CASH BALANCE	(-) 8895	12844	(-) 39379	43066
Total Receipts (1a+2+3)	1984089	2133891	2257129	2399147
Receipts under MSS (Net)	---	---	---	---

EXPENDITURE

		2016- 2017 Actuals	2017- 2018 Budget estimates	2017- 2018 Revised Estimates	2018- 2019 Budget Estimates
A.	Central Expenditure				
I	Establishment Expenditure	423851	437538	468914	508400
II	Central Sector Schemes/Projects	589471	663663	634318	708934
III	Other Central Sector Expenditure	570377	622206	638009	678017
	of which Interest Payments	480714	523018	530843	575975
B.	Transfer				
IV	Centrally Sponsored Schemes	241295	278433	285582	305517
V	Finance Commission Grants	95550	103101	101490	109373
VI	Other Grants/Loans/Transfers	54650	41794	89437	131972
	Grand Total	1975194	2146735	2217750	2442213

CAPITAL EXPENDITURE OF THE GOVERNMENT

		2016- 2017 Actuals	2017- 2018 Budget estimates	2017- 2018 Revised Estimates	2018- 2019 Budget Estimates
	Gross Budgetary Support	284609	309801	273445	300441
	Ministry of Railways (IEBR)	64703	76000	80000	93440
	IEBR (excluding Ministry of Railways)	273394	309027	396859	384831
	Total	622706	694828	750304	778712

INCOME TAX PROPOSALS

Proposed rates of Income Tax for A.Y. 2019-20 (Financial Year ending 31-03-2019)

(A). Rates for individuals / HUFs/AOPs/BOIs

General Assessee	
Basic exemption	Rs.2,50,000/-
	Tax Rate
Between 2,50,001/- and 5,00,000/-	5%
Between 5,00,001/- and 10,00,000/-	20%
Above 10,00,000/-	30%
Senior Citizens – Resident (Age 60 Yrs & above but below 80 Years)	
Basic exemption	Rs.3,00,000/-
	Tax Rate
Between 3,00,001/- and 5,00,000/-	5%
Between 5,00,001/- and 10,00,000/-	20%
Above 10,00,000/-	30%
Senior Citizens – Resident (Age 80 Yrs & above)	
Basic exemption	Rs.5,00,000/-
	Tax Rate
Between 5,00,001/- and 10,00,000/-	20%
Above 10,00,000/-	30%

A REBATE OF TAX UPTO Rs. 2500/- WILL BE ALLOWED TO A PERSON WHOSE TOTAL INCOME DOES NOT EXCEED Rs. 3.5 LAKH.

Surcharge will be leviable at

(i) 10% in all the above cases where income is exceeding Rs. 50 lakhs but not exceeding Rs.1 Crore

(ii) 15% of such income in all the above cases having total income exceeding Rs.1 Crore.

However, in case of (i) above, the total amount payable as income-tax and surcharge on total income exceeding Rs.50 Lakhs but not exceeding Rs.1 Crore, shall not exceed the total amount payable as income-tax on a total income of Rs.50 Lakhs by more than the amount of income that exceeds Rs.50 Lakhs.

Further, in case of (ii) above, the total amount payable as income tax and surcharge on total income exceeding Rs.1 Crore shall not exceed the total amount payable as income tax on a total income of Rs.1 Crore by more than the amount of income that exceeds Rs.1 Crore.

B. CO-OPERATIVE SOCIETIES:

The rates of income-tax for Assessment Year 2019-20 are the same as were applicable to Assessment Year 2018-19.

The amount of income-tax shall be increased by a surcharge at the rate of twelve per cent of such income-tax in case of a co-operative society having a

total income exceeding one crore rupees.

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

C. FIRMS:

The rates of income tax for Assessment Year 2019-20 are the same as were applicable to Assessment Year 2018-19.

The amount of income-tax shall be increased by a surcharge at the rate of twelve per cent of such income-tax in case of a firm having a total income exceeding one crore rupees.

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

D. LOCAL AUTHORITIES:

The rates of income tax for Assessment Year 2019-20 are the same as were applicable to Assessment Year 2018-19.

The amount of income-tax shall be increased by a surcharge at the rate of twelve per cent of such income-tax in case of a local authority having a total income exceeding one crore rupees.

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

E. COMPANIES:

The rates of income-tax in the case of companies have been specified in Paragraph E of Part III of the First Schedule to the Bill. In case of domestic company, the rate of income-tax shall be twenty five per cent. of the total income if the total turnover or gross receipts of the previous year 2016-17 does not exceed fifty crore rupees and in all other cases the rate of Income-tax shall be thirty per cent. of the total income. In the case of company other than domestic company, the rates of tax are the same as those specified for the financial year 2017-18.

Surcharge at the rate of seven per cent shall continue to be levied in case of a domestic company if the total income of the domestic company exceeds one crore rupees but does not exceed ten crore rupees. Surcharge at the rate of twelve per cent shall continue to be levied if the total income of the domestic company exceeds ten crore rupees. In case of companies other than domestic companies, the existing surcharge of two per cent. shall continue to be levied if the total income exceeds one crore rupees but does not exceed ten crore rupees. Surcharge at the rate of five per cent shall continue to be levied if the total income of the company other than domestic company exceeds ten crore rupees.

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees but not exceeding ten crore rupees, shall not exceed the total amount payable as income-tax on a total income of one crore rupees, by more than the amount of income that exceeds one crore rupees. The total amount payable as income-tax and surcharge on total income exceeding ten crore rupees, shall not exceed the total amount payable as income-tax and surcharge on a total income of ten crore rupees, by more than the amount of income that exceeds ten crore rupees.

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

For financial year 2018-19, additional surcharge called the "Health and Education Cess on income-tax" shall be levied at the rate of four per cent. on the amount of tax computed, inclusive of surcharge (wherever applicable), in all cases. No marginal relief shall be available in respect of such Cesses.

SECTION - 2 (22) – ACCUMULATED PROFITS (WIDENING THE SCOPE)

Section 2(22) of the Act defines “dividend” to include distribution of accumulated profits (whether capitalized or not) to its shareholders by a company.

Explanation 2 to the said clause provides the definition of the term ‘accumulated profits’ as all profits of the company up to the date of distribution or payment or liquidation, subject to certain conditions.

In order to discourage any arrangements by companies to adopt the amalgamation route to reduce capital and circumvent the provision of section 2(22)(d) it is proposed to insert a new Explanation 2A in clause (22) of section 2 of the Act to widen the scope of the term ‘accumulated profits’ so as to provide that in the case of an amalgamated company, accumulated profits, whether capitalised or not, or losses as the case may be, shall be increased by the accumulated profits of the amalgamating company, whether capitalized or not, on the date of amalgamation.

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

SECTION - 9 – BUSINESS CONNECTION

Under the existing provisions of Explanation 2 to clause (i) of sub-section (1) of section 9, "business connection" includes business activities carried on by non-residents through dependent agents, similar to the provisions relating to Dependent Agent Permanent Establishment (DAPE) in India's Double Taxation Avoidance Agreements (DTAAs). In terms of the DAPE rules in tax treaties, if any person acting on behalf of the non-resident, is habitually authorised to conclude contracts for the non-resident, then such agent would constitute a PE in the source country.

However, in many cases, with a view to avoid establishing a permanent establishment (hereafter referred to as 'PE') under Article 5(5) of the DTAA,

the person acting on the behalf of the non-resident, negotiates the contract but does not conclude the contract.

Further, under paragraph 4 of Article 5 of the DTAAs, a PE is deemed not to exist when a place of business is engaged solely in certain activities such as maintenance of stocks of goods for storage, display, delivery or processing, purchasing of goods or merchandise, collection of information. This exclusion applies only when these activities are preparatory or auxiliary in relation to the business as a whole.

With a view to preventing base erosion and profit shifting, the recommendations under BEPS Action Plan 7 have now been included in Article 12 of Multilateral Convention to Implement Tax Treaty Related Measures (herein referred to as 'MLI'), to which India is also a signatory. Consequently, these provisions will automatically modify India's bilateral tax treaties covered by MLI, where treaty partner has also opted for Article 12. As a result, the DAPE provisions in Article 5(5) of India's tax treaties, as modified by MLI, shall become wider in scope than the current provisions in Explanation 2 to section 9(1)(i). Similarly, the antifragmentation rule introduced as per paragraph 4.1 of Article 5 of the OECD Model Tax Conventions, 2017 has narrowed the scope of the exception under Article 5(4), thereby expanding the scope of PE in DTAA vis-a-vis domestic provisions contained in Explanation 2 to section 9(1)(i). In effect, the relevant provisions in the DTAAs are wider in scope than the domestic law.

However, sub-section (2) of section 90 of the Act provides that the provisions of the domestic law would prevail over corresponding provisions in the DTAAs, to the extent they are beneficial. Since, in the instant situations, the provisions of the domestic law being narrower in scope are more beneficial than the provisions in the DTAAs, as modified by MLI, such wider provisions in the DTAAs are ineffective.

In view of the above, it is proposed to amend the provision of section 9 of the Act so as to align them with the provisions in the DTAA as modified by MLI so as to make the provisions in the treaty effective. Accordingly, clause (i) of sub-section (1) of section 9 is being proposed to be amended to provide that "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. It is further proposed that the contracts should be-

- (i) in the name of the non-resident; or
- (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
- (iii) for the provision of services by that non-resident.

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

The scope of existing provisions of clause (i) of sub-section (1) 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 of clause (i) of sub-section (1) of section 9 of the Act.

In view of the above, it is proposed to amend clause (i) of sub-section (1) of section 9 of the Act to provide that 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.

It is further proposed to provide that only so much of income as is attributable to such transactions or activities shall be deemed to accrue or arise in India. It is further proposed to provide that the transactions or activities shall constitute significant economic presence in India, whether or not the non-resident has a residence or place of business in India or renders services in India.

The proposed amendment in the domestic law will enable India to negotiate for inclusion of the new nexus rule in the form of 'significant economic presence' in the Double Taxation Avoidance Agreements. It may be clarified that the aforesaid conditions stated above are mutually exclusive. The threshold of "revenue" and the "users" in India will be decided after consultation with the stakeholders. Further, it is also clarified that unless corresponding modifications to PE rules are made in the DTAA's, the cross border business profits will continue to be taxed as per the existing treaty rules.

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

SECTION - 10 & SECTION - 11 - TAX DEDUCTION AT SOURCE AND MANNER OF PAYMENT IN RESPECT OF CERTAIN EXEMPT ENTITIES

The third proviso to clause (23C) of section 10 of the Act provides for exemption in respect of income of the entities referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of said clause in a case where such income is applied or accumulated during the previous year for certain purposes in accordance with the relevant provisions. Section 11 of

the Act also contains 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. This has led to lack of an audit trail for verification of application of income.

In order to encourage a less cash economy and to reduce the generation and circulation of black money, it is proposed to insert a new Explanation to the section 11 to provide that for the purposes of determining the application of income under the provisions of sub-section (1) of the said section, the provisions of sub-clause (ia) of clause (a) of section 40, and of sub-sections (3) and (3A) of section 40A, shall, mutatis mutandis, apply as they apply in computing the income chargeable under the head "Profits and gains of business or profession".

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

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

SECTION - 16 – SALARY – STANDARD DEDUCTION

Standard deduction has been proposed at Rs. 40,000/- or the amount of salary received.

SECTION - 17 – PERQUISITES (VALUE OF MEDICAL TREATMENT TO EMPLOYEE...ETC.)

The proviso u/s. 17(2)(viii) does not include as perquisites the value of any medical treatment provided to employee or member of his family in a hospital maintained by the employer. The proviso has been deleted. w.e.f. 01-04-2019.

SECTION - 28 – TAXABILITY OF COMPENSATION IN CONNECTION WITH TERMINATION OF BUSINESS OR EMPLOYMENT

Under the existing provisions of the Act, certain types of compensation receipts are taxable as business income under section 28. However, the existing provisions of clause (ii) of section 28 is restrictive in its scope as far as taxation of compensation is concerned; a large segment of compensation receipts in connection with business and employment is out of the purview of taxation leading to base erosion and revenue loss.

Therefore, it is proposed to amend section 28 of the Act to provide that 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. 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 relating to its employment shall be taxable under section 56 of the Act.

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

SECTION - 36 – OTHER DEDUCTIONS

Section 36 provides for certain types of deductions. As a consequential amendment which is proposed to Section 145 empowering the Central Government to notify income computation and disclosure standards it is proposed to amend section 36 to provide in respect of any marked to market loss or other expected loss as computed in the manner provided in income computation and disclosure standards notified under sub-section (2) of section 145, shall be allowed deduction.

SECTION – 40A – EXPENSES OR PAYMENTS NOT DEDUCTIBLE IN CERTAIN CIRCUMSTANCES

This is consequence to the proposed amendment to Section 36 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.

SECTION – 43 – TRADING OF AGRICULTURAL COMMODITY DERIVATIVES

Section 43(5) defines speculative transaction. Proviso to that section provides that even in the cases of non-delivery of the Commodity, if carried out in recognized stock exchange with payment of commodity transaction tax, it is non-speculative Section 116(7) of Finance Act 2013 keeps agricultural commodities exempt from CTT. However, in such a case, agricultural commodities become 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.

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

SECTION – 43AA & CB - Amendments in relation to notified Income Computation and Disclosure Standards.

At present, section 145 of the Act empowers the Central government to notify Income Computation and Disclosure Standards (ICDS). In pursuance the central government has notified ten such standards effective from 1st

April 2017 relating to Assessment year 2017-18. These are applicable to all assesses (other than an individual or a Hindu undivided family who are not subject to tax audit under section 44AB of the said Act) for the purposes of computation of income chargeable to income-tax under the head “Profits and gains of business or profession” or “Income from other sources”.

In order to bring certainty in the wake of recent judicial pronouncements on the issue of applicability of ICDS, it is proposed to —

Insert a new section 43AA in the Act to provide that, subject to the revisions of section 43A, any gain or loss arising on account of effects of changes in foreign exchange rates in respect of specified foreign currency transactions shall be treated as income or loss, which shall be computed in the manner provided in ICDS as notified under sub-section (2) of section 145.

Insert a new section 43CB in the Act to provide that profits arising from a construction contract or a contract for providing services shall be determined on the basis of percentage of completion method except for certain service contracts, and that the contract revenue shall include retention money, and contract cost shall not be reduced by incidental interest, dividend and capital gains.

SECTION – 44AE - PRESUMPTIVE INCOME IN CASE OF GOODS CARRIAGE

According to the existing provisions contained in section 44AE profits and gains equal to seven thousand five hundred rupees per month for each goods carriage will be presumptive income earned by the assessee. Irrespective of the tonnage capacity of class of goods carriage. The only condition is that the assessee should not own more than ten goods carriages. This resulted in transporters owning very large capacity of goods carriages availing the benefit.

It is proposed to amend the section to provide that in the case of heavy goods carriages (more than 12MT gross vehicle weight) the income would be deemed to be an amount equal to Rs. 1,000/- per ton of goods vehicle. The vehicles other than heavy goods vehicles will continue to be taxed at existing rates. The amendments will take effect 1st April 2019 and will accordingly apply in relation to assessment year 2019-20 and subsequent assessment year.

SECTION - 47 - TRANSACTIONS NOT REGARDED AS TRANSFER.

The amendment seeks to add transaction in following assets to be treated as no transfer if they are made by a non-resident or a recognized stock exchange located in International Financial Services Centre:-

- a. Bond or Global Depository Receipt as referred to in Section 115AC (1)
- ii. Rupee denominated bond of any Indian Company.
- iii. Derivatives.

The provision will be effective from 1st April, 2019 relevant to assessment year 2019-20.

SECTION - 49 – COST WITH REFERENCE TO CERTAIN MODES OF ACQUISITION.

When an asset is converted into capital asset, Section 45 deems it a transfer and capital gain arises on such conversions. The existing law does not provide for the reverse situation when the business inventory is converted into capital asset. The amendment seeks to provide similar treatment in case of conversion of inventory into capital asset or its treatment as capital asset which shall be charged to tax as business income. The fair market value of the inventory on the date of conversion or treatment shall be deemed to be the full value of consideration received or accruing as a result of the conversion.

Consequential amendments have been made in Section 2(24) so as to include such fair market value in the definition of income, in Section 49 so as to provide that for purpose of computation of capital gain, the fair market value on the date of conversion shall be the cost of acquisition and in Section 2(42A) to provide that a period of holding shall be reckoned from the date of conversion/treatment.

The amendment will take effect from 1st April, 2019, relevant to assessment year 2019-20.

SECTION 50C – Special provision for full value of consideration.

The Act provides that the full value of consideration in case of land or building or both will be the stamp duty value in case such value is higher than the actual consideration and the capital gain will be computed on that basis. Similar provision has been made for computation of business income under Section 43CA. The circle rate which is the basis for assessment of stamp duty value does not take into consideration differences in properties which influence the market value in the same locality. To introduce some fairness in the provision, it has been provided that no adjustment shall be made based on stamp duty value if difference between the actual consideration and the stamp duty value does not exceeds 5% of the actual consideration.

The provision takes effect from 1st April, 2019 relevant to assessment year 2019-20.

SECTION - 54EC – CAPITAL ON TRANSFER OF ASSETS NOT TO BE CHARGED.

Under the existing provisions capital gain is not charged to tax if the assessee invests the whole or any part of such gain in the long term specified assets within a period of 6 months after the date of transfer. The provision applies to long term gain arising from all the capital assets. The amendment seeks to limit its application to the long term gains arising from land or building or both.

Further, under the existing law the long term specified assets means the bonds issued by National Highway Authority of India, Rural Electrification Corporation and other notified bonds issued on or after 1st April, 2007 for a

period of 3 years. The amendment redefines such assets as bond redeemable after 5 years and issued on or after 1st day of April, 2018.

The amendment will be effective from 1st April, 2019 relevant to assessment year 2019-20.

SECTION - 56 – INCOME FROM OTHER SOURCES.

Sub-section 2 lists out incomes which are chargeable to income tax under the head “Income from other sources”. Clause (x) of sub-section 2 provides for taxation in respect of immovable property if the consideration of such property is less than the stamp duty value of the property by an amount exceeding Rs.50,000/-. The taxable amount is the amount by which the stamp duty value exceeds the consideration.

The amendment seeks to provide that the provision will be applicable if the difference is more than Rs.50,000/- or the amount equal to 5% of the consideration whichever is higher.

Further, the amendment seeks to make taxable under this head any compensation or other payment due to or received by any person, by whatever name called, in connection with the termination of his employment or the modification of the terms and conditions relating thereto.

These amendment will be effective from 1st April, 2019 relevant to assessment year 2019-20.

SECTION - 79 – CARRY FORWARD AND SET OFF LOSSES.

Under the existing provision, carry forward and set off losses in a closely held company shall be allowed only if there is continuity in the beneficial ownership of shares carrying not less than 51% of the voting power on the last day of the year in which loss was incurred. The amendment seeks to make an exception in case of a company whose resolution plan has been approved under the Insolvency and Bankruptcy Code, 2016.

The amendment will be effective from 1st April, 2018 relevant to assessment year 2018-19.

SECTION - 80AC – DEDUCTION NOT TO BE ALLOWED UNLESS RETURN FURNISHED.

The existing provisions provide that no deduction would be allowed under Section 80IA, 80IB, 80IC, 80ID or 80IE unless the return of income is furnished on or before the due date under Section 139(1). These are the deduction provisions in respect of undertakings engaged in specified activities. Part C of Chapter VIA beginning with Section 80H contains provisions regarding deductions in respect of other incomes also which are not presently subject to the condition of furnishing the return of income. The deficiency is sought to be made good by making this condition applicable to all the deduction provisions contained in this part of Chapter VIA. As a result, no deduction under this Chapter will be admissible unless the return of income is filed within the prescribed time.

The amendment will be effective from 1st April, 2018 relevant to assessment year 2018-19.

SECTION - 80D – DEDUCTION IN RESPECT OF HEALTH INSURANCE PREMIUM.

The existing provision provides for deduction upto Rs.30,000/- to an assessee who is individual or HUF in respect of payments towards annual premium on health insurance policy or preventive health checkup of a senior citizen or medical expenditure in respect of very senior citizen. The deduction is proposed to be enhanced to Rs.50,000/-.

Further, in case of single premium policy having cover of more than one year, the amendment proposes to allow deduction on proportionate basis or a number of years for which health insurance cover is provided.

The amendment will be effective from 1st April, 2019 relevant to assessment year 2019-20.

SECTION - 80DDB – DEDUCTION IN RESPECT OF MEDICAL TREATMENT.

The existing provision provides for a deduction to an individual or his dependent or any member of HUF with regard to amount paid for medical treatment of specified diseases. In case the assessee is a senior citizen, the amount of deduction was Rs.60,000/-. In case he is a very senior citizen i.e. a person of the age of 80 years or more, the deduction was Rs.80,000/-.

The amendment seeks to increase this limit of Rs.60,000/- and Rs.80,000/- to Rs.1,00,000/- meaning thereby that all senior citizens irrespective of whether they are 60 years or more or 80 years or more will be entitled to a deduction upto Rs.1,00,000/-.

The amendment will be effective from 1st April, 2019 relevant to assessment year 2019-20.

SECTION 80IAC – SPECIAL PROVISION IN RESPECT OF SPECIFIED BUSINESS.

The present provision provides for deduction to an eligible startup for three consecutive assessment years out of 7 years at the option of the Assessee, if :-

- i. it is incorporated on or after 1.4.2016 but before 1.4.2019.
- ii. the total turnover of its business does not exceed Rs.25 Crores in any of the previous 5 years beginning from 1st April, 2016.
- iii. it is engaged in the eligible business which involves innovation, development, deployment or commercialization of products processes or services driven by technology or intellectual property.

The amendment seeks to make the deduction available to startups incorporated on or after 1st April, 2019 but before 1st April, 2021. This will enable startups incorporated even after 1st April, 2019 eligible for deduction if they are incorporated before 1st April, 2021.

Consequently, the condition as to the turn over not exceeding Rs.25 crores will be applicable to seven years in place of five years earlier.

The amendment will be effective from 1st April, 2018 relevant to assessment year 2018-19.

SECTION - 80JJA - DEDUCTION IN RESPECT OF EMPLOYMENT OF NEW EMPLOYEES.

Under the existing provision, deduction of 30% is allowed in addition to the normal deduction of 100% in respect of emoluments paid to eligible employees who have been employed for a minimum period of 240 days during the year. The deduction is available for three assessment years. In case of apparel manufacturing enterprise, the number of days of employment for eligibility of deduction was 150 days.

The amendment seeks to extend this lower limit of 150 days to footwear and leather industries.

Further, in case, a new employee is employed for less than 240/150 days during the first year but he continues to remain employed for the minimum period i.e. 240/150 days in subsequent year, his salary will qualify for deduction in the subsequent assessment years.

The amendment will be effective from 1st April, 2019 relevant to assessment year 2019-20.

SECTION - 80PA - DEDUCTION IN RESPECT OF CERTAIN INCOME OF PRODUCER COMPANIES.

A new Section is proposed to be inserted on the lines of Section 80P which provides for 100% deduction in respect of profit of cooperative society providing assistance to its members engaged in primary agricultural activities.

The new section extends similar benefits to farm producer companies (FPC) having total turnover upto Rs.100 crores whose gross total income includes income from –

- i. marketing of agricultural produce grown by its members.
- ii. purchase of agricultural implements, seeds, livestock or other articles intended for agricultural for purposes of supplying them to its members; or
- iii. processing of agricultural produce of its members.

The benefit will be available for 5 years beginning with the financial year 2018-19.

The section will be effective from 1st April, 2019 relevant to assessment year 2019-20.

SECTION - 80TTA – DEDUCTION IN RESPECT OF INTEREST ON DEPOSIT

A deduction upto Rs.10,000/- is allowed under the existing provision to an assessee in respect of interest income from saving accounts.

The amendment provides that this provision will not apply to senior citizens in respect of which another provision in Section 80TTB has been inserted.

The amendment will be effective from 1st April, 2019 relevant to assessment year 2019-20.

SECTION - 80TTB – DEDUCTION IN RESPECT OF INTEREST ON DEPOSIT FOR SENIOR CITIZENS.

This new provision provides for a deduction upto Rs. 50,000/- in respect of income from interest on deposits held by senior citizens with a banking company or a cooperative society engaged in the business of banking or a post office.

Consequently, no tax will be deducted at source under Section 194A by the payer if the aggregate amount of interest during the year is upto Rs.50,000/-.

The section will be effective from 1st April, 2018 relevant to assessment year 2018-19.

SECTION - 112A & 115AD– TAX ON LONG TERM CAPITAL GAINS IN CERTAIN CASES.

A new provision is proposed to be inserted to provide for taxation of long term gains in respect of equity shares, units of equity oriented fund and units of business of trusts. Under the existing provision tax on long term gains in respect of such assets is exempt subject to the provision that security transaction tax is paid in respect of them. The exemption so far granted is proposed to be withdrawn and subjected to tax at the rate of 10% of the gain in excess of Rs.1 Lakh. The concessional rate of 10% will be applicable only if the security transaction tax has been paid in case of equity shares at the time of acquisition as well as transfer. If the long term asset is in the nature of unit of equity oriented fund or unit of business trust, the concessional rate will be applicable if security transaction tax has been paid on transfer of such asset.

This condition of payment of security transaction tax will not apply to a transfer undertaken on a recognized stock exchange located in any International Financial Services Centre and where the consideration for such transfer is received or receivable in foreign currency.

The capital gain arising from such long term assets will be computed without indexation of cost and without conversion into foreign currency in

the case of acquisition in such foreign currency as laid down in second proviso to Section 48.

As a measure of grandfathering, it is provided that the cost of acquisition in respect of these assets acquired before 1st February, 2018 shall be taken to be the actual cost of acquisition or the fair market value of such asset as on 1st February, 2018 whichever is higher. In case the actual consideration is lower than the fair market value of such assets, the cost of acquisition will be the higher of actual cost of acquisition and actual consideration for sale. The net result of the provision will be the exemption of gain resulting from accretion in value upto 31st January, 2018.

The deduction under Chapter VI-A will be allowed from the gross total income as reduced by such capital gains. 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.

Consequent amendment is made in Section 115AD relating to tax on income of foreign institution investors from securities or capital gains. It has been provided that in case of income arising from the transfer of a long term capital asset of the nature referred to in Section 112A above, income tax at the rate of 10 % shall be calculated on such income exceeding one lakh rupees.

The section will be effective from 1st April, 2019 relevant to assessment year 2019-20.

SECTION - 115BA – TAX ON INCOME OF DOMESTIC COMPANIES.

The existing provision provides for taxation of a newly setup domestic company engaged in the business of manufacture or production or research in relation thereto at the rate of 25% subject to conditions specified. The provision is applicable from the assessment year 2017-18.

There was an anomaly inasmuch as certain income included in the total income are subject to tax at the rate lower than 25%. Taxation of total income at 25% was therefore an unwarranted hardship. The provision, therefore, seeks to provide as a clarification that the rate of 25% is restricted to the income from manufacturing, research etc. and income which are at present taxed at a scheduler rate will continue to be so taxed.

The amendment will be effective respectively from 1st April, 2017 relevant to assessment year 2017-18.

SECTION - 115BBE – TAX ON UNDISCLOSED INCOME.

The existing section provides for tax on income referred to in Section 68, 69, 69A, 69B, 69C or 69D at the higher rate of 60%.

It also provides in sub-section (2) that no deduction in respect of any expenditure or allowance or set off of any loss shall be allowed to the assessee under any provision of the Act in computing such income. The existing provision of sub-section (2) applies to such income which is

reflected in the return of income. It does not apply to such income, if it is determined by the assessing officer. The amendment seeks to cover such income also in sub-section (2) with the result that no deduction in respect of any expenditure or allowance or set off shall be allowed from the income of this nature which was not disclosed in the return but determined by the assessing officer.

The amendment will be effective respectively 1st April, 2017 relevant to assessment year 2017-18.

SECTION 115JB – PROVISION RELATING TO MAT.

The existing provision provides for levy of Minimum Alternate Tax (MAT) on the book profit of a company. In computing the book profit, it provides for deduction in respect of the amount of loss brought forward or unabsorbed depreciation whichever is less. Consequently, where the loss brought forward or unabsorbed depreciation is nil, no deduction is allowed. The existing provision is a barrier to rehabilitating companies seeking insolvency resolution.

The amendment seeks to provide that the aggregate amount of unabsorbed depreciation and loss brought forward (excluding unabsorbed) shall be allowed to be reduced from the book profit if a company's application for corporate insolvency resolution process has been admitted by the Adjudicating Authority.

The amendment will be effective from 1st April, 2019 relevant to assessment year 2019-20.

A clarificatory amendment is also proposed to provide that the provisions shall not be applicable to an assessee being a foreign company, if its total income comprises solely of profits and gains from business referred to in Section 44B, 44BB, 44BBA or 44BBB and such income has been offered to tax at the rates specified in these sections.

The amendment being clarificatory will take effect retrospectively from 1st April, 2001 relevant to assessment year 2001-02.

SECTION - 115JC & 115JF– SPECIAL PROVISION FOR PAYMENT OF TAX BY NON-COMPANY ASSESSEES.

The existing provision provides for Alternate Minimum Tax (AMT) at the rate of 18.50% of adjusted total income in the case of non-corporate persons.

The amendment seeks to provide that in case of a unit located in an International Financial Service Centre, the AMT shall be charged at the rate of 9%.

Consequential amendment has been made in Section 115JF specifying the above rate of 9%.

The amendments will be effective from 1st April, 2019 relevant to assessment year 2019-20.

SECTION - 115-O & 115 Q- TAX ON DISTRIBUTED PROFITS OF DOMESTIC COMPANIES.

Under the existing provision, a domestic company is subject to dividend distribution tax (DDT) in respect of dividend distributed by it. The existing provision does not include deemed dividend under Section 2(22)(e) of the Act which is taxable in the hands of the recipient at the normal applicable rate.

The amendment seeks to bring deemed dividend also under the scope of dividend distribution tax. Further, such deemed dividend is proposed to be taxed at the rate of 30% (without grossing up).

As a consequence, the explanation below Section 115Q which excluded dividend mentioned in Section 2(22)(e) is proposed to be omitted.

The amendment will apply to transactions of the nature of deemed dividend undertaken on or after 1st April, 2018.

SECTION - 115R & 115T – TAX ON DISTRIBUTED INCOME TO UNIT HOLDERS.

The existing provision provides for taxation of income distributed by the specified company or a mutual fund to its unit holders. Such specified company or mutual fund are liable to pay additional income tax on such distributed income at the specified rate. Such additional income tax is not applicable to the income distributed to the unit holders of equity oriented funds.

The amendment seeks to provide that where any income is distributed by a mutual fund being an equity oriented fund, the mutual fund shall be liable to pay additional income tax at the rate of 10% on the income so distributed.

The provision redefines 'equity oriented fund' consequent to the amendments relating to such funds including in provision relating to long term capital gain in respect of units of such fund in Section 112A. Under the new definition, equity oriented fund means a fund referred to in clause (a) of the explanation to Section 112A and the Unit Scheme, 1964 made by the Unit Trust of India.

The amendments will be effective from 1st April, 2018 relevant to assessment year 2018-19.

SECTION - 139A - PERMANENT ACCOUNT NUMBER.

Persons specified in Section 139A are required to apply for allotment of Permanent Account Number.

The amendment proposes that every person, not being an individual which enters into a financial transaction of an amount aggregating to Rs.2,50,000/- or more in a financial year shall be required to apply for allotment of PAN.

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 entities shall also apply for allotment of PAN.

The amendment will be effective from 1st April, 2018.

SECTION 140 – RETURN BY WHOM TO BE VERIFIED.

The amendment in Section 140 is consequent to the resolution process under the Insolvency and Bankruptcy Code, 2016. It provides that during the resolution process under the Code, the return shall be verified by an Insolvency Professional appointed by the Adjudicating Authority under the Code.

The amendment will be effective from 1st April, 2018 and will accordingly apply to returns filed on or after the said date.

SECTION 143 – ASSESSMENT.

The section provides for the procedure of the assessment. The amendment proposes to prescribe a new scheme for making assessment in order to impart greater transparency and accountability by eliminating the interface between the Assessing Officer and the Assessee, optimal utilization of the resources and introduction of team based assessment.

A new sub-section (3A) enables the Central Government to prescribe the new scheme for scrutiny assessments by way of a notification.

Another sub-section (3B) is proposed to be inserted enabling the Central Government to direct by notification that any of the provisions of this Act relating to assessment shall not apply or shall apply with such exceptions, modifications and adaptation, as may be specified therein. No such directions, however, shall be issued after 31st March, 2020.

Another sub-section (3C) proposed to be inserted provides that every notification issued under this sub-sections shall be laid before each house of parliament as soon as may be.

The amendments will be effective from 1st April, 2018.

SECTION 145A – METHOD OF ACCOUNTING.

This Section proposes to provide that for the purpose of determining the income chargeable under the head ‘profit and gains of business or profession’ –

- a. The valuation of inventory shall be made at lower of actual cost or net realizable value computed in the manner provided in Income Computation and Disclosure Standards (ICDS) notified under Section 145.

- b. The valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fees actually paid or incurred by the assessee to bring the goods or services to the place of its location.
- c. Inventory being securities not listed or listed but not quoted on a recognized stock exchange shall be valued at actual cost initially recognized in the manner provided in ICDS.
- d. Inventory listed securities shall be valued at lower of actual cost or net realizable value in the manner provided in ICDS and for this purpose the comparison of actual cost and net realizable value shall be done categorywise.

The amendment will apply retrospectively with effect from 1st April, 2017 relevant to assessment year 2017-18.

SECTION 145B - TAXABILITY OF CERTAIN INCOME.

A new Section 145B is proposed to be inserted to provide that –

- a. Interest received by an assessee on compensation or on enhanced compensation shall be deemed to be the income of the year in which it is received.
- b. The claim escalation of price in a contract or export incentives shall be deemed to be the income of the previous year in which reasonable certainty of its realization is achieved.
- c. Income referred to in Section 2 (24)(xviii) i.e. assistance in the form of a subsidy or grant or cash incentive or duty drawback or waiver or concession or reimbursement by the Central Government or State Government or any other authority in cash or kind shall be deemed to be the income of the previous year in which it is received, if not charged to income tax for any earlier previous year.

The amendment will be effective retrospectively from 1st April, 2017 relevant to assessment year 2017-18.

SECTION – 193 – TDS ON INTEREST ON SECURITIES

The existing 8% Savings (Taxable) Bonds, 2003 is proposed to be discontinued wherein tax was liable to be deducted from interest in excess of Rs. 10000/-.

It is proposed to introduce a new 7.75% GOI Savings (Taxable) Bonds, 2018. The interest will continue to be taxed. No TDS will be deducted if the amount of interest is less than Rs. 10,000/-.

This amendment will take effect from 1st April, 2018.

SECTION – 194A – DEDUCTION IN RESPECT OF INTEREST INCOME OF SENIOR CITIZENS

It is proposed to amend section 194-A to provide the threshold limit for deduction of tax at source on interest income for senior citizens from Rs 10,000/- to Rs 50,000/-.

This amendment will take effect, from 1st April, 2018.

SECTION – 245- O – AMENDMENTS TO THE STRUCTURE OF AUTHORITY FOR ADVANCE RULINGS

Section 245-O provides for the constitution of an Authority for Advance Rulings, and constitution of its benches, for giving advance rulings under Chapter XIX-B of the Act or under Chapter V of the Customs Act, 1962 or under Chapter IIIA of the Central Excise Act, 1944 or under Chapter VA of the Finance Act, 1994.

In view of the proposed constitution of new Customs Authority for Advance Ruling under section 28EA of the Customs Act, it is proposed to amend the provisions of section 245-O so as to provide that such Authority shall cease to act as an Authority for Advance Rulings, and shall act as an Appellate Authority for the purpose of Chapter V of the Customs Act, 1962 from the date of appointment of Customs Authority for Advance Rulings under section 28EA of the Customs Act, 1962.

It is further proposed that such Authority shall not admit any appeal against any ruling or order passed earlier by it in the capacity of Authority for Advance ruling after the date of appointment of Customs Authority for Advance Rulings under section 28EA of the Customs Act, 1962.

In order to avoid overlapping, it is also proposed that where the Authority is dealing with an application seeking advance ruling in the matters of the Act, the Revenue Member shall be the Member referred to in sub-clause (i) of clause (c) of sub-section (3).

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

SECTION – 253 – APPEAL TO APPELLATE TRIBUNAL

Section 253 of the Act inter-alia provides that any assessee aggrieved by any of the orders mentioned in sub-section (1) of the said section may appeal to the Appellate Tribunal against such order.

It is proposed to amend clause (a) of the said sub-section so as to also make an order passed by a Commissioner (Appeals) under section 271J appealable before the Appellate Tribunal.

This amendment will take effect from 1st April, 2018.

SECTION – 271FA – PENALTY FOR FAILURE TO FURNISH STATEMENT OF FINANCIAL TRANSACTION OR REPORTABLE ACCOUNT

Section 271FA of the Act provides that if a person who is required to furnish the statement of financial transaction or reportable account under sub-section (1) of section 285BA, fails to furnish such statement within the prescribed time, he shall be liable to pay penalty of one hundred rupees for every day of default.

The proviso to the said section further provides that in case such person fails to furnish the statement of financial transaction or reportable account within the period specified in the notice issued under sub-section (5) of section 285BA, he shall be liable to pay penalty of five hundred rupees for every day of default.

In order to ensure compliance of the reporting obligations under section 285BA, it is proposed to amend the section 271FA so as to increase the penalty leviable from one hundred rupees to five hundred rupees and from five hundred rupees to one thousand rupees, for each day of continuing default.

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

SECTION – 276CC - RATIONALISATION OF SECTION 276CC RELATING TO PROSECUTION FOR FAILURE TO FURNISH RETURN

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.

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.

SECTION - 286 - RATIONALISATION OF PROVISIONS RELATING TO COUNTRY-BY-COUNTRY REPORT

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, certain amendments are proposed.